



CDSS

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STATE OF CALIFORNIA—HEALTH AND HUMAN SERVICES AGENCY
DEPARTMENT OF SOCIAL SERVICES

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ARNOLD SCHWARZENEGGER
GOVERNOR

April 20, 2010

ALL COUNTY INFORMATION NOTICE NO. I-30-10

REASON FOR THIS TRANSMITTAL

- State Law Change
- Federal Law or Regulation Change
- Court Order
- Clarification Requested by One or More Counties
- Initiated by CDSS

TO: ALL COUNTY WELFARE DIRECTORS
ALL CHILD WELFARE SERVICES PROGRAM MANAGERS
ALL CHIEF PROBATION OFFICERS
ALL TITLE IV-E AGREEMENT TRIBES

SUBJECT: RELATIVE ASSESSMENT/APPROVAL PROCESS - REVISIONS TO
THE OUT-OF-STATE DISCLOSURE AND CRIMINAL RECORD
STATEMENT (LIC 508 D) FORM

REFERENCE: MARIJUANA REFORM ACT OF 1977, HEALTH AND SAFETY CODE
(H&S) SECTION 11361.5 AND 11361.7

The purpose of this All County Information Notice (ACIN) is to notify counties conducting relative and Nonrelative Extended Family Member (NREFM) caregiver background checks that the Out-Of-State Disclosure & Criminal Record Statement (LIC 508 D) form has been revised. This form was modified, October 2009, to reflect that certain marijuana-related offenses covered by the Marijuana Reform Act do not need to be disclosed as outlined in H&S Code, sections 11361.5 and 11361.7. The required updated LIC 508 D form can be found at the following internet website address:
<http://www.dss.cahwnet.gov/cdssweb/entres/forms/English/LIC508D.PDF>

The Marijuana Reform Act of 1977 provides that criminal records related to minor marijuana convictions, or arrests, which are over two years old, shall not be considered to be relevant for any purpose by any public agency or person, and shall be destroyed by the California Department of Justice. Individuals who obtain the protections of these laws may, two years from the date of the conviction or arrest that did not result in a conviction, indicate in response to any question concerning their prior criminal record that he/she was not arrested or convicted of such offense. Therefore, the California Department of Social Services is required to disregard all convictions and conduct associated with the marijuana convictions listed below.

Misdemeanor convictions that occurred over two years from the date of conviction, or after an arrest that did not result in a conviction:

- H&S Code section 11357(b) possession of 28.5 grams or less
- H&S Code section 11357(c) possession of over 28.5 grams
- H&S Code section 11357(d) possession of 28.5 grams or less on K-12 school grounds
- H&S Code section 11357(e) juvenile in possession of 28.5 grams or less
- H&S Code section 11360(b) transportation of 28.5 grams or less

Felony and misdemeanor convictions not to be considered if the conviction occurred prior to 1976:

- H&S Code section 11357 possession
- H&S Code section 11364 drug paraphernalia
- H&S Code section 11365 presence where marijuana is being unlawfully used
- H&S Code section 11550 under the influence of marijuana

Relatives, NREFMs, and all other adults who complete the LIC 508 D should be informed of the disclaimer in Section II of the form regarding the right to not disclose certain marijuana convictions, or arrests, that are over two years old and did not result in a conviction.

Should you have any questions about this ACIN, please feel free to contact me at (916) 651-7464, or Carole Minchew, Manager, Kinship Care Policy and Support Unit, at (916) 657-1858.

Sincerely,

Original Document Signed By:

KAREN B. GUNDERSON, Chief
Child and Youth Permanency Branch
Children and Family Services Division

OUT-OF-STATE DISCLOSURE & CRIMINAL RECORD STATEMENT

Foster Family Homes, Small Family Homes, Certified Family Homes

Complete both pages and sign on page 2.

I. OUT-OF-STATE DISCLOSURE

Foster Family Homes, Small Family Homes, Certified Family Homes, and approved homes at time of application only

Have you lived in a state other than California within the last five years? YES NO

If YES, identify each state and complete an LIC 198B for each state listed:

II. CRIMINAL RECORD STATEMENT

Foster Family Homes, Small Family Homes, Certified Family Homes

State law requires that a person associated with licensed facilities or approved homes be fingerprinted, and disclose any conviction. A conviction is a plea of guilty, nolo contendere (no contest), or a verdict of guilty. The fingerprints will be used to obtain a copy of any criminal history you have.

Have you ever been convicted of a crime in California? YES NO

You need not disclose any marijuana-related offenses covered by the marijuana reform legislation codified at Health and Safety Code sections 11361.5 and 11361.7.

Have you ever been convicted of a crime in another state, federal court, military, or a jurisdiction outside of the U.S.? YES NO

For Foster Family and Certified Family Homes only:

Have you ever been arrested for a crime against a child or for spousal/cohabitant abuse? YES NO

Criminal convictions from another State or Federal court are considered the same as criminal convictions in California

If YES, give details on the back of this page indicating the nature and circumstances of each crime, date and location in which each crime occurred.

You must disclose convictions, including reckless and drunk driving convictions even if:

- It happened a long time ago;
- It was only a misdemeanor;
- You didn't have to go to court (your attorney went for you);
- You had no jail time or the sentence was only a fine or probation;
- You received a certificate of rehabilitation; or
- The conviction was later dismissed, set aside or the sentence was suspended.

NOTE: IF THE CRIMINAL BACKGROUND CHECK REVEALS ANY CONVICTION(S) THAT YOU DID NOT DISCLOSE ON THIS FORM, YOUR FAILURE TO DISCLOSE THE CONVICTION(S) WILL RESULT IN AN EXEMPTION DENIAL, LICENSE APPLICATION DENIAL, LICENSE REVOCATION, OR EXCLUSION FROM A LICENSED FACILITY.

I declare under penalty of perjury under the laws of the State of California that I have read and understand the information contained in this affidavit and that my responses and any accompanying attachments are true and correct.			
FACILITY OR CAREGIVER NAME		FACILITY NUMBER	
YOUR NAME (Print clearly)			
YOUR ADDRESS (street, city, zip)			
SOCIAL SECURITY NUMBER <small>(SEE PRIVACY STATEMENT ON REVERSE)</small>	DRIVER'S LICENSE NUMBER/STATE	DATE OF BIRTH	
SIGNATURE			DATE

INSTRUCTIONS TO RESPONDENT:

If you have been convicted of a crime in California, another state, or in federal court, provide the following information:

(You need not disclose any marijuana-related offenses covered by the marijuana reform legislation codified at Health and Safety Code sections 11361.5 and 11361.7.)

What was the offense?

In which state and city did you commit the offense? _____

When did this happen? _____

Tell us what happened. (Use additional paper if needed) _____

I certify under penalty of perjury that the above information is true and correct to the best of my knowledge

Signature _____ **Date** _____

If you have any questions about this form, please contact your local licensing regional office or approval agency.

INSTRUCTIONS TO LICENSEES ONLY:

If the person discloses a criminal conviction, review the person's statement and discuss it with your Licensing Program Analyst (LPA). Maintain this form in your facility personnel file and send a copy to your LPA.

INSTRUCTIONS TO REGIONAL OFFICES AND FOSTER FAMILY AGENCIES:

If the person discloses that they have lived in another state within the last five (5) years, send this form and LIC 198B(s) by fax, mail or email to the Caregiver Background Check Bureau, 744 P Street, MS 19-62, Sacramento, CA 95814,

PRIVACY STATEMENT

Pursuant to the Federal Privacy Act (P.L. 93-579) and the Information Practices Act of 1977 (Civil Code Sections 1798 et seq.), notice is given for the request of the Social Security Number (SSN) on this form. The California Department of Justice uses a person's SSN as an identifying number. The requested SSN is voluntary. Failure to provide the SSN may delay the processing of this form and the criminal record check.

In order to be approved, licensed, work at, or be present at, a licensed facility, the law requires that you complete a criminal background check. (Health and Safety Code sections 1522, 1568.09, 1569.17 and 1596.871; Welfare and Institutions Code section 361.4) The licensing or approval agency will create a file concerning your criminal background check that will contain certain documents, including information that you provide. You have the right to access certain records containing your personal information maintained by the licensing or approval agency (Civil Code section 1798 et seq.). Under the California Public Records Act, the licensing or approval agency may have to provide copies of some of the records in the file to members of the public who ask for them, including newspaper and television reporters.