

Frequently Asked Questions: *Background Checks for Licensed & License-Exempt Residential Care Facilities & Child Placing Agencies*

- **What type of background check is required to comply with HB 557 and 560?**
 - There are three components of a background check needed to comply with HB 557 and 560:
 1. Fingerprint Based Background Check of Open and Closed criminal history
 2. A search of the national offender registry
 3. Family Safe Care Registry, or equivalent, if from outside of Missouri
 - Any person 18 years of age or older, that is NOT an employee, volunteer, contractor, owner/operator and resides on the property and has or may have unsupervised access to children at a Licensed Exempt Residential Care Facility (LERCF) is required to complete a State Opens Record Check

- **What type of entities are subject to background check requirements in HB557 and 560?**
 - Entities subject to the background check requirements of HB 557 and 560 are:
 1. Licensed Residential Care Facilities (LRCF)
 2. Child Placing agencies
 3. Licensed Exempt Residential Care Facilities (LERCF)

- **Does an agency that only serves individuals over 18 need to complete the background check process?**
 - No, facilities that ONLY serve adults are not subject to licensure requirements under the authority of the Department of Social Services or the notifications requirements as established by HB 556 and 560. If an agency is unsure if they need to comply with either licensure or notification requirements they should contact CD.NotifyRPU@dss.mo.gov.

- **What is the cost of a background check?**
 - Total cost for a completed background check with the Missouri State Highway Patrol (MSHP) is \$41.75. This fee is applied each time a person completes a background check with the MSHP
 - Total cost for a Family Safe Care Registry (FCSR) check is \$15.25.
 - There are no separate fees charged by the Department of Social Services to administer background check requirements as established by HB 557 and 560 for LRCF, LERCF and Child Placing agencies.

- **My agency has previously had a waiver of cost for FCSR checks, does that fee waiver still exist?**
 - Questions regarding fees associated with a FCSR check should be directed to the <https://health.mo.gov/safety/fcsr>
 - According to RSMO 210.906.4 any person licensed pursuant to sections 210.481 to 210.565 shall be automatically registered in the family care safety registry at no additional cost. That section of law encompasses LRCF and Licensed Child Placing agencies.
 - DHSS interprets RSMO 210.906.4 to mean employees of these licensed entities are also exempt from the registration fee.
 - Approximately annually DHSS checks the list of currently licensed residential care facilities to implement the fee exemption.
 - An online FCSR registration appropriately naming a licensed facilities as the individual's employer will not require payment of the registration fee.

- **Who is responsible for the cost of the background check?**
 - HB 557 and 560 states "Any required fees shall be paid by the individual applicant, facility or agency."

- **Will agencies be compensated or reimbursed by DSS for the cost of the background check?**
 - No. DSS received no appropriation from the General Assembly to compensate any facilities for the costs of background checks needed to comply with HB 557 and 560.
 - HB 557 and 560 (RSMO 210.493) states “Any required fees shall be paid by the individual applicant, facility or agency.”

- **Is there a way for agencies to cover the cost of a background check instead of the applicant?**
 - If a LRCF, LERCF, or Child Placing agency wishes to cover the cost of the required background check for their applicant they can work directly with the applicant to pay those costs.
 - Fees associated with the fingerprint based background checks are collected at the fingerprinting site. Facilities will either need to go to the fingerprinting site to pay for the background check or reimburse applicants for the cost.
 - For more information about MSHP fees for background checks visit <https://www.mshp.dps.missouri.gov/MSHPWeb/PatrolDivisions/CRID/crimRecChk.html>.

- **When do background checks need to be completed for existing staff?**
 - Every LRCF, LERCF, and Child Placing Agency operating with children on July 14, 2021, shall have until December 31, 2021, for all Applicants complete background checks.

- **When do background checks need to be completed for new staff?**
 - Any Applicant who begins employment or service after the effective date of this regulation shall complete the background check process before beginning employment or service with a LRCF, LERCF or Child Placing Agency. DSS will post the date that the regulation becomes effective on its website. Applicants, facilities and agencies can also monitor the Missouri Secretary of State’s website for information about the effective posting of emergency regulations. Emergency regulations can be found at sos.mo.gov/adrules/EmergenciesforInternet/emergency.

- **How long will the background check process take?**
 - Before the DSS can determine if an applicant meets any exclusionary criteria, the department must first receive results of the background checks from MSHP and DHSS. If the applicant has resided out of Missouri then DSS will also have to receive the results of background checks from other states. Receipt of this information is outside of the control of DSS. Once information is received from these entities eligibility decisions will be made by DSS within 5 business days of receipt of all necessary information.
 - During initial implementation of HB 557 and 560 and depending on volume it may take longer than 5 business days after all necessary information is received to make eligibility determinations.

- **Can applicants start before an agency receives notification of whether the applicant is eligible or ineligible?**
 - After the effective date of 13 CSR 35-71.015 any new applicant must have an approved background check before beginning work with a LRCF, LERCF or Child Placing agency.
 - Employees of LRCF, LERCF and Child Placing agencies that began before the effective date of 13 CSR 35-71.015 may continue to work at a facility while the background check is completed. However, if a currently employee is found to have exclusionary criteria they are no longer eligible for employment after their appeal period has expired.

- **How frequently do background checks need to be completed?**
 - The applicant’s fingerprint-based background check is valid for five (5) years from the date the fingerprints were taken, or until there is any change in the circumstances of the Applicant which would render the Applicant ineligible under the statute, whichever occurs first.
 - FCSR checks must be completed through DSS initially and every 5 years.

- LRCF and Child Placing Agencies will be responsible for completing the annual check of the FCSR in years 2, 3, and 4.
- **Who is required to complete background checks at a Licensed Residential Care Facility?**
 - RSMO 210.493.1 provides for those individuals at licensed residential providers that must receive a background check:
 1. Officers
 2. Managers
 3. Contractors with unsupervised access to children*
 4. Volunteers with unsupervised access to children*
 5. Employees
 6. Other support staff
 7. Owners of LRCFs that will have access to the facilities
 8. Owners of LRCF that will have access to children

**Supervision of contractors and volunteers with access to children must be conducted by an individual with a completed background check as outlined in RSMO 210.493.*
 - Questions regarding this requirement can be directed to CD.screen@dss.mo.gov.
- **Who is required to complete background checks at a Licensed Child Placing Agency?**
 - RSMO 210.493.1 provides for those individuals at Child Placing Agencies that must receive a background check:
 1. Officers
 2. Managers
 3. Contractors with unsupervised access to children*
 4. Volunteers with unsupervised access to children*
 5. Employees
 6. Other support staff
 7. Owners of LRCFs that will have access to the facilities
 8. Owners of LRCFs and Child Placing Agencies that will have access to children

**Supervision of contractors and volunteers with access to children must be conducted by an individual with a completed background check as outlined in RSMO 210.493.*
 - Child Placing Agencies should refer back to their licensing regulations and 13 CSR 35-71.015 for any additional information regarding who is and is not required to complete a background check.
 - Questions regarding this requirement can be directed to CD.screen@dss.mo.gov.
- **Who is required to complete a background check at a facility subject to the notification requirements that is exempt from licensure?**
 - RSMO 210.493.2 provides for those individuals at LERCF that must receive a background check:
 1. Officers
 2. Managers
 3. Contractors with unsupervised access to children*
 4. Volunteers with unsupervised access to children*
 5. Employees
 6. Other support staff
 7. Any person who has unsupervised contact with a resident of the residential care facility
 8. Owners of LERCFs that will have access to the facilities
 - State open records check is required for any person that is not an employee, volunteer, contractor, owner/operator, who is eighteen years of age or older, who resides at or on the property, who has or may have unsupervised access to children for whom a Licensed-Exempt Residential Care Facility provides care.

- Supervision of contractors and volunteers with access to children must be conducted by an individual with a completed background check as outlined in RSMO 210.493.
- **Does an 18 year old need to complete a background check to reside at a Licensed Residential Care Facility?**
 - HB 557 and 570 does not create new background checks for 18 year olds that reside at LRCF. If the 18 year old is a volunteer with access to children; an employee; a contractor or other support staff then yes they would need to complete a background check.
- **Does an 18 year old at a License Exempt Residential Care Facility need to complete a background check?**
 - State open records check is required for any person that is not an employee, volunteer, contractor, owner/operator, who is eighteen years of age or older, who resides at or on the property, who has or may have unsupervised access to children for whom a Licensed-Exempt Residential Care Facility provides care.
- **Do staff members that work for a Licensed Child Placing Agency that do not reside in Missouri need to complete a background check through DSS?**
 - As HB 557 and 560 is written, any individual associated with the agency must complete the background check.
- **Do staff that work for a Licensed Child Placing Agency that do not work in Missouri need to complete a background check through DSS?**
 - As HB 557 and 560 is written, any individual associated with the agency must complete the background check.
- **Who is NOT required to complete a background check at a Licensed Exempt Residential Care Facility?**
 - Individuals at LERCF NOT requiring background checks under 210.493.2 include:
 1. Legal parents to visit their own kids
 2. Step-parents to visit their step-kids
 3. Grandparents to visit their grandchild
 4. Siblings to visit their sibling
 5. Legal guardians to visit their own ward
 6. Prospective adoptive parents to visit the child they are in the process of LEGALLY adopting (e.g. adoption paperwork has been filed)
 7. Licensed or other lawfully qualified individuals providing occasional emergency professional services within the scope of their employment (Examples: licensed physicians, licensed nurses, licensed emergency medical technicians, POST certified law enforcement officers, Juvenile Officers, Division Employees, Prosecuting Attorneys, CASA volunteers, attorneys and court appointed guardians ad litem)**
 8. Individuals who provide reasonably necessary, professional services or maintenance in an emergency when it is necessary to protect the health and safety of individuals at the facility and background checks are not reasonably possible under the circumstances. (Examples: fire, health and safety inspectors, nationally recognized accrediting agencies, heating, construction, electrical and plumbing contractors.)**
 9. Individuals who are not employees, managers, volunteers with access to children, etc. who may occasionally come onto the school property to observe or participate in supervised activities such as sporting events, religious services, family days, recreational activities, and facility tours are not required to submit to background checks.**

**Individuals who are employees, officers, managers, volunteers, staff, or support staff who reside on the property, provide regular on-site service whether through employment or contract, or have unsupervised access to children will be expected to have background checks.

 - Example: A physician, nurse, or other health care professional who provides on-site services by contract would be subject to a background check. A physician, nurse, or first responder responding to a bona fide medical emergency would not require a background check.
 - Example: Emergency first responders who are responding to an emergency at the facility to protect life or property in bona fide emergencies do not require background checks before they can provide emergency services.

- Example: Lawyers, Guardians ad Litem and CASA volunteers who are working with a child at the facility do not require a background check to meet with the child to perform their duties;
 - Example: External, maintenance contractors (e.g. electricians or plumbers) who come on the property to perform emergency repairs to the premises to protect the health and safety of the occupants are not required to have a background check. However, janitors and others who are contracted to provide maintenance on the facilities on a routine or occasional basis who may have unsupervised access to children must be subject to a background check.
 - Example: Individuals who are not employees, managers, volunteers with access to children, etc. who may occasionally come onto the school property to observe or participate in **supervised** activities such as sporting events, religious services, family days, recreational activities, and facility tours are not required to submit to background checks **
- Questions regarding this requirement can be directed to CD.screen@dss.mo.gov.
- **Do officers, managers, employees, and staff without access to children need to complete background checks?**
 - RSMO 210.493.1 provides for those individuals at Licensed Residential Care Facilities and Child Placing Agencies that must receive a background check:
 1. Officers
 2. Managers
 3. Contractors with unsupervised access to children*
 4. Volunteers with unsupervised access to children*
 5. Employees
 6. Other support staff
 7. Owners of LRCFs that will have access to the facilities
 8. Owners of LRCFs and Child Placing Agencies that will have access to children
 - RSMO 210.493.2 provides for those individuals at Licensed Exempt Residential Care Facilities that must receive a background check:
 1. Officers
 2. Managers
 3. Contractors with unsupervised access to children*
 4. Volunteers with unsupervised access to children*
 5. Employees
 6. Other support staff
 7. Any person who has unsupervised contact with a resident of the residential care facility
 8. Owners of LERCFs that will have access to the facilities
 9. State open records check is required for any person that is not an employee, volunteer, contractor, owner/operator, who is eighteen years of age or older, who resides at or on the property, who has or may have unsupervised access to children for whom a Licensed-Exempt Residential Care Facility provides care.
 - *Supervision of contractors and volunteers with access to children must be conducted by an individual with a completed background check as outlined in RSMO 210.493.
- **Do contractors and volunteers without unsupervised access to children need to complete background checks?**
 - No. Contractors and volunteers without unsupervised access to children do not need to complete a background check.
- **Do individuals credentialed as peer support specialists for drug and alcohol counseling need to complete the background check?**
 - If the credentialed peer support specialist for drug and alcohol counseling is an employee, officer, contractor with unsupervised access to children, volunteer with unsupervised access to children, etc. then the individual must submit to a background check.

- HB 557 does not provide any exception for peer support specialists for drug and alcohol counseling.
- **If an individual feels they should not be subject to the background check requirements, what should they do?**
 - Any individual feels they should not be subject to the background check requirements as established by HB 557 and 560 (RSMO 210.493) and 13 CSR 35-71.015 should consult the agency with which they are associated, the licensing consultant for said agency, or email CD.screen@dss.mo.gov.
 - If the applicant feels that they should not be subject to a background check then the applicant has the right to seek administrative review, appeal and ultimately judicial review following the procedures set out in 13 CSR 35-71.015.
- **Can facilities still have members of the public visit and interact with children?**
 - Yes, facilities are still able to engage with their communities and members of the public without requiring background checks as long as no individuals have unsupervised access to children.
- **If staff have already completed a background check do they need to complete a background check through DSS?**
 - All new and existing staff at a LRCF, LERCF, and Child Placing agencies are required to complete the new background check requirements through DSS as established by HB 557 and 560 (RSMO 210.493).
- **Can agencies send DSS the results of a previously completed background check to satisfy the background check requirement?**
 - No. Background checks previously completed by a LRCF, LERCF and Child Placing agency do not meet the requirement of HB 557 and 560 (RSMO 210.493).
 - All new and existing staff at a LRCF, LERCF, and Child Placing agencies are required to complete the new background check requirements through DSS as established by HB 557 and 560 (RSMO 210.493)
- **What information will applicants receive regarding their eligibility or ineligibility for employment?**
 - Applicants will receive a determination letter from DSS notifying them of their eligibility or ineligibly for employment at a LRCF, LERCF, and Child Placing agency.
 - Employment eligibility determinations will be made by DSS based on the exclusionary criteria as established by HB 557 and 560 (RSMO 210.493). A list of exclusionary criteria is listed in Appendix A of the Application for a Background Check.
 - An applicant who is found to be ineligible for employment based on the exclusionary criteria will be notified on their right to request an administrative review and appeal the decision of DSS.
- **What information will agencies receive regarding applicant's eligibility or ineligibility for employment?**
 - Applicants will be provided with an "Authorization to Disclose Eligibility for Employment." This form is required in order to share the eligibility or ineligibility of an Applicant with the agency of facility.
 - If an Applicant elects to send a copy of the eligibility determination, DSS will send notice to the agency of an Applicant's eligibility or ineligibility but shall not reveal any disqualifying offence.
 - If an Applicant does not give DSS permission to share their eligibility determination DSS is legally unable to share any information regarding the eligibility or ineligibility of an Applicant.
- **Will agencies see the exclusionary criteria that caused an applicant to be ineligible?**
 - HB 557 (2021) expressly limits the authority of the Department to share the information which caused an applicant to be ineligible with the LERCF, LRCF or Child Placing Agency. The law specifically states that "The department shall not reveal to the residential care facility or the child placing agency any disqualifying offense or other related information regarding the applicant." Section 210.493.9 RSMo.
 - If an Applicant elects to send a copy of the eligibility determination, DSS will send notice to the agency of an Applicant's eligibility or ineligibility but shall not reveal any disqualifying offence.
- **What are the exclusionary criteria that cause an applicant to be ineligible for employment?**
 - HB 557 and 560 (RSMO 210.493) states that an applicant shall be ineligible if the applicant:
 - 1) Refuses to consent to the background check as required by this section;

- 2) Knowingly makes a materially false statement in connection with the background check as required by this section;
- 3) Is registered, or is required to be registered, on a state sex offender registry or repository or the National Sex Offender Registry;
- 4) Is listed as a perpetrator of child abuse or neglect under sections 210.109 to 210.183 or any other finding of child abuse or neglect based on any other state's registry or database; or
- 5) Has pled guilty or nolo contendere to or been found guilty of:
 - a) Any felony for an offense against the person as defined in chapter 565;
 - b) Any other offense against the person involving the endangerment of a child as prescribed by law;
 - c) Any misdemeanor or felony for a sexual offense as defined in chapter 566;
 - d) Any misdemeanor or felony for an offense against the family as defined in chapter 568;
 - e) Burglary in the first degree as defined in section 569.160;
 - f) Any misdemeanor or felony for robbery as defined in chapter 570;
 - g) Any misdemeanor or felony for pornography or related offense as defined in chapter 573;
 - h) Any felony for arson as defined in chapter 569;
 - i) Any felony for armed criminal action as defined in section 571.015,
 - j) unlawful use of a weapon as defined in section 571.030,
 - k) unlawful possession of a firearm as defined in section 571.070, or the unlawful possession of an explosive as defined in section 571.072;
 - l) Any felony for making a terrorist threat as defined in section 574.115, 574.120, or 574.125;
 - m) A felony drug-related offense committed during the preceding five years; or
 - n) Any similar offense in any federal, state, or other court of similar jurisdiction of which the department has knowledge.

- **Can someone found ineligible for employment appeal DSS decision?**
 - Yes. An Applicant who is found ineligible for employment at a LRCF, LERCF, and Child Placing agency will be notified of their right to appeal the decision of DSS.
 - 13 CSR 35-71.015 (12) outlines the process for administrative reviews and appeals.
- **When does the eligibility or ineligibility decision made by DSS expire?**
 - The eligibility or ineligibility decision made by DSS is valid for thirty (30) days from the date of the decision.
 - It is the responsibility of the Applicant to notify DSS of any change in circumstance that may impact the eligibility or ineligibility of an applicant.
 - HB 557 and HB 560 (RSMO 210.493) requires all LRCF, LERCF and Child Placing agencies to conduct background checks through DSS every 5 years.
- **Can DSS resubmit the fingerprints every five years or does the applicant need to complete a new application?**
 - Every five years applicants must fill out a new application for background checks through DSS and must submit a new set of fingerprints. Fingerprints are not eligible to be resubmitted.
- **Are Licensed Residential Care Facilities still required to do annual FCSR checks?**
 - Yes. FCSR checks must be completed through DSS initially and in year 5. LRCF must still complete an annual FCSR checks in year 2, 3, and 4.
- **What should an applicant do if there has been a change in circumstances that may impact their eligibility or ineligibility for employment?**
 - It is the responsibility of the Applicant to notify DSS of any change in circumstance that may impact the eligibility or ineligibility of an applicant.
 - Example: a new criminal conviction for a disqualifying crime listed in RSMO 210.493 may make a previously eligible applicant ineligible.
 - Example: a newly expunged conviction may make a previously ineligible applicant eligible.

- The Applicant will need to submit a new application based on the subsequent information. Each application will be considered based on the exclusionary criteria established by HB 557 and 560 (RSMO 210.493) and promulgated in 13 CSR 35-71.015 regardless of a previous determination made by the agency.
- **If a current employee is found to have an exclusionary criteria, is there an exception process?**
 - No. HB 557 and 560 (RSMO 210.493) does not establish any exception process for an individual found to meet exclusionary criteria.
 - An Applicant who is found ineligible for employment at a LRCF, LERCF, and Child Placing agency will be notified of their right to appeal the decision of DSS.
 - 13 CSR 35-71.015 (12) outlines the process for administrative reviews and appeals.
- **Is there a way to prioritize background checks for new employees verses existing employees?**
 - The “Application for Background Check” will include a field to identify new verses current persons with the agency.
 - Persons new to the agency should indicate they are new on their “Application for Background Check” to ensure the agency is able to prioritize new persons verses individuals currently with the agency.
- **Can an agency hire new employees while we are waiting for DSS to begin their background check process?**
 - Agencies may hire individuals prior to the effective date of 13 CSR 35-71.015, but individuals who are subject to the background check requirements must complete the background checks under the phase-in process by December 31, 2021.
 - If a LRCF, LERCF or Child Placing agency completes a background checks for a new employee prior to the effective date of 13 CSR 35-71.015 they must still complete the new background check process as established by HB 557 and 560 (RSMO 210.493)
- **Can staff all get their fingerprints done at the same location at the same time?**
 - The collection of fingerprints is done by INDEMIA, a contractor associated with the MSHP. Locations for fingerprint collection can be found at <https://www.identogo.com/locations/missouri>.
 - For questions regarding fingerprinting or potential coordination agencies should contact INDEMIA at (844) 543-9712.
- **Can interested agencies continue to conduct their own background checks?**
 - Background checks are required to be completed through DSS to comply with the requirements of HB 557 and 560 (RSMO 210.493). Agencies wishing to conduct their own background checks, separate from the process required by HB 557 and 560 (RSMO 210.493) may do so at their own discretion.
- **Do agencies need to notify DSS when an applicant leaves employment?**
 - DSS does not need to be notified if an employee or applicant separates from a LRCF, LERCF, or Child Placing agency.
- **How can individuals who live out of state complete the background check requirement?**
 - Applicants residing outside Missouri who need a fingerprint-based Missouri or Missouri and national criminal history background check (subject to authorization) performed through the Missouri State Highway Patrol may contact the local law enforcement agency in their state for fingerprint assistance. Fingerprints and personal identifying information must be completed on a FBI standardized Applicant Fingerprint Card (FD-258). Both ink and electronic fingerprint images are accepted by the Missouri State Highway Patrol; however, electronic transmission from agencies outside of Missouri is not allowed. The completed applicant fingerprint card should be mailed with appropriate fees to the Missouri State Highway Patrol, CJIS Division, at Post Office Box 9500, Jefferson City, MO 65102-9500.
 - Applicants may also contact IDEMIA, the Missouri contracted fingerprint vendor, for assistance at (844)543-9712. The completed applicant fingerprint card may be mailed to IDEMIA for electronic submission to the MSHP, which may expedite the processing time. For further assistance or questions regarding submitting fingerprints to Missouri from out-of-state, please contact the MSHP CJIS Division at (573) 526-6153.

- **Will DSS receive RAPback notifications in-between background checks?**
 - No. DSS will not receive RAPback notifications for background checks.
- **Do agencies currently using RAPback and MACHES need to continue?**
 - Agencies may continue, at their own discretion, to use RAPback and MACHES but are not required to do so to comply with the requirements established by HB 557 and 560.
- **Does this law impact fingerprints for foster parents?**
 - HB 557 and 560 does not address or impact any of the existing requirements for the background checks required of licensed foster parents and kinship placements authorized by an order of a court with jurisdiction over the child.
 - License-except foster home arrangements established and operated by any well-known religious order or church and residential care facility or child placement agency operated by such an organization are subject to background check requirements. See section 210.516.1(6) RSMo.
- **How will DSS monitor compliance with the background check requirement?**
 - The Department will monitor LRCF and Child Placing agencies as part of the licensure process and will be checked at the time of a facility review.
 - LERCF will be checked for compliance based on their reporting of staff and if background checks have been completed.
 - As established in HB 557 and 560 (RSMO 210.1268) when the department is advised or has reason to believe that any residential care facility is operating without proper notification, including background check requirements, in accordance with sections RSMO 210.1250 to 210.1286, it shall give the director of the residential care facility written notice by certified mail that such person shall file notification in accordance with sections RSMO 210.1250 to 210.1286 within thirty days after receipt of such notice, or the department may request a court injunction as provided under section RSMO 210.1271.
 - DSS expects that it will also monitor LERCFs for compliance with HB 557 and its implementing regulations if it investigates a report of child abuse or neglect at the LERCF.
- **If a child has an off-site job or apprenticeship what are the background check requirements for their employer?**
 - If a resident is employed by an employer that is not a LRCF, LERCF or Child Placing Agency then that employer is does not fall under HB557 and does not need to complete background checks through DSS.
- **Who should I contact if I have questions regarding background checks?**
 - Any questions related to background checks should be directed to CD.screen@dss.mo.gov.