

*Introduction*

The Adam Walsh Child Protection and Safety Act of 2006 (PL 109-248) is a federal act which was signed into law on July 27, 2006. Section 151 and 153 of the act require the U.S. Attorney General to ensure access to Federal Bureau of Investigation (FBI) national criminal history record information by (1) governmental social service agencies with child protection responsibilities, (2) child welfare agencies, and (3) public and private elementary and secondary schools and state and local educational agencies. Section 153 of the act is entitled the "Schools Safely Acquiring Faculty Excellence Act of 2006." Section 153(b) provides that the Attorney General shall, upon request of a state's chief executive officer, conduct fingerprint-based checks of national crime information databases (as defined in 28 U.S.C. Section 534) pursuant to requests submitted by child welfare agencies or by private schools or public elementary or secondary schools or local or state educational agencies for volunteer and employment screening.

In Illinois, public schools have historically been authorized to receive national criminal history record information from the FBI pursuant to the Illinois School Code. However, federal law has historically prohibited private entities from receiving such data. Private entities that work with children have long contended that access to national criminal history records is a critical component in making sound suitability determinations when screening employment applicants, contractors and volunteers who work with or around children. Former federal prohibitions have now been lifted making it possible for private schools and private child welfare organizations to receive national criminal history record information. Access is now possible pursuant to PL 109-248. In order to receive FBI national criminal history record information pursuant to the Adam Walsh Child Protection and Safety Act of 2006, authorized entities must adhere to specific state and federal guidelines. The information contained in this brochure is provided to assist authorized entities in understanding the basic elements of PL 109-248 and how this law is being implemented in Illinois.

State of Illinois  
Rod R. Blagojevich, Governor

Illinois State Police  
Larry G. Trent, Director



# The Adam Walsh Child Protection and Safety Act



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**Illinois State Police**

## What is required:

### User's Agreement:

- ▶ User must sign the Agreement provided by the Illinois State Police (ISP), Bureau of Identification (BOI) prior to submitting any requests.
- ▶ The Agreement contains specific rules and regulations governing the use of state and federal criminal history record information.
- ▶ Once the User's Agreement is executed, the authorized entity will be issued an organization identification number (ORI number).

### Fee Applicant Fingerprint Inquiry:

- ▶ All requests for FBI national criminal history record information must be initiated with the electronic submission of a *Fee Applicant* fingerprint inquiry to the BOI
- ▶ A current list of commercial live scan fingerprinting vendors is available from the Illinois State Police upon request, for informational purposes only.
- ▶ Live scan machines can also be purchased from live scan equipment manufacturers for private use. A list of live scan equipment manufacturers is also available upon request.
- ▶ Include the correct ORI and appropriate Purpose Code (**AWA**—Adam Walsh Act) on all submissions forwarded to the ISP for processing.



### Fees

- ▶ The current fee schedule is \$15 per electronic *Fee Applicant* fingerprint-based search of the Illinois State Police's criminal history record information database and \$24 for a search of the FBI's national criminal history information database.
- ▶ A draw down account can be established to facilitate easy, convenient payment of fees. A monthly statement containing all account activity will be provided.

### Processing

- ▶ All submissions **must** be processed through ISP. No submissions can be forwarded directly to the FBI for processing.
- ▶ In order to obtain FBI national criminal history record information, the authorized entity must request a fingerprint-based search of the Illinois criminal history record information database as well as a search of the FBI's criminal history record files. In other words, an 'FBI only' request is not permitted.
- ▶ National criminal history record fingerprint inquiries can be submitted for current and perspective employees of the qualified private school or social service organization, as well as individuals such as volunteers or contractors who would work with or around children in the school or organization.

### Responses

- ▶ An Illinois response will provide any Illinois conviction information on file. An FBI response will provide **conviction** as well as any **non-conviction** information contained in the national database.
- ▶ ISP is prohibited from disseminating any juvenile criminal history record information unless the juvenile was tried and convicted as an adult.
- ▶ Individuals fingerprinted must be notified that their fingerprints will be used to check the criminal history records of the ISP and FBI.
- ▶ The officials making the suitability determination shall provide the applicants the opportunity to complete, or challenge the accuracy of the information contained in the FBI record, per 28 CFR 16.34. Officials making the suitability determination should not make denials based on information contained in the FBI record until the applicant has been afforded a reasonable time to correct or complete the record challenge procedure or has declined to do so.
- ▶ Applicants should be advised that they can request to review their Illinois criminal history record if they believe it to be inaccurate or incomplete. To request a review of their Illinois criminal history record, applicants should contact their local police department and complete an Access and Review form (a fingerprint-based process). The BOI processes all Access and Review fingerprint submissions free of charge, however, the local police department may charge a nominal fee for completing and submitting the Access and Review form.

### Dissemination and Security

- ▶ Records obtained under the authority of the Adam Walsh Act must be used solely for the purpose requested and cannot be disseminated outside of the receiving departments, related agencies, or other authorized entities. All secondary disseminations must be logged.
- ▶ Agencies and organizations receiving criminal history record information are required to secure such information and insure that it is not accessible to or disseminated to any unauthorized individuals.
- ▶ All non-criminal justice entities receiving state and federal criminal history record information are subject to state and federal audits regarding the use, security and dissemination of such information.
- ▶ Section 153(e) of PL 109-248 provides that "An individual having information derived as a result of a check under subsection (b) may release that information only to appropriate officers of child welfare agencies, public or private elementary or secondary schools, or educational agencies or other persons authorized by law to receive that information." Section 153(f) provides that "An individual who knowingly exceeds the authority in subsection (b), or knowingly releases information in violation of subsection (e), shall be imprisoned not more than 10 years or fined under Title 18, United States Code, or both." In addition to the criminal penalties, sanctions for misuse may include cancellation of the organization's access to State and FBI criminal history record information.

### Training

- ▶ All schools and organizations seeking to obtain criminal history record information pursuant to the Adam Walsh Act are encouraged to attend criminal history record information training sessions conducted by the Illinois State Police, Bureau of Identification. These sessions are generally half day training sessions conducted twice a year and include instruction on how to interpret criminal history rap sheets, available electronic response methods, a review of proposed state and federal legislation which may affect access to criminal history record information, etc.
- ▶ The Guide to Understanding Criminal Background Check Information can be obtained from the ISP web page at <http://www.isp.state.il.us/media/docdetails.cfm?DocID=508>.

