

STATE STATUTES

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September 2018

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Background Checks for Prospective Foster, Adoptive, and Kinship Caregivers

All States, the District of Columbia, Guam, the Northern Mariana Islands, and Puerto Rico have statutes or regulations requiring background investigations of prospective foster and adoptive parents and kinship caregivers. Many of these statutes also require background checks on any adult residing in the household of prospective foster and adoptive parents.

State statutes requiring background checks are supported by Federal law in title IV-E of the Social Security Act.¹ Under Federal law, States are required to include in their title IV-E State plan provisions for completing all of the following:

- Criminal records checks, including fingerprint-based checks of national crime information databases, for any prospective foster or adoptive parent prior to approving the placement of a child, regardless of whether foster care maintenance payments or adoption assistance payments are to be made on behalf of the child
- Checks of any child abuse and neglect registry maintained by the State for information on any prospective foster or adoptive parent and on any other adult living in the home
- Checks of the child abuse and neglect registry of any other State in which a prospective parent or other adult has resided in the preceding 5 years
- Criminal records checks, including fingerprint-based checks of national crime information databases, on any relative guardian and any other adult living in the home of a relative guardian before the relative guardian may receive kinship guardianship assistance payments on behalf of the child

¹ See 42 U.S.C. 671(a)(20) (2018).



**Child Welfare
Information Gateway**

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**Children's
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Who Needs Background Checks

In all States, the District of Columbia, Guam, and Puerto Rico, State laws require background checks be completed for all prospective foster and adoptive parents prior to the placement of a child in their home. Additional background checks also may periodically be required, such as, for example, when a foster parent renews his or her licensure.² Kinship caregivers typically must meet most of the same requirements for approval that nonrelative caregivers do, including background checks.³ However, laws in approximately 36 States and the District of Columbia specifically require background checks for prospective kinship caregivers.⁴ In addition, all adults residing in the home of a prospective foster or adoptive parent or kinship caregiver also are subject to background checks.

In addition, all States, the District of Columbia, the Northern Mariana Islands, Puerto Rico, and the U.S. Virgin Islands require background checks for owners, operators, and employees of child care facilities prior to assuming responsibility for the care of children and periodically thereafter for the duration of the person's employment. The entities that are included in the term "child care facilities" vary somewhat across the States, but the term can include family child care homes or child care centers; residential child care facilities or treatment centers; juvenile detention, correction, or treatment facilities; school-aged child care programs, nursery schools, and parent cooperative preschools; and youth recreation programs, including camps, 'Big Brother/Sister' programs, and scouting programs. Laws in 33 States, the District of Columbia, and Puerto Rico, also require checks for

volunteers who will have direct contact with children at any of these facilities.⁵

Other persons who must complete background checks include the following:

- Any person residing with youth in a supervised independent living arrangement (in Indiana)
- Persons serving as mentors to transitioning youth (in Mississippi)
- Staff providing supervision and training for youth aged 16–20 who are in an independent living preparation program (in South Dakota)
- All adults residing in a child's home before the child can be reunited with his or her family (in Washington)

Types of Records That Must Be Checked

A criminal records check refers specifically to a check of the individual's name in State, local, or Federal law enforcement agencies' records, including databases of records, for any history of criminal convictions. All States, the District of Columbia, and Guam require checks of State criminal records as part of the background investigation of prospective foster and adoptive parents and other caregivers. Nearly all States also require checks of national criminal records.⁶ In addition, eight States, the District of Columbia, and Guam require checks of conviction data from other States in which the applicant may have resided.⁷

² For adoptive parents, the requirement for repeat background checks ends when the adoption is finalized.

³ States are allowed to waive nonsafety-related requirements, such as the size of bedrooms, when approving the placement of a child with a kin caregiver.

⁴ The word "approximately" is used to stress the fact that States frequently amend their laws. The information in this publication is current as of September 2018. The States that require background checks for kin caregivers include Alabama, Alaska, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, Florida, Hawaii, Idaho, Illinois, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Minnesota, Mississippi, Missouri, Montana, Nevada, New Jersey, New Mexico, New York, Ohio, Oklahoma, Oregon, Rhode Island, South Carolina, Tennessee, Texas, Utah, Virginia, and Washington.

⁵ In Alabama, Alaska, Arizona, Arkansas, California, Delaware, Florida, Georgia, Kansas, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New York, North Dakota, Oklahoma, Oregon, Rhode Island, South Dakota, Tennessee, Texas, Utah, Vermont, Virginia, Washington, and West Virginia.

⁶ Arkansas and Ohio require a national records check only when the applicant has resided in the State for less than 5 years. Vermont will require a national records check only when the State records check reveals no record of a conviction. West Virginia prescreens all applicants through all available criminal and civil databases and registries. If the prescreening reveals no disqualifying history, the applicant then must undergo a fingerprint-based State and national criminal records check.

⁷ Florida, Indiana, Louisiana, Montana, New York, Oregon, Vermont, and Wisconsin.

All States, the District of Columbia, Guam, the Northern Mariana Islands, and Puerto Rico also require checks of the child abuse and neglect registries that are maintained by the State.⁸ In 35 States and the District of Columbia, checks of the child abuse and neglect registries of other States in which the applicant has resided during the previous 5 years also are required.⁹

Other Required Checks

Some States require that checks of other types of records be included in the background investigation, including the following:

- State sex offender registries¹⁰
- The national sex offender registry¹¹
- Adult protective services records¹²
- Juvenile court records¹³
- Records of incidents of domestic violence¹⁴

In addition, Oklahoma and the District of Columbia may require checks of the child abuse registries maintained by any unit of the U.S. Armed Forces. Oklahoma and Utah require criminal records checks of appropriate sources for any person who has recently resided outside of the United States, and South Dakota requires a check of the child abuse investigation records of any Tribal program.

⁸ Alabama requires child abuse and neglect registry checks for prospective foster parents only.

⁹ Alaska, Arkansas, California, Colorado, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Minnesota, Missouri, Montana, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Utah, Washington, West Virginia, Wisconsin, and Wyoming.

¹⁰ In 17 States (Alaska, Colorado, Connecticut, Delaware, Florida, Illinois, Indiana, Kansas, Kentucky, Mississippi, Missouri, Nebraska, New Hampshire, Oklahoma, South Carolina, Tennessee, and Wyoming) and Puerto Rico.

¹¹ In 11 States (Alaska, Colorado, Connecticut, Illinois, Indiana, Kansas, Minnesota, Missouri, New Hampshire, South Carolina, and Wyoming) and the Northern Mariana Islands.

¹² In six States: Minnesota, Montana, Nebraska, Tennessee, Utah, and West Virginia.

¹³ In seven States: Idaho, Iowa, Minnesota, Montana, Tennessee, Utah, and Washington.

¹⁴ In Montana and New Jersey.

Process for Obtaining Background Checks

Any person who is seeking approval to become a foster, adoptive, or kinship caregiver must submit an application for a criminal records check. The application may be submitted to the licensing agency or a local law enforcement agency. The application form will include the following:

- Information identifying the person, including the person's complete name, date of birth, race, sex, and Social Security number
- Photo identification that verifies the above information
- Two sets of properly executed fingerprints
- A statement of all of the person's criminal convictions other than minor traffic violations
- A signed statement permitting the release of the person's records

The completed application is forwarded to the State police. The State police will conduct the search of the State criminal records and coordinate the submission to the Federal Bureau of Investigation of fingerprints and other information needed for a search of national criminal records databases.

Grounds for Disqualification

If a State is placing a child in a foster, adoptive, or relative guardianship home under title IV-E, approval of the home may not be granted if a criminal records check reveals any of the following:

- The applicant has ever been convicted of felony child abuse or neglect; spousal abuse; a crime against children (including child pornography); or a crime involving violence, including rape, sexual assault, or homicide but not including other types of physical assault or battery.
- The applicant has been convicted of a felony for physical assault, battery, or a drug-related offense within the past 5 years.¹⁵

¹⁵ See 42 U.S.C. 671(a)(20) (2018).

All States, the District of Columbia, and Puerto Rico will disqualify an applicant if he or she or any household member has ever been convicted of any crime that raises concerns that the person poses a risk to the safety and well-being of a child. In all States, the District of Columbia, and Puerto Rico, an applicant may be disqualified if he or she has a child abuse registry record of substantiated or founded child abuse or neglect. In 21 States and Puerto Rico, an applicant will not be approved if he or she or any person living in the home is listed on a sex offender registry.¹⁶

In addition, most States list in their statutes specific crimes that will lead to disqualification. For example, all States, the District of Columbia, and Puerto Rico will disqualify an applicant who has ever been convicted of felony child abuse or neglect; a crime against children, including child pornography; or a crime of violence, including rape, sexual assault, or homicide. A person who has ever been convicted of domestic violence will be disqualified in 42 States.¹⁷

In 26 States and the District of Columbia, an applicant will be disqualified if he or she has been convicted of physical assault or battery within the past 5 years.¹⁸ Illinois will not consider an applicant for approval until 10 years have elapsed since the date of conviction. In 13 States and Puerto Rico, a person who has ever been convicted of assault or battery will not be approved.¹⁹ In 36 States and the District of Columbia, an applicant will be disqualified if he or she has been convicted of drug-related crime

within the past 5 years.²⁰ In nine States and Puerto Rico, a person who has ever been convicted of a drug-related crime will not be approved.²¹

In 15 States, a person convicted of human, labor, or sex trafficking will not be approved.²² Louisiana, Texas, and Wisconsin will disqualify any person who has been convicted of committing an unregulated custody transfer of a child (which is also known as "rehoming"). In most States, other crimes—including any crime of violence, arson, kidnapping, illegal use of weapons or explosives, fraud, or forgery—or property crimes such as burglary and robbery may lead to disqualification.

This publication is a product of the State Statutes Series prepared by Child Welfare Information Gateway. While every attempt has been made to be complete, additional information on these topics may be in other sections of a State's code as well as agency regulations, case law, and informal practices and procedures.

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¹⁶ Alabama, Alaska, Arizona, California, Colorado, Delaware, Illinois, Iowa, Kansas, Kentucky, Michigan, Minnesota, Missouri, New Hampshire, Oklahoma, South Carolina, South Dakota, Tennessee, Texas, Vermont, and Virginia.

¹⁷ Alabama, Alaska, Arizona, Arkansas, California, Colorado, Delaware, Florida, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Michigan, Minnesota, Mississippi, Missouri, Montana, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, Ohio, Oklahoma, Oregon, Rhode Island, South Carolina, Texas, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin, and Wyoming.

¹⁸ Alabama, Alaska, Arkansas, California, Colorado, Florida, Hawaii, Indiana, Kentucky, Maine, Maryland, Minnesota, Montana, Nevada, New Jersey, New Mexico, New York, North Carolina, Oklahoma, Oregon, Rhode Island, South Dakota, Utah, Washington, Wisconsin, and Wyoming.

¹⁹ Arizona, Connecticut, Delaware, Georgia, Louisiana, Massachusetts, Mississippi, Missouri, New Hampshire, Ohio, Pennsylvania, Rhode Island, and South Carolina.

²⁰ Alabama, Alaska, Arkansas, California, Colorado, Connecticut, Delaware, Florida, Hawaii, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Michigan (for a conviction within the past 7 years), Minnesota, Missouri, Montana, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, Oklahoma, Oregon, Pennsylvania, South Dakota, Texas, Utah, Vermont, Virginia (for a conviction within the past 10 years), Washington, and Wisconsin.

²¹ Arizona, Illinois, Massachusetts, Mississippi, Ohio, Rhode Island, South Carolina, West Virginia, and Wyoming.

²² Alaska, Arizona, Arkansas, Idaho, Indiana, Louisiana, Maryland, Michigan, New Hampshire, North Dakota, South Carolina, Texas, Utah, Virginia, and Wisconsin.

Alabama

Current Through August 2018

Who Needs Records Checks

Citation: Ala. Code §§ 38-13-2; 38-12-3

The following persons or entities are required to undergo background checks:

- An applicant for license as a child care or adult care facility or a child-placing agency
- An applicant for employment or for a volunteer position to a Department of Human Resources (DHR) licensed child care or adult care facility
- An adult household member of a child care or adult care facility in a home setting
- An individual who submits an application for a volunteer position or for employment with DHR in a position in which the person has unsupervised access to children, adults, or individuals with disabilities as one of the essential functions of the job
- An applicant for approval as an adoptive parent of a child or as a foster parent of an adult or child

A person may become a kinship foster parent only upon the completion of an investigation to ascertain if there is a State or Federal record of criminal history for the prospective kinship foster parent or any other adult residing in the prospective foster parent's home.

Types of Records That Must Be Checked

Citation: Ala. Code § 38-13-2; Admin. Code r. 660-5-29-.02

A criminal history background information check includes a review of any and all records containing any information collected and stored in the criminal record repository of the Federal Bureau of Investigation, the Alabama Criminal Justice Information Center, and the Alabama State Law Enforcement Agency involving an arrest or conviction by a criminal justice agency, including, but not limited to, child abuse crime information as defined by 42 U.S.C. § 5119, the National Child Protection Act of 1993, conviction record information, fingerprint cards, correctional data and release information, and identifiable descriptions and notations of convictions.

In regulation: For approval as a foster parent, an applicant and each adult household member shall submit a completed request for clearance of the State central registry on child abuse and neglect.

Process for Obtaining Records Checks

Citation: Admin. Code r. 660-5-29-.02

At the time of initial application, an applicant and each adult household member shall submit a completed request for clearance of the State central registry on child abuse and neglect. The applicant also shall obtain a completed request for clearance of the central registry for each caregiver, substitute, volunteer, domestic worker, and any other person who has contact with the children or unsupervised access to the children. Completed forms shall be submitted to DHR. A subsequent request for clearance of the State central registry may be requested by DHR at any time.

Each applicant, licensee, adult household member, substitute, caregiver, volunteer, domestic worker, as well as any other person who has contact with the children or unsupervised access to the children shall submit to the Alabama Bureau of Investigation, State Law Enforcement Agency, as instructed by DHR, a request for a criminal history background information check accompanied by the following:

- Fingerprints, properly executed by a law enforcement agency or an individual properly trained in fingerprinting techniques
- Written consent from the applicant, licensee, each adult household member, substitute, caregiver, volunteer, domestic worker, as well as any other person who has contact with the children or unsupervised access to the children for the release of the criminal history background information to DHR
- The required fee, unless the fee is to be paid by DHR
- Identification verification of name, date of birth, race, sex, and Social Security number in the form of a photo identification from any governmental agency, such as a driver's license, nondriver's identification, or a program participation card

A copy of the identification verification shall be kept on file in the DHR county office or the child-placing agency.

Grounds for Disqualification

Citation: Ala. Code § 38-13-2

Convictions for any of the following crimes shall make an individual unsuitable for employment, volunteer work, approval, or licensure:

- Murder, manslaughter, or criminally negligent homicide

- A sex crime, including:
 - » Enticing a child to enter a vehicle, room, house, office, or any other place for immoral purposes
 - » Incest, when the offender is an adult and the victim is a minor
 - » Kidnapping of a minor, except by a parent, in the first or second degree
 - » Promoting prostitution, rape, sexual misconduct, sexual torture, sexual abuse, or sodomy
 - » Soliciting a child by computer for the purposes of committing a sexual act and transmitting obscene material to a child by computer
 - » Violation of the Alabama Child Pornography Act
 - » Any solicitation, attempt, or conspiracy to commit any of the offenses listed above
 - » A crime listed in the Alabama Sex Offender Registration and Community Notification Act (title 15, chapter 20A)
- A crime that involves the physical or mental injury or maltreatment of a child, the elderly, or an individual with disabilities
- A crime committed against a child
- A crime involving the sale or distribution of a controlled substance
- Robbery
- A crime or offense committed in another State or under Federal law that would constitute any of the above crimes in this State

Conviction for any crime listed in the Adoption and Safe Families Act, 42 U.S.C. § 671(a)(20), shall disqualify a person from being approved or continuing to be approved as a foster parent or adoptive parent, and a convicted person shall be deemed unsuitable for employment, volunteer work, approval, or licensure as a foster parent or adoptive parent.

The department may set other disqualifying convictions by rule under the Administrative Procedure Act for DHR-licensed child or adult care facilities.

Alaska

Current Through September 2018

Who Needs Records Checks

Citation: Alaska Stat. § 47.14.100; Admin. Code Tit. 7, §§ 56.550; 56.660; 57.315; 10.900

For the purpose of determining whether the home of a relative meets the requirements for placement of a child, the Department of Health and Social Services shall conduct a criminal background check from State and national criminal justice information. The department may conduct a fingerprint background check on any member of the relative's household who is age 16 or older when the relative requests placement of the child.

In regulation: An agency shall conduct a home study that includes background checks on the following persons:

- All adults living in the home of an applicant being considered as a foster family home or foster group home
- All adults living in the home of a family being considered as an adoptive or guardianship home
- An individual associated with a child care facility

Requirements for background checks also apply to an entity or individual service provider seeking licensure, certification, approval, or a finding of eligibility to receive payments from the department. Each individual who is to be associated with the entity or provider must be checked if that individual is age 16 or older and will be associated with the entity or provider as an individual service provider or an employee, independent contractor, or unsupervised volunteer if that individual has regular contact with recipients of services.

Types of Records That Must Be Checked

Citation: Admin. Code Tit. 7 §§ 10.910; 10.915; 57.315

An individual listed above must request a criminal history check or provide proof of a valid fingerprint-based criminal history check. The department will screen a request for a criminal history check through:

- The registry of certified nurse aides
- The central registry of sex offenders and child kidnappers
- The U.S. Department of Health and Human Services, Office of the Inspector General, database of individuals and entities excluded under 42 U.S.C. §§ 1320a-7 and 1320c-5
- Any other registry or database determined by the department to be relevant to the screening being conducted, including professional licensing registries and any registry or database maintained by another State where that individual has resided

The department also will review the criminal justice information supplied by the Department of Public Safety, court, or other applicable government agency records, and the national criminal history records check supplied by the Federal Bureau of Investigation, to determine whether a barrier crime exists for the individual who is the subject of the criminal history check.

In addition, for each caregiver, employee, and other individual age 16 or older who is associated with a child care facility, the department may review the following:

- Child protection records
- An evaluation from a probation officer, health professional, or mental health professional affirming that the individual is free from problems that might pose a significant risk to the health, safety, or welfare of a child in the facility
- Child care licensing records

Process for Obtaining Records Checks

Citation: Admin. Code Tit. 7, §§ 10.910; 10.915

Each request for a background check must include the following:

- A release of information authorization, on a form provided by the department, signed by the individual for whom the request is submitted
- A signed authorization form permitting the department to mark the individual's name in the Alaska Public Safety Information Network (APSIN)
- One set of fingerprints for the individual for whom the request is submitted
- A signed statement from the individual who took the fingerprints, attesting that at least one government-issued picture identification was used to verify the identity of the individual fingerprinted
- The fees required by the Department of Public Safety
- An additional \$25 application fee

A valid background check means the following:

- The items listed above were submitted to the department.
- The department determined that a barrier crime or condition did not exist.
- The applicant's name has been marked in APSIN on a continuous basis, and the applicant has not had the background check revoked, made invalid, or rescinded.

For each request for a background check, the department will mark in APSIN the name of the applicant who was the subject of the background check. If the department receives notification under APSIN of law enforcement activity or a civil action for an applicant, the department will review the information. If the department determines that the activity creates a barrier, the department will immediately notify the provider and the applicant. The department will include in the notification the following information:

- The department intends to revoke the valid background check.
- The applicant may request reconsideration if the applicant believes there was an error in the information relied upon by the department.
- If the applicant wishes to disclose the barrier crime or condition to the provider, the provider may request a variance.

Grounds for Disqualification

Citation: Admin. Code Tit. 7, § 10.905

A barrier crime or condition is a criminal offense or civil finding that prohibits a provider or an applicant from being approved under § 10.990. The following are permanent barriers, including the attempt, solicitation, or conspiracy to commit any of the following crimes or to violate a law or ordinance of this or another jurisdiction with similar elements:

- A felony offense against a person or a crime involving domestic violence
- A felony that involves a victim who was a child under age 18 years at the time of the conduct, including a crime involving a perpetrator who was a person responsible for the child's welfare
- Third-degree assault
- Indecent exposure
- Arson
- Endangering the welfare of a child or vulnerable adult
- Failure to register as a sex offender or child kidnapper
- Distribution of child pornography
- Inducing or causing a minor to engage in sex trafficking
- Any sex offense that is not already listed above

Ten-year barrier crimes include the following:

- Stalking
- An offense against property, including theft, fraud, burglary, criminal mischief, or forgery
- Terroristic threatening, if it is a crime involving domestic violence
- An offense against public order, including misconduct involving weapons and criminal possession of explosives
- Promoting prostitution, if the person who was induced to engage in prostitution was age 18 or older
- Misconduct involving a controlled substance
- Delivery of an imitation controlled substance to a minor

Five-year barrier crimes include the following:

- An offense against the person, including fourth-degree assault, reckless endangerment, custodial interference, or coercion
- Second-degree endangering the welfare of a child
- Contributing to the delinquency of a minor
- Failure to report a violent crime committed against a child
- Cruelty to animals
- Promoting the prostitution of a person age 18 or older
- Fourth-degree drug-related offense

Three-year barrier crimes include the following:

- Third-degree theft
- Crimes involving domestic violence, including criminal trespass, violating a protective order, or criminal mischief
- Interfering with a report of a crime involving domestic violence

A 10-year barrier may be imposed based upon a civil finding relating to abuse, neglect, or exploitation of a child or vulnerable adult for any case that did not result in the termination of parental rights. If, however, parental rights were relinquished or terminated, the barrier is permanent

American Samoa

Current Through September 2018

Who Needs Records Checks

Citation: A.S. Code § 45.0414

A written report must be prepared assessing the suitability of an adoption petitioner.

Types of Records That Must Be Checked

Citation: A.S. Code § 45.0414

In placements by the Department of Health or a child-placing agency, a written report shall be filed that assesses the moral integrity of the petitioner and the ability of the petitioner to promote the welfare of the child.

Process for Obtaining Records Checks

This issue is not addressed in the statutes reviewed.

Grounds for Disqualification

This issue is not addressed in the statutes reviewed.

Arizona

Current Through September 2018

Who Needs Records Checks

Citation: Rev. Stat. §§ 8-112; 8-509; 8-514.03; 41-1750

Background checks must be completed for the following persons:

- A prospective adoptive parent and each adult who is living permanently with the prospective adoptive parent, except a birth or legal parent with custody of the child

- A prospective foster parent and each other adult member of the household
- A kinship foster care parent applicant who is not a licensed foster care parent and each member of the applicant's household who is at least age 18
- Custodians or prospective custodians of juveniles, including parents, relatives, and prospective guardians
- All current and prospective employees, contractors, and volunteers of a nonprofit organization that interacts with children or vulnerable adults

Types of Records That Must Be Checked**Citation: Rev. Stat. § 8-112**

A background check includes the following:

- A State and Federal criminal records check
- A central registry records check, including any history of child welfare referrals

Process for Obtaining Records Checks**Citation: Rev. Stat. §§ 41-1758.02; 41-1758.03**

The person, provider, or agency shall submit a full set of fingerprints to the Fingerprinting Division in the Department of Public Safety for the purpose of obtaining a State and Federal criminal history records check. If the person can present a valid fingerprint clearance card or credible documentation that the person's application for a fingerprint clearance card is pending, the person, provider, or agency is not required to submit another application for a fingerprint clearance card. The division may exchange this fingerprint data with the Federal Bureau of Investigation.

On receiving the State and Federal criminal history record of a person, the division shall compare the record with the list of criminal offenses that preclude the person from receiving a fingerprint clearance card. If the person's criminal history record does not contain any of the offenses listed below, the division shall issue the person a fingerprint clearance card.

Grounds for Disqualification**Citation: Rev. Stat. § 41-1758.03**

A person is precluded from receiving a fingerprint clearance card if he or she is subject to registration as a sex offender in this State or any other jurisdiction or has been convicted of committing or attempting, soliciting, facilitating, or conspiring to commit, in this State or another State or jurisdiction, one or more of the following offenses:

- Sexual abuse of a vulnerable adult
- Incest
- Murder
- Sexual assault
- Sexual exploitation of a minor or vulnerable adult
- Commercial sexual exploitation of a minor or vulnerable adult
- Child sex trafficking
- Child abuse
- Sexual conduct with a minor
- Molestation of a child or vulnerable adult
- A dangerous crime against children
- Exploitation of minors involving drug offenses
- Taking a child for the purpose of prostitution
- Neglect or abuse of a vulnerable adult
- Sex trafficking
- Sexual abuse
- Production, publication, sale, possession, and presentation of obscene items
- Furnishing harmful items to minors
- Furnishing harmful items to minors by Internet activity
- Obscene or indecent telephone communications to minors for commercial purposes
- Luring a minor for sexual exploitation
- Enticement of persons for purposes of prostitution
- Detention of persons in a house of prostitution for debt

- Pandering
- Transporting persons for the purpose of prostitution, polygamy, and concubinage
- Admitting minors to public displays of sexual conduct
- Unlawful sale or purchase of children
- Child bigamy
- Trafficking of persons for forced labor or services

A person is precluded from receiving a fingerprint clearance card for any of the following offenses, except that the person may petition for a good cause exception pursuant to § 41-619.55:

- Manslaughter or negligent homicide
- Endangerment
- Threatening or intimidating
- Assault
- Unlawfully administering intoxicating liquors, narcotic drugs, or dangerous drugs
- Assault by vicious animals
- Drive-by shooting
- Assaults on officers or firefighters
- Discharging a firearm at a structure
- Indecent exposure or public sexual indecency
- Aggravated criminal damage
- Theft
- Forgery or criminal impersonation
- Theft of a credit card or obtaining a credit card by fraudulent means
- Misconduct involving weapons or explosives
- Drug-related offenses
- Adding poison or other harmful substance to food, drink, or medicine
- Criminal trespass
- Robbery or burglary
- Child neglect
- Contributing to the delinquency of a minor
- Domestic violence
- Arson
- Kidnapping
- Felony offenses involving the sale, distribution, or transportation of; the offer to sell, transport, or distribute; or conspiracy to sell, transport, or distribute marijuana, dangerous drugs, or narcotic drugs
- Negligent homicide
- Criminal damage
- Misappropriation of charter school monies
- Taking the identity of another person or entity
- Trafficking in the identity of another person or entity
- Cruelty to animals
- The sale or distribution of material harmful to minors through vending machines
- Welfare fraud

Arkansas

Current Through September 2018

Who Needs Records Checks

Citation: Ann. Code § 9-28-409; Admin. Rules 016 15 CARR 017; 016 22 CARR 003; 016 22 CARR 004

Child maltreatment registry checks are required for the following persons in a child welfare agency:

- An employee, volunteer, owner, or agency board member having direct and unsupervised contact with children

- A foster parent and all household members age 14 and older, excluding children in foster care
- An adoptive parent and all household members age 14 and older, excluding children in foster care

Criminal records checks are required for the following persons in a child welfare agency:

- An employee, volunteer, owner, or agency board member having direct and unsupervised contact with children
- Foster parents, house parents, and each member of the household age 18 1/2 and older, excluding children in foster care
- Adoptive parents and each member of the household age 18 1/2 and older, excluding children in foster care

In regulation: Background checks are required for any relative or fictive kin who will be providing foster care. Records checks also are required for all owners, operators, and staff members of child care centers and home-based child care givers.

Types of Records That Must Be Checked

Citation: Ann. Code § 9-28-409

A check of the central registry for reports of child maltreatment must be completed in the person's State of residence and any State of residence in which the person has lived for the past 5 years and in the person's State of employment, if different. All persons required to be checked with the registry shall repeat the check at a minimum of every 2 years, including adoptive parents who reside in Arkansas pending court issuance of a final decree of adoption, at which point repeat checks shall no longer be required.

Any person listed above shall be checked with the Identification Bureau of the Department of Arkansas State Police to determine if the person has pleaded guilty or nolo contendere to or has been found guilty of the offenses listed below. All persons required to be checked with the State police shall repeat the check at a minimum of every 5 years, except that adoptive parents who reside in Arkansas shall repeat the check every 2 years pending court issuance of a final decree of adoption, at which point repeat checks shall no longer be required.

Each person listed above who has not lived in Arkansas continuously for the past 5 years shall have a fingerprint-based criminal background check performed by the Federal Bureau of Investigation in compliance with Federal law and regulation.

Process for Obtaining Records Checks

Citation: Ann. Code § 9-28-409

Each person required to have a criminal records check shall complete a criminal records check form developed by the Department of Human Services and shall sign the form that contains the following under oath before a notary public:

- Certification that the person consents to the completion of the check
- Certification that the person has not pleaded guilty or nolo contendere to or been found guilty of a crime, and if the subject of the check has been convicted of a crime, contains a description of the crime and the particulars of the conviction
- Notification that the person may challenge the accuracy and completeness of any information in any report and obtain a prompt determination as to the validity of the challenge before a final determination is made concerning his or her employment or licensing status
- Notification that the person may be denied a license or exemption to operate a child welfare agency or may be denied unsupervised access to children in the care of a child welfare agency due to information obtained by the check that indicates that the subject of the check has pleaded guilty or nolo contendere to or been found guilty of or is under pending indictment for a crime listed below
- Notification that any background check and the results thereof shall be handled in accordance with the requirements of P.L. 92-544

The owner or operator of the child welfare agency shall submit the criminal records check form to the State police for processing within 10 days of hiring the employee or volunteer, who shall remain under conditional employment or volunteerism until the required checks are completed.

In the event a legible set of fingerprints cannot be obtained after a minimum of two attempts by qualified law enforcement personnel, the board shall determine eligibility based upon a name check by the State police and the Federal Bureau of Investigation.

Grounds for Disqualification

Citation: Ann. Code § 9-28-409

Any person required to be checked who is found to have any record of child maltreatment in the official record of the registry shall be reviewed by the owner or operator of the facility in consultation with the board to determine appropriate corrective action measures that would indicate, but are not limited to, training, probationary employment, or nonselection for employment.

A person who is required to have a criminal records check shall be absolutely and permanently prohibited from having direct and unsupervised contact with a child in care if that person has been found guilty of any of the following offenses:

- Felony abuse of an endangered or impaired person
- Arson
- Murder
- Endangering the welfare of an incompetent person in the first degree
- Kidnapping
- Rape or sexual assault
- Aggravated assault upon a law enforcement officer or an employee of a correctional facility
- Trafficking of persons

Except as provided below, a person shall not be eligible to have direct and unsupervised contact with a child in care if that person has been found guilty of any of the following offenses:

- Assault, aggravated assault, aggravated assault on a family or household member, or battery
- Breaking or entering; burglary
- Coercion
- Computer crimes against minors
- Contributing to the delinquency of a minor
- Criminal impersonation
- Criminal use of a prohibited weapon
- Communicating a death threat concerning a school employee or student
- Domestic battery
- Employing or consenting to the use of a child in a sexual performance
- Endangering the welfare of a minor or an incompetent person
- Engaging children in sexually explicit conduct for use in visual or print media
- False imprisonment
- Felony abuse of an endangered or impaired person
- Felony interference with a law enforcement officer
- A drug-related felony
- Financial identity fraud or forgery
- Incest
- Interference with court-ordered custody or visitation
- Introduction of a controlled substance into the body of another person
- Manslaughter or negligent homicide
- Obscene performance at a live public show
- Cruelty to animals
- Pandering or possessing visual or print medium depicting sexually explicit conduct involving a child
- Sexual solicitation
- Permanent detention or restraint
- Permitting the abuse of a minor
- Producing, directing, or promoting a sexual performance by a child
- Promoting obscene materials, an obscene performance, or prostitution
- Prostitution
- Public display of obscenity
- Resisting arrest
- Robbery or theft
- Simultaneous possession of drugs and firearms
- Soliciting money or property from incompetents
- Stalking
- Terroristic act or threatening

- Transportation of minors for prohibited sexual conduct
- Unlawful discharge of a firearm from a vehicle
- Voyeurism

A person who has been found guilty of one of the offenses listed above shall be disqualified unless:

- The date of the finding of guilt for a misdemeanor offense is at least 5 years from the date of the records check.
- There have been no criminal convictions of any type or nature during the 5-year period preceding the background check request.

California

Current Through September 2018

Who Needs Records Checks

Citation: Hlth. & Saf. Code §§ 1522; 1522.1; 1596.871; Fam. Code § 8730

The following persons or entities are required to have records checks:

- Applicants for licensure or approval to provide direct-care services in a community care facility, foster family home, or a certified family home or resource family of a licensed foster family agency
- Any person, other than a client, residing in the facility or certified family home
- Any staff person, volunteer, or employee who has contact with the clients
- Any prospective licensed or certified foster parent, adoptive parent, or any person age 18 or older residing in the household
- A person seeking licensure or approval to operate or provide direct care services in a child care center or family child care home

Records checks also are required as part of an abbreviated adoption home study assessment for any of the following:

- A licensed or certified foster parent with whom the child has lived for a minimum of 6 months
- An approved relative caregiver or nonrelated extended family member with whom the child has had an ongoing and significant relationship
- A court-appointed relative guardian of the child who has been investigated and approved pursuant to the guardianship investigation process and has had physical custody of the child for at least 1 year
- A prospective adoptive parent who has completed an agency-supervised adoption within the last 2 years

Types of Records That Must Be Checked

Citation: Hlth. & Saf. Code §§ 1522; 1522.1

The following checks are required:

- A fingerprint-based State and Federal criminal records checks
- The previous employment history of persons required to be fingerprinted
- A check of the Child Abuse Central Index
- A check of the child abuse and neglect registry for any prospective foster parent, adoptive parent, or household member age 18 or older who has lived in another State in the preceding 5 years

Process for Obtaining Records Checks

Citation: Hlth. & Saf. Code § 1522

An individual shall be required to obtain either a criminal record clearance or a criminal record exemption from the Department of Social Services before his or her initial presence in a community care facility or certified family home.

The department shall secure from an appropriate law enforcement agency a criminal record to determine whether the applicant or any other person has ever been convicted of a crime other than a minor traffic violation. The criminal history information shall include the full criminal record, if any, of those persons and subsequent arrest information pursuant to § 11105.2 of the Penal Code.

In addition, an applicant shall submit fingerprint images and related information to the Department of Justice for the purpose of searching the criminal records of the Federal Bureau of Investigation.

The Department of Social Services shall develop procedures to provide the individual's State and Federal criminal history information with the written notification of his or her exemption denial or revocation based on the criminal record. Receipt of the criminal history

information shall be optional on the part of the individual, as set forth in the agency's procedures. The procedure shall protect the confidentiality and privacy of the individual's record, and the criminal history information shall not be made available to the employer.

Grounds for Disqualification

Citation: Hlth. & Saf. Code § 1522

The department shall determine whether the applicant or any adult member of the applicant's household has ever been convicted of a crime other than a minor traffic violation or arrested for any crime specified in § 290 of the Penal Code, for violating §§ 245, 273.5, or 273a of the Penal Code, or for any crime for which the department cannot grant an exemption if the person was convicted and has not been exonerated. These offenses include the following:

- Offenses for which a person must register with the sex offender registry, including kidnapping, rape, sodomy, sexual battery, child pornography, and child sexual exploitation
- Assault with a deadly weapon
- Infliction of injury on a present or former spouse or cohabitant or parent of a child
- Endangering a child or causing or permitting a child to suffer physical pain, mental suffering, or injury

For a foster care provider, resource family, or adoptive parent applicant, an exemption shall not be granted if that applicant or any individual subject to a background check has a conviction for any of the following offenses:

- Assault, sexual assault, or sexual assault of a minor
- Sexual battery
- Aiding or abetting rape
- Endangering a child
- Assault of a child under age 8 resulting in death or severe bodily injury
- Infliction of corporal punishment or injury on child resulting in traumatic condition
- Lewd or lascivious acts involving children
- Any sexual offense requiring registration
- Sexual exploitation of patient or client by a physician, surgeon, or psychotherapist
- Torture, arson, or carjacking
- Poisoning food, drink, medicine, pharmaceutical product, or water

Under no circumstances shall an exemption be granted to any foster care provider applicant if that applicant or any other person in the home has a felony conviction for either of the following offenses:

- A felony conviction for child abuse or neglect; spousal abuse; crimes against a child, including child pornography; or for a crime involving violence, including rape, sexual assault, or homicide but not including other physical assault and battery
- A felony conviction within the last 5 years for physical assault, battery, or a drug- or alcohol-related offense

Prior to granting a license to any individual to care for children, the department shall check the Child Abuse Central Index. Licensure or approval shall not be denied based upon a report from the Child Abuse Central Index unless child abuse or severe neglect is substantiated.

Colorado

Current Through September 2018

Who Needs Records Checks

Citation: Rev. Stat. §§19-5-207; 26-6-104; 26-6-107

Records checks are required for the following persons:

- Prospective adoptive parents and any adults living in the home
- Applicants for licensure to operate a family child care home, a foster care home, a child care center, a residential child care facility, a secure residential treatment center, or a child-placing agency
- Employees, newly hired employees, licensees, or individuals who reside in a licensed facility
- Persons applying to be a foster care home or kinship foster care home and all adults living in the home

Types of Records That Must Be Checked

Citation: Rev. Stat. § 26-6-107

The records that need to be checked include the following:

- A fingerprint-based criminal history records check to determine if the applicant or adult residing in the home has been convicted of any of the crimes listed below
- A check of the ICON system at the State Judicial Department to determine the status or disposition of any pending criminal charges brought against the applicant or adult who resides in the home that were identified by the fingerprint-based criminal history records check through the Colorado Bureau of Investigation and the Federal Bureau of Investigation
- A check of the State department's automated database for information to determine if the applicant or adult who resides in the home has been identified as having a finding of child abuse or neglect and whether such finding has been determined to present an unsafe placement for a child
- A check against the State's sex offender registry and against the national sex offender public registry operated by the U.S. Department of Justice for names and addresses in the registries and the interactive database system for Colorado to determine if the applicant or adult who resides at the home is a registered sex offender

In addition to the fingerprint-based criminal history records check, the county department or child-placing agency shall contact the appropriate entity in each State in which the applicant or any adult residing in the home has resided within the preceding 5 years to determine whether the individual has been found to be responsible in a confirmed report of child abuse or neglect.

An applicant for certification as a foster care home shall provide a list of all the prior child-placing agencies to which he or she had previously applied. The county department shall contact those agencies to conduct a reference check.

Process for Obtaining Records Checks

Citation: Rev. Stat. §§ 26-6-107; 19-5-207

The department shall require each adult who is age 18 and older, including, but not limited to, the applicant, any owner, employee, newly hired employee, licensee, and any adult who is age 18 and older who resides in the licensed facility to obtain a fingerprint-based criminal history records check to determine whether the person being investigated has been convicted of any of the criminal offenses listed below or any other felony.

For all applicants applying to be a foster care home or kinship foster care home, regardless of reimbursement, the county department or child-placing agency shall require each adult who is age 18 or older and who resides in the home to obtain a fingerprint-based criminal history records check through the Colorado Bureau of Investigation and the Federal Bureau of Investigation. The applicant must provide the county department or child-placing agency with the addresses of where the applicant and any adult residing in the home has lived in the preceding 5 years, including addresses from other States.

In all petitions for adoption, in addition to the written home study report, the court shall require the county department, the designated qualified individual, or the child-placing agency to conduct the fingerprint-based criminal history records checks for any prospective adoptive parent or any adult residing in the home. To fulfill this requirement, a prospective adoptive parent shall obtain fingerprint-based criminal history records checks through the Colorado Bureau of Investigation and the Federal Bureau of Investigation. A prospective adoptive parent shall be responsible for providing a complete set of fingerprints to the Colorado Bureau of Investigation and for obtaining the fingerprint-based criminal history records checks. The prospective adoptive parent also shall be responsible for the cost of the criminal history records checks.

Grounds for Disqualification

Citation: Rev. Stat. §§ 26-6-104(7); 26-6-107; 19-5-207

The department shall not issue a license to operate a family child care home, a foster care home, a child care center, a residential child care facility, a secure residential treatment center, or a child-placing agency if the applicant, an affiliate of the applicant, a person employed by the applicant, or a person who resides with the applicant at the facility has been convicted of any of the following:

- Child abuse
- A crime of violence, as defined in § 18-1.3-406
- Any felony offense involving unlawful sexual behavior
- Any felony that includes an act of domestic violence

- Any felony involving physical assault, battery, or a drug-related offense within the 5 years preceding the date of application for a license or certificate
- A pattern of misdemeanor convictions within the 10 years immediately preceding the submission of the application
- Any offense in any other State, the elements of which are substantially similar to the elements of any one of the offenses described above

For all applicants applying to be a foster care home or kinship foster care home, the county department or child-placing agency shall contact the appropriate entity in each State in which the applicant or any adult residing in the home has resided within the preceding 5 years to determine whether the individual has been found to be responsible in a confirmed report of child abuse or neglect.

A prospective adoptive parent may be disqualified if the results of the criminal records check indicate that he or she or any adult residing in the home have been convicted at any time of a felony or misdemeanor in one of the following areas:

- Child abuse or neglect
- Spousal abuse
- Any crime against a child, including, but not limited to, child pornography
- Any crime that includes an act of domestic violence
- Violation of a protection order
- Any crime involving violence, rape, sexual assault, or homicide
- Any felony physical assault or battery conviction or felony drug-related conviction within, at a minimum, the past 5 years

An applicant also may be disqualified if a check of child maltreatment registries reveals that the prospective adoptive parent or parents or any adult residing in the home has been found to be responsible in a confirmed report of child abuse or neglect.

Connecticut

Current Through September 2018

Who Needs Records Checks

Citation: Gen. Stat. §§ 17a-114; 17b-749k

The following persons are subject to background checks by the Department of Children and Families:

- Any relative or fictive kin caregiver who wishes to accept placement of a child in the custody of the department
- A prospective adoptive parent
- Any person age 16 or older living in the household of an applicant
- Any person age 16 or older who is not living in the household but who has regular unsupervised access to a child

A 'fictive kin caregiver' is a person who is age 21 or older and who is unrelated to a child by birth, adoption, or marriage but who has an emotionally significant relationship with the child or the child's family amounting to a familial relationship.

The Commissioner of Early Childhood shall, within available appropriations, require any person, other than a relative, who provides child care services and who receives a child care subsidy from the Office of Early Childhood, to submit to comprehensive background checks.

Types of Records That Must Be Checked

Citation: Gen. Stat. §§ 17a-114; 17b-749k

The commissioner shall require each applicant for licensure or approval and any person age 16 or older living in the household of the applicant to submit to State and national criminal history records checks prior to issuing a license or approval to the applicant to accept placement of a child for purposes of foster care or adoption. The criminal history records checks shall be conducted in accordance with § 29-17a. The commissioner also shall check the State child abuse registry for the name of the applicant and for the name of any person age 16 or older living in the household of the applicant.

Comprehensive background checks for child care providers include State and national criminal history records checks and checks of the State child abuse registry.

Any relative who provides child care services to a child and who receives a child care subsidy from the Office of Early Childhood must submit to a check of (1) State and national sexual offender registry databases, (2) the State child abuse registry, and (3) the Connecticut On-Line Law Enforcement Communication Teleprocessing System maintained by the Department of Emergency

Services and Public Protection. If that check reveals that the name of any relative appears in those databases or registries, the commissioner may require the relative to submit to State and national criminal history records checks.

Process for Obtaining Records Checks

Citation: Gen. Stat. § 29-17a

When a criminal history records check is required, the check shall be requested from the State Police Bureau of Identification and shall be applicable to the individual identified in the request. The requesting party shall arrange for the fingerprinting of the individual or for conducting any other method of positive identification required by the State Police Bureau of Identification and, if a national criminal history records check is requested, by the Federal Bureau of Investigation. The fingerprints or other positive identifying information shall be forwarded to the State Police Bureau of Identification, which shall conduct a State criminal history records check. If a national criminal history records check is requested, the State Police Bureau of Identification shall submit the fingerprints or other positive identifying information to the Federal Bureau of Investigation for a national criminal history records check, unless the Federal Bureau of Investigation permits direct submission of the fingerprints or other positive identifying information by the requesting party.

Grounds for Disqualification

Citation: State Agencies Regs. § 17a-150-110

The granting of a license or approval shall be denied if any member of the household of a foster family or prospective adoptive family:

- Has been convicted of injury or risk of injury to minor or other similar offenses against a minor
- Has been convicted of impairing the morals of a minor or other similar offenses against a minor
- Has been convicted of violent crime against a person or other similar offenses
- Has been convicted of the possession, use, or sale of controlled substances within the past 5 years
- Has been convicted of illegal use of a firearm or other similar offenses
- Has ever had an allegation of child abuse or neglect substantiated
- Has had a minor removed from their care because of child abuse or neglect

The renewal of a license or approval may be denied if any member of the household of a foster family or prospective adoptive family:

- Has been convicted of injury or risk of injury to a minor or other similar offenses against a minor
- Has been convicted of impairing the morals of a minor or other similar offenses against a minor
- Has been convicted of violent crime against a person or other similar offenses
- Has been convicted of the possession, use, or sale of controlled substances
- Has been convicted of illegal use of a firearm or other similar offenses
- Has ever had an allegation of child abuse or neglect substantiated
- Has had a minor removed from their care because of child abuse or neglect

The granting or renewal of a license or approval may be denied if any member of the household of a foster family or prospective adoptive family:

- Is awaiting trial, or is on trial, for charges as described above
- Has a criminal record that the department or child-placing agency believes makes the home unsuitable
- Has a current child abuse or neglect allegation pending

No license or approval shall be renewed if the holder of the license or approval knowingly arranges for the substitute care of a child by a person described above.

Delaware

Current Through September 2018

Who Needs Records Checks

Citation: Ann. Code Tit. 31, § 309; Code of Regs. § 9-300-301(4)

All child-serving entities are required to complete background checks for prospective employees, volunteers, and contractors. 'Child-serving entities' include the following:

- The Department of Services for Children, Youth and Their Families (DSCYF), including any employees, volunteers, or contractors who have regular direct access to children
- Residential child care facilities under contract with or operated by DSCYF
- Public and private schools, including employees of the Department of Education
- Child care providers
- Youth camps or summer schools that are exempt from child care licensing requirements
- Facilities and individuals registered and eligible for Federal Child Care Development Block Grant funds through the Delaware Department of Health and Social Services

An 'employee' is any person seeking employment for compensation with a child-serving entity or any person who for any reason has regular direct access to children at a child-serving entity. The term also includes applicants wishing to become adoptive, foster, or respite parents and their adult household members and any person seeking a student teaching placement in a public school.

In regulation: Background checks also shall be conducted on the following:

- Petitioners in relative adoptions
- Applicants for interstate adoption or foster placement when a child is from another State and is being placed in Delaware and when a Delaware child is being placed in another State
- Household members age 18 and older in foster, respite, and adoptive homes

DSCYF may, when there is cause to believe the health, safety, or welfare of a child in care may be at risk, request consent from a parent or guardian for a background check on a household member younger than age 18.

Types of Records That Must Be Checked

Citation: Ann. Code Tit. 31, § 309

A background check for employees or volunteers of child-serving entities shall consist of a fingerprinted Delaware and national background check completed by the State Bureau of Identification (SBI) and the Federal Bureau of Investigation (FBI), as well as a child protection registry check completed by DSCYF.

Process for Obtaining Records Checks

Citation: Ann. Code Tit. 31, § 309

All child-serving entities are required to obtain criminal and child protection registry checks for prospective employees, volunteers, and contractors. The SBI shall furnish information pertaining to the identification and criminal history record of prospective employees, volunteers, and contractors of child-serving entities, provided that the prospective employee, volunteer, or contractor submits to a reasonable procedure established by standards set forth by the Superintendent of State Police to identify the person whose record is sought. Such procedure shall include the fingerprinting of the prospective employee and the provision of such other information as may be necessary to obtain a report of the person's entire criminal history record from SBI and a report of the person's entire Federal criminal history record pursuant to the FBI. The information to be furnished by SBI shall include child sex abuser information.

Any employer who is required to request a child protection registry check shall obtain a statement signed by the prospective employee, volunteer, or contractor wherein the person authorizes a full release for the employer to obtain the information provided pursuant to such a check. The DSCYF will process a check of the child protection registry.

Grounds for Disqualification

Citation: Ann. Code Tit. 31, § 309; Code of Regs. § 9-300-301(6), (7)

The following criminal convictions or entries on the child protection registry shall prohibit an individual from being an employee, volunteer, or contractor for a child-serving entity for the amount of time indicated:

- Felony convictions involving physical or sexual assault crimes against a child, an adult who is impaired, or elderly person require a lifetime prohibition.
- Felony convictions involving physical or sexual assault crimes against another adult require a 10-year prohibition following the date of conviction.
- Any other convictions for a violent felony not already included in the above paragraphs require a 7-year prohibition following the date of conviction, unless the felony is included within the crimes that can lead to entry on the child protection registry, in which case the length of time for the prohibition shall be as provided in the child protection registry regulations.

- Misdemeanor convictions for crimes against children require a 7-year prohibition following the date of conviction, unless the misdemeanor is included within the crimes that can lead to entry on the child protection registry.

In regulation: People convicted of a prohibited offense or who are listed as active on the child protection registry for a prohibited substantiation shall be prohibited from employment, volunteering, contracting, or residing in a licensed or license exempt family child care home, or providing foster care, respite care, or adoption without consideration of other criteria.

The Child Care Development Block Grant Act of 2014 prohibits child care persons from employment, volunteering, substituting, contracting, or living in licensed child care centers, family child care homes, and license-exempt facilities and homes, if such person:

- Refuses to consent to the background check
- Knowingly makes a materially false statement in connection with the background check
- Is registered or required to be registered on a State sex offender registry or the National Sex Offender Registry
- Has been convicted of a felony consisting of murder; child abuse or neglect; a crime against children, including child pornography; spousal abuse; a crime involving rape or sexual assault; kidnapping; arson; physical assault or battery committed at any time
- Has been convicted of a felony drug-related offense committed during the preceding 5 years
- Has been convicted of a violent misdemeanor committed as an adult against a child, including the following crimes: child abuse, child endangerment, sexual assault, or child pornography at any time

Other convictions for offenses that may make an employee or contractor ineligible for employment or may make a prospective foster parent ineligible are those that may contain, but are not limited to, the following characteristics:

- Criminal conviction against a person where physical harm or death has taken place
- Criminal conviction involving weapons, explosive devices, or threat of harm
- Criminal conviction involving public indecency and obscenity that may have been the result of plea bargain situations
- Criminal conviction that shows a disregard of others, such as reckless endangering or arson
- Criminal conviction of cruelty to animals or deviant behavior, such as abusing a corpse
- Criminal conviction against the Uniform Controlled Substances Act

District of Columbia

Current Through September 2018

Who Needs Records Checks

Citation: Ann. Code §§ 4-1305.02; 4-1501.03

The following individuals shall apply for a criminal records check:

- An individual who seeks to be approved or licensed as an adoptive parent by the Child and Family Services Agency or by any licensed child-placing agency
- An individual who seeks to be approved or licensed as a foster parent by the agency or by any licensed child-placing agency
- An individual who seeks to be approved as a kinship caregiver or legal guardian
- An adult residing in the home of an individual described above

The following individuals also must apply for criminal background checks:

- An applicant who is under consideration for paid employment by a covered child or youth services provider
- An applicant who is under consideration for voluntary service in an unsupervised position by a covered child or youth services provider
- An employee of a covered child or youth services provider
- A volunteer who serves a covered child or youth services provider in an unsupervised position

Types of Records That Must Be Checked

Citation: Ann. Code §§ 4-1305.01; 4-1407.01

A criminal records check consists of a search of criminal records to determine whether an individual has a criminal conviction that is performed by the Federal Bureau of Investigation of national records, and by the following:

- The Metropolitan Police Department, if the individual as an adult has resided, worked, or attended school in the District at any time in the past 5 years

- The State's law enforcement agency, if the individual as an adult has resided, worked, or attended school outside of the District at any time in the past 5 years

Prior to placement of a child in a family home, a licensed child-placing agency shall obtain written consent from applicants for release of information from the following:

- The D.C. Child Protection Register
- Registers of child abuse and neglect located in all States, territories, and possessions of the United States in which the applicant has resided within the previous 5 years
- If applicable, from any registers maintained by any branch of the armed forces of the United States

Process for Obtaining Records Checks

Citation: Ann. Code §§ 4-1305.01; 4-1305.03; 4-1305.05

An 'information form' is a written statement in a form established by the agency that:

- Is signed by the individual under penalty of perjury
- Identifies each State in which the individual has resided, worked, or attended school at any time in the past 5 years
- Identifies each felony for which the individual has been convicted as an adult and the date and State of that conviction
- Identifies each State in which the individual is currently on parole or probation
- Includes any other information required by the agency

An applicant shall apply for a criminal records check by submitting the following to the agency, licensed child-placing agency, or the police:

- A complete set of legible fingerprints taken on standard fingerprint cards by the agency or the police
- Payment of the fees and costs of the criminal records check
- The completed information form
- Any documentation required to conduct a criminal records check by a State identified in the completed information form

The agency or licensed child-placing agency shall forward the fingerprints to the police or State law enforcement agency. The police shall:

- Access the District criminal records history
- Transmit all complete sets of legible fingerprints to the Federal Bureau of Investigation and request the Federal Bureau of Investigation to conduct a national criminal records check and return the results to the police or state law enforcement agency

The agency or licensed child-placing agency shall request the law enforcement agency of each State identified in the completed information form to conduct a State criminal records check and return the results to the agency or licensed child-placing agency, as appropriate. If the agency or licensed child-placing agency has already determined that an individual has a disqualifying conviction, it is not required to make further requests to additional States.

Grounds for Disqualification

Citation: Ann. Code §§ 4-1305.06; 4-1305.07

An individual shall not be approved or licensed if it is determined from the criminal records check that the individual, or an adult residing in the home of the individual, has a felony conviction for any of the following offenses or their equivalents:

- Child abuse
- Child neglect
- An intrafamily offense, as defined in § 16-1001(8)
- A crime against children, including child pornography
- A crime involving violence, including rape, sexual assault, or homicide, but not including other physical assault or battery

An individual shall not be approved if it is determined from the criminal records check that the individual, or an adult residing in the home of the individual, has a felony conviction for any of the following offenses or their equivalents committed within the past 5 years:

- Physical assault or battery
- A drug-related offense

An individual may be approved if:

- The individual has a felony conviction for any of the offenses listed above and, after a discretionary agency review of the conviction and current circumstances, it is determined that approval would be consistent with the health, safety, and welfare of children, provided that any adoption-assistance payments or foster care maintenance payments made on behalf of a child to an individual shall not be made with Federal funds provided through title IV-E of the Social Security Act.
- An adult residing in the home of the individual, but not the individual who seeks to be approved, has a felony conviction for any of the offenses listed above and, after a discretionary agency review of the conviction and current circumstances, it is determined that an approval would be consistent with the health, safety, and welfare of children.

If an individual who is required to obtain a criminal records check, or any adult residing in the home of that individual, fails to do so as required, the agency may deny approval or licensure.

If a prospective adoptive parent or any adult residing in the home fails to request a criminal records check as required, the Family Division of the Superior Court of the District of Columbia may dismiss the petition for adoption.

Florida

Current Through September 2018

Who Needs Records Checks

Citation: Ann. Stat. §§ 39.0138; 39.521; 63.092; 402.302; 402.313

The following persons are subject to background checks:

- All persons, including parents, being considered by the Department of Children and Families for placement of a child, including all nonrelative placement decisions
- All members of the household, age 12 and older, of the person being considered
- A relative, parent, or other adult being considered for placement of a child
- Prospective adoptive parents
- Proposed legal custodians
- Child care personnel, including all owners, operators, employees, and volunteers working in a child care facility
- Registered family day care homes

Types of Records That Must Be Checked

Citation: Ann. Stat. §§ 39.0138; 402.302

The records that must be checked include the following:

- The State Automated Child Welfare Information System (SACWIS)
- Local and statewide criminal history records
- State and national criminal history information
- Out-of-State criminal history records for any person age 18 or older who has resided in another State if that State allows the release of such records

Child care personnel are subject to screening. 'Screening' is the act of assessing the background of child care personnel and volunteers in accordance with State and Federal law and includes, but is not limited to, the following:

- Employment history checks, including documented attempts to contact each employer that employed the applicant within the preceding 5 years
- Searches of the criminal history records, sexual predator and sexual offender registries, and child abuse and neglect registries of any State in which the applicant resided during the preceding 5 years

Process for Obtaining Records Checks

Citation: Ann. Stat. § 39.0138

The department shall conduct a records check through SACWIS and the required local and statewide criminal history records checks. A criminal history records check may include, but is not limited to, submission of fingerprints to the Department of Law Enforcement for processing and forwarding to the Federal Bureau of Investigation for State and national criminal history information and local criminal records checks through local law enforcement agencies. An out-of-State criminal history records check must be initiated for any person age 18 or older who has resided in another State if that State allows the release of such records.

Grounds for Disqualification**Citation: Ann. Stat. § 39.0138**

The department may not place a child with a person other than a parent if the criminal history records check reveals that the person has been convicted of any felony that falls within any of the following categories:

- Child abuse, abandonment, or neglect
- Domestic violence
- Child pornography or other felony in which a child was a victim of the offense
- Homicide, sexual battery, or other felony involving violence, other than felony assault or felony battery when an adult was the victim of the assault or battery, or resisting arrest with violence

The department may not place a child with a person other than a parent if the criminal history records check reveals that the person has, within the previous 5 years, been convicted of a felony that falls within any of the following categories:

- Assault or battery
- A drug-related offense
- Resisting arrest with violence

Georgia*Current Through September 2018***Who Needs Records Checks****Citation: Ann. Code §§ 49-5-60; 49-5-62; 49-5-69.1; 19-8-16**

Background checks are required for the following persons:

- The director and for each employee of any facility at which children are received for care, including the following:
 - » Any person employed to perform any duties that involve personal contact between that person and any child being cared for at the facility
 - » Any adult person who resides at the facility or who, with or without compensation, performs duties that involve personal contact between that person and any child being cared for by the facility
- Foster parents and other adult persons that reside in the foster home or provide care to children placed in the home
- Prospective adoptive parents

Types of Records That Must Be Checked**Citation: Ann. Code § 49-5-60; Rules & Regs. r. 290-9-2-.06; 290-9-2-.07**

The following records checks are required:

- A national fingerprint records check by the Federal Bureau of Investigation
- A State fingerprint records check by the Georgia Crime Information Center (GCIC)

In regulation: For adoption petitioners and foster care applicants: When an individual in the home has not resided in the State for the 5 years preceding the application for approval, the child-placing agency shall require additional documentation available through the State child welfare agency in which the applicant resided that the individual is not listed on the child abuse and neglect registry.

Process for Obtaining Records Checks**Citation: Ann. Code §§ 49-5-60; 49-5-64**

Accompanying any application for licensure or approval of a home, an applicant shall furnish to the Department of Human Services a records check application. The term 'records check application' means two sets of classifiable fingerprints; a records search fee to be established by the department by rule and regulation, payable in such form as the department may direct to cover the cost of a fingerprint records check; and an affidavit by the applicant disclosing the nature and date of any arrest, charge, or conviction of the applicant for the violation of any law, except for motor vehicle parking violations, whether or not the violation occurred in this State, and such additional information as the department may require.

The department shall transmit to GCIC both sets of fingerprints and the records search fee from each fingerprint records check application. Upon receipt of the application, GCIC shall promptly transmit one set of fingerprints to the Federal Bureau of Investigation for a search of bureau records and an appropriate report and shall retain the other set and promptly conduct a search

of its records and records to which it has access. Within 10 days after receiving fingerprints acceptable to GCIC, the application, and fee, GCIC shall notify the department in writing of any derogatory finding, including, but not limited to, any criminal record, of the State fingerprint records check or if there is no such finding. After a search of Federal Bureau of Investigation records and fingerprints and upon receipt of the bureau's report, the department shall make a national fingerprint records determination.

Grounds for Disqualification

Citation: Ann. Code § 49-5-60; Rules & Regs. r. 290-9-2-.04

A person will be disqualified if a records check reveals a criminal conviction for any of the following crimes:

- Any felony
- Simple battery when the victim is a minor
- Contributing to the delinquency of a minor
- A violation of title 16, chapter 6 (sexual offenses), excluding the offenses of bigamy or marrying a bigamist
- Criminal attempt when the crime attempted is any of the crimes specified above
- Any other offenses committed in another jurisdiction which, if committed in this State, would be one of the enumerated crimes listed above

In regulation: An applicant shall not be approved when it has been determined that he or she has a criminal record involving any of the following crimes:

- Murder or felony murder
- Aggravated assault or aggravated battery
- Cruelty to children or cruelty to a person age 65 or older
- Rape, aggravated sodomy, child molestation, enticing a child for indecent purposes, or aggravated sexual battery
- Armed robbery
- Abuse, neglect, or exploitation of a disabled adult or elderly person
- Any other offense committed in another jurisdiction that, if committed in this State, would be deemed to be a crime listed in this paragraph without regard to its designation elsewhere

Guam

Current Through September 2018

Who Needs Records Checks

Citation: Ann. Code Tit. 19, § 4221

Prospective foster and adoptive parents are required to have background checks.

Types of Records That Must Be Checked

Citation: Ann. Code Tit. 19, § 4221(c)(5); Admin. Rules Tit. 26, § 1312

The investigation of a prospective foster and adoptive parent shall include information on whether he or she has ever been a respondent in any proceeding concerning allegedly neglected, abandoned, or delinquent children.

In regulation: An adoption home study conducted by the Department of Public Health and Social Services shall include a police clearance from the place of current or previous residence.

Process for Obtaining Records Checks

This issue is not addressed in the statutes and regulations reviewed.

Grounds for Disqualification

This issue is not addressed in the statutes and regulations reviewed.

Hawaii

Current Through September 2018

Who Needs Records Checks

Citation: Rev. Stat. §§ 346-17; 346-19.7; 846-2.7

Background checks are required for applicants for licensure or employment, employees, and volunteers who provide care to children, vulnerable adults, or individuals with disabilities, including the following persons and entities:

- Operators and employees of child-caring institutions and child-placing organizations
- Resource family homes, including all adults residing in the resource family home
- Relative foster home care providers
- Prospective adoptive parents, including all adults residing in the prospective adoptive home
- Applicants to operate child care facilities, prospective employees of the applicant, and new employees and household members of the provider after registration or licensure
- Persons exempt pursuant to § 346-152 to be eligible to provide child care and receive child care subsidies
- Employees, prospective employees, and teacher trainees in any public school
- Employees and prospective employees who may be in positions that place them in close proximity to children in recreation or child care programs and services
- Private school employees and prospective employees
- Foster grandparent program participants

Types of Records That Must Be Checked

Citation: Rev. Stat. §§ 346-17; 346-19.7; 846-2.7; Code of Regs. §§ 17-1625-17; 17-1627-6

Any person who seeks to become a foster or adoptive parent, including all adults residing in the home, shall be subject to criminal history records checks in accordance with § 846-2.7 and child abuse and neglect registry checks in accordance with procedures of the Department of Human Services.

The criminal history records check shall include the submission of fingerprints to the following:

- The Federal Bureau of Investigation for a national criminal history records check
- The Hawaii Criminal Justice Data Center for a State criminal history records check that shall include nonconviction data

In regulation: The department shall conduct criminal history clearances, child abuse and neglect registry checks, background checks, and any other checks deemed necessary, such as employment checks, on applicants, employees, and household members.

Process for Obtaining Records Checks

Citation: Rev. Stat. §§ 346-17; 346-19.7; 846-2.7

As a condition for a certificate of approval, any entity listed above shall provide consent to the department to obtain criminal history record and child abuse and neglect registry information. The department shall request the following:

- A criminal history records check through the Hawaii Criminal Justice Data Center
- A child abuse and neglect registry check

For the criminal history records check, the department shall:

- Notify applicants that their fingerprints shall be retained by the Hawaii Criminal Justice Data Center and the Federal Bureau of Investigation for all purposes and uses authorized for fingerprint submissions
- Verify that the applicant will be or is physically working or volunteering in the State
- Submit to the Hawaii Criminal Justice Data Center a request for a criminal history records check on an applicant with a complete set of electronic fingerprints and a signed waiver allowing the release of State and national criminal history records information

The applicant, employee, or volunteer subject to a criminal history records check shall provide the following to the department:

- Consent to obtain the individual's fingerprints, conduct the criminal history records check, and participate in the rap back program
- Identifying information required by the Federal Bureau of Investigation, such as the individual's name, date of birth, height, weight, eye color, hair color, gender, race, and place of birth
- A statement indicating whether the individual has ever been convicted of a crime and, if so, the particulars of the conviction

Grounds for Disqualification

Citation: Rev. Stat. §§ 346-17; 346-19.7; Code of Regs. §§ 17-1625-17; 17-1627-19

The department may deny a certificate of approval if an operator, employee, or new employee of a child care institution or child-placing organization's facility, or any adult residing in a resource family home, was convicted of a crime other than a minor traffic violation involving a fine of \$50 or less and if the department finds that the criminal history record or child abuse registry history of an operator, employee, new employee, or adult residing in a resource family home poses a risk to the health, safety, or well-being of the children in care.

The department may deny a person's application to adopt a child if either of the prospective adoptive parents or any adult residing in the prospective adoptive home was convicted of an offense for which incarceration is a sentencing option, and if the department finds by reason of the nature and circumstances of the crime that either of the prospective adoptive parents, or any adult residing in the prospective adoptive home, poses a risk to the health, safety, or well-being of the child. A denial shall occur only after an appropriate investigation, notification of results and planned action, and an opportunity to meet and rebut the finding.

The department may deny a person's application to adopt a child if either of the prospective adoptive parents or any adult residing in the prospective adoptive home has a history of confirmed child abuse or neglect, or both, revealed by the child abuse and neglect registry check, and if the department finds by reason of the nature and circumstances of the abuse or neglect, or both, that either of the prospective adoptive parents or any adult residing in the prospective adoptive home poses a risk to the health, safety, or well-being of the child. A denial shall occur only after an appropriate investigation, notification of results and planned action, and an opportunity to meet and rebut the finding.

In regulation: Applicants, adult household members, and employees shall not have any of the following:

- A felony conviction, at any time, for child abuse or neglect; for spousal abuse; for a crime against children, including child pornography; or for a crime involving violence, including rape, sexual assault, or homicide but not including other physical assault or battery
- A felony conviction, within the last 5 years, for physical assault, battery, or a drug-related offense

Convictions of other crimes, the circumstances of which indicate that the applicant or adult household member or employee poses a risk to the health, safety, or well-being of children may be grounds for denial. Except for the felony convictions listed above, the type of criminal offense, when it occurred, and evidence of rehabilitation may be considered in determining whether the individual poses a risk to the health, safety, or well-being of children. A single item of evidence, however, may not be conclusive evidence of rehabilitation.

An employment history indicating violence, alcohol or drug abuse, and any other violation of employer rule or policy, the circumstances of which indicate that the applicant may pose a risk to the health, safety, or well-being of children may be grounds for denial, revocation, or nonrenewal of a certificate of approval.

Background information that shows that the individual has been identified as and confirmed to be a perpetrator of child abuse or neglect may be a basis for denial, revocation, or nonrenewal of certificate of approval.

Idaho

Current Through September 2018

Who Needs Records Checks

Citation: Idaho Code §§ 39-1211; 39-1211A; 39-1105; Admin. Code §§ 16.05.06.100; 16.05.06.101

The Department of Health and Welfare shall obtain a criminal history check on the following:

- Applicants for foster care licensure
- A relative providing foster care for a related child
- Owners, operators, and employees of a daycare facility who have direct contact with children and on all other individuals age 13 or older who have unsupervised direct contact with children or are regularly on the premises of a daycare facility

In regulation: Individuals subject to criminal history and background checks include the following:

- Adoptive parent applicants
- Licensed foster care applicants

- Employees of behavioral health community crisis centers, behavioral health programs, certified family homes, children's residential care facilities, children's therapeutic outdoor programs, and developmental disabilities agencies
- Court-appointed guardians and conservators
- Idaho Child Care Program applicants
- Licensed daycare applicants
- Employees, contractors, and volunteers of the department who are providing direct care services or who have access to children or vulnerable adults

Types of Records That Must Be Checked**Citation: Idaho Code §§ 39-1210; 39-1105**

The criminal history check shall include the following:

- Statewide Criminal Identification Bureau
- Federal Bureau of Investigation criminal history
- National Crime Information Center
- Statewide child abuse register

Criminal history checks on persons under age 18 shall include a check of the juvenile justice records of adjudications of the magistrate division of the district court, county probation services, and department records as authorized by the minor and his parent or guardian.

Process for Obtaining Records Checks**Citation: Admin. Code §§ 16.05.06.120; 16.05.06.140; 16.05.06.180**

Individuals who are subject to a criminal history and background check must complete an application and have it notarized. The individual's application authorizes the department to obtain information and release it as required by applicable State and Federal law.

The individual must disclose any conviction, pending charges, or indictment for crimes and furnish a description of the crime and the particulars on the application. The individual also must disclose any notice by a State or local agency of substantiated child or substantiated vulnerable adult abuse, neglect, exploitation, or abandonment complaint and any other information, as required. An applicant who falsifies or fails to disclose information on the application may be subject to a conditional denial and prosecution under §§ 18-3203, 18-5401, and 56-227A, Idaho Code.

The department's criminal history and background check is a fingerprint-based check. Ten rolled fingerprints must be collected from the individual and submitted to the department in order for a criminal history and background check request to be processed. The department obtains fingerprints electronically at each of its fingerprint locations, or the department's fingerprint card must be used. A department fingerprint card can be obtained by contacting the Criminal History Unit.

The department will issue a clearance or denial once the criminal history and background check is completed. The results may be accessed by the individual on the department's website. The employer may access the information that is provided by the applicant and information obtained from the State, county, or through registries.

Grounds for Disqualification**Citation: Admin. Code § 16.05.06.210**

An individual will receive an unconditional denial if the criminal history and background check reveals a conviction for one or more of the following crimes:

- Abuse, neglect, or exploitation of a vulnerable adult
- Abandoning a vulnerable adult
- Sexual abuse and exploitation of a vulnerable adult
- Aggravated, first-degree, and second-degree arson
- Crimes against nature, as defined in § 18-6605, Idaho Code
- Forcible sexual penetration by use of a foreign object
- Hiring, employing, or using a minor to engage in certain acts, as defined in § 18-1517A
- Human trafficking
- Incest

- Felony or misdemeanor injury to a child
- Kidnapping
- Lewd conduct with a minor
- Mayhem
- Murder, manslaughter, or felony vehicular manslaughter
- Poisoning
- Possession of sexually exploitative material
- Rape
- Robbery
- Felony stalking
- Sale or barter of a child
- Ritualized abuse of a child
- Sexual abuse or exploitation of a child
- Felony sexual exploitation of a child
- Sexual battery of a minor child under age 16 or age 17
- Video voyeurism
- Enticing of children
- Inducing individuals under age 18 into prostitution or patronizing a prostitute
- Any felony punishable by death or life imprisonment
- Attempted strangulation
- Felony domestic violence
- Attempt, conspiracy, accessory after the fact, or aiding and abetting to commit any of the crimes listed above

The department will issue an unconditional denial for an individual who has been convicted within the past 5 years for the following described crimes:

- Any felony not described above
- Misdemeanor domestic violence
- Failure to report abuse, abandonment, or neglect of a child
- Misdemeanor forgery of and fraudulent use of a financial transaction card
- Misdemeanor forgery and counterfeiting
- Misdemeanor identity theft, insurance fraud, or public assistance fraud
- Stalking in the second degree
- Misdemeanor vehicular manslaughter
- Sexual exploitation of a child by electronic means
- Sexual exploitation by a medical care provider
- Operating a certified family home without certification
- Attempt, conspiracy, accessory after the fact, or aiding and abetting to commit any of the disqualifying 5-year crimes

Illinois

Current Through September 2018

Who Needs Records Checks

Citation: Admin. Code Tit. 89, §§ 385.20; 385.30; 402.28

Persons subject to background checks include the following:

- Applicants for foster family home licensure and members of the household
- Relative caregivers and members of the household prior to a final placement decision in a relative home
- Operators and all current and conditional employees of a child care facility
- All direct child welfare agency employees
- Any person who is used to replace or supplement staff
- Any person, including nonlicensed service providers, who provides services that allow unsupervised access to children

If the child care facility operates in a family home, the license applicants and all members and prospective members of the household age 13 and older are subject to background checks, as appropriate, even if these members of the household are not usually present in the home during the hours the child care facility is in operation.

Nonlicensed service providers who, on a regular basis, provide care in the provider's home to a child for whom the Department of Children and Family Services is legally responsible and all members of the household age 13 or older are subject to background checks.

For a final placement decision in a relative home, the relative and all members of the household age 18 and over are subject to criminal background checks.

Prospective adoptive parents and prospective guardians also are subject to background checks.

Types of Records That Must Be Checked

Citation: Admin. Code Tit. 89, §§ 385.20; 385.30

A background check includes the following:

- A criminal history check via fingerprints of persons age 18 and older that are submitted to the Illinois State Police and the Federal Bureau of Investigation for comparison to their criminal history records, or the National Crime Information Database, when applicable, for prospective foster and adoptive parents
- A check of the child abuse and neglect tracking system and other State child protection systems, or the national registry, as appropriate, to determine whether an individual is currently alleged or has been indicated as a perpetrator of child abuse or neglect
- A check of the Illinois sex offender registry and the national sex offenders registry, as appropriate

For prospective foster or adoptive parents or other adults living in the home who resided in another State in the preceding 5 years, the department shall request a check of that other State's child abuse and neglect registry and the National Sex Offender Registry.

Process for Obtaining Records Checks

Citation: Comp. Stat. Ch. 225, § 10/4.1

Each child care facility license applicant, as part of the application process, and each employee and volunteer of a child care facility or nonlicensed service provider, as a condition of employment, shall authorize an investigation to determine if such applicant, employee, or volunteer has ever been charged with a crime and, if so, the disposition of those charges. The authorization shall indicate the scope of the inquiry and the agencies that may be contacted. Upon this authorization, the department shall request and receive information and assistance from any Federal, State, or local governmental agency as part of the authorized investigation.

Each applicant, employee, or volunteer of a child care facility or nonlicensed service provider shall submit his or her fingerprints to the Department of State Police in the form and manner prescribed by the Department of State Police. These fingerprints shall be checked against the fingerprint records now and hereafter filed in the Department of State Police and Federal Bureau of Investigation criminal history records databases. The Department of State Police shall charge a fee for conducting the criminal history records check, which shall be deposited in the State Police Services Fund and shall not exceed the actual cost of the records check. The Department of State Police shall provide information concerning any criminal charges, and their disposition, now or hereafter filed, against an applicant, employee, or volunteer of a child care facility or nonlicensed service provider upon request of the Department of Children and Family Services when the request is made in the form and manner required by the Department of State Police.

Grounds for Disqualification

Citation: Comp. Stat. Ch. 225, § 10/4.2

No applicant who refuses to authorize an investigation will be approved. In addition, no applicant may receive a license who has been declared a sexually dangerous person or has been convicted of committing or attempting to commit any offense listed in statute, including the following:

- Murder or manslaughter
- A sex offense
- Kidnapping
- Aggravated battery of a child
- Criminal sexual assault

- Aggravated sexual abuse
- Aggravated battery with a firearm
- Drug-induced infliction of great bodily harm
- Stalking
- Child abandonment
- Endangering the life or health of a child
- Ritual mutilation
- Ritualized abuse of a child
- An offense in any other jurisdiction the elements of which are similar and bear a substantial relationship to any of the above offenses
- Felony domestic battery
- Aggravated battery
- Felony violation of an order of protection
- Felony contributing to the criminal delinquency of a juvenile
- A drug-related offense

In addition to the above provisions, no applicant may receive a license to operate a foster family home, and no adult person may reside in a foster family home, who has been convicted of committing or attempting to commit any of the following offenses:

- Kidnapping and related offenses
- Felony aggravated assault
- Felony domestic battery
- Aggravated battery
- Felony violation of an order of protection
- Offenses directed against property, including robbery, burglary, or arson
- Weapons-related offenses
- Obstructing justice
- Felony contributing to the criminal delinquency of a juvenile
- Drug-related offenses

The department may make an exception and issue a foster family home license, provided all of the following requirements are met:

- The relevant criminal offense or offenses occurred more than 10 years prior to the date of application.
- The applicant had previously disclosed the conviction or convictions to the department for purposes of a background check.
- After the disclosure, the department either placed a child in the home or the foster family home license was issued.
- During the background check, the department had assessed and waived the conviction in compliance with the existing statutes and rules in effect at the time of the hire or licensure.
- The applicant meets all other requirements and qualifications to be licensed as a foster family home.
- The applicant has a history of providing a safe, stable home environment and appears able to continue to provide a safe, stable home environment.

Indiana

Current Through September 2018

Who Needs Records Checks

Citation: Ann. Code §§ 31-19-7-1; 31-27-4-5; 31-27-2-1; 29-3-5-1.5; 31-28-5.8-5.5; 12-17.2-5-1

Criminal history checks are required for the following persons or entities:

- A proposed adoptive parent and any other person who is currently residing in the proposed adoptive home
- An applicant applying for a foster family home license
- Child-caring institutions, group homes, and child-placing agencies
- A petitioner for appointment as a guardian of a minor and any other household members
- Each person who is currently residing with an older youth in a host home or supervised independent living arrangement
- Operators and employees of child care homes

Types of Records That Must Be Checked**Citation: Ann. Code § 31-9-2-22.5**

A criminal history check includes the following:

- A fingerprint-based criminal history background check of both national and State records databases
- A national name-based criminal history records check if an individual has a physical disability that prevents fingerprinting
- A check for each substantiated report of child abuse or neglect reported in a jurisdiction where a probation officer, a caseworker, or the Department of Child Services has reason to believe that a person who is age 14 or older resided within the previous 5 years
- A check of the national sex offender registry maintained by the U.S. Department of Justice for all persons who are at least age 14
- A check of local law enforcement agency records in every jurisdiction in which a person who is at least age 18 has resided within the previous 5 years

Process for Obtaining Records Checks**Citation: Ann. Code § 31-27-4-5**

As part of an application, an applicant must submit a statement attesting the following:

- Whether the applicant has been convicted of a felony or a misdemeanor relating to the health and safety of children
- Whether the applicant has been charged with a felony or a misdemeanor relating to the health and safety of children during the pendency of the application

An applicant shall submit the necessary information, forms, or consents for the department to conduct a criminal history check for each individual who is an applicant.

The department shall conduct a criminal history check of the applicant's employees and volunteers who have or will have direct contact on a regular and continuing basis with children who are or will be under the direct supervision of the applicant and all household members. The department shall determine whether the subject of a national fingerprint-based criminal history check has a record of any of the following:

- A conviction for a felony
- A conviction for a misdemeanor relating to the health and safety of a child
- A juvenile adjudication for a nonwaivable offense, as defined in § 31-9-2-84.8, that, if committed by an adult, would be a felony

A person who is the subject of a criminal history check conducted in accordance with this section may request the State police department to provide the person with a copy of any State or national criminal history report concerning the person.

Grounds for Disqualification**Citation: Ann. Code §§ 31-27-4-6; 31-27-4-13; 31-9-2-84.8**

The following are grounds for a denial of a license application:

- A determination by the department of child abuse or neglect by:
 - » The applicant
 - » An employee or a volunteer of the applicant who has direct contact on a regular and continuous basis with children who are under the direct supervision of the applicant
 - » A person residing in the applicant's residence
- A criminal conviction of the applicant of any of the following:
 - » A felony
 - » A misdemeanor related to the health and safety of a child
 - » A misdemeanor for operating a child care center or child care home without a license
 - » A misdemeanor for operating a foster family home without a license
- A determination by the department that the applicant made false statements in the applicant's application for licensure
- A determination by the department that the applicant made false statements in the records required by the department
- A juvenile adjudication of the applicant for an act listed below that, if committed by an adult, would be a felony

The department shall deny a license when an applicant fails to meet the requirements for a license. The department shall deny a license to an applicant who has been convicted of a nonwaivable offense, as defined in § 31-9-2-84.8.

A nonwaivable offense includes the following:

- Murder, voluntary manslaughter, or reckless homicide
- Causing or assisting suicide
- Battery within the past 5 years
- Domestic battery or aggravated battery
- Kidnapping
- Criminal confinement within the past 5 years
- Human and sexual trafficking
- A felony sex offense under § 35-42-4
- Arson within the past 5 years
- Incest
- Neglect of a dependent
- Child selling
- A felony involving a weapon within the past 5 years
- A felony relating to controlled substances within the past 5 years
- An offense relating to material or a performance that is harmful to minors or obscene
- A felony under § 9-30-5 (operating a vehicle while intoxicated) within the past 5 years
- A felony that is substantially equivalent to a felony listed above for which the conviction was entered in another State

The department may deny a license to an applicant who:

- Has been convicted of a felony that is not described above
- Has had a juvenile adjudication for an act described above that, if committed by an adult, would be a felony

The department shall send written notice by certified mail that the application has been denied and give the reasons for the denial. An administrative hearing concerning the denial of a license shall be provided upon written request by the applicant. The request must be made no more than 30 days after receiving the written notice.

Iowa

Current Through September 2018

Who Needs Records Checks

Citation: Ann. Code §§ 237.8; 600.8; 237A.5; Admin. Code §§ 441-113.13; 441-107.8

The following persons are subject to records checks:

- An individual subject to licensure as a foster parent
- A person being considered for licensure or for employment involving direct responsibility for a child or with unsupervised access to a child when the child is alone
- A person who will reside in a facility utilized by a licensee
- A prospective adoptive parent
- A person being considered for licensure or registration to operate a child care facility

In regulation: Record checks are required for each foster parent applicant, prospective adoption applicant, and for anyone who is age 14 or older living in the home of the applicant.

Types of Records That Must Be Checked

Citation: Admin. Code §§ 441-113.13; 441-107.8

Each applicant and anyone who is age 14 or older living in the home of the applicant shall be checked for records with the following:

- The Iowa central abuse registry
- The Iowa Division of Criminal Investigation for a criminal history records check
- The Iowa sex offender registry
- Iowa Courts Online

Each applicant and any other adult living in the household also shall be checked for records on the child abuse registry of any State where the person has lived during the past 5 years.

Each foster parent applicant also shall be fingerprinted for a national criminal history check. Other adults living in the home may be fingerprinted if the department determines that a national criminal history check is warranted.

Process for Obtaining Records Checks

Citation: Ann. Code § 237.8; Admin. Code §§ 441-113.13; 441-107.8

For a person is being considered for licensure, the Department of Human Services shall conduct criminal and child abuse records checks in this State and may conduct these checks in other States. The evaluation shall be performed in accordance with procedures adopted for this purpose by the department.

For an individual subject to licensure as a foster parent, in addition to the records checks conducted under the above paragraph, the individual's fingerprints shall be provided to the Department of Public Safety for submission through the State criminal history repository to Federal Bureau of Investigation for a national criminal history check.

In regulation: Record checks are required for each foster parent applicant and for anyone who is 14 years of age or older living in the home of the applicant. The purpose of the records checks is to determine whether any of these persons has any founded child abuse reports or criminal convictions or has been placed on the sex offender registry. The department's contractor for the recruitment and retention of resource families shall assist applicants in completing required records checks, including fingerprinting.

The certified adoption investigator shall perform records checks for each applicant and for the other persons living in the home of the applicant.

Grounds for Disqualification

Citation: Ann. Code §§ 237.8; 600.8; 237A.5

An individual applying to be a foster or adoptive parent shall not be approved if the individual has been convicted of any of the following felony offenses:

- Child endangerment or neglect or abandonment of a dependent person
- Domestic abuse
- A crime against a child, including but not limited to sexual exploitation of a minor
- A forcible felony
- A drug-related offense within the 5-year period preceding the application date

A person applying for licensure to provide child care can be disqualified if a records check indicates that the person has committed any of the following transgressions:

- Conviction of a crime
- A record of having committed founded child or dependent adult abuse
- Listing in the sex offender registry
- A record of having committed a public or civil offense
- A previous revocation of a child care facility registration or license due to the person's continued or repeated failure to operate the facility in compliance with rules and regulations

Kansas

Current Through September 2018

Who Needs Records Checks

Citation: Ann. Stat. §§ 65-503; 38-2272; 59-2132; Admin. Regs. § 28-4-805

The following persons or entities are subject to background checks:

- A child care facility, including the following:
 - » A foster care home
 - » A children's home, orphanage, maternity home, or daycare facility
 - » A child-placing agency or child care resource and referral agency, or a facility maintained by such an agency, for the purpose of caring for children under age 16
 - » Any receiving or detention home for children under age 16 provided or maintained by, or receiving aid from, any city, county, or the State

- A potential permanent custodian, including a relative of the child or a person with whom the child has close emotional ties
- A prospective adoptive parent

In regulation: For a foster home, the background check also must include the following persons:

- Each individual age 10 and older who resides, works, or regularly volunteers in the family foster home, excluding children placed in foster care
- Each caregiver age 14 and older
- Each resident of a home in which informal visitation occurs who is at least age 10

Types of Records That Must Be Checked

Citation: Admin. Regs. § 28-4-805

For all applicants for licensure, the investigation shall include the following:

- A background check by the Kansas Bureau of Investigation
- A background check by the Kansas Department of Social and Rehabilitation Services

In addition, each individual submitting an initial application for a family foster home license shall obtain the following:

- For each individual age 18 and older residing in the home, a child abuse and neglect background check from each previous State of residence throughout the 5-year period before the date of application
- For each applicant or licensee, a fingerprint-based background check from the National Crime Identification Databases (NCID)

Process for Obtaining Records Checks

Citation: Ann. Stat. §§ 65-516; 59-2132; Admin. Regs. § 28-4-805

The secretary of the Department of Health and Environment is authorized to conduct national criminal history records checks to determine criminal history on persons residing, working, or regularly volunteering in a child care facility. In order to conduct a national criminal history check, the secretary shall require fingerprinting for identification and determination of criminal history. The secretary shall submit the fingerprints to the Kansas Bureau of Investigation and to the Federal Bureau of Investigation and receive a reply to enable the secretary to verify the identity of such person and whether such person has been convicted of any crime that would prohibit such person from residing, working, or regularly volunteering in a child care facility. The secretary is authorized to use information obtained from the national criminal history records check to determine such person's fitness to reside, work, or regularly volunteer in a child care facility.

An adoption investigation report must include the results of a child abuse registry check and a criminal registry check that determines whether the prospective adoptive parent has any prior felony convictions.

In regulation: Each licensee or applicant for licensure shall submit a request to conduct a background checks by the Kansas Bureau of Investigation and the Kansas Department of Social and Rehabilitation Services in order to comply with the provisions of § 65-516. Each request shall be submitted to the department on a form provided by the department.

Background checks shall be obtained following the procedures of the department. All fees associated with obtaining child abuse and neglect background checks from other States and NCID checks shall be the responsibility of the applicant or the licensee.

Grounds for Disqualification

Citation: Ann. Stat. §§ 65-516; 59-2132

No licensed child care facility, including a foster home, may have on the premises a person who has:

- Been convicted of a crime against persons, including murder, manslaughter, assault, battery, or kidnapping
- Been convicted of any provision of the uniform controlled substances act
- Been convicted of any act described in chapter 21, article 35 (sex offenses, including rape, sexual battery, or sexual exploitation of a child)
- Been convicted of any act described in chapter 21, article 36 (crimes affecting family relationships and children, including incest, abuse, abandonment, or endangerment of a child)
- Been convicted of an attempt to commit any such act
- Been convicted of promoting obscenity or promoting obscenity to minors
- Been adjudicated a juvenile offender for any of the above acts
- Been convicted or adjudicated of a crime that requires registration as a sex offender under the Kansas offender registration act, as a sex offender in any other State, or as a sex offender on the national sex offender registry

- Committed an act of physical, mental, or emotional abuse, neglect, or sexual abuse and who is listed in the child abuse and neglect registry maintained by the Department of Social and Rehabilitation Services or any similar child abuse and neglect registries maintained by any other State
- Had a child removed from home in this or any other State based on a finding of abuse or neglect or sexual abuse, and the child has not been returned home
- Had parental rights terminated

In making the adoption assessment, the social worker, child-placing agency, or the department shall determine whether the petitioner has been convicted of a felony for any act described in chapter 21, articles 34 (crimes against persons, such as murder, manslaughter, assault, battery, or kidnapping), 35 (sex offenses, such as rape, sexual battery, or sexual exploitation of a child), or 36 (crimes affecting family relationships or children, such as incest, abuse, abandonment, or endangerment of a child) or, within the past 5 years has been convicted of a felony violation of §§ 21-36a01 through 21-36a17, relating to controlled substances and, when appropriate, any similar conviction in another jurisdiction.

Kentucky

Current Through September 2018

Who Needs Records Checks

Citation: Rev. Stat. §§ 199.462; 199.896; Admin. Regs. Tit. 922, § 1:490

Background checks are required for the following persons or entities:

- Foster parents or relative caregivers
- Fictive kin
- Prospective adoptive parents
- Directors and employees of child-care centers in positions that involve supervisory or disciplinary power over a minor or direct contact with a minor

In regulation: Background checks are required for the following persons:

- An individual who applies for approval or has been approved to provide foster or adoptive services
- A caretaker relative, fictive kin, or kinship caregiver
- A youth age 12 through 17 who resides in the home
- An adult age 18 or older who resides in the home

Types of Records That Must Be Checked

Citation: Admin. Regs. Tit. 922, § 1:490

A background check shall include the following:

- An in-State criminal records check by the Kentucky Justice and Public Safety Cabinet or the Administrative Office of the Courts
- A child abuse or neglect check conducted by the Cabinet for Health and Family Services for each State of residence during the past 5 years
- A criminal records check conducted by means of a fingerprint check of the Criminal History Record Information administered by the Federal Bureau of Investigation
- An address check of the sex offender registry

Process for Obtaining Records Checks

Citation: Rev. Stat. § 199.462; Admin. Regs. Tit. 922, § 1:490

Before an applicant is approved to provide foster care or relative caregiver services to a child, or approved to receive a child for adoption, the Cabinet for Health and Family Services shall:

- Require a criminal background investigation of the applicant and any of the applicant's adult household members by means of a fingerprint check by the Department of Kentucky State Police and the Federal Bureau of Investigation
- Request from the Justice and Public Safety Cabinet records of all conviction information for the applicant and any of the applicant's adult household members

The request for records shall be on a form approved by the Justice and Public Safety Cabinet, and the Justice and Public Safety Cabinet may charge a fee to be paid by the applicant for the actual cost of processing the request.

In regulation: Prior to approval of an applicant, a child-placing agency shall request a child abuse or neglect check, a criminal records check, and an address check of the sex offender registry by submitting to the cabinet the following:

- The appropriate completed form
- The documentation required to request a child abuse or neglect check from the child welfare agency in each previous State of residence, if the applicant or adult household member has resided outside of the State of Kentucky in the previous 5 years

Grounds for Disqualification

Citation: Admin. Regs. Tit. 922, § 1:490

A Kentucky child abuse or neglect check conducted by the cabinet shall identify the name of each applicant, adolescent member of the household, or adult member of the household who has:

- Been found by the cabinet to have:
 - » Committed sexual abuse or sexual exploitation of a child
 - » Been responsible for a child fatality or near fatality related to abuse or neglect
 - » Abused or neglected a child within the 7-year period immediately prior to the application
 - » Had parental rights terminated
- A matter pending administrative review

An applicant shall not be approved if:

- A criminal records check reveals that the applicant or adult member of the household has a felony conviction involving the following:
 - » A spouse, a child, sexual violence, or death as described by 42 U.S.C. 671(a)(20)
 - » Physical abuse, battery, or a drug-related or alcohol-related offense within the 5-year period prior to application
 - » A criminal conviction relating to child abuse or neglect
 - » A civil judicial determination related to child abuse or neglect
- A child abuse or neglect check reveals that the applicant, adolescent member of the household, or adult member of the household has been found to have:
 - » Committed sexual abuse or sexual exploitation of a child
 - » Been responsible for a child fatality or near fatality related to abuse or neglect
 - » Had parental rights terminated involuntarily in accordance with §§ 625.050 through 625.120 or another State's laws
- An address check of the sex offender registry and supporting documentation confirms that a sex offender resides at the applicant's home address.

An applicant, fictive kin, or caregiver relative may be approved on a case-by-case basis if:

- An adolescent member of the household has:
 - » Been found by the cabinet to have abused or neglected a child
 - » Had parental rights terminated voluntarily in accordance with §§ 625.040 through 625.046 or another State's laws
- An adult member of the household has:
 - » Been convicted of a nonviolent felony or misdemeanor
 - » Been found to have abused or neglected a child
 - » Had parental rights terminated voluntarily

Louisiana

Current Through September 2018

Who Needs Records Checks

Citation: Rev. Stat. §§ 46:282; 46:286.1; 46:51.2

Background checks must be completed for the following persons:

- Foster care and adoption applicants and any adult member of the applicant's household
- Prospective kinship foster parents and any other individual residing in the prospective parent's home

- Employees of the Department of Children and Family Services whose duties include the investigation of child abuse or neglect, supervisory or disciplinary authority over children, direct care of a child, or performance of licensing surveys
- Operators, staff persons, or employees of a juvenile detention, correction, or treatment facility
- Applicants or volunteers for positions in any organization that include supervisory or disciplinary authority over children
- Employees or volunteers with child care provider organizations, including, but not be limited to, 'Big Brother/Sister' programs and scouting programs

Types of Records That Must Be Checked**Citation: Ch. Code Art. 1131; Rev. Stat. §§ 46:286.1; 46:51.2**

A background check shall include the following:

- A records check for all Federal arrests and convictions
- A records check for all State arrests and convictions in this and any other State in which any of the applicants has resided
- A records check for validated complaints of child abuse or neglect in this or any other State in which any of the applicants has resided

Process for Obtaining Records Checks**Citation: Ch. Code Art. 1131; Rev. Stat. §§ 46:286.1; 46:282; 46:51.2**

Upon the filing of any court order approving an adoptive placement, the court shall immediately order the following:

- That the sheriff or the State police, Louisiana Bureau of Criminal Identification and Information, conduct the State and Federal criminal records checks
- That the Department of Children and Family Services conduct a records check for validated complaints of child abuse or neglect

Prospective adoptive parents shall submit a set of fingerprints to the sheriff or State police.

The department shall investigate the background of each person who applies to be a kinship foster parent or a foster or adoptive parent of a child in foster care. The office shall require each applicant and adult family member to provide fingerprints and such authorization as is necessary to conduct State and national criminal history records checks and to obtain any other information required to complete the investigation. The office shall request such information and assistance from Federal, State, or local governmental agencies as is necessary to complete the investigation.

A candidate for employment by the department shall submit his or her fingerprints to the Louisiana Bureau of Criminal Identification and Information for a criminal records check. The department shall conduct the search of the central registry for that person.

Upon receiving a request, the bureau shall survey its criminal history records and identification files and make a simultaneous request of the Federal Bureau of Investigation for like information from other jurisdictions. The bureau shall provide a report promptly and in writing but provide only such information as is necessary to specify whether or not that person has been arrested for or convicted of or pled nolo contendere to any crimes, the crimes for which he or she has been arrested for or convicted or pled nolo contendere, and the dates on which they occurred.

Grounds for Disqualification**Citation: Rev. Stat. §§ 15:587.1; 46:51.2**

Any of the persons listed above shall be ineligible for employment or the placement of a child if he or she has been convicted of, or pled guilty or nolo contendere to, any of the following crimes:

- Murder or manslaughter
- Feticide
- Rape and sexual battery
- Kidnapping
- Rehoming of a child
- Criminal neglect of family
- Criminal abandonment
- Child prostitution, pornography, or molestation
- A crime against nature
- Contributing to the delinquency of a minor

- Cruelty to juveniles
- Child desertion
- Crimes of violence as defined in Rev. Stat. § 14:2(B), including the following:
 - » Solicitation for murder
 - » Aggravated battery, second-degree battery, and aggravated assault
 - » Mingling harmful substances
 - » Intentional exposure to the AIDS virus
 - » Arson and aggravated criminal damage to property
 - » Aggravated burglary, armed robbery, first-degree robbery, and purse snatching
 - » Extortion
 - » Assault by drive-by shooting and carjacking
 - » Aggravated crime against nature
 - » Illegal use of weapons or dangerous instrumentalities
 - » Terrorism
 - » Aggravated assault with a firearm
 - » Stalking
 - » Second degree cruelty to juveniles
 - » Trafficking of children for sexual purposes and human trafficking
 - » Home invasion
 - » Domestic abuse
 - » Vehicular homicide while intoxicated
- Sex offenses as defined in Rev. Stat. §§ 15:541, 14:106, 14:282, 14:283, 14:283.1, 14:284, 14:286, 40:966(A), 40:967(A), 40:968(A), 40:969(A), and 40:970(A)
- The attempt or conspiracy to commit any of the above offenses

No child shall be newly placed in a foster home for temporary care, except for emergency placement, or for adoption if it is determined that the prospective foster or adoptive parent has been convicted of or pled nolo contendere to a felony listed below, unless 5 or more years have elapsed between the date of placement and the date of successful completion of any sentence, deferred adjudication, or period of probation or parole. The crimes include the following:

- Illegal possession of a controlled dangerous substance
- Possession of marijuana or synthetic cannabinoids
- Illegal manufacture and distribution of a controlled dangerous substance

Any employee of the department whose duties include direct care of a child and whose name is recorded on the State central registry subsequent to January 1, 2010, shall be terminated by the department.

Maine

Current Through September 2018

Who Needs Records Checks

Citation: Rev. Stat. Tit. 18-A, § 9-304; Tit. 22, §§ 4005-G; 4038-C; Code of Rules §§ 10-148-016; 10-148-032

The following persons are required to undergo background checks:

- A petitioner for adoption of a minor child
- A grandparent seeking reasonable rights of visitation or access
- A relative who is requesting placement of a related child
- A potential permanency guardian

In regulation: Other persons who are required to undergo background checks include the following:

- Applicants for foster care licensure and adult members of the applicant's household
- An individual applicant for a license and for each paid, unpaid, temporary, or regular staff member, director, or volunteer, in a child care facility
- Governing body members, trustees, partners, corporate officers, owners, or operators who serve in a child-caring capacity at a child care facility

Types of Records That Must Be Checked**Citation: Rev. Stat. Tit. 18-A, § 9-304; Tit. 22, § 4005-G**

The background check must include a screening for child abuse cases in the records of the Maine Department of Health and Human Services and criminal history record information obtained from the Maine Criminal Justice Information System and the Federal Bureau of Investigation. The criminal history record information obtained from the Maine Criminal Justice Information System must include public criminal history record information as defined in title 16, § 703(8). The criminal history record information obtained from the Federal Bureau of Investigation must include other State and national criminal history records information.

For a relative requesting placement of the child, the background check must include, at a minimum, obtaining public criminal history records information from the Maine Criminal Justice Information System and determining whether the relative has been the subject of a child abuse and neglect finding in this or another State.

Process for Obtaining Records Checks**Citation: Rev. Stat. Tit. 18-A, § 9-304; Code of Rules § 10-148-016**

Each prospective parent who is not the parent of the child shall submit to having fingerprints taken. The State police, upon receipt of the fingerprint card, may charge the court for the expenses incurred in processing State and national criminal history records checks. The State police shall take or cause to be taken the applicant's fingerprints and shall forward the fingerprints to the State Bureau of Identification so that the bureau can conduct State and national criminal history records checks.

In regulation: At the time of initial application, the applicant shall undergo fingerprinting in order to allow the department to submit required fingerprint-based checks of national crime information databases.

At the time of initial or renewal application, the applicant shall submit releases signed by each adult member of the household and at the discretion of the department shall submit releases signed by any person who frequents the home who may have unsupervised access to the foster children permitting the department to request criminal history records from the Department(s) of Public Safety, State Police, Bureau of Identification, or other law enforcement agencies from any past or present residence, including out-of-State law enforcement agencies.

Grounds for Disqualification**Citation: Rev. Stat. Tit. 22, § 4005-G; Code of Rules §10-148-016**

Notwithstanding any other provision of this chapter, the department is not required to consider residential placement of the child with a relative if either of the following are true:

- The department has substantiated any report of child abuse or neglect regarding that relative or a substantially equivalent determination regarding that relative has been made in another State.
- The relative has been convicted of a criminal offense relevant to the relative's ability to provide a safe placement for the child.

In regulation: The department shall not grant a license to a person who has been convicted of a felony involving the following:

- Child abuse or neglect
- Spousal abuse
- A crime against a child or children (including child pornography)
- A crime involving violence, including rape, sexual assault, or homicide
- Physical assault, battery, or a drug-related offense that was committed within the past 5 years

An application also may be denied if the applicant has an open child protective services case or a closed substantiated and/or indicated child protective services case. An open child protective services case includes a pending disposition of an open report, a case open for assessment, or a case open for services

Maryland*Current Through September 2018***Who Needs Records Checks****Citation: Fam. Law § 5-551**

The following facilities shall require employees and employers to obtain a criminal history records check:

- A child care center, a child care home, or a child care institution

- A family child care home or large family child care home
- A juvenile detention, correction, or treatment facility
- A public, private, or nonpublic school
- A foster care family home or group facility
- A recreation center, recreation program, or a day or residential camp primarily serving minors
- A home health agency or residential service agency licensed to provide home- or community-based health services for minors

A contractor or subcontractor shall require an employee that will have direct, unsupervised, and uncontrolled access to children in a facility listed above to obtain a criminal history records check.

The following individuals shall obtain a criminal history records check:

- A prospective adoptive parent
- A prospective guardian
- An adult relative with whom a child is placed by the local department
- Any adult known to be residing in:
 - » A family child care home or large family child care home
 - » A home where informal child care is being provided
 - » A foster care home
 - » The home of a prospective adoptive parent, a prospective guardian, or an adult relative of a child with whom the child is placed by the local department
- An individual who agrees to provide informal child care
- If requested by a local department:
 - » A parent or guardian of a child who is committed to the local department and is or has been placed in an out-of-home placement within the past year
 - » Any adult known to be residing in the home of the parent or guardian

An employer at a facility listed above may require a volunteer to obtain a criminal history records check. A local department may require a volunteer who works with children to obtain a criminal history records check.

Types of Records That Must Be Checked

Citation: Fam. Law § 5-551; Code of Rules §§ 07.02.25.04; 07.02.25.10

Notwithstanding any provision of law to the contrary, an employee and employer in a facility identified above and individuals listed above shall apply for a national and State criminal history records check at any designated law enforcement office in this State or other location approved by the Department of Public Safety and Correctional Services.

In regulation: Before a resource home may be approved, an applicant and all household members age 18 and older shall apply for a State and Federal criminal background investigation. Before a resource home is approved, the local department shall request information from the State-maintained child abuse and neglect registry of any State in which an applicant or another adult in the household has lived within the past 5 years.

In order to approve a relative as a kinship parent, a local department shall conduct State and Federal criminal background checks and child protective services clearances.

Process for Obtaining Records Checks

Citation: Fam. Law §§ 5-552; 5-553; 5-554; Code of Rules §§ 07.02.25.04; 07.02.25.10

As part of the application for a criminal history records check, the employee, employer, and individual identified above shall submit the following:

- A complete set of legible fingerprints at any designated State or local law enforcement office in the State or other location approved by the department
- A signed, sworn statement disclosing the existence of a criminal conviction or other judicial disposition

The department shall conduct the criminal history records check. Upon completion of the criminal history records check, the department shall submit the printed statement to the appropriate child-placing or registering agency. A printed statement issued under this section is valid in any county in the State.

In regulation: Before a resource home is approved, the local social services department shall request information from the State-maintained child abuse and neglect registry of any State in which an applicant or another adult in the household has lived within the

past 5 years to determine whether an individual in the household has a prior indicated finding of abuse or neglect. If the review of the records reveals a pending investigation, a decision may not be made as to the use of the home until the investigation is complete.

For a kinship placement, each household member age 18 or older shall apply for State and Federal criminal background checks and child protective services clearances. The local department shall request information from the records of any State in which an adult in the household has lived within the past 5 years to determine whether an adult in the household has a prior indicated finding of abuse or neglect.

Grounds for Disqualification

Citation: Code of Rules §§ 07.02.25.04; 07.02.25.10

The department may not approve or continue to approve as a resource home any home in which an adult in the household:

- Has a felony conviction for any of the following:
 - » Child abuse or neglect
 - » Spousal abuse
 - » A crime against a child or children, including child pornography
 - » A crime of violence, including rape, sexual assault, or homicide but not including other physical assault or battery
 - » Human trafficking
- In the 5 years before the date of the application, has a felony conviction involving any of the following:
 - » Physical assault or battery
 - » A drug-related offense

The department may not approve or continue to approve as a resource home any home in which an individual has an indicated child abuse or neglect finding. An exception may not be made unless approval is given in writing by the local director.

For a prospective kinship placement, the local department shall request information from the records of any State in which an adult in the household has lived within the past 5 years to determine whether an adult in the household has a prior indicated finding of abuse or neglect. The local department also shall obtain a certification signed by each prospective kinship parent stating that they have no prior criminal record or indicated findings of child abuse or neglect.

The local department may not approve, or continue to approve as a placement, any home in which an adult in the household:

- Has a felony conviction for child abuse or neglect; spousal abuse; a crime against children; child pornography; or a crime of violence, including rape, sexual assault, or homicide but not including other physical assault or battery
- In the 5 years before the date of the request for a criminal background check, has a felony conviction involving physical assault, battery, or a drug-related offense

The local department may not approve or continue to approve for kinship care any home in which an individual has an indicated child abuse or neglect finding. An exception may be made only upon approval in writing by the local director.

Massachusetts

Current Through September 2018

Who Needs Records Checks

Citation: Gen. Laws Ch. 15D, § 6; Ch. 210, § 3B; Code of Regs. Tit. 110, §§ 7.108; 18.03

Background checks are required for the following persons:

- Operators of school-aged child care programs, child care centers, family child care homes, large family child care homes, placement agencies, group care facilities, or temporary shelter facilities
- Any person seeking approval as a provider of family foster care and all persons age 18 older residing at the home
- Prospective adoptive parents

In regulation: Background checks are required when the Department of Children and Families is considering a kinship placement for a child. Background checks are required for all household members age 14 and older and on those younger about whom concerns exist.

Background checks also are required for the following:

- Applicants for positions, including employment, trainee, volunteer, or intern, that entail potential unsupervised client contact in the department and/or department-funded programs
- Persons seeking to apply to become foster/preadoptive parents
- Candidates for positions in the department, including employment, trainee, volunteer, or intern, that do not entail the potential for unsupervised client contact

At the discretion of the department vendor agency programs, the requirement for background checks may be expanded to include volunteers, interns, students, or other persons regularly offering support to any program or facility in either a paid or unpaid capacity whose services do not entail the potential for unsupervised client contact.

Types of Records That Must Be Checked

Citation: Code of Regs. Tit. 110, § 7.107

For foster and preadoptive parent applicants, the department shall perform a comprehensive assessment that includes the following:

- A check of the department's central registry and computerized data system
- For any applicant who has lived out of State within the 5 years prior to application, a check of the central registry of child abuse and neglect of each State in which the applicant lived in the prior 5 years
- A check of the State criminal offender record information
- A fingerprint-based check of the National Crime Information Databases for each foster or preadoptive parent during the initial license study

Process for Obtaining Records Checks

Citation: Code of Regs. Tit. 110, §§ 7.100; 18.05

Whenever an individual contacts the department for the purpose of applying to be a foster or preadoptive parent, the department shall conduct an initial screening process to determine if the individual and any household member meets the department's initial eligibility criteria.

All applicants shall complete an application form that contains a section requiring the applicant to disclose whether or not he or she has a criminal record and what crimes, if any, he or she has been convicted of. The application shall not require an applicant to disclose the following:

- An arrest, detention, or disposition regarding any violation of law in which no conviction resulted
- A first conviction for any of the following misdemeanors: drunkenness, simple assault, speeding, minor traffic violations, affray, or disturbance of the peace
- Any conviction of a misdemeanor where the date of such conviction or the completion of any period of incarceration resulting therefrom, whichever date is later, occurred 5 or more years prior to the date of the application

A prospective foster or preadoptive parent will be required to disclose whether or not he or she has a criminal record, including the crimes charged and the disposition of the charges.

Grounds for Disqualification

Citation: Gen. Laws Ch. 15D, § 6; Ch. 210, § 3B; Code of Regs. Tit. 110, §§ 7.100; 18.10

If the result of any of a records check shows that any occupant of the home has a criminal record involving violence, abuse, or exploitation against any person, which bears adversely upon the person's ability to assume and carry out the responsibilities of a foster parent or poses a serious threat of harm to a child, the home shall not be approved by the department.

When deciding whether to approve or reject a registration of interest for adoptive placement, the department shall conduct a review of any misdemeanor offense discovered through a criminal offender record information search in order to assist the department in accurately evaluating whether the mere existence of the offense has a substantial effect on the applicant's current or future ability to assume and carry out the responsibilities of an adoptive parent in such a manner that the rights of the child to sound health and normal physical, mental, spiritual, and moral development are insured.

In regulation: An individual will not be eligible to apply to be a foster or preadoptive parent if he or she, or a member of the household:

- Has a criminal record, which, in the judgment of the department, bears adversely upon the individual's ability to assume and carry out the responsibilities of a foster or preadoptive parent
- Has an open case with the department during the 12 months immediately preceding the initial screening process
- Is identified by the department as alleged to be responsible for abuse or neglect of a child in a screened-out report of child abuse or neglect or a supported investigation that was referred to the district attorney
- Has a history of involvement with the department

A candidate shall be ineligible for a position in the department or a department-funded program that entails potential unsupervised contact with persons receiving services if he or she has been convicted of or has any pending charges involving crimes listed in 110 CMR 18.16: Table A. Crimes on this list include, but are not limited to, the following:

- Assault and battery with a dangerous weapon of a victim over age 60
- Assault and battery of a child or a retarded person
- Armed assault with intent to murder or rob
- Armed robbery or carjacking
- Assault with intent to murder, maim, or rape
- Assault with intent to rape a child
- Murder or manslaughter
- Distribution of a controlled substance to a minor
- Sexual exploitation of a child
- Incest
- Indecent assault and battery of a child
- Inducing a minor to prostitution
- Kidnapping
- Negligent manslaughter of a minor
- Perjury
- Aggravated or statutory rape
- Trafficking in cocaine, heroin, or marijuana
- Unnatural acts with a child under age 16
- Conspiracy to commit any of the above offenses
- Accessory before any crime in this category
- Attempts to commit any crime in this category

Michigan

Current Through September 2018

Who Needs Records Checks

Citation: Comp. Laws Ann. §§ 722.115; 710.23f; 712A.19a

Background checks are required for the following:

- Individual applicants, owners, partners, and directors of child care organizations, including the following:
 - » Child-caring institutions
 - » Child-placing agencies
 - » Children's camps and children's campsites
 - » Children's therapeutic group homes
 - » Child care centers, daycare centers, nursery schools, and parent cooperative preschools
 - » Foster homes, group homes, or child care homes
- Applicants for licensure to operate a foster family home or foster family group home and adult members of the household

Background checks also are required for the following persons:

- A person seeking to adopt a child
- A proposed guardian of the child
- All persons age 18 or older residing in the home

Types of Records That Must Be Checked

Citation: Comp. Laws §§ 722.115d; 722.115q; 722.119; 712A.19a

The background investigation on an applicant shall include the following:

- A criminal history background check performed by the State police using the internet criminal history access tool (ICHAT) or equivalent check on that person from the State or province of residence
- A check of the central registry by the Michigan Department of Health and Human Services

Any person who will be present at a child care organization, including a licensee, adult household member, staff member, or unsupervised volunteer may not have contact with a child who is in the care of a child care organization, until he or she provides the child care organization with documentation from the Department of Human Services that he or she has not been named in a central registry case as the perpetrator of child abuse or child neglect.

If a child is placed in a guardian's or a proposed guardian's home, the court shall order the department to conduct a criminal records check and a central registry clearance within 7 days.

Process for Obtaining Records Checks

Citation: Comp. Law §§ 722.115h; 722.115k

Each person applying for licensure shall give written consent at the time of application for the State police to conduct a criminal history check. The department shall require the person to submit his or her fingerprints to the State police and the Federal Bureau of Investigation for the criminal history check. The department shall request a criminal history check on a form and in the manner prescribed by the State police.

Within a reasonable time after receiving a complete request, the State police shall conduct the criminal history check and provide a report of the results to the department. The report shall contain any criminal history record information on the person maintained by the State police and the Federal Bureau of Investigation.

The State police shall store and maintain all fingerprints submitted under this act in an automated fingerprint identification system database that provides for an automatic notification at the time a subsequent criminal arrest fingerprint card submitted into the system matches a set of fingerprints previously submitted.

Grounds for Disqualification

Citation: Comp. Law §§ 722.115q; 722.115r

If a central registry clearance documents that a licensee, child care staff member, or adult member of the household is named in a central registry case as a perpetrator of child abuse or child neglect, he or she is ineligible to receive a license to operate a child care center, group child care home, or family child care home, be an adult member of the household, or be a child care staff member.

An individual required to undergo a criminal history check will be disqualified if the individual does either of the following:

- Refuses to consent to the required criminal history check or central registry check
- Knowingly makes a materially false statement or omits information in connection with a criminal history check or central registry check

An individual required to undergo a criminal history will be disqualified for any of the following:

- Is registered, or is required to be registered, on a State sex offender registry or repository or the National Sex Offender Registry
- Has been convicted of any of the following felonies:
 - » Murder or homicide
 - » Child abuse or child neglect
 - » A crime against a minor child, including, but not limited to, child pornography
 - » Spousal abuse or domestic violence
 - » A crime involving rape or sexual assault
 - » Kidnapping

- » Arson
- » Physical assault or battery
- » Human trafficking or involuntary servitude
- Has been convicted of a violent misdemeanor against a child, including, but not limited to, one or more of the following crimes:
 - » Child abuse
 - » Child endangerment
 - » Sexual assault
- Has been convicted of a misdemeanor involving child pornography

An individual will be disqualified if he or she has been convicted of one or more of the following felonies or an attempt or conspiracy to commit one or more of the following felonies, unless 10 years have lapsed since the conviction:

- Harm or threatened harm to an individual
- The use of a firearm or dangerous weapon
- Cruelty or torture of any person
- Misrepresentation of any material fact, bribery, fraud, larceny, embezzlement, theft, home invasion, breaking and entering, or receiving and concealing stolen property
- Operating a motor vehicle while intoxicated or impaired causing serious injury or death
- Use of a computer or the internet to commit a crime
- Cruelty to animals, including, but not limited to, fighting, killing, torturing, and abandoning
- Aggravated stalking; aggravated indecent exposure; indecent exposure by a sexually delinquent person; pandering; transporting an individual for prostitution; or keeping, maintaining, or operating a house of ill fame

An individual will be disqualified if he or she has been convicted of a felony drug offense, unless 7 years have lapsed since the conviction.

An individual will be disqualified if he or she has been convicted of one or more of the following misdemeanors, unless 5 years have lapsed since the conviction:

- Operating under the presence of a controlled substance, use or possession of a controlled substance, and selling or furnishing a controlled substance to a minor
- Using computers to commit a crime; a substantial misrepresentation of a material fact; embezzlement; breaking and entering; and any other fraudulent crime, except retail fraud in the third degree, petty theft, or shoplifting
- Stalking, assault, spousal abuse, domestic violence, weapons offense, harboring runaways, aiding and abetting, and arson

Minnesota

Current Through September 2018

Who Needs Records Checks

Citation: Ann. Stat. §§ 245A.03; 245C.03

An individual, corporation, partnership, voluntary association, or other organization must be licensed before engaging in any of the following activities:

- Operating a residential or a nonresidential program
- Receiving a child or adult for care, supervision, or placement in foster care or adoption
- Helping to plan the placement of a child or adult in foster care or adoption or engage in placement activities in this State, whether or not the adoption occurs in this State

In order to provide foster care for a child, an individual who is related to the child, other than a parent or legal guardian, must be licensed by the Department of Human Services.

For licensed programs, the department shall conduct a background study on the following:

- The person or persons applying for a license
- An individual age 13 and older, other than a person receiving services, who is living in the household where the licensed program will be provided

- Current or prospective employees or contractors of the applicant who will have direct contact with persons served by the program
- Volunteers or student volunteers who will have direct, unsupervised contact with persons served by the program
- An individual age 10 to 12 living in the household where the licensed services will be provided when the department has reasonable cause
- An individual who, without providing direct contact services at a licensed program, may have unsupervised access to children or vulnerable adults receiving services from a program, when the department has reasonable cause
- All managerial officials
- Child care background study subjects

Types of Records That Must Be Checked

Citation: Ann. Stat. § 245C.08

A background study conducted by the department shall include a review of the following:

- Information related to names of substantiated perpetrators of maltreatment of vulnerable adults
- The department's records relating to the maltreatment of minors in licensed programs and from findings of maltreatment of minors as indicated through the social service information system
- Information from juvenile courts when there is reasonable cause
- Information from the Bureau of Criminal Apprehension, including information regarding a background study subject's registration in Minnesota as a predatory offender
- Information from the National Crime Information System when the department has reasonable cause

For a background study related to a child foster care application for licensure, a transfer of permanent legal and physical custody of a child, or adoptions, the department also shall review the following:

- Information from the child abuse and neglect registry for any State in which the background study subject has resided for the past 5 years
- Information from National Crime Information Databases, when the background study subject is age 18 or older

For a background study required for family child care, certified license-exempt child care centers, licensed child care centers, and legal nonlicensed child care, the background study also shall include, to the extent practicable, a name and date-of-birth search of the national sex offender public website.

Process for Obtaining Records Checks

Citation: Ann. Stat. § 245C.05

The individual who is the subject of the background study must provide sufficient information to ensure an accurate study, including the following:

- The individual's first, middle, and last name and all other names by which the individual has been known
- The current home address, city, and State of residence, including zip code
- His or her sex and date of birth
- His or her driver's license number or State identification number

Every subject of a background study also must provide the home address, city, county, and State of residence for the past 5 years.

Every subject of a background study related to private-agency adoptions or relative child foster care licensed through a private agency, who is age 18 or older, also shall provide to the department a signed consent for the release of any information received from National Crime Information Databases to the private agency that initiated the background study.

For background studies conducted by the department for child foster care, adoptions, or a transfer of permanent legal and physical custody of a child, the subject of the background study, who is age 18 or older, shall provide the commissioner with a set of classifiable fingerprints obtained from an authorized agency. In addition, the subject shall provide a photograph.

The applicant, license holder, Bureau of Criminal Apprehension, law enforcement agencies, Commissioner of Health, and county agencies shall help with the study by giving the department criminal conviction data and reports about the substantiated maltreatment of adults or minors.

The background study subject must be informed that the subject's fingerprints collected for purposes of completing the background study must not be retained by the Department of Public Safety, Bureau of Criminal Apprehension, or by the department but will be retained by the Federal Bureau of Investigation.

Grounds for Disqualification**Citation: Ann. Stat. §§ 245C.15; 259.41**

An individual is permanently disqualified if he or she has been convicted of any of the following offenses:

- Violation of the predatory offender registration law
- Murder or manslaughter
- First- or second-degree assault, domestic assault, or spousal abuse
- Child abuse or neglect or a crime against children
- Great bodily harm caused by distribution of drugs
- Aggravated robbery
- Kidnapping
- Murder of an unborn child
- Solicitation, inducement, and promotion of prostitution
- Criminal sexual conduct
- Criminal sexual predatory conduct
- Solicitation of children to engage in sexual conduct
- Incest
- Malicious punishment of a child
- Felony-level neglect or endangerment of a child
- First-degree arson
- Drive-by shooting
- Felony-level stalking
- Shooting at or in a public transit vehicle or facility
- Indecent exposure involving a minor
- Use of minors in a sexual performance
- Possession of child pornography
- Aiding, abetting, attempt, or conspiracy to commit any offense listed above
- Conviction of a similar offense in any other State or country

An individual is disqualified if less than 15 years have passed since the discharge of the sentence imposed for the commission of any of the following felony-level offenses:

- Weapons-related crimes
- Criminal vehicular homicide and injury
- Assault
- Criminal abuse or financial exploitation of a vulnerable adult
- False imprisonment
- Manslaughter or assault of an unborn child
- Indecent exposure not involving a minor
- A felony-level conviction involving alcohol or drug use
- Aiding, abetting, attempt, or conspiracy to commit any offense listed above
- Conviction of a similar offense in any other State or country

An individual is disqualified if less than 15 years has passed since the termination of the individual's parental rights.

An individual is disqualified if less than 10 years have passed since the discharge of the sentence imposed for the commission of any of the following gross misdemeanor-level offenses:

- Public assistance fraud
- Criminal vehicular homicide and injury
- Assault or domestic assault
- Neglect or endangerment of a child
- Weapons violations
- Violation of an order for protection under § 518B.01, subdivision 14
- Aiding, abetting, attempt, or conspiracy to commit any offense listed above
- Conviction of a similar offense in any other State or country

An individual is disqualified if less than 7 years has passed since the discharge of the sentence imposed for the commission of a misdemeanor-level violation of any the offenses listed in statute.

A home study prepared for a prospective adoptive parent that is used to consider placement of any child on whose behalf title IV-E adoption assistance payments are to be made must not be approved if a background study reveals a felony conviction at any time for any of the following:

- Child abuse or neglect
- Spousal abuse
- A crime against children, including child pornography
- A crime involving violence, including rape, sexual assault, or homicide but not including other physical assault or battery

A home study must not be approved if a background study reveals a felony conviction within the past 5 years for physical assault or battery or a drug-related offense.

Mississippi

Current Through September 2018

Who Needs Records Checks

Citation: Ann. Code § 43-15-6; Code of Rules §§ 18-006-104; 18-007-001

Background checks are required for each owner, operator, employee, prospective employee, volunteer, or prospective volunteer of the entity and/or any other that has or may have unsupervised access to a child served by the entity.

In regulation: Background checks must be completed for the following:

- All household members who are at least age 14 in all foster care settings, including relative placements
- Employees, volunteers, and student field placement individuals or interns who work directly with children for residential child-caring agencies
- Persons seeking approval as a resource family home and adoptive family members
- Persons serving as mentors to transitioning youth
- All applicants and holders of a child care license, all applicants for employment in a paid or voluntary position (including board members), and all current employees in paid or voluntary positions in a child care facility

Types of Records That Must Be Checked

Citation: Ann. Code § 43-15-6; Code of Rules § 18-007-001

Each person or entity subject to a background check shall complete, through the appropriate governmental authority, a national criminal history record information check and a child abuse registry check.

In regulation: The licensing standards adopted by the Department of Human Services sets forth the specifics requirements for background checks.

Residential child-caring agencies shall have a personnel file for each employee that shall include the following:

- Results of the criminal background and central registry checks that must be conducted prior to employment and annually
- Results of a sex offender registry check that also must be conducted prior to employment and annually
- Documentation of a satisfactory Mississippi State Criminal Information Center (CIC) check, including the National Criminal Information Database (NCID), within 30 days of employment and every 5 years thereafter

For resource homes, the following are required:

- Criminal background and central registry checks, including fingerprinting, on all household members age 14 older
- Background; criminal records, including fingerprinting; central registry; and sex offender registry checks on all household members age 14 older

For a prospective adoptive family, criminal background and central registry checks, including fingerprinting, on all household members age 14 older are required.

For all applicants and holders of a child care license, a review of past history is required. The review shall consist of the following components:

- A local criminal history check
- Clearance by the State central registry
- Clearance of a fingerprint-based background check through the NCID and the CIC

Process for Obtaining Records Checks

Citation: Ann. Code § 43-15-6; Code of Rules § 18-007-001

In order to determine the applicant's suitability for employment, the entity shall ensure that the applicant be fingerprinted by local law enforcement and the results forwarded to the Department of Public Safety. If no disqualifying record is identified at the State level, the fingerprints shall be forwarded by the Department of Public Safety to the Federal Bureau of Investigation for a national criminal history records check.

In regulation: Prospective resource parents shall complete an application form that shall include basic demographic information on all family members, a list of any criminal charges, and permission to perform criminal background and central registry checks and fingerprinting on all household members age 14 and older.

All applicants for a license and all staff members and applicants for employment in paid or voluntary positions must reveal on their application all past criminal convictions and/or charges, except for minor traffic violations, since age 16. Driving under the influence is not considered a minor traffic violation and must be reported to the department.

All applicants for a license and all staff members and applicants for employment in paid or voluntary positions shall submit authorization for release of Mississippi criminal information history check.

Grounds for Disqualification

Citation: Ann. Code § 43-15-6; Code of Rules § 18-007-001

An owner, operator, employee, prospective employee, volunteer, or prospective volunteer of the entity and/or any other that has or may have unsupervised access to a child who has a criminal history of conviction or pending indictment of a crime, whether a misdemeanor or a felony, that bears upon an individual's fitness to have responsibility for the safety and well-being of children may not provide child care or operate, or be licensed as, a residential child care program, foster parent, or foster home.

In regulation: Any applicant or household member who has a criminal history of conviction or pending indictment of a crime, whether a misdemeanor or a felony, that bears upon an individual's fitness to have responsibility for the safety and well-being of children may not provide child care or be licensed. Felony convictions include, but are not limited to, child abuse or neglect; spousal abuse; crimes against children, including child pornography; and crimes involving violence, including rape, sexual assault, or homicide. If a records check reveals a felony conviction for physical assault, battery, or a drug-related offense, and if a court of competent jurisdiction has determined that the felony was committed, a final license shall not be granted.

No applicant shall be hired or volunteer services used if convicted for committing a crime, or convicted as an accessory to a crime, in this or another State at any time if a State court of competent jurisdiction has determined a felony conviction for any of the following:

- Any abuse or neglect against a child
- Any felony against a child
- Any assault or abuse against a domestic partner or former domestic partner
- Any crime that has violence or threat of violence against any person, including, but is not limited to, any sex-related crime
- Rape in the first or second degree
- Sodomy in the first or second degree
- Sexual torture

Missouri

Current Through September 2018

Who Needs Records Checks

Citation: Rev. Stat. §§ 210.487; 210.1080

Background checks are required for the following:

- An applicant for a foster parent license
- All persons age 17 and older residing in the applicant's household
- Any child younger than age 17 residing in the applicant's home who the Children's Division has determined has been certified as an adult for the commission of a crime

Background checks also are required for child care staff members, which include the following:

- Child care providers
- Persons employed by a child care provider, including contract employees or self-employed individuals
- Individuals or volunteers whose activities involve the care or supervision of children for a child care provider or unsupervised access to children who are cared for or supervised by a child care provider
- Individuals residing in a family child care home who are age 17 and older

Types of Records That Must Be Checked

Citation: Rev. Stat. § 210.1080; Code of State Regs. Tit. 13, § 40-73.030

A criminal background check includes the following:

- A Federal Bureau of Investigation fingerprint check
- A search of the National Crime Information Center's National Sex Offender Registry
- A search of the following registries, repositories, or databases in Missouri, the State in which the child care staff member resides, and each State in which such staff member resided during the preceding 5 years:
 - » The State criminal registry or repository, with the use of fingerprints being required in the State in which the staff member resides and optional in other States
 - » The State sex offender registry or repository
 - » The State-based child abuse and neglect registry and database

In regulation: For prospective adoptive parents, the written family assessment shall include the following:

- Child abuse and neglect background screening checks that are no more than 6 months old
- Criminal arrest records from a State law enforcement agency that are no more than 6 months old
- Criminal conviction records, including a fingerprint search, from a State law enforcement agency

Process for Obtaining Records Checks

Citation: Rev. Stat. §§ 210.487; 210.1080

When conducting investigations of persons for the purpose of foster parent licensing, the division shall:

- Conduct a search for all persons older than age 17 in the applicant's household for evidence of full orders of protection
- Obtain fingerprints for any person older than age 17 in the applicant's household
- Determine whether any person older than age 17 residing in the home is listed on the child abuse and neglect registry

Prior to the employment or presence of a child care staff member in a family child care home, group child care home, child care center, or license-exempt child care facility, the child care provider shall request the results of a criminal background check for such child care staff member from the Department of Health and Senior Services. The department shall process the request for a criminal background check as expeditiously as possible but not to exceed 45 days after the date on which the provider submitted the request.

Grounds for Disqualification**Citation: Rev. Stat. § 210.1080**

Upon completion of the criminal background check, any child care staff member or prospective child care staff member shall be ineligible for employment or presence at a family child care home, a group child care home, a licensed child care center, or a license-exempt child care facility if such person:

- Refuses to consent to the criminal background check as required by this section
- Knowingly makes a materially false statement in connection with the criminal background check
- Is registered or is required to be registered on a State sex offender registry or the National Sex Offender Registry
- Has a finding of child abuse or neglect or any other finding of child abuse or neglect based on any other State's registry or database
- Has been convicted of a felony consisting of any of the following:
 - » Murder
 - » Child abuse or neglect
 - » A crime against children, including child pornography
 - » Spousal abuse
 - » A crime involving rape or sexual assault
 - » Kidnapping
 - » Arson
 - » Physical assault or battery
 - » A drug-related offense committed during the preceding 5 years
- Has been convicted of a violent misdemeanor committed as an adult against a child, including the following crimes: child abuse, child endangerment, or sexual assault, or of a misdemeanor involving child pornography
- Has been convicted of any similar crime in any Federal, State, municipal, or other court

Montana

Current Through September 2018

Who Needs Records Checks**Citation: Ann. Code §§ 52-2-622; 42-3-203; Admin. Rules §§ 37.50.1101; 37.95.161**

Background studies are required for the following:

- Persons operating youth care facilities
- Kinship or extended-family care providers
- Applicants for youth foster home licensure
- Prospective adoptive parents

In regulation: The following persons are subject to background checks:

- Prospective guardians
- Child care providers, all staff members older than age 18, volunteers, and all persons older than age 18 residing in the child care facility or who stays in the child care facility regularly or frequently

Types of Records That Must Be Checked**Citation: Ann. Code §§ 52-2-622; 42-3-203; Admin. Rules §§ 37.50.1101; 37.95.161**

The background check for a foster care applicant or prospective guardian shall include information pertaining to criminal convictions, reports of domestic violence, and substantiated child abuse or neglect of children.

The background study of a prospective adoptive parent shall include a check of criminal conviction data, data on substantiated abuse or neglect of a child, and data pertaining to any involvement in incidents of domestic violence. The adoption study also may include a check of the youth court records of any person living in the prospective home.

In regulation: For child care providers and staff, satisfactory criminal background, motor vehicle, and child and adult protective services checks are required. An applicant who has not lived in Montana for at least 5 years cannot be licensed without receipt of the results of a criminal records check from every State in which the applicant has lived since age 18.

Process for Obtaining Records Checks**Citation: Ann. Code §§ 52-2-622; 42-3-203; Admin. Rules § 37.51.310**

The Department of Public Health and Human Services shall require a criminal background investigation of each foster care applicant by means of a fingerprint-based check by the Montana Department of Justice and the Federal Bureau of Investigation.

The prospective adoptive parent; the Department of Justice; and other State, county, and local agencies, after written notice to the subject of the study, shall give the evaluator completing the adoption study substantiated data pertaining to criminal convictions and any reports concerning domestic violence and substantiated abuse or neglect of children or vulnerable adults.

In regulation: For a youth foster home, a satisfactory criminal background, motor vehicle, and child and adult protective services check is required for each person living in the household. A new applicant must submit a completed fingerprint card so that a fingerprint-based criminal records check can be requested.

A criminal history check will be requested from every State in which an applicant has lived in the past 15 years. A check will be made of the violent offender and criminal history registries in those States if this information is available for States in which the applicant has lived.

If after 45 days, the department has been unable to obtain results of a criminal records check for an applicant who has lived in Montana for at least 5 years, the applicant must sign an affidavit attesting to his or her lack of criminal history or to the details of existing criminal history. The affidavit will be accepted in lieu of results from a criminal history check.

Grounds for Disqualification**Citation: Admin. Rules §§ 37.51.210; 37.51.216**

An applicant against whom child abuse or neglect has been substantiated or who has been convicted of abuse, sexual abuse, neglect, or exploitation of an elderly person or person with a developmental disability shall be denied a foster care license unless an exception is granted by a department regional administrator in his or her discretion, after careful review of extenuating circumstances that justify the issuance of a restricted license.

An applicant whose child has been in foster care shall be denied a foster care license, unless an exception is granted by a department regional administrator because the circumstances leading to the provision of services and placement no longer exist.

The department, through written notice to the applicant, licensee, or potential emergency placement will deny, revoke, or restrict a license or emergency placement upon finding that the applicant, licensee, or member of the applicant's or licensee's household has a conviction for any of the following types of crimes:

- Felony crimes involving violence, such as homicide, spousal abuse, felony partner or family member assault, and felony aggravated assault but not including other assault and battery
- Acts and other crimes against children, including any of the following:
 - » Child abuse or neglect
 - » Endangering the welfare of a child
 - » Incest
 - » Child sexual abuse
 - » Ritual abuse of a minor
 - » Child pornography
 - » Child prostitution
 - » Internet crimes involving children
 - » Felony unlawful transactions with children
 - » Felony conviction for a drug-related offense within the previous 5 years, including, but not limited to, the following:
 - Use, distribution, or possession of controlled substances
 - Criminal possession of precursors to dangerous drugs
 - Criminal manufacture of dangerous drugs
 - Criminal possession, manufacture, or delivery of drug paraphernalia
 - Driving under the influence of alcohol or other drugs
 - » Other crimes, such as misdemeanor assault and battery, including misdemeanor partner or family member assault, robbery, or burglary, if convicted within the previous 5 years
 - » Crimes against older persons or developmentally disabled persons, such as abuse, sexual abuse, neglect, or exploitation

Nebraska

Current Through September 2018

Who Needs Records Checks

Citation: Rev. Stat. §§ 71-1903; 43-107; 71-1912; Admin. Code Tit. 474, § 6-005.16

Background checks are required for the following persons:

- A prospective foster parent and each member of the prospective foster parent's household who is age 18 or older
- Prospective adoptive parents
- Applicants for licensure under the Child Care Licensing Act, including members of the applicants' household and all staff and employees

A child care program includes employer-sponsored child care, family child care home, child care center, school-age child care program, school-age services, or preschool or nursery school.

In regulation: The background check requirements also apply to applicants, employees, and volunteers of group homes, child-caring agencies, and child-placing agencies.

Types of Records That Must Be Checked

Citation: Rev. Stat. §§ 71-1903; 43-107; Admin. Code Tit. 474, §§ 6-009.07B; 6-009.02; 6-009.06B

Before the foster care placement of any child in Nebraska by the State Department of Health and Human Services, the department shall require a national criminal history record information check of the prospective foster parent and each member of the prospective foster parent's household who is age 18 or older.

An adoption home study shall include a national criminal history record information check and a check of the central registry for any history of the petitioner or petitioners of behavior injurious to or which may endanger the health or morals of a child.

In regulation: Foster parent applicants and each household member age 13 and older must be checked with the following:

- The State central registry of child protection cases
- The adult protective services central registry
- The State patrol central registry of sex offenders
- The State patrol for a national criminal history check with the Identification Division of the Federal Bureau of Investigation

Child-placing agencies must check the background of all employees and volunteers who have contact with children before participation with the agency. The background check shall include checks of the following:

- The State central registry of child protection cases
- The adult protective services central registry
- The State patrol central registry of sex offenders

The child-placing agency shall complete background checks of prospective adoptive parents and all members of the household age 13 or older. The background checks shall include checks of the following:

- The State central registry of child protection cases
- The adult protective services central registry
- The State patrol central registry of sex offenders

Process for Obtaining Records Checks

Citation: Rev. Stat. § 71-1903

For the criminal background check, the department shall provide two sets of legible fingerprints from the persons to the State patrol for submission to the Federal Bureau of Investigation. The State patrol shall conduct a criminal history record information check of the persons and shall submit the fingerprints to the Federal Bureau of Investigation for a national criminal history record information check. The criminal history record information check shall include information from Federal repositories of such information and repositories of such information in other States if authorized by Federal law. The State patrol shall issue a report of the results of such criminal history record information check to the department.

Grounds for Disqualification

Citation: Admin. Code Tit. 474, §§ 6-009.02; 6-006.03; 6-008.02A

An agency shall not employ an individual who has been convicted of, admitted to, or if there is substantial evidence of crimes involving intentional bodily harm, crimes against children, or crimes involving moral turpitude if these circumstances have current bearing on the applicant's provision of care. Agency staff shall not engage in or have a history of behavior injurious to or which may endanger the health or morals of the children in care.

A child-placing agency shall not approve a person as a prospective foster or adoptive parent if that person has been convicted of, admitted to, or if there is substantial evidence of crimes involving intentional bodily harm, crimes against children, or crimes involving moral turpitude if these circumstances have current bearing on the applicant's provision of care. Agency staff shall not engage in or have a history of behavior injurious to or which may endanger the health or morals of the children in care.

Nevada

Current Through September 2018

Who Needs Records Checks

Citation: Rev. Stat. §§ 424.031; 127.281; 432B.625; Admin. Code § 432A.200

Background checks must be completed for the following persons:

- Each applicant for a license to conduct a foster home
- A person who is licensed to conduct a foster home
- An employee of that applicant or licensee
- Any resident of a foster home who is age 18 or older who is not in an extended foster placement
- Any person who is age 18 or older who routinely supervises a child in a foster home
- A prospective adoptive parent and any member of the household who is age 18 or older
- A relative of a child who is seeking guardianship of that child

In regulation: Background checks are required for personnel at child care facilities, including the following:

- Every applicant and his or her employees
- Every resident of the facility who is age 18 or older
- Every resident of the facility who is at least age 16 but younger than age 18
- Every volunteer of the facility who is at least age 16 and who regularly works for 15 hours or more per week in the facility

Types of Records That Must Be Checked

Citation: Rev. Stat. §§ 424.033; 127.281; 432B.625; Admin. Code § 432A.200

The background check shall include the following:

- A records check by the local law enforcement agency
- A request for a check to the Central Repository for Nevada Records of Criminal History
- Submission of the person's fingerprints to the Federal Bureau of Investigation for a check of national criminal history records
- A screening of the State child abuse and neglect central registry

In regulation: The investigation of child care personnel shall include, at a minimum, checking the State child abuse and neglect central registry and performing a background check with local law enforcement.

Process for Obtaining Records Checks

Citation: Rev. Stat. §§ 424.031; 424.033; 432B.625; 127.281

The licensing authority or a person or entity designated by the licensing authority shall obtain from appropriate law enforcement agencies information on the background and personal history of each applicant.

Each person who is required to have a background check must submit the following to the licensing authority or its approved designee:

- A complete set of fingerprints and written permission authorizing the licensing authority designee to forward those fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report to enable the licensing authority designee to conduct the required investigation
- Written permission to conduct a child abuse and neglect screening

For each person who submits the required documentation, the licensing authority or its approved designee shall conduct a child abuse and neglect screening of the person in every State in which the person has resided during the immediately preceding 5 years. The licensing authority or its approved designee may exchange with the Central Repository or the Federal Bureau of Investigation any information with respect to the fingerprints submitted. When a report from the Federal Bureau of Investigation is received by the Central Repository, it shall immediately forward a copy of the report to the licensing authority or its approved designee.

Grounds for Disqualification**Citation: Rev. Stat. § 424.031; Admin. Code §§ 127.240; 424.190**

A foster care application shall not be approved if the records check determines that the person has been arrested for, has charges pending for, or has been convicted at any time of any of the following:

- Murder, voluntary manslaughter, or mayhem
- Felony use or threatened use of force, violence against a victim, or the use of a firearm or other deadly weapon
- Assault with intent to kill or to commit sexual assault or mayhem
- Sexual assault, statutory sexual seduction, incest, lewdness, indecent exposure, any other sexually related crime, or felony prostitution
- Abuse or neglect of a child or contributory delinquency
- Possession, distribution, or use of any controlled substance or dangerous drug
- Abuse, neglect, exploitation, isolation, or abandonment of older or vulnerable persons
- Any offense relating to pornography involving minors
- Felony domestic violence

Approval will be denied for a conviction within the immediately preceding 7 years for any of the following:

- Fraud, theft, embezzlement, burglary, robbery, or misappropriation of property
- Misdemeanor prostitution, solicitation, lewdness, indecent exposure, or any other sexually related crime
- Misdemeanor domestic violence
- Medicaid or Medicare fraud
- The sale, furnishing, purchase, consumption, or possession of alcoholic beverages by a minor
- Driving a vehicle under the influence of alcohol or a controlled substance
- Attempt or conspiracy to commit any of the offenses listed above

In regulation: An application to adopt, or a license to operate a foster home, must be denied if:

- Based upon a substantiated investigation, the applicant or a member of the applicant's household who is age 18 or older:
 - » Has been convicted of a crime involving harm to a child
 - » Has charges pending against him or her for a crime involving harm to a child
 - » Has been arrested and is awaiting final disposition of the charges pending against him or her for a crime involving harm to a child
- The applicant or a member of the applicant's household who is age 18 or older has charges pending against him or her for a felony conviction involving, or has been arrested and is awaiting final disposition of possible or pending charges against him or her involving, any of the following:
 - » Child abuse or neglect
 - » Spousal abuse
 - » Any crime against children, including child pornography
 - » Any crime involving violence, including rape, sexual assault, or homicide but not including other physical assault or battery
 - » Physical assault, battery, or a drug-related offense, if the assault, battery, or drug-related offense was committed within the past 5 years

When the investigation of any applicant for a license to operate a foster home reveals a finding of substantiated abuse or neglect of a child, or whose own children have been in foster care or otherwise placed outside of his or her home for the purpose of adoption or foster care, the application to operate a foster home must be denied.

New Hampshire

Current Through September 2018

Who Needs Records Checks

Citation: Rev. Stat. §§ 170-E:29; 170-E:29-a; 170-B:18

Background checks are required for persons who are responsible for the care of children or have regular contact with children, including the following:

- Staff of foster family homes, institutions, and child-placing agencies
- Prospective foster parents and any other adult living in the home
- Personnel of child care institutions and child care agencies, including prospective employees, new household members, and any current household member who turns age 17

Background checks are required for all prospective adoptive parents and any other adult living in the home.

Types of Records That Must Be Checked

Citation: Rev. Stat. §§ 170-E:29; 170-E:29-a; 170-B:18

For foster parent applicants, the background check shall consist of a fingerprint-based criminal records check of national crime information databases and a central registry check. For the criminal records check, the Department of Human Services shall submit the applicant's fingerprints to the Department of Safety, Division of State Police, for forwarding to the Federal Bureau of Investigation. Upon completion of the criminal records check, the Division of State Police shall forward the results to the department.

For applicants for employment with child care institutions and agencies, a search of the following records must be completed:

- New Hampshire sex offender and abuse and neglect registries
- Sex offender and abuse and neglect registries of each State in which the individual resided in the past 5 years
- The National Sex Offender Registry
- The criminal history records of the State police and the Federal Bureau of Investigation

For adoptive placements, the background check shall consist of a fingerprint-based criminal records check of national crime information databases for all prospective adoptive parents and any other adults living in the home, as well as a central registry check for all prospective adoptive parents and any other adult living in the home. The central registry check shall include a check of the department's central registry of founded reports of child abuse and neglect and a check of the child abuse and neglect registries in any other State in which the applicant and any other adult living in the home has resided in the preceding 5 years.

Process for Obtaining Records Checks

Citation: Rev. Stat. §§ 170-E:29; 170-E:29-a; 170-B:18

For prospective employees, foster parents, and adoptive parents, the appropriate agency must submit the names, birth dates, and addresses of those persons to the department. The department shall review the names, birth names, birth dates, and current and previous addresses of the persons against the State child abuse and neglect registry. The department also shall submit the names, birth names, birth dates, and addresses to the State police to obtain information about criminal convictions.

For the criminal records check, the department shall submit the fingerprints of the applicants and any other adults living in the home to the Department of Safety, Division of State Police, for forwarding to the Federal Bureau of Investigation. Upon completion of the criminal records check, the State police shall forward the results to the department.

For child care facilities, a person requiring a background check shall submit directly to the Department of Safety a criminal history records release form, as provided by the State police, to authorize the release of the person's criminal records, if any, to the department. The person shall submit with the release form a complete set of fingerprints taken by a qualified law enforcement agency or an authorized employee of the Department of Safety.

The department shall review the applicant's name, birth dates, and current and previous addresses in the State child abuse and neglect registry. The Department of Safety shall submit the criminal history records release form to the State police, which shall conduct a criminal history records check through its records and through the Federal Bureau of Investigation.

Grounds for Disqualification**Citation: Rev. Stat. §§ 170-E:29; 170-E:29-a; Admin. Rules He-C 6448.13**

An application shall be denied if the person has been convicted of any of the following:

- A violent or sexually related crime against a child
- A crime that shows that the person might be reasonably expected to pose a threat to a child, such as a violent crime or a sexually related crime against an adult

If any individual whose name has been submitted for this check has been convicted of crimes against minors or adults or is the subject of a founded complaint of child abuse or neglect, the department may deny the license or permit, revoke a license, or suspend a license pending the development and implementation of a corrective action plan approved by the department. The department shall conduct an investigation in accordance with rules adopted under this subdivision to determine whether the individual poses a present threat to the safety of children.

A child care facility may not employ any person if that person:

- Is registered or required to be registered on a State sex offender registry or repository, or the National Sex Offender Registry
- Has been convicted of any of the following crimes:
 - » Murder
 - » Felony child abuse or neglect
 - » An offense involving child sexual abuse images
 - » Trafficking
 - » Spousal abuse
 - » Rape or sexual assault
 - » Kidnapping
 - » Arson
 - » Physical assault or battery
 - » A drug-related offense committed during the previous 5 years
 - » Any violent or sexually related misdemeanor or against a child, including child abuse, child endangerment, sexual assault, or a misdemeanor involving child sexual abuse images
 - » A crime that shows that the person might be reasonably expected to pose a threat to a child, such as a violent crime or a sexually related crime against an adult
- Is the subject of a founded complaint of child abuse or neglect

In regulation: The adoptive parent applicant shall not have been convicted of child abuse or neglect or any other serious crime that would affect the ability to care for children.

If the check of the State child abuse and neglect central registry reveals a founded report for any member of the adoptive parent applicant's household, department staff, in cooperation with staff from the child-placing agency, shall conduct a complete review of the circumstances surrounding the report. After review, if the department determines that the household member poses no further threat to any child, the child-placing agency shall proceed with the application process.

New Jersey

Current Through September 2018

Who Needs Records Checks**Citation: Ann. Stat. §§ 30:4C-26.8; § 9:3-54.2; 30:4C-86**

Background checks are required for the following persons:

- A prospective family resource parent and members of the prospective parent's household
- Each prospective adoptive parent and each member of the prospective adoptive parent's household, age 18 or older
- A prospective kinship legal guardian and any adult residing in the household

Types of Records That Must Be Checked**Citation: Ann. Stat. §§ 30:4C-26.8; 30:4C-27.7; 30:4C-86**

The background check for a resource family parent shall include the following:

- State and Federal criminal history records checks
- A child abuse record information check
- A child abuse record information check from each State in which the prospective resource family parent and any other adult residing in the home has resided in the preceding 5 years

A prospective kinship legal guardian shall undergo the following:

- A criminal history records background check by the Division of State Police and the Federal Bureau of Investigation
- A domestic violence central registry check
- A child abuse registry records check

Process for Obtaining Records Checks**Citation: Ann. Stat. §§ 9:3-54.2; 30:4C-26.8; 30:4C-27.7**

Each applicant and each adult member of the applicant's household shall submit to the approved agency standard fingerprint cards containing his or her name, address, and fingerprints taken by a State or municipal law enforcement agency. The applicant also must provide written consent for the release of records.

Upon receiving the written consent, the division shall complete an investigation to ascertain if there is a State or Federal record of criminal history for the prospective adoptive or resource family parent or any other adult residing in the prospective parent's home. The investigation shall be conducted by the State police and shall include an examination of its own files and the obtaining of a similar examination by Federal authorities.

Grounds for Disqualification**Citation: Ann. Stat. §§ 30:4C-26.8; 30:4C-27.9**

A person shall be disqualified from being a resource family parent or shall not be eligible to adopt a child if that person or any adult residing in that person's household ever committed a crime which resulted in a conviction for any of the following:

- A crime against a child, including endangering the welfare of a child, child pornography, child abuse, neglect, or abandonment
- Murder or manslaughter
- Aggravated assault in the second or third degree
- Stalking
- Kidnapping, criminal restraint, false imprisonment, interference with custody, or criminal coercion
- Enticing a child into a motor vehicle, structure, or isolated area
- Sexual assault, criminal sexual contact, or lewdness
- Robbery in the first degree
- Burglary in the second degree
- Domestic violence
- Endangering the welfare of an incompetent person or an elderly or disabled person
- Terrorist threats
- Arson

A person shall be disqualified from being a resource family parent if that person or any adult residing in that person's household was convicted of one of the following crimes and the date of release from confinement occurred during the preceding 5 years:

- Simple assault
- Aggravated assault in the fourth degree
- A drug-related crime
- Robbery in the second degree
- Burglary in the third degree

A conviction for one of the offenses listed above has occurred if the person has been convicted under the laws of this State or any other State or jurisdiction for an offense that is substantially equivalent to the offenses listed above.

For the purposes of this section, the term 'date of release from confinement' means the date of termination of court-ordered supervision through probation, parole, or residence in a correctional facility, whichever date occurs last.

If the division determines that an incident of child abuse or neglect by any household member has been substantiated, the application for licensure or renewal shall be denied. An exception may be made when it is determined that a foster child will not be endangered by remaining in the current foster home.

New Mexico

Current Through September 2018

Who Needs Records Checks

Citation: Ann. Stat. § 32A-15-3; Admin. Code § 8.26.4.16

Background checks are required for the following persons:

- All operators, staff, and employees, and prospective operators, staff, and employees, of child care facilities and juvenile detention, correction, or treatment facilities
- All prospective foster or adoptive parents and other adult relatives and nonrelatives residing in the prospective foster or adoptive parent's household

In regulation: Relatives who provide foster care to children in State custody must be licensed and are required to undergo background checks.

Types of Records That Must Be Checked

Citation: Ann. Stat. § 32A-15-3; Admin. Code §§ 8.26.4.10; 8.26.4.11

Nationwide criminal history records checks are required for all persons listed above.

In regulation: The background check shall include the following:

- State and Federal criminal records checks
- An additional criminal records check of the applicant and all adults living in the applicant's home through a search of nmcourts.com
- A check for abuse and neglect referrals

If the applicant or any other adult living in the home resided in any State(s) other than New Mexico in the 5 years prior to the date of the application, the Protective Services Division (PSD) shall request that each such State review its abuse and neglect information system or registry for information on the applicant or other adults living in the home and submit the results of that review to PSD.

Process for Obtaining Records Checks

Citation: Ann. Stat. § 32A-15-3; Admin. Code §§ 8.26.4.10; 8.26.4.11

The Children, Youth and Families Department (CYFD) shall fingerprint all persons who are required to obtain background checks. CYFD shall conduct the background checks and shall submit a fingerprint card for those individuals to the Department of Public Safety and the Federal Bureau of Investigation for this purpose.

In regulation: The CYFD Criminal Records Checks (CRC) unit conducts Federal and State criminal records checks for all applicants and adults living in the home. PSD placement staff or agency staff shall submit to the CYFD CRC unit two completed fingerprint cards for each applicant and adult living in the applicant's home.

For families seeking to become foster or adoptive homes through agencies other than PSD, the agency shall submit, at the time they submit fingerprint cards, a signed PSD-approved 'abuse and neglect check for prospective foster or adoptive parents' form to request that the CRC unit conduct a review for abuse and neglect referrals on the applicant and each adult living in the applicant's home.

Grounds for Disqualification

Citation: Admin. Code §§ 8.26.4.10; 8.26.4.11

Licensure shall not be approved in any case in which the CRC results for the applicant or any adult living in the applicant's home reveal any of the following federally mandated automatic disqualifiers:

- A felony conviction for child abuse or neglect
- A felony conviction for spousal abuse
- A felony conviction for a crime against children, including child pornography
- A conviction for any crime involving violence such as rape, sexual assault, or homicide but does not include other physical assault or battery
- A felony conviction within the past 5 years for physical assault, battery, or a drug-related offense

Applicants who have a conviction for crimes other than those noted above are not automatically disqualified; however, this information shall be used to determine suitability for licensure. All police or court records relating to the applicant or other adult living in the home shall be considered in determining suitability for licensure.

If the applicant or any adult living in the applicant's home has been the subject of a substantiated allegation of sexual exploitation or sexual abuse of a child, or has been substantiated for child abuse that resulted in a child fatality, then the applicant shall not be licensed.

In the event of a substantiated report of child abuse or neglect, other than substantiated sexual exploitation or sexual abuse as listed above, involving the applicant or any adult living in the home, the application is assessed on a case-by-case basis to determine if the safety of any child in the home can be assured. This information shall be used to determine suitability for licensure.

Persons who have been referred to PSD for investigation of allegations of child abuse or neglect or exploitation may be considered for licensure. The best interests of children are paramount. Licensure may be denied based on the professional judgment of the licensing agent.

New York

Current Through September 2018

Who Needs Records Checks

Citation: Soc. Serv. §§ 378-a; 390-b; Code of Rules Tit. 18, § 443.7

Criminal history background checks must be completed for the following persons:

- Any prospective foster parent or prospective adoptive parent
- A prospective successor guardian
- Any person over age 18 who is currently residing in the home of a person listed above
- Any operator, employee, or volunteer of a child daycare center or school-age child care provider

In regulation: A completed statewide central register database check is required for certifying or approving potential emergency foster homes and emergency relative foster homes.

Types of Records That Must Be Checked

Citation: Soc. Serv. § 378-a; Dom. Rel. § 112; Code of Rules Tit. 18, § 443.10

The criminal history background check includes a check of records in any State or Federal jurisdiction.

An adoption home study includes a check of the Statewide Central Register of Child Abuse and Maltreatment.

In regulation: The procedure for renewal and reopening certified foster homes includes the following:

- The completion of a criminal history records check
- A database check through the central register and the check of the Justice Center's register of substantiated category-one cases of abuse or neglect

If the adult spouse resided in another State at any time during the 5 years preceding a new application, a request must be made for child abuse and maltreatment information maintained in the child abuse and maltreatment registry from the applicable child welfare agency in the State of previous residence.

Process for Obtaining Records Checks

Citation: Soc. Serv. § 378-a

For each person subject to a background check, an authorized agency shall perform a criminal history records check with the Division of Criminal Justice Services. The Division of Criminal Justice Services is authorized to submit fingerprints to the Federal Bureau of Investigation for the purpose of a nationwide criminal history records check to determine whether the person being investigated has a criminal history in any State or Federal jurisdiction.

Every authorized agency shall obtain a set of fingerprints for the person being investigated, and such other information as is required by the Office of Children and Family Services and the Division of Criminal Justice Services. The authorized agency shall provide to the applicant blank fingerprint cards and a description of how the completed fingerprint cards will be used upon submission to the authorized agency. The authorized agency shall promptly transmit the fingerprint cards to the Office of Children and Family Services. The Office of Children and Family Services shall promptly submit the fingerprint cards to the Division of Criminal Justice Services for its full search and processing.

The Division of Criminal Justice Services shall promptly provide to the Office of Children and Family Services a criminal history record, if any, with respect to the person being investigated, or a statement that the individual has no criminal history record.

Grounds for Disqualification

Citation: Soc. Serv. § 378-a

Notwithstanding any other provision of law to the contrary, an application for certification or approval of a prospective foster or adoptive parent shall be denied when the criminal history record reveals a conviction for any of the following:

- A felony conviction at any time involving any of the following:
 - » Child abuse or neglect
 - » Spousal abuse
 - » A crime against a child, including child pornography
 - » A crime involving violence, including rape, sexual assault, or homicide, other than a crime involving physical assault or battery
- A felony conviction within the past 5 years for physical assault, battery, or a drug-related offense

An application for certification or approval of a prospective foster or adoptive parent may be denied when:

- A criminal history record reveals a charge or a conviction of a crime other than one set forth above
- A criminal history record of any other person over age 18 who resides in the home reveals a charge or a conviction of any crime

North Carolina

Current Through September 2018

Who Needs Records Checks

Citation: Gen. Stat. §§ 131D-10.3A; 48-3-309; 110-90.2

Background checks are required for the following persons:

- All foster parents, individuals applying for licensure as foster parents, and individuals age 18 or older who reside in a family foster home
- All prospective adoptive parents and all individuals age 18 or older who reside in the prospective adoptive home
- Child care providers, including any person who:
 - » Is employed by or seeks to be employed by a child care facility, whether in a temporary or permanent capacity, including substitute providers
 - » Owns or operates or seeks to own or operate a child care facility or nonlicensed child care home
 - » Is a member of the household in a family child care home, nonlicensed child care home, or child care center in a residence who is over age 15, including family members and nonfamily members who use the home on a permanent or temporary basis as their place of residence

Types of Records That Must Be Checked**Citation: Gen. Stat. §§ 131D-10.3A; 48-3-309; Admin. Code Tit. 10A, § 70H.0405**

The background check must include county, State, and Federal criminal histories.

In regulation: The background check also must include the following:

- A search of the Responsible Individual's List for child protective services
- The results of child abuse and neglect central registry checks of States in which the applicant has resided the past 5 years

Process for Obtaining Records Checks**Citation: Gen. Stat. §§ 48-3-309; 131D-10.3A**

The Department of Health and Human Services shall ensure that the criminal histories of all individuals who are required to be checked are checked for county, State, and Federal criminal histories.

For each person to be checked, the Department of Public Safety shall provide the department with the criminal history obtained from the State and national repositories of criminal histories as requested by the department. Along with the request, the department shall provide to the Department of Public Safety the fingerprints of the individual to be checked, any additional information required by the Department of Public Safety, and a form consenting to the check of the criminal record and to the use of fingerprints and other identifying information required by the State or national repositories signed by the individual to be checked. The fingerprints of the individual to be checked shall be forwarded to the State Bureau of Investigation for a search of the State's criminal history record file, and the State Bureau of Investigation shall forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history records check.

Grounds for Disqualification**Citation: Gen. Stat. §§ 48-3-309; 131D-10.3A; Admin. Code Tit. 10A, § 70E.1115**

The department shall prohibit an individual from providing foster or adoptive care if an individual required to submit to a criminal history check has a criminal history. The department may prohibit an individual from providing foster care by denying or revoking the license to provide foster care, or receiving a child for adoption, if the department determines that the safety and well-being of a child placed in the home would be at risk based on other criminal convictions, whether felony or misdemeanor.

A disqualifying criminal history includes any county, State, and Federal conviction of a felony by a court of competent jurisdiction or pending felony indictment of a crime for any of the following:

- Child abuse or neglect
- Spousal abuse
- A crime against a child, including child pornography
- A crime involving violence, including rape, sexual assault, or homicide, other than physical assault or battery
- Physical assault, battery, or a drug-related offense, if the offense was committed within the past 5 years
- Similar crimes under Federal law or the laws of other States

In regulation: An applicant is not eligible for licensure if the applicant has within the last 5 years been substantiated for abuse or serious neglect and is placed on the Responsible Individuals List. After 5 years, an applicant who is on the Responsible Individuals List may be considered for licensure based on the following factors:

- The nature of the substantiation
- The length of time since the substantiation
- The circumstances surrounding the substantiation
- Evidence of rehabilitation
- The person's history of convictions and violations

North Dakota

Current Through September 2018

Who Needs Records Checks

Citation: Cent. Code §§ 50-11-02; 14-15-11; 50-11.1-06.2; Admin. Code § 75-03-14-07

Background checks are required for the following persons:

- A prospective foster parent
- A prospective adoptive parent
- A staff member, including an operator, caregiver, provider, or any other employee or volunteer of an early childhood program

The following individuals are required to obtain criminal background checks:

- A provider or an applicant for early childhood services licensure or in-home provider registration
- Emergency designees and staff members of providers and applicants for early childhood services licensure or in-home provider registration
- Household members of a residence in which early childhood services are provided

In regulation: Background checks are required for all adults living in the family foster home for children.

Types of Records That Must Be Checked

Citation: Admin. Code § 75-03-14-01

A background check includes a child protection services check in each State that the individual has resided in the previous 5 years and a criminal history record investigation.

Process for Obtaining Records Checks

Citation: Cent. Code §§ 50-11-06.8; 50-12-03.2

For each person subject to a background check, the appropriate agency shall secure from a law enforcement agency or any other agency authorized to take fingerprints two sets of fingerprints and shall provide all other information necessary to secure State criminal history record information and a nationwide background check under Federal law. Upon a request of an agency, a law enforcement agency shall take fingerprints of any person in need of a background check. An agency that takes fingerprints as provided under this section may charge a reasonable fee to offset the cost of fingerprinting.

The agency shall assure that information obtained under the above subsection is provided to the Department of Human Services. Upon receipt of all fingerprints and necessary information relating to a criminal history record investigation, the department shall submit the fingerprints and information to the Bureau of Criminal Investigation.

The Bureau of Criminal Investigation shall request a nationwide background check from the Federal Bureau of Investigation and, upon receipt of a response, provide the response from the Federal Bureau of Investigation to the department. The Bureau of Criminal Investigation also shall provide any criminal history record information that may lawfully be made available under chapter 12-60 to the department.

Grounds for Disqualification

Citation: Cent. Code § 50-11-02.1; Admin. Code §§ 75-03-14-04.1; 75-03-14-04

Conviction of an offense does not disqualify a person from licensure unless the department determines that the offense has a direct bearing upon that person's ability to serve the public as the operator of a facility or that, following conviction of any offense, the person is not sufficiently rehabilitated.

In regulation: An applicant must not have been found guilty of, pled guilty to, or pled no contest to any of the following:

- Any of the following offenses:
 - » Homicide
 - » Assaults, threats, coercion, or harassment
 - » Kidnapping
 - » Human trafficking
 - » Gross sexual imposition or sexual imposition
 - » Continuous sexual abuse of a child
 - » Corruption or solicitation of minors

- » Luring minors by computer or other electronic means
- » Sexual abuse of wards
- » Sexual assault
- » Robbery or felony burglary
- » Sexual performances by children
- » Promoting or facilitating prostitution
- » Child procurement
- » Abuse or neglect of a child
- An offense under the laws of another jurisdiction that is substantially similar as any of the offenses listed above
- An offense, other than one listed above, if the department determines that the individual has not been sufficiently rehabilitated

A resident of the family foster home for children, except a foster child, may not have been the subject of a child abuse or neglect assessment in which a services-required decision was made, unless the director or foster care supervisor of the regional center, after making appropriate consultation with persons qualified to evaluate the capabilities of the resident, documenting criteria used in making the decision, and imposing any restrictions deemed necessary, approves the issuance of a license and if either of the following apply:

- The resident can demonstrate the successful completion of an appropriate therapy.
- The resident can demonstrate the elimination of an underlying basis precipitating the neglect or abuse.

Northern Mariana Islands

Current Through September 2018

Who Needs Records Checks

Citation: Comm. Code Tit. 1, § 2374(h); Tit. 8, § 1410; Admin. Code § 55-40.1-101

Certification is required for prospective foster parents in order to ensure a safe, healthy, and moral environment for the juvenile.

If ordered by the court, the Division of Youth Services or any other qualified person or agency designated by the court shall conduct an investigation of the prospective adoptive parent to ascertain whether the adoptive home is a suitable home for the minor and whether the proposed adoption is in the best interests of the minor. A criminal background check is not specified as part of the background check for a foster or adoptive parent.

In regulation: A background check is required for applicants, and their employees and volunteers, as part of the application to obtain a child care license to operate a daycare center, group child care home, family child care home, infant/toddler center, and before-and-after school programs.

Types of Records That Must Be Checked

Citation: Admin. Code §§ 55-40.1-101; 55-40.1-226

The department shall conduct employment history, background checks, and criminal history checks on all applicants. The criminal background check shall include the following:

- A fingerprint-based background check from any available Commonwealth government criminal database
- A fingerprint-based background check done on any available Federal database as recommended by the Federal Bureau of Investigation
- A criminal background check on the Commonwealth child abuse and neglect registry
- A criminal background check on the National Sex Offender Registry if the Commonwealth government has the capability of accessing it
- An annual Commonwealth police clearance

Process for Obtaining Records Checks

Citation: Admin. Code § 55-40.1-101

Applicants shall provide criminal history, background, employment information, and consent to conduct the required records checks.

Grounds for Disqualification**Citation: Admin. Code § 55-40.1-226**

Applicants, employees, and volunteers shall be of reputable and responsible character and shall not have a criminal history record, employment history, or background that poses a risk to children in care.

Conviction of a crime involving violence, alcohol or drug abuse, sex offense, offense involving children, and any other conviction, the circumstances of which indicate that the applicant or employee may pose a danger to children, are grounds for denial or revocation of a license. The type of criminal offense, when it occurred, and evidence of rehabilitation may be considered in determining whether the criminal history record poses a risk to the health, safety, or well-being of children in care.

An employment history indicating violence, alcohol or drug abuse, and any other violation of employer rule or policy, the circumstances of which indicate that the applicant or employee may pose a danger to children, may be grounds for denial or revocation of a license or a reason to request termination of an employee.

Background information that shows that the individual has been identified as and substantiated to be the perpetrator of child abuse or neglect may be a basis for denial or revocation of a license or a reason to request termination of an employee.

Ohio

Current Through September 2018

Who Needs Records Checks**Citation: Rev. Code § 2151.86; Admin. Code § 5101:2-42-18**

Background checks are required for the following persons:

- A person who is under final consideration for appointment or employment as a person responsible for a child's care in out-of-home care
- A prospective adoptive parent
- A prospective foster caregiver
- A person age 18 or older who resides with a prospective foster caregiver or a prospective adoptive parent

The term 'person responsible for a child's care in out-of-home care' includes the following:

- Any foster caregiver, in-home aide, or provider
- Any administrator, employee, or agent of any of the following:
 - » A child daycare center
 - » A family daycare home
 - » A group home or residential care facility
 - » A residential camp, day camp, school district, community school, chartered nonpublic school, or educational service center
 - » Any person who supervises or coaches children as part of an extracurricular activity sponsored by a school district, public school, or chartered nonpublic school
 - » Any other person who performs a similar function with respect to, or has a similar relationship to, children

In regulation: Background checks also are required for the following substitute caregivers:

- A relative by blood or marriage who, in accordance with §§ 5103.02 and 5103.03 of the Revised Code, is exempt from certification and who is being considered as a substitute caregiver
- A nonrelative who has a relationship with the child and/or family and who, in accordance with § 5153.161 of the Revised Code, is approved by the court

Types of Records That Must Be Checked**Citation: Rev. Code § 2151.86; Admin. Code §§ 5101:2-42-18; 5101:2-48-09**

The background investigation shall include a check of State criminal records conducted by the Bureau of Criminal Identification and Investigation (BCII).

If a person subject to a criminal records check does not present proof that he or she has been a resident of this State for the 5-year period immediately prior to the date upon which the criminal records check is requested, the employer or placing agency shall request that the BCII obtain information from the Federal Bureau of Investigation as a part of the criminal records check, including fingerprint-based checks of national crime information databases.

In regulation: For prospective adoptive parents and relative or nonrelative substitute caregivers, a search of the Statewide Automated Child Welfare Information System is required.

The placing agency shall request a check of the child abuse and neglect registry of any other State in which an adoptive applicant or other adult household member in the applicant's home has resided in the 5 years immediately prior to the date of the criminal records check.

Process for Obtaining Records Checks

Citation: Rev. Code §§ 2151.86; 109.572

An employer or placing agency required to request a criminal records check shall provide to each person subject to a criminal records check a copy of the form required by § 109.572 (C)(1) and a standard impression sheet to obtain fingerprint impressions, obtain the completed form and impression sheet from the person, and forward the completed form and impression sheet to the superintendent of BCII at the time the criminal records check is requested.

Any person subject to a criminal records check who receives a copy of the prescribed form and the impression sheet shall complete the form as requested and provide the impression sheet with the impressions of the person's fingerprints. If a person subject to a criminal records check fails to provide the information necessary to complete the form or fails to provide impressions of the person's fingerprints, the employer shall not employ the person as a person responsible for a child's care in out-of-home care, a probate court may not issue a decree of adoption, and the Department of Job and Family Services shall not issue a certificate authorizing the prospective foster caregiver to operate a foster home.

On receipt of a request, a completed form, and a set of fingerprint impressions obtained in the appropriate manner, the superintendent of the BCII shall conduct a criminal records check.

Grounds for Disqualification

Citation: Rev. Code §§ 2151.86; 109.572

No employer shall employ a person as a person responsible for a child's care in out-of-home care, the Department of Job and Family Services shall not issue a certificate authorizing a prospective foster caregiver to operate a foster home, and no probate court shall issue a decree of adoption, or, in the case of a prospective foster or adoptive caregiver, if any person age 18 or older who resides with the prospective foster or adoptive caregiver previously has been convicted of or pleaded guilty to any of the following:

- Cruelty to animals
- Murder, manslaughter, or assault
- Permitting child abuse
- Failing to provide for a functionally impaired person
- Aggravated menacing, menacing, or stalking
- Patient abuse or neglect
- Kidnapping or abduction
- Criminal child enticement
- Rape, sexual battery, unlawful sexual conduct with a minor, sexual imposition, voyeurism, or public indecency
- Felonious sexual penetration
- Compelling or promoting prostitution, procurement, or prostitution
- Disseminating matter harmful to juveniles
- Pandering sexually oriented matter involving a minor
- Illegal use of a minor in nudity-oriented material or performance
- Arson
- Soliciting or providing support for act of terrorism
- Terrorism or terroristic threat
- Robbery or aggravated robbery
- Aggravated burglary or burglary
- Identity fraud
- Inciting to violence or aggravated riot
- Unlawful abortion
- Endangering children

- Contributing to the unruliness or delinquency of a child
- Domestic violence
- Carrying concealed weapons
- Having weapons while under disability
- Improperly discharging firearm at or into habitation or school
- Corrupting another with drugs or trafficking in drugs
- Illegal manufacture of drugs or cultivation of marijuana
- Funding of drug or marijuana trafficking
- Illegal administration or distribution of anabolic steroids
- Possessing drug abuse instruments
- Placing harmful objects in food
- Interference with custody
- Two or more violations of operating a vehicle while under the influence of alcohol or drugs committed within the 3 years immediately preceding the submission of an application or petition
- A violation of an existing or former law of this State, any other State, or a Federal law that is substantially equivalent to any of the offenses listed above

Oklahoma

Current Through September 2018

Who Needs Records Checks

Citation: Ann. Stat. Tit. 10, §§ 402; 7505-5.3; Tit. 10A, § 1-9-106

Background checks are required for the following persons:

- All personnel associated with a child care facility, including the following:
 - » Owners and responsible entities prior to the issuance of a permit or license
 - » Prospective employees
 - » Contract employees and volunteers prior to allowing unsupervised access to children
 - » Adults living in the facility or planning to live in the facility
 - » Children residing in the facility when they reach age 18
- A prospective foster parent
- A prospective adoptive parent or any household member age 18 or older
- A person related to a child by blood, marriage, adoption, and by tie or bond to a child, and/or to whom has been ascribed a family relationship role, who is being considered for approval as a kinship foster care parent

A 'child care facility' includes any public or private child care residential facility, child-placing agency, foster family home, child care center, part-day program, out-of-school time program, day camp, drop-in program, program for sick children, family child care home, or large family child care home providing either full-time or part-time care for children away from their own homes.

Types of Records That Must Be Checked

Citation: Ann. Stat. Tit. 10, § 7505-5.3; Admin. Code §§ 340:75-7-15; 340:110-3-282

Prospective adoptive parents are required to have a criminal background check and a child abuse and neglect information system check. The background check shall consist of the following:

- A national fingerprint-based criminal background check
- A search of the sex offenders registry
- A search of the child abuse and neglect information system
- A Department of Public Safety Motor Vehicle Report shall be when the child to be adopted is in the legal custody of the Department of Human Services
- When the adoptive parent or other household member, age 18 or older, has not maintained continuous residency in the State for the prior 5 years, a child abuse registry check from every other State in which the person resided during that 5-year period

In regulation: For resource parents, kin caregivers, and adult household members, required background checks include the following:

- A State name-based criminal records history search
- A Federal Bureau of Investigation fingerprint-based national criminal history search
- A search of the violent offender registry
- A search of the State Courts Network or District Court Records to determine whether the applicant or adult household member is or was a party in any court action
- A search of all department records for child maltreatment history
- A background check request from Family Advocacy for active or retired military applicants

Child care personnel applicants, prior to hire, are required to undergo a national criminal history records search, based upon the submission of fingerprints.

Process for Obtaining Records Checks

Citation: Ann. Stat. Tit. 10, § 7505-5.3; Admin. Code § 340:75-7-15

Each prospective adoptive parent or other household member age 18 or older shall be required to cooperate with the requirements of the department and the Oklahoma State Bureau of Investigation with regard to the criminal background check and child abuse check, including, but not limited to, signing a release of information form allowing the release of the results of any search to the agency or person conducting the home study or home study update.

In regulation: The applicant and adult household members must provide a signed consent form for the State and national criminal records history search.

Prior to approval, applicants or adult household members who have lived in Oklahoma for less than 5 years must provide the equivalent background records check from previous State(s) of residence. Equivalent records check includes, but is not limited to, a State's criminal history search, including the sex offender registry. The department will obtain the child abuse and neglect registry check from the previous State(s) of residence, when a registry is available, prior to approval.

Grounds for Disqualification

Citation: Ann. Stat. Tit. 10, § 405.3; Admin. Code §§ 340:75-7-15; 340:75-15-88; 340:110-3-282

The department shall maintain the Child Care Restricted Registry, accessible to the public through an online database. The department shall place the name of an operator or employee of a child care facility on the registry when an individual:

- Is the subject of a substantiated finding of child abuse or neglect
- Has been subject to a revocation or denial of a child care facility license
- Has a specified criminal history, as defined by department rules

In regulation: A resource parent applicant will be disqualified when the applicant, or any person residing in the home of the applicant, has a criminal conviction record for any of the following felony offenses:

- Child abuse or neglect
- Domestic abuse
- A crime against a child including, but not limited to, child pornography
- A crime involving violence, including, but not limited to, rape, sexual assault, or homicide and any offense that:
 - » Has as an element of the use, attempted use, or threatened use of physical force against the person or property of another
 - » By its nature, involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense
- Physical assault, battery, or a drug-related offense when the conviction occurs within the 5-year period preceding the application date

Reasons for denial of the home assessment or closure of the resource home may include, but are not limited to, either of the following:

- The applicant or any person residing in the home has a history of alleged or confirmed child abuse or neglect.
- The applicant or any person residing in the home has a history of arrests or convictions.

The application is denied when the applicant or any adult member of the applicant's household has a felony conviction for any of the following offenses:

- Physical assault, battery, or a drug-related offense within the 5-year period preceding the application date
- Child abuse or neglect
- Domestic abuse
- A crime against a child, including, but not limited to, child pornography
- A crime involving violence, including, but not limited to, rape, sexual assault, or homicide

The application is denied when the applicant has been convicted of a sex-related offense or is subject to, married to, or living with a person subject to the Oklahoma Sex Offender Registration Act.

Individuals with criminal history restrictions are prohibited to work at child care facilities. Criminal history restrictions include pending charges, pleas of guilty or nolo contendere (no contest), or convictions of any criminal activity involving any of the following:

- Gross irresponsibility or disregard for the safety of others
- Violence against an individual
- Sexual misconduct
- Child abuse or neglect
- Animal cruelty
- Possession, sale, or distribution of illegal drugs
- A pattern of criminal activity

Oregon

Current Through September 2018

Who Needs Records Checks

Citation: Rev. Stat. § 418.016; Admin. Rules § 414-061-0030

To protect the health and safety of children who are in the custody of the Department of Human Services, the department shall require that criminal records checks be conducted on the following:

- All persons who seek to be foster parents, adoptive parents, or relative caregivers
- Other individuals age 18 or older who will be in the household of the foster parent, adoptive parent, or relative caregiver

In regulation: Criminal records checks, including fingerprint-based criminal records checks, and child protective services records checks also are required for a person who is or applies to be any of the following:

- The owner, operator, or an employee or volunteer of a certified, registered, or otherwise regulated facility caring for children
- The operator or an employee of an Oregon prekindergarten program or a Federal Head Start program
- A child care provider who is required to be enrolled in the Central Background Registry by any State agency
- An individual in any of the above facilities or programs who may have unsupervised contact with children

Types of Records That Must Be Checked

Citation: Admin. Rules §§ 413-120-0000; 414-061-0070

A criminal records check includes any or all of the following:

- An Oregon criminal records check for which criminal offender information is obtained from the State police using the Law Enforcement Data System or other sources
- A national criminal records check for which records are obtained from the Federal Bureau of Investigation through the use of fingerprint cards sent to the Oregon State Police (OSP) and other identifying information
- A State-specific criminal records check for which records are obtained from law enforcement agencies, courts, or other criminal records information sources located in, or regarding, a State or jurisdiction outside Oregon
- Other criminal records information, such as information obtained and used in the criminal records check process that is not criminal offender information from OSP, including, but not limited to, the following:
 - » Police investigations and records
 - » Information from local or regional criminal records information systems
 - » Justice records, court records, or information from the Oregon Judicial Information Network

- » Sexual offender registration records
- » Warrants
- » Oregon Department of Corrections records
- » Oregon Department of Transportation's Driver and Motor Vehicle Services Division information
- » Information provided on the background check requests
- » Disclosures by a subject individual
- » Any other information from any jurisdiction obtained by or provided to the department for the purpose of conducting a fitness determination

In addition to the above, child care personnel are required to have criminal history and child protective services checks.

Process for Obtaining Records Checks

Citation: Rev. Stat. § 181A.195; Admin. Rules § 413-200-0314

An authorized agency may request that the State police conduct a criminal records check on a subject individual for noncriminal justice purposes. If a nationwide criminal records check of a subject individual is necessary, the authorized agency may request that the State police conduct the check, including fingerprint identification, through the Federal Bureau of Investigation.

An authorized agency may conduct criminal records checks on subject individuals through the Law Enforcement Data System maintained by the State police in accordance with rules adopted and procedures established by the State police.

In regulation: The resource family or adoptive applicant and each adult member of the household must have face-to-face contact with a department certifier and must provide the following:

- Information regarding criminal involvement, including arrests and convictions, about any member of the household
- Consent to a criminal records check
- Information regarding any previous allegations of child abuse and neglect
- Consent to a child abuse history background check

An applicant must comply with the following requirements:

- Sign an Authorization for Use and Disclosure of Information form to allow the department to contact an individual or an organization to complete a thorough background check of the applicant
- Allow the department, at its discretion, to gather information regarding juvenile court involvement or law enforcement contacts of any child, not in the care or custody of the department, who lives in the household when there is reason to believe that child may pose a risk to children placed in the home and, if requested, authorize disclosure of the records regarding such information to the department

Grounds for Disqualification

Citation: Admin. Rules § 413-120-0450

An applicant may not be approved, regardless of how long ago the subject individual was convicted or any other factors or circumstances that exist, who has been convicted in Oregon or any other jurisdiction of a felony crime that involves any of the following:

- Violence, including rape, sexual assault, and homicide but not including other physical assault or battery
- Intentional starvation or torture
- Abuse or neglect of a child
- Spousal abuse
- Aiding, abetting, attempting, soliciting, or conspiring to cause the death of a child
- Sodomy or sexual abuse
- A crime against a child, including child pornography
- Any of the following crimes:
 - » Murder, manslaughter, criminally negligent homicide, or aggravated vehicular homicide
 - » Felony assault if the victim is a child or the person's spouse
 - » Criminal mistreatment if the victim is a child or the person's spouse, or if the crime involves violence
 - » Female genital mutilation
 - » Unlawful use of an electrical stun gun, tear gas, or mace in the first degree
 - » Kidnapping or custodial interference

- » Rape or incest
- » Online sexual corruption of a child
- » Custodial sexual misconduct
- » Unlawful contact with a child
- » Abandonment of a child
- » Buying or selling a person younger than age 18
- » Child neglect in the first degree
- » Criminal nonsupport
- » Using a child in a display of sexually explicit conduct
- » Encouraging child sexual abuse
- » Possession of materials depicting sexually explicit conduct of a child
- » Burglary or robbery if the crime involves violence
- » Unlawful use of a weapon if the crime involves violence
- » Compelling prostitution, if the victim is a child or the person's spouse
- » Luring a minor

An applicant will be disqualified if he or she has been convicted within the past 5 years of a felony crime that involves any of the following:

- Physical assault or battery
- A drug-related offense

Pennsylvania

Current Through September 2018

Who Needs Records Checks

Citation: Cons. Stat. Ch. 23, § 6344

Background checks are required for the following individuals:

- An employee of child care services
- A foster parent
- A prospective adoptive parent
- A self-employed provider of child care services in a family child care home
- An individual age 14 or older who is applying for or holding a paid position as an employee with a program, activity, or service, as a person responsible for the child's welfare or having direct, unsupervised contact with children
- Any individual seeking to provide child care services under contract with a child care facility or program
- An individual age 18 or older who resides in the home of a foster parent or prospective adoptive parent for at least 30 days in a calendar year
- An individual age 18 or older who resides for at least 30 days in a calendar year in the following homes that are subject to supervision or licensure by the Department of Human Services:
 - » A family living home
 - » A community home for individuals with an intellectual disability
 - » A host home for children

This paragraph does not include an individual with an intellectual disability or chronic psychiatric disability receiving services in a home.

Types of Records That Must Be Checked

Citation: Cons. Stat. Ch. 23, § 6344

Background checks shall include the following:

- A report of criminal history record information from the State police or a statement from the State police that the State police central repository contains no such information relating to that person

- A certification from the department as to whether the applicant is named in the statewide database as the alleged perpetrator in a pending child abuse investigation or as the perpetrator of a founded report or an indicated report
- A report of Federal criminal history record information

If a foster or adoptive parent applicant, or any individual over 18 years of age residing in the home, has resided outside the State at any time within the previous 5-year period, the agency or person designated by the court shall require that person to submit a certification obtained within the previous 1-year period from the statewide central registry, or its equivalent, in each State in which the person has resided within the previous 5-year period.

Process for Obtaining Records Checks

Citation: Cons. Stat. Ch. 23, § 6344

Prior to the commencement of employment or service, an individual listed above shall be required to submit the required information to an employer, administrator, supervisor, or person responsible for making decisions about the placement of children.

The applicant shall submit a full set of fingerprints to the State police for the purpose of a records check, and the State police or its authorized agent shall submit the fingerprints to the Federal Bureau of Investigation for the purpose of verifying the identity of the applicant and obtaining a current record of any criminal arrests and convictions.

Grounds for Disqualification

Citation: Cons. Stat. Ch. 23, § 6344

A prospective foster parent or prospective adoptive parent may not be approved if the prospective parent or an individual age 18 or older who resides in the home for at least 30 days in a calendar year:

- Is named in the statewide database as the perpetrator of a founded report committed within the 5-year period immediately preceding verification
- Has been found guilty of an offense listed below

The application will not be approved if the applicant has been convicted of one or more of the following offenses or an equivalent crime under Federal law or the law of another State:

- Criminal homicide
- Aggravated assault
- Stalking
- Kidnapping
- Unlawful restraint
- Rape, statutory sexual assault, or involuntary deviate sexual intercourse
- Sexual assault, indecent assault, or indecent exposure
- Incest
- Concealing the death of a child
- Endangering the welfare of children
- Dealing in infant children
- Felony prostitution and related offenses
- Obscene and other sexual materials and performances
- Corruption of minors
- Sexual abuse of children
- The attempt, solicitation, or conspiracy to commit any of the offenses listed above

In no case shall an applicant be approved if the applicant's criminal history record information indicates the applicant has been convicted of a felony drug-related offense committed within the 5-year period immediately preceding the application.

Puerto Rico

Current Through September 2018

Who Needs Records Checks

Citation: Ann. Laws Tit. 8, §§ 68; 69; 482; Tit. 32, § 2699b

Background checks are required for the following:

- Child care services providers, including the following:
 - » Owners, administrators, operators, managers, custodians, and the candidates, employees, or volunteers who provide or are interested in providing services in the child care facilities or camps for adolescents
 - » Owners, operators, or employees of daycare centers or daycare homes
- Persons residing and providing care in a foster home or group home
- A prospective adoptive parent

Types of Records That Must Be Checked

Citation: Ann. Laws Tit. 8, § 482; Tit. 32, § 2699b

The background check requires certification that the following records have been checked:

- The Registry of Persons Convicted of Sex Crimes and Child Abuse
- The Criminal Record Register of the Puerto Rico police or the Criminal Justice Information System

Process for Obtaining Records Checks

Citation: Ann. Laws Tit. 8, § 482; Tit. 32, § 2699b

The certification required shall be issued by the Puerto Rico police. The police superintendent shall adopt and promulgate the regulations needed to enforce the provisions of this chapter related to the application and issue of the certification. The regulations may require that the applicant fill out a form with detailed personal information and submit the information as well as a photograph and a sample of his or her fingerprints to the Puerto Rico police. The superintendent may retain the forms, photographs, and fingerprint samples and use them for investigative purposes.

A criminal record certificate of the prospective adoptive parent must accompany the adoption petition.

Grounds for Disqualification

Citation: Ann. Laws Tit. 8, § 482; Tit. 32, § 2699b

No person may provide care for children unless he or she has previously applied for and received a certification indicating that he or she is not registered in the registry of persons convicted of sex crimes and child abuse or has been convicted of any violent sex crime, child abuse, or any of the following felonies:

- Murder, homicide, or incitement to suicide
- Aggravated assault
- Rape, seduction, sodomy, incest, or bestiality
- Indecent exposure, obscene propositions, procurement, roguery, or carnal commerce
- Production, possession, and distribution of child pornography
- Use of a minor for purposes of child pornography
- Restriction of liberty, kidnapping, or child abduction
- Abandonment of a minor
- Illegal deprivation of custody
- Adoption in exchange for payment
- Perversion of a minor
- Public mendicancy by a minor
- Theft, extortion, or imposture
- Abuse against minors or disabled persons
- Arson or devastation
- A violation of the Controlled Substances Act

Rhode Island

Current Through September 2018

Who Needs Records Checks

Citation: Gen. Laws §§ 14-1-34; 15-7-11; 40-13.2-4 through 40-13.2-5.1; Code of Rules §§ 03-240-802; 03-240-806

Background checks are required for the following persons:

- Prospective foster parents
- Prospective adoptive parents and any household member age 18 or older
- Operators and employees of child care facilities
- Operators, employees, and volunteers of a facility or program that is a youth-serving agency

In regulation: Background checks are required for the following:

- All placements with relatives
- Any person seeking to operate a residential care facility, daycare center, or family daycare home
- Prospective employees of home daycare providers
- All persons who are offered employment in positions that involve supervisory or disciplinary power over children or involve routine contact with children without the presence of other employees

Types of Records That Must Be Checked

Citation: Gen. Stat. §§ 14-1-34; 40-13.2-2; Code of Rules § 03-240-806

Background investigations require checks of the following:

- A State and nationwide criminal records
- The child abuse and neglect tracking system of substantiated complaints

In regulation: For the nationwide criminal records check, the person's fingerprints are compared to those on file through the National Criminal Identification computer operated by the Federal Bureau of Investigation.

Process for Obtaining Records Checks

Citation: Gen. Stat. §§ 14-1-34; 15-7-11

For a prospective foster parent, the Department for Children, Youth and Families (DCYF) shall apply to the Bureau of Criminal Identification of the State police or the local police department for a nationwide criminal records check, or the DCYF may directly process a nationwide criminal records check of prospective foster parents and any household member age 18 and older. The check will conform to the applicable Federal standards, including the taking of fingerprints to identify the applicant. DCYF shall request the attorney general, through the Division of Criminal Identification, to make available any criminal record of present and prospective foster parents. The attorney general shall immediately comply with that request, and DCYF shall examine these records in determining the suitability of these persons to be foster parents. The criminal records check shall be conducted without charge to the foster parents.

As part of the investigation or investigative home study report for a prospective adoptive parent, a request shall be made to the attorney general through the Division of Criminal Identification to make available any criminal record maintained by the division. The prospective adoptive parent shall apply to the Bureau of Criminal Identification of the State police or the local police department for a nationwide criminal records check.

At the conclusion of a background check, the State police, attorney general, or the local police department shall promptly destroy the fingerprint record of the applicant.

Grounds for Disqualification

Citation: Code of Rules § 03-240-806

An applicant will be disqualified when information from the national criminal records check reveals a conviction or arrest pending disposition for any of the crimes identified below:

- Murder, voluntary manslaughter, or involuntary manslaughter
- Kidnapping or kidnapping with intent to extort
- Sexual assault, assault by a spouse, assault with intent to commit specified felonies, felony assault, or domestic assault
- Felony child abuse

- Incest
- Child snatching
- Exploitation for commercial or immoral purposes
- Public indecency
- Transportation for indecent purposes, harboring, prostitution, or pandering
- Deriving support or maintenance from prostitution
- Circulation of obscene publications and shows
- Sale or exhibition to minors of indecent publications, pictures, or articles
- Child nudity in publication
- Any drug-related offense

South Carolina

Current Through September 2018

Who Needs Records Checks

Citation: Ann. Code §§ 63-7-2340; 63-7-2330; Code of Regs. § 114-503

Background checks are required for the following persons:

- A person applying for licensure as a foster parent
- A person applying for approval for an adoption placement
- A person age 18 or older residing in the home of a prospective foster or adoptive parent
- A person applying to provide foster care for a relative child

In regulation: The director, staff, and employees of a child care facility are required to undergo background checks.

Types of Records That Must Be Checked

Citation: Ann. Code § 63-7-50; Code of Regs. § 114-550

At a minimum, the Department of Social Services shall require that all foster care and adoptive parent applicants undergo a State fingerprint review to be conducted by the State Law Enforcement Division (SLED) and a fingerprint review to be conducted by the Federal Bureau of Investigation (FBI). The department also shall check the following:

- The State central registry of child abuse and neglect
- Department records
- The equivalent registry system for each State in which the person has resided for 5 years preceding an application for licensure as a foster parent
- The national sex offender registry
- The State sex offender registry for applicants and all persons age 12 and older residing in the home of an applicant

In regulation: The background study must include a check of the following:

- Child abuse and neglect history
- State and national criminal records history
- The sex offender registry

Process for Obtaining Records Checks

Citation: Ann. Code § 63-7-2340; Code of Regs. § 114-550

An applicant must undergo a State fingerprint review to be conducted by SLED to determine any State criminal history and a fingerprinting review to be conducted by the FBI to determine any other criminal history.

In regulation: Each applicant shall be assessed by designated staff of the Department of Social Services or by designated staff of a licensed child-placing agency. As part of the assessment, background checks shall be documented, including a review of abuse and neglect history, criminal history found with SLED and the FBI, and the sex offender registry.

Grounds for Disqualification

Citation: Ann. Code § 63-7-2350

No child in the custody of the department may be placed in foster care or for adoption with a person if the person or anyone age 18 or older residing in the home:

- Has a substantiated history of child abuse or neglect
- Has pled guilty or nolo contendere to or has been convicted of any of the following:
 - » An 'offense against the person' as provided for in title 16, chapter 3, including homicide, spousal sexual battery, criminal sexual conduct, and trafficking in persons
 - » An 'offense against morality or decency' as provided for in title 16, chapter 15, including bigamy, incest, criminal solicitation of a minor, and sexual exploitation of a minor
 - » Contributing to the delinquency of a minor
 - » Assault and battery of a high and aggravated nature when the victim was a person age 17 or younger
 - » Criminal domestic violence or criminal domestic violence of a high and aggravated nature
 - » A felony drug-related offense
 - » Unlawful conduct toward a child
 - » Cruelty to children
 - » Child endangerment
 - » Criminal sexual conduct with a minor
 - » A criminal offense similar in nature to a crime listed above that was committed in another jurisdiction or under Federal law

South Dakota

Current Through September 2018

Who Needs Records Checks

Citation: Ann. Laws §§ 25-6-9.1; 26-6-14; 26-6-14.4

Background checks are required for the following individuals and entities:

- A prospective adoptive parent and members of the prospective parent's household
- Foster home caregivers
- Staff at any intensive residential treatment center, residential treatment center, group care center, or group home
- Staff at any daycare facility
- Staff at a child-placing agency
- Staff at a before- and after-school daycare programs
- Staff providing of supervision and training for youth age 16 through 20 who are wards of the State in an independent-living preparation program
- Any adult, including a volunteer, who:
 - » Is responsible for administration or direct supervision of staff
 - » Resides in the facility
 - » Provides care and supervision to the children

Types of Records That Must Be Checked

Citation: Ann. Laws §§ 26-6-14.3; 25-6-9.1; Admin. Code §§ 67:14:32:05.03; 67:42:01:05.02

For a foster care applicant and any other person specified in §§ 26-6-14 and 26-6-14.4, a criminal records check is required.

An adoption home study must include a fingerprint-based criminal records check completed by the Division of Criminal Investigation and a central registry screening completed by the Department of Social Services. In addition, no child who is in the custody of the department may be placed in a home for adoption until a fingerprint-based criminal records check has been completed by the Federal Bureau of Investigation for each adopting parent.

In regulation: An applicant shall be screened to determine if he or she has been involved in any substantiated incidents of child abuse or neglect. The individual may not have a substantiated report of child abuse or neglect. Substantiated reports of child abuse or neglect include reports placed into the department's central registry, reports placed on the central registry of another State, and reports that were investigated and substantiated by a Tribal program.

Process for Obtaining Records Checks**Citation: Ann. Laws §§ 23-5-12; 26-6-14.3; 26-6-14.5; Admin. Code §§ 67:14:32:05.03; 67:42:01:05.02**

Any person may examine criminal history information filed with the attorney general that refers to that person. The person requesting such information shall supply the attorney general with a written request together with fingerprint identification. The person may also authorize the attorney general to release his or her criminal history information to other individuals or organizations. The attorney general may require the person to sign a waiver releasing the State, its employees, or its agents from any liability before releasing criminal history information.

For each applicant, the department shall obtain the criminal record from an appropriate law enforcement agency to determine whether the applicant has ever been convicted of a crime specified by the rules of the department.

The applicant must sign the waiver, be fingerprinted, and sign a declaration under penalty of perjury regarding any prior criminal conviction and military history. The applicant shall submit the fingerprints to the South Dakota Division of Criminal Investigation and the Federal Bureau of Investigation Identification Division.

In regulation: The department shall screen an applicant, family members, and other household members who are age 10 and older to determine if the individual has been involved in any substantiated incidents of child abuse or neglect.

Grounds for Disqualification**Citation: Ann. Laws §§ 26-6-14.3; 26-6-14.11; Admin. Code §§ 67:14:32:05.03, .05; 67:42:01:05.01, .02**

If it is found that the applicant or any other person specified in § 26-6-14.4 has been convicted of a crime specified by the rules of the department, the application shall be denied.

A person will be disqualified if he or she:

- Has been convicted of any of the following:
 - » Child abuse pursuant to chapter 26-10
 - » A sex offense pursuant to chapter 22-22
 - » Within the preceding 5 years, any other felony
- Is listed on the sex offender registry
- Is listed on the central registry for child abuse and neglect

In regulation: An individual is not eligible to receive a foster home license or approval as an adoptive parent if the individual or any other adult living in the home has a conviction for any of the following:

- A crime that would indicate harmful behavior toward children
- A crime of violence, as defined by § 22-1-2 or a similar statute from another State, including any of the following:
 - » Murder or manslaughter
 - » Rape
 - » Aggravated assault
 - » Riot
 - » Robbery or burglary in the first degree
 - » Arson
 - » Kidnapping
 - » Felony sexual contact
 - » Felony child abuse
- A sex crime pursuant to chapter 22-22 (including rape and sexual exploitation of a minor), chapter 22-24A (child pornography), or § 22-22A-3 (aggravated incest) or similar statutes from another State
- Within the preceding 5 years, a conviction for any other felony

A prospective foster or adoptive parent may not have a substantiated report of child abuse or neglect.

Tennessee

Current Through September 2018

Who Needs Records Checks

Citation: Ann. Code §§ 71-3-507; 37-2-414; 71-3-501; 49-1-1102

Background checks are required for the following persons:

- A person applying to work or substitute in any capacity as a paid employee, licensee, or operator, substitute or volunteering, with children with the entities listed below or who otherwise has access to children in those entities
- An applicant for a foster parent position or an applicant to be an adoptive parent
- A person age 15 or older who resides in a child care agency
- A person seeking to become a kinship foster parent for a related child

The term 'child care agency' includes a family child care home, a group child care home, a child care center, or a drop-in center. The term 'child care program' includes the following:

- Child care for children in a before- or after school-based program operated by a local board of education
- A public school-administered early childhood education program
- A church-affiliated program
- A federally funded early childhood education program such as a title I program, a school-administered Head Start program, or an Even Start program
- A State-approved Montessori school program
- A program operated by a private school

Types of Records That Must Be Checked

Citation: Ann. Code §§ 71-3-507; 37-2-414

For a prospective foster or adoptive parent and persons who will be employed by or otherwise present at a child care agency or child care program, the background check shall include the following:

- A fingerprint-based review of criminal and juvenile records available to the Tennessee Bureau of Investigation (TBI) to be conducted by the TBI
- A review of the person's status on the Department of Health's vulnerable persons registry
- A review of the person's status on the State sex offender registry
- A review of the Department of Children's Services and the Department of Human Services records of indicated perpetrators of abuse or neglect of children or adults
- A review of equivalent administrative registries in any jurisdiction in which the person has resided in the past 5 years
- A review of any available juvenile records in juvenile court

A person may become a kinship foster parent only upon the completion of an investigation to ascertain if there is a State or Federal record of criminal history for the prospective kinship foster parent or any other adult residing in the prospective parent's home.

Process for Obtaining Records Checks

Citation: Ann. Code §§ 37-5-511; 71-3-507

Each person requiring a background check shall complete a criminal history disclosure form and shall agree to release all records involving the person relating to his or her criminal history. The person also shall supply fingerprint samples to the TBI and to the Federal Bureau of Investigation and shall submit to a review of his or her status on the vulnerable persons registry.

The disclosure forms shall disclose any information relative to any violations of the law, including pending criminal charges of any kind, and provide space for the applicant to state any circumstances that should be considered in determining whether to allow the person to be approved.

The disclosure form shall be sent to the department by the child care agency and, pursuant to § 38-6-109, the department may directly access the computer files of the TBI's Tennessee Crime Information Center using only names or other identifying data elements contained in the disclosure form or such other information as may be available to the department to obtain available Tennessee criminal history background information for the purpose of criminal background reviews.

If information obtained by this method indicates that there exists or may exist a criminal record on the individual, the department shall further review the criminal record history with the individual and the entity with whom the individual is associated to obtain

further verification, and the department shall request fingerprint samples from the individual and submit the fingerprints for a complete Tennessee and Federal criminal history background review pursuant to § 38-6-109.

Grounds for Disqualification

Citation: Ann. Code § 71-3-507

No person shall be approved as a foster or adoptive parent, and no person shall be employed with, be a licensee, or operator of, provide substitute services to, or have any access whatsoever to children in a child care agency or program, if that person's criminal or available juvenile background records, registry, or perpetrator records demonstrate that the person has been convicted of or pled guilty or no contest to an offense or lesser included offense, is the subject of a juvenile petition or finding that would constitute an offense or lesser included offense, or whose criminal or juvenile background history report or other information demonstrates the existence of a pending warrant, indictment, presentment or petition, involving the following:

- The physical, sexual, or emotional abuse or neglect of a child
- A crime of violence against a child or any person
- Any offense determined by the department, pursuant to properly promulgated rules, to present a threat to the health, safety, or welfare of children
- The identification of the person on the vulnerable persons registry, the State sex offender registry, or department records of indicated perpetrators of abuse or neglect of children or adults, or available juvenile court records demonstrates a history that would require the person's exclusion under this part

Texas

Current Through September 2018

Who Needs Records Checks

Citation: Gov't. Code § 411.114

The Department of Family and Protective Services (DFPS) shall obtain criminal history record information that relates to a person who is any of the following:

- An owner, operator, employee, or an applicant for employment by a child care facility, child-placing agency, or licensed family home
- A person age 14 or older who will be regularly or frequently working or staying in a facility or family home
- An applicant for a position with the DFPS that includes direct delivery of protective services to children
- A registered volunteer with the DFPS
- A prospective foster or adoptive parent and other persons living in the residence in which the child will reside
- A DFPS employee who is engaged in the direct delivery of protective services to children
- An employee, applicant for employment, volunteer, or an applicant volunteer with a nonprofit, tax-exempt organization that provides any service that involves the care of or access to a child
- An applicant for a child-care or child-placing agency administrator license
- A person providing, at the request of the child's parent, in-home care for a child only if the person gives written consent to the release of the information
- A relative caregiver or any other person who resides in, is present in, or has unsupervised access to a child in the home
- A person who volunteers to supervise visitation
- An employee or volunteer at an entity that provides supervised independent living services to a young adult receiving extended foster care services
- A person age 14 or older who will be regularly or frequently working or staying in a host home that is providing supervised independent living services to a young adult
- A volunteer with a local affiliate of Big Brothers Big Sisters of America
- A volunteer with an organization that provides court-appointed volunteer advocates for abused or neglected children
- An employee, volunteer, or applicant volunteer of a children's advocacy center

Types of Records That Must Be Checked**Citation: Admin. Code Tit. 40, §§ 745.611**

A background check may include the following:

- A name-based criminal history check of the database of crimes committed in the State of Texas
- A fingerprint-based criminal history check by the DPS and the Federal Bureau of Investigation of databases of crimes committed in Texas and anywhere in the United States
- A DFPS central registry check
- An out-of-State central registry check

A name-based criminal history check and a DFPS central registry check are required for any person listed above. In addition, fingerprint-based criminal history checks are required for the following:

- An applicant, employee, or other person who will be on the premises of a child-placing agency, general residential operation, independent foster home, child care center, before- or after-school program, or school-age program
- A person who has lived in another State any time during the 5-year period prior to the date of application

In addition, child-placing agencies and independent foster homes that will accept the placement of children in the conservatorship of DFPS must request an out-of-State central registry check for a foster or adoptive parent applicant and any other adult living in the home of the applicant who has lived outside of the State any time during the previous 5 years preceding the prospective foster or adoptive parent's application to become a foster or adoptive parent.

Process for Obtaining Records Checks**Citation: Admin. Code Tit. 40, § 745.623**

To obtain a background check, a request must be submitted with the following information about the person:

- Full name, date of birth, sex, and Social Security number
- Current and previous addresses
- Driver's license or a State-issued identification card number
- Any addresses, including counties, in which the person has lived outside of the State of Texas any time during the 5 years preceding the date of the background check request

A child daycare operator other than a child care center, before- or after-school program, or school-age program must complete a request either online through the DFPS website or send in a request via a signed form provided by the local licensing office or the DFPS Centralized Background Check Unit. For a residential child care operation or a child care center, before- or after-school program, or school-age program, the request must be submitted online through the DFPS website.

Grounds for Disqualification**Citation: Admin. Code Tit. 40, §§ 745.651; 745.656; 745.657**

An applicant may be disqualified for a felony or misdemeanor conviction under Texas law, the laws of another State, or Federal law.

An applicant will be permanently disqualified if he or she has been convicted of a crime listed in regulation, including any of the following:

- Criminal solicitation of a minor
- Murder, manslaughter, or criminally negligent homicide
- Aggravated kidnapping
- Trafficking or smuggling of persons
- Continuous sexual abuse of a young child or children
- Indecency with a child
- Sexual assault
- Abandoning or endangering a child
- Sale or purchase of a child
- Continuous violence against the family
- Online solicitation of a minor
- Compelling prostitution or sexual coercion
- Sexual performance by a child

- Possession or promotion of child pornography
- Unregulated custody transfer of an adopted child
- Obscenity or voyeurism
- Arson

An applicant will be barred for 20 years, then forever subject to a risk evaluation, for a conviction for a crime listed in regulation, including any of the following:

- Unlawful restraint
- Kidnapping
- Aggravated assault
- Terroristic threat
- Tampering with a consumer product
- Prohibited sexual conduct
- Interference with child custody
- Enticing a child
- Violation of a protective order
- Advertising for placement of a child
- Robbery
- Stalking
- Prostitution
- Sale, distribution, or display of harmful material to a minor
- Employment harmful to children

An applicant will be barred for 5 years, then be subject to a risk evaluation for an additional 5 years, if he or she has been convicted of any of the following:

- Driving, flying, or boating while intoxicated
- Drug-related offenses

A person who is required to register as a sex offender in Texas also will be disqualified.

Except for a person described below, when a central registry check reveals a sustained finding of physical abuse, sexual abuse, labor trafficking, or sex trafficking, the person will be permanently disqualified. For a sustained finding of emotional abuse or neglect, the person is eligible for a risk evaluation that may lead to an approval.

A prospective foster or adoptive parent, or a member of the prospective parent's household, is eligible for a risk evaluation for a sustained finding of physical abuse if either of the following applies:

- It has been more than 5 years since the date of the physical abuse finding.
- The prospective foster or adoptive parent is related to or has a significant longstanding relationship with the foster or adoptive child.

Utah

Current Through September 2018

Who Needs Records Checks

Citation: Ann. Code § 78B-6-131; Admin. Code R501-12-4; R512-40-5 ; R430-6-2

Background checks are required for the following persons:

- A prospective foster parent or a prospective adoptive parent
- A relative seeking to serve as a foster or adoptive placement for the child

In regulation: Background checks also are required for the following persons:

- All persons age 18 or older residing in the home of a prospective foster parent
- All adults present in the home of a prospective adoptive parent

- An applicant for a child care license and individuals associated with the child care facility, including the following:
 - » Owners, directors, and members of the governing body
 - » Employees and providers of care, including children residing in a home where child care is provided
 - » Volunteers, excluding parents of children enrolled in the program
 - » All individuals age 12 and older residing in a residence in which child care is provided
 - » Anyone who has unsupervised contact with a child in care

Types of Records That Must Be Checked**Citation: Ann. Code §§ 78B-6-131; 62A-2-120**

A background check shall include the following:

- A fingerprint-based national criminal history records check conducted by the Federal Bureau of Investigation
- A check of the child abuse and neglect registry in each State in which the person resided in the 5 years immediately preceding the date of application

The types of checks also shall include the following:

- A search of State, regional, and national criminal background databases for the applicant's criminal history
- A search of the Department of Human Services, Division of Child and Family Services' licensing information system
- A search of the Department of Human Services, Division of Aging and Adult Services' vulnerable adult abuse, neglect, or exploitation database
- A search of the juvenile court records for substantiated findings of severe child abuse or neglect
- A search of the juvenile court arrest, adjudication, and disposition records

In addition to the requirements described above, if an applicant spent time outside of the United States and its territories during the 5 years immediately preceding the date the background check request is submitted, the applicant may be required to submit documentation establishing whether the applicant was convicted of a crime during the time that he or she spent outside of the United States or its territories.

Process for Obtaining Records Checks**Citation: Ann. Code § 62A-2-120**

For the background check, an applicant shall submit the following to the Office of Licensing within the Department of Human Services:

- Personal identifying information, including the person's:
 - » Current name, former names, nicknames, and aliases
 - » Date of birth
 - » Physical address, email address, and telephone number
 - » Driver license or other government-issued identification
 - » Social Security number
- For applicants age 18 and older, a set of fingerprints
- A form for consent for the background check

The office shall perform the following duties as part of a background investigation:

- Check State and regional criminal background databases for the applicant's criminal history by:
 - » Submitting personal identifying information to the Bureau of Criminal Identification within the Department of Public Safety for a search
 - » Using the applicant's personal identifying information to search State and regional criminal background databases
- Submit the applicant's personal identifying information and fingerprints to the bureau for a criminal history search of applicable national criminal background databases
- Search the Division of Child and Family Services' licensing information system
- Search the Division of Aging and Adult Services' vulnerable adult abuse, neglect, or exploitation database
- Search the juvenile court records for substantiated findings of severe child abuse or neglect

Grounds for Disqualification**Citation: Ann. Code § 62A-2-120**

The office shall deny an application to an applicant who, within 3 years before the date of application, has been convicted of any of the following:

- Domestic violence, lewdness, voyeurism, battery, cruelty to animals, or bestiality
- Any pornography law, including sexual exploitation of a minor
- Prostitution
- An offense included in the following:
 - » Title 76, chapter 5, Offenses Against the Person
 - » Section 76-5b-201, Sexual Exploitation of a Minor
 - » Title 76, chapter 7, Offenses Against the Family
- Aggravated arson
- Aggravated burglary or aggravated robbery
- Identity fraud crime
- A conviction for an offense committed outside of the State that, if committed in the State, would constitute an offense described above

The office shall deny a license to a prospective foster parent or a prospective adoptive parent if the applicant has been convicted of any of the following:

- Child abuse
- Domestic violence or domestic violence in the presence of a child
- Abuse or neglect of a child with a disability
- Endangerment of a child or vulnerable adult
- Aggravated murder, murder, manslaughter, child abuse homicide, or homicide by assault
- Kidnapping, child kidnapping, or aggravated kidnapping
- Human trafficking of a child
- An offense described in title 76, chapter 5, part 4, Sexual Offenses
- Sexual exploitation of a minor
- Aggravated arson
- Aggravated burglary or aggravated robbery
- An offense committed outside the State that, if committed in the State, would constitute an offense described above

The office shall deny a license to a prospective foster parent or a prospective adoptive parent if, within the 5 years immediately preceding the date on which the individual's application or license would otherwise be approved, the applicant was convicted of a felony involving conduct that constitutes a violation of any of the following:

- Aggravated assault
- Aggravated assault by a prisoner
- Mayhem
- A drug-related offense

In addition, the office shall conduct a comprehensive review of an applicant's background check if the registry check indicates that the individual is listed in a child abuse and neglect registry of this State or another State as having a substantiated or supported finding of a severe type of child abuse or neglect.

Vermont

Current Through September 2018

Who Needs Records Checks

Citation: Ann. Stat. Tit. 15A, § 1-113; Tit. 33, § 151; Code of Rules §§ 13-162-007; 13-171-003; 13-171-004; 13-171-005

Background checks are required for the following persons:

- Prospective adoptive parents
- Employees and volunteers of a family child care home

In regulation: Background checks are required for the following persons:

- All persons who have contact with children, including prospective foster parents and other members of the household
- Administrators, site directors, program staff, and substitutes of afterschool child care programs
- Licensees, staff persons, and auxiliary staff persons of center-based child care and preschool programs
- Operators of registered and licensed family child care homes and any person age 16 and older residing in the home

Types of Records That Must Be Checked

Citation: Ann. Stat. Tit. 15A, § 1-113; Tit. 33, § 152

A criminal records check shall include a request to the Vermont Crime Information Center to obtain the following:

- The record of Vermont convictions and pending criminal charges for any person being evaluated
- The record of convictions and pending criminal charges of the appropriate criminal repositories in all States in which there is reason to believe the applicant has resided or been employed

If no disqualifying record is identified at the State level, the Vermont Crime Information Center shall request from the Federal Bureau of Investigation (FBI) a national criminal history records check of the applicant's convictions and pending criminal charges. The request to the FBI shall be accompanied by a set of the applicant's fingerprints.

The investigation shall include a check for any record of substantiated reports of child abuse.

Process for Obtaining Records Checks

Citation: Ann. Stat. Tit. 15A, § 2-203; Tit. 33, § 151

A person being evaluated shall submit to fingerprinting and sign a release permitting the evaluator to obtain from an appropriate law enforcement agency any record indicating that the person has been convicted of a crime other than a minor traffic violation. In addition, a person being evaluated shall, at the request of the evaluator, sign any release necessary for the evaluator to obtain information required to complete the preplacement evaluation.

The commissioner for Children and Families may obtain from the Vermont Crime Information Center the record of convictions of any person to the extent required by law, or the commissioner has determined by rule that such information is necessary to regulate a facility or individual subject to regulation by the Department of Children and Families or to carry out the department's child protection obligations. The commissioner shall first notify the person whose record is being requested.

The owner or operator of a child care facility may ask the commissioner for the record of convictions and the record of substantiated reports of child abuse of a current employee or a person to whom the owner or operator has given a conditional offer of employment. The request shall be in writing and shall be accompanied by a release signed by the current or prospective employee.

If the person has a record of convictions, the commissioner shall provide the owner or operator with a copy of the record. If the person has a record of substantiated reports of child abuse, the commissioner shall inform the requesting owner or operator that such record exists.

Grounds for Disqualification

Citation: Ann. Stat. Tit. 15A, § 2-203; 2-204; Code of Rules §§ 13-162-007; 13-171-003; 13-171-004; 13-171-005

For a prospective adoptive parent, an evaluator shall assess the information collected for the preplacement evaluation to determine whether it raises a concern that placement of any minor, or a particular minor, in the home of the person would pose a risk of harm to the physical or psychological well-being of the minor. The information that will be assessed includes the results of the records checks that have been completed, including whether the person has been:

- Subject to an abuse prevention order
- Charged with or convicted of domestic assault, first-degree aggravated domestic assault, or second-degree aggravated domestic assault
- The subject of a substantiated complaint filed with the department
- Subject to a court order restricting the person's right to parental rights and responsibilities or parent-child contact with a child

If an evaluator determines that the information raises a concern that placement of a minor in the person's home would pose a risk of harm to the physical or psychological well-being of the minor, the evaluator shall find that the person is or is not suited to be an adoptive parent.

In regulation: A license may be denied if the foster parent applicant or other member of the household:

- Has been charged with or convicted of a criminal offense
- Has current, unresolved problems with alcohol or other chemicals
- Has abused or neglected a child

The licensee of an afterschool program shall ensure that no person who has contact with children shall have a history of child abuse or criminal activity that would disqualify them. The following persons may not provide care, reside at, be employed by, or have contact with children at a licensed program:

- Persons convicted of fraud, felony, or an offense involving violence or unlawful sexual activity or other bodily injury to another person, including, but not limited to, abuse, neglect, or sexual activity with a child
- Persons found by a court to have abused, neglected, or mistreated a child, an elderly or disabled person, or an animal
- Adults or children who have had a report of abuse or neglect substantiated against them

The following persons are prohibited and shall not operate, be employed at, or be allowed unsupervised access to children at a center-based child care operation or a family child care home:

- A person who is required to complete a background check who refuses or knowingly makes a material false statement in connection with such background check
- A person convicted of fraud
- A person convicted of any of the following felonies:
 - » Murder
 - » Child abuse or neglect
 - » A crime against children, including sexual activity or child pornography
 - » Spousal abuse
 - » A crime involving rape or sexual assault
 - » Kidnapping
 - » Arson
 - » Physical assault or battery
 - » A drug-related offense committed during the preceding 5 years
- A person convicted of any of the following misdemeanor offenses against a child or another person:
 - » Violence
 - » Child abuse or neglect
 - » Child endangerment
 - » Sexual assault or activity
 - » Child pornography
 - » Other bodily injury
- A person found by a court to have abused, neglected, or mistreated a child, elderly or disabled person, or animal
- An adult or child who has had a report of abuse or neglect substantiated against them
- A person who is registered or is required to be registered on a State sex offender registry or the National Sex Offender Registry

Virgin Islands

Current Through September 2018

Who Needs Records Checks

Citation: Ann. Code Tit. 34, § 388; Code of Rules Tit. 34, §§ 381-501; 382-501; 383-501; 384-501

Background checks for foster or adoptive parents are not addressed in statute or regulation.

The Department of Human Services will conduct an investigation of a person desiring to operate a child daycare facility.

In regulation: Background checks are required for owners, operators, employees, and volunteer staff members of infant and child care facilities, family day care homes, group day care homes, and children's camps.

Types of Records That Must Be Checked**Citation: Ann. Code Tit. 34, § 388; Code of Rules Tit. 34, § 381-501**

Background checks for foster or adoptive parents are not addressed in statute or regulation.

The investigation shall include the applicant's employment history and a check of the nationwide criminal recordkeeping systems in the United States.

In regulation: Owners, operators, employees, and volunteer staff members of infant and child care facilities are subject to a national criminal investigation check by the Virgin Islands Police Department.

Process for Obtaining Records Checks**Citation: Ann. Code Tit. 34, § 388**

Background checks for foster or adoptive parents are not addressed in statute or regulation.

The department shall supply the applicant with the appropriate application forms and a copy of the appropriate minimum standards.

Grounds for Disqualification**Citation: Code of Rules Tit. 34, §§ 381-501; 382-501; 383-501; 384-501**

Owners, operators, employees, and volunteer staff members of infant and child care facilities, family day care homes, group day care homes, and children's camps shall be of good moral character. No person convicted of a crime involving child abuse, child neglect, moral turpitude, or a felony shall be the owner, operator, employee, or volunteer staff member of an infant and child care facility, family day care home, group day care home, or children's camp.

Virginia

Current Through September 2018

Who Needs Records Checks**Citation: Ann. Code §§ 63.2-1720; 63.2-1720.1; 63.2-1721; 63.2-1721.1; 63.2-1724; 63.2-900.1; 63.2-1726; Admin. Code Tit. 22, § 40-211-20**

Background checks are required for the following persons and entities:

- Employees and volunteers of licensed child-placing agencies, independent foster homes, or family day systems
- Employees and volunteers of registered family day homes or family day homes approved by a family day systems
- Employees and volunteers of child day centers or licensed family day homes
- Applicants and agents who are or will be involved in the day-to-day operations of a child-placing agency, independent foster home, family day system, family day home, child day center, or family day home or who are or will be alone with, in control of, or supervising one or more of the children
- Any other adult living in the home of an applicant for registration as a family day home
- Prospective employees, volunteers, or other persons who are expected to be alone with one or more children enrolled in a child day center that is exempt from licensure
- Relatives requesting approval as kinship foster care providers
- Employees, volunteers, and service providers of children's residential facilities

In regulation: Background checks are required for applicants for approval as foster families, adoptive families, resource families, or respite families.

Types of Records That Must Be Checked**Citation: Ann. Code §§ 63.2-1720; 63.2-1721**

Background checks require all of the following:

- A sworn statement or affirmation disclosing whether the person has a criminal conviction or is the subject of any pending criminal charges within or outside the Commonwealth and whether or not the person has been the subject of a founded complaint of child abuse or neglect within or outside the Commonwealth
- A criminal history records check through the Central Criminal Records Exchange pursuant to § 19.2-389
- A search of the central registry for any founded complaint of child abuse and neglect

Process for Obtaining Records Checks**Citation: Ann. Code §§ 63.2-1720.1; 63.2-1721.1**

An applicant required to undergo a background check shall do all of the following:

- Provide a sworn statement or affirmation disclosing whether he or she has ever been convicted of or is the subject of pending charges for any offense within or outside the Commonwealth and whether he or she has been the subject of a founded complaint of child abuse or neglect within or outside the Commonwealth
- Submit to fingerprinting and provide personal descriptive information described in § 19.2-392.02(B)(2)
- Authorize the State Department of Social Services to obtain a copy of information from the central registry maintained on any investigation of child abuse or neglect undertaken on him or her

The applicant's fingerprints and personal descriptive information shall be forwarded through the Central Criminal Records Exchange to the Federal Bureau of Investigation for the purpose of obtaining national criminal history record information regarding the applicant. Upon receipt of an applicant's record or notification that no record exists, the Central Criminal Records Exchange shall forward the information to the department, and the department shall report to the applicant's prospective employer whether the applicant is eligible to have responsibility for the safety and well-being of children. In cases in which the record forwarded to the department is lacking disposition data, the department shall conduct research in whatever State and local recordkeeping systems are available in order to obtain complete data before reporting to the applicant's prospective employer.

Grounds for Disqualification**Citation: Ann. Code §§ 63.2-1722; 19.2-392.02; 63.2-1721**

An applicant may be denied approval if the background check indicates that the applicant has been convicted of any barrier crime, as defined in § 19.2-392.02, or is the subject of a founded complaint of child abuse or neglect within or outside the Commonwealth. A 'barrier crime' includes, but is not limited to, any of the following:

- A felony violation of a protective order
- Murder or manslaughter
- Malicious wounding by mob
- Abduction or abduction for immoral purposes
- Kidnapping
- Assault and bodily wounding
- Robbery
- Carjacking
- Adulteration of food, drink, drugs, cosmetics, etc.
- Extortion by threat, threats of death or bodily injury, or felony stalking
- Sexual assault
- Arson
- Drive-by shooting
- Use of a machine gun or sawed-off shotgun in a crime of violence
- Prostitution, commercial sexual conduct, or commercial exploitation of a minor
- Human trafficking or commercial sex trafficking
- Crimes against nature involving children
- Incest
- Taking indecent liberties with children
- Abuse and neglect of children
- Failure to secure medical attention for an injured child
- Obscenity offenses or employing or permitting a minor to assist in any obscenity-related offense
- Possession of child pornography
- Electronic facilitation of pornography
- Delivery of drugs to prisoners
- Escape from jail
- Felonies by prisoners

- Any offense listed in § 9.1-902 that results in the person's requirement to register with the Sex Offender and Crimes Against Minors Registry
- An equivalent offense in another State

In the case of child welfare agencies and foster and adoptive homes approved by child-placing agencies, a 'barrier crime' also shall include convictions for any of the following:

- Burglary
- Any felony violation relating to possession or distribution of drugs
- An equivalent offense in another State

Child welfare agencies and foster and adoptive homes approved by child-placing agencies also may be disqualified for either of the following:

- A conviction of any other felony not listed above unless 5 years have elapsed since conviction
- A founded complaint of child abuse or neglect within or outside the Commonwealth

A child-placing agency may approve as a foster or adoptive parent an applicant for whom any of the following apply:

- He or she has been convicted of not more than one misdemeanor not involving abuse, neglect, or moral turpitude of a minor, provided 10 years have elapsed following the conviction.
- He or she has been convicted of statutory burglary for breaking and entering a dwelling, home, or other structure with intent to commit larceny, who has had his or her civil rights restored by the governor, provided 25 years have elapsed.
- He or she has been convicted of felony possession of drugs who has had his or her civil rights restored by the governor, provided 10 years have elapsed.

Washington

Current Through September 2018

Who Needs Records Checks

Citation: Rev. Code §§ 74.15.030; 43.215.270; Admin. Code § 110-04-0040

Background checks are required for the following persons and entities:

- Agencies and their staff, volunteers, students, and interns
- Prospective foster and adoptive parents
- Any adult living in a home in which a child may be placed
- Relatives by blood or marriage who will be caring for the child
- Providers of child care and early learning services to children

In regulation: The Department of Children, Youth, and Families requires background checks on all providers who may have unsupervised access to children. The department requires background checks on the following people:

- A volunteer or intern with regular or unsupervised access to children
- Any person who regularly has unsupervised access to a child
- A relative other than a parent who may be caring for a child
- A person who is at least age 16 and resides in a foster, relative, or other suitable person's home and is not a foster child
- A person who is younger than age 16 in situations in which it may be warranted to ensure the safety of children in out-of-home care

Per § 13.34.138, prior to returning a dependent child home, the department requires a background check on all adults residing in the home.

Types of Records That Must Be Checked

Citation: Rev. Code §§ 43.43.837; 74.15.030; Admin. Code § 110-04-0080

The background check shall include the following:

- A fingerprint-based criminal history background check through the Washington State Patrol Identification and Criminal History Section and the Federal Bureau of Investigation
- A review of child protective services information or records maintained in the department case management information system

- For any adult living in the home who has not resided in the State of Washington for the preceding 5 years, a review of any child abuse and neglect registries maintained by any State in which the adult has resided over the preceding 5 years

In regulation: The background check may include, but is not limited to, the following information sources:

- Washington State Patrol
- Washington courts
- The Department of Corrections and Department of Health
- Civil adjudication proceedings
- The applicant's self-disclosure
- Out-of-State law enforcement and court records
- Child protective services case files information or other applicable information systems
- Administrative hearing decisions related to any department license that has been revoked, suspended, or denied

In addition to the requirements above, background checks conducted by the Children's Administration for placement of a child in out-of-home care, including foster homes, group care facilities, adoptive homes, relative placements, and placement with other suitable persons, include the following for each person over age 18 residing in the home:

- Child abuse and neglect registries in each State in which a person has lived in the 5 years prior to conducting the background check
- Washington State Patrol and Federal Bureau of Investigation fingerprint-based background checks regardless of the length of residence

A fingerprint-based background check is required on any individual who has resided in the State less than 3 consecutive years before application.

Process for Obtaining Records Checks

Citation: Rev. Code §§ 74.15.030; 26.33.190

The Secretary of Social and Health Services shall have the power and duty to do the following:

- Obtain background information and any out-of-State equivalent to determine whether an applicant or service provider is qualified and to determine the character, competence, and suitability of an agency, the agency's employees, volunteers, and other persons associated with an agency
- Conduct background checks for those who will or may have unsupervised access to children
- Obtain child protective services information or records maintained in the department case management information system
- Submit a fingerprint-based background check through the Washington State Patrol and the Federal Bureau of Investigation for person requiring a background check
- Investigate any person, including relatives by blood or marriage except for parents, for character, suitability, and competence in the care and treatment of children

If a child is placed with a relative, and if that relative appears otherwise suitable and competent to provide care, the criminal history background check required by this section need not be completed before placement but shall be completed as soon as possible after placement.

For a prospective adoptive parent, the agency, the department, or court-approved individual who is preparing the preplacement report shall include a background check of any conviction records, pending charges, or disciplinary board final decisions. The background check shall include the following:

- State and national criminal identification data
- The child abuse and neglect history of any adult living in the home
- Checks of the child abuse and neglect registries of all States in which the prospective adoptive parents or any other adult living in the home have lived during the 5 preceding years

Grounds for Disqualification

Citation: Admin. Code §§ 110-04-0100; 110-04-0110; 110-04-0130; 110-50-0180; 110-06-0070

An applicant will be permanently prohibited from being licensed or certified if he or she has a felony conviction or any of the following:

- Child abuse and/or neglect
- Spousal abuse
- A crime against a child, including child pornography

- A crime involving violence, including rape, sexual assault, or homicide but not including other physical assault or battery
- Any Federal or out-of-State conviction for an offense that under the laws of this State would disqualify a person from having unsupervised access to children in any home or facility

A applicant will be disqualified if it has been less than 5 years from a conviction for the following crimes:

- Any felony physical assault or battery offense not included above
- Any felony violation of a drug-related crimes, including, but not limited to, unlawfully manufacturing, delivering, or possessing a controlled substance with intent to deliver them or unlawfully using a building for drug purposes
- Any Federal or out-of-State conviction for an offense that under the laws of Washington State would disqualify an applicant for no less than 5 years

The department will not license, contract, certify, or authorize a person to have unsupervised access to children who have a criminal charge pending for a disqualifying crime described in the Adoption and Safe Families Act of 1997 (ASFA) or a criminal charge pending for a disqualifying crime that relates directly to child safety, permanence, or well-being.

The department may exclude relatives who have criminal histories, as included in ASFA regulations. The department may not approve a relative placement if the department finds that, based on a criminal records check, a court of competent jurisdiction has determined that the relative or a member of the household has been convicted of a felony involving the following:

- Child abuse or neglect
- Spousal abuse
- A crime against a child or children, including child pornography
- Crimes involving violence, including rape, sexual assault, or homicide but not including other physical assault or battery

The department may not approve a relative placement if the department finds the relative, or a member of the household, has, within the last 5 years, been convicted of a felony involving the following:

- Physical assault or battery
- A drug-related offense

A person will be disqualified from providing licensed child care, caring for children, or having unsupervised access to children receiving early learning services when the person has any of the following:

- Any of the permanent convictions listed in Admin. Code § 110-06-0120(1) that permanently disqualifies an applicant
- Any of the nonpermanent convictions listed in Admin. Code § 110-06-0120(2) that disqualifies an applicant for 5 years after the conviction date
- An act, finding, determination, decision, or the commission of abuse or neglect of a child
- A pending child protective services investigation
- A 'founded' finding for child abuse or neglect

West Virginia

Current Through September 2018

Who Needs Records Checks

Citation: Code of Rules §§ 78-2-13; 78-1-8; 78-18-16; 78-20-6; 78-21-7

Background checks are required for prospective foster and adoptive parents and all adult household members.

Pursuant to the provisions of the West Virginia Clearance for Access: Registry and Employment Screening Act (WV CARES), W. Va. Code § 16-49-1, et seq., the following child care personnel are subject to background checks:

- Owners, staff members, and volunteers of child care centers
- Owners, operators, staff members, volunteers who are age 18 or older, and all adult household members of family child care facilities
- Informal and relative caregivers and all adult household members
- All program personnel, including the private owners, volunteers, and parents working at out-of-school-time child care centers

Types of Records That Must Be Checked

Citation: W.V. Code § 16-49-2; Code of Rules §§ 78-1-8; 78-18-16; 78-20-6; 78-21-7; 78-2-13

The purpose of the WV CARES program is to protect West Virginia's vulnerable populations by requiring registry and criminal background checks for all personnel with direct access to children and other vulnerable persons. The program shall include the following:

- A centralized internet-based system of registries to allow covered providers to perform a mandatory prescreening of applicants
- Fingerprint-based State and Federal criminal background checks on all direct-access personnel

In regulation: State and Federal fingerprint-based criminal background investigations are required for all child care personnel. In addition, a search shall be done of the State-based child and adult abuse and neglect registries and protective services databases in each State in which the staff member or volunteer resided during the preceding 5 years.

For prospective foster and adoptive parents, the background check shall include a criminal record history check and a check for any child abuse and neglect history.

Process for Obtaining Records Checks

Citation: Code of Rules §§ 78-2-13; 78-1-8; 78-18-16; 78-20-6; 78-21-7; W.V. Code § 16-49-3

Prior to approval of a foster or adoptive home, all adult household members shall complete a Criminal Identification Bureau Record—a fingerprinting process that identifies a person who has been arrested or convicted of criminal behavior—and a 'Statement of Criminal Record' form. In addition, all adult household members shall complete a 'Statement of Child Abuse or Neglect History' form and a signed release of information authorizing the Department of Health and Human Resources to verify the information.

An applicant for employment or a volunteer position at any child care facility and each adult household member shall sign a WV CARES self-disclosure application and consent form.

In statute: All applicants are subject to prescreening, which includes a mandatory search of available databases and registries prior to the submission of fingerprints for a criminal history record information check. If the applicant has a negative finding on any required prescreening registry or database, the employer shall notify the individual of such finding.

If the applicant does not have a negative finding in the prescreening process, the applicant shall submit to fingerprinting for a State and Federal criminal history record information check. The State police shall notify the department of the results of the criminal history record information check.

Grounds for Disqualification

Citation: Code of Rules §§ 78-2-13; 78-1-8; 78-18-16; 78-20-6; 78-21-7; 69-10-2

An agency shall not approve a home for foster care or adoption in which a household member has any convictions other than minor traffic violations. Special circumstances may allow a waiver to be granted by the department.

An applicant shall not be approved if that person is currently on parole or probation for a felony conviction or is currently under indictment, has pending charges, or has been convicted or entered a plea of guilty or no contest to any of the disqualifying offenses listed below or other crimes that the department determines may pose a risk to children. An applicant also will not be approved if the department determines that the person has abused or neglected a child or incapacitated adult.

A 'disqualifying offense' means a conviction or substantiated finding for any of the crimes that exclude an applicant from positions with direct access to children or other vulnerable persons, including the conviction of attempt, solicitation, conspiracy, aiding, or abetting the underlying crime. Disqualifying convictions include those crimes enumerated in Federal or any State's code and recognized by the West Virginia State Police and that generally fall within the following categories:

- State or Federal health and social services program-related crimes
- Patient abuse or neglect
- Health-care fraud
- Felony drug crimes
- Crimes against care-dependent or vulnerable individuals
- Felony crimes against the person
- Felony crimes against property
- Sexual offenses

- Felony crimes against chastity, morality, and decency
- Felony crimes against public justice
- Felony traffic offenses
- Felony crimes against the peace

Wisconsin

Current Through September 2018

Who Needs Records Checks

Citation: Ann. Stat. §§ 48.685; 48.88

Background checks are required for employees, caregivers, and nonclient residents at any of the following entities:

- A licensed child welfare or child-placing agency
- A foster home
- An interim caregiver to whom subsidized guardianship payments are made
- A person who is proposed as a successor guardian in a subsidized guardianship agreement
- A group home or shelter care facility
- A child care center or child care provider

Background checks also are required for prospective adoptive parents.

Types of Records That Must Be Checked

Citation: Ann. Stat. §§ 48.685; 48.88

The background check shall include the following:

- A criminal history search from the records maintained by the Department of Justice
- Information that is contained in the registry under § 146.40(4g) regarding any findings against a health-care provider
- Information maintained by the Department of Safety and Professional Services regarding the status of the person's credentials, if applicable
- Information maintained by the Department of Children and Families regarding any final determination that the person has abused or neglected a child
- Information maintained by the Department of Health Services regarding any denial to the person of a license or employment

If the prospective adoptive parent was required to obtain an initial license to operate a foster home or treatment foster home before placement of the child for adoption, the agency making the investigation shall obtain a criminal history search from the records maintained by the Department of Justice and request a fingerprint-based check of the national crime information databases with respect to the petitioner.

Process for Obtaining Records Checks

Citation: Ann. Stat. § 48.685; Admin. Code DCF 56.055

Every entity shall obtain all of the required information with respect to a caregiver of the entity and any nonclient resident of a caregiver.

If the person who is the subject of the search is not a resident of this State, or if at any time within the 5 years preceding the date of the search that person has not been a resident of this State, the entity shall make a good-faith effort to obtain from any State in which the person is a resident or was a resident information that is equivalent to the information specified above. The department or entity may require the person to be fingerprinted on two fingerprint cards, each bearing a complete set of the person's fingerprints, or by other technologies approved by law enforcement agencies. The Department of Justice may provide for the submission of the fingerprint cards or fingerprints by other technologies to the Federal Bureau of Investigation for the purposes of verifying the identity of the person fingerprinted and obtaining records of his or her criminal arrests and convictions.

If the person is seeking a license to operate a foster home or is an adult nonclient resident of the foster home and if the person or adult nonclient resident is not, or at any time within the preceding 5 years has not been a resident of this State, the department shall check any child abuse or neglect registry maintained by any State or other U.S. jurisdiction in which the person or adult nonclient resident is a resident or was a resident within those 5 years for information that is equivalent to the information specified above.

In regulation: The requirements of Wis. Ann. Stat. § 48.685 apply to an adoptive parent applicant who is in a home studied by a county department or a child-placing agency.

Grounds for Disqualification

Citation: Ann. Stat. § 48.685

An applicant will not be approved if the results of the background study reveals any of the following:

- That the person has been convicted of a serious crime or adjudicated delinquent on or after his or her 10th birthday for committing a serious crime or that the person is the subject of a pending criminal charge or delinquency petition alleging that the person has committed a serious crime on or after his or her 10th birthday
- That the person has abused or neglected any client or misappropriated the property of any client
- That the person has abused or neglected a child

A foster home will not be licensed if the applicant has ever been convicted of any of the following offenses:

- A felony offense under ch. 948, crimes against children, including, but not limited to, the following:
 - » Sexual assault of a child
 - » Sexual assault of a child placed in substitute care
 - » Physical abuse of a child
 - » Causing mental harm to a child
 - » Sexual exploitation of a child, including child pornography
 - » Trafficking of a child
 - » Child abandonment, child neglect, and chronic child neglect
 - » Incest with a child
 - » Child enticement
 - » Causing a child to view sexually explicit conduct, including actual or simulated sexual intercourse, sadomasochistic abuse, bestiality, or the lewd exhibition of intimate parts
 - » Unauthorized placement of a child for adoption
- Battery, substantial battery, or aggravated battery, if the victim is the spouse of the person
- Reckless injury, intentional homicide, felony murder, reckless homicide, mayhem, or sexual assault
- Taking hostages or kidnapping
- Endangering a person's safety by the use of a dangerous weapon
- Disarming a peace officer
- Burglary or robbery
- Operating a vehicle without the owner's consent while possessing a dangerous weapon

An applicant will be disqualified if he or she has committed, within the 5 years preceding the date of the investigation, any of the following offenses:

- Battery
- Injury or death caused by providing alcohol beverages to a minor
- Providing a falsified official identification card to an underage person
- Impersonating an officer
- Manufacturing or rectifying intoxicating liquor and selling such liquor without a permit
- Recovering and selling any alcohol or alcoholic liquid from denatured alcohol
- Homicide by intoxicated use of vehicle or firearm
- Battery or threat to a judge, a Department of Revenue employee, a Department of Safety and Professional Services employee, or a Department of Workforce Development employee
- Injury by intoxicated use of a vehicle
- Operating a vehicle under the influence of an intoxicant or other drug
- Any drug-related felony under ch. 961

Wyoming

Current Through September 2018

Who Needs Records Checks

Citation: Ann. Stat. §§ 7-19-201; 14-4-101; Code of Rules §§ 049-0001-1; 049-0033-4

Background checks are required for employees of substitute care providers certified by the Department of Family Services, including staff at any of the following privately operated facilities:

- Children's institutions
- Child-placing agencies, whether for permanent or temporary placement
- Foster homes
- Group daycare agencies
- Detention homes
- Public or private receiving homes
- Correctional schools
- Ranches for children, whether for summer operation only or otherwise
- Day or hourly nurseries, nursery schools, kindergartens, or any other preschool establishment not accredited by the State Board of Education

In regulation: Background checks shall be completed for prospective adoptive parents and all staff of family child care home, family child care center, and child care center facilities, including directors, household members, substitutes, volunteers, and any other persons who work in the facility or assume responsibility for the direct care of children. Adult household members of adoptive parents, family child care homes, and family child care centers also must be checked.

Types of Records That Must Be Checked

Citation: Code of Rules § 049-0033-2

The background check shall include the following:

- A completed central registry or child abuse/neglect check in all States lived in for the past 5 years for staff and all adult household members, including any adult who intends to move into the home
- A completed fingerprint-based national criminal history records check for staff and all household members, including any adult who intends to move into the home
- A completed national and State sex offender registry check for staff and all household members, including any adult who intends to move into the home

Process for Obtaining Records Checks

Citation: Ann. Stat. § 7-19-201

A person in need of a background check is required to submit to fingerprinting in order to obtain State and national criminal history record information. The fingerprints shall be submitted to the Wyoming Division of Criminal Investigation for processing and obtaining State and national criminal history record information. The division may submit any applicant fingerprint cards received to the Federal Bureau of Investigation for the purpose of obtaining national criminal history record information.

Grounds for Disqualification

Citation: Code of Rules §§ 049-0033-3; 049-0033-4

The department may deny a license when any staff, household member, volunteer, or substitute has been substantiated for the abuse or neglect of a child or vulnerable adult and is placed on the central registry.

Staff, household members, substitutes, and volunteers may not be employed or present in the family child care home or family child care center if the background check indicates they have been convicted or have a pending deferred prosecution of a felony or misdemeanor or a substantiation involving any of the following:

- Any of the following felonies:
 - » Abuse, neglect, abandonment, exploitation, or endangering children or vulnerable adults
 - » A sexual offense against a person or child
 - » Allowing the commission of a sexual offense against a child
 - » Violence, including rape, sexual assault, physical assault, kidnapping, battery, or homicide

- » A crime against a child or vulnerable adult
- » Physical assault
- » Domestic violence
- » Battery
- » A drug offense
- » Arson
- A violent misdemeanor committed as an adult against a child
- A violent misdemeanor, including battery, physical assault, or domestic violence within the last 5 years
- Any other crime that causes the facility to be concerned for the safety or well-being of children or others



U.S. Department of Health and Human Services
Administration for Children and Families
Administration on Children, Youth and Families
Children's Bureau

