

**APPLICANT CHILD CARE STAFF MEMBER WAIVER AGREEMENT AND STATEMENT**

Pursuant to 922 KAR 2:280, Background checks for child care staff members, reporting requirements, and appeals, this form must be completed and signed by every prospective or current employee, volunteer, and licensee for whom fingerprint-based criminal history records are requested by a qualified entity.

I, the undersigned applicant, hereby authorize \_\_\_\_\_ (hereinafter "qualified entity") to request submission of a set of my fingerprints to the Kentucky State Police (KSP) and Federal Bureau of Investigation (FBI) for the purpose of accessing and reviewing state and national criminal history records that may pertain to me. By signing this Waiver Agreement and Statement, it is my intent to authorize the dissemination of any Kentucky and national criminal history record that may pertain to me to the Department for Community Based Services, Division of Child Care (hereinafter "DCC") for the purpose of determining whether I am eligible for employment, licensing, or serving as a volunteer under 922 KAR 2:280. I further authorize the DCC to release any record of state [~~State~~] criminal history found in the files of the Kentucky centralized criminal history record information system to the above-named qualified entity. I understand that the KSP cannot disseminate any national criminal history record from the FBI to the above-named qualified entity pursuant to 28 C.F.R. 50.12.

I further understand that, until the criminal history background check is completed, the qualified entity may choose to not hire me [~~hire me provisionally and deny me unsupervised access to children~~]. I understand that upon written request to the DCC, I will be provided with a copy, if any, of a KSP or FBI criminal history report received on me. I understand that the DCC will only provide my criminal history report by certified mail, restricted delivery service. To receive my criminal history report from the local post office, I understand that I must show proof of identity and provide my signature. I also understand that I am entitled to challenge the accuracy and completeness of any information contained in any such report. I may obtain a prompt determination as to the validity of my challenge before a final decision is made about my status as an employee[~~r~~] or volunteer. If I do not exercise my right to challenge the accuracy and completeness of any information contained in my criminal history report, I agree to hold harmless the KSP and its employees from any claim for damages arising from the dissemination of inaccurate information. I also release the Department for Community Based Services, its officers, agents, and employees, from any liability or damages as a result of actions taken in good faith to comply with 922 KAR 2:280, including the disqualification of an applicant or employee from employment on the basis of a disqualifying offense.

**Yes, I have** been convicted of, pled guilty to, entered an Alford plea or a plea of nolo contendere to, or am under indictment for, a crime. **If yes, please describe the crime(s) and the particulars below. If extra space is needed please attach additional sheet of paper.** \_\_\_\_\_  
\_\_\_\_\_

**No, I have not** been convicted of, pled guilty to, entered an Alford plea or a plea of nolo contendere to, and am not under indictment for, a crime.

I am a current or prospective (check one):  **Employee**  **Licensee**  **Volunteer**  **Other (please describe)** \_\_\_\_\_

Applicant Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Applicant Printed Name: \_\_\_\_\_

Applicant Date of Birth: \_\_\_\_\_ Applicant Social Security Number: \_\_\_\_\_

Applicant Physical Address: \_\_\_\_\_

**TO BE COMPLETED BY THE QUALIFIED ENTITY:**

ENTITY NAME:	_____
ADDRESS:	_____
[ENTITY ASSIGNED OCA:	_____]

KEEP FOR YOUR RECORDS

**Applicant and Employee Rights under Kentucky's National Background Check Program**

An applicant or employee may: (1) challenge the accuracy and completeness of any information contained in his or her criminal history report, (2) challenge the finding that he or she is the true subject on an abuse registry, or (3) appeal the finding that he or she is not eligible for hire as the result of a state [State] and FBI criminal history check in accordance with the following instructions:

**I. Challenge Requests**

Pursuant to Kentucky's Criminal History Record Information User Agreement, Section 6.12, a copy of an applicant's KSP and/or FBI rap sheet may be provided to the applicant upon completion of the initial fitness determination. A written request for the rap sheet must be submitted to the DCC at the following address:

Attn: National Background Check Program  
Department for [of] Community Based Services  
Division of Child Care  
275 East Main Street, 3C-F  
Frankfort, Kentucky 40621

Upon receipt of the request, the DCC will send a copy of the applicant's rap sheet by certified mail, restricted delivery service. Applicants must show proof of identity and sign for the certified mail to obtain his or her rap sheet from the local post office.

**Request to Challenge a KSP rap sheet:** If an applicant believes that the information contained in his or her KSP rap sheet is incomplete or inaccurate, the applicant may contact the Kentucky State Police, Criminal Records Dissemination Section, at (502) 227-8700.

**Request to Challenge an FBI rap sheet:** In accordance with 28 C.F.R. 16.34, if an applicant believes that any information contained in his or her FBI rap sheet is incomplete or inaccurate, the applicant may direct his/her challenge regarding the accuracy or completeness of any entry on his/her record to:

FBI, Criminal Justice Information Services (CJIS) Division  
ATTN: SCU, Mod. D-2  
1000 Custer Hollow Road  
Clarksburg, WV 26306

**Abuse Registries:** If an applicant believes that his or her name is listed on one of the following abuse registries in error, the applicant may contact the agency responsible for the registry as follows:

- **Kentucky Child Abuse and Neglect Registry** - Contact the Office of the [Kentucky CHFS] Ombudsman and Administrative Review [Office] ☎(800) 372-2973 or (502) 564-5497

Out-of-state abuse registry findings must be addressed with the agency responsible for maintaining the abuse record.

## **II. Request for Informal Review**

If an applicant wishes to challenge the accuracy of the DCC's determination that the applicant is "not eligible for hire" based on the results of the applicant's criminal history check, the applicant may request an informal review as follows:

**Step One:** The applicant must sign, date, and send a written request for an informal review no later than 10 calendar days from the date of notice of the disqualifying offense to the following address:

Attn: National Background Check Program  
Department for [ef] Community Based  
Services Division of Child Care  
275 East Main Street, 3C-F  
Frankfort, Kentucky 40621

**Step Two:** The applicant's written request must include a copy of official documentation verifying the disqualifying offense was dismissed or otherwise removed from the applicant's criminal history report.

\*See Request for Administrative Hearing if dissatisfied with outcome of the informal review.

## **III. Request for Rehabilitation Review**

Certain criminal offenses found upon completion of a state [State] and FBI criminal background check are eligible for consideration under the rehabilitation review process. The rehabilitation review process allows an applicant the opportunity to demonstrate that he or she is rehabilitated and not likely to repeat the conduct that led to the disqualifying offense.

Offenses not eligible for consideration under the rehabilitation review process include the following:

1. A disqualifying felony offense that occurred less than ten (10) years prior to the date of the criminal background check;
2. Any disqualifying felony or misdemeanor offense related to abuse, neglect, or exploitation of a child;
3. Registration as a sex offender under federal law or under the law of any state;
4. A sex or violent crime as defined by KRS 17.165; or
5. A child abuse and neglect substantiated finding that:
  - a. Occurred less than five (5) years prior to the date of the registry check; or
  - b. Involved:
    - (i) Sex abuse or sex exploitation of a child;
    - (ii) A child fatality related to abuse or neglect;
    - (iii) A near fatality of a child related to abuse or neglect; or
    - (iv) The involuntary termination of parental rights in accordance with KRS 625.050 through 625.120.

A request for rehabilitation review shall be made as follows:

1. A written request must be signed, dated, and mailed to the National Background Check Program at the following address:

Attn: National Background Check Program  
Department for ~~[øf]~~ Community Based Services  
Division of Child Care  
275 East Main Street, 3C-F  
Frankfort, Kentucky 40621

Be mailed no later than 14 calendar days from the date of the cabinet's determination issuance; and

2. Be accompanied by a written explanation of each disqualifying criminal offense, including:

- ✓ A description of the events related to the disqualifying offense;
- ✓ The number of years since the occurrence of the disqualifying offense;
- ✓ The age of the offender at the time of the disqualifying offense;
- ✓ Any other circumstances surrounding the offense;
- ✓ Official documentation showing that all fines, including court-imposed fines or restitution, have been paid or documentation showing adherence to a payment schedule, if applicable;
- ✓ The date probation or parole was satisfactorily completed, if applicable;
- ✓ Employment and character references, including any other evidence demonstrating the ability of the individual to perform the employment responsibilities and duties competently; and
- ✓ Evidence that the individual has pursued or achieved rehabilitation with regard to a disqualifying background check result.

\*See Request for Administrative Hearing if dissatisfied with outcome of the rehabilitation review.

#### **IV. Request for Administrative Hearing**

An applicant may appeal the results of an informal review or rehabilitation review by submitting a written request for an administrative hearing to the Office of the Ombudsman and Administrative Review at the address provided below. The request must be submitted within 30 calendar days of notice of the decision from the informal review or rehabilitation review.

The request for an administrative hearing must be signed, dated, and mailed to the following address:

Attn: Office of the Ombudsman and Administrative Review  
Cabinet for Health and Family Services  
275 East Main Street, 2 E-O [~~1E-B~~]  
Frankfort, Kentucky 40621