Chapter 13: Adoption/Permanency	**Effective Date:** June 1, 2021
Section 08: Evaluating Background Checks for Adoptions	**Version:** 9

STATEMENTS OF PURPOSE

The Indiana Department of Child Services (DCS) will evaluate the results of all required Fingerprint-Based National Criminal History Checks (Fingerprint-Based Checks) for the purpose of adoption. The DCS or Licensed Child Placing Agency (LCPA) adoption worker[1] will evaluate the National Sex Offender Registry Checks, Child Protective Services (CPS) History Checks, and Local Criminal Records Checks. See policy 13.07 Conducting Background Checks for Adoptions for additional information.

DCS cannot recommend adoption if background checks reveal that an individual living in the home has a disqualified criminal history or criminal and/or CPS history that is not waived by DCS.

> **Note:** A court may not grant adoption if the petitioner is:
> 1. A sex or violent offender (as defined in IC 11-8-8-5);
> 2. A sexually violent predator (as defined in IC 35-38-1-7.5); or
> 3. A person with nonwaivable criminal history (as defined in IC 31-34-4-2 and IC 35-38-1-7.5).

Fingerprint-Based Check
The DCS Central Office Background Check Unit (COBCU) will evaluate the results of the Fingerprint-Based Check and notify the assigned contact person at the DCS local office or LCPA contact person of the criminal history clearance status by e-mailing the Fingerprint-Based Check Status Letter. See policy 13.15 Fingerprint-Based Checks for additional information.

National Sex Offender Registry Check
The adoption worker will evaluate the National Sex Offender Registry Check to determine if there are any matches. If there is a match, the adoption cannot proceed. The adoption worker should notify the COBCU at COBCUinquiry@dcs.in.gov immediately. The COBCU will re-evaluate the Fingerprint-Based criminal history report.

Child Protective Services (CPS) History Checks
The adoption worker will review the completed CPS history results for persons six (6) years and older from Indiana and all other states of residency within the past five (5) years (if applicable), and determine if there are reports of a substantiation of child abuse and/or neglect (CA/N) for the subject of the check. If there is substantiated CPS history in Indiana or the equivalent in another state, the filing and granting of a CPS waiver by COBCU is required for DCS to recommend the adoption. See policy 13.16 Waivers for further information.

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[1] The "adoption worker" may either be the DCS or the LCPA worker. The person conducting the home study would complete the required background checks.

Local Criminal Records Check
The adoption worker will evaluate the results of the Local Criminal Records Check. If the name-based court record check returns a felony, four (4) or more misdemeanors, or a misdemeanor that relates to the health and safety of a child, the adoption worker shall contact COBCU for additional guidance if the fingerprint-based status letter was qualified.

Code References
1. IC 11-8-8-5: Sex or violent offender
2. IC 35-38-1-7.5: Sexually violent predators
3. IC 31-9-2-22.5: Conduct a criminal history check
4. IC 31-9-2-84.8: Nonwaivable offenses
5. IC 31-19-8-5 Agency report and recommendation; filing requirements; waiver of report
6. IC 31-34-4-2: Placement of child with relative caretaker or de facto custodian; evaluation; criminal history check required; exceptions; out-of-home placement; considerations

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PROCEDURE

The adoption worker will ensure that each background check required in policy 13.07 Conducting Background Checks for Adoptions has been completed and follow the listed steps:
1. Review the background check results letter received from COBCU for a Fingerprint-Based check and provide a copy to the subject of the check:
   a. Instruct the subject of the check to contact the COBCU consultant listed on the Fingerprint-Based Check Status Letter to determine if the subject of the check is eligible to apply for a Waiver, when the fingerprint-based check status returns disqualified and the adoption worker supports a waiver. See policy 13.16 Waivers for further detail; and
   b. Instruct the subject of the check to contact the COBCU consultant listed on the Fingerprint-Based Check Status Letter within 10 days of the date of the results letter and provide the requested documentation to the COBCU consultant, if the Fingerprint-Based Check Status returns incomplete – documentation necessary. Upon re-evaluation, if the status is disqualified refer to 'a' above.

2. Review the results of the CPS History Check:
   a. Provide the subject of the check with a copy of the completed Indiana Request for a Child Protection Services (CPS) History Check (SF52802) form showing substantiated history if substantiated CPS history is discovered in Indiana. See policy 2.06 Sharing Confidential Information for further guidance; and
   b. Work with the subject of the check to submit a complete waiver packet to COBCU as quickly as possible, if there is substantiated CPS history in Indiana or the equivalent in another state. The filing and granting of a CPS waiver by COBCU is required for DCS to recommend adoption. See policy 13.16 Waivers for additional information.

3. Review the results of each 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, the adoption cannot proceed and any children already placed must be removed immediately;
4. Review the results of the Local Criminal Records Checks. For further instructions about completing Local Criminal Records Checks, see the Local Criminal Court Check Instructions – Available on the Background Check Resources SharePoint;

Note: Contact the COBCU Consultant listed on the Fingerprint-Based Check Status Letter within five (5) days if the Fingerprint-Based Status Letter was qualified and the Local Criminal 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 at any time the adoption worker believes the Local Criminal Records Check report may alter the status of the Fingerprint-Based Check, the adoption worker will contact the COBCU Consultant listed on the Fingerprint-Based Check Status Letter for further action.

5. Follow steps outlined in policy 13.16 Waiver to request a Waiver of disqualified criminal history and/or substantiated CPS history, if applicable; and

Note: A criminal history or CPS waiver granted for the purpose of adoption may not be used for any other purpose (e.g., foster family home licensure or employment). A new waiver request must be submitted and granted for each additional purpose.

6. Upload a copy of the results for all background checks and any waiver letters in the case management system (when the adoption worker is a local DCS office worker).

The DCS COBCU will complete requirements as outlined in policies 13.16 Waivers and 13.15 Fingerprint-Based Checks.

PRACTICE GUIDANCE

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 LCPA, DCS local office 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.

FORMS AND TOOLS

1. Background Check Matrix for Unlicensed Placements Desk Guide – Available on the Background Check Resources SharePoint
2. Indiana Request for a Child Protection Services (CPS) History Check (SF 52802)
3. Local Criminal Court Check Instructions – available on the Background Checks website

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RELATED INFORMATION

N/A