



State of Florida
Department of Children and Families

Ron DeSantis
Governor

Chad Poppell
Secretary

DATE: April 17, 2020
TO: Patricia Medlock, Assistant Secretary for Child Welfare
FROM: Milton Perinon, Director of Child Welfare Operations
SUBJECT: Temporary Background Screening Procedures

This memorandum is effective April 17, 2020 and expires on June 1, 2020, or upon notification of expiration or extension from the Assistant Secretary for Child Welfare.

PURPOSE: The Department is working to ensure our staff and partners have the capability and resources to stay healthy and continue to serve the children and families of Florida by ensuring proper background screenings are completed. Frequent questions have been posed from around the state on how to expedite background screening processes for employees, child care providers, foster parents, and other providers. On April 8, 2020, the Florida Department of Law Enforcement (FDLE) requested the requirement to process fingerprints to perform a criminal history background check be waived and postponed until fingerprinting could be performed. The Department has been approved to submit name-based criminal history checks and receive a state and national criminal history result based upon demographic information to review under the Level 2 background screening standards.

The purpose of this memorandum is to outline the current background screening process, identify each component of those screenings, and propose temporary procedures for obtaining background screening for the purposes of employment or placement of children in Child Welfare programs, including but not limited to Foster Care or Group Homes; Child Care; Substance Abuse; Mental Health, DCF Contracted Providers and DCF Employees. This will be completed by providers who will request and receive a Conditional Background Screening Clearance for Employment, Placement or Licensing using a name-based search of the FDLE and FBI criminal history databases.

BACKGROUND: Persons seeking employment with programs that the Department licenses or regulates are required to be of good moral character. This requires a review of the individual's criminal history record, and for some programs, additional types of background checks are required. The criminal history required is a state and national fingerprint-based search. The criminal history is then reviewed to determine if any disqualifying offenses are present under the Level 2 guidelines found in section 435.04, Florida Statutes. If a disqualifying offense is found, the individual is not eligible for employment with vulnerable populations.

1. *Background Screening Components for Child Welfare, including Household Members, Child Care, Substance Abuse and Mental Health programs required to screen under section 435.04, F.S., and if applicable sections 408.809 and 39.0138, F.S.*

Criminal History Review by Fingerprint Submission

1317 Winewood Boulevard, Tallahassee, Florida 32399-0700

Mission: Work in Partnership with Local Communities to Protect the Vulnerable, Promote Strong and Economically Self-Sufficient Families, and Advance Personal and Family Recovery and Resiliency

An individual begins the background screening process with fingerprinting; those prints are electronically submitted to the Florida Department of Law Enforcement (FDLE). Once received, the FDLE transmits to the Federal Bureau of Investigation (FBI) for a national criminal history check. The FDLE returns the results of the state and national criminal history check to the Department within 72 hours.

The Department receives those results for Child Welfare, including but not limited to, Foster Care or Group Homes; Child Care; Substance Abuse and Mental Health programs through the Care Provider Background Screening Clearinghouse (Clearinghouse).

It is the responsibility of the Department to review those results and determine eligibility for employment.

No Criminal History Results

If there is no criminal history, the individual is determined eligible for employment or licensing as a foster parent. Over the past three months, the Department has received 28,191 screenings with no criminal history. These determinations are made within an average of two calendar days.

Criminal History Results

If there is a criminal history returned with an arrest record, a careful review of the criminal offenses on the record is completed. This review is completed within an average of six calendar days. Over the past three months, the Department has received 8,074 screenings with criminal history arrests. The amount of time required to review the criminal history, is determined by the number of arrests.

If the final court disposition is unknown, the Department requests the missing information from the individual in order to make a final determination. Section 435.05, F.S. requires the requested documentation be submitted to the Department within 30 days of the request. When the documents are received, they are reviewed, and an eligibility determination is completed.

If the documents are not returned to the Department, the screening in the Clearinghouse is updated and the individual is deemed not eligible for employment. This is an automatic process in the Clearinghouse determined by a system timer starting from the date of the letter requesting the information.

2. Additional Screening Components Required for Foster Parents, including Household Members, Group Homes, Residential Treatment Centers, Shelter or Other Congregate Care Setting

42 U.S.C. 671(a)(20) requires a check of any child abuse and neglect registry for Florida and a request from any other state in which the prospective employee has resided in the preceding five years. This does not prohibit the provider from employing the individual in a group home once the check has been requested. However, the employee cannot have unsupervised access to children until the results are received. These checks are required for Title IV-E federal funding.

Employers must request the abuse and neglect check from the appropriate state and maintain documentation in the employee record of the attempts to obtain the check. However, the provider is permitted to hire the applicant for employment while awaiting results. **The employee must, at all times, remain in the line of sight of an employee who has successfully completed the Level 2 Background Screening and any additional required checks.** Additional checks are not returned to the Department for review; they are maintained by the provider.

A search of the Florida Safe Families Network (FSFN) for child abuse and neglect verified reports is conducted by the Background Screening unit for group home employees and provided at the time of completion of the screening through the Clearinghouse.

To ensure the protection of vulnerable children, the provider is required to request and received a local law enforcement check. Section 39.0138, F.S. states for the purposes of that section, a criminal history records check may include, but is not limited to, numerous checks and includes a local law enforcement check.

Rules 65C-14.023 and 65C-13.023 (65C-45.001), Florida Administrative Code, require the employer to request local law enforcement checks and a check for 911 calls to the residence of the prospective employee or foster parent. There may be charges that were not included on a criminal history check that must be evaluated to ensure child safety. On average, it takes 14 days for these to be returned to the provider. In addition to being maintained by the provider, the CBC and the Department may receive and assess these results for child safety. These must be requested, and the provider may license or employ the person while awaiting results. However, at no time, may the person be alone with vulnerable populations until the request is received.

At the time of this memorandum, many police departments and sheriff's offices are closed to the public or do not have capacity to provide this information timely. There are no known agencies that provide CPI program access to their local criminal system outside of JSO (JACKSONVILLE), where CPIs can run their own local and 911 checks to conduct investigative work per the local agreement.

As a result, these checks are not available for many providers to obtain. This limits their ability to quickly onboard new hires. To avoid delays in hiring, providers will request the 911 and local law enforcement checks on all staff being hired to work in group homes. If they are unable to receive the checks, they will document in the employee file the written or verbal information provided by the law enforcement agency as to why they cannot process the checks.

Until the expiration of this memorandum, Community Based Care Providers will ensure a search of the Clerk of the Court Information System (CCIS) is conducted and maintained in the applicant's file until such time the local check and 911 reports may be obtained locally. CBC and CPI have access to CCIS and can run these checks immediately. CCIS will capture arrests in which charges were filed on the applicant/court status/disposition.

Adoptions may not be finalized until the submission of fingerprints and Adam Walsh checks completed and clearance issued unless approved in writing by the Assistant Secretary for Child Welfare.

3. Additional Screening Components Required for Child Care

The Child Care and Development Block Grant Act of 2014 included additional background screening requirements for child care personnel. These screening requirements were incorporated in section 402.302(15), F.S. They include a check of any child abuse and neglect registry for Florida and a request from any other state in which the prospective employee has resided in the preceding five years. The check of the Florida Safe Families Network is conducted by the Background Screening unit and provided at the time of completion of the screening through the Clearinghouse.

Providers are required to request any out-of-state abuse and neglect registry checks from each individual state. The time that lapses from the date of the request to the receipt of the check may vary by state. Most checks take an average of 30 days to three months to receive from the requesting state. At the time of this memorandum, these checks are becoming more difficult or impossible to obtain. If a provider encounters a problem, the Department will attempt to assist the provider to obtain the requested check.

These checks are not returned to the Department for review; they are maintained by the provider.

A State Criminal History check from any state in which the prospective employee has resided in the previous 5 years is required. These checks requested from each individual state by the provider and are returned to the Department for review. The eligibility determination is based on the results. The time lapse from date of request to date of receipt also varies by state and is determinate on each state's individual requirements for submission of the request.

4. Proposed Temporary Background Screening Procedures

At the time of this memorandum, fingerprinting of applicants and caregivers may not be available to obtain a Level 2 background screening as required by statute. This memorandum outlines steps for obtaining a background screening in the event fingerprinting for Level 2 background screening cannot be obtained.

5. Five-Year Re-Screening Requirements

Providers and Hiring Managers will request a Name-Based search of the FDLE and FBI Criminal history records through the Department's Website for any five-year re-screening of criminal history checks that are not already in the Clearinghouse.

Results will be returned to DCF Background Screening unit. The results will be reviewed under the Level 2 standards and sections 408.809 and 39.0138, F.S. if applicable. A conditional clearance letter will be provided to the facility requesting the screening

It is the responsibility of the provider or hiring manager to ensure fingerprints are submitted to the Department for review within 30 days of the expiration of the Executive Order 20-52 for any individual screened for a 5-year re-screening under the Name-Based Level 2 background check. The date of the Conditional Clearance letter will be the date for the next 5-year rescreening of the employee or licensee.

PROCEDURE: Background Screening Temporary Procedures

I. Background Screening for Department Employees

- CPI/API/Hotline/Institutional staff for Forensic Employees
 - Hiring Managers will submit requests for background screening to the Florida Abuse Hotline Crime Intelligence Unit (CIU). The CIU has been authorized to complete Florida (FCIC) and National (FCIC) criminal history checks through secured eAgent terminals using Purpose Code J. Institutional staff will submit to the facility staff authorized to perform the check through their secure FCIC terminal using Purpose Code J. CPI, API and Hotline staff screened under Purpose Code J cannot be provided access to criminal history results until they are fingerprinted and cleared for employment.
 - All screening results will be reviewed by Background Screening Coordinators to determine eligibility. The results will be reviewed under the Level 2 standards and section 408.809, F.S., for Forensic Institutional staff. A conditional clearance letter will be provided, and the Hiring Manager will be notified of the completion of the screening through Footprints. See Appendix B
- All other DCF Employees
 - Hiring Managers will request a Name-Based search of the FDLE and FBI Criminal history records through the Department's Website. HQW.Background.Screening@myffamilies.com. The results will be reviewed under the Level 2 standards. A conditional clearance letter will be provided, and the Hiring Manager will be notified of the completion of the screening through Footprints. See Appendix B.

II. Background Screening for Providers

- Screening for Child Welfare, including but not limited to Foster Care, Household Members or Group Homes; Child Care; Substance Abuse; Mental Health; DCF Contracted Providers
 - Providers and Hiring Managers will request a Name-Based search of the FDLE and FBI Criminal history records through the Department's Website. Results will be returned to DCF Background Screening unit. The results will be reviewed under the Level 2 standards and sections 408.809 and 39.0138, F.S. if applicable. A conditional clearance letter will be provided to the facility requesting the screening. See Appendix B.
 - For provider types that require out-of-state criminal histories and child abuse/neglect checks, documentation of attempts to obtain these records must be maintained in the employee file, if they are not available due to capacity issues.

III. Background Screening for Planned Placements

- Placements occurring within 72 hours will be submitted as an Emergency Placement which includes a name-based state and national criminal history checks to be completed by the CIU. Placements occurring outside of the 72 hours, providers will request a Name-Based search of the FDLE and FBI Criminal history records through the Department's Website. Results will be returned to DCF Background Screening unit for review.
- The results will be reviewed under chapter 39 standards. A conditional clearance letter for placement purposes will be provided to the facility requesting the screening. See Appendix C.

IV. Background Screenings for Adoptions

- At this time, there have been no modifications made to fingerprint based results pursuant to 65C-16.007(3), F.A.C.; which require foster parents and relative caregivers who are the current caregivers adopting a Department child, to have federal background checks current within five (5) years of the date of adoption placement. In addition, nonrelatives or for potential adoptive parents who are not the current caregivers of the child, federal background checks must be current within one (1) year of the date of adoption placement.

Section 65C-16.007(3), F.A.C.; also requires that all potential adoptive parents have a state background check that is current within 90 days of the date of adoption placement. If the agency is unable to obtain a finger-print based state check, a Name-Based search of the FDLE and FBI Criminal history records through the Department's Website can be used to fulfill this requirement.

CONTACT INFORMATION: If you have questions about these procedures, please contact Diane Harris, Chief of Policy and Public Relations at 850-717-4636 or email at Diane.Harris@myflfamilies.com or RaeJohne Peterson, Chief of Operations at 850-487-6112 or email at RaeJohne.Peterson@myflfamilies.com.

Appendix A

Instructions for Completing and Processing Revised Background Screening Requirements

This procedure outlines the steps to complete Name-Based Criminal History Check for the Purpose of Background Screening.

- I. Hiring Managers for Child Welfare programs, including but not limited to Foster Care, Group Homes, Child Care; Substance Abuse; Mental Health; DCF Contracted Providers; DCF Employees are responsible for ensuring a Name-Based Criminal History Check is completed on all potential applicants. Please complete the following steps to complete Name-Based Criminal History Check:
 - Requestor will visit the Background Screening Website for the Florida Department of Children and Families website to request a Criminal History search.
 - This can be found at: <https://www.myflfamilies.com/service-programs/background-screening/>
 - Select the box titled "Request a Criminal History Check"
 - Requestor will need the following information available:
 1. Applicant's Full Name, Alias(s) Names, Date of Birth, Social Security Number, Race and Sex, Facility Name and Facility OCA Number
 2. The Department will submit the requested information to the FDLE for completion of a state and national name-based criminal history check
- II. The Department will receive the results from the Florida Department of Law Enforcement by email. When the results are received, they will be reviewed, and a Conditional Clearance Letter will be issued. See Appendix B.
- III. Once a Conditional Clearance Letter has been issued, the applicant may be employed in a position normally requiring a Level 2 background screening pending fingerprinting of the employee. See Appendix B.
 - The FDLE will provide the Department the information needed for requesting the name check.



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Appendix B
Conditional Clearance Letter

Date

Provider Name
Provider Address
City, State, Zip Code

RE: Conditional Clearance Letter for [Applicant Name]

The individual you are considering for employment has completed a Name-Based Background Screening.

The Department has reviewed the results. There is nothing in the individual's record that disqualifies the individual from serving in the program or profession for which this screening was required. This clearance is conditional, and a final determination will not be made until the Department has received the results of a fingerprint-based search for state and national results and has been reviewed as required by law.

If additional background screening components are required by statute or rule for your program, those must be completed or attempts to complete must be placed in the individual's personnel or other appropriate file.

Fingerprints must be submitted for review by the Department within 30 days of the expiration of the Executive Order 20-52 for any individual hired and only screened under Name-Based Level 2 background screening.

If you have questions or concerns, you may call the Background Screening Helpdesk as 1-888-352-2849.

Sincerely,

Background Screening

1317 Winewood Boulevard, Tallahassee, Florida 32399-0700

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Appendix C

Conditional Clearance Letter for Placement Purposes

Date

Provider Name Conditional Clearance Letter for [Applicant Name]
Provider Address
City, State, Zip Code

The individual you are considering for employment has completed a Name-Based Background Screening and the Department has completed a review of the criminal records received in accordance with Section 39.0138, Florida Statutes. Fingerprints must be submitted for review by the Department within 30 days of the expiration of the Executive Order 20-50 for any individual screened under Name-Based background screening.

- The Department's review found **no** information that automatically prohibits the above individual from being considered by you as a placement option.
- The Department's review found information that **statutorily prohibits the above individual from being considered as a placement** option. This is not applicable if the applicant is the parent of the child.
- Although there was no information reviewed that would statutorily prohibit placement consideration under FS 39.0138, it is recommended that the Circuit Point of Contact review all available information and discuss with the case manager the appropriateness of this placement. Advisement of the court may be warranted.
- The Department requires additional information in order to complete this criminal history records review. Please contact Department staff at the number listed below.

This letter is not an approval of a placement, it is the notice to you of the Department's review of the criminal history record as required by statute. The Community-Based Care Lead Agency is responsible for conducting the home study and other required investigative checks as well as conducting an evaluation of all factors regarding the safety of the child in determining the appropriateness of this placement. This includes information obtained from local law enforcement and other sources available to you.

If you have any questions, please contact the Department at 1-855-766-2729.

Sincerely,

Background Screening

1317 Winewood Boulevard, Tallahassee, Florida 32399-0700