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CRIMINAL RECORDS REVIEW ACT

RSBC 1996, CHAPTER 86

Contents

Section

Part 1 -- Introductory Provisions

- 1 Definitions
- 2 Purpose
- 3 Equivalent standards

Part 2 - Criminal Record Check and Reconsideration

- 4 Criminal record check
- 5 Reconsideration
- 6 Use of information

Part 3 -- Employers and Employees

- 7 Application of Part 3
- 8 General duty of employers
- 9 Applicants for employment
- 10 Existing employees
- 11 Effect of finding of risk
- 12 New convictions or outstanding charges

Part 4 -- Registered Members

- 13 General duty of governing body
- 14 Applicants for registration
- 15 Existing registered members
- 16 Effect of finding of risk
- 17 New convictions or outstanding charges

Part 4.1 -- Registered Students Working with Children

- 17.1 General duty of education institutions

- 17.2 Registered students working with children
- 17.3 Effect of finding of risk
- 17.4 New convictions or outstanding charges

Part 4.2 -- Independent Schools

- 17.5 Duty of inspector
- 17.6 New certifications and letters of permission
- 17.7 Existing certification holders
- 17.8 Effect of finding of risk
- 17.9 New convictions or outstanding charges

Part 5 -- Unlicensed Family Child Care Providers

- 18 Definitions
- 19 General duty of administrator
- 20 Applicants for registration
- 21 Existing child care providers
- 22 Effect of finding of risk
- 23 New convictions or outstanding charges
- 24 Other persons at facility

Part 6 -- General

- 25 [REPEALED]
- 26 [REPEALED]
- 27 Criminal record check authorization
- 27.1 Waiver of fees
- 27.2 Delegation
- 28 Offences
- 28.1 Request for records or information
- 29 Power to make regulations
 - Schedule 1
 - Schedule 2

Part 1 -- Introductory Provisions

Definitions

1 In this Act:

"adjudicator" REPEALED: SBC 2002-52-22 effective July 15, 2002 (B.C. Reg. 173/2002).

"administrator" means the person designated by regulation as the administrator of the prescribed program;

"child" means an individual under 19 years of age;

"conviction" includes

- (a) a conviction for an attempt to commit a relevant offence,
- (b) a conditional discharge,
- (c) a conviction for which a pardon has been granted by the National Parole Board, continued under the Corrections and Conditional Release Act (Canada),
- (d) a disposition, made before April 1, 2003, under the Young Offenders Act (Canada) as it then was,
- (e) a sentence under the Youth Criminal Justice Act (Canada),
- (f) the use of alternative measures under section 717 of the Criminal Code to deal with an alleged commission of a relevant offence, and
- (g) an order under sections 810, 810.1 and 810.2 of the Criminal Code;

"criminal record check" means a criminal record check under this Act;

"criminal record check authorization" means an authorization for a criminal record check referred to in section 27;

"deputy registrar" means a person appointed under the Public Service Act as deputy registrar for the purposes of this Act;

"education institution" means a post secondary institution, within the meaning of section 7, that offers an education program;

"education program" means an education program, offered by an education institution,

- (a) that includes a practicum component involving work with children, and
- (b) the successful completion of which is a requirement for
 - (i) registration as a member of a governing body designated by regulation, or
 - (ii) authorization under the Independent School Act to provide the services of a teacher;

"employee" means an individual who is employed by an employer and includes an independent contractor who has entered into an agreement with an employer;

"employer" means

- (a) the government,
- (b) an agency of the government,
- (c) a board as defined in the School Act,
- (c.1) a francophone education authority as defined in the School Act,
- (d) a public body as defined in the Health Authorities Act or a regional health board established under that Act that operates
 - (i) a hospital as defined by section 1 of the Hospital Act,
 - (ii) a Provincial mental health facility, a psychiatric unit or a society as defined by section 1 of the Mental Health Act or a mental health clinic or mental health service established by regulations under section 43 of that Act, or
 - (iii) a facility or service related to medical or health care,
- (e) a board, commission, council or other body of persons, whether or not incorporated, all the members of which or all the members of the board of management or board of directors of which are appointed by an Act, an order of the Lieutenant Governor in Council or a minister of the government,
- (f) a corporation more than 50% of the shares or ownership of which is directly or indirectly vested in the government,
- (g) an individual or corporation that receives operating funds from the government, other than a board or public body referred to in paragraph (c) or (d),
- (h) an authority as defined in the Independent School Act,
- (h.1) the employer of staff at a community care facility, as defined in the Community Care and Assisted Living Act, that is exempted under section 34 (5) (d) of that Act,
- (i) the holder of a licence issued under the Community Care and Assisted Living Act, or
- (j) a registered member who employs one or more individuals to assist the registered member in carrying on his or her occupation;

"governing body" means an organization established or continued under any of the enactments referred to in Schedule 2;

"inspector" means the inspector of independent schools appointed under the Independent School Act;

"minister" means the minister charged by the Lieutenant Governor in Council with the administration of this Act;

"operating funds" means ongoing, regular funding for core programs or staff;

"outstanding charge" means a charge or an application under a provision enumerated in Schedule 1 for which an information has been sworn or an application has been made that has not yet resulted in a conviction, acquittal or order by the court;

"registered member" means a person who is registered by a governing body under any of the enactments referred to in Schedule 2;

"registered student" means a student registered with an education institution in an education program;

"registrar" means a person appointed under the Public Service Act as registrar for the purposes of this Act;

"registration" includes a licence, permit, certification or letter of permission under any of the enactments referred to in Schedule 2;

"relevant offence" means

- (a) a provision designated in Schedule 1 as a relevant offence and includes a predecessor to that provision, and
- (b) an offence in a jurisdiction outside Canada that is, in the opinion of the registrar, similar to an offence referred to in paragraph (a);

"work with children" means working with children directly or having or potentially having unsupervised access to children

- (a) in the ordinary course of employment,
- (b) in the practice of an occupation, or
- (c) during the course of an education program.

** Editor's Table **

Provision	Changed by	In force	Authority
"adjudicator"	2002-52-22	2002 Jul 15	BC Reg 173/02
"administrator"	2002-52-22	2002 Jul 15	BC Reg 173/02
"conviction"	2003-85-60	2004 Apr 1	BC Reg 139/04
"conviction"	2007-28-3	2008 Jan 1	BC Reg 386/07
"deputy registrar"	2002-52-22	2002 Jul 15	BC Reg 173/02
"education institution"	2007-28-3	2008 Jan 1	BC Reg 386/07
"education program"	2007-28-3	2008 Jan 1	BC Reg 386/07
"employer"	1997-52-29	1997 Aug 1	BC Reg 287/97
"employer"	2002-61-16	2003 Mar 14	BC Reg 78/03
"employer"	2002-75-41	2004 May 14	BC Reg 217/04
"inspector"	2007-28-3	2008 Jan 1	BC Reg 386/07
"minister"	2002-52-22	2002 Jul 15	BC Reg 173/02
"registered student"	2007-28-3	2008 Jan 1	BC Reg 386/07
"registrar"	2002-52-22	2002 Jul 15	BC Reg 173/02
"relevant offence"	2007-28-3	2008 Jan 1	BC Reg 386/07
"work with children"	2007-28-3	2008 Jan 1	BC Reg 386/07

RSBC 1996-86-1; SBC 1997-52-29; SBC 2002-52-22; SBC 2002-61-16; SBC 2003-85-60; SBC 2002-75-41; SBC 2007-28-3.

Purpose

2 (1) The purpose of this Act is to help prevent the physical and sexual abuse of children by requiring individuals to whom this Act applies to undergo criminal record checks.

(2) Nothing in this Act is to be interpreted so as to diminish any other requirements that may be imposed under an agreement or any other law on those who work with children.

SBC 1995-37-2.

Equivalent standards

3 The registrar may exempt an individual or organization from all or any provision of this Act if the registrar is satisfied that the individual or organization is subject to a criminal record check process that meets or exceeds the requirements of this Act.

SBC 1995-37-3.

Part 2 - Criminal Record Check and Reconsideration

Editor's note: The heading to Part 2 was changed from "Part 2 - Criminal Record Check and Appeal" to "Part 2 - Criminal Record Check and Reconsideration" by SBC 2007-28-4, effective January 1, 2008 (B.C. Reg. 386/2007).

Criminal record check

4 (1) When the registrar receives a criminal record check authorization and the prescribed fee, the registrar must carry out a criminal record check on the individual who authorized the criminal record check.

(2) If the registrar determines that the individual who is the subject of the criminal record check has an outstanding charge relating to a relevant offence or has been convicted of a relevant offence, the registrar must

- (a) refer the matter to the deputy registrar to determine whether the conviction or outstanding charge indicates that the individual presents a risk of physical or sexual abuse to children, and
- (b) notify the individual and the employer, governing body, education institution or inspector or the administrator referred to in Part 5, as the case may be, that the individual has an outstanding charge relating to a relevant offence or has been convicted of a relevant offence and that the matter has been referred to the deputy registrar.

(3) In making a determination under subsection (2) (a), the deputy registrar must consider the following:

- (a) whether the behaviour associated with the relevant offence would, if repeated, pose a threat of physical or sexual abuse to children;
- (b) the circumstances of the offence including the age of the individual at the time of the offence and the existence of any extenuating circumstances;
- (c) any other factors that the deputy registrar considers relevant including, without restriction, the time elapsed since the occurrence of the offence or alleged offence, subsequent actions of the individual, the likelihood of the individual repeating a similar kind of behaviour and any attempts at rehabilitation.

(4) The deputy registrar must promptly notify the following persons of the determination under subsection (2) (a):

- (a) REPEALED: SBC 2002-52-23 (e) effective July 15, 2002 (B.C. Reg. 173/2002).
- (b) the individual;
- (c) the employer, if the individual is an employee or an applicant for employment;
- (d) the governing body, if the individual is a registered member or an applicant for registration;
- (e) the administrator, if the individual is a child care provider or an applicant as defined in Part 5;
- (f) the education institution, if the individual is a registered student or an applicant for registration;
- (g) the inspector, if the individual is an individual referred to in section 17.5 (1).

(5) The deputy registrar must provide written reasons for the determination under subsection (2) (a) to a person referred to in subsection (4), if the person so requests.

** Editor's Table **

Provision	Changed by	In force	Authority
4(1)	2002-52-23	2002 Oct 1	BC Reg 238/02
4(2)	2002-52-23	2002 Jul 15	BC Reg 173/02
4(2)(b)	2007-28-5	2008 Jan 1	BC Reg 386/07

4(3)	2002-52-23	2002 Jul 15	BC Reg 173/02
4(4)	2002-52-23	2002 Jul 15	BC Reg 173/02
4(4)(e)	2007-28-5	2008 Jan 1	BC Reg 386/07
4(4)(f)	2007-28-5	2008 Jan 1	BC Reg 386/07
4(4)(g)	2007-28-5	2008 Jan 1	BC Reg 386/07
4(4)(e)	2002-52-24	2002 Jul 15	BC Reg 173/02
4(5)	2002-52-23	2002 Jul 15	BC Reg 173/02

RSBC 1996-86-4; SBC 2002-52-23, 24; SBC 2007-28-5.

Reconsideration

5 (1) The individual who is the subject of a criminal record check may request a reconsideration of the determination of the deputy registrar under section 4 by serving the registrar with written notice within 30 days after the day on which the deputy registrar notifies the individual of the determination.

(2) When the registrar receives a notice within the time limit for requesting a reconsideration under subsection (1), the registrar must review the deputy registrar's determination and any records on which it was based and may, but need not, do one or both of the following in conducting the review:

- (a) request additional information from the person requesting the reconsideration;
- (b) convene a hearing.

(3) For the purposes of a hearing referred to in subsection (2) (b), the registrar, by summons, may require a person

- (a) to attend as a witness, at a place and time mentioned in the summons, which time must be a reasonable time from the date of the summons, and
- (b) to bring and produce before the registrar all documents, writings, books, deeds and papers in the person's possession, custody or power touching or in any way relating to the subject matter of the review.

(4) A person named in and served with a summons referred to in subsection (3) must attend before the registrar and answer on oath, unless the registrar directs otherwise, all questions touching the subject matter of the inquiry, and produce all documents, writings, books, deeds and papers in accordance with the summons.

(5) When the registrar exercises a power under subsection (3), a person who fails or refuses to comply with subsection (4) is liable, on application to the Supreme Court, to be committed for contempt as if in breach of an order or judgment of the Supreme Court.

(6) After conducting a review under subsection (2), the registrar must

- (a) confirm the determination of the deputy registrar, or
- (b) overturn the determination of the deputy registrar and direct that the individual does not present a risk of physical or sexual abuse to children.

(7) The registrar must promptly notify the following persons of the decision reached under subsection (6):

- (a) the individual;
- (b) the employer, if the individual is an employee or an applicant for employment;
- (c) the governing body, if the individual is a registered member or an applicant for registration;
- (d) the administrator, if the individual is a child care provider or an applicant as defined in Part 5;
- (e) the education institution, if the individual is a registered student or an applicant for registration;
- (f) the inspector, if the individual is an individual referred to in section 17.5 (1).

(8) The registrar must provide written reasons for the decision reached under subsection (6) to a person referred to in subsection (7), if the person so requests.

** Editor's Table **

Provision	Changed by	In force	Authority
5	2002-52-25	2002 Jul 15	BC Reg 173/02
5(7)(d)	2007-28-6	2008 Jan 1	BC Reg 386/07
5(7)(e)	2007-28-6	2008 Jan 1	BC Reg 386/07
5(7)(f)	2007-28-6	2008 Jan 1	BC Reg 386/07

RSBC 1996-86-5; SBC 2002-52-25; SBC 2007-28-6.

Use of information

6 (1) The following persons must provide any records that the registrar or deputy registrar may, by order, require for the purpose of making a determination under this Part with respect to an individual:

- (a) the employer, if the individual is an employee or an applicant for employment;
- (b) the governing body, if the individual is a registered member or an applicant for registration;
- (c) the administrator, if the individual is a child care provider or an applicant as defined in Part 5;
- (d) the education institution, if the individual is a registered student or an applicant for registration;
- (e) the inspector, if the individual is an individual referred to in section 17.5 (1).

(2) If the registrar, the deputy registrar or any other person is required to disclose any of the following information to an employer, governing body or other person under this Act, that information must be disclosed only in accordance with the provisions of the Youth Criminal Justice Act (Canada):

- (a) a sentence under the Youth Criminal Justice Act (Canada);
- (b) a disposition made before April 1, 2003 under the Young Offenders Act (Canada) as it then was;
- (c) any other information contained in youth records under those Acts.

(3) Information provided under this Act must not be used or disclosed for any purpose other than the purpose set out in section 2 of this Act or in section 33.1 (l) (m), 33.2 (i) or 44 (2) or (3) of the Freedom of Information and Protection of Privacy Act.

(4) Subsection (3) applies despite any provision of the Freedom of Information and Protection of Privacy Act other than the provisions of that Act referred to in subsection (3).

**** Editor's Table ****

Provision	Changed by	In force	Authority
6(1)	2002-52-26	2002 Jul 15	BC Reg 173/02
6(1)(c)	2002-52-24	2002 Jul 15	BC Reg 173/02
6(1)(c)	2007-28-7	2008 Jan 1	BC Reg 386/07

6(1)(d)	2007-28-7	2008 Jan 1	BC Reg 386/07
6(1)(e)	2007-28-7	2008 Jan 1	BC Reg 386/07
6(2)	2002-52-26	2002 Jul 15	BC Reg 173/02
6(2)	2003-85-61	2004 Apr 1	BC Reg 139/04
6(3)	2000-26-3	2000 Jul 6	R.A.
6(3)	2004-64-17	2004 Oct 21	R.A.
6(4)	2000-26-3	2000 Jul 6	R.A.
6(4)	2004-64-17	2004 Oct 21	R.A.

RSBC 1996-86-6; SBC 2000-26-3; SBC 2002-52-24, 26; SBC 2003-85-61; SBC 2004-64-17; SBC 2007-28-7.

Part 3 -- Employers and Employees

Application of Part 3

7 (1) In this section:

"municipality" includes

- (a) a regional district, and
- (b) an improvement district;

"post secondary institution" means

- (a) a university under the University Act,
- (b) the University of Northern British Columbia,
- (b.1) REPEALED: SBC 2002-35-2 effective March 31, 2003 (Act, s. 17).
- (b.2) Royal Roads University,
- (b.3) the Thompson Rivers University,
- (c) REPEALED: SBC 2004-33-13 effective June 11, 2004 (B.C. Reg. 252/2004).
- (d) an institution as defined in the College and Institute Act.

(2) This Part applies to employers and employees other than

- (a) an employee who is subject to a criminal record check

- (i) under Part 4 as a registered member, or
 - (ii) under Part 4.2 as an individual who applies for or holds a certification under section 5 of the Independent School Act or who is specified in a letter of permission under that section,
- (b) subject to subsection (3), a post secondary institution or an employee of a post secondary institution, or
- (c) a municipality or an employee of a municipality.

(3) This Part applies to child care facilities operated by a post secondary institution and to the employees of the post secondary institution who work at those child care facilities.

** Editor's Table **

Provision	Changed by	In force	Authority
"post secondary institution"	2002-35-2	2003 Mar 31	Act, s17
"post secondary institution"	2004-33-13	2004 Jun 11	BC Reg 252/04
"post secondary institution"	2005-17-14	2005 Mar 31	BC Reg 201/05
"municipality"	2003-52-46	2004 Jan 1	BC Reg 465/03
7(1)	1997-54-21	1997 Dec 5	BC Reg 404/97
7(1)	2000-7-191	2000 Jun 12	R.A.
7(2)(a)	2007-28-8	2008 Jan 1	BC Reg 386/07

RSBC 1996-86-7; SBC 1997-54-21; SBC 2000-7-191; SBC 2002-35-2; SBC 2003-52-46; SBC 2004-33-13; SBC 2005-17-14; SBC 2007-28-8.

General duty of employers

8 (1) An employer must ensure that every individual who is hired for employment involving work with children and every employee who works with children undergoes a criminal record check in accordance with this Part.

(2) Despite subsection (1), an employer must not require an applicant for employment to authorize a criminal record check unless the employer has offered employment to the applicant.

(3) The employer must inform individuals of the requirements of this Act if those individuals are employed by or are applicants for employment with the employer in a job that involves working with children.

**** Editor's Table ****

Provision	Changed by	In force	Authority
8(1)	2007-28-9	2008 Jan 1	BC Reg 386/07

RSBC 1996-86-8; SBC 2007-28-9.

Applicants for employment

9 (1) When an individual is offered employment that involves working with children, the individual must provide a criminal record check authorization to the employer.

(2) An employer must not employ an applicant in a job that involves working with children unless the applicant has provided the criminal record check authorization in accordance with subsection (1).

SBC 1995-37-9.

Existing employees

10 (1) An employee who works with children must provide a criminal record check authorization to his or her employer

- (a) before the date prescribed by regulation, and
- (b) at least once every 5 years after the date on which the authorization is provided in compliance with paragraph (a).

(2) If an employee does not provide a criminal record check authorization as required by subsection (1) or section 12,

- (a) the employee must not work with children until the employee has provided the criminal record check authorization, and

- (b) the employer of the employee must ensure that the employee does not work with children until the employee has provided a criminal record check authorization.

**** Editor's Table ****

Provision	Changed by	In force	Authority
10(1)	2007-28-10	2008 Jan 1	BC Reg 386/07

RSBC 1996-86-10; SBC 2007-28-10.

Effect of finding of risk

11 If the deputy registrar determines that an outstanding charge or conviction indicates that the individual presents a risk of physical or sexual abuse to children and unless that determination is overturned by the registrar under section 5,

- (a) if the individual is an applicant for employment, the employer must ensure that the individual is not hired for a job that involves working with children, or
- (b) if the individual is an employee, the employer must ensure that the employee does not work with children.

**** Editor's Table ****

Provision	Changed by	In force	Authority
11	2002-52-27	2002 Jul 15	BC Reg 173/02

RSBC 1996-86-11; SBC 2002-52-27.

New convictions or outstanding charges

12 (1) If an employee who works with children is charged with or convicted of a relevant offence subsequent to a criminal record check, the employee must promptly report the charge or

conviction to the employee's employer and provide to the employer a criminal record check authorization for a further criminal record check.

(2) When an employer becomes aware that an employee who works with children has an outstanding charge for, or has been convicted of, a relevant offence, the employer must require the employee to provide a criminal record check authorization for a further criminal record check.

(3) If an employee is also a registered member, the employer must take reasonable steps to notify the registered member's governing body that the employer is taking action under subsection (2).

SBC 1995-37-12.

Part 4 -- Registered Members

General duty of governing body

13 (1) A governing body must ensure that every member of the governing body who is registered and every individual who applies for registration undergoes a criminal record check in accordance with this Part.

(2) The governing body must inform individuals of the requirements of this Act if those individuals are registered members or are applicants for registration as a member of the governing body.

**** Editor's Table ****

Provision	Changed by	In force	Authority
13(1)	2007-28-11	2008 Jan 1	BC Reg 386/07

RSBC 1996-86-13; SBC 2007-28-11.

Applicants for registration

14 (1) Before an individual is registered as a member of a governing body, the individual must provide a criminal record check authorization to the governing body.

(2) A governing body must not register an applicant unless the applicant has provided the criminal record check authorization in accordance with subsection (1).

SBC 1995-37-14.

Existing registered members

15 (1) A registered member must provide a criminal record check authorization to his or her governing body

- (a) before the date prescribed by regulation, and
- (b) at least once every 5 years after the date on which the authorization is provided in compliance with paragraph (a).

(2) If a registered member does not provide the criminal record check authorization as required by subsection (1) or section 17,

- (a) the registered member must not work with children until the registered member has provided the criminal record check authorization, and
- (b) the governing body must investigate or review the registration of the registered member and take appropriate action under the Act that governs the governing body.

(3) If a registered member carries on his or her occupation as an employee, the governing body must take reasonable steps to notify the registered member's employer that it is taking action under subsection (2) (b).

**** Editor's Table ****

Provision	Changed by	In force	Authority
15(1)	2007-28-12	2008 Jan 1	BC Reg 386/07

RSBC 1996-86-15; SBC 2007-28-12.

Effect of finding of risk

16 (1) If the deputy registrar determines that an outstanding charge or conviction indicates that the individual presents a risk of physical or sexual abuse to children and unless that determination is overturned by the registrar under section 5, the governing body must investigate or review the individual's registration or application for registration and take appropriate action under the Act that governs the governing body.

(2) If a registered member carries on his or her occupation as an employee, the governing body must take reasonable steps to notify the registered member's employer that the governing body is taking action under subsection (1).

(3) An employer who is notified under subsection (2) must ensure that the employee does not work with children.

**** Editor's Table ****

Provision	Changed by	In force	Authority
16(1)	2002-52-27	2002 Jul 15	BC Reg 173/02

RSBC 1996-86-16; SBC 2002-52-27.

New convictions or outstanding charges

17 (1) If a registered member is charged with or convicted of a relevant offence subsequent to a criminal record check, the registered member must promptly report the charge or conviction to the member's governing body and provide to the governing body a criminal record check authorization for a further criminal record check.

(2) When a governing body becomes aware that a registered member has an outstanding charge for, or has been convicted of, a relevant offence, the governing body must require the registered member to provide a criminal record check authorization for a further criminal record check.

(3) If a registered member carries on his or her occupation as an employee, the governing body must take reasonable steps to notify the registered member's employer that the governing body is taking action under subsection (2).

(4) An employer who is notified under subsection (3) must ensure that the employee does not work with children until the employee has provided a criminal record check authorization for a further criminal record check under subsection (1) or (2).

SBC 1995-37-17.

Part 4.1 - Registered Students Working with Children

General duty of education institutions

17.1 (1) An education institution must ensure that every registered student who will work with children undergoes a criminal record check.

(2) An education institution must inform registered students of the requirements of this Act.

** Editor's Table **

Provision	Changed by	In force	Authority
17.1	2007-28-13	2008 Jan 1	BC Reg 386/07

SBC 2007-28-13.

Registered students working with children

17.2 (1) Before working with children, a registered student must provide a criminal record check authorization to his or her education institution.

(2) If a registered student does not provide the criminal record check authorization as required by subsection (1), the registered student must not work with children until the registered student has provided the criminal record check authorization.

** Editor's Table **

Provision	Changed by	In force	Authority
17.2	2007-28-13	2008 Jan 1	BC Reg 386/07

SBC 2007-28-13.

Effect of finding of risk

17.3 If the deputy registrar determines that an outstanding charge or a conviction indicates that a registered student presents a risk of physical or sexual abuse to children and unless that determination is overturned by the registrar under section 5, the education institution must ensure that the registered student does not work with children as a registered student.

** Editor's Table **

Provision	Changed by	In force	Authority
17.3	2007-28-13	2008 Jan 1	BC Reg 386/07

SBC 2007-28-13.

New convictions or outstanding charges

17.4 (1) If a registered student who works with children is charged with or convicted of a relevant offence subsequent to a criminal record check, the registered student must promptly report the charge or conviction to the education institution and provide to the education institution a criminal record check authorization for a further criminal record check.

(2) When an education institution becomes aware that a registered student who works with children has an outstanding charge for, or has been convicted of, a relevant offence, the education institution must require the registered student to provide a criminal record check authorization for a further criminal record check.

** Editor's Table **

Provision	Changed by	In force	Authority
17.4	2007-28-13	2008 Jan 1	BC Reg 386/07

SBC 2007-28-13.

Part 4.2 - Independent Schools

Duty of inspector

17.5 (1) The inspector must ensure that every individual who applies for or holds a certification under section 5 of the Independent School Act or who is specified in a letter of permission under that section undergoes a criminal record check in accordance with this Part.

(2) The inspector must inform individuals referred to in subsection (1) of the requirements of this Act.

** Editor's Table **

Provision	Changed by	In force	Authority
17.5	2007-28-13	2008 Jan 1	BC Reg 386/07

SBC 2007-28-13.

New certifications and letters of permission

17.6 (1) Before a certification or a letter of permission is issued under section 5 of the Independent School Act, the individual to be certified or to be specified in the letter of permission must provide to the inspector a criminal record check authorization.

(2) If an individual does not provide the criminal record check authorization required by subsection (1), the inspector must not issue a certification to the individual or specify the individual in a letter of permission.

** Editor's Table **

Provision	Changed by	In force	Authority
17.6	2007-28-13	2008 Jan 1	BC Reg 386/07

SBC 2007-28-13.

Existing certification holders

17.7 (1) A person who holds a certification under section 5 of the Independent School Act must provide a criminal record check authorization to the inspector

- (a) before the date prescribed by regulation, and
- (b) at least once every 5 years after the date on which the authorization is provided in compliance with paragraph (a).

(2) If a person referred to in subsection (1) does not provide a criminal record check authorization as required by subsection (1) or section 17.9,

- (a) the person must not work with children until the person has provided the criminal record check authorization, and
- (b) the inspector must review the certification and take appropriate action under the Independent School Act.

** Editor's Table **

Provision	Changed by	In force	Authority
17.7	2007-28-13	2008 Jan 1	BC Reg 386/07

SBC 2007-28-13.

Effect of finding of risk

17.8 If the deputy registrar determines that an outstanding charge or a conviction indicates that an individual presents a risk of physical or sexual abuse to children and unless that determination is overturned by the registrar under section 5, the inspector must review the individual's application for certification or the proposed letter of permission and take appropriate action under the Independent School Act.

** Editor's Table **

Provision	Changed by	In force	Authority
17.8	2007-28-13	2008 Jan 1	BC Reg 386/07

SBC 2007-28-13.

New convictions or outstanding charges

17.9 (1) If a person who holds a certification or is specified in a letter of permission under section 5 of the Independent School Act is charged with or convicted of a relevant offence subsequent to a criminal record check, the person must promptly report the charge or conviction to the inspector and provide to the inspector a criminal record check authorization for a further criminal record check.

(2) When the inspector becomes aware that a person who holds a certification or is specified in a letter of permission under section 5 of the Independent School Act has an outstanding charge for, or has been convicted of, a relevant offence, the inspector must require the person to provide a criminal record check authorization for a further criminal record check.

** Editor's Table **

Provision	Changed by	In force	Authority
17.9	2007-28-13	2008 Jan 1	BC Reg 386/07

SBC 2007-28-13.

Part 5 -- Unlicensed Family Child Care Providers

Definitions

18 In this Part:

"applicant" means an individual who operates or who intends to operate an unlicensed family child care facility and requests registration for the facility under a prescribed program;

"child care provider" means an individual who operates an unlicensed family child care facility and who is registered under a prescribed program;

"minister" REPEALED: SBC 2002-52-28 effective July 15, 2002 (B.C. Reg. 173/2002).

"unlicensed family child care facility" means a facility that offers child care to one or 2 children not related by blood or marriage to the operator of the facility.

** Editor's Table **

Provision	Changed by	In force	Authority
"applicant"	2002-52-28	2002 Jul 15	BC Reg 173/02
"child care provider"	2002-52-28	2002 Jul 15	BC Reg 173/02
"minister"	2002-52-28	2002 Jul 15	BC Reg 173/02
"unlicensed family child care facility"	2007-28-14	2008 Jan 1	BC Reg 386/07

RSBC 1996-86-18; SBC 2002-52-28; SBC 2007-28-14.

General duty of administrator

19 (1) The administrator must ensure that every individual who requests registration as a child care provider and every child care provider undergoes a criminal record check in accordance with this Part.

(2) The administrator must inform an individual of the requirements of this Act if that individual is a child care provider or requests registration as a child care provider.

** Editor's Table **

Provision	Changed by	In force	Authority
19(1)	2002-52-29	2002 Jul 15	BC Reg 173/02
19(1)	2007-28-15	2008 Jan 1	BC Reg 386/07
19(2)	2002-52-29	2002 Jul 15	BC Reg 173/02

RSBC 1996-86-19; SBC 2002-52-29; SBC 2007-28-15.

Applicants for registration

20 (1) When an individual applies for registration under a prescribed program, the individual must provide a criminal record check authorization to the administrator.

(2) The administrator must not register an applicant who has not complied with subsection (1) and section 24.

** Editor's Table **

Provision	Changed by	In force	Authority
20(1),(2)	2002-52-30	2002 Jul 15	BC Reg 173/02

RSBC 1996-86-20; SBC 2002-52-30.

Existing child care providers

21 (1) A child care provider must provide a criminal record check authorization to the administrator

- (a) before the date prescribed by regulation, and
- (b) at least once every 5 years after the date on which the authorization is provided in compliance with paragraph (a).

(2) If a child care provider does not provide the criminal record check authorization as required by subsection (1) or section 23,

- (a) the child care provider must not work with children until the child care provider has provided the criminal record check authorization, and
- (b) the administrator must revoke the registration of a child care provider who has not provided the criminal record check authorization.

** Editor's Table **

Provision	Changed by	In force	Authority
21(1)	2002-52-31	2002 Jul 15	BC Reg 173/02
21(1)	2007-28-16	2008 Jan 1	BC Reg 386/07
21(2)(b)	2002-52-31	2002 Jul 15	BC Reg 173/02

RSBC 1996-86-21; SBC 2002-52-31; SBC 2007-28-16.

Effect of finding of risk

22 (1) If the deputy registrar determines that an outstanding charge or conviction indicates that the individual presents a risk of physical or sexual abuse to children and unless that determination is overturned by the registrar under section 5,

- (a) if the individual is an applicant, the administrator must not register the individual, or
- (b) if the individual is a child care provider, the administrator must revoke the registration of the individual under the prescribed program.

(2) The administrator must inform the police force, police department or designated policing unit, as defined in section 1 of the Police Act, that is responsible for policing the area in which the facility is located, if the administrator believes that an individual who was determined to present a risk of physical or sexual abuse to children is continuing to operate a child care facility.

** Editor's Table **

Provision	Changed by	In force	Authority
22(1)	2002-52-27	2002 Jul 15	BC Reg 173/02
22(1)	2002-52-32	2002 Jul 15	BC Reg 173/02
22(2)	1997-37-50	1998 Jul 1	BC Reg 205/98
22(2)	2007-28-17	2008 Jan 1	BC Reg 386/07

RSBC 1996-86-22; SBC 1997-37-50; SBC 2002-52-27, 32; SBC 2007-28-17.

New convictions or outstanding charges

23 (1) If a child care provider is charged with or convicted of a relevant offence subsequent to a criminal record check, the child care provider must promptly report the charge or conviction to the administrator and provide to the administrator a criminal record check authorization for a further criminal record check.

(2) When the administrator becomes aware that a child care provider has an outstanding charge for, or has been convicted of, a relevant offence, the administrator must require the child care provider to provide a criminal record check authorization for a further criminal record check.

** Editor's Table **

Provision	Changed by	In force	Authority
23	2002-52-33	2002 Jul 15	BC Reg 173/02

RSBC 1996-86-23; SBC 2002-52-33.

Other persons at facility

24 A child care provider must not permit an individual who is over the age of 12, other than a parent of a child enrolled at the facility, to be ordinarily present on the premises where the unlicensed family child care facility is located, during the time that children enrolled in the facility are present, unless the child care provider has obtained a criminal record check authorization for that individual and provided it to the administrator.

** Editor's Table **

Provision	Changed by	In force	Authority
24	2002-52-33	2002 Jul 15	BC Reg 173/02

RSBC 1996-86-24; SBC 2002-52-33.

Part 6 -- General

25 REPEALED: SBC 2002-52-34 effective July 15, 2002 (B.C. Reg. 173/2002).

RSBC 1996-86-25; SBC 2002-52-34.

26 REPEALED: SBC 2002-52-34 effective July 15, 2002 (B.C. Reg. 173/2002).

RSBC 1996-86-26; SBC 2002-52-34.

Criminal record check authorization

27 The authorization for a criminal record check must

- (a) be in the form provided by the registrar,
- (b) be signed by the individual to whom the criminal record check will relate, and
- (c) include the individual's authorization to submit his or her fingerprints if necessary to verify the results of the criminal record check.

SBC 1995-37-27.

Waiver of fees

27.1 The registrar may waive the payment of the prescribed fee payable for a criminal record check if the registrar considers the waiver to be in the public interest.

** Editor's Table **

Provision	Changed by	In force	Authority
27.1	2002-52-35	2002 Oct 1	BC Reg 238/02

SBC 2002-52-35.

Delegation

27.2 (1) The registrar may delegate to a person any or all of his or her powers, duties or functions, including, without restriction, powers, duties or functions relating to a reconsideration under section 5.

(2) The deputy registrar may delegate to a person any or all of his or her powers, duties or functions, including, without restriction, powers, duties or functions relating to a determination under section 4.

(3) Subsection (2) does not apply to a power, duty or function delegated to the deputy registrar by the registrar under subsection (1).

**** Editor's Table ****

Provision	Changed by	In force	Authority
27.2	2002-52-35	2002 Jul 15	BC Reg 173/02

SBC 2002-52-35.

Offences

28 (1) A person who contravenes section 6 (1), (2) or (3), 8 (1) or (2), 9 (2), 10 (2) (a) or (b), 11 (a) or (b), 12 (2) or (3), 13 (1), 14 (2), 15 (2) (a) or (b) or (3), 16 (1), (2) or (3), 17 (2), (3), 17.1 (1), 17.2 (2), 17.3, 17.4 (2), 17.5 (1), 17.6 (2), 17.7 (2) (a) or (b), 17.8, 17.9 (2), 21 (2) (a) or 28.1 (2) is guilty of an offence and liable to a fine of up to \$5 000.

(2) A person who contravenes section 10 (1), 12 (1), 15 (1), 17 (1), 17.2 (1), 17.4 (1), 17.7 (1), 17.9 (1), 21 (1) or 23 (1) is guilty of an offence and liable to a fine of up to \$50 for each day on which the contravention continues.

(3) Section 5 of the Offence Act does not apply to this Act or the regulations.

**** Editor's Table ****

Provision	Changed by	In force	Authority
28(1)	2007-28-18	2008 Jan 1	BC Reg 386/07
28(2)	2007-28-18	2008 Jan 1	BC Reg 386/07

RSBC 1996-86-28; SBC 2007-28-18.

Request for records or information

28.1 (1) The registrar may request a person who has a duty under section 8, 13, 17.1, 17.5 or 19 to ensure that criminal record checks are undergone to submit records or information if the registrar considers it necessary in determining whether the person's duty is being performed.

(2) A person who receives a request under subsection (1) must comply with the request.

** Editor's Table **

Provision	Changed by	In force	Authority
28.1	2007-28-19	2008 Jan 1	BC Reg 386/07

SBC 2007-28-19.

Power to make regulations

29 (1) The Lieutenant Governor in Council may make regulations referred to in section 41 of the Interpretation Act.

(2) Without restricting subsection (1), the Lieutenant Governor in Council may make regulations as follows:

- (a) governing the procedure for making criminal record checks;
- (a.1) prescribing dates for the purposes of sections 10 (1), 15 (1), 17.7 (1) and 21 (1), including prescribing different dates for different persons or different classes of persons to whom those sections apply;
- (b) adding provisions to and removing provisions from Schedule 1;
- (c) adding enactments to and removing enactments from Schedule 2;
- (d) exempting persons or classes of persons from the application of all or any provision of this Act or the regulations.
- (e) prescribing the fee payable for a criminal record check;
- (f) prescribing acceptable methods of paying the fee for a criminal record check;
- (g) prescribing programs for the purposes of Part 5 and designating the administrator of a program.

** Editor's Table **

Provision	Changed by	In force	Authority
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29(2)(a.1)	2007-28-20	2008 Jan 1	BC Reg 386/07
29(2)(e)	2002-52-36	2002 Jul 15	BC Reg 173/02
29(2)(f)	2002-52-36	2002 Jul 15	BC Reg 173/02
29(2)(g)	2002-52-36	2002 Jul 15	BC Reg 173/02

RSBC 1996-86-29; SBC 2002-52-36; SBC 2007-28-20.

Schedule 1

(Section 1, definition of "relevant offences")

Relevant Offences

1 The following sections of the Criminal Code (Canada) are designated as relevant offences:

- section 151: (Sexual Interference);
- section 152: (Invitation to Sexual Touching);
- section 153: (Sexual Exploitation);
- section 153.1: (Sexual Exploitation of Person with Disability);
- section 155: (Incest);
- section 159: (Anal Intercourse);
- section 160: (Bestiality);
- section 161: (Order of Prohibition);
- section 163.1: (Child Pornography);
- section 170: (Parent or Guardian Procuring Sexual Activity);
- section 171: (Householder Permitting Sexual Activity);
- section 172: (Corrupting Children);
- section 172.1: (Luring a Child);
- section 173 (1): (Indecent Acts);
- section 173 (2): (Exposure);
- section 177: (Trespassing at Night);
- section 179: (Vagrancy);
- section 212 (1): (Procuring a Person for the Purposes of Prostitution);
- section 212 (2): (Living Off Avails of Child Prostitution);
- section 212 (2.1): (Living off Avails of Child Prostitution, Aggravating Circumstances);
- section 212 (4): (Attempting to Obtain the Sexual Services of a Child);
- section 215: (Duties of Persons to Provide Necessities);
- section 218: (Abandoning Child);
- section 220: (Causing Death by Criminal Negligence);
- section 221: (Causing Bodily Harm by Criminal Negligence);
- section 229: (Murder);

section 235: (Punishment for Murder);
 section 236: (Punishment for Manslaughter);
 section 237: (Punishment for Infanticide);
 section 238: (Killing Unborn Child in Act of Birth);
 section 239: (Attempt to Commit Murder);
 section 240: (Accessory after Fact to Murder);
 section 242: (Neglect to Obtain Assistance in Child Birth);
 section 243: (Concealing Body of Child);
 section 244: (Causing Bodily Harm with Intent);
 section 245: (Administering Noxious Thing);
 section 246: (Overcoming Resistance to Commission of Offence);
 section 264: (Criminal Harassment);
 section 264.1: (Uttering Threats);
 section 266: (Assault);
 section 267: (Assault with a Weapon or Causing Bodily Harm);
 section 268: (Aggravated Assault);
 section 269: (Unlawfully Causing Bodily Harm);
 section 271: (Sexual Assault);
 section 272: (Sexual Assault with a Weapon, Threats to a Third Party
 or Causing Bodily Harm);
 section 273: (Aggravated Sexual Assault);
 section 273.3: (Removal of Child from Canada);
 section 279: (Kidnapping/Forcible Confinement);
 section 279.1: (Hostage Taking);
 section 280: (Abduction of Person under Sixteen);
 section 281: (Abduction of Person under Fourteen);
 section 282: (Abduction in Contravention of Custody Order);
 section 283: (Abduction);
 section 372: (False Messages/Indecent Telephone Calls/Harassing
 Telephone Calls);
 section 446: (Cruelty to Animals);
 section 810: (Where Injury or Damage Feared);
 section 810.1: (Where Fear of Sexual Offence).

2 The following sections of the Controlled Drugs and Substances Act (Canada) are designated as relevant offences:

section 5: (Trafficking in Substances);
 section 6: (Importing and Exporting);
 section 7: (Production of Substance).

3 REPEALED: B.C. Reg. 361/2007, effective November 23, 2007 (B.C. Regs. Bull. 41/2007).

** Editor's Table **

Provision	Changed by	In force	Authority
Sched	BC Reg 361/07	2007 Nov 23	BC Reg 361/07

SBC 1995-37-Sch. 1; B.C. Reg. 361/2007.

Schedule 2

(Section 1, definition of "governing body")

- 1 Chiropractors Act
- 2 Dentists Act
- 3 Health Professions Act
- 4 Medical Practitioners Act
- 5 [REPEALED]
- 6 [REPEALED]
- 7 [REPEALED]
- 8 [REPEALED]
- 9 Optometrists Act
- 10 Podiatrists Act
- 11 [REPEALED]
- 12 Social Workers Act
- 13 Teaching Profession Act

** Editor's Table **

Provision	Changed by	In force	Authority
Sch. 2	BC Reg 23/98,s5	1997 Apr 21	RSBC 1996 c440 s10
Sch. 2, Items 5,6,8,11	BC Reg 442/99	2000 Jan 1	BC Reg 442/99
Sch. 2, Item 7	BC Reg 232/05 s1	2005 Aug 19	BC Reg 232/05

Editor's note: SBC 1998-19-1 deemed effective April 21, 1997 (Act, s. 8 (3), B.C. Reg. 261/98) provides that the revision correction regulation B.C. Reg. 23/98 is confirmed and validated and the amendments made by this regulation are given continuing effect.

RSBC 1996-86-Sch. 2; B.C. Reg. 23/98, s. 5; B.C. Reg. 442/99; B.C. Reg. 232/2005, s. 1.