



**Chapter:** Administrative Issues Related to Behavioral Health & Developmental Disabilities Service Delivery  
**Subject:** Criminal History Records Checks for Contractors

**Applicability:**

All Contractors as defined in this policy

**References:**

DBHDD Policy 22-504; O.C.G.A. § 31-7-350, et seq. and § 35-3-30 et seq.  
O.C.G.A. 37-1-28, Criminal Code of Georgia (O.C.G.A. Title 16)  
Code of Federal Regulations 42, IV, § 483.420 (d) (1) (iii)  
Rules of the Georgia Crime Information Center (GCIC) Council

**Attachments:**

**Attachment A:** Determination Based on Criminal History Record Information Contractor and Contractor Employees

**Attachment B:** Criminal History Record Summary Charge Information

**Original Effective Date:** July 1, 2010

**Scheduled Review Date:** July 2011

**Approved:**

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## CRIMINAL HISTORY RECORDS CHECKS FOR CONTRACTORS

### POLICY

The Department of Behavioral Health and Developmental Disabilities (DBHDD) is concerned about the health and safety of all individuals and the safeguarding of state property. It is the policy of DBHDD that all reasonable efforts are made to provide safe and secure environments for consumers, staff, and any other work-related contacts. Based on this objective, a criminal history record check, which is fingerprint based, is completed on any individual who is under contract to provide services for DBHDD, to include employees of Contractors and anyone with whom a Contractor contracts to perform direct care, treatment, custodial responsibilities, or any combination thereof, for consumers.

### DEFINITIONS

**Consumer** – For the purposes of this policy, the term consumer is used to refer to any individual who receives or participates in mental health, addictive diseases, and/or developmental disabilities services that are financially supported in whole or in part by funds authorized by DBHDD.

**Contractor** – For the purposes of this policy, the term Contractor includes all organizations that provide mental health, addictive diseases, and/or developmental

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disability services that are financially supported in whole or in part by funds authorized through DBHDD.

**Employee** – For the purposes of this policy, the term employee refers to any individual who is performing services, including direct care, treatment, custodial responsibilities, or any combination thereof, for consumers on behalf of a Contractor.

## PROCEDURES

### A. General Provisions

1. All individuals who contract with DBHDD or their employees, who have direct care, treatment, custodial responsibilities, or any combination thereof, for its consumers, must undergo a fingerprint based criminal history record check.
2. The Contractor Hiring Authority (hereinafter referred to as the Contractor) is responsible for ensuring that a criminal history record check is completed on each employee, and that the results are reviewed by the DBHDD Office of Incident Management and Investigations/Criminal Records Section, in accordance with this policy.

### B. Crimes that Restrict Employment as a Contractor or Contractor Employee

Individuals who have been convicted of a crime listed in this section, or any other offense committed outside the State of Georgia that would have been considered one of these crimes if committed in Georgia, are not eligible to perform services for DBHDD on behalf of the contractor as indicated below.

1. There is a Mandatory disqualification from providing services for DBHDD for a minimum of five (5) years from the date of conviction, a plea of *nolo contendere*, or release from incarceration or probation, whichever is later, for the following crimes.
  - Murder or Felony Murder
  - Attempted Murder
  - Kidnapping
  - Rape
  - Robbery/Armed Robbery
  - Aggravated Assault
  - Aggravated Battery
  - Cruelty to Children
  - Sexual Offenses

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- Arson
  - Theft by Taking (O.C.G.A. §16-8-2), by Deception (O.C.G.A. § 16-8-3) or by Conversion (O.C.G.A. §16-8-4)
  - Forgery (in the first or second degree)
2. DBHDD Contractors or their employees are permanently ineligible to provide services for DBHDD if they have ever been convicted of Child, Consumer, or Patient Abuse, Neglect, or Maltreatment.
  3. Contractors or their employees may be ineligible to provide services for DBHDD, if the criminal history record indicates any of the following that have direct relevancy to the responsibilities or duties of the position.
    - 3.1 Any other Conviction or Pattern of Convictions
    - 3.2 A Pattern of Recent Arrests
    - 3.3 A Significant Recent Arrest (Disqualification until charge is resolved)

### **C. Criminal Drug Offenses**

Contractors or their employees that have been convicted of a criminal drug offense will be ineligible to provide services for DBHDD as follows:

1. Disqualification to provide services in any position for a period of two (2) years from the date of conviction for the first offense.
2. Disqualification to provide services in any position for a period of five (5) years from the most recent conviction for the second or subsequent offense.
  - NOTE: For purposes of this disqualification, “conviction” does not include treatment under Georgia First Offender Act, or a plea of *Nolo Contendere*.

### **D. Release of Criminal History Record Information**

1. FBI Regulations do not allow for the release of Criminal History Record Information to Contractors or their employees, and require that DBHDD make suitability determinations for DBHDD Contractors and their employees.

### **E. Fingerprinting of Contractor and Contractor Employees**

1. DBHDD Contractors and Contractor employees that provide services for DBHDD must submit to a fingerprint based criminal background check.

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2. Fingerprinting must be conducted prior to employment where possible, or within ten (10) business days of the employee's start date.
3. Specifically trained DBHDD personnel review the Criminal History Record Information and provide a determination as to the suitability of the individual to provide services for DBHDD by contractor or on behalf of the contractor, within seven (7) business days of the receipt of the criminal record information.
4. Contractors who require fingerprinting must register their agency with the State Approved Vendor authorized to capture and submit fingerprint images for comparison with the Georgia and Federal Criminal Record Databases. To obtain information on how to register with the State Approved Vendor, go to the following website and follow the prompts:
  - [www.ga.cogentid.com](http://www.ga.cogentid.com)
  - Under General Information click the link "How to get an ORI or OAC Number" and follow the instructions provided.
5. Contractors are responsible for the proper registration of their employees. DBHDD assumes no liability for registration errors that create additional costs for reprinting.
6. Contractors or their designee are responsible for contacting the DBHDD Criminal Records Section for accurate registration information if they are not sure of the proper procedure to register an applicant/employee that will provide services for DBHDD. Obtain information on the proper registration of applicants for DBHDD through the following manner:
  - [www.dbhdd.georgia.gov](http://www.dbhdd.georgia.gov) and select Provider Information and then select the link to "Background Policy and Cogent Information"
  - [www.ga.cogentid.com](http://www.ga.cogentid.com) and click on the link to the Department of Behavioral Health and Developmental Disabilities. Then select the link to Provider Information and click on the link "Background Policy and Cogent Information".
  - Contact the Criminal Records Section at (404) 232-1541 or via email at [DBHDD-CRS@dhr.state.ga.us](mailto:DBHDD-CRS@dhr.state.ga.us)
7. DBHDD Criminal Records Section can not process inaccurate or invalid official documents or criminal records.
8. Within three (3) business days of the receipt of the incorrect information, *such as invalid court documents or criminal record requests*, Criminal Records Section staff notifies the Contractor of the issue and the corrective action that must be taken in order to properly review the criminal record.

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9. Unless otherwise agreed, the cost of applicant/employee fingerprinting is paid by the Contractor.

#### **F. Notice from the Office of Incident Management and Investigations/ Criminal Records Section**

1. The Criminal Records Section advises the Contractor in writing of any findings or issues that need further documentation in order to make a suitability determination.
  - Contractor must provide the Criminal Records Section with a Contact Name, Correct Mailing Address, and Email address.
2. If the written determination from the Criminal Records Section indicates the applicant has No Criminal History, then no further action by the Contractor is necessary.
3. If the written determination from the Criminal Records Section indicates the applicant's criminal history information disclosed a conviction or other charge that prohibits employment as listed under **Section B** of this policy, the Contractor is to take appropriate action, and notify the Criminal Records Section of the action taken. (See **Attachment A**)
  - ***Attachment A is for example only. Criminal Record Section Staff will provide the completed form when appropriate.***
4. If the applicants/employees Criminal History Record Information is not complete, such as a missing disposition, etc. the Criminal Records Section shall notify the Contracting Agency in writing of the issues, and appropriate actions to take, *such as obtaining official court documents that indicate how a charge was disposed*, so that a proper determination can be made. (See **Attachment B**)
  - ***Attachment B is for example only. Criminal Record Section Staff will provide the completed form when appropriate***
5. Anyone who refuses to provide requested **Certified Copies of Court Documents**, or discuss the pending issues, shall be ineligible to provide services for DBHDD, on behalf of the Contractor.
6. DBHDD does not provide copies of Result Letters after sixty (60) days of the initial letter. If a new Result Letter is needed, the contractor will be required to have the applicants/employees reprinted in order to obtain a new Result Letter.

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***Note: The Criminal Records Section has seven (7) business days from the time the record is received in the criminal records section, to process the applicant/employee criminal record and generate a Result Letter to the requesting agency.***

## **G. Rejected Fingerprint Images**

1. There are times when an applicant/employee's fingerprint images are rejected by either the Georgia or Federal Integrated Automated Fingerprint Identification System (IAFIS). When rejections occur, the Contractor is notified within two (2) business days of the receipt of the rejection, regarding the reason the fingerprints were rejected, and the corrective action that must be taken, such as a reprinting of the applicant/employee's fingerprints. Below is information concerning rejected fingerprint images:
  - Rejections can occur because of improper registration, bad fingerprint images, or improperly trained operators.
  - Rejections because of Registration Errors will require the contractor to have to re-register the applicant/employee and pay again.
  - Rejected Fingerprint Image Reprints must be completed at the site where the original fingerprints were taken within 90 Days of the original fingerprinting in order to avoid additional fees.

## **H. Notification of Employment Decision**

1. The Contractor shall notify the Criminal Records Section of the final employment decision in all cases where the Criminal Records Section has advised that the applicant/employee has a criminal history. The Contractor shall forward notice of the final employment decision to the following address:

DBHDD Office of Incident Management and Investigations  
 Attn: Criminal Records Section  
 Two Peachtree St., NW, Suite 24-462  
 Atlanta, GA 30303-3142  
 FAX (770) 359-5473

## **Determination Based on Criminal History Record Information Contractor and Contractor Employees**

To:

Fm: DBHDD Office of Incident Management and Investigations  
Criminal Records Section

Re: SSN:

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I have received the results of the Department of Behavioral Health and Developmental Disabilities' (DBHDD) review of the above named individual's Criminal History Record Information. In accordance with DBHDD's policies, this individual is not eligible to provide services to DBHDD, on behalf of the contractor. The determination was based on the conviction(s) listed below.

### **Conviction Information:**

<b>Agency</b>	<b>Charge</b>	<b>Conviction Date</b>

The above named individual has been removed from further consideration for work with DBHDD.

Effective Date:\_\_\_\_\_

\_\_\_\_\_  
Signature of Hiring Official or Designee

Date:\_\_\_\_\_

\_\_\_\_\_  
Printed Name of Hiring Official or Designee

Return to: **DBHDD Office of Incident Management and Investigations**  
**Attn: Criminal Records Section**  
**Two Peachtree St. NW, Suite 24-462**  
**Atlanta, GA 30303-3142**  
Fax: (770) 359-5473

## Criminal History Record Summary Charge Information

### **Confidential**

Date:

To: Hiring Manager

Fm: DBHDD Office of Incident Management and Investigations  
Criminal Records Section

Re: Criminal History Record Information

Name: SSN:

This letter is a request for additional information on the above named applicant.

Below you will find a list of incomplete charge information that was contained on the applicant's criminal history record information. We must have a complete record in order to fully evaluate the applicant's criminal background. The applicant must contact the court of record where the arrest was made and obtain "Final Disposition" documentation to indicate how the charge was disposed such as Conviction, Dismissed, etc. to include sentence information. DBHDD only accepts Certified Court Documents for review. Please have the applicant provide these documents to you, and then you forward them to our office within forty-five (45) days of the date of this letter. Documents can be faxed to (XXX) (XXX-XXXX).

***Note: Please do not have the applicant/employee contact our agency, we can only discuss this information with you, as the employer.***

### **Summary Charge Information**

<b>Arrest Date</b>	<b>Agency</b>	<b>Charge</b>	<b>Disposition</b>