



State of Florida
Department of Children and Families

Jeb Bush
Governor

Lucy D. Hadi
Secretary

DATE: October 27, 2006

TO: District and Regional Administrators, Community- Based Care CEOs,
Family Safety Program Administrators

THROUGH: *WAGM SE* Veron Johnson, Acting Assistant Secretary for Operations
David Fairbanks, Director of Provider Relations *DF*

FROM: *Patricia Badland* Patricia Badland, Director Office of Family Safety

SUBJECT: Adam Walsh Child Protection and Safety Act of 2006
(Public Law (P.L.) 109-248)

On July 27, 2006, President Bush signed the *Adam Walsh Child Protection and Safety Act of 2006 or Public Law 109-248*. The purpose of this memorandum is to provide guidance regarding this new federal law that affects the background screening processes when completing and approving home studies for foster and adoptive parents. The attachment to this memo provides details about the new law.

For Florida, this law means that an additional process must be implemented. The background screening process must now include an abuse and neglect registry check from other states for the prospective foster or adoptive parent when they lived in other states within the five year period preceding their application to foster or adopt. This change is effective immediately.

The provisions of this law will be included in upcoming revisions to the Florida Administrative Code for adoption and out of home licensed care.

All states may not have fully implemented this new requirement therefore, documentation of your attempts and your requests to other States for abuse and neglect histories must be in the foster home licensing and adoptive parent home study files, along with the results (if any).

Please disseminate this memo and attachment to all staff involved in the foster home licensing and adoptive home approval processes.

If staff has questions regarding the changes and impacts related to foster parent licensure, please contact Chris Lolley, Licensing Specialist, at (850) 921-1928. If you

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have any questions regarding the changes and impacts to adoptive parent approvals,
please contact Kathleen Waters, Adoption Program Manager at, (850) 922-5055.

Attachment

cc: Zone Licensing Specialists
Zone Adoption Specialists

Title IV-E Criminal Background Check Amendments (Section 152)

P.L. 109-248 amends Section 471(a)(20) of the Act in several ways with regard to the background checks for prospective foster and adoptive parents:

- States must have procedures for conducting fingerprint-based checks of the NCID for all prospective foster and adoptive parents (Section 471(a)(20)(A) of the Act as amended);
- States must check any child abuse and neglect registry in each State the prospective foster and adoptive parents and any other adult(s) living in the home have resided in the preceding five years. These checks must be made regardless of whether Title IV-E foster care maintenance payments or adoption assistance payments are to be made on behalf of the child (new Section 471(a)(20)(C)(i) of the Act); and
- States must have safeguards in place to: 1) prevent the unauthorized disclosure of information in any child abuse and neglect registry maintained by the State; 2) prohibit the State from sharing the information obtained from the registry pursuant to the foster and adoptive parent check requirement for any other purpose; and 3) comply with child abuse and neglect registry check requests made by other States (new Section 471(a)(20)(C)(ii) and (iii) of the Act).

Effective Dates of the Title IV-E Provisions

- States that opted out of the criminal record check requirements in Section 471(a)(20) of the Act, prior to September 30, 2005, have until October 1, 2008, to have a procedure for criminal record checks, including fingerprint-based checks of the NCID. All other States must comply with the criminal record check requirements as amended effective October 1, 2006, unless the exception below applies.
- All States must comply with the child abuse and neglect registry check requirements in Section 471(a)(20)(C) of the Act effective October 1, 2006, unless the exception below applies.
- Exception: If the Secretary of HHS determines that State legislation is required before changes can be made to a Title IV-E State plan to comply with the amendments to Section 471 of the Act, the State will be afforded a specific time frame to comply. The statutory time frame is linked to that State's regular legislative session.

HHS to Create a National Child Abuse and Neglect Registry (Section 633)

- P.L. 109-248 requires HHS to create an electronic national registry of substantiated cases of child abuse and neglect in consultation with the

Attorney General. The national registry is to contain case-specific identifying information that is limited to the name of the perpetrator and the nature of the substantiated case of child abuse and neglect.

- The data needed to maintain this national registry will be supplied to HHS by the States, Indian Tribes, or at the option of a State, by political subdivisions of the State.
- The law authorizes \$500,000 to be appropriated to HHS for Federal fiscal years 2006 and 2007 to conduct a study to address specific issues related to the creation of an electronic national registry of substantiated cases of child abuse and neglect.

Access to National Crime Information Databases (Sections 152 and 153)

- The Attorney General is now required to conduct fingerprint-based checks of the NCID for “child welfare agencies”¹ pursuant to a request submitted for the purpose of: 1) an investigation relating to child abuse or neglect; and 2) a criminal background check required under Section 471(a)(20) of the Act. The Attorney General must conduct such checks upon request from the chief executive officer of a State.
- The Attorney General shall ensure access to the NCID by governmental social service agencies with child protection responsibilities, to be used by such agencies only in investigating or responding to reports of child abuse, neglect, or exploitation. However, access to the NCID will be limited to personnel who meet security and training standards established by the Attorney General.

¹ Section 153(g)(1) and (2) of P.L. 109-248 defines child welfare agency as “the State or local agency responsible for administering the plan under part B or part E of title IV of the Social Security Act” and “any other public agency, or any other private agency under contract with the State or local agency responsible for administering the plan under part B or part E of title IV of the Social Security Act, that is responsible for the licensing or approval of foster or adoptive parents.”