



Character Investigations and Background Checks

*as per
P.L. 101-630 and
P.L. 101-647*





Background Checks

- Each agency of the federal government, and every facility operated (or contracted) that hires (or contracts for hire) individuals involved with the provision to children under the age of 18 of child care services shall assure that all existing and newly hired employees undergo a criminal background check.




Background Checks

- All existing staff shall receive such checks no later than 6 months after enactment of this act;
 - No additional staff shall be hired without a criminal background check having been completed.
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Who receives a Background Check?



All employees of programs including: **child protective services** (including the investigation of child abuse and neglect reports), **social services**, **health and mental health care**, **child (day) care**, **education** (whether or not directly involving in teaching), **foster care**, **residential care**, **recreational or rehabilitative programs**, and **detention, correctional or treatment services**.



Criminal History Report

- Based on employee's fingerprints obtained by law enforcement and other identifying information;
- Conducted through the Identification Division of the FBI and state criminal history repositories of all states an employee or prospective employee lists as current/former resident;
- Initiated through the personnel programs of applicable federal agencies.





Applicable Criminal Histories

- Any conviction for:
 - A sex crime,
 - Offense involving a child victim
 - Drug felony
- When the charge has not yet been disposed of, employee may be suspended from having contact with children until the case is resolved.





Employee Applications

- Applications shall:
 - Contain a question asking whether the individual has ever been arrested for or charged with a crime involving a child, and if so, a description of the disposition, arrest or charge;
 - State that it is being signed under penalty of perjury with applicable federal punishment.
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Employee Applications

- Applications shall:
 - ▶ Obtain the signature of employee or prospective employee indicating the employee has been notified of the obligation to require record check as condition of employment;
 - ▶ State that the employee has a right to challenge the accuracy and completeness of report.
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Others Requiring Checks

- Federal agencies and facilities are encouraged to submit criminal history checks on volunteers working with children and on adult household members in places where child care or foster care services are being provided in a home.
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Character Investigations

- All Indian tribes that are contract or grant recipients under the Indian Self-Determination and Education Assistance Act (638 programs) or Tribally Controlled Schools Act of 1988 are subject to investigation and minimum standard requirements.



Character Investigations

1. Conduct an investigation of the character of each individual who is employed, or is being considered for employment, by such tribe or tribal organization in a position that involves regular contact with, or control over, Indian children, and,
 2. Employ individuals in those positions only if the individuals meet standards of character, no less stringent than those prescribed under subsection (a) of this section, as the Indian tribe or tribal organization shall establish.
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Minimum Standards of Character

- SHALL ensure that NO applicant, volunteer, or employee be placed in a position whose responsibilities and duties allow regular contact with or control over Indian children if he/she had been found guilty to any offense under federal, state, or tribal law involving crimes of violence, sexual assault, sexual molestation, sexual exploitation, sexual contact or prostitution, or crimes against persons.