



State of Florida
Department of Children and Families

Ron DeSantis
Governor

Shevaun L. Harris
Secretary

DATE: October 4, 2024

TO: Community Directors
Child Protection Directors
Community Based Care (CBC) Lead Agency CEOs

FROM: Kate Williams, Deputy Secretary *KW*

SUBJECT: Guidance on Background Screening Process and New Visitor Definition

BACKGROUND: Effective July 1, 2024, Chapter 39 was amended to incorporate new definitions and background check requirements. Key provisions of House Bill 1083 aligned state background screening processes with federal requirements, particularly regarding visitors and household members in homes where children are placed.

PURPOSE: The purpose of this memorandum is to assist child welfare professionals by providing clarity on the definition of “visitor” pursuant to s.39.01(91) F.S. and guidance on how to conduct background screening requirements pursuant to s.39.0138 F.S.

DEFINITION: Florida Statutes.39.01(91), creates two definitions for “visitor.” The first is any individual, regardless of age, who provides care or supervision in the home. The second is any individual aged 12 and older (not including the child placed in the home) who is present in the home for five consecutive days, or at least seven days in any given month. Both visitor categories must be background screened in accordance with the new law.

BACKGROUND SCREENING FOR ADULTS:

Pursuant to s.39.0138(1), F.S., any visitor aged 18 or older who will provide care or supervision in the home must undergo background checks through local law enforcement, the Florida Crime Information Center (FCIC), and the National Crime Information Center (NCIC).

Pursuant to s.39.0138(1), F.S., any visitor aged 18 or older who will be in the home at least five consecutive days or seven days or more in a month must undergo background checks through local law enforcement, FCIC, and NCIC.

NOTE: Background checks are not required for purposes of a parent participating in court-ordered visitation with the child in the child’s placement.

BACKGROUND SCREENING FOR CHILD(REN):

The Department is not required to conduct fingerprint-based background screenings on children aged 12-17 to fulfill the requirements of s. 39.0138 before placing a child under Chapter 39 as both subsection (1) and subsection (5)(b) contemplate fingerprints only for adult household members or adult visitors. However, s. 39.521(2)(o) provides for Department discretion to request local, statewide, and national criminal history checks and fingerprinting of “any other visitor” to the home who is made known to the Department when the Department provides the court with a proposed placement at disposition. Thus, when a case proceeds to disposition, the

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MEMO: Guidance on Background Screening Process and New Visitor Definition

October 4, 2024

Page 2

Department may conduct this background screening on a child aged 12-17 if either the child provides care or supervision in the home, or the child is present in the home for five consecutive days or at least seven days in any given month. This flexibility allows child welfare professionals to assess risk and determine whether background screening is necessary on a case-by-case basis.

In summary, background screening is required without exception when the individual is aged 18 years or older and provides supervision or meets the five or seven-day visitation rule. Child welfare professionals should use their discretion in deciding whether to conduct a background check for individuals aged 12-17, depending on the circumstances presented.

ACTION REQUIRED: Please ensure that this guidance is shared with all Child Protective Investigators and Case Management staff, and other relevant personnel involved in conducting background checks.

CONTACT INFORMATION: If you have any questions or need clarification regarding this memorandum, please contact, Jessica Andrews, Policy Director, at Jessica.Andrews@myflfamilies.com or 850-717-4671.

cc: Children's Legal Services