

Kentucky National Background Check Program (NBCP)
Department for Community Based Services
Division of Protection and Permanency

APPLICANT WAIVER AGREEMENT AND STATEMENT

Pursuant to 922 KAR 1:490, Background checks for foster and adoptive parents, respite providers, caretaker relatives, fictive kin, and reporting requirements this form shall be completed and signed by every prospective or current foster and adoptive parent, respite provider, caretaker relatives, fictive kin 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 (hereinafter "DCBS") for the purpose of determining whether I am eligible for employment, licensing, or serving as a volunteer under 922 KAR 1:490. I further authorize the DCBS to release any record of 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 cannot approve me provisionally and may deny me unsupervised access to children. I understand that upon written request to the DCBS, I will be provided with a copy, if any, of a KSP or FBI criminal history report received on me. I understand that the DCBS 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 applicant to foster or adopt or provide respite. 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 1:490, including the disqualification of an applicant from approval 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): **Foster or Adoptive Applicant** **Respite Provider**

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 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 approval as the result of a 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 DCBS at the following address:

Attn: National Background Check Program
Department of Community Based Services
Division of Protection and Permanency
275 East Main Street, 3E
Frankfort, Kentucky 40621

Upon receipt of the request, DCBS 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 abuse registries in error, the applicant may contact the agency responsible for the registry as follows:

- **Kentucky Child Abuse and Neglect Registry** - Contact the Kentucky CHFS Ombudsman 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 DCBS's determination that the applicant is "not eligible for approval" 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 of Community Based Services
Division of Protection and Permanency
275 East Main Street, 3E
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. Case by Case Consideration

Certain criminal offenses found upon completion of a State and FBI criminal background check are eligible for consideration on a case by case basis. Case by case consideration allows an individual 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 case by case consideration shall be requested by the applicant and child welfare or child placing agency.