

## BACKGROUND CHECKS for STATE EMPLOYMENT

### PURPOSE

To set minimum standards governing background checks for State employment.

### SCOPE

This policy applies to all merit and non-merit agencies subject to the jurisdiction of the State Personnel Department. It is recommended that other governmental entities also adopt this policy.

### POLICY STATEMENT

The State of Indiana is committed to providing the public with qualified staff who possess good character and standards. This policy will provide basic safeguards to meet that commitment and assist in maintaining a safe work environment for employees, clients, and customers of state agencies.

### REFERENCES:

IC 4-13-2-14.7

IC 4-15-1.8-7

IC 4-15-2-16

IC 12-24-3-2

31 IAC 2-6-3

Commercial Drivers' License Policy

Arrests & Convictions Policy/R&P

EFFECTIVE DATE October 3, 2007

Supersedes Policy dated June 1, 2003

APPROVAL: \_\_\_\_\_



Debra F. Minott, State Personnel Director

Date: \_\_\_\_\_

October 3, 2007

## DEFINITIONS

Applicant: an individual who is tentatively selected for a position. The term includes current employees who are (1) transferring, demoting, or promoting from one classification to another within the same state agency and/or (2) transferring, demoting, or promoting from one position to another in different state agencies.

Arrest: The taking of a person into custody, that s/he may be held to answer for a criminal charge. Arrest(s) noted on criminal history checks may be considered only if the charge(s) are still pending at the time of the employment decision.

Background Checks refers to all of the following checks: Employment verification, Educational verification, License verification, Tax payment check, Reference check, Past employment check, Criminal history check, Sex Offender Registry check, Court records check, Motor vehicle check, Credit history check, National criminal history database check.

Conviction: A judgment on a verdict or a plea of guilty or *nolo contendere*, and/or a finding of guilt substantiated by the evidence which results in the payment of fines, forfeiture of collateral or bond, restitution, deferred adjudication or sentencing, probation, confinement, suspended sentence, pre-trial diversion agreement, or any other penalty imposed by a court of law or agreed upon by the accused for a crime.

Court records check: checking civil and criminal court records in jurisdictions where the applicant has lived or worked to determine any criminal history or civil judgments.

Credit history: CAVEAT: Credit history check may be used only where there is a business necessity. The Fair Credit Reporting Act (FCRA) requires a separate written notice and authorization before a report from a consumer reporting agency can be procured. If the employer proposes to deny employment or otherwise adversely affect an employee based on any information contained in a consumer report, the employer must make adverse action disclosures, which include two steps:

1. Before the adverse action is taken to not employ, the person must be provided a "Pre-Adverse Action Disclosure Statement" which includes:
  - a. A copy of the credit report, and
  - b. "Summary of your rights under the FCRA".
2. After taking adverse action, the person must be provided an "Adverse Action Notice", which includes:
  - a. Name, address, and phone number of the Consumer Reporting Agency (CRA) supplying the report.
  - b. A statement that the consumer reporting agency did not make the decision to take the adverse action and is unable to provide the specific reasons why the adverse action was taken.

c. Notice that the person may dispute (with the consumer reporting agency) the accuracy or completeness of the information, and a right to an additional free credit report within sixty (60) days.

An employer may not discriminate against an applicant or employee because of bankruptcy nor can an employee be discharged for garnishment proceedings.

See forms attached to this policy or at <http://www.in.gov/icpr/webfile/formsdiv/pers.html>.

Crime : A felony or misdemeanor for which a person might be imprisoned.

Educational verification: telephone contact or written verification to ensure that the applicant possesses all educational credentials on application/resume.

Employment verification: ensuring that the applicant actually worked

1. all positions listed on the application/resume that qualify the individual for the position sought; and
2. all employment during a period of at least seven (7) years immediately preceding application.

Verification should include dates of employment, reasons for leaving, and an explanation for any periods of unemployment.

Federal Criminal History Records Information (CHRI) check: a nationwide criminal history database, access to which is limited by federal and state statutes. Under current law, applicants may obtain information on themselves from this data source. Criminal justice agencies and gaming and horse racing regulators have access to this information for employment purposes. Employees or volunteers who have contact with children are also eligible for these nationwide checks. See procedure attached to this policy. See also IC 10-13-3.

Fingerprint Check: see Federal Criminal History Records Information (CHRI) check.

License verification: confirmation that the applicant possesses all the licenses on application/resume or otherwise necessary for position and determining the disposition of any proceedings against the license.

Motor vehicle check: BMV makes driving record information available online through [in.gov](http://in.gov) to determine an applicant's driving record and status.

NEFR: the code used in PeopleSoft data entry meaning a person is Not Eligible For Rehire. This code can only be used when the person is disqualified from employment for reason(s) specified in the law.

Reference check: contacting the references provided by the applicant.

Past employment check: interviews with the applicant's past supervisors.

Sex Offender Registry: Pursuant to IC 36-2-13-5.5, the Indiana Department of Correction maintains and updates the Indiana Sex and Violent Offender Directory database, which is accessible on the Internet through [in.gov](http://in.gov), with information on persons convicted of certain sex and violent crimes. See also IC 11-8-8 et seq.

State Criminal history check: The most basic check on arrest(s) or criminal conviction(s) is the state criminal history check provided by the Indiana State Police. This check is limited to Indiana criminal history and can only discover the data that has been provided by local law enforcement agencies. It is available online through Access Indiana. For especially sensitive positions, agencies may consider checking court records in every jurisdiction where the applicant has lived, worked, or attended school. State agencies may also require applicants to secure and provide their state criminal history checks. Arrest(s) may be considered only if the charge(s) are still pending.

Tax payment check: The Indiana Department of Revenue will provide information to state agencies as to whether an applicant is current in payment of state taxes.