

§51.2. Criminal history and central registry information

A.(1) No person shall be hired by the department whose duties include the investigation of child abuse or neglect, supervisory or disciplinary authority over children, direct care of a child, or performance of licensing surveys, until both the following conditions are met:

(a) The person has submitted his fingerprints to the Louisiana Bureau of Criminal Identification and Information and it has been determined that the person has not been convicted of or pled nolo contendere to a crime listed in R.S. 15:587.1(C).

(b) The department has conducted a search of the central registry of justified abuse or neglect, hereafter referred to as "central registry", reports and has determined that the individual's name is not recorded therein, or if an individual's name is recorded on the central registry, a risk evaluation panel has determined in writing that the individual does not pose a risk to children. The search shall be limited to those names recorded on the central registry subsequent to the effective date of the rules and regulations promulgated pursuant to Paragraph (3) of this Subsection.

(2) Any employee of the department whose duties include the investigation of child abuse or neglect, supervisory or disciplinary authority over children, direct care of a child, or performance of licensing surveys and whose name is recorded subsequent to the effective date of the rules and regulations promulgated on the central registry reports pursuant to Paragraph (3) of this Subsection shall be terminated by the department unless a risk evaluation panel has determined in writing that the individual does not pose a risk to children.

(3) The department shall promulgate rules and regulations to implement Paragraphs (1) and (2) of this Subsection. The rules and regulations shall include but not be limited to establishing eligibility and other criteria for risk evaluation requests and establishing criteria for risk evaluation determinations. Any such determination by the risk evaluation panel shall be kept on file at all times by the department.

(4) After the risk evaluation, the office of community services shall provide the individual who is the subject of the evaluation the decision of the panel in writing. If the panel determines that the individual poses a risk to children, he may file a request for an administrative appeal within thirty days of the mailing of the notice of the determination with the department's bureau of appeals. The bureau of appeals shall provide notice of the request for the appeal to the office of community services.

(5) The department, through its bureau of appeals, shall provide for a system of administrative hearings and is responsible for the fulfillment of all hearing provisions as described under this Subsection. All decisions rendered by an administrative law judge within the bureau of appeals are final and such decisions shall exhaust the individual's administrative remedy.

(6) The department, through its subordinate administrative law judge conducting the administrative proceeding authorized hereunder, shall conduct the proceeding and shall have authority to administer oaths and affirmations, issue subpoenas, and to otherwise regulate the conduct of the proceeding as provided by law, or in the absence of such a law, as specified and authorized by R.S. 49:955 et seq. The deposit or payment of witness fees ordinarily required of an individual who desires to subpoena a witness shall not be required if the individual desiring the issuance of the subpoena is an indigent person as determined by the presiding administrative law judge.

(7) Within thirty days after the mailing date listed on the notice of the final decision by the department's bureau of appeals, or if a rehearing is requested, within thirty days after the date of the decision thereon, an individual who is the subject of the determination may obtain judicial review thereof by filing a petition for review of the decision in the Nineteenth Judicial District Court or the district court of the domicile of the individual. When the petition is filed in an improper venue, the court of improper venue shall transfer the case to the district court of the domicile of the individual who is the subject of the determination or to the Nineteenth Judicial District Court.

(8) If after a contradictory administrative hearing with the office of community services or after the judicial review, the judge determines that the individual poses a risk to children and the decision has

become final, the individual shall be terminated.

(9) Except as provided by Paragraphs (5) and (6) of this Subsection, all adjudicatory and review proceedings under this Subsection shall be governed by the Administrative Procedure Act.

(10) All information pertaining to the review or proceedings authorized by this Subsection is confidential. The administrative law judge or district court judge shall take all necessary actions, such as sealing the record from public disclosure and conducting confidential proceedings, to maintain the confidentiality of all records and proceedings.

(11) The department shall promulgate rules and regulations necessary to carry out its mandate under this Subsection.

(12) No person shall be hired by any organization listed in Subsection F of this Section until such person has submitted his fingerprints to the Louisiana Bureau of Criminal Identification and Information and it has been determined that such person has not been convicted of or pled nolo contendere to a crime listed in R.S. 15:587.1(C). The provisions of this Section shall also apply to volunteers of such organizations.

(13) The department shall conduct an assessment of the impact and cost of utilizing the information on the central registry to prohibit individuals from owning, operating, being employed by, or volunteering at a child care or child residential facility licensed by the department and shall develop a statewide implementation plan prior to requesting that funds be appropriated for utilizing such information. The assessment and implementation plan shall include a proposed appeals and review process. The department shall submit a report of the assessment results, anticipated costs, and implementation plan to the legislature for its consideration in appropriation decisions. Upon appropriation of the funds by the legislature and subject to its approval, the department shall implement the plan to utilize the information on the central registry to prohibit individuals from owning, operating, being employed by, or volunteering at a child care or child residential facility licensed by the department.

B. No operator, staff person, or employee of a juvenile detention, correction, or treatment facility shall be hired by the department until such person has submitted his fingerprints to the Louisiana Bureau of Criminal Identification and Information and it has been determined that such person has not been convicted of or pled nolo contendere to a crime listed in R.S. 15:587.1(C).

C. No child shall be newly placed in a foster home for temporary care, except for emergency placement, or for adoption until it is determined that no adult living in such home has been convicted of or pled nolo contendere to a crime listed in R.S. 15:587.1(C).

D. The department shall establish by regulation requirements and procedures consistent with the provisions of R.S. 15:587.1 under which such determination shall be made. For those listed in Subsection A, B, or C of this Section, this regulation shall include the requirement and the procedure for the submission of fingerprints in a form acceptable to the Bureau of Criminal Identification and Information.

E.(1) The department shall establish by regulation requirements and procedures consistent with the provision of R.S. 15:587.1 under which the organizations listed in Subsection F may request information concerning whether or not a person in one of the following categories has been arrested for or convicted of or pled nolo contendere to any criminal offense:

- (a) Employees.
- (b) Candidates for employment.
- (c) Volunteer workers.
- (d) Persons living in a registered family child day care home.

(2) This information may be requested only about a person who has, or has applied or volunteered for, a position in the organization which includes supervisory or disciplinary authority over children or who lives in a registered family child day care home.

F. Any responsible officer or official, as the department may determine, of the following organizations or the department may request the specified criminal history information:

(1)(a) A child-caring institution, child-placing agency, maternity home, group home, or day care center all as defined in R.S. 46:1403; and

(b) A family child day care home registered under the Child Care Registration Law, R.S. 46:1441 et seq.

(2) Any other organization that the department determines, upon request of the organization, to have supervisory or disciplinary authority over children outside of the home to such extent that the department determines that the well-being and safety of children justifies giving the organization access to the specified criminal history information of those who work or have volunteered to work with the organization.

(3)(a) Any other child care provider organization with the prior written consent of the person whose criminal history information is being requested. As used in this Paragraph, the term "child care" means the provision of care, treatment, education, training, instruction, supervision, or recreation to children by persons having unsupervised access to a child. The check shall be conducted by the Department of Public Safety and Corrections, division of state police, for a reasonable fee established by the department. As used in this Paragraph, the term "provider" shall include a person who is employed by or volunteers with a child care provider organization. As used in this Paragraph, the term "child care provider organization" shall include but not be limited to "Big Brother/Sister" programs and scouting programs.

(b) The Department of Public Safety and Corrections, division of state police, shall not be liable in civil damages for failure to provide the criminal history checks requested nor shall the child care provider be liable in civil damages for failure to make such a request.

G. Notwithstanding any other provision of law, the department is prohibited from receiving or releasing the results of a national criminal history check unless the receipt or release is permitted by federal law or regulation.

H.(1) The department shall execute a survey to assess the impact and cost of conducting national criminal history records checks and all arrest records checks on potential owners, operators, employees, and volunteers of a child care or child residential facility licensed by the department and develop a statewide implementation plan prior to requesting that funds be appropriated for conducting the searches. The department shall submit a report of the survey results, anticipated costs, and implementation plan to the legislature for their consideration in appropriation decisions. The department shall implement the plan to conduct national criminal history records checks on potential owners, operators, employees, or volunteers of child care or child residential facilities licensed by the department only upon the appropriation of funds by the legislature for such purpose.

(2) Upon appropriation of funds by the legislature and implementation of the plan in accordance with Paragraph (1) of this Subsection, the Bureau of Criminal Identification and Information shall make available to the department, all criminal history record information as defined in R.S. 15:576 related to potential owners, operators, employees, or volunteers of child care or child residential facilities licensed by the department.

(3) Upon appropriation of funds by the legislature and implementation of the plan in accordance with Paragraph (1) of this Subsection, the Bureau of Criminal Identification and Information shall facilitate national criminal history record checks of potential owners, operators, or employees, or volunteers of child care or child residential facilities licensed by the department by receiving and forwarding fingerprint cards to the Federal Bureau of Investigation. The department is authorized to receive and screen the results of the state and national criminal history record checks in order to assess the criminal history of a potential owner, operator, employee, or volunteer of child care or child residential facilities licensed by the department. The department shall maintain the confidentiality of

criminal history information received in accordance with applicable federal or state law.

Acts 1986, No. 760, §3, eff. Jan. 1, 1987; Acts 1989, No. 14, §3; Acts 1994, 3rd Ex. Sess., No. 55, §1, eff. July 7, 1994; Acts 1997, No. 1067, §1; Acts 1999, No. 1144, §2, eff. Jan. 1, 2000; Acts 2008, No. 649, §3; Acts 2009, No. 47, §1, eff. June 15, 2009; Acts 2009, No. 221, §2, eff. Jan. 1, 2010.

*NOTE: See Acts 1985, No. 286.

**STATE OF LOUISIANA
DEPARTMENT OF CHILDREN AND FAMILY SERVICES
STATE CENTRAL REGISTRY DISCLOSURE FORM**

This form must be completed by each individual owner, operator, administrator, current or prospective employee or volunteer of a child care facility or juvenile detention facility licensed by the Louisiana Department of Children and Family Services for themselves. Any owner, operator, administrator, current or prospective employee, or volunteer of a child care facility or juvenile detention facility licensed by the department who knowingly falsifies the information on the State Central Registry Disclosure Form shall be guilty of a misdemeanor offense and shall be fined not more than five hundred dollars, or imprisoned for not more than six months, or both. R.S. 46:1414.1.C or R.S. 15:1110.2(C).

This form shall be maintained by the owner/operator of the licensed facility in accordance with current licensing standards as mandated by R.S. 46:1414.1.B or R.S. 15:1110.2(B).

Name of Licensed Facility (Print or Type) _____		
Physical Address of Licensed Facility _____		License # _____

Name of Individual/Applicant (Print or Type) _____	Date of Birth _____	Social Security # _____
Maiden, Previous or Any Other Name Used _____	Race _____	Sex _____
Current Street Address _____	City and State _____	Zip Code _____
Most Recent Previous Address _____	City and State _____	Zip Code _____
() - _____	() - _____	() - _____
Current Home Phone # _____	Current Cell Phone # _____	Work Phone # _____

My name is is not currently recorded as a perpetrator on the State Central Registry for what the Department of Children and Family Services (DCFS) has determined to be a justified (valid) finding of child abuse or neglect.
(check one)

I have have not been determined to have a justified (valid) finding of abuse or neglect since the Risk Evaluation Panel finding.

If the DCFS Licensing Section has reasonable suspicion or is provided with facts or information that your name is on the State Central Registry as a perpetrator with a valid/justified finding of abuse and/or neglect, the Licensing Section may request a clearance of the SCR without your permission. If your name does in fact appear on the SCR as described above, the department will notify both your employer (the facility named above) and the appropriate District Attorney's office of your failure to comply with R.S. 46:1414.1 or R.S. 15:1110.2.

The information given is true and complete to the best of my knowledge.

_____ Signature	_____ Date
_____ Signature of Licensed Facility Representative	_____ Date

SUBMIT TO:

Louisiana State Police
Bureau of Criminal Identification and Information
P.O. Box 66614 (Mail Slip A-6)
Baton Rouge, LA 70896

THE FEE FOR PROCESSING A STATE BACKGROUND CHECK IS \$26. FOR FBI PROCESSING, WHERE AUTHORIZED OR REQUIRED, THERE IS AN ADDITIONAL \$16.50 FEE. (Cashier Check, Business Check or Money Order)

****FORMS MUST BE FILLED OUT IN INK AND BE REVIEWED BY SUBMITTING AGENCY/INDIVIDUAL FOR ACCURACY**
****FINGERPRINTS ARE NECESSARY FOR A POSITIVE IDENTIFICATION******

****PLEASE PRINT****

AGENCY, FACILITY OR INDIVIDUAL

AGENCY, FACILITY AUTHORIZED REPRESENTATIVE OR INDIVIDUAL

MAILING ADDRESS

SIGNATURE OF AUTHORIZED REPRESENTATIVE/INDIVIDUAL

CITY

STATE

ZIP CODE

()

AGENCY, FACILITY OR INDIVIDUAL PHONE NUMBER

AGENCY OR FACILITY E-MAIL ADDRESS

Request For: (pick one only)

- | | |
|---|---|
| <input type="checkbox"/> ALCOHOL AND BEVERAGE COMMISSION | <input type="checkbox"/> OFFICE OF PUBLIC HEALTH |
| <input type="checkbox"/> ALCOHOL BEVERAGE OUTLET | <input type="checkbox"/> OMVC – COMMERCIAL DRIVING EXAM ADMINISTER |
| <input type="checkbox"/> BOARD OF EXAMINERS OF PSYCHOLOGIST | <input type="checkbox"/> OMVE – EMPLOYEE ISSUING COMMERCIAL DL |
| <input type="checkbox"/> BOARD OF NURSING HOME ADMINISTRATORS | <input type="checkbox"/> OMVI – CONTRACT PROCESS INQUIRY/TRANSACTION |
| <input type="checkbox"/> CASA | <input type="checkbox"/> OMVT – AUTO TITLE COMPANY / PUBLIC TAG AGENT |
| <input type="checkbox"/> COURT ORDER ADOPTION | <input type="checkbox"/> PHARMACY BOARD |
| <input type="checkbox"/> CRIMINAL JUSTICE EMPLOYEE | <input type="checkbox"/> POST SECONDARY EDUCATION |
| <input type="checkbox"/> DAYCARE | <input type="checkbox"/> PRACTICAL NURSING |
| <input type="checkbox"/> DENTISTRY BOARD | <input type="checkbox"/> PRIVATE ADOPTION |
| <input type="checkbox"/> DCFS ABUSE/NEGLECT INVESTIGATION | <input type="checkbox"/> PRIVATE INVESTIGATORS |
| <input type="checkbox"/> DCFS CARETAKER | <input type="checkbox"/> PRIVATE SECURITY |
| <input type="checkbox"/> DCFS FOSTER/ADOPTIVE | <input type="checkbox"/> PUBLIC HOUSING |
| <input type="checkbox"/> DCFS PERSONNEL | <input type="checkbox"/> REGISTERED NURSING |
| <input type="checkbox"/> EMPLOYERS | <input type="checkbox"/> RELIGIOUS ACTIVISTS |
| <input type="checkbox"/> FIREFIGHTERS | <input type="checkbox"/> RIGHT TO REVIEW |
| <input type="checkbox"/> FIRE MARSHAL | <input type="checkbox"/> RIVERBOAT PILOTS |
| <input type="checkbox"/> HEALTH CARE PROVIDER (Non Licensed) | <input type="checkbox"/> SCHOOL |
| <input type="checkbox"/> JUVENILE DETENTION CENTER | <input type="checkbox"/> SUPREME COURT COMMITTEE BAR ADMISSION |
| <input type="checkbox"/> LA BOARD CHIROPRACTIC EXAMINERS | <input type="checkbox"/> TAXI DRIVERS |
| <input type="checkbox"/> LA PHYSICAL THERAPY BOARD | <input type="checkbox"/> TESS WINDOW TINT |
| <input type="checkbox"/> LA STATE BOARD SOCIAL WORK EXAMINERS | <input type="checkbox"/> USED MOTOR VEHICLE COMMISSION |
| <input type="checkbox"/> MANUFACTURED HOUSING | <input type="checkbox"/> VENDOR |
| <input type="checkbox"/> MEDICAL EXAMINERS | <input type="checkbox"/> WHOLESALE DRUG DISTRIBUTORS |
| <input type="checkbox"/> OFFICE OF FINANCIAL INSTITUTIONS | <input type="checkbox"/> WORKING WITH CHILDREN |

APPLICANTS FULL NAME: _____
****PRINT – USE INK****
LAST FIRST MIDDLE
(INCLUDE MAIDEN NAME & PREVIOUS MARRIED NAMES IF APPLICABLE)

APPLICANTS SIGNATURE: _____

APPLICANTS SOCIAL SECURITY # ___ - ___ - ___ DATE OF BIRTH: ___ / ___ / ___

ID or DRIVERS LICENSE # _____ & STATE _____ RACE _____ SEX _____

POSITION OR LICENSE APPLIED FOR _____

AUTHORIZATION TO DISCLOSE CRIMINAL HISTORY RECORDS INFORMATION

By my signature above, I hereby authorize the Louisiana State Police to release all pertinent criminal record information maintained in their files, other states files, or the FBI files (if applicable) which may confirm or deny my eligibility with the facility or agency named above. **DPSSP 6696**

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