

**10A NCAC 09 .2703 CRIMINAL HISTORY RECORD CHECK REQUIREMENTS FOR CHILD CARE PROVIDERS**

(a) In addition to the requirements in Rules .0302 and .1702 of this Chapter, a child care provider shall submit the following to the Division prior to the issuance of a license or prior to beginning employment:

- (1) a signed and completed Authority for Release of Information form;
- (2) fingerprint impressions submitted on the form(s) required by the Division and State Bureau of Investigation; and
- (3) if a child care provider is an out-of-state resident, he or she shall also submit a certified local history from the Clerk of Superior Court in his or her county of residence.

All required forms can be found on the Division's website at [http://ncchildcare.dhhs.state.nc.us/general/dhhscre\\_childcare.asp](http://ncchildcare.dhhs.state.nc.us/general/dhhscre_childcare.asp).

(b) If the child care provider has a criminal history of convictions, pending indictment of a crime, or pending criminal charges, he or she may submit to the Division additional information concerning the conviction or charges that the Division shall use in making the determination of the child care provider's qualification. The Division shall also consider the following in making its decision:

- (1) length of time since conviction;
- (2) whether the child care provider is currently on probation;
- (3) nature of the offense;
- (4) circumstances surrounding the commission of the offense or offenses;
- (5) evidence of rehabilitation;
- (6) number and type of prior offenses; and
- (7) age of the child care provider at the time of occurrence.

(c) If the child care provider is a firm, partnership, association, or corporation, the chief executive officer or other person serving in like capacity or a person designated by the chief executive officer as responsible for the operation of the facility, shall complete the criminal history record check as specified in Paragraph (a) of this Rule.

(d) If a Letter of Intent to Operate pursuant to G.S. 110-106 is submitted to the Division, the person signing the Letter of Intent shall submit all forms as required in Paragraph (a) of this Rule.

(e) Child care providers must have a valid qualification letter prior to employment or living in the family child care home and the qualification letter must be kept on file at the facility for review by representatives of the Division.

(f) Child care providers found to be disqualified are not eligible for employment in child care until a qualification letter has been issued by the Division.

(g) Child care providers determined by the Division to be disqualified shall be terminated by the center or family child care home immediately upon receipt of the disqualification notice.

(h) Disqualification of a child care provider living in a family child care home shall be grounds for issuance of a summary suspension of the family child care home license in accordance with 10A NCAC 09 .2207.

(i) Refusal on the part of the employer to dismiss a child care provider who has been found to be disqualified shall be grounds for suspension, denial, or revocation of the license or any other administrative action or civil penalty permitted by law or rule. If an applicant appeals the disqualification, the child care provider shall not be employed during the appeal process.

(j) Operators, as defined by G.S. 110-86(7), shall include the criminal history mandatory reporting requirement in all new employee orientation information. Mandatory reporting requires all child care providers and household members who have incurred any pending charges, indictments or convictions (other than minor traffic offenses) since the last qualification letter was issued by the Division to notify the operator of such charges within five business days or before returning to work, whichever comes first. The operator shall notify the Division of any such pending charges, indictments or convictions within one business day of being notified.

(k) The qualification letter is valid for a maximum of three years from the date of issuance.

(l) Prior to the expiration date of the qualification letter, the child care provider shall complete and submit the forms listed in Paragraph (a) of this Rule.

(m) After a child care provider has been qualified, the Division may complete a new criminal history record check at any time when the Department of Social Services or the Division of Child Development and Early Education conducts an investigation that references the child care provider.

(n) Any individuals who live in the household who have had their 16<sup>th</sup> birthday after the initial licensing of a family child care home, shall complete and submit the forms listed in Paragraph (a) of this Rule to the Division within five business days.

(o) Child care operators must notify the Division of any new child care providers who are hired or moved into the home within five business days by submitting the form provided by the Division.

*History Note:* Authority G.S. 110-85; 110-86(7); 110-90.2; 110-90.2(a); 110-106; 114-19.5; 143B-168.3; S.L. 2012-160, s.1;  
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Eff. April 1, 1997;  
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