

# **CHILD DAY CARE PROGRAMS**

## **OFFICE OF BACKGROUND INVESTIGATIONS**

### **PROCEDURES FOR CONDUCTING BACKGROUND INVESTIGATIONS AS REQUIRED BY §§ 63.2-1720.1, 63.2-1721.1, AND 63.2-1725 OF THE *CODE OF VIRGINIA***

#### **These procedures are for:**

- Licensed Child Day Centers
- Religious Exempt Child Day Centers
- Licensed Family Day System
- Family Day Home Approved by the Family Day System
- Unlicensed Child Care Programs that Receive Subsidy Funds
- Licensed Family Day Homes
- Voluntarily Registered Family Day Homes
- Certified Preschools

#### **I. OFFICE OF BACKGROUND INVESTIGATIONS (OBI) GENERAL INFORMATION**

##### **A. HOURS OF OPERATION**

OBI is staffed Monday – Friday from 8:30 a.m. to 4:00 p.m. Messages may be left on voicemail at other times and calls will be returned the next business day.

##### **B. POINTS OF CONTACT**

OBI Supervisor –  
Telephone: 804-726-7099  
Email:

##### Criminal Background Investigations:

Supervisor – Linda Jean-Pierre  
Telephone: 804-726-7091  
Email: linda.jeanpierre@dss.virginia.gov

##### General Questions, Criminal:

804-726-7884  
Email: backgrounds@dss.virginia.gov

##### Criminal Backgrounds Fax:

804-726-7095

##### Child Protective Services (CPS) Central Registry

Supervisor – Betty Whittaker  
Telephone: 804-726-7567  
Email: betty.whittaker@dss.virginia.gov

General Questions:

804-726-7544

Billing Questions

804-726-7549

Emergency Point of Contact:

Associate Director, Sr. – Sharon Lindsay

Telephone: 804-726-7167

Email: sharon.lindsay@dss.virginia.gov

**C. MAILING ADDRESS**

Virginia Department of Social Services

Office of Background Investigations

801 East Main Street, 6<sup>th</sup> Floor

Richmond, VA 23219

**NOTE:** Please do not address mail to the Treasurer of Virginia.

**D. OBI WEBSITE**

OBI forms and procedures may be found at:

[http://www.dss.virginia.gov/family/children\\_background.cgi](http://www.dss.virginia.gov/family/children_background.cgi)

**II. VIRGINIA CHILD ABUSE AND NEGLECT SEARCH**

**A. The following should be submitted to OBI**

- Request for Search of the Central Registry and Release of Information Form  
[http://www.dss.virginia.gov/files/division/licensing/background\\_index\\_childrens\\_facilities/found\\_cps\\_complaints/032-02-0151-12-eng.pdf](http://www.dss.virginia.gov/files/division/licensing/background_index_childrens_facilities/found_cps_complaints/032-02-0151-12-eng.pdf)
- \$10 fee for each search

Money orders, company/business checks, or cashier's check should be made payable to the Virginia Department of Social Services.

**NOTE:** Personal checks are not accepted for the central registry search.

**B. Returned check fee**

If a check is returned for non-sufficient funds, there is a \$50 charge. The provider will be notified of the returned check by telephone and/or letter. Since the bank requires that repayment be made within 10 days, the agency should take immediate action to have a replacement bank check (guaranteed funds) or money order issued to cover the background investigation fee and returned check fee of \$50.

If a check is returned for insufficient funds, all future payments for background investigation requests must be accompanied by either a money order or a cashier's check.

### **C. Important information regarding the Request for Search of the Central Registry and Release of Information Form**

- After May 1, 2018, individuals will receive a results letter instead of the search form indicating if the person for whom the search was conducted was found in the central registry system. This letter will be emailed to the requesting agency.
- If a record of a founded complaint is located, the results letter will include information on which local department of social service (LDSS) office made the finding. You should contact the LDSS to obtain specific information about the complaint.
- Contact your licensing inspector if you are unsure how the information you obtained will impact hiring or retaining individuals.

#### Form requirements

- Print the form 2-sided document
- Use a separate blank page if additional space is needed for listing spousal and children's names
- Complete all fields and required information on the form
- Print legibly
- Have the form notarized
- Ensure the applicant's signature appears on the form
- Follow the directions when completing the form
- Mail the completed form with payment to:  
Virginia Department of Social Services  
Office of Background Investigations - Search Unit  
801 East Main Street, 6th Floor  
Richmond, VA 23219-2901

#### Actions to avoid

- Do not use white out or cross out information on the form
- Do not write on or cover the bar code
- Do not write in the margins
- Do not copy the form and make it smaller than 8" x 10"
- Do not staple the form
- Do not send extra documents along with the form (e.g. copies of birth certificates, marriage licenses or driver's licenses - such items will not be returned)

If the search form is not filled out correctly, it will be returned. Forms will now be scanned into the new system, so the completed form must be easy to read, with no additional marks or documents attached.

### **III. POINT OF CONTACT FOR CRIMINAL BACKGROUND INVESTIGATIONS**

Each provider should designate one criminal background investigation contact person. All correspondence and questions from OBI about fingerprint background checks will be directed to this contact. In order to keep contact lists and addresses current, any changes in the designated point of contact should be reported to OBI.

### **IV. FINGERPRINT BASED CRIMINAL HISTORY SEARCH**

The fingerprinting vendor, Fieldprint®, will collect all identifying information on the applicant, collect fees, take prints, and electronically submit the information to the Virginia State Police (VSP), the Federal Bureau of Investigations (FBI), and OBI. OBI staff will screen criminal history results received from VSP and FBI in order to provide the requesting provider a determination of eligibility on the individual being searched.

#### **A. Cost of fingerprinting**

Employees, applicants, agents, caregivers, approved providers in a family day system, household members	\$57.00
Volunteers	\$38.00

The total cost will cover fees for Fieldprint, Virginia State Police, FBI, and OBI. Payment will be due when an individual signs up for a fingerprinting appointment online.

\*Note: Virginia Department of Social Services (VDSS) will be covering the cost of initial fingerprint based criminal history searches for those individuals in child day programs who are required to be fingerprinted by §§ 63.2-1720.1 and 63.2-1721.1 of the Code of Virginia. VDSS will pay for fingerprint based criminal history searches for the code sections listed above through September 30, 2018.

#### **B. Registration**

All individuals required to submit a fingerprint based criminal history search must register online with Fieldprint®. Below is a step-by-step guide to schedule a Fieldprint® appointment for a fingerprint-based criminal background check.

1. Access the Virginia Fieldprint® website at <https://fieldprintvirginia.com/>
2. Click "Schedule an Appointment" button.
3. Follow the on-screen instructions to register with Fieldprint® or log-in if you are an existing user.
4. On the "Reason" screen enter your Fieldprint Code. You cannot schedule the appointment without this Code. If you lose your Fieldprint Code, contact OBI at 804-726-7884.
5. Complete demographic information.
6. Under "Additional Information", enter your "Facility ID" number found in the Fieldprint Code document from OBI. You cannot schedule the appointment without this ID. If you lose your Facility ID, contact OBI at 804-726-7884.

7. If you have lived out of state in the past five years, enter each location and dates starting with the most recent. If you have had more than five addresses out of state in the past five years, enter the five most recent addresses.
8. Make sure that the "Facility ID" you entered is correct and the facility you are being fingerprinted for is shown. If it is not correct, select back and re-enter the ID or contact the person who gave you the number.
9. Read through the "Authority for Release of Information". Check the "I Agree" box and provide information requested.
10. The "Find a Location" screen will have your home address. If you want to use that address to find a Fieldprint location nearest you, select "Find". If you want to enter a different address (ex. your work address) enter that address and select "Find".
11. Schedule an appointment by selecting a location, date, and time and selecting the "Schedule" button. You will see a pop up, select "Continue" if you are going to keep the appointment and "Cancel" if you want to choose a different time.
12. Print appointment confirmation (includes the Fieldprint® appointment number located above the appointment date & time) and bring it along with two forms of identification (one must be a picture ID). The appointment cannot be completed if these items are not present.

Acceptable Primary IDs include:

State-Issued Driver's License	State-Issued Non-Driver's License ID Card
U.S. Passport	Military Identification Card
Work Visa with Photo	Foreign Passport
DOD Common Access Card	Foreign Driver's License

Acceptable Secondary IDs include:

Credit Card/Debit Card	Bank Statement/Paycheck Stub
Birth Certificate	Marriage Certificate
Citizenship or Naturalization Certificate	Electric/Utility Bill
School ID w/Photograph	Vehicle Registration/Title
Voter Registration Card	Draft Record
Social Security Card	Transportation Worker ID Credential (TWIC Card)
Native American tribal document	Permanent Resident Card (I-551)

Rescheduling fees will be assessed if you fail to appear for your appointment or cancel within 24 hours of the scheduled appointment time.

Fieldprint codes and Facility IDs are sent to the facility point of contact for criminal background investigations. Contact OBI at 804-726-7884 if there is a question regarding the code or the facility ID.

If you have a question about which individuals in a program are required to be fingerprinted or other licensing questions, contact your licensing inspector. OBI will not be able to answer these questions.

If you have questions about scheduling an appointment, call Fieldprint at 877-614-4364.

Note: Fieldprint locations are handicapped accessible so adult household members with physical challenges that limit mobility will be able to access fingerprinting services.

### **C. REPRINTS**

If fingerprints are rejected by the State Police or FBI, Fieldprint will contact the individual to schedule a new appointment. Reprints must be taken as soon as possible after being notified that a reprint is needed in order to complete the background investigation process and be in compliance with state law.

There is no fee for reprints.

### **D. NOTIFICATION OF NAME SEARCH**

If fingerprints continue to be rejected by the Virginia State Police or by the FBI, OBI will request a name check. If this happens, the provider will be notified. Once the request is approved and the name check has been completed, a final determination letter will be sent to the agency for retention in the agency file.

### **V. EVALUATING CRIMINAL BACKGROUND INVESTIGATION RESULTS**

OBI is responsible for screening the Virginia and FBI records for facilities.

Providers are notified of the individual's status based on evaluation of the information received from VSP and the FBI. OBI staff will screen the results against the barrier crimes list and determine if an individual is eligible. You can find a copy of the barrier crimes list here:

[http://www.dss.virginia.gov/files/division/licensing/cdc/intro\\_page/background\\_investigations/guidance\\_procedures/barrier\\_crimes\\_for\\_child\\_day\\_programs.pdf](http://www.dss.virginia.gov/files/division/licensing/cdc/intro_page/background_investigations/guidance_procedures/barrier_crimes_for_child_day_programs.pdf)

### **A. DETERMINATION LETTERS**

OBI will email a determination letter to the provider for the individual who submitted fingerprints to let them know if the individual is eligible or not eligible to work with children.

There are different types of letters.

- Eligible –eligible to work with children
- Not Eligible –not eligible to work with children
- Unable to Determine – there is not enough information to determine if a person is eligible or not eligible to work with children

If there is a Virginia criminal record, it will be mailed to the provider with a not eligible or unable to determine letter.

The following are reasons why a not eligible letter has been sent:

- An individual has a conviction of any barrier crime as defined in § 19.2-392.02. Convictions include prior adult convictions and juvenile convictions or adjudications of delinquency based on a crime that would be a felony if committed by an adult within or outside the Commonwealth
- An individual has a conviction of any other felony not included in clause (i), (ii), (iii), (iv), or (v) unless five years have elapsed from the date of conviction

A child day program cannot allow volunteer service or hire anyone who has received a “not eligible” letter.

**B. UNABLE TO DETERMINE/ADEQUATE INFORMATION IS NOT AVAILABLE LETTER**

This letter is sent when an individual was either charged or arrested and OBI was unable to obtain a disposition or OBI was unable to determine the nature of the arrest. OBI has researched through all available state and local record keeping systems and has not been able to determine whether the applicant was convicted of the crime. Adequate information to make a determination is not available when:

- The disposition has not been reported by the court to the State Police/FBI.
- The record has been purged or destroyed by the court.
- OBI is unable to comply with the court’s requirements for researching its records and releasing the disposition. The individual may or may not have been convicted of the crime.
- OBI was unable to determine if a listed arrest/conviction is a barrier offense because of lack of information shown on the arrest history and inability to obtain clarifying information from courts and law enforcement agencies.

**C. HOW AN AGENCY SHOULD RESPOND WHEN RECEIVING AN “UNABLE TO DETERMINE/ADEQUATE INFORMATION IS NOT AVAILABLE” LETTER**

The “Unable to Determine/Adequate Information is Not Available” letter is a final determination letter from OBI. The provider should contact OBI when they receive the letter to clarify what information is needed.

If the charge is listed on the Virginia record, OBI can discuss and confirm the charge and information. After the charge is confirmed with OBI and the facility is aware of what information is needed from the individual, the provider can either take a statement from the individual or the provider can write the statement and have the individual sign and date it. The provider can indicate in the statement that OBI had been contacted and the charge was confirmed. This signed document should be attached to OBI’s determination letter and maintained with the individual’s file.

The provider should list all details from the arrest record such as the charge, offense date, jurisdiction, etc. Document all information that is needed based on what the individual discloses. (Ex. a disposition may be missing from the record due to the age of the charge or information on a particular charge may be missing.) If a charge is old, the courts do not always have information so this is why OBI has to send

this type of letter. In Virginia, lower courts such as General District and Juvenile and Domestic Relations destroy their records after 10 years.

The only information the provider will be able to gather is what the individual is providing to them. The agency can also consult internally with an attorney in order to make a final hiring decision.

**If at any point, a barrier conviction is disclosed, the facility must treat the case as “not eligible”.**

If a barrier conviction is not disclosed, the provider will have discretion to make the final decision based on all information gathered. The statement should be attached to the determination letter. This supports the determination letter and provides documentation to anyone reviewing the decision.

Sometimes the determination letter is generated due to charges on the arrest history such as “fail to appear” or “contempt of court” charges. These are not barriers, but OBI researches the underlying charge to verify/confirm the original charge that initiated the fail to appear or contempt to make sure the original charge was not barrier related.

If the determination letter was generated due to this type of charge, the provider will need to talk with the individual and take a statement to confirm the original/underlying charge that caused the contempt/fail to appear to be issued. If the original/underlying charge is not a barrier, the provider has final discretion. If a barrier crime is disclosed, the provider needs to find out what happened to the charge and document all details.

**If a barrier conviction is disclosed, the facility must treat the case as “not eligible”.**

If the determination letter was sent based on a charge that is not listed in the Virginia record, OBI will not be allowed to release information. Please complete the following steps:

- Provide the individual with a copy of the Barrier Crimes list.  
[http://www.dss.virginia.gov/files/division/licensing/cdc/intro\\_page/background\\_investigations/guidance\\_procedures/barrier\\_crimes\\_for\\_child\\_day\\_programs.pdf](http://www.dss.virginia.gov/files/division/licensing/cdc/intro_page/background_investigations/guidance_procedures/barrier_crimes_for_child_day_programs.pdf)
- Advise the individual to request a copy of the FBI record by going to the FBI website (<https://www.fbi.gov/>). It can take 2-3 weeks to receive the record.
- When the individual receives a copy of their record from the FBI, if the person chooses to share their record, the agency can contact OBI to discuss what is listed in the record. At that time, OBI can offer further guidance.

A provider should not make a final decision until the charge/charges in question have been verified prior to taking the statement. Arrest records from individual states are not the same as the office FBI record.



## **VI. REQUESTING A COPY OF THE CRIMINAL HISTORY RECORD**

### **A. FBI**

If an individual wants to request a copy of their FBI criminal history record, they can visit the FBI website at <https://www.fbi.gov/>

### **B. VIRGINIA STATE POLICE**

If an individual wants to request a copy of their Virginia criminal history record, they can visit the Virginia State Police website at: [http://www.vsp.virginia.gov/CJIS\\_Criminal\\_Record\\_Check.shtm](http://www.vsp.virginia.gov/CJIS_Criminal_Record_Check.shtm)

## **VII. CHALLENGING CRIMINAL BACKGROUND CHECK RESULTS**

If, after reviewing the identification record, the individual believes it is incorrect or incomplete in any respect and wishes changes, corrections, or updating of the alleged deficiency, he should make direct contact with the agency (court, law enforcement agency, etc.) that contributed the questioned information.

### **A. FBI**

If an individual is denied because of information appearing on the individual's FBI record and it comes to the individual's attention that he is not the person of the record, the individual may initiate a challenge of the information contained in the record. The agency is required by state and federal laws to provide the individual with a copy of the challenge procedures. The challenge procedures can be found at: <https://www.fbi.gov/services/cjis/identity-history-summary-checks>

### **B. VIRGINIA STATE POLICE**

In instances where it comes to an individual's attention that his name or other descriptive information is a matter of record in the Central Criminal Records Exchange, and he is not the person of the record, then the individual may initiate a challenge of the information contained in the record. An individual should report this information to a local sheriff, police or State Police Headquarters and request to be fingerprinted for the purpose of challenging a criminal record. The challenge procedures can be found at: [http://www.vsp.state.va.us/CJIS\\_CCRCRE.shtm#Challenge\\_Record](http://www.vsp.state.va.us/CJIS_CCRCRE.shtm#Challenge_Record)

The individual to be fingerprinted must show personal identification. The official taking the fingerprints must document on letter head that he has reviewed the individual's personal identification and obtained the fingerprints. This letter and the fingerprints are to be mailed to the following address:

Manager  
Central Criminal Records Exchange  
Virginia Department of State Police  
P.O. Box 27472  
Richmond, VA 23261-7472

Within five work days, the individual who initiated the challenge will receive written confirmation of the fingerprint search results, whether he is or is not the person of the record, and record modification(s) taken, if applicable.

Reports to a provider from OBI can be modified only after the individual challenges his record, it is corrected by the court or law enforcement agency, and the correction reported by the court/agency to the State Police or FBI. The individual must then submit fingerprints in order to obtain an accurate record.

If an applicant admits to having a barrier conviction or pending barrier charge, he is not entitled to proceed with the challenge procedure.

Applicants should not be told to contact OBI for more information. The provider should provide the individual with a copy of the barrier crimes and refer them to either the State Police or FBI websites to request a copy of their criminal record.

#### **VIII. SAFEGUARDING AND DOCUMENTATION TO BE RETAINED**

State and Federal laws prohibit secondary dissemination of criminal history records by the child day program. If an individual requests a copy of their record, the provider can provide a copy of the record directly to that individual once identification has been verified. Records should not be disseminated further.

A provider is responsible for safeguarding the background results. The following information is to be maintained in the applicant's file:

- Determination letters with the results of the State Police and FBI fingerprint checks
- Request for Search of the Central Registry and Release of Information Form
- Request for search of an out of state child abuse and neglect registry, if applicable
- Sworn Disclosure Statement

These documents may be retained in the individual's personnel file. The facility is responsible for safeguarding the documentation to prevent dissemination.