

	INDIANA DEPARTMENT OF CHILD SERVICES CHILD WELFARE MANUAL	
	Chapter 8: Out-of-Home Services	Effective Date: March 1, 2007
	Section 7: Evaluation of Background Checks for Unlicensed Placements	Version: 3

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 will notify the appropriate DCS local office of the criminal history status. Upon request, the DCS local office may receive a copy of the official FBI transcript.

For placement purposes, DCS Central Office Background Check Unit will disqualify any person whose 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 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 safety of children. The letter must be signed by the child's Family Case Manager (FCM), FCM Supervisor, and either the DCS Local Office Director or the Agency Director; and
2. The DCS Local Office Director and Background Check Team agree in writing that the felony will not be used as grounds for denial of the placement.

The Background Check Review Team is comprised of the 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 was convicted for a felony not listed below; and/or
2. The subject 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 any of 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 \(IC 31-27-4-13\);](#)
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 35-46-1-4\(a\)\(2\)](#));
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/or
20. A felony that is equivalent to a felony listed in subdivisions (1) through (19) for which the conviction was entered in another state.

The court may approve placement of a child into an unlicensed relative home if a member of the applicant's household is disqualified based upon a criminal history report if the background check reveals a conviction for any crimes listed below. DCS will submit a written recommendation to the court regarding the appropriateness of the placement.

1. Reckless homicide;
2. Battery (Class C or D);
3. Criminal confinement (Class C or D);
4. Arson (Class C or D);
5. A felony involving a weapon under [IC 35-47](#) or [IC 35-47.5](#);
6. A felony relating to controlled substances under [IC 35-48-4](#); and
7. A felony that is substantially equivalent to a felony listed above for which the conviction was entered in another state.

DCS Central Office Background Check Unit will conditionally disqualify an applicant for a relative placement based upon criminal history.

1. For any criminal charge perpetrated by the applicant or a household member that does 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; and/or
2. If the applicant or household member has been convicted of four (4) or more offenses that are felonies or misdemeanors, the applicant will remain in disqualified status until the subject provides the DCS Central Office Background Check Unit with verification that would convince a reasonable person that the subject of the check would not pose a threat to the safety or well-being of a child placed in the care of the applicant. This should include the length of time since the conviction and how the applicant has been rehabilitated.

The FCM will evaluate the results of the following:

1. Child Protection Services (CPS) History;
2. Sex and Violent Offender Registry; and
3. Local Law Enforcement Agency and/or sheriff records.

DCS may deny placement in an unlicensed home if DCS determines the home to be unsuitable for the child for any reason.

If a child was placed in out-of-home care on an emergency basis and the background check subsequently reveals that an individual living in the home:

1. Has a conviction for any crime listed above that cannot be waived, thus rendering the

- court unable to authorize placement, DCS will immediately remove the child from the home; or
2. Has a conviction for any crime for which the court can authorize placement OR had a substantiation as a perpetrator of Child Abuse or Neglect (CA/N), DCS will contact the court regarding possible removal of the child while awaiting the court's final determination about the placement.

Code References

1. [IC 35-48-4: Offenses Relating to Controlled Substances](#)
2. [IC 31-34-20-1.5: Placement in household with certain individuals prohibited.](#)
3. [IC 31-34-4-2: Placement of child with relative caretaker; criminal history check required; exceptions](#)

PROCEDURE

The FCM will complete the following steps:

1. If the subject is qualified based upon a criminal history check, complete the evaluation of the criminal history and background check process;
2. If the subject is conditionally disqualified based upon criminal history status, immediately have the subject of the check contact the DCS Central Office Background Check Unit for information on the specific arrests or charges regarding which additional information is needed. It is the responsibility of the subject of the check to provide the DCS Central Office Background Check Unit information 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 they wish to challenge the disqualification.

To receive a waiver or conditional disqualification resolution:

1. The subject of the check must submit a letter that includes the following:
 - a. The ability of the proposed applicant to provide for the child's safety and well-being,
 - b. The length of time that has passed since the conviction, juvenile adjudication, or Child Abuse and/or Neglect (CA/N) Child in Need of Services (CHINS) substantiation,
 - c. The severity of the offense,
 - d. Evidence of the subject's rehabilitation, and
 - e. Signatures of the subject, the applicant, the Licensing Worker, the Licensing Supervisor and DCS Local Office Director. The applicant may submit a letter of support for the subject of the check if he or she so desires.

All waiver request and conditional disqualification resolution decisions must be approved by the DCS Central Office Background Check Team. The Background Check Team will consist of the Regional Manager and the DCS Local Office Director in the county/region where the applicant is requesting placement and a member of the DCS Central Office Background Check Unit. A team decision can be made via e-mail, telephone, or in person.

Upon receiving notice of a qualified status or approved waiver, the Licensing Worker will take the following steps:

1. Conduct and evaluate the results of the CPS History check. If anyone in the home has been named as a perpetrator of CA/N, DCS must submit a written recommendation to the court regarding the appropriateness of the placement and will defer to the court's written findings regarding the appropriateness of the placement;
2. Conduct and evaluate the results of the Sex and Violent Offender Registry Check. Household members may not be a registered as a sex or violent offender; and
3. Conduct and evaluate the results of the local LEA and/or sheriff checks if a household member had been previously qualified by the DCS Central Office Background Check Unit and the local LEA and/or sheriff check reveals a conviction or arrest without a disposition, a copy of the criminal history check must be submitted to the DCS Central Office Background Check Unit for review. The DCS Central Office Background Check Unit will evaluate the criminal history report and notify the DCS local office regarding the qualification status.

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

1. Indiana Code allows the court to approve placement of a child into the home of an unlicensed relative placement for the following felonies:
 - a. Reckless homicide,
 - b. Battery (Class C or D),
 - c. Criminal confinement (Class C or D),
 - d. Arson (Class C or D),
 - e. A felony involving a weapon under [IC 35-47](#) or [IC 35-47.5](#),
 - f. A felony relating to controlled substances under [IC 35-48-4](#), and
 - g. A felony that is substantially equivalent to a felony listed above for which the conviction was entered in another state.
2. If a background check reveals any individuals living in the home has had a conviction for any crimes listed directly above, DCS will submit a written recommendation to the court regarding the placement and will defer to the court's written finding regarding the appropriateness of the placement.

For emergency placements where the background check subsequently reveals criminal history:

1. Contact the court and request expedited authorization for the child to remain in the home or to remove the child until the court makes a finding regarding the appropriateness of the placement. Remove the child immediately if the court denies authorization for the child to remain in the home during the review period;
2. Submit the written recommendation to the court and seek a ruling on the appropriateness of the placement. If an emergency placement was made, request an expedited finding;
3. If the placement is approved by the court, see separate policy, [8.8 Preparing Child for Placement](#); or
4. If the placement is denied by the court:
 - a. Provide the unlicensed relative with written notification of the placement denial (See [Sample Notice of Placement Denial/Court Review](#)), and
 - b. Develop alternate placement plans for the child. See separate policy, [8.1 Selecting a Placement Option](#).

If a background check reveals **any criminal convictions not listed in the policy statements above**:

1. Convene an emergency Child and Family Team (CFT) Meeting to make a determination about the appropriateness of the placement. Refer to Related Information for guidance on evaluation of criminal history information. Notify the court of the placement decision;
2. If the decision is to approve the placement, see separate policy, [8.8 Preparing Child for Placement](#); and
3. Notify the family in writing if the decision is to deny the placement (See [Sample Notice of Placement Denial/Court Review](#)) and develop alternate placement plans for the child. See separate policy, [8.1 Selecting a Placement Option](#).

PRACTICE GUIDANCE

N/A

FORMS AND TOOLS

1. [Sample Notice of Placement Denial/Court Review](#)

RELATED INFORMATION

Written recommendations regarding the appropriateness of the placement must be based on:

1. Information yielded on all background checks;
2. The current home environment;
3. The ability of the proposed caregivers to provide for the child's safety and well-being;
4. The length of time that has passed since the conviction, juvenile adjudication, or CA/N substantiation;
5. The severity of the offense;
6. Evidence of the person's rehabilitation;
7. The duration and quality of the relationship between the child and the proposed substitute caregiver, and
8. Any impact the denial of the placement may have on the ability to keep the sibling group together if siblings are involved.