



**INDIANA DEPARTMENT OF CHILD SERVICES
CHILD WELFARE MANUAL**

Chapter 12: Foster Family Home Licensing

Effective Date: 3/1/07

Section 30: Evaluation of Background Checks for Foster Family Home Licensing

Version: 1

POLICY

OLD POLICY: 613.1

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

1. Local DCS offices will receive a letter stating whether the applicant's criminal history is qualified, conditionally disqualified or disqualified for licensure or placement **and** will receive a copy of the official FBI transcript.
2. Licensed Child Placing Agencies (LCPAs), will receive a letter stating whether the applicant's criminal history 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.

DCS Central Office Background Check Unit will disqualify an applicant's criminal history if the applicant or the applicant's employee or volunteer, who has regular and continuous direct contact with children supervised by the applicant has been convicted of any felony or misdemeanor related to the health and safety of a child.

DCS Central Office Background Check Unit will not accept requests for waivers of the disqualified status for a misdemeanor related to the health and safety of a child.

DCS Central Office Background Check Unit will not accept requests for waivers of the disqualified status 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. Aggravated battery (IC 35-42-2-1.5)
8. Kidnapping (IC 35-42-3-2)
9. Criminal confinement (IC 35-42-3-3)
10. A felony sex offense under IC 35-42-4
11. Carjacking (IC 35-42-5-2)
12. Arson (IC 35-43-1-1)
13. Incest (IC 35-46-1-3)
14. Neglect of a dependent (IC 35-46-1-4(a)(1) and (IC 35-46-1-4(a)(2))
15. Child selling (IC 35-46-1-4(d))
16. A felony involving a weapon under IC 35-47 or IC 35-47.5
17. A felony relating to controlled substances under IC 35-48-4

18. An offense relating to material or a performance that is harmful to minors or obscene under IC 35-49-3
19. A felony that is equivalent to a felony listed in subdivisions (1) through (18) for which the conviction was entered in another state.

DCS Central Office Background Check Unit will accept a request for waiver of the disqualified felony if the following conditions apply:

1. The subject of the check was convicted for a felony not listed above and **more than five (5) years** has lapsed since the conviction.
2. The person convicted of the felony submits written evidence that would convince a reasonable person that he/she has been rehabilitated and that he/she does not pose a risk to the health, welfare and/or safety of children. The letter must be signed off by the licensing worker, licensing supervisor and either the local office director or the agency director.
3. The agency responsible for licensing recommendation and the DCS Central Office Licensing Unit Manager agree in writing that the felony will not be used as grounds for denial of the license.

An applicant applying for licensure for foster care for related children who is denied licensure due to disqualifying criminal history may be considered for placement as an unlicensed relative. See separate policy Chapter 8 Conducting Background Checks for Unlicensed Placements and Evaluation of Background Checks for Unlicensed Placements.

DCS Central Office Background Check Unit will conditionally disqualify an applicant's criminal history:

1. For any criminal charges that do not have a disposition. The subject of the check 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.
2. If the applicant has been convicted of 4 or more offenses that are felonies or misdemeanors. The subject of the check will remain in disqualified status until the subject provides the Central Office Background Check Unit with verification that would convince a reasonable person that they would not pose a threat to the safety or wellbeing of a child placed in their care. This should include the length of time since the conviction and how the applicant has been rehabilitated.

The licensing worker will evaluate the results of the following:

1. Child Protection Services History
2. Sex and Violent Offender Registry
3. Local police/sheriff records

Code References

IC 31-27-4-5: Applying for license
IC 31-27-4-6: Grounds for denial of license applications
IC 31-27-4-13: Denial of license
IC 31-27-4-16: Duration of license; limitations; renewal
465 IAC 2-1: Licensing of Boarding Homes for Children

PROCEDURE

The Central Office Background Check Unit will recommend qualification of the criminal history if it is determined that Federal Bureau of Investigation's transcript report and fingerprint-based Indiana criminal history check report:

1. shows no criminal history, or
2. shows no disqualifying crimes.

Proceed to next steps: Refer to separate policies, Chapter 12, Pre-Service Training and First Licensing Home Visit

The Central Office Background Check Unit will **conditionally disqualify** an applicant's criminal history, if;

1. the applicant has undispositioned arrest or charges on either criminal history report. The subject of the check 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.

NOTE: Upon receipt of a conditional disqualification letter the licensing worker must have the subject of the check contact the Central Office Background Check Unit for information on the specific arrests or charges where additional information is needed. It is the responsibility of the subject of the check to provide the Central Office Background Check Unit information to verify the disposition of all arrests and charges.

2. The applicant has been convicted of 4 or more crimes. The subject of the check will remain in continually disqualified status until the subject provides the Central Office Background Check Unit with verification that would convince a reasonable person that they would not pose a threat to the safety or wellbeing of the child(ren) that would be placed in their care. This should include the length of time since the conviction and how the applicant has been rehabilitated.

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 local office director in the county/region where the applicant is requesting licensure and a member of the Central Office Background Check Unit. Team decision can be made via e-mail, telephone or in person.

The Central Office Background Check Unit will **disqualify** an applicant's criminal history if it is determined that the Federal Bureau of Investigation's transcript report and fingerprint-based Indiana Criminal History Check Report reveal any conviction of a felony or misdemeanor related to the health and safety of a child.

The licensing worker will take the following steps:

1. Conduct and evaluate the results of the child protection services history check.
 - a. If the applicant has been named as a perpetrator of child abuse or neglect the investigative results SF113/CW0311, must be sent to the central office residential licensing unit manager for evaluation.

NOTE: Only the central office residential licensing unit manager may approve the licensure of an applicant who is a perpetrator of child abuse or neglect. Prior to submitting the request to central office the licensing worker must obtain written approval from the licensing supervisor, local office director and regional manager. LCPA licensing

workers must obtain prior written approval from the local office director and regional manager prior to submitting a request to the central office unit manager.

2. Conduct and evaluate the results of the Sex and Violent Offender Registry Check.
 - a. The applicant may not be registered as a sex or violent offender.
3. Conduct and evaluate the results of the local police/sheriff checks.
 - a. If the applicant had been previously qualified by the Central Office Background Check Unit and the local police/sheriff check reveals a conviction or arrest without a disposition, a copy of the criminal history check must be submitted to the Central Office Background Check Unit for review. The Central Office Background Check Unit will evaluate the criminal history report and send a letter regarding the qualification status to the appropriate agency.

PRACTICE GUIDANCE

- N/A

FORMS AND TOOLS

- N/A

RELATED INFORMATION

ARCHIVE