

	<b>INDIANA DEPARTMENT OF CHILD SERVICES CHILD WELFARE MANUAL</b>	
	<b>Chapter 8: Out-of-Home Services</b>	<b>Effective Date: July 1, 2011</b>
	<b>Section 6: Conducting Background Checks for Unlicensed Placements</b>	<b>Version: 3</b>

**POLICY [REVISED]**

The Indiana Department of Child Services (DCS) requires background checks on unlicensed placements when considering placing a child in an unlicensed resource home on all persons who:

1. Live in the home; or
2. Work or volunteer in the home and 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.

After a child is placed in an unlicensed resource home, DCS requires background checks on:

1. New household members who have an intent to reside in the home for 21 days or longer (the days do not have to be consecutive); checks are required prior to moving into the unlicensed resource home;
2. Current household members who turn 18 years old; checks are required within 30 days of his/her birthday; or
3. New employees and/or volunteers; checks are required prior to beginning work or volunteering in that unlicensed resource home.

DCS will conduct the following background checks, which will vary based on the age of the subject of the check and the type of check being conducted (emergency vs. nonemergency), on unlicensed resource homes:

1. National Name-Based Criminal History Record Check (Emergency Name-Based Check) ;
2. Fingerprint-Based National Criminal History Check (Fingerprint-Based Check);
3. Child Protection Service (CPS) History Check;
4. Sex Offender Registry Check; and/or
5. Local Law Enforcement Agency (LEA) Records Check.

DCS will not conduct background checks on children under DCS care and supervision.

Fingerprint-Based Checks conducted for unlicensed placements cannot be used for foster family home licensure, adoption, employment or any other purpose. A new fingerprint-based check will be required for each new purpose.

## Emergency Unlicensed Placement

An emergency placement is an unplanned placement with an unlicensed resource at or after the time of initial removal. This does not include a change in placement after the detention hearing, unless the court or DCS determines that an immediate emergency change in placement is necessary to protect the health or safety of the child and fingerprint results of the new unlicensed placement would not be available prior to the necessary change.

A child's parent is not considered a placement. Do not complete an Emergency Name-Based Check on a child's parent or that parent's household members.

A background check for an emergency unlicensed placement will consist of the following for those who live, work, or volunteer in the home:

1. For all persons age 18 and older, a(n):
  - a. Emergency Name-Based Check must be completed prior to placing the child(ren),

**Note:** See **Exceptions to Fingerprinting** section below.
  - b. Fingerprint-Based Check must be completed within 72 hours of conducting an Emergency Name-Based Check, if the child(ren) are placed,
    - i. If the subject of the check refuses to get fingerprinted within 72 hours remove the children; and
    - ii. Complete a [Follow-Up Action for Name-Based Check \(SF53424/CW3619\)](#) indicating the subject of the check refused to be printed.
  - c. [Follow Up Action for Name-Based Check \(SF53424/CW3619\)](#) must be completed within 72 hours of conducting the Emergency Name-Based Check even if the child is not placed or the subject of the check cares for the child for any period of time,
  - d. CPS History Check must be completed in Indiana and initiated in every state the subject of the check has lived in the last five (5) years either prior to placement or within 72 hours of placement,
  - e. Sex Offender Registry Check must be completed either prior to placement or within 72 hours of placement in every state the subject of the check has lived in the last five (5) years, and
  - f. LEA Records Check must be completed in every state the subject of the check has lived in the last five (5) years within 30 days of placing the child(ren).
2. For all persons age 14 – 17 years, a:
  - a. CPS History Check must be completed or initiated in every state the subject of the check has lived in the last five (5) years either prior to placement or within 72 hours of placement, and

- b. Sex Offender Registry Check must be completed in every state the subject of the check has lived in the last five (5) years, either prior to placement or within 72 hours of placement.
3. For all persons age 0 -13 years a CPS History Check must be completed or initiated in every state the subject of the check has lived in the last five (5) years either prior to placement or within 72 hours of placement

### **Non-Emergency Unlicensed Placements**

For unlicensed non-emergency placements, a background check will consist of the following:

1. For all persons age 18 and older:
  - a. Fingerprint-Based Check<sup>1</sup>,
  - b. CPS History Check in every state the subject of the check has lived in the last five (5) years,
  - c. Sex Offender Registry Check in every state the subject of the check has lived in the last five (5) years, and a
  - d. LEA Records Check in every state the subject of the check has lived in the last five (5) years.

**Note:** Do not attempt to use the Name-Based Check for nonemergency placements, foster care licensing, adoption, babysitters, minors, parents or parent's household members or for any other purpose other than an emergency placement.

2. For all persons age 14 – 17 years of age:
    - a. CPS History Check in every state the subject of the check has lived in the last five (5) years, and a
    - b. Sex Offender Registry Check in every state the subject of the check has lived in the last five (5) years.
  3. For all persons age 0 -13 years CPS History Check must be completed prior to placement in every state the subject of the check has lived in the last five (5) years.

### **Exceptions to Fingerprinting**

The only exception to fingerprinting for an applicant is if he or she has a physical disability which makes it impossible to obtain the subject's fingerprint. The exception does not apply to subjects who are able to 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 of the check does not have fingers;

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<sup>1</sup> If an unlicensed relative had a Fingerprint-Based Check within the last 12 months, a new check is not needed for a new relative placement except when an Emergency Name-Based Check is completed. If this occurs, a new fingerprint based check is necessary if children are placed.

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.

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.
6. A psychologist licensed under IC 25-33.

**Note:** Do not complete an Emergency Name-Based Check on applicants who may be approved for an exception to fingerprinting as the exception cannot be granted after the Emergency Name-Based Check is completed.

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

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

If the exception is granted, 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 years, contact COBCU for guidance on what type of check is needed in that state.

### **Background Checks for Custodial and Noncustodial Parents and Those Living in the Same Household**

DCS does not have the statutory authority to fingerprint custodial parents, noncustodial parents or members of their households. This including those involved in supervised and unsupervised visitation and/or an Interstate Compact on the Placement of Children (ICPC) parent referral. Do not complete a Fingerprint-Based Check on these individuals.

Use discretion in completing CPS History Checks, LCH Checks, Sex Offender Registry Checks, and LEA Records Checks. Some factors to consider are if the:

1. Child raises concern regarding the household;
2. Members of the Child and Family Team (CFT) have concerns regarding the household; and/or
3. The parent does not have regular visitation with the child(ren).

### **Extracurricular Activities**

DCS does not have the statutory authority to fingerprint individuals involved in the child's participation in extracurricular activities. These would include but are not limited

to Scouting, Youth Groups, School Parties, Sleepovers, Roller Skating parties, and Birthday parties. See separate policy, [8.23 Extracurricular Activities](#). Discretion should be used when deciding whether CPS History Checks, Sex Offender Registry Checks and/or LCH Checks are needed.

### **Child Care**

Background checks have already been completed by the Indiana Division of Family Resources for licensed child care 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 child care include but are not limited to visiting or spending time, including overnights, with friends and/or relatives, going to the movies, grocery store or other similar activities. Discretion should be used when deciding whether CPS History Checks, Sex Offender Registry Checks and/or LCH Checks are needed.

Unlicensed out-of-home child care 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 child care provider's home:

1. CPS History Checks in every state the subject of the check has lived in the last five (5) years (all persons regardless of age);
2. Sex Offender Registry Checks in every state the subject of the check has lived in the last five (5) years-(Ages 14 years and older); and
3. LCH Records Checks (Age 18 years and older).

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

Unlicensed in-home child care providers that supervise the child on a regular and continuing basis would be considered an employee or volunteer of the home and the background checks required for an employee or volunteer of the home (Fingerprint-Based Check, CPS History Check, Sex Offender Registry Check and a LEA Records Check) should be completed. Examples of regular and continuous child care include but are not limited to child care 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 separate 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 10-13-3-27.5: Record Check by Department of Child Services Under Exigent Circumstances](#)
3. [IC 31-9-2-22.5 Definition of a Criminal History Check](#)
4. [IC-34-18-6.1: Predisposition Report; Contents](#)
5. [IC 31-26-5 Family Preservation Services](#)
6. [IC 31-34-20-1.5 Placement in Household with Certain Individuals Prohibited; Exceptions; Criminal History Checks](#)
7. [240 IAC Article 6: Criminal History Record Information](#)

## PROCEDURE

For **emergency** and **nonemergency** placements, the Family Case Manager (FCM) will complete the following steps of the background check process for the persons that live, work, or volunteer in the home:

1. Verify the identity of each subject of the check, regardless of age by reviewing one (1) available and valid, government-issued identification document such as, but not limited to a:
  - a. Social Security card,
  - b. Birth certificate,
  - c. Passport,
  - d. Photo identification card, or
  - e. Drivers' license. See separate policy [2.9 Verifying Identity](#).
2. Have each subject of the check complete the [Application for Criminal History Background Check \(SF53259/CW3610\)](#) using their legal name as it appears on a current government issued picture I.D.
  - a. The subject of the check must sign and date the form, and
  - b. The FCM must place the original in the file after completion of the background check process.

**For Emergency Placements the following additional steps must be completed; if placement is a nonemergency, proceed to step 7 below:**

3. Request an Emergency Name-Based Check prior to placement for all household members 18 years of age or older consisting of:
  - a. Contacting the Indiana State Police (ISP) Headquarters at 317-232-8294, 1-800-622-4961, via email at [EDataOperationsCenter@isp.in.gov](mailto:EDataOperationsCenter@isp.in.gov), or via fax at 317-233-3057,
  - b. If emailing or faxing, submit a signed and dated [Application for Criminal History Background Check \(SF53259/CW3610\)](#) for each household member 18 years of age or older. If emailing, subject of email should read: "Application For Criminal History Background Check." The attached Application for Criminal History Background Check Form must contain the FCMs phone number where results will be called back,

- c. The FCM must:
    1. Identify him or herself through an assigned password and question and identify the DCS local office of the request; and
    2. Convey name, date of birth (DOB), and Social Security Number (SSN) exactly as listed on the subject of the check's government issued identification.
  - d. If the Emergency Name-Based Check was called in and not faxed or emailed, then within 24 hours, transmit a signed and dated copy of the [Application for Criminal History Background Check \(SF53259/CW3610\)](#) for each household member. The Indiana State Police (ISP) will contact the FCM if the wrong name was checked.
4. If the Emergency Name-Based Check for emergency placement is completed but the child(ren) are not placed with the prospective placement for any period of time, even hours:
    - a. Complete the [Follow Up Action for Name-Based Check Form \(SF53424/CW3619\)](#) indicating that no child was placed with this applicant, and
    - b. Scan and e-mail the form to [ISPRecords@isp.in.gov](mailto:ISPRecords@isp.in.gov) within 72 hours of the Emergency Name-Based Check. If e-mailing is not an option, fax it to the ISP Records Division at 317-233-8813.
  5. If a child(ren) is placed, even briefly, follow-up fingerprinting is required within 72 hours for all those that were checked through the Emergency Name-Based Check process. **If the subject of the check refuses to be fingerprinted within the 72 hour time limit the child(ren) must be removed.**
    - a. Complete the [Follow Up Action for Name-Based Check Form \(SF53424/CW3619\)](#) detailing due diligence in at least three separate attempts to obtain prints and the subject's refusal. The form should include the dates and types of contact.
    - b. Scan and e-mail the form to [ISPRecords@isp.in.gov](mailto:ISPRecords@isp.in.gov). If e-mailing is not an option fax to Records Division at 317-233-8813.
  6. If the fingerprinting process has begun and the subject was rejected but refuses to complete the printing process, send a copy of the completed [Follow Up Action for Name-Based Check Form \(SF53424/CW3619\)](#) to the COBCU via e-mail at [background.checkunit@dcs.in.gov](mailto:background.checkunit@dcs.in.gov) in addition to ISP Records Division.
  7. Register any person age 18 years and older for the Fingerprint-Based Check, unless requesting an Exception to Fingerprinting, which consists of the FCM:
    - a. Completing 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. Providing the subject of the check with the customized step by step instructions for registering for fingerprinting (If the FCM is unable to register the subject of the check see Registering for Fingerprints below),
  - c. Informing the applicants to use the same government issued identification when registering for fingerprints,
  - d. Ensuring the subject of the check is successfully fingerprinted,
  - e. Obtaining the results of the Fingerprint- Based Check, the COBCU will provide a letter via email to the DCS local office contact person handling all background check material and inform them of the Fingerprint Based Check Status.
    - a. If fingerprints are rejected, follow the instructions on the Reprint Notice. A 'reprint' appointment must be scheduled. Do not start a new registration or DCS will be charged twice. Provide the subject of the check a copy of the reprint notice if they will be scheduling their 'reprint' appointment themselves.
    - b. For all other results see separate policy, [8.7 Evaluation of Background Checks for Unlicensed Placements](#).
8. Conduct of a 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/Core/Portal.aspx>;

**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.

9. Conduct a CPS History Check for all persons:
- a. For Indiana:
    1. As the local office is the requesting agency, the FCM will complete Section A of the Indiana Request for Child Protective (CPS) History Check (SF52802/CW 2128);
    2. Have the subject of the check or representative if a minor, complete Section B Complete a search of the Indiana Child Welfare Information System, and hardcopy files if available, and reflect the results in Section C.
  - b. For all other states, conduct a CPS History check search for every other state the individual has lived for the past five (5) years, if applicable; locate information for a CPS administration or local office designee to process your search request at [http://www.cclld.ca.gov/AdamWalsh1\\_2609.htm](http://www.cclld.ca.gov/AdamWalsh1_2609.htm) Click on "[List of Contacts For Other State's Child Abuse and Neglect Registries](#)" If the person has CPS history in any state, refer to separate policy, [8.7 Evaluation of Background Checks for Unlicensed Placements](#), for further action required.



#### 10. Conduct LEA Records Checks:

- a. Request a records check from the LEA that responds to the subject of the check's current home address utilizing the [Application for Criminal History Background Check \(SF53259/CW3610\)](#), Section titled "For Law Enforcement Use Only",
- b. Request search from the appropriate LEA corresponding to ALL other residential addresses the subject of the check has resided during the past five (5) years, and
- c. Upon receiving the results of each check, see separate policy [8.7 Evaluation of Background Checks for Unlicensed Placements](#).

### PRACTICE GUIDANCE

#### Undocumented Immigrants

If the subject of the check is an undocumented immigrant, it is still essential to obtain their government identification, even if that identification is from their native country.

#### Notifying the FCM of Arrest, Convictions or Substantiation of Abuse or Neglect

The subject of the check should notify the FCM within 24 hours of the arrest, conviction or substantiation of abuse or neglect of the subject, a household member, employee and/or volunteer. The FCM and Supervisor will evaluate the severity and seriousness of the offense on a case by case basis and contact COBCU if additional guidance is needed.

#### Registering for Fingerprints

If the DCS local office 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 registering for fingerprinting through the DCS approved vendor that has been customized to the correct DCS local office, FCM's name, phone number and correct reason for printing, including the DCS billing code.

#### Searching CPS History

Search all available hardcopy records and complete an Indiana Child Welfare Information System search.

### FORMS AND TOOLS

1. [Application for Criminal History Background Check, \(SF53259/CW3610\)](#)
2. [Request for a Child Protection Services \(CPS\) History Check, \(SF52802/CW2128\)](#)
3. [Follow-up Action for Name-Based Check \(SF 53424/CW3619\)](#)
4. [L-1 Instructions](#)
5. [Background Check Matrix for Unlicensed Placements and Foster Care](#)

## 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 can 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 General Counsel over COBCU for assistance.

### **Special Fingerprinting Issues**

#### **Homebound**

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

#### **Unreadable Fingerprints and Reprint Notice**

Fingerprints may be rejected by 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 non emergency Name-Based National Criminal History Report be processed. Once the Name-Based Check has been requested the Fingerprint-Based Check processing time increases.

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

The local office COBCU contact person is provided access to the administrative website to check the status of prospective placement prints. A username and password may be obtained by emailing the COBCU at [background.checkunit@dcs.in.gov](mailto:background.checkunit@dcs.in.gov).

#### **Limited Criminal History (LCH)**

A LCH Check 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 completed if fingerprinting or an emergency name based check 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/>. Results are immediate. Designated DCS local office staff has access. For assistance with username or password issues, please email [background.checkunit@dcs.in.gov](mailto:background.checkunit@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 records the request should be made to ISP.

### **Emergency Name-Based Check**

The Emergency Name-Based Check is only for unlicensed relative resource homes being considered for Emergency Placements and prior to the placement being made. Indiana statute allows DCS the ability to access the Emergency Name-Based Check without fingerprints at the time of an emergency relative placement is being considered. This check retrieves information from the Interstate Identification Index or "Triple I." which is maintained by the FBI. The Emergency Name-Based Check is only used to provide immediate results for an emergency placement, with fingerprints required to follow within 72 hours to verify identity and results. Using the Emergency Name-Based Check for other reasons violates the law and DCS policy. Designated DCS local office staff must not share his or her password and/or challenge questions with anyone, including other DCS staff.

If the designated DCS local office staff has trouble using his or her user name and/or challenge question, the individual should send an email requesting help to [background.checkunit@dcs.in.gov](mailto:background.checkunit@dcs.in.gov).