

	INDIANA DEPARTMENT OF CHILD SERVICES CHILD WELFARE MANUAL	
	Chapter 13: Out-of-Home Services	Effective Date: July 1, 2014
	Section 6: Evaluation of Background Checks for Unlicensed Placements	Version: 7

POLICY [REVISED]

The Indiana Department of Child Services (DCS) will evaluate the results of all background checks conducted for the purpose of unlicensed placements. See separate policy, [13.5 Conducting Background Checks for Unlicensed Placements](#). The final results will be placed in the child's file and documented in the Management Gateway for Indiana's Kids (MaGIK).

Fingerprint-Based National Criminal History Check of National and State Records Data Bases (Fingerprint-Based Check)

The DCS Central Office Background Check Unit (COBCU) will evaluate the results and notify the assigned DCS local office contact person of the criminal history clearance status by e-mailing the Fingerprint-Based Check Status Letter.

The COBCU will conditionally disqualify all persons whose criminal history is incomplete and requires further verification.

Note: The subject of the check will remain in a conditionally disqualified status until the subject provides the COBCU with a copy of required verification of charges, including but not limited to: court orders showing disposition and level of conviction, court order showing dismissal, and/or arrest reports. Upon receipt of all necessary verifications, COBCU will re-evaluate the status and issue an amended Fingerprint-Based Check Status Letter to the assigned DCS local office contact person by e-mail.

The COBCU will disqualify all persons whose criminal history report includes the following, although some may be eligible to file for a waiver (see Waivers section below):

1. Any misdemeanor related to the health and/or safety of a child;
2. Any felony;
3. Four (4) or more misdemeanor convictions; or
4. A juvenile adjudication for an act that if committed by an adult would be one (1) of the 21 felonies listed in the waiver section below.

The COBCU will qualify all persons whose Fingerprint-Based Check Report has no criminal history or reflects arrests and/or convictions that do not result in a conditionally disqualified or disqualified status.

Child Protection Services History Check (CPS History Check)

The FCM will review the completed CPS History Check results from Indiana, and if applicable, all other states of residency within the past five (5) years and determine if there are reports of any substantiation of abuse and/or neglect for the subject of the check. If there is substantiated CPS history in Indiana or the equivalent in another state, a waiver is required for placement (see section below regarding [Waivers](#)).

Sex Offender Registry Checks

The FCM will evaluate the Sex Offender Registry Checks to determine if there are any matches. If there is a match, and a child is already placed in the home, remove the child immediately. If there has not yet been a placement, the subject of the check is not eligible to be considered as a placement resource. Notify the COBCU immediately. The COBCU will re-evaluate the Fingerprint-Based Check report.

Law Enforcement Agency (LEA) Records Checks

The FCM will evaluate the results of the LEA Records Checks. If there is a felony, four (4) or more misdemeanors, or a misdemeanor that relates to the health and safety of a child, the FCM will contact the COBCU immediately. The COBCU will cross-reference the LEA Records Check with the Fingerprint-Based Check Report to ensure the LEA Records Check does not alter the Fingerprint-Based Check Status. At anytime the FCM believes the LEA Records Check may alter the status of the Fingerprint-Based Check Report, the FCM will contact the COBCU consultant that is listed on the Fingerprint-Based Check Status Letter for further action.

[REVISED] Waivers

Upon receipt of the positive written recommendation of support for employment and/or volunteering from the DCS licensed agency Executive Director or HR Director, COBCU will accept a request for a waiver of disqualified juvenile history or of substantiated CPS history. COBCU will also accept a waiver of disqualifying criminal history if the subject of the check has not been convicted, or is pending conviction, of any of the felonies listed below:

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 \(IC 35-42-2-1\)](#) within the last five (5) years;
7. [Domestic battery \(IC 35-42-2-1.3\)](#);
8. [Aggravated battery \(IC 35-42-2-1.5\)](#);
9. [Kidnapping \(IC 35-42-3-2\)](#);
10. [Criminal confinement \(IC 35-42-3-3\)](#) within the last five (5) years);
11. A [felony sex offense](#) under [\(IC 35-42-4\)](#);
12. [Carjacking \(IC 35-42-5-2\)](#) within the last five (5) years; prior to its repeal
13. [Arson Class \(IC 35-43-1-1\)](#) within the last five (5) years;
14. [Incest \(IC 35-46-1-3\)](#);
15. [Neglect of a dependent \(IC 35-46-1-4\(a\)\(1\)\)](#) and [\(IC 35-46-1-4\(a\)\(2\)\)](#);
16. [Child selling \(IC 35-46-1-4\(d\)\)](#);
17. [Operating a vehicle while intoxicated \(IC 9-30-5\)](#) within the last five (5) years;
18. **[REVISED]** A felony involving a weapon ([IC 35-47](#)) or ([IC 35-47.5](#)) within the last five (5) years;
19. **[REVISED]** A felony offense relating to controlled substances ([IC 35-48-4](#)) within the last five (5) years;
20. **[REVISED]** A felony offense relating to obscenity or pornography [IC 35-49-3](#); obscene under;
21. **[NEW]** Attempt (IC 35-41-5-1) in combination with any of the above listed felonies; and/or
22. **[REVISED]** A felony that is equivalent to a felony listed in subdivisions (1) through (21) for which the conviction was entered in another state.

DCS will immediately remove a child from a home, if a child was placed in out-of-home care on an emergency basis, and the background check subsequently reveals that an individual living, working or volunteering in the home:

1. Has a disqualified criminal history or substantiated CPS history that is not waived by DCS and the placement cannot or is not authorized by the court; or
2. Has a disqualified criminal history or a substantiated CPS history where a waiver is not being actively pursued.

REUNIFICATION BACKGROUND CHECKS

For all background checks that are conducted on a parent, guardian, custodian or household member for purposes of reunification, the FCM will evaluate the results. The FCM will use critical decision making skills to decide whether it is safe for the child to return home.

Note: For fingerprint-based checks for the purposes of reunification, COBCU will provide a letter with a summary of the results to the assigned DCS local office contact person (COBCU will not provide a qualified, disqualified or conditionally disqualified letter). The FCM may contact the COBCU for a copy of the actual fingerprint results when needed.

Code References

1. [IC 31-34-4-2: Placement of child with relative caretaker, de facto custodian, or stepparent; evaluation; criminal history check required; exceptions; out-of-home placement; considerations](#)
2. [IC 31-34-20-1.5: Placement in household with certain individuals prohibited; criminal history checks; exceptions; considerations](#)
3. [IC 31-34-21-5.5: Reasonable efforts to preserve and reunify families](#)

PROCEDURE

The FCM will complete the following steps:

1. For an Emergency Named-Based Check, evaluate results and determine appropriateness of the emergency placement. Ensure follow-up fingerprints are obtained or the [Follow-Up Action for Name-Based Check Form \(SF53424\)](#) is completed;
 - a. If the check returns a conviction or an arrest without a disposition for:
 - i. A misdemeanor related to the health and safety of a child; or
 - ii. A felony that is not eligible for a waiver, placement cannot take place. See Waiver section for all felonies not eligible for a waiver.
 - b. If the check returns a conviction or an arrest without a disposition for a criminal act that is eligible for a waiver, use discretion to determine if placement is in the best interest of the child. Consideration should include, but not be limited to:
 - i. Any pre-existing relationship between the child and the relative caregiver;
 - ii. The age of the child in need of placement;
 - iii. The length of time since the arrest or conviction;
 - iv. The severity of the arrest or conviction;
 - v. The total number of arrest or convictions;
 - vi. Other available background check results; and
 - vii. If the applicant is currently on probation or parole.
2. For a Fingerprint-Based Check, review the Status Letter received from COBCU. If the status is conditionally disqualified or disqualified, and the DCS local office believes the placement is in the child's best interest:
 - a. Provide a copy of the Fingerprint-Based Check Status Letter to the subject of the check,
 - b. If disqualified, 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. If eligible and the FCM supports the waiver, instruct the subject of the check that a

request for a waiver must be submitted to the COBCU within 10 days of the date of the Fingerprint-Based Check Status Letter, and

Note: For emergency placements, the child cannot remain placed unless the waiver is requested timely and granted. For nonemergency placements a child cannot be placed in the home until the waiver is requested and granted. If the court orders placement over DCS objections, the FCM must submit a waiver to COBCU within 10 days and work with COBCU to obtain the necessary dispositions.

- c. If conditionally disqualified, contact the COBCU consultant listed on the Fingerprint-Based Check Status Letter within 10 days of the date of the results letter. Provide the requested documentation to the COBCU consultant. Upon reevaluation, if the status is disqualified, refer to “b” above.

Note: Unless the subject of the check is actively working with the COBCU to resolve the conditional disqualification status, the child cannot be placed or remain in the home.

3. Review the results of the CPS History Check
 - a. If a substantiated CPS history is discovered and the local office believes this placement is in the child’s best interest, the DCS local office will give the subject of the check a copy of the completed Indiana [Request for a Child Protection Services \(CPS\) History Check \(SF 52802\)](#) form showing substantiated history (see separate policy, [2.6 Sharing Confidential Information](#)),
 - b. For emergency placements, children cannot remain placed unless the subject of the check is actively working with the COBCU to obtain a waiver. A request for a waiver should be filed within 10 days of receiving the CPS history,
 - c. For non-emergency placements, children cannot be placed until a waiver is requested and granted, and
 - d. If the court places a child over DCS objections, a waiver request should be filed with COBCU within 10 days of the order as noted in the court’s Chronological Case Summary (CCS) entry.
4. Review the results of the Sex Offender Registry Check for a match to the subject of the check. If there is a match for the subject of the check, a child cannot be placed and any children already placed must be removed immediately;
5. Review the results of the LEA Records Check and contact COBCU within five (5) days of the check for further evaluation if there is a felony, four (4) or more misdemeanors, or a misdemeanor that relates to the health and safety of a child. At anytime the FCM believes the LEA Records Check report may alter the status of the Fingerprint-Based Check, the FCM will contact the COBCU consultant that is listed on the Fingerprint-Based Check Status Letter for further action;
6. To request a waiver of disqualified criminal history and/or substantiated CPS history submit the following to the COBCU by fax at 317-234-4633 or scan/e-mail at background.checkunit@dcs.in.gov:
 - a. A signed letter from the subject of the check (parent or guardian may write if the subject of the check is a minor and he or she is unable to write his or her own letter; however, the minor child should sign if able) explaining in detail the situation involving the substantiation or criminal act and addressing:
 - i. The length of time since the person committed the offense, delinquent act, or act that resulted in the substantiated report of abuse or neglect;
 - ii. The severity of the offense of abuse or neglect, including jail or prison time served and whether the subject of the check is currently on probation or parole;
 - iii. Evidence of the person’s rehabilitation, including the person’s cooperation with a

- treatment plan, if applicable; and
 - iv. The ability of the proposed applicant to provide for the child's safety and well-being.
 - b. A signed letter on DCS letterhead or e-mail from the FCM explaining:
 - i. His or her observation of the subject of the check;
 - ii. If he or she supports the waiver and the reasons;
 - iii. If the child is already been placed in the subject's care; and
 - iv. How the child is related to the subject of the request.
 - c. An Indiana [Request for a Child Protection Services \(CPS\) History Check \(SF 52802\)](#). If substantiation of abuse and/or neglect is found, there must be a 311 included for all substantiations reported on the above form. Also, if the subject has resided outside the state of Indiana in the past five (5) years, the other state's CPS search results must also be submitted,
 - d. A screen print of the Sex Offender Registry Check completed from the required National Sex Offender website, if 14 years old or older,
 - e. A copy of the written results of all LEA checks if 18 years and older, and
 - f. A copy of the fingerprint based status letter that was e-mailed to the DCS local office, if requesting a CPS waiver only. This is required for checks completed for the purpose of a relative placement showing the fingerprint based status of qualified if 18 years and older.
 - 7. Place a copy of the results for all background checks and any waiver letters in the child's file and document in the Management Gateway for Indiana's Kids (MaGIK) in the case contacts;
 - 8. DCS must submit the waiver decision to the court;
 - 9. See separate policy, [8.08 Preparing Child for Placement](#) if the decision is to approve the placement and the child is not currently placed; and/or
 - 10. Notify the family and develop alternate placement plans for the child if the decision is to deny the placement (see separate policy, [8.01 Selecting a Placement Option](#)).

Note: A criminal history or CPS waiver granted for the purpose of an unlicensed relative placement may not be used for the additional purposes of foster family home licensure, adoption, employment or any other purpose. A new waiver request must be submitted and granted for each additional purpose.

The DCS COBCU will:

1. For Fingerprint-Based Checks, evaluate the report within five (5) business days of receipt and notify by e-mail the assigned DCS local office background check contact person regarding the Fingerprint-Based Check Status;
2. If conditionally disqualified or disqualified provide guidance, re-evaluate history based on the received documentation and issue a new Fingerprint-Based Check Status Letter when applicable; and
3. For waivers of disqualified criminal history and substantiated CPS history:
 - a. Upon receipt of the complete waiver request packet, the COBCU will summarize, make a recommendation, and submit the request to the Deputy Director of Placement Support and Compliance, or designee,
 - b. The Deputy Director of Placement Support and Compliance, or designee, will submit the recommendation to the Background Check Team for a joint decision.

Note: The Background Check Review Team consists of the Deputy Director of Placement Support and Compliance (or their designee), the DCS Local Office Director

(LOD) and Regional Manager of the local office that has supervision of the child. The team decision may be made via phone or e-mail.

- c. Notify by e-mail the assigned DCS local office background check contact person of the waiver decision. A decision will be returned in approximately 10 working days and the status will either be “waiver granted” or “waiver not granted”.
4. For Exception to Fingerprint request, when the exception is granted, generate the Indiana Limited Criminal History (LCH) check and notify by e-mail the assigned DCS local background check contact person regarding the status.

PRACTICE GUIDANCE

N/A

FORMS AND TOOLS

1. [Application for Criminal History Background Check \(SF53259\)](#)
2. [Indiana Request For A Child Protection Services \(CPS\) History Check \(SF52802\)](#)
3. [Follow-up Action for Name-Based Check \(SF53424\)](#)
4. [Background Check Matrix for Unlicensed Placements and Foster Care Desk Guide](#)

RELATED INFORMATION

Factors for the Local Office Worker and Background Check Review Team to Consider When Recommending and/or Approving the Background Check Waivers

Information yielded on all background checks should be considered, including but not limited to the following:

1. The current home environment;
2. The ability of the proposed unlicensed resource family to provide for the child’s safety and well-being;
3. The length of time that has passed since the conviction, juvenile adjudication, or CA/N substantiation;
4. The severity of the offense;
5. Evidence of the person’s rehabilitation;
6. The duration and quality of the relationship between the child and the proposed unlicensed resource family; and
7. Any impact the denial of the placement may have on the ability to keep the sibling group together, if applicable.

Disclosing Fingerprint-Based Check Information

Upon request, the DCS local office may receive a copy of the official criminal history transcript that contains criminal history reported by the Federal Bureau of Investigations (FBI) and the Indiana State Police (ISP). The subject of the Check is not to receive a copy of the official FBI or ISP transcript. 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 record may be formally challenged. A Review Challenge of inaccurate information must be made to the State Police and/or local law enforcement agency that posted the record. To refute inaccurate Indiana criminal history records or information, please request a Review Challenge from ISP.

Disqualified Fingerprint Status

Disqualified status means that unless a waiver is granted the subject of the check is ineligible to be

a(n):

1. Unlicensed relative;
2. Household member; or
3. Employee or volunteer of the home who has or will have direct contact, on a regular and continuing basis, with children who are or will be under the direct supervision of the unlicensed resource.

Conditionally Disqualified Fingerprint Status

Conditionally Disqualified status means that until the conditionally disqualifying arrest or conviction is resolved and the status is changed to Qualified (or the status is changed to Disqualified and a Waiver is subsequently granted) the subject of the check is ineligible to be a(n):

1. Unlicensed Relative;
2. Household member; or
3. An employee or volunteer of the home who has or will have direct contact, on a regular and continuing basis, with children who are or will be under the direct supervision of the unlicensed resource.

Examples of reported information on a Fingerprint-Based Check report that will lead to a conditional disqualification include but are not limited to an arrest without a disposition, a conviction without the level of the conviction being a misdemeanor or a felony, or a conviction where additional information on the circumstances of the arrest and conviction are required.

Qualified Fingerprint Status

Qualified fingerprint status means that the subject of the check is eligible to be a placement option, household member, or have direct contact, on a regular and continuing basis, with children who are or will be under the direct supervision of the unlicensed resource, as long as the subject of the check passes all other background checks.