



**CABINET FOR HEALTH AND FAMILY SERVICES
DEPARTMENT FOR COMMUNITY BASED SERVICES**

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This communication is intended to prevent any concern created by the emergency clause applicable to the new background check requirements of child-caring facility staff, as contained within House Bill 158 from the 2019 Regular Session of the Kentucky General Assembly.

Title IV-E of the Social Security Act, as amended by the Family First Prevention Services Act of 2018 (Pub. L. 115-123) or Act, requires employees of child care institutions, a.k.a., congregate care/residential foster care settings, to undergo finger-print based background checks. States were to comply with the new background check requirements no later than October 1, 2018, unless a federally approved waiver had been granted due to the need for legislative action. The Department for Community Based Services (DCBS), on behalf of Kentucky, was granted a waiver until April 1, 2019, due to the need to pursue statutory authority for conducting fingerprint-based criminal background checks of the child care institution employees. House Bill 158 from the 2019 Regular Session was the resulting legislation. House Bill 158 has since been enacted through passage by both chambers of the Kentucky General Assembly and Governor's signature. The originally proposed version of House Bill 158 included application of the new background checks to employees of both child-caring facilities and child-placing agencies as like child safety measures; however, the bill was amended to apply only to child-caring facilities, aligning with the minimum requirements of the Act.

While the emergency clause should help expedite its implementation, the enacted legislation will require resubmission to the Kentucky State Police and the Federal Bureau of Investigation for review. Before the first fingerprint can be taken, the FBI must issue an ORI number (a.k.a., originating agency identifier) that is associated with the authorizing state law, purpose of the check, and directs the check results to the cabinet. The ORI number must be used with each and every fingerprint taken for this purpose. In past instances, KSP and FBI have taken four to nine months for these two steps. In addition, a new department for these checks must be established in the KY National Background Check Program (NBCP). A new administrative regulation or a regulatory amendment will also have to be promulgated by the Cabinet. Outreach and training of child-care facilities, as well as coordination with the Office of Inspector General, will occur prior to the start of implementation and the enforcement of child-caring facilities' compliance. A reasonable window of time will be given for child-caring facilities to conform to the new background checks.

Implementation will likely occur in fall 2019. Until that time, child-caring facilities are to operate under existing background check requirements incorporated in the licensure standards. More information will be formally shared as it becomes known, but implementation timelines are largely contingent upon coordination with law enforcement agencies and programming necessary in NBCP.