

DIVISION OF MENTAL HEALTH AND DEVELOPMENTAL SERVICES
POLICY HR-1.3 CRIMINAL BACKGROUND CHECKS AND EMPLOYEE
REPORTING OF CONVICTIONS

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POLICY: It is the policy of the Division to require a criminal background check of any person appointed to a position in the classified or unclassified service, and to require the disclosure of certain criminal convictions, which occur during a person's employment with the Division.

PURPOSE: To take measures available through Nevada law to ensure that Division agencies are aware of and take appropriate action in relation to any criminal history of current employees and persons being considered for employment.

REFERENCE: NRS 239B.010; NRS 179A.180; NRS 179A.190; NRS 449.179; NAC 284.317

SCOPE: DIVISION WIDE

PROCEDURES:

- I. A criminal background check consists of a check of a person's fingerprints against the criminal history records on file with the State of Nevada and the Federal Bureau of Investigation (FBI).
- II. A criminal background check is required as a condition of employment for any person appointed to a position in the Division, to include appointment as a new hire, promotion, transfer, reinstatement, reemployment, reappointment, or demotion. The applicant/employee must receive written notice (Attachment A) of the requirement for a criminal background check at his/her cost as a condition of employment.
- III. The Division Administrator, Deputy Administrator, or agency director may require a criminal background check of a current employee when deemed necessary to confirm the existence or absence of a criminal history relevant to the person's employment.
- IV. Division Administrator or Deputy Administrator may waive the requirement for a criminal background check for temporary employees, those for whom such background checks are already on file with the agency, or may be obtained from another agency in the Division or another Division in the Department of Health and Human Services, or others at his/her discretion.
- V. Except as otherwise provided in this subsection, a current employee of the Division must disclose any criminal conviction in writing to the Division Administrator, Deputy Administrator, or his/her agency director, within five calendar days following a finding of guilty or entry of judgment. Convictions for driving under the influence of drugs or alcohol are

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- reportable under this policy. Minor traffic violations are not reportable convictions except as required in conjunction with an application for employment. The Division or agency personnel representative must maintain the written disclosure in a confidential manner separate from the employee's personnel file.
- VI. With regard to employment offers for a classified position, a current state employment application (NPD-1), completed and signed by the applicant, must be received by the Division agency personnel representative prior to extending an employment offer.
- VII. With regard to employment offers for an unclassified position, a completed application or resume and a statement signed by the applicant stating whether or not the applicant has ever been convicted of a misdemeanor, gross misdemeanor or felony (excluding juvenile adjudication) or convicted, within the last five years, of a moving violation must be received by the relevant personnel representative prior to extending an offer of employment.
- VIII. Completion of Fingerprint Cards:
- A. A criminal background check requires submission of completed fingerprint cards by the personnel representative to the Department of Public Safety and Criminal History Records Repository. The personnel representative will provide the employee with two fingerprint cards.
 - B. The employer information and account number on the fingerprint cards will be completed by the Division or agency personnel representative or his/her designee.
 - C. The requestor, employer and address spaces must reflect the name and address of the Division or agency personnel representative.
 - D. The space for Reason Fingerprinted should read "NRS 239B.010"
 - E. "Notice relating to sexual offenses -NRS 179A.190" will also be listed for an employee whose duties include exercising supervisory or disciplinary control over children, having direct access or contact with children served by the Division or having access to information or records related to identifiable children served by the Division.
 - F. "Information from FBI - NRS 449.179" will also be listed for employees of the Division's two intermediate care facilities.

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- G. The employee must complete all identifying information on the front of the card and sign the Authorization for Release of information (reverse side of form #NHP-016) and have his/her fingerprints rolled.
 - H. The employee's supervisor must ensure the employee is fingerprinted and the fully completed cards are delivered or mailed to the agency personnel representative within five working days of the employee's appointment date or upon request if the fingerprints are requested for a reason other than a new appointment.
- IX. Cost of the Fingerprinting and Background check:
- A. The employee is responsible for the cost of the fingerprinting and background check as a condition of employment, unless this service is provided free to the agency by a local law enforcement agency, or the agency has provided for such costs in its budget. The cost of background checks required of current employees will be borne by the agency.
 - B. The cost for fingerprinting and background checks for employees in intermediate care facilities are covered by NRS 449.179.
 - C. Fingerprinting may be done by any local law enforcement agency offering this service. The typical charge is \$16 for two cards (as of 7/07).
 - D. The cost of the background check must be paid by a money order in the amount of \$51.25 payable to the Department of Public Safety. (State search is \$21.00; FBI search is \$30.25.)
 - E. The employee may arrange through the Division or agency personnel representative to pay the \$51.25 fee by money order within 30 days of his/her date of appointment by signing a deferred payment agreement (Attachment B). If a person's employment with the Division ends prior to the Division's receipt of payment, the payment will be due on or before the last day of employment.
 - F. The Criminal History Repository will not charge a fee for the state search if a report was provided within the immediately preceding six (6) months and the original report was performed using NRS 449.176. The applicant/employee must disclose the date of the prior search, and the personnel representative must submit this

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information to the Records and Identification Services section at the time the fingerprint cards are submitted on the appropriate DPS medical facility authorization form

- X. The Division or agency personnel representative is responsible for submitting the fully executed fingerprint cards and money order to the State of Nevada, Department of Public Safety, and Criminal History Repository within five (5) working days after receipt. For employee-paid background checks, a money order for payment must accompany the fingerprint cards or must be submitted with the direct billing statement if the employee entered into a deferred payment agreement.
- XI Results of Criminal Background Check:
- A. Results of criminal background check will be transmitted by the Criminal History Repository to the agency personnel representative.
 - B. The agency personnel representative is responsible for notifying the Division Administrator, Deputy Administrator or agency director within five working days of the information reported by the Criminal History Records Repository.
 - C. Results of background checks must be maintained in a confidential manner separate from employees' personnel files.
 - D. NRS 179A.110 precludes any person who receives information as the result of a criminal history search from further disclosure of the records of criminal history, or the absence of such records to any person other than the employee of the record without the express authority of law or in accordance with a court order.
 - E. The Criminal History Repository has agreed that Divisions within Department of Health and Human Service (DHHS) may exchange this information on employees moving between agencies or divisions under the conditions specified in Section XII.
- XII. An employee must be notified by the Division Administrator, Deputy Administrator, Agency Director, or their designee, as to whether a record of criminal history was received as a result of the search, and advised whether the information resulted from the State search or the FBI search. The employee must be directed instead to the Records and Technology Bureau.

The Records and Technology Bureau will provide the employee with the forms and procedures to review information or to challenge the accuracy

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of the information. Correction of inaccurate information typically requires that the employee contact the arresting agency or the state where the arrest occurred.

Any challenge to the accuracy of the information must be submitted by the employee within three working days after receiving notice of the record of criminal history from the Division or agency. A copy of the challenge must be provided by the employee to the agency personnel representative at the same time. The employee must demonstrate due diligence in providing corrected information to the agency personnel representative in the form provided by the Records and Technology section or an alternate form, such as an official court document accepted by the Division or agency.

- XIII. A criminal conviction and/or information relating to sexual offenses must be considered on its individual merit when determining whether dismissal or any other employment action should be taken with regard to the employee. The following factors will be considered: the offense; the intervening amount of time since the offense; the duties and responsibilities of the employee's position; and how the offense is related to the person's employment. Consideration is also to be given to relevant laws and regulations and whether or not the employee disclosed the criminal conviction on the application for employment as required by NAC 284.314 and/or by this policy. Pursuant to MHDS Policy #5.002, if results of the background check indicate a criminal history, approval for hiring must be obtained from the Division Administrator.
- XIV. If an employee of the Division is appointed to a position in another division within the Department of Health and Human Services, or to another agency within MHDS, the results of the criminal background checks obtained by the first MHDS agency may be forwarded to the employee's new agency or DHHS division, provided that the position to which the employee is being appointed requires a comparable type of criminal background check.
- XV. The Division and its agencies will comply with any laws, regulations or policies which require the disclosure of criminal convictions. Examples:
- The State's Alcohol/Drug Free Workplace Policy requires a state employee to inform his/her employer in writing within five days after he or she is convicted for violation of any federal or state criminal drug statute when such violation occurred while on duty or on the employer's premises. Agencies receiving a federal contract or grant must in turn notify the federal agency which authorized the contract or grant within ten (10) days after receiving notice of the conviction.

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NRS 193.105 requires an employer to terminate the employment of an employee if, during the course of his employment, the employee is convicted on or after October 1, 1989, of violating any federal or state law prohibiting the sale of any controlled substance.

NRS 449.188 allows the denial, suspension or revocation of a license to operate an intermediate care facility if the applicant or licensee is convicted of certain crimes as listed in NRS 449.188.

- XVI. Each agency shall develop policies and procedures to implement the provisions of this policy, or shall incorporate this policy into the agency policy and procedure manual.



Administrator

ATTACHMENTS:

- A. Criminal Background Check Employee Notification
- B. Deferred Payment Agreement - Criminal Background Check

EFFECTIVE DATE: 12/05/2003

REVIEWED / REVISED DATE: 07/16/2007, 5/20/11

SUPERSEDES: POLICY # 5.030 CRIMINAL BACKGROUND CHECKS AND
EMPLOYEE REPORTING OF CONVICTIONS

APPROVED BY MHDS ADMINISTRATOR: 5/20/11

APPROVED BY MHDS COMMISSION: 5/20/11

ATTACHMENT A
CRIMINAL BACKGROUND CHECK EMPLOYEE NOTIFICATION

NRS 239B.010 authorizes state agencies to request and receive information from the FBI on persons considered for employment, and on persons about whom it has a need for such information to protect the agency or its clients. The Division of Mental Health and Developmental Services (MHDS) conducts criminal background checks upon initial hire for all positions, and may also conduct such checks of existing employees at its own expense.

I understand that I must undergo a criminal history background check, including a search of State and FBI criminal history records, as a condition of employment or continued employment with the Division of MHDS.

I understand that I may review and challenge the accuracy of any and all criminal history records or notices thereof which are returned to the employer as a result of this check, and the proper forms and procedures will be furnished by the Department of Public Safety, Records and Technology section, for me to do so upon my request.

I understand that the Division of MHDS may use the information received as a result of the criminal background check in determining whether to continue my employment or to take other action in relation to my employment.

I agree to pay the charges associated with the background check including the fees, if any, for rolling of fingerprints and for conducting the search.

Applicant or Employee's Signature Date

Employer's Representative Signature Date

ATTACHMENT B
DEFERRED PAYMENT AGREEMENT CRIMINAL BACKGROUND CHECK

I, agree to submit a money order in the amount of \$_____ payable to Name
Department of Public Safety for payment of the fees for a criminal background
check to the _____'s personnel representative by _____.

In the event my (agency) (30 days from today's date) employment with the
Division of Mental Health and Developmental Services ends prior to this date, I
will make the payment on or before my last day of employment

Employee Signature Date

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