



ADMINISTRATIVE RULES OF MONTANA



37.100.138 ADULT FOSTER CARE HOMES (AFCH): BACKGROUND CHECKS

- (1) The provider, staff, and any adult residing in the home must have a state of Montana criminal background check, and, if applicable, a tribal criminal background check and state protective service background check prior to receiving an AFCH license or working at the AFCH.
- (2) If an applicant has lived outside the state within the past five years, the AFCH provider must complete background checks in every state that the applicant has resided within the past five years.
- (3) The department will deny or revoke a license upon finding that:
 - (a) the provider, staff member, or anyone residing in the AFCH has been convicted by a court of competent jurisdiction of a felony or misdemeanor involving homicide, sexual intercourse without consent, sexual assault, aggravated assault, assault on a minor, assault on an officer, assault with a weapon, kidnapping, aggravated kidnapping, prostitution, robbery, or burglary;
 - (b) the provider, staff member, or anyone residing in the home has a conviction for a crime pertaining to children and families, including but not limited to child abuse or neglect, incest, child sexual abuse, ritual abuse of a minor, felony partner and family member assault, child pornography, child prostitution, Internet crimes involving children, felony endangering the welfare of a minor, felony unlawful transactions with children, or aggravated interference with parent-child contact;
 - (c) the provider or staff member or anyone residing in the home has, within the previous five years, a felony conviction of a drug-related offense, including but not limited to use, distribution or possession of controlled substances, criminal possession of precursors to dangerous drugs, criminal manufacture of dangerous drugs, criminal possession of imitation dangerous drugs with the purpose to distribute, criminal possession, manufacture of or delivery of drug paraphernalia, or driving under the influence of alcohol or other drugs;
 - (d) the provider, staff member, or anyone residing in the home has been named as a perpetrator in a substantiated report of child abuse or neglect; or
 - (e) the provider, staff member, or anyone residing in the home has been convicted of abuse, sexual abuse, neglect, or exploitation of an elderly person or a person with a developmental disability.
- (4) The department may deny or revoke a license upon finding that the provider, staff member, or anyone residing in the home has a conviction for a misdemeanor partner and family member assault, misdemeanor endangering the welfare of a child, misdemeanor unlawful transaction with a child, or a crime involving an abuse of the public trust.

- (5) The provider or staff member or anyone residing in the home who is charged with physical or sexual violence against any person, or any felony drug- related offense and awaiting trial may not provide care or be present in the facility pending the outcome of the criminal proceeding.
- (6) The AFCH is responsible for assuring that the persons covered by this rule have met these requirements before providing care.
- (7) The provider, staff member, or anyone residing in the home must not pose any potential threat to the health, safety, and well-being of the residents in care.

Authorizing statute(s): 50-5-103, 50-5-215, MCA

Implementing statute(s): 50-5-103, 50-5-215, MCA

History: NEW, 2014 MAR p. 1098, Eff. 5/23/14.