

CHILD WELFARE HAS A SPECIFIC SET OF RULES (POLICY [I-G.1.4](#)) THAT GOVERN CRIMINAL BACKGROUND CHECKS FOR FOSTER HOMES AND ADOPTIVE HOMES

THE RULES USE THE TERM “SUBJECT INDIVIDUAL” TO DESCRIBE ANYONE WHO IS SUBJECT TO A CRIMINAL CHECK UNDER THE RULES

THE FOLLOWING ARE ALL CONSIDERED SUBJECT INDIVIDUALS:

- FOSTER APPLICANTS
- ADOPTIVE APPLICANTS
- OTHER ADULTS WHO LIVE IN A PROSPECTIVE FOSTER HOME OR ADOPTIVE HOME, UNLESS THEY ARE A YOUNG ADULT IN THE CUSTODY OF DHS CHILD WELFARE
- RESPITE CARE AND RELIEF CARE PROVIDERS
- INDIVIDUALS UNDER 18 YEARS OF AGE IF THEY LIVE IN THE PROSPECTIVE FOSTER/ADOPTIVE HOME AND THERE IS REASON TO BELIEVE THEY MAY POSE A RISK TO CHILDREN PLACED IN THE HOME

THE RULES REQUIRE A APPROVAL OF A CRIMINAL HISTORY EXCEPTION FOR ANY SUBJECT INDIVIDUAL WITH A CRIMINAL CONVICTION OF ANY KIND, REGARDLESS OF THE SEVERITY OF THE CONVICTION OR HOW LONG AGO THE CONVICTION OCCURRED

**DHS CANNOT GRANT EXCEPTIONS FOR FELONY CRIMES THAT INVOLVE ANY OF THE FOLLOWING**

- VIOLENCE, INCLUDING RAPE, SEXUAL ASSAULT, MURDER, HOMICIDE, BUT NOT INCLUDING OTHER PHYSICAL ASSAULT OR BATTERY
- INTENTIONAL STARVATION OR TORTURE
- ABUSE OR NEGLECT OF A CHILD
- SPOUSAL ABUSE
- AIDING, ABETTING, ATTEMPTING, SOLICITING OR CONSPIRING TO CAUSE THE DEATH OF A CHILD

- SODOMY OR SEXUAL ABUSE
- ANY FELONY CONVICTION FOR A CRIM IN WHICH A CHILD IS THE VICTIM OF THE CRIME, INCLUDING FELONY CONVICTIONS FOR CHILD PORNOGRAPHY

**DHS CANNOT GRANT EXCEPTIONS FOR FELONY CRIMES THAT INVOLVE ANY OF THE FOLLOWING, IF AND WHEN THE CONVICTION OCCURRED WITHIN THE LAST 5 YEARS**

- DRUG-RELATED CRIMES
- ASSAULT/BATTERY

**THE FOLLOWING CRIMES ARE ELIGIBLE FOR AN EXCEPTION GRANTED BY THE DHS ASSISTANT DIRECTOR FOR CAF (ERINN KELLEY-SIEL):**

- ANY DRUG-RELATED FELONY CONVICTIONS THAT OCCURRED MORE THAT 5 YEARS AGO
- ANY FELONY CONVICTIONS FOR CRIMES INVOLVING VIOLENCE, UNLESS THE CRIME IS AUTOMATICALLY DISQUALIFYING, AS DESCRIBED ABOVE
- ANY MISDEMEANOR CRIME OF VIOLENCE AGAINST A CHILD

**THE FOLLOWING CRIMES ARE ELIGIBLE FOR AN EXCEPTION GRANTED BY THE DISTRICT MANAGER OR, IF DISIGNATED BY THE DISTRICT MANAGER, THE DISTRICT CHILD WELFARE PROGRAM MANAGER:**

- ANY FELONY OR MISDEMEANORE CONVICTION INVOLVING DOMESTIC VIOLENNCE, UNLESS THE CONVICTION IS AUTOMATICALLY DISQUALIFYING AS DESCRIBED ABOVE or REQUIRES THE APPROVAL OF THE DHS ASSISTANT DIRECTOR FOR CAF AS DESCRIBED ABOVE.
- ANY FELONY CONVICTION THAT IS NOT AUTOMATICALLY DISQUALIFYING AND THAT DOES NOT REQUIRE AN EXCEPTION BY THE DHS ASSISTANT DIRECTOR FOR CAF.

**THE FOLLOWING CRIMES ARE ELIGIBLE FOR AN EXCEPTION BY A CHILD WELFARE SUPERVISOR IF SUPERVISORS HAVE BEEN DESIGNATED BY THE DISTRICT MANAGER TO GRANT CRIMINAL HISTORY EXCEPTIONS:**

- ANY MISDEMEANOR CONVICTION THAT DOES NOT REQUIRE AN EXCEPTION BY THE DHS ASSISTANT DIRECTOR FOR CAF, THE DISTRICT MANAGER OR THE DISTRICT CHILD WELFARE PROGRAM MANAGER

**BEHAVIOR THAT RESULTS IN AN ARREST OR A HISTORY OF ARRESTS MAY RAISE CONCERNS ABOUT A SUBJECT INDIVIDUAL'S FITNESS. A HISTORY THAT INCLUDES ARRESTS FOR ANY OF THE TYPES OF CRIMES LISTED BELOW REQUIRES AN EXCEPTION BY THE DISTRICT MANAGER OR, IF DESIGNATED, A CHILD WELFARE PROGRAM MANAGER OR SUPERVISOR, EVEN IF THE ARREST DID NOT RESULT IN A CRIMINAL CONVICTION**

- CHILD ABUSE OR NEGLECT;
- DOMESTIC VIOLENCE;
- A CRIME AGAINST A CHILD, INCLUDING PORNOGRAPHY;
- A CRIME INVOLVING VIOLENCE, INCLUDING RAPE, SEXUAL ABUSE, MANSLAUGHTER, OR HOMICIDE;
- PHYSICAL ASSAULT;
- BATTERY;
- DRUG-RELATED OR ALCOHOL-RELATED OFFENSE; OR
- WEAPONS-RELATED OFFENSE.

### *Weigh- Test for Criminal History Exceptions*

- (a) The severity and nature of the crime;
- (b) The number of criminal offenses;
- (c) The circumstances surrounding the crime;
- (d) The subject individual's explanation of the crime;
- (e) The facts that support the conviction or pending indictment or that indicate the making of the false statement;
- (f) The relevancy, if any, of the crime or the false statement to the subject individual's fitness to be a relative caregiver, foster or adoptive parent, or other person in household;
- (g) When the subject individual is seeking to provide care for a specific child, whether disqualification of the subject individual would create emotional harm to the child and placement of the child with the subject individual would be a safe placement that is in the best interests of the child; and
- (h) Intervening circumstances relevant to the responsibilities and circumstances of the relative caregiver, foster or adoptive parent, or other person in household. Intervening circumstances include, but are not limited to:
  - (A) The passage of time since the commission of the crime;
  - (B) The age of the subject individual at the time of the crime;
  - (C) The subject individual's participation in counseling, therapy, education, or employment evidencing rehabilitation or a change in behavior;
  - (D) The likelihood of a repetition of offenses or of the commission of another crime;
  - (E) The subsequent commission of another relevant crime;
  - (F) Whether the conviction was set aside and the legal effect of setting aside the conviction; and
  - (G) A recommendation of an employer of the subject individual.