

	INDIANA DEPARTMENT OF CHILD SERVICES CHILD WELFARE MANUAL	
	Chapter 12: Foster Family Home Licensing	Effective Date: May 10, 2007
	Section 30: Evaluation of Background Checks for Foster Family Home Licensing	Version: 2

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 notify the appropriate agency or individual regarding the criminal history qualification status.

1. Local DCS offices will receive notice stating whether the applicant is qualified, conditionally disqualified, or disqualified for licensure or placement based upon the results of the criminal history check process. DCS local offices may receive a copy of the official FBI transcript upon request; and
2. Licensed Child Placing Agencies (LCPAs) will receive notice stating whether the applicant 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.

For purposes of foster home licensing or placement, DCS Central Office Background Check Unit will disqualify any applicant, any employee, or volunteer if that person 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 applicant if that person's criminal history includes:

1. Any misdemeanor related to the health and safety of a child; and/or
2. Any felony;.

DCS Central Office Background Check Unit will accept a request for waiver of the disqualifying felony if:

1. The person convicted of the felony submits written evidence that would convince a reasonable person that person has been rehabilitated and that he or 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 DC Local Office Director or the LCPA director; and
2. the licensing agency and Background Check Review Team agree in writing that the felony will not be used as grounds for denial of the license or placement.

The Background Check Review Team will consist of the Regional Manager and DCS Local Office Director in the county or region where the applicant is requesting licensure and a member of the Central Office Background Check Unit. A waiver may be granted if the following conditions apply:

1. The subject was convicted for a felony not listed below; and
2. The subject of the check 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 these 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](#)
20. A felony that is equivalent to a felony listed in subdivisions (1) through (19) for which the conviction was entered in another state.

For the purpose of licensing or placement, DCS Central Office Background Check Unit will note a subject as conditionally disqualified based on the subject's criminal history:

1. For any criminal charges that do not have a disposition. The subject 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 subject has been convicted of four (4) or more offenses that are felonies or misdemeanors. The subject will remain in disqualified status until he or she provides the Central Office Background Check Unit with verification that would convince a reasonable person that the subject would not pose a threat to the safety or well-being of a child placed in his or her care. This should include the length of time since the conviction and a summary of how the subject has been rehabilitated.

The licensing worker will evaluate the results of the following:

1. Child Protection Services (CPS) History;
2. Sex and Violent Offender Registry; and
3. Local law enforcement/sheriff records.

An applicant applying for licensure for foster care for related children who is denied licensure due to a disqualifying criminal history may be considered for placement as an unlicensed relative. See separate policies, [8.6 Conducting Background Checks for Unlicensed Placements](#) and [8.7 Evaluation of Background Checks for Unlicensed Placements](#).

Code References

1. [IC 31-27-4-5: Applying for license; criminal history checks](#)
2. [IC 31-27-4-6: Grounds for denial of license applications](#)
3. [IC 31-27-4-13: Denial of license](#)
4. [IC 31-27-4-16: Duration of license; limitations; renewal](#)

5. [465 IAC 2-1: Licensing of Boarding Homes for Children](#)

PROCEDURE

The licensing worker will complete the following steps:

1. If a subject is qualified based upon the criminal history check status, complete the evaluation of the criminal history and background check process;
2. If a subject is conditionally disqualified based upon the criminal history status immediately have the subject of the check contact the Central Office Background Check Unit for information on the specific arrests or charges that require additional information. It is the responsibility of the subject of the check to provide the Central Office Background Check Unit the information required to verify the disposition of all arrests and charges; and
3. If a subject is disqualified based upon the criminal history status, immediately have the subject of the check contact the Central Office Background Check Unit if he or she wishes 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) substantiation,
 - c. The severity of the offense,
 - d. Evidence of the subject's rehabilitation,
 - e. The letter must be signed by the applicant, the subject of the check, the licensing worker, the Licensing Supervisor and Local Office Director or LCPA agency director.

Note: The applicant may submit a separate letter of support for the subject of the check if the applicant so desires.

2. 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 or region where the applicant is requesting licensure and a member of the Central Office Background Check Unit. Team decisions can be made via e-mail, telephone, or in person.

Upon receiving a qualified status or approved waiver, the licensing worker will take the following steps:

1. Conduct and evaluate the results of the child protection services history check. If the subject has been named as a perpetrator of CA/N, the assessment results (SF113/CW 0311), must be sent to the Central Office Residential Licensing Unit (RLU) Manager for evaluation.

Note: Only the Central Office RLU Manager may approve the licensure of an applicant if the applicant, household member, employee or volunteer 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, DCS 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 RLU Manager.

2. Conduct and evaluate the results of the Sex and Violent Offender Registry Check. The subject of the check may not be registered as a sex or violent offender; and
3. Conduct and evaluate the results of the local LEA and/or sheriff checks. If the subject of a check had been previously qualified by the 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 Central Office Background Check Unit for review. The Central Office Background Check Unit will evaluate the criminal history report and notify the appropriate agency regarding the qualification status.

Upon completion of the criminal history and background check process, proceed with the licensing process. See separate policies, [12.5 Pre-Service Training Requirements](#) and [12.7 First Licensing Home Visit](#).

PRACTICE GUIDANCE

N/A

FORMS AND TOOLS

N/A

RELATED INFORMATION
