



## TEXAS DEPARTMENT OF FAMILY AND PROTECTIVE SERVICES

COMMISSIONER  
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### Background Checks

The Department of Family and Protective Services (DFPS) requires background checks for DFPS staff and volunteers, as well as for other populations through its programs: Child Protective Services (CPS), Adult Protective Services (APS), Child Care Licensing (CCL), and Purchased Client Services (PCS). Legislation at both the federal and state level has shaped background check requirements, policy, and procedures at DFPS, with the goal of enhancing protections for DFPS clients.

#### Types of Background Checks

The purpose of conducting background checks is to determine whether a person has any criminal history or abuse and neglect history that may pose a risk to the health and safety of children, the elderly, or people with disabilities. There are six types of background checks that DFPS is authorized to perform:

- **Texas Criminal History check:** A name-based search of the Texas Department of Public Safety (DPS) database of crimes committed in Texas.
- **National Criminal History check:** A fingerprint-based search of both the DPS database of crimes committed in Texas and the Federal Bureau of Investigation (FBI) database of crimes committed within the United States.
- **Texas Law Enforcement Telecommunications System (TLETS) check:** A name-based search of the TLETS system which contains national crime information databases. This system can only be accessed in specific circumstances when investigating reports of child abuse, neglect, or exploitation.
- **Central Registry check:** A search of the Central Registry of reported cases of child abuse and neglect in Texas. The Central Registry is maintained by DFPS and identifies people who have been found by Child Protective Services, Adult Protective Services, or Child Care Licensing to have abused, neglected, or exploited victims under age 18.
- **DFPS History check:** A search of the records of abuse/neglect/exploitation investigations in Texas and any services provided as a result of these investigations. These internal records are maintained by DFPS and the search identifies all Child Protective Services, Adult Protective Services, and Child Care Licensing case documentation that references the specific person, regardless of the person's role or

relationship in the case. Not all results found by a DFPS History search will constitute a match for the purpose of a background check, as this is dependent on the policy for that particular population and the parameters that apply.

- **Out-of-State Abuse/Neglect History check:** A search of another state's records of reported child abuse and neglect cases that identifies people who have been found to have abused or neglected a child. These searches are requested on individuals as part of the process of a home being verified or approved for foster care or adoption. These checks may also be requested for ongoing casework purposes.

## **Legislative Changes to Background Check Requirements (passed by the 84<sup>th</sup> Texas Legislature)**

- **Senate Bill (SB) 1496:** Effective September 1, 2016, SB 1496 added new requirements for fingerprint-based background checks for individuals working and residing in listed and registered family home and group day-care home operations. Previously, these persons only required fingerprint-based background checks if (1) the person resided in another state during the five years prior to the background check, or (2) there was reason to believe that the person had criminal history in another state. This bill also added the requirement that listed family home operations will pay background check fees to DFPS when background checks are requested, as listed family home operations were previously exempt from the background check fee requirement.
- **Senate Bill (SB) 1889:** Effective September 1, 2015, SB 1889 amended Section 261.001(4) of the Texas Family Code to specify that the term "Neglect" does not include refusal to accept parental responsibility for a child if the child has a severe emotional disturbance, the person's refusal is based solely on an inability to obtain necessary mental health services, and if the person had exhausted all reasonable means to obtain mental health services. As a result, DFPS is prohibited from making abuse or neglect findings against an individual in such situations, and guidelines are to be established for removing records from the Central Registry in which DFPS was named managing conservator of a child with a severe emotional disturbance only due to the parents' inability to obtain mental health services. Additionally, by November 1, 2016, and November 1, 2018, DFPS will provide a report to the legislature of the number of children with severe emotional disturbances for whom DFPS was appointed managing conservator or joint-managing conservator, the number of children with severe emotional disturbances diverted to community or residential mental health services through another agency, and the number of persons entered into the Central Registry due to DFPS being named managing conservator of a child with a severe emotional disturbance due to the parents' inability to obtain mental health services.
- **Senate Bill (SB) 206:** Effective September 1, 2015, SB 206 established and updated several requirements regarding DFPS casework and background checks. It updated Section 262.114(b) of the Texas Family Code, mandating that background and criminal history checks must be completed on relative or other designated caregivers prior to the child(ren) being placed in the home. Additionally, this legislation amended Section 411.114 of the Texas Government Code, providing a broader scope under which DFPS

can obtain criminal history record information (CHRI) from the Department of Public Safety. This Government Code section previously enumerated specific persons on whom DFPS is authorized to request CHRI, but the revised language allows DFPS to access this information on any individual when we deem it "necessary to ensure the safety or welfare of a child, elderly person, or person with a disability." This section of the bill also expanded the circumstances under which DFPS can release CHRI when it is for the purpose noted above.

## **Cost of Background Checks**

Costs associated with name-based Texas Criminal History checks and fingerprint-based National Criminal History checks are as follows:

- Daycare and Residential Child Care operations regulated by CCL pay \$2 for every person that they submit for a name-based Texas Criminal History check. DFPS collects this fee – \$1 goes to Texas Department of Public Safety (DPS) per name submitted and \$1 goes to the General Revenue Fund. (Certain Residential facilities, foster care settings, and Listed Family Home operations may be exempt from background check fees).
- Name-based Texas Criminal History checks for DFPS employees, DFPS volunteers, Purchased Client Services contract providers, and external volunteers cost DFPS \$1 per name submitted to DPS.
- Fingerprint-based National Criminal History checks vary in cost depending on the role of the individual being fingerprinted.
  - The cost for a fingerprint-based check for a paid employee of an organization is \$38.50.
  - Foster and adoptive parent applicants, kinship caregivers, household members, and any other individuals not receiving financial compensation for the role in which the background check is requested pay a reduced rate of \$37.25.
  - The overall fingerprinting fee is a collection of several fees:
    - DPS charges \$15 to conduct a fingerprint-based check. (The FBI will not conduct a fingerprint-based check until the requesting state conducts one).
    - The Federal Bureau of Investigation (FBI) charges \$12.00 to conduct a fingerprint-based check (\$10.75 for foster and adoptive parent applicants and volunteers).
    - The fingerprint vendor charges a processing fee of \$11.50. This is a fee set in the contract between DPS and the fingerprint vendor.

## **Who pays the fingerprinting fees?**

- In Daycare and Residential Child Care operations regulated by CCL, the childcare operator, director, or employee who is the subject of the background check will generally pay for this fee. Some childcare operations may pay the fee for their employees and/or foster and adoptive parents.

- CPS Foster and Adoptive parents and their household members generally pay their own fingerprinting fees as well. There are times when funding is available to assist with these fees.
- DFPS covers the cost of fingerprinting fees when a National Criminal History check is required for CPS emergency parental child safety placements, CPS non-emergency kinship, and Interstate Compact for Placement of Children (ICPC) placements.
- Applicants for employment with DFPS, and Purchased Client Services contractors required to complete a National Criminal History check pay \$11.50. DFPS covers the remainder of the fingerprinting fees. DFPS applicants who are hired can request reimbursement for the fee.

## Background Checks Conducted by DFPS

DFPS is required and/or authorized to perform background checks for a wide range of persons and activities. The types of background checks performed by DFPS vary according to the population being checked. These include Texas Criminal History checks, National Criminal History checks, DFPS History checks, Central Registry checks, and TLETS checks, with all authority based in Texas Government Code Ch. 411 (Sections 114 and 087), Texas Human Resources Code §42.056, Texas Administrative Code §745.611 and §745.615, and Adam Walsh Child Protection and Safety Act 2006 (Pub.L. 109-248).

The main categories of background checks performed by DFPS are listed below and broken down according to the population being checked, the types of background checks conducted, and the frequency of the checks.

Population Name	Types of Background Checks						Frequency
	Texas Criminal History (DPS)	National Criminal History (FBI)	DFPS History	Central Registry	TLETS	Out-of-State Abuse or Neglect History	
<b>DFPS Employees</b>  DFPS applicants and employees	X						Upon employment, every 12 months thereafter, and after agency becomes aware of possible criminal conduct
		X					Upon employment, if the applicant: <ul style="list-style-type: none"> <li>is being considered for a direct-delivery or management-level CPS position within the Conservatorship or Foster/Adoption program areas</li> <li>has lived outside the state in last 2 years, or</li> <li>may have criminal history in another state</li> </ul>
			X				Upon employment, and any time an employee is connected to a DFPS investigation

Population Name	Types of Background Checks						Frequency
	Texas Criminal History (DPS)	National Criminal History (FBI)	DFPS History	Central Registry	TLETS	Out-of-State Abuse or Neglect History	
<p><b>DFPS Volunteers</b></p> <p>Volunteers in all DFPS programs requesting placement with direct client contact and/or access to client information</p>	X		X				Prior to placement that will include client contact and/or information access, and annually thereafter
<p><b>Purchased Client Services Contractors</b></p> <p>Purchased Client Services (PCS) contract providers with direct client contact, including access to client information</p>	X		X				At the time the contract is initiated, or upon employment with the contractor, and every 2 years thereafter
		X					At the time the contract is initiated, or upon employment with the contractor, if the person: <ul style="list-style-type: none"> <li>has lived outside the state in the last 5 years, or</li> <li>may have a history of criminal conduct in another state</li> </ul>
						X	At the time the contract is initiated, or upon employment with the contractor, if there is reason to believe the person may have abuse/neglect history in another state
<p><b>Child Care Licensing (Daycare)</b></p> <p>Child Care Licensing (CCL) daycare providers, including licensed child care administrators, all employees, volunteers, and frequent/regular visitors* at licensed operations and registered and listed family homes</p>	X	X**		X			Upon employment at the operation and every 24 months thereafter

Population Name	Types of Background Checks						Frequency
	Texas Criminal History (DPS)	National Criminal History (FBI)	DFPS History	Central Registry	TLETS	Out-of-State Abuse or Neglect History	
<p><b>Residential Child Care Licensing</b></p> <p>Child Care Licensing (CCL) 24-hour residential providers, including licensed child care administrators all employees, volunteers, and frequent/regular visitors* at licensed residential operations and child placing agencies</p>	X	X**		X			Upon employment at the operation and every 24 months thereafter
<p><b>Foster/Adoptive Homes Verified or Approved by CPS</b></p> <ul style="list-style-type: none"> <li>Foster and adoptive parents verified or approved by Child Protective Services, including those for placement of children from another state (ICPC)</li> <li>All household members in foster and adoptive homes, 14 years of age or older and not in the conservatorship of DFPS</li> <li>All frequent/regular visitors* at a foster home (as defined by 40 TAC §745.601).</li> </ul>	X	X**	X			X***	At time of application, and every 24 months thereafter
<p><b>Foster/Adoptive Homes Verified or Approved by a Private Child Placing Agency or Independently Licensed</b></p> <ul style="list-style-type: none"> <li>Foster and adoptive parents verified or approved by a private child-placing agency licensed by Residential Child Care Licensing (RCCL)</li> <li>Caregivers in independent foster homes licensed by RCCL</li> <li>All household members in foster and adoptive homes who are 14 years of age or older and not in the conservatorship of DFPS</li> <li>All frequent/regular visitors* at a foster home (as defined by 40 TAC §745.601).</li> </ul>	X	X**		X		X#	At time of application, and every 24 months thereafter

Population Name	Types of Background Checks						Frequency
	Texas Criminal History (DPS)	National Criminal History (FBI)	DFPS History	Central Registry	TLETS	Out-of-State Abuse or Neglect History	
<b>CPS Kinship Placement</b> <ul style="list-style-type: none"> <li>Relatives or fictive kin who provide care for children in the conservatorship of DFPS but who are not verified (licensed) by CPS or RCCL, and</li> <li>All household members in a CPS kinship placement home who are 14 years of age or older and not in the conservatorship of DFPS</li> </ul>	X		X				Before placement
		X					Before placement, if the individual has lived outside the state within the last 3 years
<b>CPS and APS In-Home Investigations</b>  Alleged Perpetrators who are not alleged victims (required) and all principals (allowed) in open CPS and Adult Protective Services (APS) In-Home investigations	X		X				During investigation or open case
					X		During a CPS investigation when a principal in the case is believed to have lived in, or may have committed crimes in, another state, particularly if there are immediate safety concerns for a child (authorized, not required) and cannot be used to acquire criminal history for placement of a child with a relative
						X	During a CPS investigation if there is reason to believe that the person may have abuse/neglect history in another state
<b>CPS Emergency Parental Child Safety Placement</b>  Prospective candidates for emergency placement of children by parents for child safety purposes	X		X				Prior to placement
		X					Prior to placement, if the person has lived outside the state within the last 3 years

Population Name	Types of Background Checks						Frequency
	Texas Criminal History (DPS)	National Criminal History (FBI)	DFPS History	Central Registry	TLETS	Out-of-State Abuse or Neglect History	
<p><b>CPS Interstate Compact for the Placement of Children</b></p> <p>Prospective candidates for placement of children from another state (as well as household members in the homes of the candidates). These requests are received by Child Protective Services through the Interstate Compact on the Placement of Children (ICPC)</p>	X		X				Prior to placement
		X					Prior to placement, if the person has lived outside the state within the last 3 years
<p><b>DADS Adult Foster Care</b></p> <p>Adult foster care providers licensed by the Department of Aging and Disability Services (DADS) and staff of the Home and Community Support Services Agency (HCSSA)</p>			X				Upon request
<p><b>APS In-Home Guardianship Referrals</b></p> <p>Family or friends of an APS client if APS is assisting the individual to apply for guardianship or if APS feels the individual is not suitable as a guardian in the referral process</p>			X				Upon referral for guardianship or upon request from DADS
<p><b>APS Provider Investigations</b></p> <p>Principals in investigations, and collaterals if prior case history indicates the collateral's history may be relevant to the investigation</p>			X				Principals in every SSLC/ Rio Grande State Center ICF/IID investigation. As needed in other settings if the APS investigator, regional management, or State office suspect a past history may reveal behavior that could impact the current investigation.

Population Name	Types of Background Checks						Frequency
	Texas Criminal History (DPS)	National Criminal History (FBI)	DFPS History	Central Registry	TLETS	Out-of-State Abuse or Neglect History	
<p><b>Court-Appointed Special Advocates (CASA)</b></p> <p>Employees and volunteers with the CASA agency, which serves children whose families have court involvement with DFPS. The CASA program also utilizes a national criminal history check for their staff and volunteers, which they obtain without the assistance of DFPS.</p>			X				Prior to access to CPS case information or the children and families with which CPS is involved. Renewal checks are not required; the person is tracked for any new abuse/neglect reports for as long as they have access to children or DFPS data.
<p><b>External Volunteers</b></p> <p>Volunteers at an authorized external agency: Children's Advocacy Centers (CAC), Big Brothers/Big Sisters, Make-a-Wish Foundation (Texas)</p>	X			X			Upon request
<p><b>Requests From the Public</b></p> <p>Any person or group who submits a properly notarized request</p>				X			Upon request

\* Fingerprint-based FBI checks are completed on volunteers or frequent and/or regular visitors only if they are unsupervised, have lived out of state in the past 5 years, or if DFPS has a reason to believe the individual may have a criminal history in another state.

\*\* If has not been more than 24 months since the time of the individual's previous Texas Criminal History check, a new fingerprint submission is not required at the 24-month renewal or at a subsequent operation

\*\*\* Only at the time of application for any applicant or adult household member who has lived outside of Texas at any time since reaching 18 years of age.

# Only at the time of application for any applicant or adult household member who has lived outside of Texas in the previous 5 years

## Background Checks Data for FY 2016

### FY 2016 Total Results Received

Population	Type of Background Check					Total
	Texas Criminal History	National Criminal History	DFPS History	Central Registry	TLETS	
<b>DFPS Employees<sup>+</sup></b>	2	0	2,704	0	0	2,706
<b>DFPS Volunteers/Interns</b>	3,060	3	3,065	0	0	6,128
<b>Purchased Client Services (PCS) Contractors</b>	10,236	1,295	10,247	0	0	21,778
<b>Daycare Licensing Operations</b>	263,492	223,395	0	263,492	0	750,379
<b>Residential Child Care Licensing Operations</b>	102,241	90,529	0	102,239	0	295,009
<b>Foster/Adoptive Homes Verified or Approved by CPS</b>	15,433	7,053	16,196	12,099	0	50,781
<b>CPS Kinship Placement</b>	4,601	1,094	5,599	160	0	11,454
<b>APS In-Home Dept. of Aging and Disability Services (DADS)</b>	0	0	22	0	0	22
<b>CCL and APS In-Home/Provider Investigations<sup>**</sup></b>	13,652	35	461	1,637	0	15,785
<b>CPS Investigations and Ongoing Casework</b>	901,899	3,373	272,153	12,076	1,872	1,191,373
<b>CPS ICPC Requests</b>	3,222	792	3,539	487	0	8,040
<b>CASA Volunteers</b>	0	0	7,403	0	0	7,403
<b>Other External Volunteers</b>	4,122	4	1,141	2,992	0	8,259
<b>Requests from the Public</b>	30	3	0	8,972	0	9,005
<b>Total</b>	1,321,990	327,576	322,530	404,154	1,872	2,378,122

<sup>+</sup> Criminal history checks for DFPS employees and applicants are conducted by HHSC Human Resources. DFPS has no direct involvement in conducting these checks. The data in this table only reflects the volume of background checks conducted by DFPS

<sup>\*\*</sup> Includes APS investigations where an existing guardian is either an alleged perpetrator or a principal in the case