

Family Assessment and Preparation References and Other Resources





Elements to be Included in an Assessment

This document offers additional insights concerning what to look for and how to assess the information received in the family assessment.

I. Description of the prospective adoptive parents

(Refer to the handout Family Profile.)

Marital History and Current Status

1. In a two parent household, the extent to which both parents participate in the decision to adopt is important in understanding the level of commitment to that decision by each.
2. In single prospective adoptive parent households, an investigation of his/her significant others.
3. The caregivers' history of relationships will assist the child welfare worker in assessing the caregivers' experiences with loss and the stability of past and current relationships.

Their relationships should be assessed to determine the involvement of other important figures in the child/youth's life, their future role, and any concerns for the child/youth's safety and well-being.

Health Status

- Health status is assessed through updated parents' physical examinations discussion with parents of any limitations because of medical conditions and general observation of the prospective adoptive parents' ability to care for the child/youth.
- Although a history of health problems would not necessarily rule out adoption by the prospective adoptive parents, careful consideration must be given to the following: the extent of the illness or disability and any safety concerns that they might present for the child/youth, the child/youth's age and capabilities in relationship to the age and abilities of the prospective adoptive parents other support systems, and the caregivers' plan of succession for the child/youth in the event of their incapacity or untimely death.

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Employment History

- Employment history is assessed to determine the prospective adoptive parents' stability and financial ability to meet their needs and the child/youth's needs with or without adoption assistance.
- The caseworker should also assess, if necessary, day care arrangements for the child/youth around the prospective adoptive parents' employment.
- Review with the prospective adoptive parent possible employer supports or benefits offered to adoptive parents.

Plan of Financial Support for the Child/Youth

- This is assessed to determine the prospective adoptive parents' ability to financially support the child/youth.
- The worker should determine whether the prospective adoptive parents have established a history of being able to meet their family's basic needs.
- While the child/youth might be eligible for adoption assistance, this is intended to benefit the child/youth, and should not be the family's sole source of income.

Criminal History and Child Abuse and Neglect Registry Checks

- The Adoption Safe Families Act requires that a criminal background history on prospective adoptive parents be conducted through a check of state and federal fingerprint records.
- A criminal history check is important because its results:
 1. Might identify safety concerns for the child/youth that need to be carefully assessed.
 2. Might prevent consideration for adoption.
- Additionally, an ASFA requires Child Abuse and Neglect Registries check be conducted on the prospective adoptive parents and any other adults residing in the home in each state in which they reside in the preceding five years. (Child Welfare Policy Manual, 8.4F dated 7/16/2007)

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II. Understanding of Adoption

- Assessing the prospective adoptive parents' understanding of adoption includes an evaluation of the adoptive parents' understanding of how adoption is different from foster care and different from forming a family biologically.
- The prospective adoptive parents might need help understanding the importance of the child/youth's attachments to birth family members and the impact of loss on the child/youth's behavior and adjustment.
- Even for the child/youth who has been abandoned or who has not had recent contact with the birth family, the discussion of termination of parental rights and adoption could "reawaken" their sense of loss, and they might need to be given the opportunity to grieve their losses.
- Adoption confers additional legal rights and responsibilities for the child/youth on the adoptive parents that they need to understand and be willing to assume.
- The prospective adoptive parents' ability to assume these responsibilities might in part be dependent on their understanding of adoption as a lifelong process and the support available to them through post adoption services, potentially, adoption assistance.

III. Interest and Motivation to Adopt

- The caseworker assesses the prospective adoptive parents' motivation to adopt by engaging the adoptive parents in a preliminary discussion of the child/youth's need for permanency and the potential benefits and risks of adoption.
- The prospective adoptive parents' interest might hinge on their general understanding of adoption and the potential impact it can have on their family.
- Assessing the prospective adoptive parents' motivation to adopt involves reviewing the prospective adoptive parents' expressed reasons for wanting to adopt and determining whether these reasons revolve around meeting personal or family needs as opposed to the child/youth's needs.
- The caseworker will need to assess how well the prospective adoptive parents have successfully resolved past personal issues that might have influenced their decision to adopt.
- Many prospective adoptive parents are motivated to adopt by a combination of factors desiring to build their family through adoption as well as to meet a child/youth's need for permanency, and to become successful adoptive parents.
- However, it is the responsibility of the caseworker to carefully consider motivating factors and to determine which factors might be detrimental to the child/youth.

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- Prospective adoptive parents who appear to be motivated out of a sense of obligation or guilt about a particular child/youth might need the worker’s support to resolve these issues. They might also need the worker’s reassurance and help to transition the child/youth to an adoptive home other than theirs if it is determined to be in the child/youth’s best interests.
- **The following list of motivating factors are more likely to lead to successful adoptions in families:**
 - like children and enjoy the challenge of raising a family.
 - are flexible, patient and able to deal with frustration and are open to change in expectations and lifestyle.
 - are able to view people for what they can accomplish, not what they cannot, and value them according to their own potential.
 - have had contact or experience with people who have wide-ranging abilities and are accepting of diverse behavioral, emotional and physical functioning.
- **The caseworker should assist families to carefully reassess their motivations to adopt when they express the following reasons, which present a poor prognosis for success:**
 - Perceive adoption as a charitable gesture, due to pity or a sense of duty to the child/youth.
 - Perceive adoption as an exciting or romantic way to make a personal or public statement.
 - Pursue adoption of a “waiting child” as a second choice; the waiting period for the child/youth preferred is too long.
 - Place a high value on achievement and success.
 - React poorly to change and stress.
 - Chosen lifestyle is set and adoption of a child/youth from the child welfare system would disrupt important personal or work activities.
 - Have unresolved family issues including marital problems or pressure from extended family to have children/youth.
 - Want a playmate for a child/youth already in their home.

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IV. Willingness to Adopt and Level of Commitment to the Child/Youth

- Assessing the prospective adoptive parents' willingness to adopt involves assessing the caregivers' knowledge and understanding of the specific child/youth or type of child/youth and their background, a review of this information to help the caregiver understand the child/youth's future needs, and an assessment of prospective adoptive parents' ability and willingness to manage those needs.
- The level of commitment of the prospective adoptive parents to the specific child/youth or type of child/youth is measured by the caregivers' demonstrated history of attending to child/youth in general emotionally as well as physically, and their willingness and ability to work through problem areas with the specific child/youth or type of child/youth.
- **The following areas should be assessed:**

Understanding the child/youth's background and history

- The caseworker should ensure that all background information about the specific child/youth or type of child/youth has been shared in writing and reviewed by the caregivers.
- This information is crucial to help the prospective adoptive parents make an informed decision about adoption, as well as to help predict additional resources or interventions that may be needed.

Understanding of the biological family's medical and mental health history

- Once a specific child/youth has been identified for the family to consider, all non-identifying information about the birth family's medical and mental health history should be shared in writing and reviewed with the prospective adoptive parent to help interpret the child/youth's future needs and the prospective adoptive parents' ability and willingness to respond to them.

Demonstrated ability to meet the specific child/youth's needs or type of child/youth's needs

- This should be assessed by considering the prospective adoptive parents' past, current and anticipated ability to care for the specific child/youth or the types of child/youth waiting for adoption and to meet their needs in a comprehensive manner.
- The nature and quality of the prospective adoptive parents' relationship, if any, with the child/youth is also considered.
- The caseworker should assess the prospective adoptive parents' observed and documented ability to manage difficult behaviors or medically complex conditions and their treatment, as well as to nurture the specific child/youth or type of child/youth and provide them with developmentally appropriate care.

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- This assessment is ongoing throughout the visitation process before placement if the child/youth is not currently placed with the prospective adoptive parents.
- This information is used to review and project the caregivers' anticipated ability to meet the child/youth's needs.
- Additional areas that should be assessed include:

Child/youth's identity formation

- The caseworker should ensure that the prospective adoptive parent is knowledgeable and understands the potential difficulty the child/youth might have developing a positive sense of self and self-image. The process of self-discovery can be inhibited for the child/youth if they have not had the opportunities to use their biological family and history as guideposts.
- Being adopted often becomes a defining characteristic for the child/youth, in terms of how they view themselves and are viewed by others. Having this distinction can make the child/youth feel different and apart from their adoptive family and their peers.
- The prospective adoptive parent can be assisted to help the child/youth understand and appreciate their heritage through the use of a Life Book and supporting ongoing contacts with the birth family. The prospective adoptive parent might also need suggestions on ways to help the child/youth enhance their self-image and identity formations.

Child/youth's issues with separation, loss and grief

- Current caregivers might underestimate the significance of separation and loss for the child/youth, especially when the child/youth has been placed with the caregiver for an extended period of time, or the child/youth was placed with the caregivers at an early age.
- It is important that the caseworker helps the prospective adoptive parents acknowledge and understand that the child/youth's behavior and adjustment might be linked to how they perceive their separation from their family and significant others.
- It is also likely that termination of parental rights and adoption might trigger renewed feelings of grief and anxiety for the child/youth about their separations, as might future developmental milestones, although it might have appeared that the child/youth had resolved these issues early on.
- The child/youth might need the prospective adoptive parents' permission to grieve their losses, and the caregivers need help in interpreting the child/youth's behavior and in developing responses that enhance the child/youth's attachment to them.

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- The caseworker should also help the prospective adoptive parents recognize and understand their own history of loss, how they have coped with loss, and its impact on their relationship with the child/youth.
- For example, an infertile couple who have not fully resolved the loss of their “ideal” child/youth might expect their adopted child/youth to replace the child/youth they could not have, with expectations for the adopted child/youth that cannot be met.

Mutual expectations

- The caseworker will need to assess what expectations the prospective adoptive parents might have of the child/youth should they adopt, and what expectations they might have for their family as a result of adoption.
- For example, the child/youth might expect the extended family of the prospective adoptive parents, such as grandparents, will treat them the same as the caregivers’ birth children after the adoption, which might not be the case.
- The caseworker will need to assess what these expectations are and help the prospective adoptive parents confirm or modify the child/youth’s expectations.

V. Understanding of the Child/Youth’s Future or Anticipated Needs

- The caseworker will need to explore with the prospective adoptive parents the implications of the child/youth’s early experiences and background and the resulting service needs the child/youth might have in the future, and assess the prospective adoptive parents’ willingness and ability to provide or access those services.
- The prospective adoptive parents must be fully informed of post adoption service availability, including adoption assistance, in order for them to make the decision of whether or not to adopt.
- The caseworker should address with the prospective adoptive parents, the child/youth’s anticipated needs in the following areas:

Child/youth care plans

- Caseworkers should be aware that employment-related daycare is not funded through adoption assistance, and therapeutic day care services can only be provided through an adoption assistance agreement under conditions specified in department policy.
- Caseworkers should explore with prospective adoptive parents the kind of daycare services they might need for the child/youth and determine if the department policy states that this is covered under the Adoption Assistance Program or if other community resources need to be explored for this service.

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- This is particularly important for prospective adoptive parents who are employed and might need ongoing daycare services, or for prospective adoptive parents whose child/youth has special needs that make obtaining daycare services especially difficult.
- When selecting a child/youth care plan, the prospective adoptive parents and caseworker should review the ability of the child/youth care provider to safely care for the child/youth and manage behaviors presented by the child/youth that could present risk to other children.

Post adoption services

- The caseworker should carefully review and discuss with the prospective adoptive parents the full range of post adoption services that may be available to the child/youth and family following adoption.
- These services are generally explained in the department policy and might also include services funded through other sources.
- Post adoption services would include services such as adoption assistance, search and reunion services, and the Adoption Registry and confidential intermediaries, adoption preservation services, and the post adoption and guardianship information and referral service.

Use of other community resources

- The caseworker should also assist the prospective adoptive parents in exploring and identifying other community resources which would benefit the child/youth or which might be necessary to meet the child/youth's needs.
- Services such as youth groups, special education services, tutoring, social work services, specialized camps, developmental assessments, and some therapies might be offered through public schools, churches, or other community agencies at no charge or through grants.
- Other services might be offered at minimal cost through resources such as other governmental agencies, school districts, park, districts, community colleges or universities.
- Many social service agencies offer services on a sliding scale according to the caregivers' income.
- It is important for the caseworker to work with the prospective adoptive parents in determining the kinds of needs the child/youth might have now and in the future and to access services.

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IV. Approval/Denial to Adopt

- Based on the assessment of the prospective adoptive parents as outlined above, the caseworker and prospective adoptive parent will make a preliminary decision about the prospective adoptive parents' ability and willingness to meet a specific child/youth's or a type of child/youth's needs on a long-term basis and commit to adoption.
- This decision is subject to the approval of the caseworker's supervisor. It is reviewed again to help determine if the adoption plan is appropriate for the specific child/youth when a specific child/youth is identified.

Decision Making and Placement Selection in Adoption Module, provides specific information on placements selection.





Child Welfare Policy Manual

February, 2010

8.4F TITLE IV-E, General Title IV-E Requirements, Criminal Record and Registry Checks

1. Question: Do States have to request information from a "State" maintained child abuse and neglect registry of a U.S. Territory in which a prospective foster or adoptive parent has resided within the last five years in accordance with section 471(a)(20)(C)(i) of the Social Security Act (the Act)?

Answer: Yes. For the purposes of title IV-E, a "State" is defined in 45 CFR 1355.20 as the 50 States, the District of Columbia, Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam and American Samoa. As such, States have to request child abuse and neglect information pursuant to section 471(a)(20)(C)(i) of the Act of any of these territories that maintains a child abuse and neglect registry. However, only those Territories that have an approved State plan under title IV-E are obligated to comply with an incoming request pursuant to section 471(a)(20)(C)(ii) of the Act.

- **Source/Date:** 12/6/2007
- **Legal and Related References:** Social Security Act - section 471(a)(20)(C); 45 CFR 1355.20

2. Question: Does the criminal background check provision require checks at the State level, Federal level, or both?
(Deleted 01/31/2007)

3. Question: Does the criminal records checks provision apply to foster parents and adoptive parents whose licensure or approval predates the passage of the Adoption and Safe Families Act?
(Deleted 09/20/2007)

4. Question: Do the requirements for a criminal records check include checks for any member of the household over the age of 18?

Answer: No. Such a requirement would go beyond the statute.

- **Source/Date:** Preamble to the Final Rule (65 FR 4020) (1/25/00)
- **Legal and Related References:** Social Security Act - section 471 (a)(20); 45 CFR 1356.30

5. Question: Does a "drug-related offense" include an alcohol-related felony conviction?

Answer: The criminal records check provision at section 471 (a)(20)(A) of the Social Security Act would apply in such situations. Alcohol is considered a drug and a felony conviction for an alcohol-related offense is a serious crime. Therefore, unless the State opts out of the provision, an alcohol-related felony conviction within the last five years would prohibit the State from placing children with the individual for the purpose of foster care or adoption under title IV-E.

- **Source/Date:** Preamble to the Final Rule (65 FR 4020) (1/25/00)
- **Legal and Related References:** Social Security Act - section 471 (a)(20); 45 CFR 1356.30
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6. Question: May an Indian tribe elect not to conduct or require criminal records checks on foster or adoptive parents if it obtains an approved resolution from the governing body of the Indian tribe?

Answer: No. Tribes may only receive title IV-E funds pursuant to a title IV-E agreement with a State. A Tribe that enters into such an agreement must comport with section 471 (a)(20) of the Social Security Act (the Act) and section 1356.30 in accordance with the State plan in order to receive title IV-E funding on behalf of children placed in the homes it licenses. Agreements between the State child welfare agency and other public agencies or Tribes permit those entities to have placement and care responsibility for a particular group of the foster care population under the approved State plan. Such agreements do not permit other public agencies or tribes to develop a distinct title IV-E program separate from that operated under the approved State plan.

- **Source/Date:** Preamble to the Final Rule (65 FR 4020) (1/25/00)
- **Legal and Related References:** **Social Security Act - section 471 (a)(20); 45 CFR 1356.30**

7 . Question: Must a State complete the fingerprint-based check of national crime information databases required by section 471(a)(20)(A) of the Social Security Act before placing a child in the home of a prospective foster or adoptive parent?

Answer: No. The State is not required by Federal law to complete the fingerprint-based checks before placing a child in the home of a prospective foster or adoptive parent. Rather, section 471(a)(20)(A) of the Act makes a fingerprint-based check of the national crime information databases an integral part of a State's criminal records check procedures that the State must complete before licensing or approving a prospective foster or adoptive parent.

Although the State may place a child in the home prior to completing the required criminal records check, doing so prior to completing thorough safety checks has serious practice implications. Further, States must still meet other Federal requirements to claim title IV-E foster care maintenance or adoption assistance. Therefore, title IV-E foster care maintenance payments may be paid on behalf of an otherwise eligible child only once the criminal records check has been completed, the records reveal that the parents did not commit any prohibited felonies in section 471(a)(20)(A)(i) and (ii) of the Act, and the foster family home is licensed. Similarly, title IV-E adoption assistance payments may be paid on behalf of an otherwise eligible child only once the criminal records check has been completed, the records reveal that the parents did not commit any of the prohibited felonies, and all other adoption assistance criteria are met.

- **Source/Date:** 01/29/07
- **Legal and Related References:** Social Security Act – 471(a)(20)(A)

8. Question: Must the State conduct the child abuse and neglect registry checks required by section 471(a)(20)(C) of the Social Security Act before placing a child in the home of a prospective foster or adoptive parent?

Answer: No. The State is not required to conduct a check of the State's child abuse and neglect registry before placing a child in the home of a prospective foster or adoptive parent. Rather, a State must check, or request a check of a State-maintained child abuse and neglect registry in each State

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the prospective foster and adoptive parents and any other adult(s) living in the home have resided in the preceding five years before the State can license or approve a prospective foster or adoptive parent.

Although the State may place a child in the home prior to completing the required registry checks, doing so prior to completing thorough safety checks has serious practice implications. Further, States must still meet other Federal requirements to claim title IV-E foster care maintenance or adoption assistance. Therefore, title IV-E foster care maintenance payments may be paid on behalf of an otherwise eligible child only once the criminal records check has been completed, the records reveal that the parents did not commit any prohibited felonies in section 471(a)(20)(A)(i) and (ii) of the Act, and the foster family home is licensed. Similarly, title IV-E adoption assistance payments may be paid on behalf of an otherwise eligible child only once the criminal records check has been completed, the records reveal that the parents did not commit any of the prohibited felonies, and all other adoption assistance criteria are met.

- **Source/Date:** 01/29/07
- **Legal and Related References:** Social Security Act – section 471(a)(20)©

9. Question: Does section 471(a)(20) of the Social Security Act (the Act) require the State to conduct a child abuse and neglect registry check on an adult who moves into a licensed/approved foster or adoptive home?

Answer: No. The new child abuse and neglect registry check requirements in section 471(a)(20) of the Act apply to "prospective" adoptive or foster parents, as well as all adults living in the prospective family's home. Thus, once a foster or adoptive home has been approved or licensed by the State, section 471(a)(20) of the Act does not require the State to complete additional child abuse and neglect checks on other adult(s) living in the home.

- **Source/Date:** 01/29/07
- **Legal and Related References:** Social Security Act – section 471(a)(20)

10. Question: Please explain the criminal background check requirements of section 471(a)(20)(A) of the Act and to whom they apply.

Answer: Section 471(a)(20)(A) of the Act places requirements on the State as a condition of the title IV-E State plan and places additional requirements for claiming title IV-E foster care maintenance and adoption assistance payments on behalf of a title IV-E eligible child.

As a condition of the title IV-E State plan, the State title IV-E agency must have procedures for criminal background checks, including fingerprint-based criminal record checks of the national crime information databases for prospective foster and adoptive parents. The State title IV-E agency and its agents, must conduct the checks and otherwise apply the procedures for prospective parents whom it will license or approve to care for a participant in the State's title IV-B/IV-E program (section 471(a)(20)(A) of the Act). Agents of the title IV-E agency include a State licensing authority and any other agency that is under contract with the title IV-E agency to issue licenses or approvals.

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Further, in order for a State to claim title IV-E foster care maintenance or adoption assistance payments for an otherwise title IV-E eligible child, the criminal records check must reveal that the prospective foster or adoptive parent has not been convicted of the prohibited felonies, and in the case of a foster family home, the home must be licensed or approved (section 471(a)(20)(A)(i) and (ii) of the Act). This applies regardless of the entity that licenses or approves the prospective parent (e.g., a private adoption agency, an Indian tribe either with or without an agreement under section 472(a)(2)(B)(ii) of the Act, or a private child placing agency not under contract with the State agency).

- **Source/Date:** April 13, 2007
- **Legal and Related References:** **Social Security Act - section 471(a)(20)(A)**

11. Question: To whom do the child abuse and neglect registry checks for prospective foster and adoptive parents at section 471(a)(20)(C) of the Social Security Act (the Act) apply?

Answer: The State must check any child abuse and neglect registry maintained by a State in which the adults living in the home of a prospective foster or adoptive parent have resided in the preceding five years, for any prospective parent who: 1) will be licensed or approved by the title IV-E agency, another public agency operating the title IV-E program pursuant to an agreement with the title IV-E agency (section 472(a)(2)(B)(ii) of the Act), or any other agency that is under contract with the title IV-E agency to issue licenses or approvals; and, 2) will provide care for a child who is a participant in the State's title IV-B/IV-E programs (section 471(a)(20)(C)(i) of the Act).

- **Source/Date:** April 13, 2007
- **Legal and Related References:** **Social Security Act - section 471(a)(20)(C)**

12. Question: May a State develop alternative procedures for background checks that do not include a fingerprint-based check of the national crime information databases (NCID) or a check of all State-maintained child abuse and neglect registries in which a prospective foster or adoptive parent and other adults living in the house have resided in the past five years?

Answer: A State's general procedures for criminal background checks of prospective foster and adoptive parents prior to licensing or approval as specified in section 471(a)(20) of the Social Security Act, must include conducting fingerprint-based checks of the NCID. The State must also check its own State-maintained child abuse and neglect registry, if it has one, and other State-maintained registries in which adult members of the prospective foster or adoptive parent's home have resided in the last five years. See the Child Welfare Policy Manual (CWPM) Section 8.4F Q/A #29 for case-by-case situations in which States may use an alternative method to obtain fingerprint-based checks of the NCID.

- **Source/Date:** 07/02/07
- **Legal and Related References:** **Social Security Act - section 471(a)(20); CWPM Section 8.4F #29**

13. Question: If a foster parent decides to become an adoptive parent, would the background check provisions of section 471(a)(20) of the Social Security Act (the Act) apply if the foster parent had already undergone the checks to be licensed as a foster parent?

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Answer: It depends. Some prospective parents are "dually licensed" to be a foster parent and/or an adoptive parent and therefore do not need a separate license or approval once initially licensed or approved. In this circumstance, the parent providing foster care does not become a "prospective" adoptive parent and the State would not be required by Federal law to conduct the background checks in section 471(a)(20) of the Act again.

However, if a State has separate licenses or approvals for foster and adoptive parents, then the State must comply with section 471(a)(20) of the Act prior to licensing or approving the foster parent as an adoptive parent. Consistent with the Child Welfare Policy Manual 8.4F Q/A #13, if the State has established an appropriate timeframe that a background check remains valid and such timeframe has not expired for the foster parent seeking approval as an adoptive parent, the State can consider the requirement of section 471(a)(20) of the Act met without conducting a new background check.

- **Source/Date:** April 7, 2008
- **Legal and Related References:** Social Security Act - section 471(a)(20)

14. Question: May a State establish an appropriate timeframe for when a fingerprint-based check of the national crime information databases or a child abuse and neglect registry check must be completed or can remain valid to meet the purposes in section 471(a)(20) of the Social Security Act (the Act)?

Answer: Yes. The statute requires only that the background checks for prospective foster and adoptive parents be conducted prior to licensure or approval (section 471(a)(20) of the Act). Since the statute does not prescribe a specific timeframe for when such checks must be completed or remain valid, the State has the discretion to establish timeframes as it sees fit, so long as the background checks are completed prior to licensure or approval.

- **Source/Date:** April 13, 2007
- **Legal and Related References:** Social Security Act - section 471(a)(20)

15. Question: May a State determine that it will not license or approve a foster or adoptive parent who has a criminal record other than one specified in section 471(a)(20)(A)(i) or (ii) of the Social Security Act (the Act)?

Answer: Yes. The State has the discretion to establish more restrictive criteria for foster or adoptive home licensure or approval than described in section 471(a)(20)(A)(i) or (ii) of the Act.

- **Source/Date:** April 13, 2007
- **Legal and Related References:** Social Security Act - section 471(a)(20)(A)

16. Question: Section 471(a)(20)(C)(i) of the Social Security Act (the Act) requires a State to request a check of information in another State's child abuse and neglect registry in which a prospective foster parent, adoptive parent, or other adult in the home has resided in the preceding five years. With regard to this provision, is the requesting State able to comply with the law if the other State that maintains such a registry denies the request because the provision is not yet effective in the other State?

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Answer: Yes. Section 471(a)(20)(C)(i) of the Act requires the State to request and check a State-maintained child abuse and neglect registry of another State in which prospective foster and adoptive parents and other adults living in the home have resided within the last five years. The requirement is met for the requesting State when the State receives the information from the other State's registry or is denied the request because the statutory provision is not yet in effect in the other State (or does not maintain a registry). If the State's request to check child abuse and neglect information is denied because the other State has an ACF-approved delayed effective date, or the State does not maintain a registry, the State may determine whether to license or approve the prospective foster or adoptive parent in the absence of the information.

A State that maintains a child abuse and neglect registry must comply with another State's request to check information on a prospective adoptive or foster parent and other adult household members (section 471(a)(20)(C)(ii) of the Act) as of the State's specified effective date consistent with section 471(a)(20)(C)(i) and (ii) of the Act. The effective date will vary among the States and may extend into 2008 if a State has an ACF-approved delayed effective date (section 152(c) of Public Law 109-248).

- **Source/Date:** April 13, 2007
- **Legal and Related References:** **Social Security Act - section 471(a)(20)(C);** Public Law 109-248 – section 152(c)

17. Question: Must a State make a registry check request pursuant to section 471(a)(20)(C)(i) of the Social Security Act (the Act) of a State which is not yet required to comply with such a request due to having an ACF-approved delayed effective date for section 471(a)(20)(C)(ii) of the Act?

Answer: Yes. Section 471(a)(20)(C)(i) of the Act requires a State to request a check of information in another State's child abuse and neglect registry in which a prospective foster parent, adoptive parent, or adult in the home has resided in the preceding five years. A State seeking to approve or license prospective foster or adoptive parents must request the information on all adults in the prospective foster/adoptive home, even if the other State that maintains a child abuse and neglect registry has an ACF-approved delayed effective date.

- **Source/Date:** April 13, 2007
- **Legal and Related References:** **Social Security Act - section 471(a)(20)(C)(i)**

18. Question: Section 471(a)(20)(C)(i) of the Social Security Act (the Act) states that "the State shall check any child abuse and neglect registry maintained by the State..." How does this apply if a State does not maintain a child abuse and neglect registry?

Answer: If a State itself does not maintain a child abuse and neglect registry, the State is not required by section 471(a)(20)(C)(i) of the Act to provide information to a requesting State or check further for child abuse and neglect information within the State on the prospective adoptive parent, foster parent or other adults living in the home.

- **Source/Date:** April 13, 2007
- **Legal and Related References:** **Social Security Act - section 471(a)(20)(C)(i)**

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19. Question: How should a State proceed when another State that maintains a child abuse and neglect registry does not respond to an out-of-State request to check a child abuse and neglect registry pursuant to section 471(a)(20)(C)(i) of the Social Security Act (the Act)?

Answer: The State may not approve or license a prospective foster or adoptive home pursuant to section 471(a)(20)(C)(i) of the Act without the results of a State-maintained child abuse and neglect registry check of another State where the prospective parents or other adults in the home have lived in the past five years, unless the results are not provided because the other State has an ACF-approved delayed effective date. A State that believes that another State that maintains a registry is not responding appropriately to an information request for a reason other than an ACF-approved delayed effective date should contact their ACF regional office. ACF may conduct a partial review pursuant to 45 CFR 1355.32(d) to determine the State's compliance with the title IV-E State plan.

- **Source/Date:** April 13, 2007
- **Legal and Related References:** **Social Security Act - section 471(a)(20)(C)(i) and (ii); 45 CFR 1355.32(d)**

20. Question: How should a State that maintains a child abuse and neglect registry and has an ACF-approved delayed effective date respond to incoming requests for child abuse and neglect registry information on prospective adoptive and foster parents pursuant to section 471(a)(20)(C) of the Social Security Act? Is that State out of compliance with the law if it does not provide the information?

Answer: The statute does not prescribe how a State with an ACF-approved delayed effective date should respond when denying a request for child abuse and neglect registry information from another State. The State is not out of compliance with the statute if it is unable to provide the information in its registry to another State on the adults living in the home of a prospective foster and adoptive parent before the ACF-approved effective date on which it is required to comply.

- **Source/Date:** April 13, 2007
- **Legal and Related References:** **Social Security Act - section 471(a)(20)(C)**

21. Question: If a State has verified that another State does not maintain a child abuse and neglect registry, is the State still required by section 471(a)(20)(C)(i) of the Social Security Act (the Act) in every case to make a request to that other State?

Answer: No. The requirement in section 471(a)(20)(C)(i) of the Act to request a check for child abuse and neglect registry information in another State in which the prospective parent or other adult has resided in the preceding five years is inapplicable if that other State does not maintain a child abuse and neglect registry.

- **Source/Date:** April 13, 2007
- **Legal and Related References:** **Social Security Act - section 471(a)(20)(C)(i)**

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22. Question: Some States have procedures that predicate releasing information from their State-maintained child abuse and neglect registry on the requesting State meeting certain conditions. For example, some States require the requesting State to obtain a notarized release or consent from the prospective foster or adoptive parent and others charge a fee for the information. Is this permissible?

Answer: Yes. The statute does not prohibit a State from establishing procedures or charging fees for another State to access information from its State-maintained child abuse and neglect registry. As long as the State that maintains the registry enables another State to request and check information in that registry, the State is meeting the requirement in section 471(a)(20)(C)(ii) of the Social Security Act. Any fees paid by the requesting State to another State to gain access to information in a State-maintained child abuse and neglect registry pursuant to section 471(a)(20)(C)(i) of the Act may be reimbursed as direct title IV-E administrative costs.

- **Source/Date:** April 13, 2007
- **Legal and Related References:** **Social Security Act - section 471(a)(20)(C)**

23. Question: If the child will not receive title IV-E foster care maintenance or adoption assistance payments, must a prospective foster parent or adoptive parent who will be licensed or approved by an Indian tribe meet the requirements of 471(a)(20) of the Social Security Act (the Act)?

Answer: No. The requirement at section 471(a)(20) of the Act is applicable to the State's title IV-E plan, with some additional conditions for claiming title IV-E payments and therefore does not extend to Indian tribal licenses or approvals if the child will not receive title IV-E foster care maintenance or adoption assistance payments.

- **Source/Date:** April 13, 2007
- **Legal and Related References:** **Social Security Act - sections 471(a)(20)**

24. Question: Section 471(a)(20)(A)(i) and (ii) of the Social Security Act (the Act) prohibit a State from claiming title IV-E foster care maintenance payments or adoption assistance payments when prospective foster or adoptive parents have been convicted of certain crimes. Are there any exemptions or exceptions permitted from this requirement, such as the State or Indian tribe under a title IV-E agreement with the State considers the prospective parent rehabilitated or the placement is in the best interests of the child?

Answer: No, there are no exceptions to the requirements at section 471(a)(20)(A)(i) and (ii) of the Act, once the provision is effective in the State. The State, or an Indian tribe under a title IV-E agreement (pursuant to section 472(a)(2)(B)(ii) of the Act) has the discretion to place the child in a home where prospective parents have been convicted of such crimes. However, the State or Tribe may not claim title IV-E foster care maintenance or adoption assistance payments in such cases.

- **Source/Date:** April 13, 2007
- **Legal and Related References:** **Social Security Act - sections 471(a)(20)(A) and 472(a)(2)(B)(ii)**

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25. Question: Is an Indian tribe that has a title IV-E agreement under section 472(a)(2)(B)(ii) of the Social Security Act (the Act) permitted an exemption or exception to the background check provisions of section 471(a)(20) of the Act?

Answer: No. An Indian tribe with a section 472(a)(2)(B)(ii) agreement must meet the requirements of section 471(a)(20) of the Act for any prospective foster or adoptive parent who will provide care for a child who will receive title IV-E foster care maintenance payments or title IV-E adoption assistance payments.

- **Source/Date:** April 13, 2007
- **Legal and Related References:** Social Security Act – sections 471(a)(20)(A) and 472(a)(2)(B)(ii)

26. Question: Do States have to request information from a child abuse and neglect registry of an Indian tribe in which a prospective foster or adoptive parent has resided within the last five years in accordance with section 471(a)(20)(C)(i) of the Social Security Act (the Act)? Do Indian tribes have to comply with such a request from a State according to section 471(a)(20)(C)(ii) of the Act?

Answer: No to both questions. The references to a State-maintained child abuse and neglect registry in section 471(a)(20)(C)(i) and (ii) of the Act are literal and do not include an Indian tribe.

- **Source/Date:** April 13, 2007
- **Legal and Related References:** Social Security Act - section 471(a)(20)(C)

27. Question: Is a State able to comply with section 471(a)(20)(A) of the Social Security Act (the Act) if the State is unable to take legible fingerprint impressions of the prospective parent to whom the requirements apply?
(Deleted 07/02/2007)

28. Question: For the purposes of section 471(a)(20)(C) of the Social Security Act (the Act), what constitutes a "child abuse and neglect registry maintained by the State"? If a State does not have such a registry, is it required to develop one?

Answer: The State has the discretion to determine whether it has a "child abuse and neglect registry maintained by the State." The law does not require a State that does not maintain a child abuse and neglect registry to develop one, neither does it require a State that currently has a registry to maintain it in perpetuity. States that do not maintain a child abuse and neglect registry are not required by section 471(a)(20)(C)(ii) of the Act to provide child abuse and neglect information to a requesting State on adult members of a prospective foster or adoptive parent's home.

- **Source/Date:** 04/27/07
- **Legal and Related References:** Social Security Act – section 471(a)(20)(C)

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29. Question: What information must a State release from its child abuse and neglect registry to comply with an incoming request from another State for information on an adult member of a prospective foster or adoptive parent's home as required by section 471(a)(20)(C)(ii) of the Social Security Act? For example, may the State release information only on substantiated reports of abuse and neglect?

Answer: The State has the discretion to determine what information to release to a requesting State on the prospective foster or adoptive parent or any adult living in the home of such prospective parent, unless or until we issue regulations on this provision. We encourage States to be as forthcoming as possible to permit States to make appropriate decisions about approval or licensure of prospective foster or adoptive parents.

- **Source/Date:** 04/27/07
- **Legal and Related References:** Social Security Act – section 471(a)(20)(C)(ii)

30. Question: Some prospective foster or adoptive parents have unreadable or missing fingerprints due to their age, disability, or occupation. How can a State comply with section 471(a)(20)(A) of the Social Security Act (the Act) in such cases?

Answer: Section 471(a)(20)(A) of the Act requires States to have procedures for conducting fingerprint-based checks of the national crime information databases (NCID) for certain prospective foster and adoptive parents (see CWPM 8.4F Q/A #9). Those procedures must provide for the State to obtain fingerprints of all such prospective parents and submit them to the NCID.

We are aware that in some limited, case-specific circumstances, a State may not be able to: 1) obtain an individual's fingerprints as a result of the individual's disability; or, 2) obtain legible fingerprints due to low quality fingerprints, as a result of age, occupation or otherwise, thereby making it impossible for the NCID to provide results. Establishing such procedures under the below circumstances satisfies section 471(a)(20)(A) of the Act:

Inability to obtain fingerprints due to a physical disability. The State must comply with section 471(a)(20)(A) of the Act by developing and utilizing a procedure to conduct a name-based check of the NCID or it may develop and utilize another appropriately comprehensive criminal background check process. We expect the State to reserve and clearly state in writing that this alternative procedure is for limited and case-specific situations, such as when a fingerprint specialist has documented that the prospective parent's disabling condition prevents fingerprinting, or the individual does not have fingers.

Inability to obtain results due to low quality fingerprints. The State must comply with section 471(a)(20)(A) of the Act by obtaining and submitting the individual's fingerprints to the NCID. If the individual's fingerprint impressions are rejected by the NCID, the State may instead implement an alternate procedure to conduct a name-based check of the NCID or to use another appropriately comprehensive criminal background check process. We expect the State to reserve and clearly state in writing that this alternate procedure is used only in the limited and case-specific situation described above.

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It is not acceptable for the State to utilize an alternative background check process when fingerprints impressions are of low quality due to the State's lack of technological capacity or use of improper techniques. The Criminal Justice Information Services (CJIS) Division of the Department of Justice and the State's CJIS Systems Officer can assist the State in determining appropriate techniques and technologies to use to take legible fingerprints, including procedures for individuals with abnormalities of the fingers or hands.

- **Source/Date:** 07/02/07
- **Legal and Related References:** Social Security Act – section 471(a)(20)(A)





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