249A.29 Home and community-based services waiver providers — records checks.

1. For purposes of this section and section 249A.30 unless the context otherwise requires:

a. *"Consumer"* means an individual approved by the department to receive services under a waiver.

b. *"Provider"* means an agency certified by the department to provide services under a waiver.

c. *"Waiver"* means a home and community-based services waiver approved by the federal government and implemented under the medical assistance program.

2. If a person is being considered by a provider for employment involving direct responsibility for a consumer or with access to a consumer when the consumer is alone, and if the person has been convicted of a crime or has a record of founded child or dependent adult abuse, the record check evaluation system of the department shall perform an evaluation to determine whether the crime or founded abuse warrants prohibition of employment by the provider. The record check evaluation system shall conduct criminal and child and dependent adult abuse records checks of the person in this state and may conduct these checks in other states. The records checks and evaluations required by this section shall be performed in accordance with procedures adopted for this purpose by the department.

3. If the record check evaluation system determines that a person employed by a provider has committed a crime or has a record of founded abuse, the record check evaluation system shall perform an evaluation to determine whether prohibition of the person's employment is warranted.

4. In an evaluation, the record check evaluation system shall consider the nature and seriousness of the crime or founded abuse in relation to the position sought or held, the time elapsed since the commission of the crime or founded abuse, the circumstances under which the crime or founded abuse was committed, the degree of rehabilitation, the likelihood that the person will commit the crime or founded abuse again, and the number of crimes or founded abuses committed by the person involved. The record check evaluation system may permit a person who is evaluated to be employed or to continue to be employed by the provider if the person complies with the record check evaluation system's conditions relating to the employment, which may include completion of additional training.

5. If the record check evaluation system determines that the person has committed a crime or has a record of founded abuse which warrants prohibition of employment, the person shall not be employed by a provider.

95 Acts, ch 93, §5; 2002 Acts, ch 1120, §4; 2023 Acts, ch 19, §806
Referred to in §249A.32, 335.34, 414.32