



CDSS

WILL LIGHTBOURNE
DIRECTOR

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

744 P Street • Sacramento, CA 95814 • www.cdss.ca.gov



EDMUND G. BROWN JR.
GOVERNOR

REASON FOR THIS TRANSMITTAL

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

September 4, 2014

ALL COUNTY LETTER NO. 14-11

TO: ALL COUNTY WELFARE DIRECTORS
 ALL CHIEF PROBATION OFFICERS
 ALL CHILD WELFARE SERVICES PROGRAM MANAGERS
 ALL FOSTER CARE MANAGERS
 ALL ADMINISTRATIVE LAW JUDGES
 TITLE IV-E AGREEMENT TRIBES

SUBJECT: RELATIVE AND NON-RELATIVE EXTENDED FAMILY MEMBER
 (NREFM) AND RESOURCE FAMILY APPROVAL PROGRAM (RFA):
 SHARING CRIMINAL OFFENDER RECORD INFORMATION (CORI)

REFERENCE: PENAL CODE (PC) SECTIONS 11105 AND 11105.2; HEALTH AND
 SAFETY CODE (HSC) SECTION 1522(a)(4)(G); WELFARE AND
 INSTITUTIONS CODE (W&IC) SECTIONS 361.4 AND 16519.5;
 ASSEMBLY BILL (AB) 2343 (CHAPTER 256, STATUTES OF 2012);
 SENATE BILL (SB) 2013 (CHAPTER 35, STATUTES OF 2012)

This All County Letter (ACL) provides county child welfare and probation departments and Title IV-E tribes (hereinafter collectively known as “agencies”) with instructions and updated information on enacted legislation that expands the scope of criminal history information provided from the Department of Justice to California contracted agencies and the new requirements for sharing CORI.

Current law requires that any person interested in becoming a caregiver to a foster child must undergo a criminal background check. This requirement extends to any other person over age 18 that will be regularly present in the caregiver’s home, to any person over 14 years of age if there is a belief that he/she may have a criminal record, or any other person who may have significant contact with a foster child. If an agency discovers an individual has been convicted of a crime other than a minor traffic violation, that person cannot be present in an approved home or be approved to be in the home unless the individual receives a criminal record exemption.

Effective January 1, 2013, the passage of AB 2343 amended PC sections 11105 and 11105.2. The law now requires that whenever the information from the CORI results in an adverse decision to an individual subject to a criminal background check pursuant to HSC section 1522, the individual whose CORI is the basis for the denial must be expeditiously furnished with a copy of his or her record, even if the individual has not requested one. An adverse decision is one that results in the denial of a criminal record exemption, denial of approval, or rescission of approval.

In order to expeditiously furnish the CORI to the applicant, the individual is to be given a copy of his or her CORI information at the beginning of the exemption process.

Denials of Approval

As discussed in ACL 12-71, if the basis for denial concerns the criminal background of the relative or NREFM (applicant), the criminal record information (rap sheet) may be used as the source of detailed information for completing the 'Additional Details' section; in the NA 1271. It is permissible to disclose the code section(s), the date, and disposition. However if the denial concerns the criminal background of another adult in the home or an adult with significant contact, the rap sheet may not be used to detail the information in the NA 1271. The Additional Details section may only state that "an individual residing or associated with your home has a criminal background for which an exemption could not be granted." No other specifics about the person's criminal background are allowable.

Rescission of Approval

If a caregiver has a rap back showing a new non-exemptible conviction, the caregiver's approval must be rescinded by the county.

If another resident in the home has a rap back showing a new non-exemptible conviction, the caregiver must ensure that the person is removed. If they are not removed, the county must rescind the approval and provide the caregiver with a notice and opportunity to appeal the rescission of approval.

Please see ACL 12-71 for information concerning denied or rescinded relative/NREFM approval noticing procedures at:

(<http://www.dss.cahwnet.gov/lettersnotices/entres/getinfo/acl/2012/12-71.pdf>);

And ACL 13-27 for RFA procedures at:

<http://www.dss.cahwnet.gov/lettersnotices/EntRes/getinfo/acl/2013/13-27.pdf>.

Providing the CORI

No person other than the individual whose CORI is the basis for the adverse decision is permitted to receive a copy of the individual's CORI information at any time. In order to ensure the criminal background information is sent to the intended recipient/subject individual of the CORI, counties should consider utilizing the "certified mail return receipt requested" restricted delivery service through the United States Postal Service.

Requesting CORI

The new law has no effect on HSC section 1522(a)(4)(G) which allows an individual to receive a copy of his or her state or federal level CORI if a criminal background clearance has been denied based on that information and the individual makes a written request to the licensing or approval entity for a copy and specifies an address to which it is to be sent. This section allows an individual to request his or her CORI when the criminal background clearance is denied, whereas PC sections 11105 and 11105.2 mandates that if an adverse decision is rendered, the county has a legal duty to provide that person with his or her CORI when it is the basis for the denial.

If you have questions or concerns about the Relative and Non-Relative Extended Family policies regarding the new CORI provisions of AB 2343, please contact the Kinship Care Policy and Support Unit at (916) 651-7465 or via email at kinship.care@dss.ca.gov. For questions pertaining to RFA approvals, please contact RFA@dss.ca.gov via email.

Sincerely,

Original Document Signed By:

GREGORY E. ROSE
Deputy Director
Children and Family Services Division