| | INDIANA DEPARTMENT OF CHILD SERVICES<br>CHILD WELFARE POLICY | |
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| | **Chapter 13:** Background Checks | **Effective Date:** October 1, 2019 |
| | **Section 9:** Conducting Background Checks for Foster Family Home Licensing | **Version:** 7 |

## STATEMENTS OF PURPOSE

The Indiana Department of Child Services (DCS) requires background checks to be conducted for the purpose of foster family home licensing on all persons who:

1. Live in the home; or
2. Work or volunteer in the home on a regular and continuing basis with children who are or will be under the direct supervision of the foster parent.

After a child is placed in a foster family home, DCS requires background checks on:

1. New household members who have an intent to reside in the home for at least 21 days (the days do not have to be consecutive); checks must be completed prior to moving into the foster family home;
2. Current household members who turn 14 or 18 years old; the Fingerprint-Based National Criminal History Check (Fingerprint-Based Check) and Local Criminal Court Records Check are required within 30 days of his/her 18th birthday; National Sex Offender Registry checks are required within 30 days of his/her 14th birthday; and Child Protective Services (CPS) History Check are required within 30 days of his/her 6th birthday; and
3. New employees, contractors, and/or volunteers; checks must be completed prior to beginning work or volunteering in that licensed resource home.

The following background checks will be conducted on foster family homes:

1. Fingerprint-Based Check;
2. CPS History Check;
3. National Sex Offender Registry Check; and
4. Local Criminal Court Records Check.

The type of background check conducted will vary based on the age of the subject of the check.

DCS will not conduct background checks on children under DCS care and supervision; this includes Youth in Collaborative Care.

> **Note:** Youth in Collaborative Care are still in foster care; therefore, background checks are not required unless the child has been out of DCS' care for an extended amount of time. In those cases, the DCS Collaborative Care Case Manager (3CM) will determine whether or not background checks are necessary.

Fingerprint-Based Checks conducted for foster family home licensing cannot be used for adoption or any other purpose. A new fingerprint check is required.

**For Initial and Relicensure of Foster Family Homes**

Background checks will consist of the following:

1. For all persons age 18 and older:

a. Fingerprint-Based Check,
b. CPS History Check in every state where the subject of the check has lived during the last five (5) years,
c. National Sex Offender Registry Check in every state where the subject of the check has lived during the last five (5) years, and
d. Local Criminal Court Records Check in every criminal court jurisdiction the subject of the check has lived during the last five (5) years.

2. For all persons age 14-17 years:
   a. CPS History Check in every state where the subject of the check has lived during the last five (5) years, and
   b. National Sex Offender Registry Check in every state where the subject of the check has lived during the last five (5) years.

3. For all persons age 6-13 years, a CPS History Check in every state where the subject of the check has lived during the last five (5) years.

   **Note:** The CPS History check should be completed within 30 days of the child's 6th birthday.

**Exceptions to Fingerprinting**

The only exception to fingerprinting a subject of the check is if he or she has a physical disability that makes it impossible to obtain the subject's fingerprint. The exception does not apply to subjects who can be printed but the quality of the fingerprints is poor. The exception can only be granted by the DCS Central Office Background Check Unit (COBCU) and is for limited and case-specific situations, such as the following:

1. When the subject does not have fingers;
2. When a person trained to take fingerprints has documented that the subject's disabling condition prevents fingerprinting; or
3. When a qualified medical practitioner has documented the subject's disabling condition prevents fingerprinting.

To receive an exception, the following must be sent to the COBCU:

1. A letter requesting the exception and explaining the disabling condition; and
2. The required documentation from the person trained to take fingerprints or qualified medical practitioner or evidence that the individual does not have fingers.

If the exception is granted, COBCU will complete the Indiana Limited Criminal History Check (LCH) on the subject of the check. If the subject lived in any other state in the last five (5) years, contact COBCU for guidance on what type of check is needed in that state.

**Annual Reviews**

DCS requires those who live, work, or volunteer in the foster family home to complete the following background checks at the annual review:

1. LCH check (age 18 and older);
2. CPS History Check (age six [6] and older);
3. National Sex Offender Registry (age 14 and older); and
4. Local Criminal Court Records Check (age 18 and older).

   **Note:** Background checks for the annual review process do not require fingerprints.

**Extracurricular Activities**
DCS does not have the statutory authority to fingerprint individuals involved in the child's participation in extracurricular activities. These include, but are not limited to: Scouting, Youth Groups, School Parties, Sleepovers, Roller Skating parties, and Birthday parties (see policy, 8.23 Extracurricular Activities). Discretion should be used when deciding whether CPS History Checks, National Sex Offender Registry Checks, and/or LCH Checks are needed.

**Childcare**
Background checks have already been completed by the Indiana Division of Family Resources (DFR) for licensed childcare providers. No additional background check is needed.

DCS does not have the statutory authority to fingerprint in-home or out-of-home unlicensed babysitters that supervise the child(ren) irregularly. Examples of irregular childcare include, but are not limited to: visiting or spending time with (including overnight visits) with friends and/or relatives, going to the movies or grocery store, or other similar activities. Discretion should be used when deciding whether CPS History Checks, National Sex Offender Registry Checks, and/or local LCH Checks are needed.

Unlicensed out-of-home childcare providers that supervise the child(ren) on a regular and continuing basis shall have the following background checks conducted for all household members of the childcare provider's home:

1. CPS History Checks in every state where the subject of the check has lived during the last five (5) years (age six [6] years and older);
2. National Sex Offender Registry Checks in every state where the subject of the check has lived during the last five (5) years (age 14 years and older); and
3. LCH Checks (age 18 years and older).

Fingerprint-Based Checks should not be conducted for unlicensed out-of-home childcare providers.

Unlicensed in-home childcare providers that supervise the child on a regular and continuing basis would be considered an employee, contactor, or volunteer of the foster family home and the background checks required for an employee, contractor, or volunteer of the home (Fingerprint-Based Check, CPS History Check, National Sex Offender Registry Check and a Local Criminal Court Records Check) should be completed. Examples of regular and continuous childcare include, but are not limited to, childcare provided daily or on a consistent reoccurring schedule while the relative caregiver works or participates in other reoccurring scheduled obligations.

DCS will maintain the confidentiality of all information gained during the background check process, following all applicable state and federal laws (see policy, 2.6 Sharing Confidential Information).

Code References

1. IC 10-13-3-31: Release of data to subject person; fee; challenge of data authorized
2. IC 31-9-2-22.5: "Conduct a criminal history check"
3. IC 31-26-5: Family Preservation Services
4. IC 31-34-20-1.5: Placement in household with certain individuals prohibited; criminal history checks; exceptions; considerations
5. IC 31-34-18-6.1: Predispositional report; contents
6. 240 IAC Article 6: Criminal History Record Information

## PROCEDURE

For the persons that live, work, or volunteer in the foster family home, the Regional Foster Care Specialist (RFCS) or Licensed Child Placing Agency (LCPA) licensing worker will:

1. Verify the identity of each subject of the check, regardless of age (see policy, 2.9 Verifying Identity), by reviewing one (1) available and valid government-issued identification document such as, but not limited to, a:
   a. Driver's license,
   b. Social Security card,
   c. Photo identification card,
   d. Passport, or
   e. Birth certificate.

2. Have each subject of the check complete the Application for Criminal History Background Check (SF 53259):
   a. The subject of the check must sign and date the form, and
   b. The licensing worker must place the original in the licensing file after completion of the background check process.

3. Register persons age 18 years and older for the Fingerprint-Based Check, unless requesting an Exception to Fingerprinting:
   a. Complete the registration process for the subject of the check for electronic fingerprinting through the DCS approved fingerprint vendor and provide the subject with a copy of the registration confirmation number given at the end of the registration process,
   b. Provide the subject of the check with the customized step-by-step instructions for registering for fingerprinting- the licensing worker is unable to register the subject of the check (see Registering for Fingerprints below),
   c. Inform the applicants to use the same government issued identification when registering and completing the fingerprint check,
   d. Ensure the subject of the check is successfully fingerprinted, and
   e. Obtain the results of the fingerprint-based check. The COBCU will provide a letter via e-mail to the DCS local office or LCPA contact person handling all background check material and inform them of the Fingerprint-Based Check status:
      i. If fingerprints are rejected, follow the instructions on the Reprint Notice. A 'reprint' appointment must be scheduled. Do not start a new registration or there will be a duplicate charge for the cost of printing. Provide the subject of the check a copy of the reprint notice if they will be scheduling their 'reprint' appointment themselves; and
      ii. For all other results, see policy, 13.10 Evaluation of Background Checks for Foster Family Home Licensing.

4. Conduct a National Sex Offender Registry Check for all persons age 14 years and older and print the results via the Dru Sjodin National Sex Offender Public website at http://www.nsopw.gov. If a match is found, please refer to policy, 13.10 Evaluation of Background Checks for Foster Family Home Licensing;

   **Note**: If you are searching a common name and results show multiple matches, narrow the search by state. If this occurs, search every state the subject has lived in for the past five (5) years.

5. Conduct a CPS History Check for all persons age six (6) years and older:
   a. For Indiana:
      i. As the requesting agency, the licensing worker will complete Section A of the Indiana Request for Child Protection Service (CPS) History Check (SF 52802);
      ii. Have the subject of the check, or representative if a minor, complete Section B; and
      iii. Complete a search of the case management system, and reflect the results in Section C;

   **Note**: LCPAs are unable to access this information and will need to:
      1. Send a copy of the Indiana Request for a Child Protection Services (CPS) History Check (SF 52802) to the DCS local office for completion; or
      2. Submit requests to COBCU using the KidTraks Vendor Portal, by signing in to the case management system.

   b. For all other states, conduct a CPS History check search for every other state the individual has lived during the past five (5) years. Process your search request at : Out-of-State CPS Contact List, and

   **Note**: It is the responsibility of the applicant to cover any fees for out-of-state CPS history.

   c. Refer to policy, 13.10 Evaluation of Background Checks for Foster Family Home Licensing, for further action required if the person has CPS history in any state.

6. Conduct Local Criminal Court Records Check by completing a court record search, including all aliases, within each county court, as well as applicable city courts, in which the subject resided in the past five (5) years. For further instructions about completing Local Criminal Court Records Checks, see the Local Law Enforcement Agency Instructions.

## PRACTICE GUIDANCE

**Undocumented Individuals**

If an individual is undocumented, the licensing worker should contact the COBCU for instructions and approval as background checks are still required. The fingerprint registration cannot be completed without a social security number and the assistance of the COBCU. See policy, 12.01 Authority to License, for additional information about the requirements for foster parents.

**Notifying the Licensing Worker of Arrest, Convictions or Substantiation of Abuse or Neglect**

The licensing worker must be notified within 24 hours of the arrest, conviction or substantiation of abuse or neglect of the licensee, a household member, employee, contractor, and/or volunteer. The licensing worker and supervisor will evaluate the severity and seriousness of the offense on a case-by-case basis and contact COBCU for additional guidance.

**Registering for Fingerprints**
If the licensing worker is unable to complete the registration process for the subject of the check, the subject of the check is to be provided a copy of the step-by-step instructions for registration. The name of the DCS local office or LCPA, the licensing worker's name and phone number, and the reason for printing should be given to the subject of the check for registration purposes. The DCS billing code should be given to those being checked through a DCS local office.

**Exception to Fingerprinting**
If an Exception to Fingerprinting request is granted, COBCU will run an Indiana LCH. The licensing worker will complete the non-fingerprint based checks for all other states where the subject of the check has resided during the past five (5) years to the COBCU. The COBCU will provide a letter via e-mail to the local office or LCPA contact person handling all background check material and inform them of the clearance status resulting from the search.

For purposes of the exception for a physical disability, a "qualified medical practitioner" means the following:

1. A physician licensed under IC 25-22.5;
2. A physician assistant licensed under IC 25-27.5;
3. A physical therapist licensed under IC 25-27;
4. An advanced practice nurse licensed under IC 25-23;
5. A chiropractor licensed under IC 25-10; and
6. A psychologist licensed under IC 25-33.

**Searching CPS History**
Local DCS Offices should complete a search in the case management system.

## FORMS AND TOOLS

1. Application for Criminal History Background Check (SF 53259)
2. Request for a Child Protection Services (CPS) History Check (SF 52802)
3. Background Check Matrix for Unlicensed Placements and Foster Care Desk Guide
4. Out-of-State CPS Contact List
5. Local Law Enforcement Agency Instructions

## RELATED INFORMATION

**Court Ordered Exception and/or Completion of Fingerprint-Based Checks**
Neither the court nor any other person or organization has the authority to exclude the subject of the check from completing all required background checks. The only exception to this is if the COBCU grants an Exception to Fingerprinting outlined in this policy.

The court nor any other person or organization cannot require DCS to complete Fingerprint-Based Checks on those subjects over which DCS has no statutory authority to fingerprint nor can DCS be required to pay for the cost of such printing.

If the FCM believes at any time that DCS is being required to completed background checks outside the statutory authority, please contact the Deputy Director of Juvenile Justice Initiatives and Support over COBCU for assistance.

## Special Fingerprinting Issues

### Homebound

If a subject of the check cannot leave his or her home for fingerprinting, the licensing worker should contact the COBCU for appropriate instruction and approval.

### Unreadable Prints and Reprint Notice

Fingerprints may be rejected by the Indiana State Police (ISP) or the Federal Bureau of Investigations (FBI) for a number of reasons. Each rejection is evaluated individually. For each reprint notice issued, the subject of the check must schedule a reprint appointment. Once the necessary number of rejections within the appropriate timeframe has been obtained, COBCU will request that a nonemergency Name-Based Check be processed. Once the name-based check has been requested, the processing timeframe is longer than a fingerprint check.

## Checking the Status of a Fingerprint-Based Check Report

The Local Office Director (LOD), or designee, and all RFCS are provided access to the administrative website to check the status of fingerprints. A username and password may be obtained by e-mailing the COBCU at cobcu.inquiry@dcs.in.gov.

## Limited Criminal History (LCH)

An LCH is a name-based search of the ISP database that contains only felonies and Class A misdemeanor arrests within the State of Indiana and can only be conducted on individuals 18 years of age and older. This search should not be used if fingerprinting is being completed. Completeness of this information is based upon local law enforcement participation. This search is available online at https://secure.in.gov/apps/isp/lch/. This site can be accessed by the general public and results are immediate. For assistance with username or password issues, please e-mail cobcu.inquiry@dcs.in.gov.

DCS may provide a copy of the LCH Check to the subject of the check.

If any of the checks conducted by DCS reveal an inaccurate record, the record may be formally challenged. A Review Challenge of inaccurate information must be made to the arresting agency. For Indiana convictions, this would be made to the ISP.