

<b>4.1 Employee Background Checks</b>	
<b>Application:</b> All Department of Children's Services; Contract Agency Employees	
<b>Authority:</b> TCA 37-5-105 (3), 37-5-106, 37-1-414, Adoption and Safe Families Act, P. L. 109-239, Safe and Timely Interstate Placement Act of Children in Foster Care Act of 2006- P.L. 109-239, and Social Security Act, Prison Rape Elimination Act of 2003 (PREA, P.L. 10879). Title 39, Ch. 13.	<b>Standards:</b> <b>COA:</b> PA HR 2.04; PA-HR 5.01; PA-ASE 1; <b>PREA:</b> 115-317
<b>Commissioner:</b>	<b>Date:</b>
Original Effective Date: 09/30/08 Current Effective Date: 08/28/24	Supersedes: DCS 4.1 05/07/24 Last Review Date: 08/28/24
<b>Glossary:</b> <ul style="list-style-type: none"> <li>◆ Conditional Offer of Employment: <ul style="list-style-type: none"> <li>○ For this policy, a conditional offer of employment means that prospective employees will not be hired until all background checks are completed or a criminal history waiver is approved.</li> </ul> </li> <li>◆ Primary Contractor: <ul style="list-style-type: none"> <li>○ A primary contractor is an entity contracting directly with the Department of Children's Services. Notwithstanding any use of an approved sub-contractor, the primary contractor is ultimately responsible for all services provided.</li> </ul> </li> <li>◆ Sub-contractor: <ul style="list-style-type: none"> <li>○ A sub-contractor is an individual or entity that provides services to children/families in Tennessee on behalf of a primary contractor. Sub-contracting individuals or entities are required to maintain all current and necessary licensing and credentials in accordance with DCS policy.</li> </ul> </li> <li>◆ Direct Contact: <ul style="list-style-type: none"> <li>○ Circumstances in which an individual, as part of his or her regular job duties, has face-to-face interaction with or unsupervised access to children.</li> </ul> </li> </ul>	

### Policy Statement:

All Department of Children's Services (DCS) employees and contracted agencies, who may or may not have direct contact with children must be free from a criminal or abuse history that could pose a safety risk to children.

**Purpose:**

To ensure that background checks are conducted on all DCS/Contract Agency employees and volunteers that may or may not have direct contact with children/youth, or who work with sensitive or confidential information.

**Procedures:****A. Background Checks**

1. **DCS/Contract Agency applicant or transfer** - After DCS or the contract agency offers a conditional offer of employment, the applicant or transferring individual must submit to a complete background check including any waiver granted where applicable. The background check will be completed prior to hire by the appropriate designated DCS/Contract Agency staff and results maintained in the official personnel file.
2. Entities or individuals entering a contract with DCS or a sub-contract with a covered DCS contract agency shall be subject to this policy only after conditional contract approval.
3. All DCS/Contract Agency employees who may or may not have direct contact with children, or who work with sensitive or confidential information must complete form ***CS-1221, Waiver Agreement and Statement for Criminal History Checks (VECHS)***, or agency equivalent form, upon receipt of a conditional offer of employment. Contract Agency employees must complete form ***CS-0559, Authorization of Release of Information and HIPAA Protected Health Information TO and FROM the Department of Children's Services and Notification of Release***, or agency equivalent form.

**Note:** All DCS, contract agency, or community partner volunteers refer to the [DCS Volunteer Service Procedures Manual](#) for further guidance on required documentation and background checks.

4. The following documentation and background checks comprise a complete background check:
  - a) Criminal records check from local law enforcement records or county court records for all residences of employee within the immediate six (6) months preceding application for employment.
  - b) TBI/FBI fingerprint check. For a detailed description regarding the fingerprint check, refer to the [Protocol for Fingerprint Process and Analysis](#).

**Note:** Paid interns, contract or agency staff transferring from out of state, who have direct contact with children/youth may begin employment without the completion of a fingerprint check as long as they have no unsupervised contact

with children until fingerprint results are obtained. Fingerprinting must be arranged and results received within fifteen (15) calendar days from the date of hire. Appropriate action will be taken as outlined in this policy if fingerprint results do not comply with policy requirements.

- c) Driving records check to include current valid driver license and a check of moving violations records in state of residency, if available.

**Note:** Applicants who reside outside Tennessee and commute into the state to work are not required to have a Tennessee driver license but must present a valid driver license from their state of residency. Applicants who are relocating to Tennessee have thirty (30) days from their relocation to obtain a Tennessee driver license and present it to their Human Resources department so a Tennessee check can be completed. Applicants who are military members or a military spouse should either obtain a Tennessee driver license if their official state of residency is Tennessee, as outlined above, or maintain a valid driver license in their official state of residency.

- d) [National Sexual Offender Registry Clearance.](#)

- e) [Tennessee Department of Health Abuse Registry Clearance.](#)

- f) DCS database records check submitted through either the TFACTS portal or filling out form **CS-0741, Database Search Results.**

5. Contract agency requests are submitted on form **CS-0741, Database Search Results** to: [EI-DCS-Provider.Backgroundcheck@tn.gov](mailto:EI-DCS-Provider.Backgroundcheck@tn.gov)
6. Specific information related to CPS findings and records involving an applicant must be maintained in the **confidential section** of the official personnel file.
7. **For congregate care and residential facility applicants**, if the adult has resided in another state within the past five (5) years, the FPS/contract agency staff person or designee requests a check from each state's public child welfare agency's child abuse and neglect registry. See the [Adam Walsh State Contacts for Child Abuse Registries](#) for out of state contact information. Refer to the [Protocol for Requesting Out of State Abuse and Neglect Registry Checks](#) for further guidance regarding Adam Walsh checks.

**Note:** Due to differences in timeframes of each state to complete the registry check, results are not required prior to hire of the applicant, but documentation must be provided to show the request has been made for IV-E compliance reporting with search results provided as outlined in **Section E** of this policy. Agencies are to engage the state in which the request is made every sixty (60) days until a result is obtained.

8. No applicant is approved for hire who has been determined to have been substantiated. If later determined, an applicant who was hired pending receipt of an out of state Adam Walsh check was substantiated in a child abuse/neglect report, the agency must take the appropriate action as outlined in this section.
9. Wilder (DCS/Contract) applicants who may have contact with children must complete form ***CS-1120, Self-Declaration of Sexual Abuse/Sexual Harassment for YDC Employees***. The form will be submitted to the appropriate designated DCS staff prior to applicants being hired or promoted.
10. Results from the completed background checks must be documented on form ***CS-0687, Background Check History and IV-E Eligibility Checklist*** and filed with supporting results documentation attached in the employee's official personnel file. Contract Agencies may substitute an equivalent form to ***CS0687, Background Check History and IV-E Eligibility Checklist*** provided that the content of the substituted form is the same.
11. DCS contacts all known prior institutional employers to obtain information on substantiated allegations of sexual abuse or any resignation during a pending investigation of an allegation of sexual abuse, before hiring any employee at a YDC who may have contact with children. Form ***CS-4265, PREA Questionnaire for Prior Institutional Employers*** is completed to document information obtained from these contacts.

## B. Annual Background Checks

1. DCS/Contract Agencies conduct annual background checks on all employees who may or may not have direct contact with children or employees who work with sensitive or confidential information. The following is a detailed listing of the documentation and background checks that must be completed annually with results maintained in the employee's personnel file:
  - a) Driving records including validation of current driver license and a check of moving violations records in employee's state of residency, if available. Applicants who reside outside Tennessee and commute into the state to work are not required to have a Tennessee driver license but must present a valid driver license from their state of residency.
  - b) An **Internet Records Clearance** The internet records clearance involves a background check of the following:
    - ♦ **[Drug Offender Registry Clearance](#)**
    - ♦ **[TN Felony Offender Database Clearance](#)**
    - ♦ **[National Sexual Offender Registry Clearance](#)**
    - ♦ **[Department of Health Abuse Registry Clearance](#)**
  - c) A fingerprint check is completed for YDC teachers at least every five (5) years.

2. Wilder (DCS/Contract) employees who may have direct contact with children are required to complete form ***CS-1120, Self-Declaration of Sexual Abuse/Sexual Harassment for YDC Employees*** annually.
3. Results from all annual background checks must be documented on DCS form ***CS-0687, Background Check History and IV-E Eligibility Checklist or equivalent form*** in the same manner as set out in ***Section A.6*** of this policy.
4. Any issues discovered in the annual check will be addressed on a case-by-case basis and may result in disciplinary action up to and including termination from employment with DCS/Contract Agencies.

### C. Approval or Denial of Employment Based on Background Check

1. All background checks are completed in accordance with policy to ensure timely assessment of applicant employment. However, to allow for human error, it is permissible to rectify such errors noted on the local background check, DCS Database Search and the Internet Clearance checks (i.e. incorrect name spelling, DOB, SSN). Newly conducted checks that show no results are considered compliant. Checks that show convictions within the findings are deemed non-compliant.
2. If an employee has a period of unemployment with DCS or Contract Agency of thirty (30) days or less **AND** the fingerprint results are less than one year old, the original fingerprint check results are considered valid.

**Note:** Any Contract Agency accessing an internet service to complete the required background checks for employees is responsible for ensuring that the internet services being utilized accesses, at a minimum, the internet searches listed above. Doing so precludes the need for the contract agency to complete each individual internet search. Failure to ensure and verify that the chosen internet service uses the exact sites listed above for each check, result in that check being considered invalid and cause the employee check to be non-compliant.

3. No applicant is hired or promoted who has engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility or other institution as defined in 42 U.S.C. § 1997.
4. Consistent with Federal, State, and local law, DCS/Contract Agencies make every effort to contact all prior institutional/facility employers for information on substantiated allegations of sexual abuse or any resignation during a pending investigation of an allegation of sexual abuse. In addition, incidents of sexual harassment are considered when determining whether to hire or promote employees.
5. DCS/Contract Agency employees must report any CPS substantiation, arrest, indictment, or criminal conviction of any criminal offense (either misdemeanor or

felony). Refer to DCS Policy [\*4.9, Employee Disciplinary Actions and Mediation Process\*](#) for additional information on reporting of arrests, indictments, or criminal convictions of any criminal offense by DCS/Contract Agency employees.

#### **D. Criminal History Waiver**

In situations where an applicant for employment with DCS/Contract Agency is determined to have a criminal conviction that meets the criteria in the [\*Waiver Tip Sheet for Employment, Volunteering and Custodial Placements\*](#), a criminal history waiver must be completed. In order for employment to be approved, the criminal history waiver must be approved as outlined in this policy and according to the instructions for form *CS-0921, Waiver of Criminal Convictions, Pre and In-Service Training Requirements, Non-Safety Issues, CPS Substantiations and Education Requirements* prior to hire. Documentation of the criminal history waiver request and approval must be maintained in the employee's personnel file.

#### **E. Tracking and Monitoring of Contract Agency Staff Who Have Direct Contact with Children**

The DCS Office of Child Programs, Child Permanency tracks and monitors IV-E safety requirements regarding contract agency employees who have direct contact with children in congregate care or facility settings. Review [\*Protocol: Facility and Group Care IV-E Compliance Protocol\*](#).

#### **Forms:**

[\*CS-0559, Authorization of Release of Information and HIPAA Protected Health Information TO and FROM the Department of Children's Services and Notification of Release\*](#)

[\*CS-0687, Background Check History and IV-E Eligibility Checklist\*](#)

[\*CS-0741, Database Search Results\*](#)

[\*CS-0921, Waiver of Criminal Convictions, Pre and In-Service Training Requirements, Non-Safety Issues, CPS Substantiations and Education Requirements\*](#)

[\*CS-1221, Waiver Agreement and Statement for Criminal History Checks \(VECHS\)\*](#)

[\*CS-1120, Self-Declaration of Sexual Abuse/Sexual Harassment for YDC Employees\*](#)

[\*CS-4265, PREA Questionnaire for Prior Institutional Employers\*](#)

**Collateral Documents:**

[\*Facility and Group Care IV-E Compliance Protocol\*](#)

[\*Protocol for Fingerprint Process and Analysis\*](#)

[\*Waiver Tip Sheet for Employment, Volunteering and Custodial Placements\*](#)

[\*DCS Volunteer Service Procedures Manual\*](#)