



CDSS

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

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ARNOLD SCHWARZENEGGER  
GOVERNOR

October 22, 2008

ALL COUNTY LETTER NO. 08-49

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 PRIVATE ADOPTION AGENCIES  
ALL COUNTY ADOPTION AGENCIES  
ALL CDSS ADOPTION DISTRICT OFFICES

SUBJECT: ADOPTION PROVISIONS OF THE ADAM WALSH CHILD  
PROTECTION AND SAFETY ACT OF 2006

REFERENCE: PUBLIC LAW (PL) 109-248 (THE ADAM WALSH CHILD PROTECTION AND SAFETY ACT OF 2006), WELFARE AND INSTITUTIONS CODE (W&IC) SECTION 361.4(c), HEALTH AND SAFETY CODE (HSC) SECTION 1522, HSC SECTION 1522.05, HSC SECTION 1522.1, SENATE BILL (SB) 703, STATUTES OF 2007, CALIFORNIA DEPARTMENT OF SOCIAL SERVICES (CDSS) ALL COUNTY LETTER (ACL) 07-54, CDSS LETTER TO ALL FOSTER FAMILY AGENCIES (FFAs) December 10, 2007, CDSS LETTER TO ALL COUNTY FOSTER FAMILY HOME PROGRAM LICENSING AGENCIES December 10, 2007

The purpose of this ACL is to address implementation of the federal Adam Walsh Child Protection and Safety Act of 2006 (Act) as enacted in Senate Bill (SB) 703, Statutes of 2007, specifically for agency, independent, and intercountry adoptions in the State of California. The provisions of SB 703 pertain to all licensed public and private adoption agencies in the State of California, effective January 1, 2008. The SB 703 requires California to implement the new federal requirements regarding additional background checks for caregivers including relatives, nonrelative extended family members (NREFMs), prospective foster and adoptive parents. Please see the CDSS ACL 07-54 for instructions relating to implementing the Act as it pertains to relatives and NREFMs, the CDSS Letter to All Foster Family Agencies (FFAs) and CDSS Letter to All County Foster Family Home Program Licensing Agencies issued by the Community Care

Licensing Division (CCLD) dated December 10, 2007, for instructions relating to implementing the Act as it pertains to FFA certified and county licensed foster family homes.

The SB 703 amended HSC Sections 1522, 1522.05, and 1522.1 to comply with the Act, a federal law designed to increase the safety of children. The amendments require changes in the review of the criminal and child abuse history prior to foster care licensing or certification, relative approval and adoption home study approval. The requirements of SB 703 change the manner in which Federal Bureau of Investigation (FBI) criminal checks are requested by adoption agencies of prospective adoptive parents prior to its enactment as stated in Title 22, Division 2 Adoptions Program Regulations section 35184(e). Prior law only required a California Child Abuse Central Index (CACI) check.

SB 703 requires:

All public and private adoption agencies to receive a completed FBI criminal check on all prospective adoptive parents and any adults 18 years or older residing in the home prior to the approval of an adoption home study; and

An out-of-state child abuse/neglect check be completed prior to approval of an adoption home study if the prospective adoptive parent(s) or any other adult (age 18 years or older) in the home has lived in another state or United States (U.S.) territory within the preceding five years.

### **Adoption Approvals—Contacting Other States' or U.S. Territories' Registries for Child Abuse/Neglect**

For all agency adoption applications or in the case of independent adoptions, Adoption Request (ADOPT 200) forms, received after January 1, 2008, the adoption agency must ask all adults living in the home to identify other states or U.S. territories they have lived in within the preceding five years. If applicable, the adoption agency must check the non-fingerprint based registry of all states or U.S. territories wherein the adults have resided in the past five years. The current list of State Child Abuse Registries and a template form for requesting information from another state's or U.S. territory's child abuse registry are located on the Internet at

<http://cclld.ca.gov/PG561.htm>.

Counties, district offices, and adoption agencies should use this list to determine if a state or U.S. territory maintains a registry and, if so, follow the instructions for obtaining

information from that state's or U.S. territory's registry. Note that the template form for requesting information from another state or U.S. territory must be printed on the requesting agency's letterhead. The information from the other state or U.S. territory will be sent directly to the requesting agency from that state or U.S. territory.

If the state or U.S. territory **does not** maintain a registry, the agency must document that fact in the case file and no further action is necessary.

If the state or U.S. territory **does maintain** a registry, the results of that check must be received prior to approval of the adoption home study or in the case of an independent adoption prior to the approval of the court report and the case file must document the contact with the other state's or U.S. territory's child abuse central registry. Note that the timeline to obtain clearances based on information from other state or U.S. territory registries may vary by state or U.S. territory.

### **Criminal Background Checks**

The following are required prior to approving an agency adoption home study or independent adoption court report received on or after January 1, 2008:

A completed CACI check, completed out-of-state child abuse/neglect check (as applicable), completed California criminal history check, and completed the FBI criminal history check from the California Department of Justice (DOJ) on all prospective adoptive parents and any person residing in the prospective adoptive home who is age 18 years or older.

- Counties and district offices should continue to use their assigned Originating Agency Identification (ORI) number on the "Request for Live Scan Service" Form BCII 8016 to obtain criminal history records regarding prospective adoptive parents and any other adults residing in the home. The results will be sent directly to the county or district office from the DOJ.
- Private adoption agencies will need to use two BCII 8016 Forms:
  - One for CACI and California criminal history checks, using your assigned ORI number. The CACI and the California criminal history results will be sent directly to the private adoption agency; and
  - One for all FBI requests, using "A1772" as the ORI number. The DOJ will notify the CDSS of the completed FBI check and the CDSS will relay the information to the private adoption agency. Private adoption agencies

should submit a copy of the FBI BCII 8016 to the CDSS – Adoptions Services Bureau, 744 P Street, M.S. 3-31, Sacramento, CA 95814.

- For notification purposes, the agency shall include its name and address on this copy of the form.

Adoption agencies are encouraged to review current adoption regulations pertaining to requirements associated with the agency's responsibility to request Subsequent Arrest Notification Service from the DOJ as specified in Title 22, Division 2 Adoptions Program Regulations section 35184(d).

### **Information from Other States' or U.S. Territories' Registries**

If information from another state or U.S. territory registry indicates a history of child abuse or neglect, the adoption agency must include this information as part of the approval of the adoptive home for placement. Although it is recognized that each state or U.S. territory may have different definitions of "substantiated" or "inconclusive" as these terms relate to findings of abuse or neglect, these terms indicate the need to request the underlying investigation information from the other state or U.S. territory. In the case of an agency adoption, this information should also be included in the agency's final court report to the juvenile or superior court prior to the finalization of an adoption. In the case of an independent adoption, this information should be included in the independent adoption court report to the juvenile or superior court prior to the finalization of an adoption.

### **Grievance Process Regarding Other States' or U.S. Territories' Registries**

If the adoption agency determines that the home cannot be approved, the applicant is entitled to a grievance hearing, as outlined in Title 22, Division 2, Chapter 3, Adoption Program Regulation, Subchapter 5, Procedures for Agency Adoptions, Article 14, Grievance Review, Sections 22-35215 – 22-35221, even if that determination is based solely on child abuse information received from another state or U.S. territory. If the adoptive applicant wishes to grieve the fact that the previous state or U.S. territory of residence has included their name in their registry, that state or U.S. territory would have jurisdiction, and any complaint must be filed and adjudicated in that state or U.S. territory.

### **Agencies Licensed as FFAs and Adoption Agencies**

For agencies that are dually licensed as FFAs and adoption agencies, the provisions of SB 703 must be applied as follows for each program and any results obtained must be kept separately in their respective case files.

If an individual/couple applies to become both foster and adoptive parent(s) at the same time and the criminal background checks are requested simultaneously, the following are required:

Two separate "Request for Live Scan Service" forms (BCII 8016) for the FBI check. One for the foster care file and one for adoptions;

Two separate "Request for Live Scan Service" forms (BCII 8016) to obtain CACI and California criminal history information. One for foster care purposes for the foster care file and one for adoption approval purposes for the adoption file; and

One out-of-state child abuse/neglect check for each state or U.S. territory in which the individuals have resided in the last five years. These may be shared in the foster care and adoption files.

If an individual/couple applies to become foster/adoptive parent(s) after being approved separately for one or the other programs, the following are required for each program:

One "Request for Live Scan Service" form (BCII 8016) for the FBI check.

One "Request for Live Scan Service" form (BCII 8016) for CACI and California criminal history checks.

One out-of-state child abuse/neglect check for each state or U.S. territory in which the individual has resided.

### **Retroactivity of Requirements**

The new requirement to check other state or U.S. territory child abuse/neglect registries and the FBI criminal histories for adoptive applicants and any other adults in the home applies to adoption applications or in the case of independent adoptions, Adoption Request (ADOPT 200) forms, received on or after January 1, 2008. Adoption applications or ADOPT 200 forms received prior to January 1, 2008, are not subject to the new requirement; however, the previous requirement that the FBI checks be completed on all adoption applicants or petitioners and any other adults residing in the home when they have resided in California for less than two years or when information gathered in the assessment has given the agency reason to believe that they may have committed a crime in another jurisdiction, still applies.

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Should you have any questions regarding this ACL, please contact me at (916) 657-2614 or the Permanency Policy Bureau at (916) 657-1858.

Sincerely,

***Original Document Signed By:  
Francisco Sanchez for***

GREGORY E. ROSE  
Deputy Director  
Children and Family Services Division