

THE NATIONAL CRIME PREVENTION AND PRIVACY COMPACT

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Purpose of the Compact

How many states?

- * Currently, a number of state laws prohibit release of criminal history records in connection with background checks conducted for purposes other than ongoing criminal investigations -- such as for employment or licensing. Looking to each state individually when conducting a background check nationwide on a potential child care provider will be incomplete, since some state laws will prohibit release of criminal history information on the provider even if it existed.
- * The FBI has, to a great extent, duplicates of state criminal history records which it receives from states voluntarily. Because of the voluntary nature of these submissions, however, the FBI's records are not as complete or as accessible as records maintained by the originating state. Thus, a background check for employment purposes conducted through the FBI may not be as complete as directly searching pertinent state records. Nor will a check conducted solely through the FBI be as efficient, given that the FBI maintains over 200 million fingerprint-based criminal records and must also respond to background checks required for criminal investigations, and thus can take weeks or months to produce a response.
- * The Compact eliminates state law barriers to the sharing of criminal history information for purposes other than ongoing criminal investigations by creating a legal framework for cooperative exchange of such information in a decentralized system. Put simply, any state ratifying the Compact agrees that its own criminal history information may be released in other ratifying states for any purpose authorized by the receiving state's law.
- * Under the Compact, a fingerprint-based inquiry to the FBI regarding an individual would produce a list of states in which that individual has a criminal record. The inquiring agency will then be able to access, by computer, the criminal history records for that individual located in listed states. A useful analogy is that of a library card catalog -- the FBI would maintain a "card catalog" of fingerprints, while states would house the actual "libraries" containing criminal history records linked to those fingerprints.
- * The Compact will create significant cost and time savings, as states will no longer need to submit duplicate criminal history records to the FBI which, in turn, will no longer have to process or maintain them. Authorized entities will be able to directly access pertinent state criminal history records in participating states.

Impact on Safety of Child Care

- ✓ The Compact will facilitate more effective and efficient background checks on child care providers. Background checks serve as one means of identifying individuals not suited to providing such care, helping to identify particularly dangerous persons and those who have committed crimes affecting their suitability to deal with children.
- ✓ Criminal background checks are not a panacea, however, and should not be considered the sole criteria for purposes of screening potential child care providers. Many who are ill-suited for a direct care position never get arrested or convicted of any crime. Nor are most child

abuse cases prosecuted in criminal court and therefore no criminal record would result. Criminal history background checks are also expensive and time-consuming, thus further burdening child care agencies.

- Many states do authorize child care agencies to obtain criminal history information through a background check, indicating a policy decision that such an investigation may contribute to the public safety. The Compact will better facilitate the ability of entities authorized under such laws to conduct a thorough criminal background check nationally. It will also preserve the ability of a state to regulate within its own borders dissemination of criminal history information received by a child care agency.

Status of the Compact

- The text of the Compact is complete and awaiting transmittal to this Congress. The Administration transmitted the Compact to the previous Congress, which failed to take any action. The Department of Justice is prepared to transmit the Compact on October 23, 1997.
- The Compact will be adopted pursuant to the "Compact Clause" of the Constitution, which provides for agreements among the states. It will become effective once ratified by at least two states.
- The usefulness of the Compact can be measured by the number of states participating; thus, the more states that ratify the Compact, the more meaningful will be its contribution to protecting children in child care settings.

Justice
EXPLV