

## Registered Child Care Homes and Listed Family Homes: Criminal History Requirements

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### Introduction:

In accordance with 26 Texas Administrative Code §745.661 (What types of criminal convictions may affect a subject's ability to be present at an operation?), this chart notes criminal convictions that may affect a person's ability to be present in Registered Child Care Homes and Listed Family Homes.

### The terms below have the following meaning when used in this chart:

- **Absolute Bar:** A person convicted of the crime is permanently prohibited from being present at the operation while children are in care, and the person does not qualify for a risk evaluation.
- **N/A:** There are two possible meanings for this term in this chart:
  - When used under a column related to a "felony" or "misdemeanor," the term is used because the crime does not have that offense level; and
  - When used under the column titled "If this person is eligible for a risk evaluation..." the term is used because a conviction for this offense is not eligible for a risk evaluation.
- **No Action Required:** No action is required if a person is convicted of the crime.
- **Risk Evaluation:** A person convicted of this crime is eligible for a risk evaluation unless the person has another background check result that is an absolute bar. A risk evaluation will consider all of the person's background check results.
- **Risk Evaluation if conviction was in the last 10 years:** An approved risk evaluation is required for the person to be present at the operation only if the conviction date is within the last 10 years from the date the background check eligibility is determined. After the 10 years have passed, the crime no longer requires an action by HHSC unless the person is on parole for a felony offense.
- **5-Year Bar; Risk Evaluation between 5 & 10 Years:** A person convicted of the crime is prohibited for 5 years from being present at the operation while children are in care. After the first 5 years have passed, the person requires an approved risk evaluation for the next 5 years. After the total 10 years have passed, the crime no longer requires an action by HHSC unless the person is on parole for a felony offense.
- **5-Year Bar; Risk Evaluation Thereafter:** A person convicted of the crime is prohibited for 5 years from being present at the operation while children are in care. The person requires an approved risk evaluation for the conviction after that time period has passed.

**The following assumptions apply to the chart:**

- This chart applies to criminal history checks for registered child care homes and listed family homes per 26 Texas Administrative Code, Chapter 745, Licensing, Subchapter F, Background Checks.
- Time limits are based on the date of conviction. When a final disposition has not yet been rendered, an arrest or charge for an offense listed on this chart may affect a person's ability to be present at an operation if:
  - a conviction would bar the person from being present permanently or on a time-limited basis;
  - a conviction would prohibit the person from being present pending the outcome of a risk evaluation; or
  - the Centralized Background Check Unit (CBCU) determines that the person poses an immediate threat to the health or safety of children, as outlined in Texas Administrative Code §745.751.
- Although the crimes listed in this chart reflect only offenses in Texas statutes, the same outcomes apply to similar criminal offenses under the laws of another state or federal law. When determining similarity, CBCU considers the definition and language of the offense, the circumstances of the offense, how it relates to Texas statutes, and if a victim was a minor.
- For purposes of a person's ability to be present at an operation, a Criminal Attempt conviction will be treated as falling under the same code section as the offense that was attempted. Examples:
  - A conviction for Attempt to Commit Murder would be treated in the same manner as Murder and would result in an absolute bar.
  - A conviction for Criminal Conspiracy or Criminal Solicitation will be treated as falling under the same section of the Penal Code as the offense that was the subject of the conspiracy or the solicitation.
- In accordance with 26 Texas Administrative Code §745.661(c), a person currently on parole for any felony offense not otherwise barrable must have an approved risk evaluation prior to being present at an operation.
- In accordance with 26 Texas Administrative Code §745.663(2), a deferred adjudication community supervision for an offense is always a criminal conviction with respect to HHSC's decision to issue or deny the subject a permit or to revoke the subject's permit, regardless of whether the court has dismissed the proceedings and discharged the subject after the subject successfully completed the terms of community supervision.

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**Texas Penal Code, Title 4, Inchoate Offenses**

<b>Offense</b>	<b>Texas Penal Code</b>	<b>FELONY</b> (Includes All Levels Unless Otherwise Specified)	<b>MISDEMEANOR</b> (Includes All Levels Unless Otherwise Specified)	<b>If This Person Is Eligible for a Risk Evaluation, May the Person be Present at the Child-Care Operation While Children are in Care Pending the Outcome of the Risk Evaluation?</b>
Criminal Solicitation of a Minor (felony or misdemeanor)	15.031	Absolute Bar†	Absolute Bar	N/A
Child Grooming (felony)	15.032	Absolute Bar†	N/A	N/A

**Texas Penal Code, Title 5, Offenses Against the Person**

<b>Offense</b>	<b>Texas Penal Code</b>	<b>FELONY</b> (Includes All Levels Unless Otherwise Specified)	<b>MISDEMEANOR</b> (Includes All Levels Unless Otherwise Specified)	<b>If This Person Is Eligible for a Risk Evaluation, May the Person be Present at the Child-Care Operation While Children are in Care Pending the Outcome of the Risk Evaluation?</b>
Murder (felony)	19.02	Absolute Bar†	N/A	N/A
Capital Murder (felony)	19.03	Absolute Bar†	N/A	N/A
Manslaughter (felony)	19.04	Absolute Bar†	N/A	N/A
Criminally Negligent Homicide (felony)	19.05	Absolute Bar†	Absolute Bar^	N/A
Unlawful Restraint (felony or misdemeanor)	20.02	Absolute Bar	Absolute Bar*	N/A
Kidnapping (felony)	20.03	Absolute Bar†	N/A	N/A

<b>Offense</b>	<b>Texas Penal Code</b>	<b>FELONY</b> (Includes All Levels Unless Otherwise Specified)	<b>MISDEMEANOR</b> (Includes All Levels Unless Otherwise Specified)	<b>If This Person Is Eligible for a Risk Evaluation, May the Person be Present at the Child-Care Operation While Children are in Care Pending the Outcome of the Risk Evaluation?</b>
Aggravated Kidnapping (felony)	20.04	Absolute Bar†	N/A	N/A
Smuggling of Persons (felony)	20.05	Absolute Bar*	N/A	N/A
Continuous Smuggling of Persons (felony)	20.06	Absolute Bar*	N/A	N/A
Operation Of A Stash House (felony)	20.07	Absolute Bar*	N/A	N/A
Trafficking of Persons (felony)	20A.02	Absolute Bar*	N/A	N/A
Continuous Trafficking of Persons (felony)	20A.03	Absolute Bar*	N/A	N/A
Continuous Sexual Abuse of Young Child or Disabled Individual (felony)	21.02	Absolute Bar†	N/A	N/A
Public Lewdness (felony or misdemeanor)	21.07	Absolute Bar*	Absolute Bar*	N/A
Indecent Exposure (felony or misdemeanor)	21.08	Absolute Bar*	Absolute Bar*	N/A
Bestiality (felony)	21.09	Absolute Bar*	Absolute Bar*	N/A
Indecency with a Child (felony)	21.11	Absolute Bar†	N/A	N/A
Improper Relationship Between Educator & Student (felony)	21.12	Absolute Bar	N/A	N/A

<b>Offense</b>	<b>Texas Penal Code</b>	<b>FELONY</b> (Includes All Levels Unless Otherwise Specified)	<b>MISDEMEANOR</b> (Includes All Levels Unless Otherwise Specified)	<b>If This Person Is Eligible for a Risk Evaluation, May the Person be Present at the Child-Care Operation While Children are in Care Pending the Outcome of the Risk Evaluation?</b>
Invasive Visual Recording (felony)	21.15	Absolute Bar*	Absolute Bar*	N/A
Unlawful Disclosure or Promotion of Intimate Visual Material (felony)	21.16	Absolute Bar*	Absolute Bar*^	N/A
Unlawful Production or Distribution of Certain Sexually Explicit Videos (misdemeanor)	21.165	N/A	Absolute Bar*	N/A
Voyeurism (felony or misdemeanor)	21.17	Absolute Bar†	Absolute Bar*	N/A
Sexual Coercion (felony)	21.18	Absolute Bar*	Absolute Bar*	N/A
Unlawful Electronic Transmission of Sexually Explicit Visual Material (misdemeanor)	21.19	N/A	Absolute Bar*	N/A
Assault (felony or misdemeanor)	22.01	Absolute Bar†	Absolute Bar*	N/A
Sexual Assault (felony)	22.011	Absolute Bar†	Absolute Bar^	N/A
Indecent Assault (felony or misdemeanor)	22.012	Absolute Bar*	Absolute Bar*	N/A
Aggravated Assault (felony)	22.02	Absolute Bar†	N/A	N/A
Aggravated Sexual Assault (felony)	22.021	Absolute Bar†	N/A	N/A
Injury to a Child, Elderly Individual, or Disabled Individual (felony)	22.04	Absolute Bar	Absolute Bar^	N/A

<b>Offense</b>	<b>Texas Penal Code</b>	<b>FELONY</b> (Includes All Levels Unless Otherwise Specified)	<b>MISDEMEANOR</b> (Includes All Levels Unless Otherwise Specified)	<b>If This Person Is Eligible for a Risk Evaluation, May the Person be Present at the Child-Care Operation While Children are in Care Pending the Outcome of the Risk Evaluation?</b>
Abandoning or Endangering a Child, Elderly Individual, or Disabled Individual (felony)	22.041	Absolute Bar*	Absolute Bar <sup>^</sup> *	N/A
Deadly Conduct (felony or misdemeanor) (formally Public Peace-Reckless Conduct)	22.05	Absolute Bar†	Absolute Bar*	N/A
Terroristic Threat (felony or misdemeanor)	22.07	Absolute Bar*	Absolute Bar*	N/A
Aiding Suicide (felony or misdemeanor)	22.08	Absolute Bar†	Absolute Bar*	N/A
Tampering with a Consumer Product (felony)	22.09	Absolute Bar†	N/A	N/A
Leaving a Child in a Vehicle (misdemeanor)	22.10	N/A	Absolute Bar*	N/A
Harassment by Persons in Certain Facilities; Harassment of a Public Servant (felony)	22.11	Absolute Bar*	N/A	N/A

**Texas Penal Code, Title 6, Offenses Against the Family**

<b>Offense</b>	<b>Texas Penal Code</b>	<b>FELONY</b> (Includes All Levels Unless Otherwise Specified)	<b>MISDEMEANOR</b> (Includes All Levels Unless Otherwise Specified)	<b>If This Person Is Eligible for a Risk Evaluation, May the Person be Present at the Child-Care Operation While Children are in Care Pending the Outcome of the Risk Evaluation?</b>
Bigamy (felony)	25.01	Absolute Bar*	N/A	N/A
Prohibited Sexual Conduct (felony)	25.02	Absolute Bar*	N/A	N/A
Interference with Child Custody (felony)	25.03	Absolute Bar†	Absolute Bar <sup>^</sup> *	N/A

<b>Offense</b>	<b>Texas Penal Code</b>	<b>FELONY</b> (Includes All Levels Unless Otherwise Specified)	<b>MISDEMEANOR</b> (Includes All Levels Unless Otherwise Specified)	<b>If This Person Is Eligible for a Risk Evaluation, May the Person be Present at the Child-Care Operation While Children are in Care Pending the Outcome of the Risk Evaluation?</b>
Agreement to Abduct from Custody (felony)	25.031	Absolute Bar†	Absolute Bar*^	N/A
Enticing a Child (felony or misdemeanor)	25.04	Absolute Bar†	Absolute Bar*	N/A
Criminal Nonsupport (felony)	25.05	Absolute Bar*	Absolute Bar*^	N/A
Harboring Runaway Child (misdemeanor)	25.06	N/A	Absolute Bar*	N/A
Violation of Certain Court Orders or Conditions of Bond in a Family Violence, Child Abuse or Neglect, Sexual Assault or Abuse, Indecent Assault, Stalking, or Trafficking Case (felony or misdemeanor)	25.07	Absolute Bar†	Absolute Bar*	N/A
Violation of Protective Order Preventing Offense Caused by Bias or Prejudice (felony or misdemeanor)	25.071	Absolute Bar†	Absolute Bar*	N/A
Repeated Violation of Certain Court Orders or Conditions of Bond in Family Violence, Child Abuse or Neglect, Sexual Assault or Abuse, Indecent Assault, Stalking, or Trafficking Case (felony or misdemeanor)	25.072	Absolute Bar†	Absolute Bar*	N/A
Sale or Purchase of Child (felony)	25.08	Absolute Bar†	N/A	N/A
Unregulated Custody Transfer of Adopted Child (felony)	25.081	Absolute Bar†	N/A	N/A
Advertising for Placement of Child (felony or misdemeanor)	25.09	Absolute Bar†	Absolute Bar*	N/A
Interference with Rights of Guardian of the Person (felony)	25.10	Absolute Bar	Absolute Bar*^	N/A
Continuous Violence Against the Family (felony)	25.11	Absolute Bar†	N/A	N/A

## Texas Penal Code, Title 7, Offenses Against Property

Offense	Texas Penal Code	FELONY (Includes All Levels Unless Otherwise Specified)	MISDEMEANOR (Includes All Levels Unless Otherwise Specified)	If This Person Is Eligible for a Risk Evaluation, May the Person be Present at the Child-Care Operation While Children are in Care Pending the Outcome of the Risk Evaluation?
Arson (felony)	28.02	Absolute Bar†	Risk Evaluation <sup>††</sup>	No
Criminal Mischief (felony or misdemeanor)	28.03	Risk Evaluation <sup>††</sup>	No Action Required	No
Damaging Critical Infrastructure Facility (felony)	28.09	Risk Evaluation <sup>††</sup>	N/A	No
Robbery (felony)	29.02	Absolute Bar†	N/A	No
Aggravated Robbery (felony)	29.03	Absolute Bar†	N/A	N/A
Burglary (felony)	30.02 30.04	Risk Evaluation if the conviction related to the burglary of a habitation no matter when the conviction occurred. Otherwise, risk evaluation if conviction was in the last 10 years <sup>††</sup>	No Action Required <sup>^</sup>	No
Credit Card or Debit Card Abuse (felony)	32.31	Risk Evaluation if conviction was in the last 10 years	Risk Evaluation if conviction was in the last 10 years <sup>^</sup>	Yes <sup>^^</sup>
Fraudulent Use Or Possession Of Credit Card Or Debit Card Information (felony)	32.315	Risk Evaluation if conviction was in the last 10 years	Risk Evaluation if conviction was in the last 10 years <sup>^</sup>	Yes <sup>^^</sup>
Misapplication of Fiduciary Property or Property of Financial Institution	32.45	Risk Evaluation if conviction was in the last 10 years	Risk Evaluation if conviction was in the last 10 years <sup>^</sup>	Yes <sup>^^</sup>
Fraudulent Use or Possession of Identifying Information (felony)	32.51	Risk Evaluation if conviction was in the last 10 years <sup>††</sup>	Risk Evaluation if conviction was in the last 10 years <sup>^</sup>	Yes <sup>^^</sup>
Fraudulent, Substandard, or Fictitious Degree (misdemeanor)	32.52	N/A	Risk Evaluation if conviction was in the last 10 years	Yes <sup>^^</sup>

<b>Offense</b>	<b>Texas Penal Code</b>	<b>FELONY</b> (Includes All Levels Unless Otherwise Specified)	<b>MISDEMEANOR</b> (Includes All Levels Unless Otherwise Specified)	<b>If This Person Is Eligible for a Risk Evaluation, May the Person be Present at the Child-Care Operation While Children are in Care Pending the Outcome of the Risk Evaluation?</b>
Exploitation of Child, Elderly Individual, or Disabled Individual (felony)	32.53	Risk Evaluation††	N/A	No
Financial Abuse of Elderly Individual (felony or misdemeanor)	32.55	Risk Evaluation	Risk Evaluation	Yes^^
Financial Abuse Using Artificially Generated Media or Phishing	32.56	Risk Evaluation	Risk Evaluation	Yes^^
Breach of Computer Security (felony or misdemeanor)	33.02	Risk Evaluation††	Risk Evaluation if conviction was in the last 10 years	Yes^^
Online Solicitation of a Minor (felony)	33.021	Absolute Bar†	N/A	N/A
Electronic Data Tampering (felony or misdemeanor)	33.023	Risk Evaluation††	Risk Evaluation if conviction was in the last 10 years	Yes^^
Unlawful Decryption (felony or misdemeanor)	33.024	Risk Evaluation††	Risk Evaluation if conviction was in the last 10 years	Yes^^
Money Laundering (felony)	34.02	Risk Evaluation if conviction was in the last 10 years	Risk Evaluation if conviction was in the last 10 years^	Yes^^

**Texas Penal Code, Title 8, Offenses Against Administration**

<b>Offense</b>	<b>Texas Penal Code</b>	<b>FELONY</b> (Includes All Levels Unless Otherwise Specified)	<b>MISDEMEANOR</b> (Includes All Levels Unless Otherwise Specified)	<b>If This Person Is Eligible for a Risk Evaluation, May the Person be Present at the Child-Care Operation While Children are in Care Pending the Outcome of the Risk Evaluation?</b>
Coercion of Public Servant or Voter (felony or misdemeanor)	36.03	Risk Evaluation††	Risk Evaluation if conviction was in the last 10 years	Yes^^

<b>Offense</b>	<b>Texas Penal Code</b>	<b>FELONY</b> (Includes All Levels Unless Otherwise Specified)	<b>MISDEMEANOR</b> (Includes All Levels Unless Otherwise Specified)	<b>If This Person Is Eligible for a Risk Evaluation, May the Person be Present at the Child-Care Operation While Children are in Care Pending the Outcome of the Risk Evaluation?</b>
Improper Influence (misdemeanor)	36.04	N/A	Risk Evaluation if conviction was in the last 10 years	Yes^^
Tampering with Witness (felony or misdemeanor)	36.05	Risk Evaluation††	Risk Evaluation††	No
Obstruction or Retaliation (felony)	36.06	Absolute Bar	N/A	N/A
Acceptance of Honorarium (misdemeanor)	36.07	N/A	Risk Evaluation if conviction was in the last 10 years	Yes^^
Gift to Public Servant by Person Subject to His Jurisdiction (misdemeanor)	36.08	N/A	Risk Evaluation if conviction was in the last 10 years	Yes^^
Offering Gift to Public Servant (misdemeanor)	36.09	N/A	Risk Evaluation if conviction was in the last 10 years	Yes^^
Perjury (misdemeanor)	37.02	N/A	Risk Evaluation if conviction was in the last 10 years	Yes^^
Aggravated Perjury (felony)	37.03	Risk Evaluation	N/A	Yes^^
False Report to Peace Officer, Federal Special Investigator, Law Enforcement Employee, Corrections Officer or Jailer (misdemeanor)	37.08	N/A	Risk Evaluation	Yes^^
Misrepresenting Child as Family Member At Port Of Entry (misdemeanor)	37.082	N/A	Absolute Bar	N/A
Tampering with or Fabricating Physical Evidence (felony or misdemeanor)	37.09	Risk Evaluation††	Risk Evaluation if conviction was in the last 10 years	Felony: No Misdemeanor: Yes^^
Tampering with Governmental Record (felony or misdemeanor)	37.10	Risk Evaluation††	No Action Required	Yes^^
Impersonating a Public Servant (felony)	37.11	Risk Evaluation††	N/A	Yes^^

<b>Offense</b>	<b>Texas Penal Code</b>	<b>FELONY</b> (Includes All Levels Unless Otherwise Specified)	<b>MISDEMEANOR</b> (Includes All Levels Unless Otherwise Specified)	<b>If This Person Is Eligible for a Risk Evaluation, May the Person be Present at the Child-Care Operation While Children are in Care Pending the Outcome of the Risk Evaluation?</b>
Record of a Fraudulent Court (felony or misdemeanor)	37.13	Risk Evaluation††	Risk Evaluation if conviction was in the last 10 years	Yes^^
False Statement Regarding Child Custody Determination Made in Foreign Country (felony)	37.14	Absolute Bar†	N/A	N/A
Resisting Arrest, Search, or Transportation (felony or misdemeanor)	38.03	Absolute Bar†	Risk Evaluation if conviction was in the last 10 years	Felony: No Misdemeanor: Yes^^
Evading Arrest or Detention (felony or misdemeanor)	38.04	Risk Evaluation††	Risk Evaluation if conviction was in the last 10 years	Felony: No Misdemeanor: Yes^^
Hindering Apprehension or Prosecution (felony or misdemeanor)	38.05	Risk Evaluation	Risk Evaluation if conviction was in the last 10 years	Yes^^
Escape (felony or misdemeanor)	38.06	Risk Evaluation††	Risk Evaluation if conviction was in the last 10 years	Felony: No Misdemeanor: Yes^^
Permitting or Facilitating Escape (felony or misdemeanor)	38.07	Risk Evaluation††	Risk Evaluation	Felony: No Misdemeanor: Yes^^
Implements for Escape (felony)	38.09	Risk Evaluation††	N/A	No
Prohibited Substances and Items in Correctional or Civil Commitment Facility (felony)	38.11	Risk Evaluation††	N/A	No
Improper Contact with Victim (felony or misdemeanor)	38.111	Absolute Bar	Absolute Bar	N/A
Tampering with Electronic Monitoring Device (felony)	38.112	Risk Evaluation if conviction was in the last 10 years	Risk Evaluation if conviction was in the last 10 years^	No

<b>Offense</b>	<b>Texas Penal Code</b>	<b>FELONY</b> (Includes All Levels Unless Otherwise Specified)	<b>MISDEMEANOR</b> (Includes All Levels Unless Otherwise Specified)	<b>If This Person Is Eligible for a Risk Evaluation, May the Person be Present at the Child-Care Operation While Children are in Care Pending the Outcome of the Risk Evaluation?</b>
Unauthorized Absence from Community Corrections Facility, County Correctional Center, or Assignment Site (felony)	38.113	Risk Evaluation if conviction was in the last 10 years	Risk Evaluation if conviction was in the last 10 years^	Yes^^
Contraband in Correctional Facility (misdemeanor)	38.114	N/A	Risk Evaluation if conviction was in the last 10 years	No
Operation of Unmanned Aircraft Over Correctional Facility or Detention Facility (felony or misdemeanor)	38.115	Risk Evaluation	Risk Evaluation if conviction was in the last 10 years	No
Unauthorized Practice of Law (felony or misdemeanor)	38.123	Risk Evaluation if conviction was in the last 10 years††	Risk Evaluation if conviction was in the last 10 years	Yes^^
Taking or Attempting to Take Weapon from Peace Officer, Federal Special Investigator, Employee or Official of Correctional Facility, Parole Officer, Community Supervision and Corrections Department Officer, or Commissioned Security Officer (felony)	38.14	Absolute Bar†	Risk Evaluation^	No
Interference with Police Service Animals (felony or misdemeanor)	38.151	Risk Evaluation	Risk Evaluation	Felony: No Misdemeanor: Yes^^
Interference with Radio Frequency Licensed to Government Entity (felony or misdemeanor)	38.152	Risk Evaluation	Risk Evaluation if conviction was in the last 10 years	Yes^^
Failure to Stop or Report Aggravated Sexual Assault of Child (misdemeanor)	38.17	N/A	Absolute Bar†	No
Failure to Report Felony (misdemeanor)	38.171	N/A	Risk Evaluation	Yes^^
Failure to Report Assault, Neglect, or Omission of Care in Certain Group Homes (misdemeanor)	38.172	N/A	Risk Evaluation	No

<b>Offense</b>	<b>Texas Penal Code</b>	<b>FELONY</b> (Includes All Levels Unless Otherwise Specified)	<b>MISDEMEANOR</b> (Includes All Levels Unless Otherwise Specified)	<b>If This Person Is Eligible for a Risk Evaluation, May the Person be Present at the Child-Care Operation While Children are in Care Pending the Outcome of the Risk Evaluation?</b>
Official Oppression (felony or misdemeanor)	39.03	Risk Evaluation††	Risk Evaluation	No
Violations of the Civil Rights of Person in Custody; Improper Sexual Activity with Person in Custody (felony or misdemeanor)	39.04	Absolute Bar	Absolute Bar	No
Improper Sexual Activity with a Committed Person (felony)	39.041	Absolute Bar	N/A	N/A
Failure to Report Death of Prisoner (misdemeanor)	39.05	N/A	Risk Evaluation	Yes^^

**Texas Penal Code, Title 9, Offenses Against Public Order and Decency**

<b>Offense</b>	<b>Texas Penal Code</b>	<b>FELONY</b> (Includes All Levels Unless Otherwise Specified)	<b>MISDEMEANOR</b> (Includes All Levels Unless Otherwise Specified)	<b>If This Person Is Eligible for a Risk Evaluation, May the Person be Present at the Child-Care Operation While Children are in Care Pending the Outcome of the Risk Evaluation?</b>
Disorderly Conduct (misdemeanor)	42.01 (a)(7) 42.01 (a)(8) 42.01 (a)(9) 42.01 (a)(10) 42.01 (a)(11)	N/A	Risk Evaluation††	No
Interference With Emergency Request For Assistance (felony or misdemeanor)	42.062	Risk Evaluation††	Risk Evaluation if Conviction was in the last 10 years††	No
Harassment (misdemeanor)	42.07	N/A	Risk Evaluation††	No
Stalking (felony)	42.072	Absolute Bar	N/A	N/A
Unlawful Disclosure of Residence Address or Telephone Number (misdemeanor)	42.074	N/A	Risk Evaluation††	No

<b>Offense</b>	<b>Texas Penal Code</b>	<b>FELONY</b> (Includes All Levels Unless Otherwise Specified)	<b>MISDEMEANOR</b> (Includes All Levels Unless Otherwise Specified)	<b>If This Person Is Eligible for a Risk Evaluation, May the Person be Present at the Child-Care Operation While Children are in Care Pending the Outcome of the Risk Evaluation?</b>
Abuse of Corpse (felony or misdemeanor)	42.08	Risk Evaluation	No Action Required	No
Cruelty to Animals (felony or misdemeanor)	42.09 42.091 42.092	Risk Evaluation	Risk Evaluation	No
Dogfighting or Cockfighting (felony or misdemeanor)	42.10 42.105	Risk Evaluation	Risk Evaluation	No
Prostitution (felony or misdemeanor)	43.02	Absolute Bar*	Absolute Bar*	N/A
Solicitation of Prostitution (felony)	43.021	Absolute Bar*	Absolute Bar*^	N/A
Promotion of Prostitution (felony)	43.03	Absolute Bar*	N/A	N/A
Online Promotion Of Prostitution (felony)	43.031	Absolute Bar*	N/A	N/A
Aggravated Promotion of Prostitution (felony)	43.04	Absolute Bar*	N/A	N/A
Aggravated Online Promotion Of Prostitution (felony)	43.041	Absolute Bar*	N/A	N/A
Compelling Prostitution (felony)	43.05	Absolute Bar*	N/A	N/A
Obscene Display or Distribution (misdemeanor)	43.22	N/A	Absolute Bar*	N/A
Obscenity (felony or misdemeanor)	43.23	Absolute Bar†	Absolute Bar*	N/A
Possession, Promotion or Production of Certain Visual Material Appearing to Depict Child	43.235	Absolute Bar†	Absolute Bar^	N/A
Sale, Distribution, or Display of Harmful Material to Minor (felony or misdemeanor)	43.24	Absolute Bar†	Absolute Bar*	N/A
Sexual Performance by a Child (felony)	43.25	Absolute Bar†	N/A	N/A
Employment Harmful to Children (felony)	43.251	Absolute Bar†	N/A	N/A
Possession or Promotion of Child Pornography (felony)	43.26	Absolute Bar†	N/A	N/A

<b>Offense</b>	<b>Texas Penal Code</b>	<b>FELONY</b> (Includes All Levels Unless Otherwise Specified)	<b>MISDEMEANOR</b> (Includes All Levels Unless Otherwise Specified)	<b>If This Person Is Eligible for a Risk Evaluation, May the Person be Present at the Child-Care Operation While Children are in Care Pending the Outcome of the Risk Evaluation?</b>
Electronic Transmission of Certain Visual Material Depicting Minor (misdemeanor)	43.261	N/A	Absolute Bar*	N/A
Possession or Promotion of Lewd Visual Material Depicting Child (felony)	43.262	Absolute Bar†	Absolute Bar*^	N/A
Certain Sexually Oriented Performances Prohibited (misdemeanor)	43.28	N/A	Absolute Bar*	N/A

**Texas Penal Code, Title 10, Offenses Against Public Health, Safety, and Morals**

<b>Offense</b>	<b>Texas Penal Code</b>	<b>FELONY</b> (Includes All Levels Unless Otherwise Specified)	<b>MISDEMEANOR</b> (Includes All Levels Unless Otherwise Specified)	<b>If This Person Is Eligible for a Risk Evaluation, May the Person be Present at the Child-Care Operation While Children are in Care Pending the Outcome of the Risk Evaluation?</b>
Unlawful Possession of Firearm (felony or misdemeanor)	46.04	Absolute Bar	Risk Evaluation	No
Prohibited Weapons (felony)	46.05	Risk Evaluation	Risk Evaluation^	No
Hoax Bombs (misdemeanor)	46.08	N/A	Risk Evaluation††	No
Making a Firearm Accessible to a Child (misdemeanor)	46.13	N/A	Risk Evaluation††	Yes^^
Firearm Smuggling (felony)	46.14	Absolute Bar	N/A	N/A
Prohibition of the Purchase and Sale of Human Organs (felony)	48.02	Absolute Bar	Risk Evaluation^††	No
Prohibition on Purchase and Sale of Human Fetal Tissue (felony)	48.03	Absolute Bar†	Risk Evaluation^††	No

<b>Offense</b>	<b>Texas Penal Code</b>	<b>FELONY</b> (Includes All Levels Unless Otherwise Specified)	<b>MISDEMEANOR</b> (Includes All Levels Unless Otherwise Specified)	<b>If This Person Is Eligible for a Risk Evaluation, May the Person be Present at the Child-Care Operation While Children are in Care Pending the Outcome of the Risk Evaluation?</b>
Driving, Flying, Boating or Assembling an Amusement Ride While Intoxicated (felony or misdemeanor)	49.04 49.05 49.06 49.065 49.09	5-Year Bar; Risk Evaluation b/w 5 & 10 Years	Risk Evaluation if conviction was in the last 10 years	Felony: No Misdemeanor: Yes^^
Driving or Boating While Intoxicated with Child Passenger (felony)	49.045 49.061	Absolute Bar†	5-Year Bar; Risk Evaluation Thereafter^	No
Intoxication Assault (felony)	49.07	Absolute Bar†	N/A	N/A
Intoxication Manslaughter (felony)	49.08	Absolute Bar†	N/A	N/A

### Texas Penal Code, Title 11, Organized Crime

<b>Offense</b>	<b>Texas Penal Code</b>	<b>FELONY</b> (Includes All Levels Unless Otherwise Specified)	<b>MISDEMEANOR</b> (Includes All Levels Unless Otherwise Specified)	<b>If This Person Is Eligible for a Risk Evaluation, May the Person be Present at the Child-Care Operation While Children are in Care Pending the Outcome of the Risk Evaluation?</b>
Engaging in Organized Criminal Activity (felony)	71.02	Risk Evaluation††	Risk Evaluation††	No
Violation of Court Order Enjoining Organized Criminal Activity (misdemeanor)	71.021	N/A	Risk Evaluation††	No
Coercing, Inducing, or Soliciting Membership in a Criminal Street Gang (felony)	71.022	Risk Evaluation††	N/A	No
Directing Activities of Certain Criminal Street Gangs (felony)	71.023	Risk Evaluation††	N/A	No
Use of Proceeds Derived from Racketeering or Unlawful Debt Collection (felony)	72.02	Risk Evaluation††	N/A	No

<b>Offense</b>	<b>Texas Penal Code</b>	<b>FELONY</b> (Includes All Levels Unless Otherwise Specified)	<b>MISDEMEANOR</b> (Includes All Levels Unless Otherwise Specified)	<b>If This Person Is Eligible for a Risk Evaluation, May the Person be Present at the Child-Care Operation While Children are in Care Pending the Outcome of the Risk Evaluation?</b>
Acquisition of Interest in Property or Control of Enterprise through Racketeering or Unlawful Debt Collection (felony)	72.03	Risk Evaluation††	N/A	No
Participation in Enterprise Through Racketeering or Unlawful Deb Collection (felony)	72.04	Risk Evaluation††	N/A	No
Terrorism (felony or misdemeanor)	76.02	Absolute Bar	Absolute Bar	N/A
Aiding in Commission of Terrorism (felony or misdemeanor)	76.03	Absolute Bar	Absolute Bar	N/A
Hindering Prosecution of Terrorism (felony or misdemeanor)	76.04	Risk Evaluation	Risk Evaluation	No

### Texas Education Code

<b>Offense</b>	<b>Texas Education Code</b>	<b>FELONY</b> (Includes All Levels Unless Otherwise Specified)	<b>MISDEMEANOR</b> (Includes All Levels Unless Otherwise Specified)	<b>If This Person Is Eligible for a Risk Evaluation, May the Person be Present at the Child-Care Operation While Children are in Care Pending the Outcome of the Risk Evaluation?</b>
Personal Hazing Offense (felony or misdemeanor) or Hazing (felony or misdemeanor)	37.152	Absolute Bar†	Risk Evaluation	No
Requirement to Report Misconduct (felony)	21.006	Risk Evaluation††	Risk Evaluation^	Yes^^
Failure To Report Or False Report; Offenses (misdemeanor)	51.255	N/A	Risk Evaluation	No

## Texas Family Code

<b>Offense</b>	<b>Texas Family Code</b>	<b>FELONY</b> (Includes All Levels Unless Otherwise Specified)	<b>MISDEMEANOR</b> (Includes All Levels Unless Otherwise Specified)	<b>If This Person Is Eligible for a Risk Evaluation, May the Person be Present at the Child-Care Operation While Children are in Care Pending the Outcome of the Risk Evaluation?</b>
Child Custody Evaluator Access to Investigative Records of Department (misdemeanor)	107.111	N/A	Risk Evaluation	No
Modification of Order on Conviction for Child Abuse (misdemeanor)	156.104	N/A	Risk Evaluation	No
Modification of Order on Conviction for Family Violence (misdemeanor)	156.1045	N/A	Risk Evaluation	No
Placement by Unauthorized Person (misdemeanor)	162.025	N/A	Risk Evaluation	No
Offenses; Penalties- Violating the Interstate Compact on the Placement of Children (misdemeanor)	162.107	N/A	Risk Evaluation	No
Prohibited Acts: Criminal Penalties (felony or misdemeanor)	162.421	Risk Evaluation	Risk Evaluation	No
False Report; Criminal Penalty; Civil Penalty (felony)	261.107	Absolute Bar†	Risk Evaluation^	No
Failure to Report; Penalty (felony or misdemeanor)	261.109	Absolute Bar†	Risk Evaluation	No
Conduct of Investigation (misdemeanor)	261.302	N/A	Risk Evaluation if conviction was in the last 10 years	No
Interference with Investigation; Criminal Penalty (misdemeanor)	261.3032	N/A	Risk Evaluation if conviction was in the last 10 years	No
Removal of Alleged Perpetrator; Offense (felony or misdemeanor)	262.1015	Absolute Bar†	Risk Evaluation	No

## Texas Health and Safety Code

Offense	Texas Health and Safety Code	FELONY (Includes All Levels Unless Otherwise Specified)	MISDEMEANOR (Includes All Levels Unless Otherwise Specified)	If This Person Is Eligible for a Risk Evaluation, May the Person be Present at a Child-Care Operation While Children are in Care Pending the Outcome of the Risk Evaluation?
Evading or Resisting Apprehension or Transport; Criminal Penalty (misdemeanor)	81.212	N/A	Risk Evaluation if conviction was in the last 10 years	No
Reports of Abuse and Neglect or of Illegal, Unprofessional or Unethical Conduct (misdemeanor)	161.132	N/A	Risk Evaluation††	No
Failure to Report: Criminal Penalty (misdemeanor)	260A.012	N/A	Risk Evaluation††	No
Bad Faith, Malicious or Reckless Reporting: Criminal Penalty (misdemeanor)	260A.013	N/A	Risk Evaluation	Yes^^
Required Report by Lessor Abuse, Neglect, or Exploitation; Criminal Penalty (misdemeanor)	260.0091	N/A	Risk Evaluation††	No
Criminal Penalty (misdemeanor)	464.016	N/A	Risk Evaluation††	No
Manufacture or Delivery of Substances (felony)	481.112 481.1121 481.113 481.114	5-Year Bar; Risk Evaluation b/w 5 & 10 Years††	Risk Evaluation if conviction was in the last 10 years^††	Felony: No Misdemeanor: Yes^^
Possession of Substance in Penalty Group 1-2 (felony)	481.115 481.1151 481.116	5-Year Bar; Risk Evaluation b/w 5 & 10 Years	Risk Evaluation if conviction was in the last 10 years^	Felony: No Misdemeanor: Yes^^
Possession of Substance in Penalty Group 2A-4 (felony or misdemeanor)	481.1161 481.117 481.118	5-Year Bar; Risk Evaluation b/w 5 & 10 Years	Risk Evaluation if conviction was in the last 10 years	Felony: No Misdemeanor: Yes^^
Manufacture, Delivery, or Possession of Miscellaneous Substances (felony or misdemeanor)	481.119	5-Year Bar; Risk Evaluation b/w 5 & 10 Years††	Risk Evaluation if conviction was in the last 10 years††	Felony: No Misdemeanor: Yes^^
Delivery or Possession of Marijuana (felony or misdemeanor)	481.120 481.121	5-Year Bar; Risk Evaluation b/w 5 & 10 Years††	Risk Evaluation if conviction was in the last 10 years††	Felony: No Misdemeanor: Yes^^

<b>Offense</b>	<b>Texas Health and Safety Code</b>	<b>FELONY</b> (Includes All Levels Unless Otherwise Specified)	<b>MISDEMEANOR</b> (Includes All Levels Unless Otherwise Specified)	<b>If This Person Is Eligible for a Risk Evaluation, May the Person be Present at a Child-Care Operation While Children are in Care Pending the Outcome of the Risk Evaluation?</b>
Delivery of Controlled Substance or Marijuana to Child (felony)	481.122	Absolute Bar†	N/A	N/A
Possession or Transport of Certain Chemicals with Intent to Manufacture Controlled Substance (felony or misdemeanor)	481.124	5-Year Bar; Risk Evaluation b/w 5 & 10 Years	Risk Evaluation if conviction was in the last 10 years	Felony: No Misdemeanor: Yes^^
Possession or Transport of Anhydrous Ammonia: Use of or Tampering with Equipment (felony)	481.1245	5-Year Bar; Risk Evaluation b/w 5 & 10 Years	N/A	No
Possession or Delivery of Drug Paraphernalia (felony or misdemeanor)	481.125	5-Year Bar; Risk Evaluation b/w 5 & 10 Years††	Risk Evaluation if conviction was in the last 10 years††	Felony: No Misdemeanor: Yes^^
Illegal Barter, Expenditure, or Investment (felony)	481.126	Risk Evaluation	N/A	No
Unauthorized Disclosure of Information (felony)	481.127	Risk Evaluation	Risk Evaluation if conviction was in the last 10 years^	Felony: No Misdemeanor: Yes^^
Commercial Matters (felony)	481.128	5-Year Bar; Risk Evaluation b/w 5 & 10 Years	Risk Evaluation if conviction was in the last 10 years^	Felony: No Misdemeanor: Yes^^
Diversion of Controlled Substance by Registrants, Dispensars, and Certain Other Persons (felony)	481.1285	5-Year Bar; Risk Evaluation b/w 5 & 10 Years††	Risk Evaluation if conviction was in the last 10 years^††	Felony: No Misdemeanor: Yes^^
Fraud (felony or misdemeanor)	481.129	5-Year Bar; Risk Evaluation b/w 5 & 10 Years	Risk Evaluation if conviction was in the last 10 years	Felony: No Misdemeanor: Yes^^
Diversion of Controlled Substance Property or Plant (felony)	481.131	5-Year Bar; Risk Evaluation b/w 5 & 10 Years††	Risk Evaluation if conviction was in the last 10 years^††	Felony: No Misdemeanor: Yes^^
Falsification of Drug Test Results (misdemeanor)	481.133	N/A	Risk Evaluation if conviction was in the last 10 years	Yes^^

<b>Offense</b>	<b>Texas Health and Safety Code</b>	<b>FELONY</b> (Includes All Levels Unless Otherwise Specified)	<b>MISDEMEANOR</b> (Includes All Levels Unless Otherwise Specified)	<b>If This Person Is Eligible for a Risk Evaluation, May the Person be Present at a Child-Care Operation While Children are in Care Pending the Outcome of the Risk Evaluation?</b>
Unlawful Transfer or Receipt of Chemical Precursor or Laboratory Apparatus (felony)	481.136 481.138	5-Year Bar; Risk Evaluation b/w 5 & 10 Years††	Risk Evaluation if conviction was in the last 10 years^††	Felony: No Misdemeanor: Yes^^
Transfer of Precursor Substance or Laboratory Apparatus for Unlawful Manufacture (felony)	481.137 481.139	5-Year Bar; Risk Evaluation b/w 5 & 10 Years††	N/A	No
Unlawful Delivery or Manufacture with Intent to Deliver; Criminal Penalty (felony)	482.002	5-Year Bar; Risk Evaluation b/w 5 & 10 Years††	Risk Evaluation if conviction was in the last 10 years^††	Felony: No Misdemeanor: Yes^^
Possession of Dangerous Drug (misdemeanor)	483.041	N/A	Risk Evaluation if conviction was in the last 10 years	Yes^^
Delivery or Offer of Delivery of Dangerous Drug (felony)	483.042	5-Year Bar; Risk Evaluation b/w 5 & 10 Years††	Risk Evaluation if conviction was in the last 10 years^††	Felony: No Misdemeanor: Yes^^
Manufacture of Dangerous Drug (felony)	483.043	5-Year Bar; Risk Evaluation b/w 5 & 10 Years	Risk Evaluation if conviction was in the last 10 years^	Felony: No Misdemeanor: Yes^^
Forging or Altering Prescription (misdemeanor)	483.045	N/A	Risk Evaluation if conviction was in the last 10 years	Yes^^
Possession and Use (misdemeanor)	485.031	N/A	Risk Evaluation if conviction was in the last 10 years	Yes^^
Delivery to a Minor (felony or misdemeanor)	485.032	Absolute Bar†	Risk Evaluation††	Yes^^
Inhalant Paraphernalia (misdemeanor)	485.033	N/A	Risk Evaluation if conviction was in the last 10 years††	Yes^^

<b>Offense</b>	<b>Texas Health and Safety Code</b>	<b>FELONY</b> (Includes All Levels Unless Otherwise Specified)	<b>MISDEMEANOR</b> (Includes All Levels Unless Otherwise Specified)	<b>If This Person Is Eligible for a Risk Evaluation, May the Person be Present at a Child-Care Operation While Children are in Care Pending the Outcome of the Risk Evaluation?</b>
Hampering, Obstructing, Tampering with or Destroying Electronic Monitoring Device, Tape or Recording from Resident's Room at State Supported Living Center (misdemeanor)	555.162	N/A	Risk Evaluation††	No

### Texas Human Resources Code

<b>Offense</b>	<b>Texas Human Resources Code</b>	<b>FELONY</b> (Includes All Levels Unless Otherwise Specified)	<b>MISDEMEANOR</b> (Includes All Levels Unless Otherwise Specified)	<b>If This Person Is Eligible for a Risk Evaluation, May the Person be Present at a Child-Care Operation While Children are in Care Pending the Outcome of the Risk Evaluation?</b>
Confidentiality of Information (misdemeanor)	40.005	N/A	Risk Evaluation	Yes^^
False Report: Criminal Penalty (felony or misdemeanor)	42.0447	Risk Evaluation	Risk Evaluation	Yes^^
Required Background and Criminal History Checks: Criminal Penalties (misdemeanor)	42.056	N/A	Risk Evaluation	No
Administering Medication (misdemeanor)	42.065	N/A	Risk Evaluation	Yes^^
Criminal Penalties (misdemeanor)	42.076	N/A	Risk Evaluation	Yes^^
Criminal Penalty for Operating Daycare Center without Qualified Director (misdemeanor)	42.0761	N/A	Risk Evaluation	Yes^^
Penalty (misdemeanor)	43.012	N/A	Risk Evaluation	Yes^^
Failure to Report; Penalty (felony or misdemeanor)	48.052	Risk Evaluation††	Risk Evaluation††	No
False Report; Penalty (misdemeanor)	48.053	N/A	Risk Evaluation	Yes^^

**Texas Alcoholic Beverage Code**

<b>Offense</b>	<b>Texas Alcoholic Beverage Code</b>	<b>FELONY</b> (Includes All Levels Unless Otherwise Specified)	<b>MISDEMEANOR</b> (Includes All Levels Unless Otherwise Specified)	<b>If This Person Is Eligible for a Risk Evaluation, May the Person be Present at a Child-Care Operation While Children are in Care Pending the Outcome of the Risk Evaluation?</b>
Purchase of Alcohol for a Minor; Furnishing Alcohol to a Minor (felony or misdemeanor)	106.06	Absolute Bar†	Risk Evaluation††	No
Prohibited Activities by Persons Younger than 18 (misdemeanor)	106.15	N/A	5-Year Bar; Risk Evaluation Thereafter††	No

**Texas Business and Commerce Code**

<b>Offense</b>	<b>Texas Business and Commerce Code</b>	<b>FELONY</b> (Includes All Levels Unless Otherwise Specified)	<b>MISDEMEANOR</b> (Includes All Levels Unless Otherwise Specified)	<b>If This Person Is Eligible for a Risk Evaluation, May the Person be Present at a Child-Care Operation While Children are in Care Pending the Outcome of the Risk Evaluation?</b>
Failure to Report Child Pornography by Computer Technician (misdemeanor)	110.003	N/A	Absolute Bar††	N/A

**Texas Code of Criminal Procedure**

<b>Offense</b>	<b>Texas Code of Criminal Procedure</b>	<b>FELONY</b> (Includes All Levels Unless Otherwise Specified)	<b>MISDEMEANOR</b> (Includes All Levels Unless Otherwise Specified)	<b>If This Person Is Eligible for a Risk Evaluation, May the Person be Present at a Child-Care Operation While Children are in Care Pending the Outcome of the Risk Evaluation?</b>
Failure to Comply with Registration Requirements (felony)	62.102	Absolute Bar	Absolute Bar^	N/A

### Texas Civil Practice and Remedies Code

Offense	Texas Civil Practice and Remedies Code	FELONY (Includes All Levels Unless Otherwise Specified)	MISDEMEANOR (Includes All Levels Unless Otherwise Specified)	If This Person Is Eligible for a Risk Evaluation, May the Person be Present at a Child-Care Operation While Children are in Care Pending the Outcome of the Risk Evaluation?
Failure to Report Possible Sexual Exploitation of Mental Health Patient (misdemeanor)	81.006	N/A	Risk Evaluation††	Yes^^

### Any other Title under the Texas Penal Code or any other Texas Code not specifically mentioned above

Offense	Texas Penal Code or Any Other Various Texas Codes	FELONY (Includes All Levels Unless Otherwise Specified)	MISDEMEANOR (Includes All Levels Unless Otherwise Specified)	If This Person Is Eligible for a Risk Evaluation, May the Person be Present at a Child-Care Operation While Children are in Care Pending the Outcome of the Risk Evaluation?
Varies – Any offense not otherwise listed on this chart	Varies	Risk Evaluation if conviction was in the last 10 years††	No Action Required††	Yes^^
Any offense under Title 5 or 6, Penal code, or Chapter 43, Penal Code	Varies	Absolute Bar*	Absolute Bar*	N/A

\* These offenses result in a bar based on state requirements set forth in Human Resources Code 42.072(f).

† These offenses result in a bar based on federal requirements set forth in 42 U.S. Code §9858f(c)(1)(D).

†† These convictions may result in an absolute bar depending on the circumstances of the offense based on federal requirements set forth in 42 U.S.C. §9858f(c)(1). Felonies committed involving murder, child abuse or neglect, crimes against children, spousal abuse, rape or sexual assault, kidnapping, arson or physical assault or battery are subject to an absolute bar. Violent misdemeanors committed as an adult against a child, or misdemeanors involving child pornography are subject to an absolute bar.

^ While these offenses are not normally prosecuted as misdemeanors, if the charge is reduced to a misdemeanor per TPC 12.44(b) HHSC will take the action described in the "Misdemeanor (Includes All Levels Unless Otherwise Specified)" column.

^^ Even though persons may be present at a child-care operation pending the outcome of the risk evaluation, HHSC may place conditions or restrictions on a person's duties in order for the person to be present at the operation.