

Miss. Code Ann. § 43-16-1

Current through the 2019 Regular Session.

[Mississippi Code 1972 Annotated](#)
[Title 43. Public Welfare](#)
[Chapter 16. Child Residential Home Notification Act](#)

§ 43-16-1. Title.

This chapter may be cited as the “Child Residential Home Notification Act.”

History: Sources: Laws, 1989, ch. 493, § 1, eff from and after July 1, 1989.

§ 43-16-3. Definitions.

As used in this chapter, the following definitions shall apply unless the context clearly provides otherwise:

- (a) “Child” means a person who has not reached the age of eighteen (18) years or who has not otherwise been legally emancipated.
- (b) “Child residential home” means any place, facility or home operated by any person which receives children who are not related to the operators and whose parents or guardians are not residents of the same facility for supervision, care, lodging and maintenance for twenty-four (24) hours a day, with or without transfer of custody. This term does not include:
 - (i) Residential homes licensed by the Department of Human Services under Section 43-15-5;
 - (ii) Any public school;
 - (iii) Any home operated by a state agency;
 - (iv) Child care facilities as defined in Section 43-20-5;
 - (v) Youth camps as defined in Section 75-74-3;
 - (vi) Health care facilities licensed by the State Department of Health; or
 - (vii) The home of an attorney-in-fact operating under a power of attorney executed under Section 93-31-1 et seq.
- (c) “Department” shall mean the State Department of Health.
- (d) “Person” shall include an individual, partnership, organization, association or corporation.

History: Sources: Laws, 1989, ch. 493, § 2; Laws, 2016, ch. 501, § 6, eff from and after July 1, 2016.

§ 43-16-5. State Department of Health to discharge provisions of chapter; notification agency.

The State Department of Health shall be the notification agency for all child residential homes, and the department shall discharge as additional duties and responsibilities the provisions of this chapter.

History: Sources: Laws, 1989, ch. 493, § 3, eff from and after July 1, 1989.

§ 43-16-7. Operators of home to give notice of operation; existing homes to be licensed or give notice.

(1) The operator of any child residential home shall provide notification in accordance with this chapter within sixty (60) days of beginning operation.

(2) All child residential homes operating on July 1, 1989, shall either apply for a license from the Department of Public Welfare pursuant to Section 43-15-5, Mississippi Code of 1972, or file notification in accordance with this chapter, prior to August 1, 1989.

History: Sources: Laws, 1989, ch. 493, § 4, eff from and after July 1, 1989.

43-16-9. Person required to file notification; contents of notification.

Such notification shall be filed by the executive director of the child residential home to the department upon forms provided by the department and shall contain the following information:

- (a) Name, street address, mailing address and phone number of the home.
- (b) Name of the executive director and all staff members of the home.
- (c) Name and description of the agency or organization operating the home, which shall include a statement as to whether or not the agency or organization is incorporated.
- (d) Name and address of the sponsoring organization of the home, if applicable.
- (e) The names of all children living at the home which shall include the following personal data:
 - (i) Full name and a copy of the child's birth certificate;
 - (ii) Name and address of parent(s) or guardian(s); and
 - (iii) Name and address of other nearest relative.
- (f) School(s) attended by the children served by such home.
- (g) Fire department or State Fire Marshal inspection certificate.
- (h) Local health department inspection certificate.
- (i) Proof, to be shown by the sworn affidavit of the executive director of the home, that the home has performed (i) criminal record background checks, and (ii) felony conviction record information checks on all employees, prospective employees, volunteers and prospective volunteers at such home, and that such records are maintained to the extent permitted by law, for every such employee, prospective employee, volunteer and prospective volunteer.
- (j) Proof, to be shown by the sworn affidavit of the executive director of the home, that medical records are maintained for each child.

History: Sources: Laws, 1989, ch. 493, § 5; Laws, 1999, ch. 328, § 1; Laws, 2000, ch. 499, § 25, eff from and after July 1, 2000.

§ 43-16-11. Acknowledgement of notification; fire and health inspections of home; chancery or youth court to receive copy of notification.

(1) Acknowledgement of notification shall be issued by the department upon the filing of a properly completed notification form accompanied by (a) a certificate of inspection and approval by the fire department of the municipality or other political subdivision in which the home is located, and (b) a certificate of inspection and approval by the health department of the county in which the home is located.

(2) If no fire department exists where the home is located, the State Fire Marshal shall certify as to the inspection for safety from fire hazards. The State Fire Marshal shall establish standards for safety from fire hazards at child residential homes.

(3) Upon notification by a child residential home, the department shall provide copies of the notification form to the chancery court or the youth court, as appropriate, of the county in which the home is located.

History: Sources: Laws, 1989, ch. 493, § 6, eff from and after July 1, 1989.

§ 43-16-13. Monthly reports.

Each child residential home shall file monthly reports with the department, on forms provided by the department. Said monthly report shall indicate any changes in the notification information originally provided in accordance with Section 43-16-9 which have occurred, if any. The department shall provide copies of this monthly report to the youth court of the county in which the home is located.

History: Sources: Laws, 1989, ch. 493, § 7, eff from and after July 1, 1989.

§ 43-16-15. Annual inspections of homes; inspectors.

The department once a year shall make or cause to be made inspections limited to health, nutrition, cleanliness, sanitation, written medical records for children, discipline policy, family communication policy and required criminal checks of all child residential homes. Reasonable additional inspections may be made as often as may be deemed necessary by the department, but shall not be scheduled so as to disrupt the normal activities of the home. Department inspectors shall be persons knowledgeable with the state's child abuse and neglect laws, child labor laws and compulsory education laws. The State Fire Marshal, or his designee, shall make or cause to be made annual inspections limited to the safety of all child residential homes. Any violation of state law on the premises of such child residential home shall immediately be reported by such inspection personnel to the appropriate law enforcement officer.

History: Sources: Laws, 1989, ch. 493, § 8; Laws, 1999, ch. 328, § 2, eff from and after July 1, 1999.

§ 43-16-17. Written discipline and family communication policies required.

Every child residential home shall have a written discipline policy and written family communication policy which shall be approved in writing, if possible, by the parent(s) or guardian(s) of the children residing at such home, and shall be made available to authorized inspection personnel upon request.

History: Sources: Laws, 1989, ch. 493, § 9, eff from and after July 1, 1989.

§ 43-16-19. Enforcement of notification requirements.

Whenever the department is advised or has reason to believe that any child residential home is operating without proper notification in accordance with this chapter, it shall request a meeting with the governing board and executive director of such home to ascertain the fact. If the department finds that such home is providing supervision, care, lodging or maintenance for any children without such notification, it shall give the executive director of the home written notice by certified mail that such person shall file notification in accordance with this chapter within sixty (60) days after receipt of such notice or the department may request a court injunction as provided in Section 43-16-21.

History: Sources: Laws, 1989, ch. 493, § 10, eff from and after July 1, 1989.

§ 43-16-21. Court action for injunction or restraining order against home; grounds.

Notwithstanding the existence of any other remedy, the department may, in the manner provided by law, in termtime or in vacation, upon the advice of the Attorney General who, except as otherwise authorized in Section 7-5-39, shall represent the department in the proceedings, maintain an action in the name of the state for an injunction or restraining order to cease the operation of the home, and to provide for the appropriate removal of the children from the home and placement in the custody of the parents or legal guardians, the Department of Human Services, or any other appropriate entity in the discretion of the court. Such action shall be brought in the chancery court or the youth court, as appropriate, of the county in which such child residential home is located, and shall only be initiated for the following violations:

- (a) Providing supervision, care, lodging or maintenance for any children in such home without filing notification in accordance with this chapter.
- (b) Failure to satisfactorily comply with local health department or State Fire Marshal inspections made pursuant to Section 43-16-15, regarding the health, nutrition, cleanliness, safety, sanitation, written records and discipline policy of such home.
- (c) Suspected abuse and/or neglect of the children served by such home, as defined in Section 43-21-105.

History: Sources: Laws, 1989, ch. 493, § 11; Laws, 1999, ch. 328, § 3; Laws, 2012, ch. 546, § 18, eff from and after July 1, 2012.

§ 43-16-23. Regulation of content of program of religious affiliated home prohibited.

Nothing in this chapter shall give any governmental agency jurisdiction or authority to regulate or attempt to regulate, control or influence the form, manner or content of the religious curriculum, program or ministry of a school or of a facility sponsored by a church or religious organization.

History: Sources: Laws, 1989, ch. 493, § 12, eff from and after July 1, 1989.

§ 43-16-25. Licensure fees for child residential homes [Repealed effective July 1, 2020].

A license issued under the provisions of this chapter shall be renewed annually upon payment of a renewal fee not to exceed One Hundred Dollars (\$100.00), and upon filing by the licensee of an annual report upon such uniform dates and upon forms provided by the licensing agency, accompanied by a current certificate of inspection and approval by the fire department and the county health department specified in Section 43-16-11.

Any increase in the fee charged by the board under this section shall be in accordance with the provisions of Section 41-3-65.

No governmental entity or agency shall be required to pay the fee or fees set forth in this section.

History: Sources: Laws, 2000, ch. 365, § 1; Laws, 2016, ch. 510, § 32, eff from and after July 1, 2016.