**Procedure No:** I.C.2.PR.013 **Issue Date:** June 16, 2008

**Subject:** **Criminal History Background Verification of** **Effective Date**: Upon Release

**Applicants for Employment in Self-Directed Supports Revised:** June 5, 2009

**Section:** Individual Support **Revised:** July 1, 2023

**Approved:**/s/Jordan A. Scheff/LT

**Policy Statement**

The Department of Developmental Services (DDS) provides individuals with a framework to utilize the maximum amount of control over how they receive their services and supports through self-direction, choice, responsibility, and management of the delivery of Home and Community Based Services (HCBS) waiver and state plan services. Self-directed services allow individuals and their families to choose and design their own program of services including hiring and managing their employees. Individuals and their families may exercise freedom and authority to customize their service plans by using an individual budget. It is DDS policy that a documented review of a criminal history record is required for all applicants for employment who will have direct and ongoing contact with individuals receiving funding and services from the department. Criminal history background checks and checks of other background information of a person who would be working with individuals in their own homes and in the community is an important part in making the process of self-direction a safer option. As part of DDS’s mission to encourage individuals to live and participate in the community and to exercise choice in the services they do receive, DDS is committed to the safety of the individuals as they make their choices.

# **Purpose**

This procedure details the DDS requirements for conducting background checks that any individual, family member or other person responsible for hiring employees to provide residential services or day services or both under a DDS Self-Directed Support Agreement shall follow. The review and documentation requirements outlined in this procedure are required to be completed before an offer of employment is extended to an applicant for employment.

1. **Applicability**

This procedure is applicable to individuals and their families, employers of record, and other persons who utilize departmental resources to directly hire staff under a DDS Self-Directed Support Agreement.

1. Definitions

“Applicant” means a person who has applied to become an employee of and provide residential services or day services or both to an individual who utilizes department resources under the DDS Self-Directed Support Agreement.

“Conviction” means the final judgment on a guilty verdict or a finding of guilt, a plea of guilty, or a plea of nolo contendere, but does not include any final judgment that has been expunged by pardon, reversal, set aside or otherwise rendered null.

“Criminal history background check” means the review and documentation of an applicant’s criminal history record, if any, for the purposes of screening an applicant for employment by the employer of record.

“Criminal history record” means the documentation of information collected by criminal justice agencies on persons which consists of identifiable descriptions and notations of arrests, indictments, information, or other formal criminal charges and any disposition arising therefrom, sentencing, correction supervision, and release unless such documentation has been erased pursuant to statute.

“DDS Abuse and Neglect Registry” means the centralized database established and maintained by the Department of Developmental Services of former employees who have been terminated or separated from employment as a result of substantiated abuse or neglect.

“Employer” or “employer of record” means an individual, family member or responsible person who hires and directs employees for residential services or day services or both under the DDS Self-Directed Support Agreement.

**“**Fingerprint” meansthe biometric methodology using the impression made by the minute ridge formations or patterns found on a person’s fingertips.

“HHS Office of Inspector General Exclusion Database” means the U.S. Department of Health and Human Services (HHS) Office of Inspector General’s (OIG) list of all currently excluded individuals and entities called the [List of Excluded Individuals/Entities](https://oig.hhs.gov/exclusions/exclusions_list.asp) (LEIE). OIG has the authority to exclude individuals and entities from Federally funded health care programs for a variety of reasons, including a conviction for Medicare or Medicaid fraud. Anyone who hires an individual or entity on the LEIE may be subject to civil monetary penalties.

“Individual” means a person who has been determined eligible for and is receiving funding and services from the department.

“National criminal history records check” means the fingerprint-based noncriminal justice review and documentation of an applicant’s criminal history background, if any, conducted by the Federal Bureau of Investigations for the purposes of screening an applicant for employment by the employer of record.

“Offense” meansany crime or violation that constitutes a breach of any law of this state for which a sentence to a term of imprisonment or to a fine, or both, may be imposed. A violation of law for which the only sentence authorized is a fine is not considered an offense for the purposes of this procedure.

“State criminal history records check” means the fingerprint-based noncriminal justice review and documentation of an applicant’s state criminal history background, if any, conducted by the State Police Bureau of Identification for the purposes of screening an applicant for employment by the employer of record.

1. Implementation

The following steps are required to be taken prior to the employer of record extending an offer of employment to an applicant:

1. All applicants for employment are required to complete the employment application provided by a Fiscal Intermediary that has been contracted by DDS.
2. This employment application includes a release to be signed by the applicant allowing the Fiscal Intermediary to complete a criminal history background check, a driver’s license check, a DDS Abuse and Neglect Registry check and a U.S. Department of Health and Human Services (HHS) Office of Inspector General Exclusion Database check.
3. To complete the required criminal history background check of the applicant, the employer may choose to use a criminal history background check or a fingerprint-based state criminal history records check. In addition, the employer may request that a fingerprint-based national criminal history records check be completed.
4. The cost of the criminal history background check may be paid through the individual’s DDS budget. The cost of the criminal history background check may vary depending the type of check being performed and depending upon where the applicant resides.
5. When completed, the Fiscal Intermediary shall provide the results of the applicant’s criminal history background check, driver’s license check, DDS Abuse and Neglect Registry check and HHS Office of Inspector General Exclusion Database check to the employer of record. Any applicant who is found to be on the DDS Abuse and Neglect Registry or HHS Office of Inspector General Exclusion Database shall not be hired under any circumstances.
6. The employer of record shall review the results of the applicant’s criminal history background check and other required checks. If the applicant is not on the DDS Abuse and Neglect Registry or the HHS Office of Inspector General Exclusion Database and, if applicable, the provisions of sections 8 and 9 of this procedure have been completed, then the employer of record may extend an offer of employment to the applicant.
7. The criminal offenses listed below represent offenses involving crimes against persons or other serious crimes indicating potential for harm to individuals who receive funding and services from DDS and their families.

**List of Criminal Offenses**

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| Arson | Homicide |
| Assault or Related Offenses | Kidnapping or Related Offenses |
| Burglary or Related Offenses | Larceny, Robbery or Related Offenses |
| Child Pornography | Manslaughter |
| Conspiracy | Perjury or Subordination |
| Cruelty to Persons | Risk of Injury to a Minor |
| Domestic Violence | Sexual Offense |
| Drug Offenses | Stalking |
| Forgery or Related Offenses | Threatening |
| Fraud | Unlawful Restraint |
| Harassment | Weapons Violations |

1. If an employer wishes to extend an offer of employment to an applicant whose results of the criminal history background check, or a state or national criminal history records check, or a driver’s license check, include charges or convictions for any of the criminal offenses listed in subsection 7 of this procedure or if the results of these checks include a response of a sealed record where the offense is unable to be released, then such employer of record is required to complete and sign the Fiscal Intermediary’s “Employer of Record (EOR) Acknowledgement and Release of Liability” form.
2. Once the “Employer of Record (EOR) Acknowledgement and Release of Liability” form has been signed and the Fiscal Intermediary has received a copy, the employer of record may make an offer of employment to the applicant.
3. Any employee added to the DDS Abuse and Neglect Registry or HHS Office of Inspector General Exclusion Database while employed by an individual receiving self-directed supports is required to be terminated immediately.
4. References

None

1. Attachments

I.C.2.PR.013 Attachment A [Employer of Record (EOR) Acknowledgement and Release of Liability Template](https://portal.ct.gov/-/media/DDS/DDS_Manual/IC2/Employer_of_Record_EOR_Acknowledgement_and_Release_of_Liability_Template.docx)