

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 210.493?**
 - There are three components of a background check needed to comply with 210.493 RSMo:
 1. A Fingerprint-Based Background Check of Open and Closed criminal history or Name-Based State Open records check
 2. A search of the National Sex Offender registry
 3. CA/N Central Registry check through Family Care Safety Registry
 - Out of State CA/N registry checks for each state resided in during the preceding five years.
 - **Who has to do a Fingerprint-Based Background Check of Open and Closed criminal history?**
 1. Employees
 2. Volunteers with access to children
 3. Owners of License-Exempt Residential Care Facilities (LERCFs) and Licensed Residential Care Facility (LRCFs) with access to the facilities
 4. Owners of Child Placing Agencies (CPAs) with access to children
 - **Who has to do a Name-Based State Open records check?**
 - Any person eighteen (18) years of age or older, who resides on the property or has or may have unsupervised access to children at a License-Exempt Residential Care Facility (LERCF) who is NOT an employee, volunteer, or owner/operator is required to complete a name-based State open records check.
 - All contractors are required to have a name-based state open records check, not a fingerprint-based background check.
- **What type of entities are subject to background check requirements in 210.493 RSMo?**
 - Entities subject to the background check requirements of 210.493 RSMo are:
 1. Licensed Residential Care Facilities (LRCFs)
 2. License-Exempt Residential Care Facilities (LERCFs)
 3. Child Placing Agencies (CPAs)
- **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 background check requirements under the authority of the Department of Social Services or the notifications requirements as established by the Residential Care Facility Notification Act (“RCFNA”). If an agency is unsure whether they must comply with either the licensure or notification requirements, they should contact CD.NotifyRPU@dss.mo.gov.
- **What is the cost of a background check?**
 - Total cost for a fingerprint-based background check with the Missouri State Highway Patrol (MSHP) is approximately \$44.75. This fee is applied each time a person completes a background check with the MSHP. Total cost for a name-based background check is approximately \$15.00.
 - For more information about MSHP fees for background checks visit: <https://www.mshp.dps.missouri.gov/MSHPWeb/PatrolDivisions/CRID/crimRecChk.html>.
 - Total cost for Family Care Safety Registry (FCSR) registration is approximately \$15.25.
 - The above fees are set and collected by these outside agencies.

- Other states may require a fee if a CA/N check is required for that state.
- Currently, there are no separate fees charged by the Department of Social Services to administer background check requirements as established by 210.493 RSMo for LRCFs, LERCFs, and CPAs.
- **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 Department of Health and Senior Services, Family Care Safety Registry <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 CPAs.
 - The Department of Health and Senior Services (DHSS) interprets RSMO 210.906.4 to mean employees of these licensed entities are also exempt from the registration fee.
 - DHSS checks the list of currently licensed residential care facilities annually to implement the fee exemption.
 - An online FCSR registration appropriately naming a licensed facility as the individual's employer should not require payment of the registration fee.
- **Who is responsible for the cost of the background checks and will there be reimbursement or compensation from DSS?**
 - RSMo 210.493.14 states "Any required fees shall be paid by the individual applicant, facility or agency."
 - No. DSS did not receive any appropriation from the General Assembly to reimburse or compensate any facilities or applicants for the costs of background checks needed to comply with 210.493 RSMo.
- **Is there a way for facilities or agencies to cover the cost of a background check instead of the applicant?**
 - If a LRCF, LERCF, or CPA wishes to cover the cost of the required background check for their applicant they can work directly with the applicant to pay those costs.
 - 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?**
 - All LRCFs, LERCFs, and CPAs operating on or after October 1, 2021, must have a preliminary or final eligibility before having presence in the facility.
 - Once an application and Authorization to Disclose and MOVECHS Wavier has been received, DSS will review all documents and determine whether the applicant is eligible for preliminary approval. Applicants who receive preliminary approval may have presence at the agency for orientation, trainings, etc., as long as there is no direct care with the children. Once a provisional approval or final eligibility determination is made, direct care with the children shall be permissible. However, an ineligibility determination will disqualify an applicant from further employment or service with all LRCFs, LERCFs, and CPAs once the applicant's time to administratively appeal has expired or they've exhausted the administrative appeals process.
- **How long will the background check process take?**
 - Before DSS can determine if an applicant meets any disqualifying criteria, the department must first receive results of the background checks from MSHP and DHSS. If the applicant has resided outside of Missouri, 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 all information is received from these entities, eligibility decisions will be made by DSS within five (5) business days of receipt of all necessary information.

- **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 five (5) years.
 - Based on licensing requirements, LRCFs and CPAs will be responsible for completing the annual check of the FCSR in years two (2), three (3), and four (4).
- **Who is required to complete background checks at a Licensed Residential Care Facility or Child Placing Agency?**
 - Section 210.493.2 RSMo lists the categories of individuals at LRCFs and CPAs that must receive a background check:
 1. Contractors with unsupervised access to children*
 - All contracted employees are required to have a name-based state open records check, not a fingerprint-based background check.
 2. Volunteers with unsupervised access to children*
 3. Employees
 4. Owners of LRCFs that will have access to the facilities
 5. Owners of CPAs 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 Section 210.493 RSMo.*
 - Questions regarding this requirement can be directed to CD.screen@dss.mo.gov.
- **Who is required to complete background checks at a License-Exempt Residential Care Facility?**
 - Section 210.493.3 lists the categories of individuals at LERCFs that must receive a background check:
 1. Contractors with unsupervised access to children*
 - All contracted employees are required to have a name-based state open records check, not a fingerprint-based background check.
 2. Volunteers with unsupervised access to children*
 3. Employees
 4. Adult residents of an LERCF

Name-Based State open records check is required for any person that is not an employee, volunteer, contractor, owner/operator, who is eighteen years (18) of age or older, who resides at or on the property, who has or may have unsupervised access to children for whom a License-Exempt Residential Care Facility provides care.
 5. Any person who has unsupervised contact with a resident of the LERCF
 6. Owners of LERCFs that will have access to the facilities

**Supervision of contractors and volunteers with access to children must be conducted by an individual with a completed background check as outlined in Section 210.493 RSMo.*
- **Does an eighteen (18) year old need to complete a background check to reside at a Licensed Residential Care Facility?**
 - 210.493 RSMo does not create new background checks for eighteen (18) year olds that reside at LRCF. If the eighteen (18) year old is a volunteer with access to children; an employee; or a contractor then, yes, they would need to complete a background check.
- **Does an eighteen (18) year old at a License Exempt Residential Care Facility need to complete a background check?**
 - Name-Based State open records check is required for any person that is not an employee, volunteer, contractor, owner/operator, who is (18) 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 License-Exempt Residential Care Facility provides care.

- **Who is NOT required to complete a background check at a Licensed Exempt Residential Care Facility?**

- Individuals at an LERCF NOT requiring background checks under 210.493.3 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, Children's Division Employees, Prosecuting Attorneys, Court Appointed Special Advocates (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. Individuals who are employees or other staff, such as volunteers 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.)
9. Individuals who are not employees, 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.

Scenario Examples:

- 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.
- 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.
- 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.
- 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.
- Individuals who are not employees, 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
- Officers who are neither employees, volunteers, adult residents, or owners with access to the facilities.

- Questions regarding this requirement can be directed to CD.screen@dss.mo.gov.
- **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, contractor with unsupervised access to children, volunteer with unsupervised access to children, etc., the individual would require a background check.
 - 210.493 RSMo 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 Section 210.493 RSMo 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, the applicant may seek administrative review, appeal, and ultimately judicial review under 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 an individual has already completed a background check for the facility or agency do they need to complete a background check through DSS?**
 - All new and existing individuals outlined in 210.493 RSMo as of October 1, 2021, at all LRCFs, LERCFs, and CPAs are required to complete background check requirements through DSS as established by Section 210.493 RSMo.
- **Can agencies send DSS the results of a previously completed background check to satisfy the background check requirement?**
 - No. Background checks previously completed by an LRCF, LERCF or CPA do not meet the requirement of Section 210.493 RSMo.
- **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 ineligibility for an LRCF, LERCF, or CPA.
 - Eligibility determinations will be made by DSS based on the disqualifying criteria as established by Section 210.493 RSMo. 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 will be notified on their right to request an administrative review and appeal the decision of DSS.
- **What information will facilities or 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 criteria. Section 210.493 RSMo expressly limits the authority of the Department to share the information which caused an applicant to be ineligible with the LERCF, LRCF or CPA ("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 210.493.10 RSMo.).

- **What are the disqualifying criteria that cause an applicant to be ineligible for employment?**
 - Section 210.493 RSMo says 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, unlawful use of a weapon as defined in section 571.030, unlawful possession of a firearm as defined in section 571.070, or the unlawful possession of an explosive as defined in section 571.072;
 - j) Any felony for making a terrorist threat as defined in section 574.115, 574.120, or 574.125;
 - k) A felony drug-related offense committed during the preceding five years; or
 - l) 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 a DSS decision?**
 - Yes. An Applicant who DSS finds ineligible for an LRCF, LERCF, or CPA will be notified of their right to appeal. This appeal must be received within 14 days of the date on the determination letter.
 - 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.
 - Section 210.493 RSMo outlines who receives background checks through DSS every five (5) years.

- **Can DSS resubmit the fingerprints every five (5) years or does the applicant need to complete a new application?**
 - Every five (5) 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 five (5). LRCF must still complete an annual FCSR checks in year two (2), three (3), and four (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 Section 210.493 RSMo may make a previously eligible applicant ineligible.
- Example: a newly expunged conviction may make a previously ineligible applicant eligible.
- Example: if the employee leaves an agency and wants to start employment at a new agency or wants come back to the original agency
- The applicant will need to submit a new application based on the subsequent information. Each application will be considered based on the disqualifying criteria established by Section 210.493 RSMo 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 disqualifying criteria, is there an exception process?**
 - No. Section 210.493 RSMo 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 CPA 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.
- **Can all applicants 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 facilities or 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 (Section 210.493 RSMo). Agencies wishing to conduct their own background checks, in addition to the process required by HB 557 and 560 (Section 210.493 RSMo), 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 CPA.
 - If an applicant’s eligibility status is pending when the employee or applicant separates, please have the applicant reach out to CD.Screen@dss.mo.gov to withdraw their application if they are not going to continue with the background screening process.
- **How can individuals who live out of state complete the background check requirement?**
 - Applicants residing outside Missouri who need a fingerprint-based 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. An email with these instructions will be sent to the applicant if their current address is outside of Missouri.
 - 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 does not receive RAPback notifications for background checks.

- **Do agencies currently using RAPback and MACHS need to continue?**
 - Agencies may continue, at their own discretion, to use RAPback and MACHS 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 LRCFs and CPAs 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 adult residents 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 will monitor LERCFs for compliance with HB 557; Regulations will be promulgated with further details correlating with when there is a report or referral with concerns of child abuse and/or neglect.
- **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 CPA then that employer 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