**Section 385.30 Applicability of This Part**

a) Applicability

All licensed child care facilities shall submit completed, signed authorizations for background checks for all persons subject to background checks as defined in Section 385.20.

b) License Renewals

A child care facility license shall not be renewed until the results of the background check, as defined in Section 385.20, have been received for the operator of the child care facility. However, if complete, signed authorizations have been submitted and fingerprints have been obtained for all persons subject to these background checks, renewal of the license shall not be delayed pending receipt of the results of the criminal background check for other persons subject to background checks.

c) Scope of Background Checks

1) All persons subject to background checks, as defined in Section 385.20, shall be processed in accordance with this Part. All persons age 18 and over shall submit to fingerprinting via the fingerprint vendor stipulated by the Department for a criminal history check. Fingerprints shall be submitted for the purpose of searching for criminal history through the Illinois and national fingerprint databases.

2) Foreign nationals shall submit to their prospective employer (if seeking employment) or licensing representative (if seeking a license to operate a child care facility) a copy of their valid passport and current visa. A copy of the valid passport and current visa shall be attached to the authorization for background check.

3) In addition, each owner of a for-profit corporation, as a condition of license renewal, must *certify under penalty of perjury that he or she is current or not more than 30 days delinquent in complying with a child support order. Failure to so certify may result in a denial of the license application, refusal to renew the license, or revocation of the license.* [5 ILCS 100/10-65(c)]

4) Fingerprints for the following persons age 18 and over shall be submitted to the Federal Bureau of Investigation (FBI) for a search of its records for evidence of prior criminal activity:

A) all applicants for foster family home licensure and members of the household;

B) all relative caregivers and members of the household prior to a final placement decision in a relative home [20 ILCS 505/5(v-1)]; and

C) a non-licensed service provider and all members of the non-licensed provider's household age 18 and older who have access to children as defined in Section 385.20;

5) For *prospective foster or adoptive parents or other adult living in the home* who *resided in another state in the preceding 5 years, the Department shall request a check of that other state's child abuse and neglect registry* and the National Sex Offender Registry. [20 ILCS 505/5(v-2)]

d) A Condition of Employment

As a condition of employment in a licensed child care facility in a position that allows access to children, all persons subject to background checks, as defined in Section 385.20, shall complete and sign authorizations for background checks and submit to fingerprinting, when required. This applies to all current and conditional employees and volunteers subject to background checks, as defined in Section 385.20, and to any individual used as replacement or supplemental staff in the direct care and supervision of children.

e) Child Care Facilities and Non-Licensed Service Providers that Operate Within a Family Home

When a licensed child care facility or non-licensed service provider operates in a family home, adult members of the household age 18 and older shall be fingerprinted to be screened for prior criminal convictions and current pending criminal charges in accordance with the requirements of this Part. All household members age 13 and over shall be screened for a history of child abuse or neglect and for inclusion in the Illinois Sex Offender Registry. These background checks are required even if members of the household usually are not present in the home during the hours of operation.

f) Programs Operated Under the Auspices of Child Welfare or Day Care Agencies

The background check requirements of this Part apply to:

1) employees of a child welfare agency who are involved in the placement in, licensure of, or supervision of foster family or adoptive homes, relative homes, group homes, child care institutions, youth emergency shelters, or independent living arrangements;

2) employees of a child welfare agency or day care agency who are involved in the licensure or supervision of licensed day care homes; and

3) persons used as replacement or supplemental staff identified in subsection (f)(1) or (2).

g) Service Providers

As a condition of a contract or agreement, or as otherwise required under 89 Ill. Adm. Code 357 (Purchase of Service), the Department will require a person who provides services that allow unsupervised access to children, including non-licensed service providers, to authorize a background check under this Part.

h) Issuance of Permits

A permit may be issued when:

1) the facility operator has cleared a full and complete background check as defined in Section 385.20;

2) if a for-profit corporation or other for-profit legal entity, the owner has certified that the owner is current or not more than 30 days delinquent in complying with a child support order;

3) all persons subject to background checks have been fingerprinted when required, as verified by a fingerprint receipt, and have obtained all required CANTS/SACWIS and Illinois and National Sex Offender Registry clearances; and

4) the facility is in compliance with all other applicable licensing requirements for issuance of a permit.

i) Work-Study Students

No criminal history check is required unless work-study students are used as replacement or supplemental staff, as defined in Section 385.20. However, CANTS/SACWIS and Illinois Sex Offender Registry checks must be completed for all work-study students.

j) Parental Involvement

Parental involvement in a child care facility program does not require a background check. Nothing in this Part is intended to prohibit a parent from being left alone unsupervised with only their own children. When a required staff position is filled by a parent, the parent shall meet all standards that apply to an employed person in that position.

k) Responsibility for Cooperation

Child care facilities shall be responsible for ensuring that persons subject to criminal background checks make themselves available for fingerprinting when scheduled by the Department or its authorized representatives. Failure of a person subject to criminal background checks to appear for fingerprinting may result in the denial of a license application or refusal to renew or revocation of an existing license unless the child care facility can demonstrate that it took reasonable measures to insure cooperation with the fingerprinting process. Adequate cause for failure to appear for fingerprinting includes, but is not limited to:

1) death in the family of the person;

2) serious illness of the person or illness in the person's immediate family; or

3) weather or transportation emergencies.

l) Limitations on Criminal Offenders

Persons age 18 and over who have been convicted of committing or attempting to commit the offenses in Section 385.60(a) or (b) (when applicable) and when the Department becomes aware of persons age 13 and over who have been tried as an adult and convicted for the crimes identified in Section 385.60(a) or (b) shall not:

1) receive a license from the Department to operate a child care facility or have such a license renewed;

2) be an employee, non-licensed contractual provider, or volunteer at a child care facility licensed by the Department in a position which allows access to children;

3) be a member of the household in a family home in which a child care facility operates; or

4) obtain a contract or agreement from the Department to provide services which allow access to children if the requirement for such background checks is a condition of the contract or agreement.

m) Limitations on Perpetrators of Child Abuse/Neglect

Persons who have been indicated as the perpetrator of any of the child abuse/neglect allegations identified in Section 385.50(a) are presumed to be unfit for service that allows access to children. These indicated perpetrators are limited in the same manner as the criminal offenders in subsection (l) unless the Director or designee has waived in writing the presumption of unsuitability. These waivers may be requested in writing in accordance with Section 385.50(b). Prior to requesting a waiver, the Department or POS licensing staff must obtain written consents from the applicant/perpetrator to review the full child protection record.

n) No Charge for Background Checks

There is no charge to license applicants or licensed child care facilities for the background checks which are required by this Part.

(Source: Amended at 45 Ill. Reg. 12963, effective September 28, 2021)