



FLORIDA DEPARTMENT
OF CHILDREN AND FAMILIES
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BACKGROUND SCREENING AND CRIMINAL HISTORY CHECKS:

CONFRONTING THE PAST

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INTRODUCTION

Background Screening Overview

- What is Background Screening and Why is it Required?

Dependency Cases vs. Licensing or Employment

- Section 39.0138
 - 5 Year Disqualifiers vs. Permanent Disqualifiers
- Chapter 435
 - Disqualifying Offenses
- Abuse History & Adam Walsh Checks
- Locals and 911 Checks

Program Specific Reviews

- Emergency Placement Checks & Screening
- Foster Home & Group Home Licensing & Employment
- Out-of-Home Placement & Reunification

WHO MUST BE SCREENED?

- The Department conducts background screening for many programs including:
 - ❖ Child Care Facilities and Family Day Care Homes
 - ❖ Religious Exempt Child Care Facilities
 - ❖ Foster Homes or Placement and Adoptive Homes
 - ❖ Mental Health Facilities
 - ❖ Substance Abuse Facilities
 - ❖ Facilities for the Developmentally Disabled
 - ❖ Summer Camps
 - ❖ Afterschool or Enrichment Programs

DEPENDENCY AND ADOPTION SCREENINGS

Section 39.0138, Florida Statutes outlines the requirements for placing a child

This applies to emergency placements, relative and non-relative placements, adoptions, foster parents and group home employees

There are both 5-year and permanent disqualifiers

5-YEAR
DISQUALIFYING
OFFENSES
UNDER
S.39.0138(4), FLORIDA
STATUTES

- An individual has been convicted of a felony that is:
 - Assault
 - Battery
 - A drug-related offense
 - Resisting arrest with violence
- Convictions require an adjudication of guilt. These offenses are not disqualifying if they are misdemeanors or if adjudication was withheld

PERMANENT
DISQUALIFYING
OFFENSES
UNDER
S.39.0138(3),
FLORIDA
STATUTES

The Department shall not place a child with any person, other than a parent, with a conviction for any of the following felony disqualifying offenses:

There is no exemption from disqualification for a permanent disqualifying offense

Child abuse, abandonment, or neglect

Domestic Violence

Child pornography or other felony in which a child was a victim of the offense

Homicide, sexual battery or other felony involving violence

OTHER FELONY INVOLVING VIOLENCE

This is often the most confusing of the disqualifying offenses

These crimes have been identified as offenses that are felonies involving violence:

Kidnapping, false imprisonment, arson, robbery, manslaughter, vehicular homicide, shoot/throw deadly missiles into a dwelling

The elements that make them disqualifying is they all require a use of force, threats, violence, assault or putting a person in fear or other action that is willful and unlawful

LICENSING AND EMPLOYMENT BACKGROUND SCREENING

- ▶ Chapter 435, Florida Statutes outlines the requirements for Level I and Level II Background Screening
 - ❖ Outlines disqualifying offenses
 - ❖ Provides requirements for exemption from disqualification
- ▶ Level II is required most often and is fingerprint based check of state and national criminal history checks
- ▶ Level I is a Florida only name based search. Level I is required when a household member is requesting a fingerprint exception due to physical, cognitive or behavioral disability
- ▶ Licensing and employment screenings are conducted through the Background Screening Care Provider Clearinghouse, called the “Clearinghouse”
- ▶ In the Clearinghouse, the fingerprints are retained
- ▶ The Department and the provider are notified if an employee of a provider is subsequently arrested in Florida



FOSTER CARE — LEVELS OF LICENSURE

Level	I- Child-Specific foster home
Level	II – Non-child specific foster home
Level	III – Safe foster home for victims of human trafficking
Level	IV – Therapeutic foster home
Level	V – Medical foster home

BACKGROUND SCREENING REQUIREMENTS FOR FOSTER CARE AND GROUP HOMES

Foster Care

- Level I – S. 39.0138, Florida Statutes
- Levels II – V – S. 435.04 and s. 39.0138, Florida Statutes
- There may be an exemption from disqualification granted for offenses listed under s. 435.04, F.S.
- Even if a foster parent was granted an exemption, they can still have a permanent disqualifying offense under s. 39.0138, Florida Statutes

Group Homes

- S. 435.04, Florida Statutes
- S. 39.0138, Florida Statutes
- Child Abuse and Neglect Checks

DISQUALIFYING OFFENSES

Section 435.04 outlines the list of disqualifying offenses.

A person is disqualified if they have been:

Arrested for an offense listed and are awaiting disposition

Found Guilty

Entered a plea of Nolo Contendere or Guilty, even if adjudication is withheld

Adjudicated Delinquent, and the record is not sealed or expunged

Sealed and Expunged criminal history records are reviewed and can be disqualifying

NEW DISQUALIFYING OFFENSES

Additional disqualifying offenses have been added over the years

An offense that was not previously disqualifying, may now be disqualifying

An exemption is required even if one was granted previously for the new offense

DOMESTIC VIOLENCE OFFENSES

Crimes Considered Domestic Violence

- Assault
- Aggravated Assault
- Battery
- Aggravated Battery
- Sexual Assault
- Sexual Battery
- Stalking
- Aggravated Stalking
- Kidnapping
- False Imprisonment
- Any other criminal offense resulting in injury or death

Relationships for Family or Household Member

- Spouses
- Former Spouses
- Persons Related by blood or marriage
 - ✓ With any of these relationships, they must have lived together in the same house as a family
- Persons who have a child in common- are not required to have lived together as a family

ANY OTHER CRIMINAL OFFENSE RESULTING IN PHYSICAL INJURY OR DEATH

- Can be a misdemeanor
- Can be a municipal ordinance
- Requires an injury to be considered disqualifying
- Some examples include:
 - Fighting
 - Affray
 - Disorderly Conduct

EXEMPTIONS FROM DISQUALIFICATION

- Section 435.07 provides the eligibility requirements to apply for an exemption from disqualification.
 - ❖ Must wait 3 years from the completion of all sanctions for felony disqualifying offenses
 - ❖ Must have completed all sanctions for misdemeanor disqualifying offenses
 - ❖ Must have paid all monetary sanctions, including but not limited to, court fees, restitution, fines, civil liens
 - ❖ Must demonstrate by clear and convincing evidence the employee should not be disqualified
- Section 435.07(4) outlines the disqualifying offenses that are permanent disqualifying for employment or licensure in child care

WHO IS NOT ELIGIBLE?

- Certain criminal offenses permanently disqualify an individual from requesting an exemption
 - ❖ Sexual Predator
 - ❖ Career Offender
 - ❖ Sexual Offender, unless the requirement to register as a sexual offender has been removed
 - ❖ Certain offenses are permanent disqualifiers for child care and foster care. Even if a prior exemption from disqualification was granted for a foster parent, the criminal history must be reviewed for permanent disqualifiers under Chapter 39.

APPLICATION FOR EXEMPTION

Explain, in detail, each of these points related to all of your offenses, both disqualifying and non-disqualifying offenses:

- The circumstances of your offenses
- How your actions affected the lives of others
- How it impacted your life

Describe actions taken to improve your professional skills:

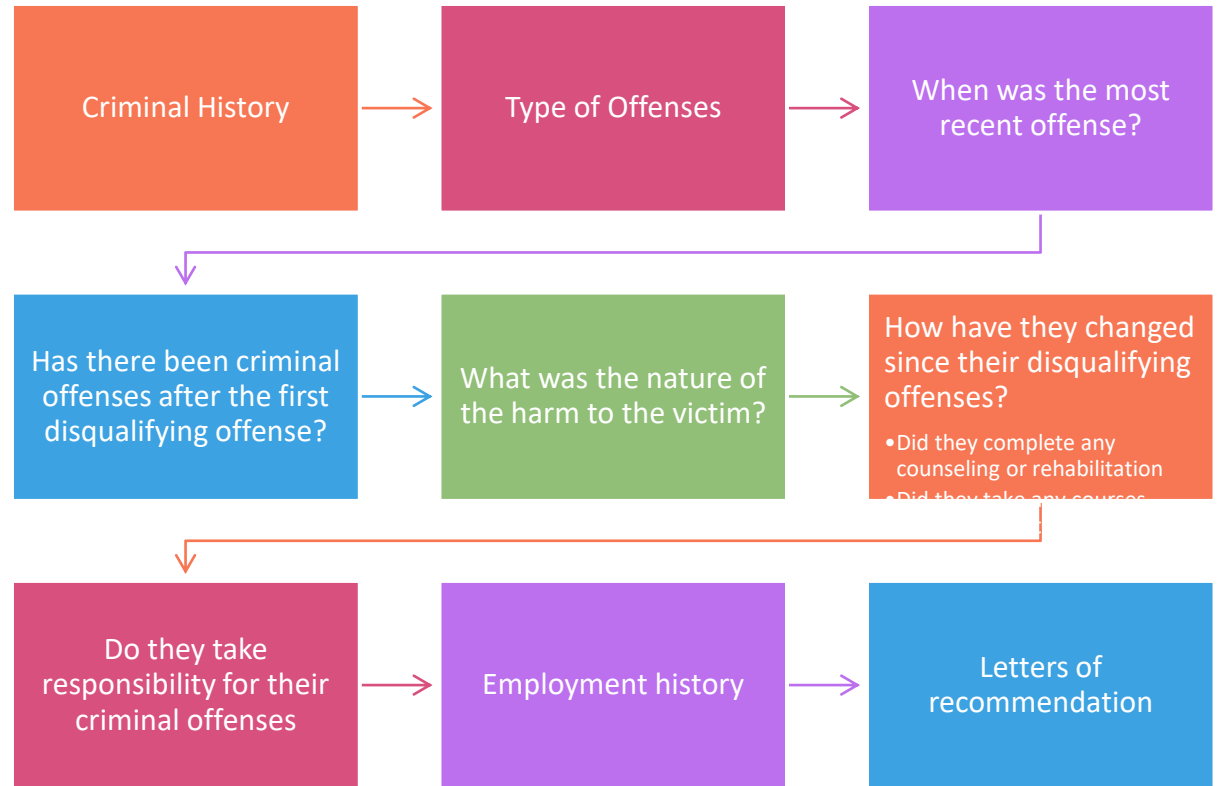
- List your educational achievements, such as certifications, licenses,
- specialized training or advance degree coursework
- Describe any additional activities related to professional development

Include any other information related to community involvement or other rehabilitation that you wish to share and to be considered for your exemption request.

- This can include training certificates, substance abuse or mental health treatment certificates

Passage of time from your criminal offenses is not rehabilitation alone.

WHAT IS CONSIDERED WHEN EVALUATING AN EXEMPTION REQUEST?



WHAT HAPPENS IF THE EXEMPTION REQUEST IS DENIED?

01

Anyone that has had their Request for Exemption denied by the Department they can request an Administrative Hearing from the Division of Administrative Hearings

02

They must notify the Department in writing of their intent to request a hearing within 21 calendar days of receipt of the denial letter

03

The Administrative Law Judge will hear the case to review the Department's rationale for the denial and decide if it was an abuse of discretion on the part of the Department

ADMINISTRATIVE HEARING

- Petitioner can represent themselves or hire an attorney
- The Petitioner has the burden of proof to show the Department has abused its discretion in denying the exemption request
- The Petitioner can bring witnesses to be character witnesses
- The Department presents its case to show why the request was denied
- All testimony is under oath
- Proceedings are confidential
- The Administrative Law submits a Recommended Order after the hearing
- The Department and Petitioner can submit Exceptions to the Recommended Order
- The Department will file a Final Order and if it is denied, the Petitioner can file an additional appeal
- The entire process can take up to 6 months or more

COMPARING ABUSE HISTORY CHECKS

Out of State Request

- Adam Walsh-Child abuse and neglect check for out-of-state placement/ICPC
- Employment- An applicant that currently lives out of the state of Florida but lived in Florida in the last 5 years (may be longer for some states) is seeking employment in a group home, child caring or child placing agency.
- CPI- Requesting Abuse History for a family that is now part of an active/ongoing investigation in another state that previously lived in Florida.

In State Request

- Group home employees- Annual, re-licensure or realignment
- Foster parents
- Child care employees

If a verified intake has been identified, the person can obtain a copy of the investigation through a public record request.

DEPARTMENT CONTACTS FOR QUESTIONS RELATED TO BACKGROUND SCREENING

Dependency Screenings

- Analyst Helpline
 - Adoptions and Placements
 - Adam Walsh
 - Out of state request for Abuse History
- 1-855-776-2729

Licensing and Employment

- Background Screening Help Desk
- 1-888-352-2849

The background is a blue gradient with faint technical diagrams and circular patterns. On the right side, there are several concentric circles with tick marks and arrows, resembling a gauge or a scale. The numbers 100, 110, 120, 130, 140, 150, 160, 170, 180, 190, and 200 are visible along the outer edge of these circles. There are also dashed lines and arrows pointing in various directions, suggesting a technical or scientific theme.

QUESTIONS?