

VOLUNTEER EMPLOYEE CRIMINAL HISTORY SYSTEM ACT (EXCERPT)
Act 23 of 2023

28.836 Determination of fitness; fingerprinting and written statement requirements; waiver; notice; maintenance of records.

Sec. 6.

(1) A qualified entity may require a covered individual to submit the individual's fingerprints under this section to determine whether the national and state criminal history record information shows that the covered individual has been convicted of or is under pending indictment for any crime that bears on the individual's fitness to be responsible for the safety and well-being of a child, an elderly individual, or individual with a disability.

(2) The determination of the covered individual's fitness must be made solely by the qualified entity. This section does not require the department to make a fitness determination on behalf of a qualified entity. The national and state criminal history record information received under this section may only be used by the qualified entity for the purpose of determining the fitness of a covered individual, as described in this section.

(3) A qualified entity may not submit a request for a national and state criminal history record information to the department under this section unless the covered individual has provided the individual's fingerprints and a completed and signed written statement to the qualified entity that includes, but is not limited to, all of the following:

(a) The name, address, and date of birth of the covered individual as it appears on a valid identification document. As used in this subdivision, "identification document" means a document that is intended or commonly accepted for the purpose of identifying an individual and is made or issued by or under the authority of the United States government, a state, political subdivision of a state, sponsoring entity of an event designated as a special event of national significance, foreign government, political subdivision of a foreign government, or an international governmental or an international quasi-governmental organization.

(b) Notice that the covered individual's fingerprints may be used to conduct a national and state criminal history record information of the covered individual and that the criminal history record may be used by the qualified entity to deny the individual's supervised or unsupervised access to a child, an elderly individual, or individual with a disability for whom the qualified entity provides care or care placement services.

(c) A waiver permitting the qualified entity to request and receive the national and state criminal history record information of a covered individual for the purpose of determining the individual's fitness to provide care or care placement services for a child, an elderly individual, or individual with a disability.

(d) A disclosure stating whether the covered individual has ever been convicted or is the subject of pending charges for a criminal offense and, if convicted, a description of the offense and the result of the conviction.

(e) Notice of the covered individual's right to obtain a copy of any background screening report, including the national and state criminal history record information, if any, contained in the report, and of the right to challenge the accuracy or completeness of any information contained in the report and to obtain a prompt determination as to the validity of the challenge before a final determination regarding the individual's fitness is made by the qualified entity reviewing the national and state criminal history record information. A covered individual may only challenge the information contained in the national and state criminal history record information as provided in 28 CFR 16.34.

(4) A qualified entity shall maintain in its records the statement provided under subsection (3) that is completed and signed by the covered individual.

History: 2023, Act 23, Eff. May 1, 2023