

California Department of Justice

Application for Authorization Pursuant to
Welfare and Institutions Code 15660
(In-Home Supportive Care Providers)



Edmund G. Brown Jr.
Attorney General

Mail completed application, along with
Live Scan Request Packet (available at)
<http://ag.ca.gov/fingerprints/pdf/LiveScanPacketRev06.pdf>
to:

Department of Justice
Record Security Section
P.O. Box 903387
Sacramento, CA 94203-3870

For questions, please call:
(916) 227-2928
(916) 227-9508



P.O. Box 903387
Sacramento, CA 94203-3870

DEPARTMENT OF JUSTICE
REQUEST FOR AUTHORIZATION TO RECEIVE
STATE SUMMARY CRIMINAL HISTORY INFORMATION
PURSUANT TO WELFARE & INSTITUTIONS CODE SECTION 15660
IN-HOME SUPPORTIVE CARE PROVIDERS

Employer Name/Agency Name: _____

Street Address: _____

Mailing Address: _____

City: _____ State: _____ Zip Code: _____

Telephone Number: _____ Fax Number: _____

Contact Person: _____ Custodian of Records: _____

In accordance with the California Welfare and Institutions Code 15660, an **employer** may require a criminal background check of a non-licensed employee who provides, non-medical domestic or personal care to an aged or disabled adult (including the mentally impaired) in the adult's own home. Caregivers for children in the children's home should utilize the Trustline process and become registered with Trustline.

Please give a description of the services you provide, use attachment if necessary. _____

On behalf of the company named above, hereafter referred to as "agency," I hereby acknowledge and agree to the following:

1. The information provided by the Department of Justice (DOJ) to this agency is confidential and shall not be disclosed or disseminated to any other person or agency.
2. Your agency shall notify the DOJ of any change in agency name, address, telephone number or contact person.
3. Your agency shall sign the enclosed letter, certifying to the Department of Justice that you employ non-licensed persons, who provide non-medical domestic or personal care services for aged or disabled adults, in the adult's own home. **Also, enclose a copy of applicable business license.**
4. Fingerprints may only be submitted for employees that provide direct care for aged or disabled adults in the adult's own home.
5. Your agency shall establish a custodian of records. Pursuant to the California Code of Regulations, section 703(d), background checks shall be conducted on all personnel who have access to the criminal offender record information. These background checks must precede those that will be submitted for employment purposes.
6. Your agency shall pay the appropriate fingerprint processing fee for each background check submitted to the DOJ.
7. Fingerprints will be retained by the DOJ pursuant to Penal Code Section 11105.2 until notified that the individual is no longer employed.
8. The DOJ shall provide a subsequent arrest notification pursuant to Penal Code Section 11105.2. Complete the Contract for Subsequent Arrest Notification Service form.
9. This application requires original signatures only. Photocopies, or fax copies, will not be accepted.

Signature _____ Date _____

Printed Name _____ Title _____

CONTRACT FOR SUBSEQUENT ARREST NOTIFICATION SERVICE

Department of Justice
Bureau of Criminal Identification and Information
P.O. Box 903417
Sacramento, CA 94203-4170

The agency listed below is authorized to receive state summary criminal history information from the files of the Department of Justice for employment, licensing or certification purposes. This agency further requests that fingerprint transactions submitted for this purpose be retained in Bureau files for **California** only subsequent arrest notification service pursuant to Section 11105.2 of the California Penal Code. **Fingerprint submissions received before the effective date of this contract will not be retained by the Department of Justice.**

AGENCY NAME: _____
AGENCY ADDRESS: _____
CITY, STATE, ZIP: _____
ORI NUMBER: (If Applicable) _____
CONTACT PERSON: _____ TELEPHONE: _____

Please retain the following authorized categories:

ALL EMPLOYEES

ALL LICENSES

OTHER (specify):

In-Home Support Service Care Provider

This agency certifies that to its knowledge, there is no statute or regulation prohibiting this notification, that all requirements for criminal record security and privacy of individuals will be met. This agency will notify the Bureau of Criminal Identification and Information when it no longer has a legitimate interest in a subject, as required by Section 11105.2 of the California Penal Code. The agency agrees to immediately return any subsequent arrest notification received from DOJ for any person unknown to the agency. The agency understands that disposition information will only be provided by the DOJ if such information is available in the DOJ'S records at the time the subsequent arrest notification is made to the agency.

APPROVED: _____ (Department of Justice area only)

Signature

Department of Justice
Applicant and Public Services Section
Bureau of Criminal Identification and Information

Print Name

Title

Effective Date

**CALIFORNIA DEPARTMENT OF JUSTICE
CALIFORNIA JUSTICE INFORMATION SERVICES DIVISION
CRIMINAL OFFENDER RECORD INFORMATION SECURITY REQUIREMENTS
Use of Applicant Criminal Offender Record Information
*Custodian of Records must sign and return this document***

CUSTODIAN OF RECORDS DUTIES

1. The information provided by the Department of Justice (DOJ) to this agency is **confidential** and shall not be disseminated to any other person or agency not authorized by law. A violation of this section is a misdemeanor. (Penal Code Section 11142)
2. All personnel/individuals with access to Criminal Offender Record Information (CORI) will have a fingerprint background clearance record check completed through the DOJ as required by the California Code of Regulations Section 703 (d) prior to the submission of fingerprints for employment, licensing, certification or volunteer purposes. (\$32 processing fee)
3. All personnel/individuals with access to CORI will have a signed "Employee Statement Form" on file acknowledging an understanding of laws prohibiting its misuse. (**See Employee Statement**)
4. All personnel/individuals with access to CORI will be trained in the secure handling, storage, dissemination and destruction of CORI.
5. My agency/organization will have a written policy for securing access, storage, dissemination and destruction of criminal record information. This policy will include the steps to be taken to prevent unauthorized access to CORI maintained in our agency files. (**See Criminal Offender Record Information Policy**)
6. The Department of Justice may conduct audits of the authorized persons or agencies using CORI to ensure compliance with state laws and regulations. (Section 702 (c) California Code of Regulations)
7. The information provided by the Department of Justice will be maintained in a secured area/locked cabinet separate from the employees personnel file and be used only for the purpose for which it was acquired.
8. Our agency/organization will notify the Department of Justice with regard to any change of agency name, address, telephone number, fax number, Custodian of Records and contact person.
9. The "No Longer Interested Notification Form" will be sent to DOJ, when applicable.
10. Our agency/organization will send an updated Live Scan Subscriber Agreement form to DOJ signed by our new agency official, when applicable.

On behalf of our agency/organization, I hereby acknowledge that I have read and agree to the above.

Signature: _____ **Date:** _____

Printed Name: _____ **Title:** _____

Agency/Organization Name: _____

Agency Mailing Address: _____

Physical Address: _____

**CALIFORNIA DEPARTMENT OF JUSTICE
CALIFORNIA JUSTICE INFORMATION SERVICES DIVISION
EMPLOYEE STATEMENT**

Use of Applicant Criminal Offender Record Information

All personnel with access must sign this form which is kept by the Custodian of Records

As an employee/volunteer of _____, you may have access to confidential criminal record information which is controlled by state and federal statutes. Misuse of such information may adversely affect the individual's civil rights and violates constitutional rights of privacy. Penal Code Section 502, prescribes the penalties relating to computer crimes. Penal Code Sections 11105 and 13300, identify who has access to criminal history information and under what circumstances it may be disseminated. Penal Code Sections 11140 to 11144, and 13301 to 13305, prescribe penalties for misuse of criminal history information. Government Code Section 6200, prescribes felony penalties for misuse of public records. Penal Code Sections 11142 and 13303 state:

“Any person authorized by law to receive a record or information obtained from a record who knowingly furnishes the record or information to a person not authorized by law to receive the record or information is guilty of a misdemeanor.”

Civil Code Section 1798.53, Invasion of Privacy, states:

“Any person who intentionally discloses information, not otherwise public, which they know or should reasonably know was obtained from personal or confidential information maintained by a state agency or from records within a system of records maintained by a federal government agency, shall be subject to a civil action, for invasion of privacy, by the individual.”

CIVIL, CRIMINAL, AND ADMINISTRATIVE PENALTIES

- Penal Code Section 11142: Authorized person furnishing to other (misdemeanor)
- Penal Code Section 11143: Unauthorized person in possession (misdemeanor)
- California Constitution, Article I, Section 1 (Right to Privacy)
- Title 18, USC, Sections 641 and 1030 (Theft of records; fraud and false statements and related activity in connection with computers)

Any employee/volunteer who is responsible for such misuse may be subject to immediate dismissal. Violations of this law may result in criminal and/or civil action.

I HAVE READ THE ABOVE AND UNDERSTAND THE STATUTES AND PENALTIES REGARDING MISUSE OF CRIMINAL RECORD INFORMATION.

Signature _____ **Date** _____

Printed Name _____ **Title** _____

Name of Organization/Agency _____

**CALIFORNIA JUSTICE INFORMATION SERVICES DIVISION
CRIMINAL OFFENDER RECORD INFORMATION POLICY
Use of Applicant Criminal Offender Record Information**

Head of organization/agency must sign and return document

This policy has been developed to meet the requirements of the State of California, Department of Justice, Division of California Justice Information Services, for any agency that receives Criminal Offender Record Information (CORI).

To ensure the suitability of individuals accessing confidential criminal history records, anyone with access to CORI shall be fingerprinted and processed through the California Department of Justice.

The overall responsibility for the administration of this rests with the agency head or person in charge.

- A. Record Security: Any questions regarding the release, security and privacy of Criminal Offender Record Information (CORI) are to be resolved by the agency head or person in charge.
- B. Record Destruction: It is recommended that the state summary of CORI obtained for employment, licensing or certification purposes be destroyed once a decision is made to employ, license or certify the subject of the record. Retention beyond this time, should be based on legitimate business need or statute.
- C. Record Dissemination: CORI shall be used only for the purpose for which it was requested.
- D. Record Storage: CORI shall be securely maintained and accessible only to the agency head and any others designated by the agency head committed to protect CORI from unauthorized access, use, or disclosure.
- E. Record Reproduction: CORI shall not be reproduced for secondary dissemination.
- F. Training: **The agency head shall:**
 - 1. Understand and enforce this policy.
 - 2. Be fingerprinted and have a criminal history clearance.
 - 3. Have on file a signed copy of the attached *Employee Statement Form* (which is itself a part of this policy) which acknowledges an understanding of laws prohibiting misuse of CORI.
- G. Penalties: Misuse of CORI is a criminal offense. Misuse of CORI may result in criminal or civil prosecution and/or administrative action up to and including loss of access to information maintained by the Department of Justice.

I HAVE READ THE ABOVE AND UNDERSTAND THE POLICY REQUIREMENTS.

Signature: _____ **Date:** _____

Printed Name: _____ **Title:** _____

Agency/Organization Name: _____

Agency Mailing Address: _____

Physical Address: _____

Security of Criminal Offender Record Information

Criminal Offender Record Information (CORI), including responses that no criminal record exists, is confidential. Sections 11142 and 11143 of the Penal Code provide for criminal penalties for the release of this information to unauthorized individuals.

Article I, Section 1 of the California Constitution grants California citizens an absolute right to privacy. Individuals or agencies violating these privacy rights place themselves at both criminal and civil liability. The California right of privacy was created to curb, among other things, the over broad collection and retention of personal information by government agencies, the improper use of information properly obtained for a proper purpose, and the lack of a reasonable check on the accuracy of existing records. (White v. Davis (1975) 13 Cal.3d 757, 775.)

CORI shall be accessible only to the records custodian and/or hiring authority charged with determining the suitability for employment or licensing of an applicant. The information received shall be used by the requesting agency solely for the purpose for which it was requested and shall not be reproduced for secondary dissemination to any other employing or licensing agency.

Upon determination of employment or licensing, the records shall be destroyed to the extent that the identity of the individual can no longer be reasonably ascertained. (California Code of Regulations, Title 11, Section 708)

The retention and sharing of information between employing and licensing agencies are strictly prohibited. The retention and sharing of information infringe upon the right of privacy and fails to meet the compelling state interest defined in Loder v. Municipal Court (1976) 17 Cal.3d 859. In addition, maintenance of redundant information separate from the information maintained by the California Department of Justice (DOJ) avoids the updates and makes it impossible for DOJ to control dissemination of CORI as outlined in section 11105 of the Penal Code.

California Welfare and Institutions Code Section 15660

15660. (a) The Department of Justice shall secure any criminal record of a person to determine whether the person has ever been convicted of a violation or attempted violation of Section 243.4 of the Penal Code, a sex offense against a minor, or of any felony which requires registration pursuant to Section 290 of the Penal Code, or whether the person has been convicted or incarcerated within the last 10 years as the result of committing a violation or attempted violation of Section 273a, 273d, or subdivision (a) or (b) of Section 368, of the Penal Code, or as the result of committing a theft, robbery, burglary, or any felony, and shall provide a subsequent arrest notification pursuant to Section 11105.2 of the Penal Code, if both of the following conditions are met:

(1) An employer of the person requests the determination and submits fingerprints of the person to the Department of Justice. For purposes of this paragraph, "employer" includes, but is not limited to, an in-home supportive services recipient, as defined by Section 12302.2 and any recipient of personal care services under the Medi-Cal program pursuant to Section 14132.95.

(2) The person is unlicensed and provides nonmedical domestic or personal care to an aged or disabled adult in the adult's own home.

(b) (1) If it is found that the person has ever been convicted of a violation or attempted violation of Section 243.4 of the Penal Code, a sex offense against a minor, or of any felony which requires registration pursuant to Section 290 of the Penal Code, or that the person has been convicted or incarcerated within the last 10 years as the result of committing a violation or attempted violation of Section 273a, 273d, or subdivision (a) or (b) of Section 368, of the Penal Code, or as the result of committing a theft, robbery, burglary, or any felony, the Department of Justice shall notify the employer of that fact. If no criminal record information has been recorded, the Department of Justice shall provide the employer with a statement of that fact.

(2) Any employer may deny employment to any person who is the subject of a report under paragraph (1) when the report indicates that the person has committed any of the crimes identified in paragraph (1).

(3) Nothing in this section shall be construed to require any employer to hire any person who is the subject of a report under paragraph (1) when the report indicates that the person has not committed any of the crimes indicated in paragraph (1).

(c) (1) Fingerprints shall be on a card provided by the Department of Justice for the purpose of obtaining a set of fingerprints. The employer shall submit the fingerprints to the Department of Justice. Within 30 calendar days of the receipt of the fingerprints, the

Department of Justice shall notify the employer of the criminal record information, as provided in this subdivision. If no criminal record information has been recorded, the Department of Justice shall provide the employer with a statement of that fact as soon as possible, but not later than 30 calendar days of receipt of the fingerprints. If new fingerprints are required for processing, the Department of Justice shall, as soon as possible, but not later than 30 calendar days from the date of receipt of the fingerprints, notify the employer that the fingerprints were illegible.

(2) Fingerprints may be taken by any local law enforcement officer or agency for purposes of paragraph (1).

(3) Counties shall notify any recipient of, or applicant for, in-home supportive services or personal care services under the Medi-Cal program, upon his or her application for in-home supportive services or personal care services or during his or her annual redetermination, or upon the recipient's changing providers, that a criminal record check is available, and that the check can be performed by the Department of Justice.

(d) The Department of Justice shall charge a fee to the employer to cover the costs of administering this section.

(e) It is the intent of the Legislature that the Department of Justice charge a fee to cover its cost in providing services in accordance with this section to comply with the 30-calendar-day requirement for provision to the department of the criminal record information, as contained in subdivision (c).