

## BACKGROUND CHECK FAQs

### What is the difference between a “background check” and a “criminal history” record check?

The term “background check” is often used interchangeably with “criminal history check” or “criminal history record check”, which causes some confusion. Some companies use the phrase “background check” to include driver’s record, credit history, or interviews with neighbors and employers. From the Florida Department of Law Enforcement (FDLE) perspective, a background check is a criminal history record check to determine if a person has been arrested and/or convicted of a crime.

### What are level 1 and level 2 background checks?

Level 1 and Level 2 Background Checks are terms used in Florida law to convey the method of the criminal history record check and the extent of the data searched. However, the terms may also refer to certain disqualifying offenses if certain statutes are referenced. Level 1 and Level 2 are terms that pertain only to Florida and are not used by the FBI or other states. They are defined in Chapter 435, Florida Statutes (F.S.), but are used elsewhere in statute without definition and appear not to be associated with all of the provisions in Chapter 435, F.S.

[http://www.leg.state.fl.us/Statutes/index.cfm?App\\_mode=Display\\_Statute&URL=0400-0499/0435/0435ContentsIndex.html](http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&URL=0400-0499/0435/0435ContentsIndex.html)

- **Level 1** generally refers to a name-based check AND an employment history check, conducted only in the State of Florida.
- **Level 2** generally refers to a state and **national fingerprint based check** and consideration of disqualifying offenses, and applies to those employees designated by law as holding positions of responsibility or trust. Section 435.04, F.S., mandates Level 2 security background investigations be conducted on employees, defined as individuals required by law to be fingerprinted pursuant to Chapter 435, F.S. and 125.5801, F.S.

[http://www.leg.state.fl.us/statutes/index.cfm?mode=View%20Statutes&SubMenu=1&App\\_mode=Display\\_Statute&Search\\_String=125.5801&URL=0100-0199/0125/Sections/0125.5801.html](http://www.leg.state.fl.us/statutes/index.cfm?mode=View%20Statutes&SubMenu=1&App_mode=Display_Statute&Search_String=125.5801&URL=0100-0199/0125/Sections/0125.5801.html)

**Note: State and National criminal history record checks performed on for-hire drivers by the Consumer Affairs Division are based on the submission of Fingerprints.**

**Who can request background checks?** Private citizens, companies and governmental entities are authorized under Florida’s public records law to request **a level 1 state only criminal history record check**. FDLE provides public access to Florida criminal history information consistent with Section 943.053, F.S. The fee for a state criminal history record check has been statutorily set at \$24.00 per record check. **These checks are performed by a name request or submitting a fingerprint card.**

State criminal history record checks can be obtained by mail at:

Florida Department of Law Enforcement  
Attn: Criminal History Services  
Post Office Box 1489  
Tallahassee, FL 32302-1489

Requests should include a return address, the subject’s name and any known aliases, date of birth or approximate age, race, sex and social security number (optional). A check or money order for \$24.00, made payable to FDLE, per record

check must accompany the request. This process takes approximately five business days excluding postal delivery time.

State criminal history record checks can also be obtained online through our Computerized Criminal History on the Internet (CCHI) service at <https://web.fdle.state.fl.us/search>. The \$24.00 fee will be made payable by a valid credit card (Visa, MasterCard, Discover or American Express). Users will process the criminal history record check online with the results presented during the session.

**To perform a level 2 national criminal history record check, the following must be in place, as required by the FBI, to receive the results:**

- A statute must exist as a result of a legislative enactment;
- It must require the fingerprinting of applicants who are subject to a national criminal history record check;
- It must expressly (“submit to the FBI”) or by implication (“submit for a national check”) authorize the use of FBI records for the screening of applicants;
- It must identify the specific category(ies) of licensees/employees falling within its authority;
- It must not be against public policy;
- It may not authorize receipt of the criminal history record information by a private entity;
- **The recipient of the criminal history record check results must be a governmental entity;**
- The entity must sign a User Agreement indicating it will comply with the terms and conditions set forth in rule by the FBI; and
- The fingerprint submission must be first processed through the state repository for a search of its records.

<b>National criminal history record checks are based on the submission of Fingerprints.</b>
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**If a state and national criminal history record check is conducted, is it necessary to conduct a separate check of the sex offender registry for registered sex offenders?**

**No.** If the state and national fingerprint based criminal history record check is completed, the agency will be notified of all persons designated as sexual predators or offenders in Florida and in the national system.

**What services do background screening companies provide?**

Background screening companies can address and define a background screening program for your company that meets Palm Beach County Vehicle for Hire Ordinance and/or Temporary Operating Agreement requirements. It is recommended that any company used to perform the background screening services is a member of the National Association of Professional Background Screeners (napbs) <http://www.napbs.com>.

Background screening companies use a variety of information and resources to perform background checks. The checks may include criminal and civil record checks, information received from county, state and federal courthouses, driving record checks, reference and credit history checks, as well as checking the national sex offender registry. The cost for background screening companies to perform national or multi-state checks may vary depending on the amount of information being investigated, supplemental access fees charged by county, state, and federal courts, etc., and the background screening company fees.

**References:**

- <https://www.fdle.state.fl.us/Content/home.aspx>
- <http://www.napbs.com>.

**CRIMINAL HISTORY RECORD INFORMATION SHARING**  
Dissemination of Criminal History Information

20. What information from a state and national criminal history background check can be disclosed to a private employer?

Pursuant to federal law, regulatory and employing agencies may not share any information obtained from a state and national criminal history record check with a private entity. However, these agencies can indicate whether or not the person is eligible for licensing or employment based on their established criteria. Prior to being granted access to the records, authorized agencies must sign a Criminal Justice or Non-Criminal Justice User Agreement with FDLE agreeing to abide by state and federal law.

21. When can a non-governmental agency receive the results of a state and national background check?

Non-governmental entities are not authorized to receive both state and national criminal history information under statutory licensing and employment provisions. The only time non-governmental entities are eligible to obtain national criminal history information is through the VECHS program, which is described in detail in the VECHS section below.

22. Can agencies share the results of a state and national check with other agencies that require similar checks?

Although generally state and national criminal history information may not be shared between agencies, exceptions may apply but only if the purposes of the criminal history record checks are the same and the agencies are both entitled to the same information. Thus, school districts may share criminal history information with other school districts because the checks are conducted for the same purpose and all districts receive the same data (for example, they receive sealed criminal history information). Likewise, a county health department could share with another county health department because criminal history record checks are conducted for the same purpose and they receive the same data.

Sharing of criminal history information is not allowed when it has been obtained for different purposes, even if the data received is the same. For example, criminal history information received by the Department of Financial Services for licensing insurance agents may not be shared with the Department of Agriculture and Consumer Services for licensing of security guards.

For those entities participating in the VECHS program, criminal history information sharing between VECHS entities is permitted in accordance with the User Agreement. Entities must contact the VECHS Unit at (850) 410-8324 for entity verification before sharing criminal history information.

23. Can a copy of the FDLE and FBI criminal record be provided to applicants if they are denied employment, licensing, or the opportunity to volunteer?

Yes. Applicants may be shown their own criminal record. A copy may also be provided, however, applicants must be cautioned the record may not be used for any other purpose. Applicants are not allowed to provide a copy of the record to any other organization.