



CDSS

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DIRECTOR

STATE OF CALIFORNIA—HEALTH AND HUMAN SERVICES AGENCY
DEPARTMENT OF SOCIAL SERVICES

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EDMUND G. BROWN JR.
GOVERNOR

July 14, 2011

CCLD INFORMATION RELEASE NO. 2011-03

REASON FOR THIS TRANSMITTAL

- State Law Change
- Federal Law or Regulation Change
- Court Order
- Initiated by CCL

TO: CHILD CARE PROGRAM STAFF
CHILDREN'S RESIDENTIAL PROGRAM STAFF
CONTRACTED COUNTY FOSTER FAMILY HOME LICENSING PROGRAM
CONTRACTED COUNTY FAMILY CHILD CARE HOME LICENSING PROGRAM

SUBJECT: **CRIMINAL RECORD CLEARANCES; ARRESTS REQUIRING INVESTIGATION; MAINTENANCE OF CLEARANCE INFORMATION**

Criminal Record Clearances

The Caregiver Background Check Bureau (CBCB) is in the process of updating the Background Check Procedures sections of the Evaluator Manual, to clarify that those individuals who have submitted their fingerprints related to foster family homes and family child care homes, must be issued a criminal record clearance if their criminal history provides that they have not been convicted of a crime. (Health and Safety Code [H&SC] Sections 1522.04 and 1596.871; California Code of Regulations Sections 89201(c)(15) and 102352(c)(8).)

Individuals who have received a criminal record clearance are eligible to work, reside, or be present in the facility even if their criminal history contains arrest-only information that requires investigation. The issuance of a criminal record clearance cannot be delayed while arrest-only information is being investigated. (H&SC Sections 1522(e) and 1596.871(e).)

This does not mean that arrest-only investigations will stop upon issuing the clearance. Referable arrests must still be investigated to determine if the conduct poses a risk to clients in care. Upon obtaining admissible evidence of poor conduct, which may pose a risk, consult with your legal counsel to determine if the existing clearance should be revoked and the person excluded.

Contracted counties must review their pending cases to ensure clearances are issued pursuant to the above noted statutory citations. If it is determined that a clearance must be issued, sample clearance letter "CBCB1 DSS Clearance" is attached for your reference. An Evaluator Manual update will be distributed when finalized.

It is important to note that if an applicant is awaiting trial for a crime other than a minor traffic violation, the CBCB or contracting county may cease processing the application until the conclusion of the trial. (H&SC Sections 1522(d)(4)(B) and 1596.871(a)(4)(B).)

Arrests Requiring an Investigation

The CBCB will update Section 7-2125 of the Background Check Procedures Evaluator Manual, to clarify that only the criminal arrests specified in H&SC Sections 1522(d)(1) and 1596.871(a)(1), require an investigation of the conduct.

H&SC Sections 1522(d)(1) and 1596.871(a)(1) mandate that the following arrests be investigated:

“...or arrested for any crime specified in subdivision (c) of Section 290 of the Penal Code, for violating Section 245 or 273.5, subdivision (b) of Section 273a or, prior to January 1, 1994, paragraph (2) of Section 273a of the Penal Code, or for any crime for which the department cannot grant an exemption if the person was convicted and the person has not been exonerated.”

Crimes not specified in H&SC Sections 1522(d)(1) and 1596.871(a)(1) will be removed from the list of arrests requiring investigation. When finalized, an update to the Evaluator Manual will be posted on the CCLD website at:
<http://www.cclcd.ca.gov/res/pdf/BackgroundCheckProcedures.pdf>.

Note: Changes to Maintenance of Clearance Information

H&SC Section 1522(h)(2) was amended by Assembly Bill 595 (Chapter 246, Statutes of 2009) to comply with federal Title IV-E foster care funding requirements. This subdivision requires the Department to hold criminal record clearances in its active files for a minimum of three years after the person is no longer associated, rather than two, for transfer purposes. This change aligns with the existing CBCB policy to retain clearances in active files, in all categories of care, for a minimum of three years.

If you have any questions, please contact the Caregiver Background Check Bureau at (916) 653-1923.

Sincerely,

Original signed by Jeffrey Hiratsuka

JEFFREY HIRATSUKA
Deputy Director
Community Care Licensing Division

Attachment

DEPARTMENT OF SOCIAL SERVICES

Caregiver Background Check Bureau
 744 P Street, MS 9-15-62
 Sacramento, California 95814



<<date>>

 Facility#
 ID#

 <<Fac#>>
 <<ID#>>

<<LicName>>

<<LicAddress>>

<<CityStateZip>>

CRIMINAL RECORD CLEARANCE

This notice is to inform you that <<subject>> currently has a criminal record clearance.

The Department has received information regarding this individual from the Department of Justice. Because the information does not include any criminal conviction that requires an exemption, this individual qualifies for a criminal record clearance.

This criminal record clearance will remain valid provided the individual is not convicted of any crime other than a minor traffic violation.

If you decide not to employ this person, please complete and return this form so the Department can disassociate the individual from your facility.

_____ This individual will not work nor reside in my facility. Please disassociate this individual from my facility.

 Name (print)

 Signature

 Date

 Title

 Telephone Number

Please return this form to the above address. Keep a copy for your records.