


STATE OF WISCONSIN
Department of Children and Families
Division of Safety and Permanence

To: Area Administrators/ Human Services Area Coordinators
 Bureau Directors
 Child Placing Agency Directors
 Child Welfare Agency Directors
 County Departments of Community Programs Directors
 County Departments of Developmental Disabilities
 Services Directors
 County Departments of Human Services Directors
 County Departments of Social Services Directors
 Indian Child Welfare Directors
 Licensing Chiefs/Section Chiefs
 Tribal Chairpersons/Human Services Facilitators

From: Cyrus Behroozi
 Administrator 

Re: Adam Walsh Child Protection and Safety Act Questions and Answers

DCFS Memo Series 2007-20 explained the requirements of the Adam Walsh Child Protection and Safety Act (Section 471(a)(20)(A) of the Social Security Act), a federal law passed in 2006 that requires licensing agencies to conduct fingerprint-based background checks of prospective foster and adoptive parents and to check prospective foster and adoptive parents and other adults in their household against child abuse and neglect registries in the licensing state and in other states under specified circumstances. On April 1, 2008, new U.S. Citizenship and Immigration Service regulations (8 CFR 204.311) on international adoption (also known as the Hague Convention rules) went into effect to require that every international adoption home study include a child abuse and neglect background check of the prospective parent and other household adults in every state or country they have lived in since age 18.

This informational memo provides answers to commonly asked questions regarding the implementation of these federal requirements. These answers include guidance for informing applicants of their denial based on a criminal conviction and clarification of policy previously issued in DCFS Memo Series 2007-20 regarding background checks of foster parents becoming adoptive parents, fingerprinting agency staff and FBI record storage and retention. Please refer to the attachment at the end of this memo for the questions and answers.

REGIONAL OFFICE CONTACT: DSP Area Administrator

CENTRAL OFFICE CONTACT: **For CAN Registry Checks:**
 Background Check Specialist
 Division of Safety and Permanence
 608-422-7026

For Fingerprinting:
 Out of Home Care Specialist
 Division of Safety and Permanence
 Bureau of Permanence and Out of Home Care
 608.422.693

MEMO WEB SITE: <https://dcf.wisconsin.gov/cwportal/policy>

Attachments: Adam Walsh Questions and Answers

Adam Walsh Questions and Answers

Child Abuse and Neglect Registry Checks

1. Who must conduct child abuse and neglect background checks?

State, county and tribal agencies responsible for Title IV-E and any other agency that acts as an agent or is under contract with a Title IV-E agency to issue licenses of foster or approvals of adoptive parents who will receive placement of children in the public child welfare system must conduct a child abuse or neglect (CAN) registry check in Wisconsin on all prospective foster or adoptive parents. The Adam Walsh Act adds that if either of the prospective parents applying for a foster home license or adoption approval with these agencies, or any adult residing in the prospective foster or adoptive parent's home at the time of licensing has lived outside of Wisconsin in the previous five years, those individuals must undergo a CAN registry check in every state the individual has lived in during the last five years if that state maintains a central CAN registry.

Therefore, the State Adoption Program, the Bureau of Milwaukee Child Welfare, county human services or social services agencies, tribal agencies and private child placing agencies licensing prospective foster or prospective adoptive parents who will receive placement of a public welfare child must conduct CAN registry checks. Region V of the Administration for Children and Families has provided the following guidance: The fingerprint-based checks of the national crime information databases and other background check requirements related to Adam Walsh apply to any prospective foster or prospective adoptive parent (and, for CAN registry checks, any adults living in the prospective foster or adoptive parent's home) that will be licensed or approved by the State's Title IV-E agency, another public agency operating the Title IV-E program pursuant to an agreement, or other State licensing authority AND will provide care for a child who is a participant in the State's Title IV-B/IV-E programs.

The Adam Walsh Child Protection Act does not apply to private agencies doing private domestic or international adoptions outside of the public child welfare system, but does apply to private agencies acting as the agent of or under contract with the State or local public agency who are licensing prospective foster and prospective adoptive parents accepting children from the public child welfare system.

2. Are the CAN background check requirements of the Adam Walsh Act applicable to all international, private or independent adoptions?

No, the Adam Walsh requirements are only applicable in circumstances in which the child who is the subject of an international, private or independent adoption will receive adoption assistance. This is because the Adam Walsh requirements generally apply to any prospective foster or adoptive parent who: 1) will be licensed or approved by a Title IV-E agency, another public agency operating the Title IV-E program pursuant to an agreement with the Title IV-E agency, or any other agency that is under contract with the Title IV-E agency to issue licenses or approvals; and 2) will provide care for a child who is a participant in the State's Title IV-B/IV-E programs.

Other requirements apply for conducting CAN registry checks for international adoptions under United States Citizenship and Immigration Services regulations (also known as the Hague Convention rules), which require the agency to check the CAN registry of every state or country the prospective parent has lived in since the age of 18.

3. I am a Wisconsin agency licensing a foster home in Wisconsin. Am I required to go through DCF to conduct a CAN background check?

No. The alternative process of contacting DCF and then the counties for CAN background checks is for states and agencies outside of Wisconsin. For checking Wisconsin CAN information,

Wisconsin private agencies should continue to contact the counties directly, as has been done in the past. Private agencies may request searches of the statewide database through DCF, if desired, by contacting the identified staff person at the end of this memorandum.

If an agency is licensing a parent who has lived outside of Wisconsin in the last five years, agencies must conduct a CAN background check in the states in which the individual lived, if that state maintains a central registry. The process for conducting a CAN background check in other states varies by state.

4. Once I receive information about an individual in response to a CAN background check, can I use that information for purposes other than licensing?

No. Under federal and state law further unauthorized use or disclosure of the information provided in response to the Adam Walsh Act is prohibited. According to federal interpretive materials, child abuse and neglect information obtained for the purpose of licensing a foster or adoptive parent may not be used for any purpose other than conducting background checks for foster or adoptive placements.

5. When am I required to conduct a new CAN registry background check on a foster parent either renewing their license or applying for an adoptive home license?

You are required to conduct a new CAN registry background check only in such cases when there is a break in licensure. A break in licensure is a period of time when the individual is not licensed by any agency.

If the parent is renewing their foster care license and has submitted a timely and sufficient application to the agency 30 days prior to expiration of the license, and due to the actions of the agency the application is pending at the time the license expiration date is reached, this is not considered a break in licensure and thus new fingerprint-based or CAN registry checks are not required.

Similarly, if a foster or adoptive parent re-applies with a different agency, no new fingerprint-based or CAN registry checks are required as long as there is not a period of time when the person is not licensed and the results of the original background checks are shared with the new agency.

For foster parents becoming adoptive parents, agencies are not required to re-fingerprint or conduct CAN registry checks of foster parents when they request to become adoptive parents as long as there has not been a break in licensure. Contrary to the DCFS Memo 2007-16, more recent federal guidelines allow this practice no matter when the adoption component of the Resource Family Assessment (RFA) is completed, as long as there has not been a break in licensure.

Remember that, according to Wis. Stat. §48.685(3), in-state CAN background checks must be repeated every 4 years barring any other need for a new background check due to a break in licensure, as long as criminal history checks have been done in a timely manner.

6. It is common for foster or adoptive parents to re-apply in order to be licensed with a new agency. If their license does not otherwise lapse, they can still be considered a continually-licensed foster parent if the new licensing agency obtains the CAN background check results from the previous licensing agency. In these situations, how should agencies share CAN background check information between licensing agencies?

Agencies should share a copy of the results of the CAN background checks with the new licensing agency. If the information is not shared, the foster license will lapse and the new agency must conduct a new CAN background check. Please refer to DCFS Memo Series 2002-

07 regarding sharing this type of information. Note also that if a foster or adoptive parent is re-applying through a new agency but is not re-licensed before their original license expires, this is considered a break in licensure and the new agency must conduct new fingerprint and CAN background checks.

7. How can I find out if another state maintains a central registry and how to request a CAN background check in that state?

There are several resources you can use. Some organizations have charts with this information available online. The charts list each state, whether the state maintains a central registry, and information regarding the process to request a CAN background check.

Most states will accept a request by fax, and several states, including Wisconsin, require a release of information signed by the prospective parent. It is recommended that agencies check more than one chart. For example, if the NRCFCPPP chart does not include information for a particular state, the State of California's chart will often have the missing information. Note that these resources are not regulated and may not be entirely accurate. Links to some dependable sites are as follows:

a. National Resource Center for Family-Centered Practice and Permanency Planning: http://www.hunter.cuny.edu/socwork/nrcfcpp/downloads/policy-issues/State_Child_Abuse_Registries.pdf

b. State of Washington pdf file: <https://www.dshs.wa.gov/ca/child-safety-and-protection/child-abuse-and-neglect-information-requests-other-states> State of California: http://ccl.d.ca.gov/adamwalshi_2609.htm

Click on the link "List of Contacts For Other State's Child Abuse and Neglect Registries" to access the Word document.

8. What if a state does not maintain a central CAN registry?

If a state does not maintain a central registry, your agency is not required by law to conduct a CAN registry check in that state. However, many states, including Wisconsin, will have an alternative process for conducting a CAN registry check even if they do not maintain a central registry. While proceeding through the alternative process is not required, it is best practice for agencies in Wisconsin to proceed with the alternative process to conduct the background check if a prospective foster or adoptive parent has lived in one of those states in the last five years. If the state of former residence does not maintain a central registry and does not have an alternative process for responding to CAN registry checks, agencies are not required to complete any formal procedures, but this should be documented in the applicant's licensing file.

9. If I previously determined that a state does not have a central registry, do I have to re-check with that state every time I license a parent who has lived in that state?

Yes and No. Once an agency has determined that a particular state does not have a central registry, the agency does not have to continually check on the status of that state's registry every time a CAN check is needed. However, because this is an area of rapidly changing policy and procedure, it is recommended that agencies check the status of a particular state's CAN registry in the national resources regularly for the latest information. Furthermore, it is best practice to go through the alternative process of conducting a CAN background check (if possible) regardless of whether a state has a central registry.

10. Does Wisconsin have statutory language for the Adam Walsh Act, and especially language regarding unauthorized disclosure of information? Where can I find this if another state asks to see Wisconsin's statutory language regarding restricted disclosure of information under Adam Walsh?

The background check requirements under the Adam Walsh Act are codified in Wis. Stat. §48.685(2)(c) and §48.88(2)(am). These sections also mandate compliance with the federal limitations on distribution of information gained through an Adam Walsh inquiry.

11. Are other states required to conduct a CAN background check in Wisconsin before approving a prospective foster or adoptive parent?

It depends on the state's law or policy. Under the Adam Walsh Act, because Wisconsin does not maintain a central CAN registry, other states are not required to conduct a search of Wisconsin's system for domestic adoptions. However, based on requirements in their state law or policy, many states still submit CAN background check requests to Wisconsin through the alternative procedure (by contacting DCF and then the Wisconsin county). Under Wis. Stat. §48.981(7)(a)17, Wisconsin agencies are required to comply with requests from governmental units with a need for the information to carry out its responsibility to protect children and unborn children from abuse or neglect.

Under general interpretation of the Hague Convention rules, agencies approving homes for international adoptions are required to conduct CAN background checks in Wisconsin even though we do not have a central registry. Under Wis. Stat. §48.981(7)(a)9, Wisconsin agencies are required to comply with requests from private agencies for foster care licensing or adoptive approval.

County agencies are advised that due to the above-referenced federal and state laws and policies, the influx of requests from other states and private agencies for county-level CAN background checks will continue to rapidly increase. For both the county and requesting agency's convenience, it is recommended that county agencies identify a specific contact person for accepting and responding to these requests.

12. If another state or out-of-state agency wants to conduct a CAN background check of an individual who used to live in Wisconsin and is now applying for a foster license or adoption approval, what procedure should that agency use?

Because Wisconsin does not have a central CAN registry, the DSP has created an alternative procedure to reply to CAN registry inquiries from state, county, and tribal government agencies and private licensing agencies under contract with state or local government agencies. This procedure requires the participation of county child welfare agencies. The initial CAN registry inquiries will be responded to by the DSP staff. The DSP has established a specific telephone number (888-787-0376) and fax number (608-266-0260) to respond to CAN registry inquiries. The DSP staff will search for the individual person in eWiSACWIS and provide preliminary information to the requesting agency. Preliminary information must include:

- whether the person appears in eWiSACWIS;
- that Wisconsin is a county-administered, state-supervised system, that e-WiSACWIS does not consistently contain statewide information prior to 2004, and does not contain tribal child welfare information;
- that the licensing agency should contact the appropriate county agency for additional information; and
- the contact information for the appropriate county or tribe.

The DSP staff may respond to the requesting agency in writing or verbally. When the county child welfare agency receives a request, county staff will respond in writing directly to the requesting agency. County staff will check paper and electronic records and respond to the requesting agency with the information outlined in question 14 below.

13. Can counties charge a fee for conducting a child abuse and neglect (CAN) check?

The Adam Walsh Act does not limit a state's ability to charge fees for another state to access information from its state-maintained CAN registry. The Division of Safety and Permanence currently does not charge other states or local agencies for our alternative process which includes a basic check of the e-WiSACWIS system and a referral to the local child welfare agency. There is no rule or law at the state level authorizing the charging of a fee. Counties should evaluate whether local rules exist to allow the charging of fees when making this decision.

If any county or the Bureau of Milwaukee Child Welfare pays any such fee to another state, the fee should be reported to the Division of Safety and Permanence (DSP) along with other IV-E reimbursable expenses as Title IV-E administrative costs, and will be claimed by the State for federal reimbursement.

14. What type of information should I provide to a state agency requesting a CAN registry background check?

When the county child welfare agency receives a request, county staff must respond in writing directly to the requesting agency. County staff will check paper and electronic records and provide the following information to the requesting agency:

- Whether there are any reports of child maltreatment involving the person.
- Whether there are pending allegations of child maltreatment against the person.
- Whether the person has been substantiated for child abuse or neglect.
- Whether the person has been unsubstantiated for child abuse or neglect.
- Whether any substantiation of maltreatment has been appealed and is pending.
- Whether any substantiation of maltreatment has been appealed and the outcome if the appeal is complete.
- A description of the maltreatment.
- What the relationship of the person was to the maltreated child.
- The date of the substantiation.

Information about mental health or alcohol or other drug abuse issues, or cases in which the allegation A/N code (or allegation type) is identified as mutual sexual activity or the Intake type is identified as mutual sexual activity, cannot be released to the requesting agency absent appropriate consent for the specific type of information released.

15. May we refuse to conduct a CAN background check for another state seeking the information for foster or adoption licensing purposes?

No. While Wisconsin does not have a central CAN registry, the Department of Children and Families has interpreted Wis. Stat. §48.981(7) to require release of this information to public or private agencies licensing prospective foster or adoptive parents. When responding to requests for CAN background checks, agencies should require that a release of information signed by the prospective foster or adoptive parent is included with the licensing agency's request. If an agency requests this information for some other purpose, refer to DCFS Memo Series 2002-07, or ask your agency legal counsel. When requesting child abuse and neglect information from other states, remember that under the Adam Walsh Act a state with a central CAN registry cannot refuse to conduct a CAN background check for another state.

16. May we require specific information from another state before agreeing to conduct the CAN background check?

Yes, agencies are allowed to require specific information from another state before conducting

the CAN background check. When receiving an agency's request for a CAN background check, it is the policy of the DSP to require the following:

- A written request on agency letterhead signed by an individual.
- A release of information signed and dated by the individual being investigated.
- The reason for the background check request and whether the case is a child welfare case or another type of case.
- The name and date of birth of the person being investigated. A social security number is not required, but providing one may ensure a more thorough background check.
- If available, the address or at least city or county where the person resided in Wisconsin.
- If available, the dates that he or she resided in Wisconsin.
- The requesting person's telephone and fax information.

17. I just received a request from an out-of-state private agency for a CAN background check for an international adoption. Is this an Adam Walsh request? Do I have to release the information?

International adoptions are not governed by Adam Walsh but you must release the information under Wis. Stat. §48.981(7). The agency is asking for this information in compliance with the United States Citizenship and Immigration Services regulations (also known as the Hague Convention rules) on international adoptions, which require the agency to check the CAN registry of every state or country the prospective parent has lived in since the age of 18.

Consistent with other CAN background check requests made to the State, the DSP requires that the licensing agency send a formal request on agency letterhead as well as a release of information signed by the individual being searched. When responding to requests for CAN background checks, agencies should require that a release of information signed by the prospective foster or adoptive parent is included with the licensing agency's request.

18. Do I need to keep a record of the background check requests the county receives and our response? For how long?

If you conduct a search on an individual with a CPS file, you must note in the file that the information was disseminated and to whom (note this in the paper file or as a case note in eWiSACWIS). For all requests, maintain a record of your response according to state and local agency record-retention policies and laws.

19. How quickly do I have to respond to an agency's request for a CAN background study?

Local agencies should send back a reply within 5 business days.

20. Are there any types of requests I should *not* be responding to?

Agencies must respond to any state or state-contracted agency requesting a background check on a potential foster or adoptive parent under the scope and authority of the Adam Walsh Act. Agencies should also respond to requests from private agencies under Wis. Stat. §48.981(7)a. If you have questions about whether the agency contacting you is legitimate or whether the specific request is one you should respond to, it is recommended that you consult with your agency's legal counsel. A list of all Child Placing Agencies in Wisconsin can be found at the following link: <https://dcf.wisconsin.gov/cwlicensing>

21. Should I include any disclaimers about use of information when I respond to requests for CAN information under the Adam Walsh Act?

Yes. Under federal law and Wisconsin statutes §48.685(2)(c) and §48.88(2)(am), further use or disclosure of the information provided in response to an Adam Walsh request is prohibited. If you are sending a written response, you should include a disclaimer. For example, a statement such as, "use of this information is limited and unauthorized disclosure is prohibited by state and federal law" will suffice.

When you request a CAN background check from another state, some states require that you provide a copy of the Wisconsin statute ensuring the prohibition of the information being used for any purpose other than foster or adoption licensing. These prohibitions are included in Wis. Stat. §48.685(2)(c) and §48.88(2)(am) and should be provided to states when they require it.

22. Can I release CAN background information directly to a prospective parent?

No. Under the Adam Walsh Act the licensing agency itself must make the request for a CAN background check and that information must be provided directly to the agency, not to the prospective parent.

Fingerprint-based Background Checks

1. Who must conduct fingerprint background checks?

The State Adoption Program, the Bureau of Milwaukee Child Welfare, county human services or social services agencies and private child placing agencies licensing prospective foster or prospective adoptive parents who will receive placement of a public welfare child must conduct fingerprint background checks. In addition, some children adopted through private adoption agencies may be eligible for adoption assistance or "at-risk" for adoption assistance, and fingerprint background checks are also required in those cases.

The Adam Walsh Child Protection Act does not apply to private agencies doing private domestic or international adoptions outside of the public child welfare system, but does apply to private agencies acting as the agent of or under contract with the State or local public agency who are licensing prospective foster and prospective adoptive parents accepting children from the public child welfare system. In addition, the Act applies to the approval of any foster or adoptive parent who will receive federal funding for foster care or adoption assistance. Prospective adoptive parents licensed through private agencies who were not required to be fingerprinted under the Adam Walsh Act but happened to be fingerprinted under some other authority (such as the Volunteers for Children Act) do not need to be re-fingerprinted under Adam Walsh if they later apply for adoption assistance, as long as there has been no break in licensure and the original fingerprints were taken prior to licensure or approval for adoption and prior to the application for adoption assistance (please also see question 9).

2. Must the agency require the foster parent to sign a release from the Department of Justice (DOJ) that is sent in with their fingerprints in order for the DOJ to run their fingerprints?

Yes, the DOJ sends a copy of a generic release form (see language below) with the fingerprint cards when cards are requested by the agency. The DOJ requires a consent form to be signed prior to submission of the fingerprint card. Agencies can choose to use their own consent form as long as it contains the following information:

AUTHORIZATION FOR RELEASE OF FBI INFORMATION

I hereby empower any employee of _____ to obtain through the Wisconsin Department of Justice, a copy of any arrest record maintained by the Federal Bureau of Investigation associated to me pursuant to a search based on a submitted set of fingerprints within one year of the date on this form.

I also understand that federal law prohibits the sharing of this information with anyone other than an employee of the organization granted permission by this release.

Full Name: _____

Signature

Current Address: _____

Street and Number

City/State/Zip Code

Date: _____

Witness: _____

3. Are agency staff required to be fingerprinted?

No. Based on the most recent directives from the FBI and the Wisconsin DOJ, agency staff (including shift treatment staff and staff of private Child Placing Agencies) *are not required and are not authorized* to be fingerprinted under the Adam Walsh Child Protection and Safety Act. The FBI has stated that they will refuse any requests for fingerprint-based background checks of agency staff under the Adam Walsh Act.

If agencies choose to conduct fingerprint-based background checks of staff, those checks may be conducted under the federal Volunteers for Children Act (VCA). Agencies should consult with their legal counsel. The following website provides information from the Wisconsin DOJ regarding the VCA: <https://www.fbi.gov/>

4. How must FBI records be kept or secured?

Based on the DOJ recommendations regarding security, the results of the fingerprint-based background checks may be kept in the licensing file. As with any other file, these files should be maintained securely (in a locked cabinet or file), and access should be granted only on a need-to-know basis within the bounds of confidentiality. The FBI record needs to be kept in the licensing file as long as the file exists. Licensing files should be kept for three years after closure of the file, in anticipation of federal IV-E reviews.

If the FBI record must be shared, it may only be shared with other individuals authorized to view the information under the Adam Walsh Act. This includes requests from other state agencies placing children in Wisconsin. Only staff who have a business need to review or possess the FBI record, or staff who could request the FBI record on their own authority, should have access to it. Otherwise the FBI record must remain confidential and secure. A fingerprint-based background check is no longer required for staff having access to the FBI record. Whenever the FBI record is shared with *anyone*, a dissemination log must be kept of individuals with whom the information was shared which includes: the name of the individual who received the information, a summary of the specific information shared, the date that the information was shared, and the authorization under which the person had permission to access or receive the information. For authorization, noting that the individual is a government employee or government-contracted employee and in what capacity or under what authority they are accessing the record will suffice.

5. What information must I provide to an applicant if they are denied based on a criminal conviction found in their FBI record?

You must inform an applicant when they are denied due to a criminal conviction. **If the criminal conviction was discovered in the FBI record, you must also inform the applicant that he or she has the right to challenge the accuracy of the FBI record if it is incorrect or incomplete before a final licensing or approval action is taken.**

Practice Considerations: The licensing or approving agency should inform the applicant in writing

that denial is being considered based on a criminal conviction found in the FBI record. The agency should inform the applicant of their right to challenge the record, and allow the applicant 14 days to respond in writing as to whether they plan to challenge the accuracy or completeness of their FBI record. Within 30 days of the original notice of possible denial, the applicant should provide to the licensing agency a copy of their written request to change the record sent to the authority reporting the information to the FBI. This opportunity to challenge the record is not meant for applicants who are attempting to overturn or expunge previous criminal convictions, but rather for applicants who are attempting to correct or complete an administrative inaccuracy in their record. After 30 days from the original notice have passed, if no challenge has been documented, the licensing agency should issue a formal denial.

To challenge a conviction on their record an applicant must go to the original agency that contributed the questioned information to the FBI, not to the licensing agency or the FBI. You may review the FBI record with the applicant or he or she can obtain it directly from the FBI. The following website will assist applicants in understanding how to challenge their record: <https://www.fbi.gov/>

6. What other information might I need to provide to the DOJ?

Since the DOJ will only perform fingerprint checks for agencies that are contracted through the State, agencies should inform the DOJ that the background check is being requested for the purposes of licensing a prospective foster or adoptive parent for a child welfare case (i.e. a child receiving IV-E funding). Providing this information will ensure that the DOJ knows the agency is authorized to request the fingerprint-based check.

7. What is an FBI fingerprint check audit?

The FBI requires audits of Non-Criminal Justice agencies receiving FBI criminal history to insure federal and state policies are being followed. These audits are on a 3 year cycle and will commence in October 2008. The audits will be in the form of a mailed questionnaire. Agencies that fail to respond to the questionnaire or have violations will not be allowed to submit fingerprint cards until they are in compliance. The questions in the audit include:

- Do you have a signed authorization that informed the candidate they would be the subject of an FBI check?
- Was the candidate advised they would have an opportunity to complete, or challenge the accuracy of the information in the FBI file?

8. Is there a cost to resubmit fingerprints that were rejected?

There is no additional cost to resubmit fingerprints, if the reason the submission was rejected by the FBI was due to poor image quality of the fingerprints. If the initial fingerprint card is rejected, instead of getting results on your results page, you will find a rejection notice. **You must print out this rejection notice.** The rejection notice must be attached to the second card (resubmission) and sent to the Crime Information Bureau (CIB). Second submissions without the image-quality rejection notice attached will be charged as a new submission.

If you are an electronic submitter or deal with the state capture vendor, the TSR number (FBI's internal control number) on the rejection notice must be entered into the 1.10 field of the EFTS file to qualify for a free submission. Any electronic resubmissions that do not have a valid entry in the TSR field will be charged as a new submission. The TSR number may only be used once and it must be for the same individual originally fingerprinted. DOJ will verify the number in the TSR field was initially rejected by the FBI.

If the submission is rejected twice due to poor image quality, after the second rejection the agency must complete the caregiver background check under Wis. Stat. §48.685, and must

request a name-based check of the national crime information center. This request may be submitted to the FBI through the Wisconsin DOJ. The second rejection notice or TSR number from the second rejection notice must be included with this request.

9. When am I required to conduct a new fingerprint-based background check on a foster parent either renewing their license or applying for an adoptive home license?

You are required to take new fingerprints only in such cases when there is a break in licensure. A break in licensure is a period of time when the individual is not licensed for foster care by any agency.

If the foster parent is renewing their foster care license and has submitted a timely and sufficient application to the agency 30 days prior to expiration of the license, and due to the actions of the agency the application is pending at the time the license expiration date is reached, this is not considered a break in licensure and thus new fingerprint-based or CAN registry checks are not required.

Similarly, if a foster or adoptive parent re-applies with a different agency, no new fingerprint-based or CAN registry checks are required as long as there is not a period of time when the person is not licensed and the results of the original background checks are shared with the new agency.

For foster parents becoming adoptive parents, agencies are not required to re-fingerprint or conduct CAN registry checks of foster parents when they request to become adoptive parents as long as there has not been a break in licensure. Contrary to the DCFS Memo 2007-16, more recent federal guidelines allow this practice no matter when the adoption component of the RFA is completed, as long as there has not been a break in licensure. Similarly, prospective adoptive parents licensed through private agencies who were not required to be fingerprinted under the Adam Walsh Act but happened to be fingerprinted under some other authority (such as the Volunteers for Children Act) do not need to be re-fingerprinted under Adam Walsh if they later apply for adoption assistance, as long as there has been no break in licensure and the original fingerprints were taken prior to licensure or approval for adoption and prior to the application for adoption assistance.

Generally fingerprint-based background checks need only be performed once, barring any other need for a new fingerprint-based background check due to a break in licensure. Remember that, pursuant to Wis. Stat. §48.685(3), name-based criminal background checks must be repeated every 4 years.

10. It is common for foster or adoptive parents to re-apply in order to be licensed with a new agency. If their license does not otherwise lapse, they can still be considered a continually-licensed foster parent if the new licensing agency obtains the fingerprint-based background check results from the previous licensing agency. In these situations, how should agencies share fingerprint reports between licensing agencies?

Agencies should share a copy of the results of the fingerprint-based background checks (FBI criminal history information) with the new licensing agency. If the information is not shared, the foster license will lapse and the new agency must conduct a new fingerprint-based background check. Anytime FBI criminal history information is shared, the licensing agency must document this in a dissemination log. The FBI criminal history information may only be shared with other governmental or private state-contracted agencies authorized to view the information. Note also that if a foster or adoptive parent is re-applying through a new agency but is not re-licensed before their original license expires, this is considered a break in licensure and the new agency must conduct new fingerprint and CAN background checks.

11. How should private adoption agencies who only intermittently receive cases that may become involved with child welfare proceed with the fingerprinting and CAN background check requirements?

A private adoption agency should contact the regional DCF Adoption Supervisor if it receives a case in which the child may become involved with child welfare (e.g. will be applying for adoption assistance) and thus the fingerprint and CAN background check requirements apply. The Adoption Supervisor will assist the agency in completing the fingerprinting process for that case.

12. Are the criminal background check requirements in the Adam Walsh Act applicable to all international, private or independent adoptions?

No, the criminal background checks are only applicable in an international, private or independent adoption in circumstances in which the child will receive Title IV-E adoption assistance. This is because section 471(a)(20)(A) of the Act generally applies to prospective parents whom the State or its agents will license or approve to care for a child in the State's Title IV-B or IV-E program (see the Child Welfare Policy Manual Section 8.4F Q/A #9). In order for a State to claim Title IV-E Adoption Assistance payments for an otherwise eligible child, the State must conduct a criminal background check that demonstrates that the prospective adoptive parent has not been convicted of one of the prohibited felonies consistent with section 471(a)(20)(A)(i) and (ii) of the Act. Therefore, if a child subject to an international, private or independent adoption is otherwise eligible for Title IV-E Adoption Assistance, the State can claim reimbursement under Title IV-E only if the background checks specified in section 471(a)(20)(A) of the Act have been conducted before licensure or approval and the results meet the conditions in section 471(a)(20)(A)(i) and (ii) of the Act.

13. How do I set up a CARS line for reimbursement for the costs of processing fingerprint checks?

The DSP has funding to pay for the processing of fingerprint-based background checks for public agencies and agencies directly under contract with BMCW or the Special Needs Adoption Program to license prospective foster and adoptive parents who will accept placement of a child in the public child welfare system. The cost of processing fingerprints by private agencies that license foster parents who will accept placement of a child in the public child welfare system, but do not have a direct contract with the DSP will not be paid by the DSP.

All agencies submitting fingerprints for processing under the Adam Walsh Act will be billed directly by the Wisconsin Department of Justice. For private agencies with a direct contract with the State, the Special Needs Adoption Program, and the Bureau of Milwaukee Child Welfare, contract addendums will be sent out annually and must be signed and sent back to the DCF to submit the cost of fingerprint processing for reimbursement. All other private Child Placing Agencies are responsible for paying their own fees and are not eligible for reimbursement from the State.

County or private agencies will be reimbursed for costs utilizing the CARS system. The following three CARS profiles have been established:

CARS 324 - To be used by county agencies

CARS 521205 - To be used by Lutheran Social Services - Appleton, Lutheran Social Services – Eau Claire and Children's Service Society of Wisconsin - Madison

CARS 570023 - To be used by Children's Service Society of Wisconsin - Milwaukee.

14. I'm having trouble taking good fingerprints, any tips?

The following are some recommendations for capturing fingerprints:

- Women's prints are rejected more frequently because their hands are drier. If dryness is a problem, instruct the individual to lotion their hands generously the night before providing fingerprints.
- Have the person wash his or her hands with soap and warm water and dry his or her hands thoroughly.
- Use a light touch when rolling the fingers.
- Do not use too much ink.
- Use Ridge Enhancer Spray which can be purchased from fingerprint suppliers such as the start-up kit from ID Technologies.

15. When prospective parents go to law enforcement to have their fingerprints taken there, what procedure should they follow?

When prospective foster or adoptive parents are having their fingerprints taken at a place other than your agency, it is important that certain protocol are followed in order to maintain security and ensure that you are getting back results for the correct individual. If the fingerprints will be taken with ink, your agency can fill out all of the information on the fingerprint card before giving it to the prospective parent to take to the law enforcement or other office taking the prints. It will be the responsibility of the print taker to verify that the identity of the individual giving prints is the same individual listed on the card. When the card is returned to your agency, it should either be sent directly to your office by the print taker, kept at the print taker's office until your agency can pick them up, or put in a sealed envelope by the print taker (signed or stamped over the seal) before being handed back to the prospective foster or adoptive parent. This procedure is not always followed by law enforcement or other print takers and should be explained to the prospective foster or adoptive parent to ensure security of the prints. Your agency may want to provide a self-addressed stamped envelope with the fingerprint card to assure this procedure is followed.