



Criminal Background Checks on Foster and Adoptive Parents

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The Adoption and Safe Families Act of 1997 (ASFA) included the following provision regarding criminal background checks on prospective foster and adoptive parents:

20)(A) unless an election provided for in subparagraph (B) is made with respect to the State, provides procedures for criminal records checks for any prospective foster or adoptive parent before the foster or adoptive parent may be finally approved for placement of a child on whose behalf foster care maintenance payments or adoption assistance payments are to be made under the State plan under this part, including procedures requiring that--

(i) in any case in which a record check reveals a felony conviction for child abuse or neglect, for spousal abuse, for a crime against children (including child pornography), or for a crime involving violence, including rape, sexual assault, or homicide, but not including other physical assault or battery, if a State finds that a court of competent jurisdiction has determined that the felony was committed at any time, such final approval shall not be granted; and

(ii) in any case in which a record check reveals a felony conviction for physical assault, battery, or a drug-related offense, if a State finds that a court of competent jurisdiction has determined that the felony was committed within the past 5 years, such final approval shall not be granted; and

(B) subparagraph (A) shall not apply to a State plan if the Governor of the State has notified the Secretary in writing that the State has elected to make subparagraph (A) inapplicable to the State, or if the State legislature, by law, has elected to make subparagraph (A) inapplicable to the State;

The Child Welfare Policy Manual contains a number of questions and answers on criminal background checks, which can be accessed online at http://www.acf.hhs.gov/j2ee/programs/cb/laws_policies/laws/cwpm/policy_dsp.jsp?citID=62#1640

The National Conference of State Legislatures maintains an online searchable database of state legislation related to ASFA issues, including that of criminal background checks. The database can be accessed at: <http://www.ncsl.org/statefed/cf/asfasearch.htm>

The Child Welfare Information Gateway has published a fact sheet, current as of April 2008, that presents a national summary as well as State statutes regarding criminal background checks of parents who want to serve as foster or adoptive parents. It is available online at http://www.childwelfare.gov/systemwide/laws_policies/statutes/background.cfm

The NRCFCPPP has gathered this additional information from states regarding the following:

1. policies concerning repeat criminal background checks; and
2. length of time required to obtain results.

This is not a comprehensive list of all policies and practices and is current only through the date of this document.

CURRENT POLICY REGARDING REPEAT CRIMINAL BACKGROUND CHECKS

Alaska

By policy, fingerprints are required at each status change for the family (foster care to adoption, for instance). Relicensing or re-approval requiring a repeat criminal background check is performed every six years.

Colorado

Colorado Bureau of Investigation (CBI) fingerprints are "flagged" so that the Department of Human Services only has to do them once. If there is an arrest, the certifying agency gets that information. FBI background check is required once for foster care. If the foster family adopts, and it is more than 18 months from the initial check, the courts generally require another FBI background check.

Connecticut

Connecticut does not repeat the fingerprint background checks. The state, name and date of birth, local police check, child protection/central registry check is completed every two years. The state police flag the individual if he/she is subsequently arrested. All applicants' initial fingerprints are kept on file with the state police. Whenever there is a future State of CT hit regarding the fingerprints, DCF receives notification and a copy of the rap sheet from the state police. The process is not repeated. CT re-licenses every two years. The FBI fingerprints process is not redone at the time of re-licensing.

Indiana

The state requires foster parents to have annual criminal history checks. This includes a Child Protection Service check, Indiana State Juvenile History, Indiana State limited and local law enforcement agencies check, and sex and violent offender registry check. F.B.I. fingerprinting is done every 4 years, at relicensure.

Louisiana

The state currently does not repeat fingerprinting unless there is knowledge or suspicion of criminal activity. They are moving to a three-year certification time frame with a recheck of prints at each recertification.

Michigan

Once fingerprints are submitted, the foster parent/adoptive applicant becomes part of a system known as WrapBack. If the person is subject to any criminal activity, the state police will notify the Bureau of Child and Adult Licensing, and the child welfare agency can follow up. At this time, they only require the fingerprints at the front end.

Missouri

Missouri performs fingerprinting of all foster parents at initial licensure and at renewal, which is every two years.

New Hampshire

New Hampshire does not require printing for renewals; however, they do the state police check for renewals. They have been requiring foster parents who are adopting and who were not previously fingerprinted to be printed prior to the adoption.

New Mexico

Until 2008 the state required annual criminal background checks which require new fingerprint cards every year. The policy was recently changed and now requires fingerprint- based federal criminal

background checks at initial licensure or after a break in service. State criminal records were also previously checked annually but are now only checked as above. State child abuse checks continue to be conducted at annual recertification. New Mexico is also adding a requirement for staff to annually search state courts data base for any criminal or civil complaints that may have been filed but not adjudicated

New York

The New York State Division of Criminal Justice Service, keeps fingerprint cards on "search and retain." This means that after the first criminal history record check is completed, if any arrests on any of the fingerprinted parties occur, the child welfare agency is notified and sends the information to the agency that originally inquired (as long as the foster home remains open, or until the adoption is finalized). They do not recheck with the FBI.

North Dakota

After a foster parent is licensed and maintains the license without a break of over 30 days, no FBI checks are completed as long as they are licensed. For adoption, once the federal criminal background check is completed, the agency will conduct only a state-based background check for a study update (done every two years, as long as the family has an approved study, but has not yet received adoptive placement). If the family closes their case file and returns to the agency, a full fingerprint based check will be completed.

Ohio

Legislation effective in August 2008 requires a state criminal background check every four years upon recertification. The bill also establishes the Retained Fingerprint Applicant database which will give very short turn around if a caregiver has been arrested, pleaded guilty or convicted of a prohibitive crime. An FBI check will be required at initial certification only. There is no requirement to obtain an FBI check upon recertification, however, the law is permissive and allows agencies to do so if they choose to.

Utah

Requires that all foster parents were licensed after April 1, 2007 have the full fingerprint (FBI) background checks done. After that, if they have continuously lived in state since the first FBI check, the state has not required repeat FBI checks. If they have been out of state longer than six weeks, then they are required to have the FBI checks the next time they renew their license. If they are going to adopt, the state also requires the FBI check on the initial adoption. If there are other adoptions subsequent to their FBI check, the state does not require another FBI check if they have continuously lived in the state of Utah. In-state background checks are completed for those individuals every time they renew their foster care license or adopt.

West Virginia

Foster care policy requires that open foster/adoptive homes be re-certified annually, but they do not require a criminal background check each year. The families must complete a fingerprint based background check prior to initial approval and then every 5 years thereafter. They are required to sign a Statement of Criminal Record every 2 years that states the foster/adoptive parents have not been criminally convicted of a crime since the initial fingerprint check was conducted and that they will report any arrests to the WV DHHR within 24 hours of the arrest.

Wisconsin

Wisconsin does not have a requirement to conduct fingerprint-based background checks at relicensure. State statutes require criminal background checks (outside of the fingerprint checks) every four years but many foster care agencies redo the criminal background checks at every relicensure. As long as a foster parent remains licensed and is relicensed without a gap in licensure, Wisconsin does not require additional fingerprint background checks.

LENGTH OF TIME REQUIRED FOR CRIMINAL BACKGROUND CHECKS

Alaska

Six to nine months.

Colorado

As of June 2008 the state fingerprinting is taking a couple weeks and FBI another week after that. Colorado Bureau of Investigation moved to an electronic system in late 2006, so that once they have processed the fingerprints the information is transferred electronically to FBI and they are timely in processing.

Connecticut

On average it takes approximately 2-3 months; however, if the agency uses the live scan system they receive notification as to whether or not there is a record within 24 hours. If there is a record, they receive the results within two weeks.

Indiana

If the individual does not have a record, it normally takes two business days

Louisiana

The state has print track machines in each regional office. The results are immediate.

Michigan

Results are sent within 4-5 days.

Missouri

On average, results are obtained within several days, as the state uses electronic submission.

New Hampshire

On average, it takes two to three weeks to obtain results.

New Mexico

With the exception of the courts check we conduct all criminal records checks in the state central office. Staff have federal clearance to run the fingerprints on their own equipment. If the fingerprints are clear, the demographic information provided matches in the data base, results are returned within 2-3 days. Staff processes these requests within 2 weeks.

New York

Results come back very quickly since the state has moved to card scan (if the prints are not rejected for lack of clarity). They do have a high percentage of rejections and ask that several sets of prints be submitted to increase the likelihood of a clear set, thus avoiding delays.

North Dakota

In general, results are received within two weeks of a request if the family has lived in the state for the last five years and there are no "hits" in the criminal history.

Utah

FBI checks are being returned within 1-2 weeks if there are no "hits;" if there are hits, results are usually received within 30 days. Utah is able to get results quickly because they have funded the installment of the Live Scan terminals statewide, so that potential foster and adoptive parents can have access to them.

West Virginia

On average homefinding supervisors report it takes 2-3 months to receive results from the FBI fingerprint check.

Wisconsin

Wisconsin's Department of Justice is very prompt in getting fingerprint background check results returned to agencies; agencies have reported receiving results between 24 hours to three days. All results are posted to the agency's electronic account through DOJ; no paper results are provided.