

	INDIANA DEPARTMENT OF CHILD SERVICES CHILD WELFARE MANUAL	
	Chapter 10: Adoption/Permanency	Effective Date: May 10, 2007
	Section 13: Evaluating Background Checks for Adoptions	Version: 2

POLICY

The Indiana Department of Child Services (DCS) Central Office Background Check Unit will evaluate all Federal Bureau of Investigation (FBI) transcript reports and fingerprint-based Indiana State Criminal History Check reports received and notify the appropriate agency or individual regarding the criminal history qualification status.

1. DCS local offices will receive notice if the petitioner or proposed adoptive applicant is qualified, conditionally disqualified, or disqualified for adoption based upon criminal history. DCS local offices can receive a copy of the official FBI transcript upon request; and
2. Licensed Child Placing Agencies (LCPAs), will receive notice stating whether the petitioner or proposed adoptive applicant is qualified, conditionally disqualified, or disqualified based upon the results of the official FBI transcript but will not receive a copy of the official FBI transcript.

For adoption purposes, DCS Central Office Background Check Unit will disqualify an applicant if that person's criminal history includes:

1. Any misdemeanor related to the health and safety of a child; or
2. Any felony.

DCS Central Office Background Check Unit will accept a request for waiver of the disqualifying felony if:

1. The subject of the check who is convicted of the felony submits written evidence that would convince a reasonable person that the subject has been rehabilitated and that he or she does not pose a risk to the health, welfare, and/or safety of children. The letter must be signed by the adoption worker, adoption Supervisor, and either the DCS Local Office Director or the Agency Director; and
2. The agency sponsoring the adoption and Background Check Review Team agree in writing that the felony will not be used as grounds for denial.

The Background Check Review Team is comprised of the Special Needs Adoption Program (SNAP) Specialist, a background check worker, the DCS Local Office Director, and the Regional Manager. A waiver may be granted if the following conditions apply:

1. The subject of the check was convicted for a felony not listed below; and
2. The subject of the check is not currently on probation or parole.

DCS Central Office Background Check Unit will not accept requests for waivers for a misdemeanor related to the health and safety of a child or for the following felonies:

1. Murder (IC 35-42-1-1);
2. Causing suicide (IC 35-42-1-2);
3. Assisting suicide (IC 35-42-1-2.5);
4. Voluntary manslaughter (IC 35-42-1-3);

5. Reckless homicide (IC 35-42-1-5);
6. Battery (IC 35-42-2-1);
7. Domestic Battery (IC 31-19-11-1);
8. Aggravated battery (IC 35-42-2-1.5);
9. Kidnapping (IC 35-42-3-2);
10. Criminal confinement (IC 35-42-3-3);
11. A felony sex offense under IC 35-42-4;
12. Carjacking (IC 35-42-5-2);
13. Arson (IC 35-43-1-1);
14. Incest (IC 35-46-1-3);
15. Neglect of a dependent (IC 35-46-1-4(a)(1) and (IC 35-461-4(a)(2));
16. Child selling (IC 35-46-1-4(d));
17. A felony involving a weapon under IC 35-47 or IC 35-47.5;
18. A felony relating to controlled substances under IC 35-48-4;
19. An offense relating to material or a performance that is harmful to minors or obscene under IC 35-49-3; and
20. A felony that is equivalent to a felony listed in subdivisions (1) through (19) for which the conviction was entered in another state.

For purposes of adoption, DCS Central Office Background Check Unit will note a subject as conditionally disqualified based on the subject's criminal history:

1. For any criminal charges that do not have a disposition. The subject will remain in conditionally disqualified status until the subject provides the Central Office Background Check Unit with a copy of the court docket from the county clerk or from the court where the charges were filed to verify the disposition or amendment of the charges or arrest; and
2. If the subject has been convicted of four (4) or more offenses that are felonies or misdemeanors. The subject of the check will remain in conditional disqualified status until he or she provides the Central Office Background Check Unit with verification that would convince a reasonable person that the subject would not pose a threat to the safety or well-being of a child placed in the care of the applicant or petitioner. This should include the length of time since the conviction and how the subject has been rehabilitated.

The adoption worker will evaluate the results of the following:

1. Child Protection Services (CPS) History;
2. Sex and Violent Offender Registry; and
3. Local law enforcements (LEA)/sheriff records.

If anyone age 14 or older living in the home other than the applicant/petitioner has:

1. Any convictions or juvenile adjudications for any felonies;
2. Any convictions or juvenile adjudications for any misdemeanors relating to the health and safety of a child; or
3. Any substantiations as a perpetrator of Child Abuse and/or Neglect (CA/N) the adoption worker must obtain written approval from the Adoption Interview Team prior to approving a home study, approving a family as the pre adoptive family or completing the Report and Recommendation to the Court on an adoption finalization. If the Adoption Interview Team gives written approval of the adoption, then DCS will submit a written recommendation to the Court regarding the appropriateness of finalizing the adoption.

Note: The Adoption Interview Team is comprised of the regional SNAP Specialist and two (2) Family Case Managers (FCMs) from the specified region.

Code References

[IC 31-19-11-1: Decree; affidavit; felony convictions](#)

PROCEDURE

For Adoptions Involving Petitioners Who Are Petitioning to Adopt a Child Under the Supervision of DCS

The adoption worker will complete the following steps:

1. If the subject is qualified based upon the criminal history check status, complete the evaluation of the criminal history and background check process;
2. If the subject is conditionally disqualified based upon criminal history check status, immediately have the subject of the check contact the DCS Central Office Background Check Unit for information on the specific arrests or charges that require additional information. It is the responsibility of the subject of the check to provide the DCS Central Office Background Check Unit the information required to verify the disposition of all arrests and charges; and
3. If the subject is disqualified based upon criminal history status, immediately have the subject of the check contact the DCS Central Office Background Check Unit if he or she wishes to challenge the disqualification.

To receive a waiver or conditional disqualification resolution:

1. The applicant/petitioner must submit a letter that includes the following:
 - a. The ability of the proposed adoptive parent to provide for the child's safety and well-being,
 - b. The length of time that has passed since the conviction, juvenile adjudication, or CA/N substantiation,
 - c. The severity of the offense,
 - d. Evidence of the person's rehabilitation,
 - e. The duration and quality of the relationship between the child and the proposed adoptive parent, if the child has already been placed in the home,
 - f. If there is a child living in the applicant or petitioner's home who has behavioral issues (violence, sexual offender, etc.), the soundness of the proposed safety plan to protect adopted children coming into the home, and
 - g. The letter must be signed by the applicant, the adoption worker, the adoption Supervisor, and the DCS Local Office Director, or Agency Director.
2. All waiver request and conditional disqualification resolution decisions must be approved by a Background Check Team. The Team will consist of the Regional Manager and the DCS Local Office Director in the county and/or region where the applicant/petitioner or proposed adoptive applicant is having a home study completed; which maintains supervision of the child being sought for adoption; or where the adoption is being finalized; a member of the DCS Central Office Background Check Unit and the regional SNAP Specialist. Team decisions can be made via e-mail, telephone or in person.

Upon receiving a qualified status or approved waiver, the adoption worker will take the following steps:

1. Conduct and evaluate the results of the CPS history check. If the applicant/petitioner has been named as a perpetrator of child abuse or neglect, the investigative results [Assessment of Alleged Child Abuse or Neglect](#) (SF113/CW0311) must be reviewed by the Adoption Interview Team. The Adoption Interview Team is comprised of the regional SNAP Specialist and two (2) Family Case Managers (FCMs) from the specified region;

Note: Only the Adoption Interview Team may approve a petitioner/proposed adoptive family who is a perpetrator of CA/N or has received a waiver of their criminal history. Prior to submitting the request to the Adoption Interview Team, the adoption worker must obtain written approval from the Supervisor of the child's FCM, DCS Local Office Director, and Regional Manager. LCPA workers must obtain prior written approval from their agency, the DCS Local Office Director, and the Regional Manager prior to submitting a request to the Adoption Interview Team.

2. Conduct and evaluate the results of the Sex and Violent Offender Registry Check. No applicant/petitioner who is a sex offender may be approved as an adoptive parent; and
3. Conduct and evaluate the results of the LEA/sheriff checks. The applicant/petitioner may not have a conviction of a felony or misdemeanor related to the health and safety of a child.

Note: For Private Adoptions Involving Petitioners Who Are Petitioning to Adopt a Child Who Is NOT Under the Care and Supervision of the Juvenile Court or DCS.

The private agency will run its own background checks through the Indiana State Police (ISP) using the National Child Protective Act Check. A copy of the results is submitted directly to the LCPA. DCS is not involved in the background check process

PRACTICE GUIDANCE

N/A

FORMS AND TOOLS

1. [Sample Notice of Denial/Court Review](#)
2. [Assessment of Alleged Child Abuse or Neglect \(SF113/CW0311\)](#) – Available in ICWIS

RELATED INFORMATION

N/A