



TO: Health and Human Services Commission
Executive Council

DATE: February 22, 2018

FROM: Lana E. Estevilla, Director of Policy and
Program Operations, Child Care Licensing

AGENDA ITEM: 2.k

SUBJECT: Residential Child Care Licensing

BACKGROUND: Federal Legislative Other: Program Initiative

The purpose of the amendments and repeals is to implement House Bill (H.B.) 7, H.B. 834, H.B. 871, Senate Bill (S.B.) 11, and S.B. 1571, 85th Legislature, Regular Session, 2017. These proposed amendments and repeals are for rules in Texas Administrative Code, Title 40, Chapter 745, and Title 26, Chapters 748 and 749.

The Health and Human Services Commission (HHSC) proposes to amend Section 745.129, relating to exemptions from regulation, to add two new exemptions from licensure and to be in conformity with H.B. 7 (SECTION 46) and H.B. 871 (SECTION 12). The first new exemption is for one or more children or sibling groups living with a caregiver, if the caregiver does not care for more than six children, does not receive any compensation, and has a written agreement with the parent of each child or sibling group. The second exemption is for a program that provides respite care for a local mental health authority under a contract with that authority.

HHSC proposes to amend Sections 745.273, 745.275, 745.277, and 745.279 and repeal Sections 745.271 and 745.281, relating to public notice and hearing requirements for residential child care operations, to be in conformity with H.B. 7 (SECTIONS 58 and 71), which amends Human Resources Code Section 42.0461. The amendments and repeals: (1) delete moot public notice and hearing requirements for an independent or agency foster group home or foster family home, because the Child Care Licensing (CCL) department of the HHSC Regulatory Services Division can no longer license an independent foster family or group home and a child-placing agency can no longer verify a foster family home that is not located in the foster parent's actual residence; and (2) clarify the information that CCL will consider when issuing or amending a permit in response to the results of a public hearing.

HHSC proposes to amend Sections 745.4201, 745.4203, 745.4205, 748.1263, 748.1265, 749.1183, and 749.1185, relating to an authorized operation taking possession of a child directly from a law enforcement officer to be in conformity with S.B. 1571, which adds Article 2.273 to the Code of Criminal Procedure. The amendments: (1) update the wording of the Division and the rules to be consistent with the statute, which allows a law enforcement officer to release a child to any residential child care operation licensed under Human Resources Code Chapter 42 and authorized by CCL to take possession of the child; (2) delete the option of a "juvenile probation officer" releasing a child directly to an authorized residential child care operation and clarify that this option is no longer available as an emergency admission; and (3) delete the mention of an outdated form and replaces the form with a list of information that the operation must obtain when a law enforcement officer releases a child to an authorized residential child care operation.

HHSC proposes to amend Sections 749.3391 and 749.3395, relating to adoption information that must be included in a Health, Social, Educational, and Genetic History report (HSEGH), and information that must be provided to adoptive parents, to be in conformity with H.B. 834 (SECTION 2) and S.B. 11 (SECTIONS 5 and 6), which amends the Family Code, Sections 162.0062 and 162.007 and adds Section 162.603. The amendments: (1) require the health history of a HSEGH to include whether the child's birth mother has consumed alcohol during pregnancy and been diagnosed with fetal alcohol spectrum disorder; (2) further emphasize that a CPA must inform adoptive parents of their right to examine the health history portion of the HESGH; and (3) require a CPA to provide the prospective adoptive parents with: (A) research (i.e. suggested reading materials or websites) on how any known health issue that the child has and/or any trauma that the child has experienced may impact child development and the family's ability to maintain permanency; (B) information about community services and other resources available to support adoptive parents; and (C) the options available to adoptive parents who are unable to care for an adoptive child.

ISSUES AND ALTERNATIVES:

It is anticipated that providers or other stakeholders will have minimal concerns, issues, or objections regarding these amendments and repeals.

STAKEHOLDER INVOLVEMENT:

A workgroup meeting was held on October 27, 2017. The workgroup consisted of approximately eight providers that had a mix of licenses as a CPA and/or a general residential operation, one foster parent, three

participants from the Child Protective Services Division of the Department of Family and Protective Services, and several participants from CCL. The amendments and repeals were shared during the workgroup meeting and there were several comments and discussion regarding Section 749.3395 relating to the information that must be shared with adoptive parents. Based on the comments and discussion, the original version of the amendment to Section 749.3395 was modified.

After modification, the amendments and repeals were also posted on the Health and Human Services Rulemaking website for informal stakeholder comments from November 7, 2017, through November 17, 2017. During this time, CCL received one request for additional information from Disability Rights Texas related to Section 745.129, regarding the new exemption for providing respite care to a local mental health authority, and the rules related to authorized operations taking possession of a child directly from a law enforcement officer. CCL also received one comment from One Voice Texas related to Section 745.129, regarding the new exemption for one or more children or siblings groups living with a caregiver. CCL responded to the request for information and reviewed and took into consideration the comment. However, based on the comment CCL did not make any changes to the amendment related to exemptions.

FISCAL IMPACT:

None

SERVICES IMPACT STATEMENT:

The anticipated public benefit will be that: (1) HHSC will be in compliance with the statutory changes implemented by the 85th Legislature, Regular Session, 2017; (2) programs will have a clearer understanding of programs that are exempt; (3) applicants for a residential child care license will have a better understanding of the public notice and hearing requirements and the impact the requirements will have on an application for a license; (4) authorized residential child care operations will have a clearer understanding of what is required when accepting possession of a child directly from a law enforcement officer; (5) adoptive parents will have more information on children being adopted, especially in relation to alcohol related issues; and (6) adoptive parents will have more information on child development, the family's ability to maintain permanency, community services and other support resources, and the options an adoptive parent has when the adoptive parent is unable to care for a child.

RULE DEVELOPMENT SCHEDULE:

February 22, 2018	Present to HHSC Executive Council
March 2018	Publish proposed rules in <i>Texas Register</i>
July 2018	Publish adopted rules in <i>Texas Register</i>
July 2018	Effective date

PROPOSED PREAMBLE

The Texas Health and Human Services Commission (HHSC) proposes amendments to §§745.129, 745.273, 745.275, 745.277, 745.279, 745.4201, 745.4203, and 745.4205; and the repeals of §§745.271 and 745.281 in Title 40, Chapter 745, Licensing. The amendments and repeals relate to exemptions from regulation, public notice and hearing requirements for residential child-care operations, and authorized operations taking possession of a child directly from a law enforcement officer.

BACKGROUND AND PURPOSE

The purpose of the amendments and repeals is to implement House Bill (HB) 7, HB 871, and Senate Bill (SB) 1571, 85th Legislature, Regular Session, 2017.

HHSC proposes to amend §745.129, under Subchapter C, Division 2, Exemptions from Regulation, to add two new exemptions from licensure and to be in conformity with HB 7 (SECTION 46) and HB 871 (SECTION 12). The first new exemption is for one or more children or sibling groups living with a caregiver, if the caregiver does not care for more than six children, does not receive any compensation, and has a written agreement with the parent of each child or sibling group. The second exemption is for a program that provides respite care for a local mental health authority under a contract with that authority. The amendment also includes changes that update the names of agencies, the numbering system, and the wording for consistency.

HHSC proposes to amend §§745.273, 745.275, 745.277, and 745.279 and repeal §§745.271 and 745.281, under Subchapter D, Division 4, Public Notice and Hearing Requirements for Residential Child Care Operations, to be in conformity with HB 7 (SECTIONS 58 and 71), which amends Human Resources Code §42.0461. The amendments and repeals: (1) delete moot public notice and hearing requirements for an independent or agency foster group home or foster family home, because the Child Care Licensing (CCL) department of the HHSC Regulatory Services Division can no longer license an independent foster family or group home and a child-placing agency (CPA) cannot verify a foster family home that is not located in the foster parent's actual residence; (2) clarify the information that CCL will consider when issuing or amending a permit in response to the results of a public hearing; and (3) update the wording of the rules for better readability and understanding.

HHSC proposes to amend §§745.4201, 745.4203, and 745.4205, under Subchapter H, Division 2, Taking Possession of a Child Directly from a Law

Enforcement Officer, to be in conformity with SB 1571, which adds Article 2.273 to the Code of Criminal Procedure. The amendments: (1) update the wording of the Division and the rules to be consistent with the statute, which allows a law enforcement officer to release a child to any residential child care operation licensed under Human Resources Code Chapter 42 and authorized by CCL to take possession of the child; (2) delete the option of a "juvenile probation officer" releasing a child directly to an authorized residential child care operation because the statute does not allow it; (3) delete the mention of an outdated form and replaces the form with a list of information that the operation must obtain when a law enforcement officer releases a child to an authorized residential child care operation; and (4) update the wording of the rules for consistency and better readability and understanding.

A workgroup meeting was held on October 27, 2017. The workgroup consisted of approximately eight providers that had a mix of licenses as a CPA and/or a general residential operation, one foster parent, three participants from the Child Protective Services Division of the Department of Family and Protective Services (DFPS), and several participants from CCL. The amendments and repeals were shared during the workgroup meeting. No comments were made regarding the amendments or repeals.

The amendments and repeals were also posted on the Health and Human Services Rulemaking website for informal stakeholder comments from November 7 - 17, 2017. During this time, CCL received one comment relating to §745.129, regarding the new exemption for one or more children or sibling groups living with a caregiver. CCL considered the comment and made no further changes to the amendment.

SECTION-BY-SECTION SUMMARY

The proposed amendment of §745.129: (1) adds an exemption for one or more children or sibling groups living with a caregiver, if the caregiver does not care for more than six children, does not receive any compensation, and has a written agreement with the parent of each child or sibling group; (2) adds an exemption for a program that provides respite care for a local mental health authority under a contract with that authority; and (3) updates the names of agencies, the numbering system, and the wording for consistency.

The proposed repeal of §745.271 deletes the rule as duplicative and not necessary because the content of the rule is already included in §§745.273 and 745.277.

The proposed amendment of §745.273: (1) deletes the public notice and hearing requirements for independent and agency foster group homes and foster family homes; (2) updates the wording of the rule for better readability and understanding; and (3) updates the subsection cites.

The proposed amendment of §745.275: (1) reorganizes the notice requirements for better readability and understanding (2) clarifies that persons must submit “written” comments and/or “written information” to CCL concerning the application or the request to increase capacity; (3) deletes all references to a CPA verifying a foster home; (4) deletes a duplicative requirement to provide a verbatim record of the testimony given at the hearing; (4) Updates the name of the Report of Public Comment from the Community and makes the rule consistent with what is currently required in the report; (5) updates the wording of the rule for better readability and understanding; and (6) updates the numbering system.

The proposed amendment of §745.277 deletes references to CCL prohibiting or invalidating a CPA from verifying a home that does not comply with the public notice and hearing requirements, because the requirements are no longer relevant to a CPA and have been deleted.

The proposed amendment of §745.279 specifies what information CCL will consider when determining whether to issue or amend a permit in response to the results of a public hearing, including the application and supplemental materials, written comments and written information provided at the public hearing or directly to CCL, the verbatim record of the public hearing, and the Report of Public Comment from the Community.

The proposed repeal of §745.281 deletes the rule because the public notice and hearing requirements for a CPA verifying a foster home have been deleted and are no longer applicable to a CPA.

The proposed amendment of §745.4201: (1) deletes “juvenile probation officer” from the rule, which prevents an authorized residential child care operation from taking possession of a child directly from a juvenile probation officer; and (2) updates the wording of the rule for consistency with other rules and chapters.

The proposed amendment of §745.4203 deletes “juvenile probation officer” from the rule.

The proposed amendment of §745.4205: (1) deletes “juvenile probation officer” from the rule; (2) deletes the mention of an outdated form and replaces the form with a list of information that the authorized residential

child care operation must obtain when a law enforcement officer releases a child to the operation; and (3) updates the wording of the rule for better readability and understanding.

FISCAL NOTE

Greta Rymal, Deputy Executive Commissioner for Financial Services, has determined that for each of the first five years that the amendments and repeals will be in effect, there will be no fiscal implications to state or local governments as a result of enforcing and administering the amendments and repeals as proposed.

GOVERNMENT GROWTH IMPACT STATEMENT

HHSC has determined that during the first five years that the amendments and repeals will be in effect implementation of the proposed amended and repealed rules:

- (1) will not create or eliminate a government program;
- (2) will not affect the number of employee positions;
- (3) will not require an increase or decrease in future legislative appropriations;
- (4) will not affect fees paid to the agency;
- (5) will not create a new rule;
- (6) will expand some existing rules;
- (7) will not change the number of individuals subject to the rules; and
- (8) will not affect the state's economy.

SMALL BUSINESS, MICRO-BUSINESS, AND RURAL COMMUNITY IMPACT ANALYSIS

Greta Rymal, Deputy Executive Commissioner for Financial Services, has also determined that there will be no adverse economic impact on small businesses, micro-businesses, or rural communities. The amended and repealed rules do not impose any additional costs on small businesses, micro-businesses, or rural communities that are required to comply with the rules.

ECONOMIC COSTS TO PERSONS AND IMPACT ON LOCAL EMPLOYMENT

There are no anticipated costs to persons who are required to comply with the amended and repealed rules as proposed.

COSTS TO REGULATED PERSONS

Texas Government Code, §2001.0045 does not apply to these rules because the rules: (1) are necessary to implement legislation that does not specifically state that §2001.0045 applies to the rules; and (2) do not impose a cost on regulated persons.

PUBLIC BENEFIT

Jean Shaw, Associate Commissioner for CCL, has determined that for each of the first five years that the amendments and repeals are in effect, the public will benefit from the proposed amendments and repeals. The anticipated public benefit will be that: (1) HHSC will be in compliance with the statutory changes implemented by the 85th Legislature, Regular Session, 2017; (2) programs will have a clearer understanding of programs that are exempt; (3) applicants for a residential child care license will have a better understanding of the public notice and hearing requirements and the impact the requirements will have on an application for a license; and (4) authorized residential child care operations will have a clearer understanding of what is required when accepting possession of a child directly from a law enforcement officer.

TAKINGS IMPACT ASSESSMENT

HHSC has determined that the proposed amendments and repeals do not restrict or limit an owner's right to his or her property that would otherwise exist in the absence of government action and, therefore, do not constitute a taking under Government Code, §2007.043.

PUBLIC COMMENT

Questions about the content of this proposal may be directed to Gerry Williams, CCL Rules Developer at (512) 438-5559 or e-mail him at Gerry.Williams@hhsc.state.tx.us.

Written comments on the proposal may be submitted to Gerry Williams, Rules Developer (18R010), Child Care Licensing, Health and Human Services Commission E-550, P.O. Box 149030, Austin, Texas 78714-9030. Electronic comments may be submitted to HHSRulesCoordinationOffice@hhsc.state.tx.us.

To be considered, comments must be submitted no later than 30 calendar days after the date of this issue of the *Texas Register*. Comments must be: (1) postmarked or shipped before the last day of the comment period; (2)

hand-delivered before 5:00 p.m. on the last working day of the comment period; or (3) faxed or e-mailed by midnight on the last day of the comment period. When faxing or e-mailing comments, please indicate "Comments on Proposed Rules 18R010" in the subject line.

STATUTORY AUTHORITY

The amendments and repeals are proposed under Government Code §531.0055, which provide that the Health and Human Services Executive Commissioner shall adopt rules for the operation and provision of services by the health and human services agencies, and §531.02011, which transferred the regulatory functions of DFPS to HHSC.

The amendments and repeals implement Human Resources Code §§42.041, 42.042, and 42.0461; and the Code of Criminal Procedure, Article 2.273. The amendments and repeals correspond with the regulatory functions transferred from DFPS to HHSC.

This agency certifies that this proposal has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

TITLE 40 SOCIAL SERVICES AND ASSISTANCE
 PART 19 DEPARTMENT OF FAMILY AND PROTECTIVE SERVICES
 CHAPTER 745 LICENSING
 SUBCHAPTER C OPERATIONS THAT ARE EXEMPT FROM REGULATION
 DIVISION 2 EXEMPTIONS FROM REGULATION

§745.129. What miscellaneous programs are exempt from Licensing regulation?

The following miscellaneous programs are exempt from our regulation:

Exempt Miscellaneous Programs	Criteria for Exemption
(1) Neighborhood Recreation Program	(A) The program provides activities designed for recreational purposes for children ages 5-13; (B) The governing body of the program must adopt standards for care. At a minimum, these standards must include staffing ratios, staff training, and health and safety standards and mechanisms for monitoring, enforcing the standards, and receiving and resolving complaints from parents of the enrolled children; (C) The program does not accept any compensation other than a nominal annual membership fee. The program does not solicit donations as payment for services or goods provided as part of the program; (D) The program is organized as a non-profit organization or is located at the participant's residence; (E) The program must inform each parent that Licensing does not regulate the operation; (F) The program does not advertise or represent that the program is a child-care facility, day-care center, or licensed before-school or after-school program or that the program offers child-care services; and (G) The program conducts background checks using information that is obtained from the Department of Public Safety for all program employees and volunteers who work with children.

Exempt Miscellaneous Programs	Criteria for Exemption
(2) Skills Program	<p>(A) The program offers direct instruction in a single skill, talent, ability, expertise, or proficiency;</p> <p>(B) The program does not provide or offer services that are not directly related to a single skill, talent, ability, expertise, or proficiency, but may offer transportation and snacks;</p> <p>(C) The program does not advertise or represent that the program is a child-care facility, day-care center, or licensed before-school or after-school program or that the program offers child-care services;</p> <p>(D) The program informs parents that the program is not licensed by the state;</p> <p>(E) The program informs parents of the physical risk a child may face while participating in the program; and</p> <p>(F) The program conducts background checks using information that is obtained from the Department of Public Safety for all program employees and volunteers who work with children.</p>

Exempt Miscellaneous Programs	Criteria for Exemption
(3) Caregiver Has Written Agreement with a Parent to Provide Residential Care	<p>(A) A child or sibling group may live with a <u>someone other than a relative if the</u> non-relative <u>adult caregiver if the caregiver:</u></p> <ul style="list-style-type: none"> (i) <u>Does</u> [does] not care for more than one unrelated child or sibling group; (ii) [(B)] <u>Had</u> [The caregiver had] a prior relationship with the child, sibling group, or other family members of the child or sibling group; (iii) [(C)] <u>Does</u> [The caregiver does] not receive compensation or solicit donations for the care of the child or sibling group; and (iv) [(D)] <u>Has</u> [The caregiver has] a written agreement with the parent to care for the child or sibling group; <u>or</u> [-] <p><u>(B) Multiple children or sibling groups may live with an adult caregiver if the caregiver:</u></p> <ul style="list-style-type: none"> (i) <u>Does not care for more than six children, excluding children who are related to the caregiver;</u> (ii) <u>Does not receive compensation for caring for any child or sibling group; and</u> (iii) <u>Has a written agreement under Chapter 34, Family Code, with the parent of each child or sibling group to care for each child or sibling group.</u>

Exempt Miscellaneous Programs	Criteria for Exemption
(4) Emergency Shelter for Minors	<p>(A) The shelter does not otherwise operate as a child-care facility that must have a license from <u>the Health and Human Services Commission (HHSC)</u> [DFPS];</p> <p>(B) The shelter is providing shelter or care to a minor and the minor's child or children, if any;</p> <p>(C) The shelter provides care for the minor and the minor's child or children only when there is an immediate danger to the physical health or safety of the minor or the minor's child or children;</p> <p>(D) The shelter does not provide care for more than 15 days unless:</p> <ul style="list-style-type: none"> (i) [1] The minor consents to shelter or care to be provided to the minor or the minor's children and is: <ul style="list-style-type: none"> (I) [1] 16 years of age or older, resides separate and apart from the minor's parent, and manages the minor's own financial affairs; or (II) [1] Unmarried and is pregnant or is the parent of a child; or (ii) [2] The minor has qualified for Temporary Assistance for Needy Families and is on the waiting list for housing assistance; and <p>(E) The shelter is:</p> <ul style="list-style-type: none"> (i) [1] Currently under contract with a state or federal agency for the provision of shelter or care to children; or (ii) [2] A family violence center that meets the requirements listed under Human Resources Code §51.005(b)(3), as determined by <u>HHSC</u> [the Health and Human Services Commission].
(5) Child or Sibling Group Placed By <u>the Department of Family and Protective Services (DFPS)</u> [DFPS]	<p>(A) The caregiver has a longstanding and significant relationship with the child or sibling group;</p> <p>(B) DFPS is the managing conservator of the child or sibling group; and</p> <p>(C) DFPS placed the child or sibling group in the caregiver's home.</p>
(6) Food Distribution Program	<p>(A) The program serves an evening meal to children two-years-old or older; and</p> <p>(B) The program is operated by a non-profit food bank in a non-profit, religious, or educational facility for not more than two hours a day on regular business days.</p>

Exempt Miscellaneous Programs	Criteria for Exemption
(7) Emergency Shelter for <u>Victims of Human Trafficking</u>	<p>(A) The shelter does not otherwise operate as a child-care facility that is required to have a license from <u>HHSC</u> [DFPS];</p> <p>(B) The shelter is operated by a nonprofit organization;</p> <p>(C) The shelter provides shelter and care for no more than 15 days to alleged victims of human trafficking as defined in Penal Code §20A.02, who are 13-17 years old; and</p> <p>(D) The shelter is located in a municipality with a population of at least 600,000 that is in a county on an international border; and:</p> <p style="padding-left: 40px;">(i) [(1)] Is licensed by, or operates under an agreement with, a state or federal agency to provide shelter and care to children; or</p> <p style="padding-left: 40px;">(ii) [(2)] Is a family violence center that meets the requirements listed under Human Resources Code §51.005(b)(3), as determined by <u>HHSC</u> [the Health and Human Services Commission].</p>
<u>(8) Respite Care for a Local Mental Health Authority</u>	<u>A program that provides respite care for a local mental health authority under a contract with that authority.</u>

TITLE 40 SOCIAL SERVICES AND ASSISTANCE
PART 19 DEPARTMENT OF FAMILY AND PROTECTIVE SERVICES
CHAPTER 745 LICENSING
SUBCHAPTER D APPLICATION PROCESS
DIVISION 4 PUBLIC NOTICE AND HEARING REQUIREMENTS FOR
RESIDENTIAL CHILD-CARE OPERATIONS

~~[\$745.271. After Licensing accepts my application, must I meet any additional requirements before Licensing may approve my application?]~~

~~[Some residential child-care operations must meet the public notice and hearing requirements.]~~

\$745.273. Which residential child-care operations ~~[operators]~~ must meet the public notice and hearing requirements?

~~[(a) All independent foster family or foster group home operations applying for a permit to operate or requesting to amend their permit to increase capacity and any child-placing agency planning to verify an agency foster family or foster group home must meet the public notice and hearing requirements if:]~~

~~[(1) These homes are in counties with a population of less than 300,000; and]~~

~~[(2) The foster home is not the actual residence of the foster family.]~~

(a) ~~[(b)]~~ Except as specified in subsection (b) ~~[(c)]~~ of this section, all general residential operations applying for a permit to operate or requesting to amend their license to increase capacity must meet the public notice and hearing requirements if they are located in a county with a population of less than 300,000.

(b) ~~[(c)]~~ A general residential operation that applies to provide services under Chapter 748, Subchapter V of this title (relating to Additional Requirements for Operations that Provide Trafficking Victim Services) is exempt from any public notice and hearing requirements in subsection (a) ~~[(b)]~~ of this section. Notwithstanding the exemption provided in this subsection, if the operation never provides or ceases to provide trafficking victim services, then the operation must meet the public notice and hearing requirements. In order to meet public notice and hearing requirements, the operation may need to surrender its permit or withdraw its application, as applicable, and reapply.

§745.275. What are the specific requirements for a public notice and hearing?

The following chart lists the public notice, hearing requirements, and subsequent report you must complete:

Type of Requirements	Requirements To Be Completed
(1) Public Notice Requirements	<p>(A) The notice must include:</p> <ul style="list-style-type: none"> (i) Your name and address; (ii) The name and address of the child-care operation, if already established, or the address where you propose to provide child care services; <u>(iii) A description of the population to be served, the services to be provided, and the number of children expected to be served;</u> (iv) [(iii)] The date, time, and location of the public hearing; <u>(v) [(iv)]</u> A statement that a person may submit <u>written comments and/or written information</u> to Licensing concerning the application <u>or</u> [,] the request to increase capacity [, or the pending verification of an agency home,] instead of or in addition to appearing at the public hearing; <u>and</u> <u>(vi) [(v)]</u> The name, address, and telephone number of the [person within] Licensing <u>representative that will attend the public hearing;</u> [to contact with comments; and] [(vi) A description of the population to be served, the services to be provided, and the licensed capacity requested;] <p>(B) If you are applying for a permit, the notice must be published after we accept your application. If you are requesting to amend your permit to increase capacity, the notice must be published after we have evaluated your request to increase capacity; [. If you are attempting to verify an agency home, the notice must be published before you verify the home;]</p> <p>(C) You must publish the notice about the public hearing at least 10 days before the date of the public hearing;</p> <p>(D) You must publish the notice in a newspaper of general circulation in the community where your child care services are or will be provided; and</p> <p>(E) You must provide a copy of the notice to the school district superintendent, the governing body of the community, and the local law enforcement agency at least 10 work days before the hearing.</p>

Type of Requirements	Requirements To Be Completed
(2) Public Hearing Requirements	<p>(A) You must hold the hearing in a location easily accessible to the community where the services are or will be provided;</p> <p>(B) You must schedule the hearing and open it for at least four hours during the normal business day (Monday - Friday) or early evening hours;</p> <p>(C) If you are applying for a permit, you must hold the hearing no later than one month after the date that we accept your application. If you are requesting to amend your permit to increase capacity, you must hold the hearing after we have evaluated your request to increase capacity [. If you are a child-placing agency attempting to verify an agency home, you must hold the hearing before you verify the home];</p> <p>(D) You must notify us of the time, date, and location of the hearing at least 10 days before the hearing; <u>and</u></p> <p>[(E) You must provide a verbatim record of the testimony given at the hearing; and]</p> <p>(E) [(F)] You must facilitate the hearing.</p>

Type of Requirements	Requirements To Be Completed
(3) <u>Verbatim Record and Report of Public Comment from the Community</u> to be Completed	<p>Within 10 work days of the hearing, you must submit to us:</p> <p>(A) <u>The</u> the <u>verbatim record of the testimony given at the public hearing;</u> and</p> <p>(B) <u>A completed</u> a public comment <u>summary</u> report on the <u>Report [Results] of Public Comment from the Community [Hearing]</u> form that we furnish you <u>that includes</u> with the following documentation:</p> <p>(i) (A) <u>A copy of the newspaper notice and include the date published and the name of the newspaper in which the notice appeared;</u></p> <p>(ii) <u>Proof that</u> That you gave the school district superintendent, local law enforcement, and the governing body of the community an opportunity to comment on the application <u>or</u> ; the request to amend your permit to increase capacity [, or the pending verification of an agency home];</p> <p>(iii) (B) <u>Your responses to any negative comments;</u></p> <p>(iv) (C) <u>The amount of local resources available to support children you propose to serve, including physical and mental health services, educational services, law enforcement, and other services;</u></p> <p>(v) (D) <u>The impact of the proposed services on the ratio in the local school district of students enrolled in a special education program to students enrolled in a regular education program and the effect, if any, on the children you propose to serve, including the estimated impact on the current ratio in the school in relation to the average ratio statewide, and the ratio in terms of the probability of adverse impact on children in care;</u></p> <p>(vi) (E) <u>The impact of the proposed services on the community and the effect on opportunities for social interaction for the children proposed to be served, including social and youth groups, spiritual and religious organizations, and youth employment groups or agencies; and</u></p> <p>(vii) (F) <u>Any other documentation available to support the position of the report.</u></p>

§745.277. What will happen if I fail to comply with the public notice and hearing requirements?

If you fail to comply with any one of the public notice and hearing requirements that are set forth under §745.273 of this division [title] (relating to Which residential child-care operations must meet the public notice and hearing requirements?) and §745.275 of this division [title] (relating to What are the specific requirements for a public notice and hearing?), we may do the following [~~as applicable~~]:

- (1) Deny you a permit; or
- (2) Deny you an amendment to your permit to increase capacity. [~~]~~
- ~~[(3) Prohibit you from verifying the agency home; or]~~
- ~~[(4) Invalidate the verification of the agency home.]~~

§745.279. How may the results of a public hearing affect my application for a permit or a request to amend my permit?

(a) When we determine whether to issue or amend a permit, we will consider the following while we are processing the results of a public hearing:

- (1) The application and any information submitted with the application;
- (2) Written comments and written information provided by interested parties at the public hearing;
- (3) Written comments and written information concerning the application provided directly to Licensing; and
- (4) The Verbatim Record and summary Report of Public Comment from the Community, as required in §745.275(3) of this division (relating to What are the specific requirements for a public notice and hearing?).

(b) We may deny you a permit or an amendment to increase capacity if we determine that:

- (1) The community has insufficient resources to support the children that you propose to serve;

(2) Issuing the license or amending your permit would significantly increase the ratio in the local school district of students enrolled in a special education program to students enrolled in a regular education program, and the increase would adversely affect the children that you propose to serve;
or

(3) Issuing the license or increasing the capacity would have a significant adverse impact on the community and would limit opportunities for social interaction for the children that you propose to serve.

~~§745.281. How may the results of a public hearing affect my ability to verify an agency foster home or agency foster group home?~~

~~[We may prohibit you from verifying the proposed agency foster home or agency group foster home if we determine that:]~~

~~[(1) The community has insufficient resources to support the children that the home would serve;]~~

~~[(2) The home would significantly increase the ratio in the local school district of students enrolled in a special education program to students enrolled in a regular education program, and the increase would adversely affect the children that the home would serve; or]~~

~~[(3) The home would have a significant adverse impact on the community and would limit opportunities for social interaction for the children that the home would serve.]~~

TITLE 40 SOCIAL SERVICES AND ASSISTANCE
PART 19 DEPARTMENT OF FAMILY AND PROTECTIVE SERVICES
CHAPTER 745 LICENSING
SUBCHAPTER H RESIDENTIAL CHILD-CARE: DRUG TESTING AND LAW
ENFORCEMENT ADMISSIONS
DIVISION 2 TAKING POSSESSION OF A CHILD DIRECTLY FROM A
[THROUGH] LAW ENFORCEMENT [~~OR A JUVENILE~~
~~PROBATION~~] OFFICER

§745.4201. May I take possession of a child from a law enforcement [~~or juvenile probation~~] officer?

You may take possession of a child directly from a law enforcement officer if you are:

(1) A general residential operation licensed to provide emergency care services [~~shelter~~]; or

(2) A licensed child-placing agency that we have authorized to take possession of children from a law enforcement [~~or juvenile probation~~] officer.

§745.4203. How does a child-placing agency become authorized to take possession of a child from a law enforcement [~~or juvenile probation~~] officer?

If you are a child-placing agency, the following must occur before you can take possession of a child from a law enforcement [~~or juvenile probation~~] officer:

(1) You submit to us a Request to Accept Children from a Law Enforcement Officer form;

(2) We review the request to determine whether you are equipped to accept these types of emergency admissions; and

(3) If we authorize you to accept such admissions, we add your ability to accept these admissions to the conditions on your license.

§745.4205. What must I do when I take possession of a child from a law enforcement [~~or juvenile probation~~] officer?

When you take possession of a child from a law enforcement officer, [~~or juvenile probation office~~] you must:

(1) With the assistance of the officer who has the child, obtain and document any available information regarding: [~~complete an Admission of a Child from a Law Enforcement Officer form;~~]

(A) The identity of the child, including name, age, date of birth, gender, race, hair color, eye color, height, and address;

(B) The identity of the child's parents, including names, dates of birth, addresses, and phone numbers;

(C) Individuals or relatives that the child may be released to;

(D) The officer that you are taking possession of the child from, including the officer's full name, badge number, department the officer works for, and case number; and

(E) Any other information that must be included in the child's record for an emergency admission, as listed in §748.1271 of this title (relating to At the time of an emergency admission, what information must I document in the child's record?) or §749.1189 of this title (relating to At the time of an emergency admission, what information must I document in the child's record?);

(2) Immediately notify the Department of Family and Protective Services (DFPS) [DFPS] that you have taken possession of the child by calling the Texas Abuse Hotline [abuse neglect hotline]; and

(3) Provide the information obtained and documented from [completed form referred to in] paragraph (1) of this section to the DFPS investigator who responds to the call.

PROPOSED PREAMBLE

The Texas Health and Human Services Commission (HHSC) proposes amendments to §§748.1263 and 748.1265 in Title 26, Chapter 748, Minimum Standards for General Residential Operations. The amendments relate to operations that are licensed to provide emergency care services taking possession of a child directly from a law enforcement officer.

BACKGROUND AND PURPOSE

The purpose of the amendments is to implement Senate Bill (SB) 1571, 85th Legislature, Regular Session, 2017.

HHSC proposes to amend §§748.1263 and 748.1265, under Subchapter I, Division 2, Emergency Admission, to be in conformity with SB 1571, which adds Article 2.273 to the Code of Criminal Procedure. The amendments: (1) delete as an emergency admission a "juvenile probation officer" releasing a child to an authorized emergency care services program because the statute does not allow a juvenile probation officer to release a child in this scenario; (2) delete the option of an authorized emergency care services program taking possession of a child directly from a "juvenile probation officer"; and (3) update the question, a cite, and the title of the division for consistency.

A workgroup meeting was held on October 27, 2017. The workgroup consisted of approximately eight providers that had a mix of licenses as a child-placing agency and/or a general residential operation, one foster parent, three participants from the Child Protective Services Division of the Department of Family and Protective Services (DFPS), and several participants from the Child Care Licensing (CCL) department of the HHSC Regulatory Services Division. The amendments were shared during the workgroup meeting. No comments were made regarding the amendments.

The amendments were also posted on the Health and Human Services Rulemaking website for informal stakeholder comments from November 7 - 17, 2017. No stakeholder comments were received on the amendments.

SECTION-BY-SECTION SUMMARY

The proposed amendment of §748.1263: (1) updates the terminology that a law enforcement officer may release a child to an "operation that is licensed to provide emergency care services"; and (2) deletes as an emergency admission a "juvenile probation officer" releasing a child to an emergency care program.

The proposed amendment of §748.1265: (1) deletes the option of an authorized emergency care program taking possession of a child directly from a “juvenile probation officer”; and (2) updates the question, a cite, and the title of the division for consistency.

FISCAL NOTE

Greta Rymal, Deputy Executive Commissioner for Financial Services, has determined that for each of the first five years that the amendments will be in effect, there will be no fiscal implications to state or local governments as a result of enforcing and administering the amendments as proposed.

GOVERNMENT GROWTH IMPACT STATEMENT

HHSC has determined that during the first five years that the amendments will be in effect implementation of the proposed amended rules will not:

- (1) create or eliminate a government program;
- (2) affect the number of employee positions;
- (3) require an increase or decrease in future legislative appropriations;
- (4) affect fees paid to the agency;
- (5) create a new rule;
- (6) expand existing rules;
- (7) change the number of individuals subject to the rules; and
- (8) affect the state’s economy.

SMALL BUSINESS, MICRO-BUSINESS, AND RURAL COMMUNITY IMPACT ANALYSIS

Greta Rymal, Deputy Executive Commissioner for Financial Services, has also determined that there will be no adverse economic impact on small businesses, micro-businesses, or rural communities. The amended rules do not impose any additional costs on small businesses, micro-businesses, or rural communities that are required to comply with the rules.

ECONOMIC COSTS TO PERSONS AND IMPACT ON LOCAL EMPLOYMENT

There are no anticipated costs to persons who are required to comply with the amended rules as proposed.

COSTS TO REGULATED PERSONS

Texas Government Code §2001.0045 does not apply to these rules because the rules: (1) are necessary to implement legislation that does not

specifically state that §2001.0045 applies to the rules; and (2) do not impose a cost on regulated persons.

PUBLIC BENEFIT

Jean Shaw, Associate Commissioner for CCL, has determined that for each of the first five years that the amendments are in effect, the public will benefit from the proposed amendments. The anticipated public benefit will be that: (1) HHSC will be in compliance with SB 1571 implemented by the 85th Legislature, Regular Session, 2017; and (2) operations licensed to provide emergency care services will have a clearer understanding of what is required when accepting a child from a law enforcement officer.

TAKINGS IMPACT ASSESSMENT

HHSC has determined that the proposed amendments do not restrict or limit an owner's right to his or her property that would otherwise exist in the absence of government action and, therefore, do not constitute a taking under Government Code §2007.043.

PUBLIC COMMENT

Questions about the content of this proposal may be directed to Gerry Williams, CCL Rules Developer at (512) 438-5559 or e-mail him at Gerry.Williams@hhsc.state.tx.us.

Written comments on the proposal may be submitted to Gerry Williams, Rules Developer (18R010), Child Care Licensing, Health and Human Services Commission E-550, P.O. Box 149030, Austin, Texas 78714-9030. Electronic comments may be submitted to HHSRulesCoordinationOffice@hhsc.state.tx.us.

To be considered, comments must be submitted no later than 30 calendar days after the date of this issue of the *Texas Register*. Comments must be: (1) postmarked or shipped before the last day of the comment period; (2) hand-delivered before 5:00 p.m. on the last working day of the comment period; or (3) faxed or e-mailed by midnight on the last day of the comment period. When faxing or e-mailing comments, please indicate "Comments on Proposed Rules 18R010" in the subject line.

STATUTORY AUTHORITY

The amendments are proposed under Government Code §531.0055, which provide that the Health and Human Services Executive Commissioner shall

adopt rules for the operation and provision of services by the health and human services agencies, and §531.02011, which transferred the regulatory functions of DFPS to HHSC.

The amendments implement Human Resources Code §42.042 and the Code of Criminal Procedure Article 2.273, both of which correspond with the regulatory functions transferred from DFPS to HHSC.

This agency certifies that this proposal has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

TITLE 26 [40] HEALTH AND HUMAN [SOCIAL] SERVICES [AND ASSISTANCE]
PART 1 [19] TEXAS HEALTH AND HUMAN SERVICES COMMISSION
[DEPARTMENT OF FAMILY AND PROTECTIVE SERVICES]
CHAPTER 748 MINIMUM STANDARDS FOR GENERAL RESIDENTIAL OPERATIONS
SUBCHAPTER I ADMISSION, SERVICE PLANNING, AND DISCHARGE
DIVISION 2 EMERGENCY ADMISSION

§748.1263. What constitutes an emergency admission to my operation?

It is an emergency admission if:

- (1) You must place the child within 72 hours;
- (2) The child was removed from a situation involving alleged abuse or neglect;
- (3) The child is an alleged perpetrator of abuse and cannot be served in the child's current placement due to the child's perpetrating behaviors;
- (4) The child displays behavior that is an immediate danger to self or others and cannot function or be served in the child's current setting;
- (5) The child was abandoned and after exercising reasonable efforts, the child's identity cannot be immediately determined. You must document the efforts made to obtain information on the child's identity in the child's record;
- (6) The child was removed from the child's home or placement, and there is an immediate need to find a residence for the child;
- (7) A law enforcement officer [~~or juvenile probation officer~~] released the child to your operation that is licensed to provide emergency care services [~~authorized emergency care program~~]; or
- (8) The child is otherwise without adult care.

§748.1265. May I take possession of a child [~~through~~] from a law enforcement [~~or juvenile probation~~] officer?

You may take possession of a child from a law enforcement [~~or juvenile probation~~] officer only if you meet the requirements of Division 2 [~~Division 7~~], Subchapter H of Chapter 745 of this title (relating to Taking Possession of a Child Directly [~~Through~~] from a Law Enforcement [~~or a Juvenile Probation~~] Officer).

PROPOSED PREAMBLE

The Texas Health and Human Services Commission (HHSC) proposes amendments to §§749.1183, 749.1185, 749.3391, and 749.3395 in Title 26, Chapter 749, Minimum Standards for Child-Placing Agencies. The amendments relate authorized child-placing agencies taking possession of a child directly from a law enforcement officer; adoption information that must be included in a Health, Social, Educational, and Genetic History report; and information that must be provided to adoptive parents prior to or at the time of adoptive placement.

BACKGROUND AND PURPOSE

The purpose of the amendments is to implement House Bill (HB) 834, Senate Bill (SB) 11, and SB 1571, 85th Legislature, Regular Session, 2017.

HHSC proposes to amend §§749.1183 and 749.1185, under Subchapter H, Division 4, Emergency Admission, to be in conformity with SB 1571, which adds Article 2.273 to the Code of Criminal Procedure. The amendments: (1) delete as an emergency admission a "juvenile probation officer" releasing a child to an authorized child-placing agency (CPA) because the statute does not allow a juvenile probation officer to release a child in this scenario; (2) delete the option of an authorized CPA taking possession of a child directly from a "juvenile probation officer"; and (3) update the question, a cite, and the title of the division for consistency.

HHSC proposes to amend §§749.3391 and 749.3395, under Subchapter Q, Division 5, Required Information, to be in conformity with HB 834 (SECTION 2) and SB 11 (SECTIONS 5 and 6), which amends the Family Code, §§162.0062 and 162.007 and adds §162.603. The amendments: (1) require the health history of a Health, Social, Educational, and Genetic History report (HSEGH) to include whether the child's birth mother has consumed alcohol during pregnancy and been diagnosed with fetal alcohol spectrum disorder; (2) further emphasize that a CPA must inform adoptive parents of their right to examine the health history portion of the HESGH; (3) require a CPA to provide the prospective adoptive parents with: (A) research (i.e. suggested reading materials or websites) on how any known health issue that the child has and/or any trauma that the child has experienced may impact child development and the family's ability to maintain permanency; (B) information about community services and other resources available to support adoptive parents; and (C) the options available to adoptive parents who are unable to care for an adoptive child; (4) update a cite; and (5) reorganize some of the rules, update the numbering system, and update the wording of the rules for better readability and understanding.

A workgroup meeting was held on October 27, 2017. The workgroup consisted of approximately eight providers that had a mix of licenses as a child-placing agency and/or a general residential operation, one foster parent, three participants from the Child Protective Services Division of the Department of Family and Protective Services (DFPS), and several participants from the Child Care Licensing (CCL) department of the HHSC Regulatory Services Division. The amendments were shared during the workgroup meeting, and there were several comments and discussion regarding §749.3395 relating to the information that must be shared with adoptive parents. Based on the comments and discussion, the original version of the amendment to §749.3395 was modified.

The amendments were also posted on the Health and Human Services Rulemaking website for informal stakeholder comments from November 7 - 17, 2017. No additional stakeholder comments were received.

SECTION-BY-SECTION SUMMARY

The proposed amendment of §749.1183: (1) updates the terminology that a law enforcement officer may release a child do a "child-placing agency that has been authorized to accept such admissions"; and (2) deletes as an emergency admission a "juvenile probation officer" releasing a child to an authorized CPA.

The proposed amendment of §749.1185: (1) deletes the option of a CPA that has been authorized to accept such admissions from taking possession of a child directly from a "juvenile probation officer"; and (2) updates the question, a cite, and the title of the Division for consistency.

The proposed amendment of §749.3391: (1) requires the health history of a HSEGH to include whether the child's birth mother has consumed alcohol during pregnancy and been diagnosed with fetal alcohol spectrum disorder; and (2) reorganizes the rule, updates the numbering system, and updates the wording of the rule for better readability and understanding.;

The proposed amendment of §749.3395: (1) updates a cite; (2) further emphasizes that a CPA must inform adoptive parents of their right to examine the health history portion of the HESGH; (3) requires a CPA to provide the prospective adoptive parents with: (A) research (i.e. suggested reading materials or websites) on how any known health issue that the child has and/or any trauma that the child has experienced may impact child development and the family's ability to maintain permanency; (B) information about community services and other resources available to

support adoptive parents; and (C) the options available to adoptive parents who are unable to care for an adoptive child; and (4) reorganizes and updates the wording of the rule for better readability and understanding.

FISCAL NOTE

Greta Rymal, Deputy Executive Commissioner for Financial Services, has determined that for each of the first five years that the amendments will be in effect, there will be no fiscal implications to state or local governments as a result of enforcing and administering the amendments as proposed.

GOVERNMENT GROWTH IMPACT STATEMENT

HHSC has determined that during the first five years that the amendments will be in effect implementation of the proposed amended rules:

- (1) will not create or eliminate a government program;
- (2) will not affect the number of employee positions;
- (3) will not require an increase or decrease in future legislative appropriations;
- (4) will not affect fees paid to the agency;
- (5) will not create a new rule;
- (6) will expand existing rules;
- (7) will not change the number of individuals subject to the rules; and
- (8) will not affect the state's economy.

SMALL BUSINESS, MICRO-BUSINESS, AND RURAL COMMUNITY IMPACT ANALYSIS

Greta Rymal, Deputy Executive Commissioner for Financial Services, has also determined that there will be no adverse economic impact on small businesses, micro-businesses, or rural communities. The amended rules do not impose any additional costs on small businesses, micro-businesses, or rural communities that are required to comply with the rules.

ECONOMIC COSTS TO PERSONS AND IMPACT ON LOCAL EMPLOYMENT

There are no anticipated costs to persons who are required to comply with the amended rules as proposed.

COSTS TO REGULATED PERSONS

Texas Government Code §2001.0045 does not apply to these rules because the rules: (1) are necessary to implement legislation that does not

specifically state that §2001.0045 applies to the rules; (2) are necessary to protect the health, safety, and welfare of the residents of Texas; and (3) do not impose a cost on regulated persons.

PUBLIC BENEFIT

Jean Shaw, Associate Commissioner for CCL, has determined that for each of the first five years that the amendments are in effect, the public will benefit from the proposed amendments. The anticipated public benefit will be that: (1) HHSC will be in compliance with statutory changes implemented by the 85th Legislature, Regular Session, 2017; (2) authorized CPAs will have a clearer understanding of what is required when accepting a child from a law enforcement officer; (3) adoptive parents will have more information on children being adopted, especially in relation to alcohol related issues; and (4) adoptive parents will have more information on child development, the family's ability to maintain permanency, community services and other support resources, and the options an adoptive parent has when the adoptive parent is unable to care for a child.

TAKINGS IMPACT ASSESSMENT

HHSC has determined that the proposed amendments do not restrict or limit an owner's right to his or her property that would otherwise exist in the absence of government action and, therefore, do not constitute a taking under Government Code §2007.043.

PUBLIC COMMENT

Questions about the content of this proposal may be directed to Gerry Williams, CCL Rules Developer at (512) 438-5559 or e-mail him at Gerry.Williams@hhsc.state.tx.us.

Written comments on the proposal may be submitted to Gerry Williams, Rules Developer (18R010), Child Care Licensing, Health and Human Services Commission E-550, P.O. Box 149030, Austin, Texas 78714-9030. Electronic comments may be submitted to HHRulesCoordinationOffice@hhsc.state.tx.us.

To be considered, comments must be submitted no later than 30 calendar days after the date of this issue of the *Texas Register*. Comments must be: (1) postmarked or shipped before the last day of the comment period; (2) hand-delivered before 5:00 p.m. on the last working day of the comment period; or (3) faxed or e-mailed by midnight on the last day of the comment

period. When faxing or e-mailing comments, please indicate "Comments on Proposed Rules 18R010" in the subject line.

STATUTORY AUTHORITY

The amendments are proposed under Government Code §531.0055, which provide that the Health and Human Services Executive Commissioner shall adopt rules for the operation and provision of services by the health and human services agencies, and §531.02011, which transferred the regulatory functions of DFPS to HHSC.

The amendments implement the Human Resources Code, §42.042; the Code of Criminal Procedure, Article 2.273; and the Family Code, §§162.0062, 162.007, and 162.603. The amendments correspond with the regulatory functions transferred from DFPS to HHSC.

This agency certifies that this proposal has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

TITLE <u>26</u> [40]	<u>HEALTH AND HUMAN [SOCIAL] SERVICES [AND ASSISTANCE]</u>
PART <u>1</u> [19]	<u>TEXAS HEALTH AND HUMAN SERVICES COMMISSION [DEPARTMENT OF FAMILY AND PROTECTIVE SERVICES]</u>
CHAPTER 749	MINIMUM STANDARDS FOR CHILD-PLACING AGENCIES
SUBCHAPTER H	FOSTER CARE SERVICES: ADMISSION AND PLACEMENT
DIVISION 4	EMERGENCY ADMISSION

§749.1183. What constitutes an emergency admission to my child-placing agency?

It is an emergency admission if:

- (1) You must place the child within 72 hours;
- (2) The child was removed from a situation involving alleged abuse or neglect;
- (3) The child is an alleged perpetrator of abuse and cannot be served in the child's current placement due to the child's perpetrating behaviors;
- (4) The child displays behavior that is an immediate danger to self or to others and cannot function or be served in his current setting;
- (5) The child was abandoned and, after exercising reasonable efforts, the child's identity cannot be immediately determined. You must document the efforts made to obtain information on the child's identity in the child's record;
- (6) The child was removed from the child's home or placement, and there is an immediate need to find a residence for the child;
- (7) A law enforcement [~~or juvenile probation~~] officer released [releases] the child to your child-placing agency that has been authorized to accept such admissions [~~child-placing agency~~]; or
- (8) The child is otherwise without adult care.

§749.1185. May I take possession of a child from a law enforcement [~~or juvenile probation~~] officer?

You may take possession of a child from a law enforcement [~~or juvenile probation~~] officer only if you meet the requirements of Division 2 [~~Division 7~~], Subchapter H of Chapter 745 of this title (relating to Taking Possession of a Child Directly from a [~~Through~~] Law Enforcement [~~or a Juvenile Probation~~] Officer).

TITLE 26 [40] HEALTH AND HUMAN [SOCIAL] SERVICES [AND ASSISTANCE]
PART 1 [49] TEXAS HEALTH AND HUMAN SERVICES COMMISSION [DEPARTMENT OF FAMILY AND PROTECTIVE SERVICES]
CHAPTER 749 MINIMUM STANDARDS FOR CHILD-PLACING AGENCIES
SUBCHAPTER Q ADOPTION SERVICES: CHILDREN
DIVISION 5 REQUIRED INFORMATION

§749.3391. What information must I compile for a child I am considering for adoptive placement?

(a) As part of the Health, Social, Educational, and Genetic History report, you must compile the following information for a child you are considering for adoption placement:

Type of Information:	Including:
(1) Abuse or neglect <u>history</u> :	Physical, sexual, or emotional abuse <u>history</u> .
(2) Health history:	<p>(A) Current health status;</p> <p>(B) <u>Birth history, neonatal history, and other medical, dental, psychological, or psychiatric history, including:</u> [;]</p> <p style="padding-left: 20px;">(i) <u>Available results and diagnoses of any medical or dental examinations, including whether the child has been diagnosed with fetal alcohol spectrum disorder;</u></p> <p style="padding-left: 20px;">(ii) <u>Available results and diagnoses of any psychological, psychiatric, or social evaluations;</u></p> <p style="padding-left: 20px;">(iii) <u>Whether the child’s birth mother consumed alcohol during pregnancy; and</u></p> <p style="padding-left: 20px;">(iv) <u>Any of this health history information that is known by the Department of Family and Protective Services; and</u></p> <p>(C) <u>Immunization record. [-(C) Neonatal history;]</u> [(D) Other medical, psychological, or psychiatric history, including any medication history;] [(E) Dental history;] [(F) Immunization record; and] [(G) Available results of any medical, psychological, psychiatric, and dental examinations.]</p>

Type of Information:	Including:
(3) Social history:	Information about past and existing relations among the child and the child's siblings, birth parents, extended family members, and other persons who have had physical possession of or legal access to the child.
(4) Educational history:	(A) Enrollment and performance in educational institutions; (B) Results of educational testing and standardized tests; and (C) Special educational needs, if any.
(5) Family history:	Information about the child's birth parents, maternal and paternal grandparents, other children born to either of the child's birth parents, and extended family members, <u>including their</u> : (A) Health and medical history, including any information obtained in the medical history report and information regarding genetic diseases or disorders; (B) Current health status; (C) If deceased, cause of and age of death; (D) Height, weight, eye, and hair color; (E) Nationality and ethnic backgrounds; (F) General levels of educational and professional achievements; (G) Religious backgrounds; (H) Results of any psychological, psychiatric, or social evaluations, including the date of any such evaluation, any diagnosis, and a summary of any findings; (I) Any criminal conviction record relating to the following: (i) A misdemeanor or felony classified as an offense against the person or family; (ii) A misdemeanor or felony classified as public indecency; or (iii) A felony violation of a statute intended to control the possession or distribution of a substance included in the Texas Controlled Substances Act; and (J) Any information necessary to determine whether the child is entitled to, or otherwise eligible for, state or federal financial, medical, or other assistance.

(b) In addition, you must document the following in the child's record:

Type of Information:	Including:
(1) History of previous placements:	Information about the child's previous placements, including the date(s) and reason(s) for placement.
(2) Child's legal status:	Information regarding the child's legal status.
(3) Child's understanding of adoptive placement:	Information regarding the child's understanding of adoptive placement.

§749.3395. What information must I provide the adoptive parents prior to or at the time of adoptive placement?

(a) The agency must discuss information about the child and his birth parents with the prospective adoptive parents.

(b) According to the Texas Family Code §162.0062 [~~§162.006~~], you must inform the prospective adoptive parents of their right to examine the records and other information relating to the history of the child, including the Health, Social, Educational, and Genetic History (HSEGH) report and the child's health history within the HESGH.

(c) Any records or other information examined by the prospective adoptive parents or any [The] written information provided to the prospective adoptive parents must be edited to protect any confidential information.

(d) You must also provide the prospective adoptive parents with:

(1) Research, which may be suggested reading materials and/or websites, on how any known health issue that the child has and/or any trauma the child has experienced (i.e. abuse or neglect) may impact child development and the family's ability to maintain permanency;

(2) Information [information] about the Department of Family and Protective Services (DFPS) [DFPS] adoption assistance programs, if the family may be eligible for such assistance;

(3) Information about community services and other resources available to support a parent who adopts a child; and

(4) The options available to the adoptive parent if the parent is unable to care for the adopted child, including working with the parent's post adopt

provider about the possibility of post adoption substitute care services or working with the child placing agency that placed the child for adoption regarding any additional services. You should also inform the adoptive parents that the Texas Family Code, §162.026 makes it illegal to informally transfer the custody of an adopted child to a person, unless the person is a relative or stepparent of the child or an adult who has a significant long-standing relationship with the child, or the transfer of custody is a formal transfer of custody of the child through a court.