



<b>INDIANA DEPARTMENT OF CHILD SERVICES CHILD WELFARE POLICY</b>	
<b>Chapter 13:</b> Background Checks	
<b>Section 02:</b> Evaluating Background Checks for Licensed Residential Facilities and Child Placing Agencies	
<b>Effective Date:</b> March 21, 2022	<b>Version:</b> 8

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**POLICY OVERVIEW**

The Indiana Department of Child Services (DCS) evaluates the results of Fingerprint-Based National Criminal History Checks (Fingerprint-Based Checks) for the purpose of Licensing Residential Facilities and Child Placing Agencies (referred to collectively as “DCS licensed agencies”), and DCS licensed agencies evaluate the remaining background checks, to determine whether the individuals employed by or volunteering, contracting, or interning for the DCS licensed agencies meet federal and state standards or established licensing requirements and to reduce potential risk of harm while in the care of DCS licensed agencies.

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**PROCEDURE**

DCS licensed agencies immediately ensure the subject of a check will not be employed, volunteer, or contract with the agency if the background check or waiver process subsequently reveals:

1. Disqualified criminal history that is not eligible to be waived;
2. Disqualified criminal history or substantiated Child Protective Services (CPS) history in which a waiver action is not supported or pursued by the DCS licensed agency; or
3. Disqualifying criminal history or substantiated CPS history in which a waiver is not granted by DCS.

**Fingerprint-Based Check**

The DCS Central Office Background Check Unit (COBCU) evaluates the results of the Fingerprint-Based Checks on all required persons and notify the assigned DCS licensed agency contact person of the criminal history clearance status by e-mailing the Fingerprint-Based Check Status Letter (see policy 13.15 Fingerprint-Based Checks).

**Child Protective Services (CPS) History Check**

DCS licensed agencies review the completed CPS History Check results from Indiana and all other states of residency within the past five (5) years (if applicable) and determine if there are reports of any substantiations of child abuse and/or neglect (CA/N) for the subject of the check (see Child Protective Index Checks/Child Protection Services History Checks/CANS/Adam Walsh Checks/Out of State Child Welfare Agency). The existence of substantiated CPS history in Indiana, or the equivalent in another state, means that unless a waiver is granted (see policy 13.16 Waivers), the subject of the check is ineligible to be a(n):

1. Applicant for a license;

2. Director or manager of a DCS licensed agency; or
3. Employee, volunteer, and/or contractor for a DCS licensed agency.

**Note:** CPS history is reported and should be considered from each state searched as far back as there are records or to the date that state's law indicates records should be maintained. Indiana maintains substantiated history back to 1988.

### **National Sex Offender Registry Check**

DCS licensed agencies evaluate the National Sex Offender Registry Check to determine if there are any matches. If there is a match, the subject of the check cannot be employed by, volunteer for, or contract with the facility, and the DCS licensed agencies will notify the COBCU via e-mail. The COBCU will re-evaluate the Fingerprint-Based Check report and reissue an amended Fingerprint-Based Check Status Letter, if applicable.

### **Local Criminal Court Records Check**

DCS licensed agencies evaluate the results of the Local Criminal Court Records Check – Instructions available on the Background Check Resources SharePoint. See policy 13.01 Conducting Background Checks for Licensed Residential Agencies and Child Placing Agency for more information regarding who should complete the Local Criminal Court Records Checks. The DCS licensed agency shall contact COBCU for additional guidance if the Fingerprint Based Status Letter was qualified and the Local Criminal Court Records Check returns convictions for a felony, total of four (4) or more misdemeanors, or a misdemeanor that may relate to the health and safety of a child.

The DCS Residential Licensing Specialist (RLS) will ensure each DCS licensed agency has conducted background checks, as required in policy 13.01 Conducting Background Checks for Licensed Residential Agencies and Child Placing Agencies, and completes the following:

1. Review the Fingerprint-Based Check Status Letter received from COBCU. The fingerprint-based status must be "Qualified" for the subject of the check to be employed, volunteer, or contract with the agency, unless a waiver has been granted. See policy 13.15 Fingerprint Based Checks for additional required steps, guidance on evaluating the Fingerprint-Based Check, and information regarding possible fingerprint qualification statuses (i.e., Qualified, Incomplete – Documentation Necessary, and Disqualified). See policy 13.16 Waivers for information regarding eligibility for and requesting a waiver;

**Note:** If the subject of the check is already employed, volunteering, or contracting with the agency and receives a fingerprint qualification status of:

- a. "Incomplete – Documentation Necessary", the subject of the check must have the incomplete status resolved within 10 business days. If resolved satisfactorily, the DCS licensed agency will receive an amended Fingerprint-Based Check Status Letter from COBCU of "Qualified" before the end of the 10<sup>th</sup> business day, or
- b. "Disqualified", the DCS licensed agency will immediately remove the subject from the work schedule unless a waiver has been granted.

If the DCS licensed agency does not receive an amended "Qualified" fingerprint-based status within the timeframe or a waiver decision of "Waiver Granted", the DCS licensed agency will immediately remove the subject of the check from the schedule.

2. Review the results of the CPS History Check and:

- a. Provide the subject of the check with the results of the CPI/CPS History Check showing substantiated history if a substantiated CPS history is discovered from Indiana (see policy 2.06 Sharing of Confidential Information), and
- b. Work with the subject of the check to submit a complete waiver packet to COBCU as quickly as possible if a CPS substantiation is discovered and the DCS licensed agency is in support of pursuing a CPS history waiver. See policy 13.16 Waivers for information regarding applying for a waiver.

**Note:** A CPS waiver should be requested and processed at initial agency licensing, agency relicensure, hiring, or discovery of any additional CPS substantiations, which have not previously been granted a CPS waiver, if discovered between these points. The request for the waiver must be granted by COBCU for the employee, volunteer, or contractor to be hired, volunteer, or contract in the DCS licensed agency. If the subject of the check is already working, volunteering, or contracting in capacity to have contact with children or children's records, the DCS licensed agency will immediately remove the subject from the work schedule unless the necessary waiver has been granted.

3. Review the results of the National Sex Offender Registry Check for a match to the subject of the check. If there is a match for the subject of the check, do not hire or allow the subject to volunteer or contract with the facility. If already employed, volunteering, or contracting, the subject of the check must be dismissed;
4. Review the results of the Local Criminal Court Records Check. For further information, see the Local Criminal Court Records Check Instructions – Available on the Background Check Resources SharePoint; and

**Note:** Contact the COBCU Consultant listed on the Fingerprint-Based Check Status Letter within five (5) business days if the Fingerprint-Based Check Status Letter was qualified and the Local Criminal Court Records Check returns conviction of:

- a. A felony,
- b. Four (4) or more misdemeanors, or
- c. A misdemeanor related to the health and safety of a child

In addition, if the DCS licensed agency believes the Local Criminal Court Records Check report may alter the Fingerprint-Based Check Status, the DCS licensed agency will contact the COBCU Consultant listed on the Fingerprint-Based Check Status Letter for further action.

5. File a copy of the results for all background checks and any waiver letters in the subject's personnel folder.

**Note:** A criminal history or CPS waiver granted for the purpose of employment by, volunteering for, or contracting with a DCS licensed agency may not be used for any additional purpose. A new waiver request must be submitted and granted for each additional purpose.

The DCS COBCU will:

1. Evaluate the criminal history report within five (5) business days of receipt of the Fingerprint-Based Check and notify, by e-mail, the DCS licensed agency's assigned contact person regarding the Fingerprint-Based Check status (see policy 13.15 Fingerprint-Based Checks);

2. Provide guidance regarding incomplete – documentation necessary or disqualified applicants to DCS licensed agency staff; and
3. Re-evaluate history based on the documentation received from the subject and issue a new Fingerprint-Based Check Status Letter, when applicable.

**Note:** For waivers of disqualified criminal history and substantiated CPS history, see policy 13.16 Waivers.

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## RELEVANT INFORMATION

### Definitions

N/A

### Forms and Tools

- [Child Protective Index Checks/Child Protection Services History Checks/CANS/Adam Walsh Checks/Out of State Child Welfare Agency](#)
- Central Office Background Check Unit (COBCU) Email – [cobcuinquiry@dcs.in.gov](mailto:cobcuinquiry@dcs.in.gov)
- Local Criminal Court Records Check Instructions – Available on the [Background Check Resources SharePoint](#)

### Related Policies

- [2.06 Sharing of Confidential Information](#)
- [13.01 Conducting Background Checks for Licensed Residential Agencies and Child Placing Agency](#)
- [13.15 Fingerprint-Based Checks](#)
- [13.16 Waivers](#)

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## LEGAL REFERENCES

- [IC 31-9-2-84.8: Nonwaivable offense](#)
- [IC 31-27-3-3: Applying for a Child Caring Institution License](#)
- [IC 31-27-3-5: Grounds for denial of license applications; waiver](#)
- [IC 31-27-5-4: Apply for licenses; criminal history checks](#)
- [IC 31-27-5-6: Grounds for denial of license applications; waiver](#)
- [IC 31-27-6-2: Apply for licenses; criminal history checks](#)
- [IC 31-27-6-3: Grounds for denial of license applications; waiver](#)

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## PRACTICE GUIDANCE- DCS POLICY 13.02

*Practice Guidance is designed to assist DCS staff with thoughtful and practical direction on how to effectively integrate tools and social work practice into daily case management in an effort to achieve positive family and child outcomes. Practice Guidance is separate from Policy.*

### **Disclosing Fingerprint-Based Check Information**

A copy of the official Federal Bureau of Investigations (FBI) and the Indiana State Police (ISP) transcript will not be provided to the DCS licensed agencies nor the subject of the check. DCS may verbally disclose the specific crimes to the subject of the check. If any of the checks conducted by DCS reveal an inaccurate record, the subject of the check may formally challenge the record. A Review Challenge of inaccurate information in Indiana is made to ISP. A criminal history records Review Challenge outside of Indiana must be made to the Law Enforcement Agency (LEA) that posted the record. The subject of the check must be fingerprinted for the Review Challenge, at the subject's expense. The process of the Review Challenge takes place between ISP and the subject of the check, and DCS is not involved in the process.

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