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GAVIN NEWSOM
GOVERNOR

May 1, 2020

PIN 20-09-CRP

TO: ALL CHILDRENS RESIDENTIAL LICENSEES

FROM: *Original signed by Pamela Dickfoss*
PAMELA DICKFOSS
Deputy Director
Community Care Licensing Division

**SUBJECT: STATEWIDE WAIVERS FOR BACKGROUND CHECK
REQUIREMENTS DUE TO CORONAVIRUS DISEASE 2019 (COVID-19)**

Provider Information Notice (PIN) Summary

PIN 20-09-CRP provides guidance to children's residential licensees about the implementation of statewide background check waivers in response to COVID-19.

In response to the rapidly evolving Coronavirus Disease 2019 (COVID-19) emergency in California, the California Department of Social Services (CDSS) is taking major and unprecedented actions to ensure that children's residential licensees have the resources needed to meet the needs of children and nonminor dependents in care. This PIN provides a statewide waiver for certain background check requirements applicable to children's residential licensees.

CDSS recommends that all licensees continue to follow guidance in all applicable [CDSS PINs](#), in addition to guidance or instructions from health care providers, the [Centers for Disease Control and Prevention \(CDC\)](#), the [California Department of Public Health \(CDPH\)](#), and [local health departments](#).

STATEWIDE WAIVER OF LICENSING STANDARDS

Pursuant to the Governor's Proclamation as set forth in [PIN 20-04-CCLD](#) dated March 6, 2020, and [Executive Order N-52-20](#) dated April 16, 2020, CDSS is issuing a statewide waiver for certain background check requirements. Children's residential licensees may use the waiver without the need for licensees to make an individual

request. Use of this waiver is subject to the Waiver Terms and Conditions set forth in this PIN.

The background check waiver included in this PIN **does not** apply to licensed foster family homes, or homes certified or approved by a Foster Family Agency.

Background Check Temporary Waiver

Licensed children's residential facilities, *not including a licensed foster family home, or home certified or approved by a Foster Family Agency (FFA)*, may comply with the following background check requirements to enable new staff to start working immediately if: 1) the licensee is experiencing a staff shortage, and 2) when Live Scan services are limited as a result of COVID-19.

In addition to complying with the requirements below, licensees should give preference to hiring individuals with verified existing background clearance from a school district, state, or local government agency or other agency that conditions employment or participation on a background clearance.

1. Transferring a Current CDSS Record Clearance or Exemption:

Newly hired staff may start working or caregiving immediately upon submission of a request to transfer a current CDSS criminal record clearance or exemption and Child Abuse Central Index (CACI) clearance. The request to transfer shall be sent to the [local Children's Residential Licensing office](#).

2. Background Check Process for New Hires Without Existing CDSS Record Clearance or Exemption

Newly hired staff must make every effort to complete Live Scan requirements within 5 days of starting employment, in addition to any other background check requirements. The Department of Justice (DOJ) has a [location search](#) for providers to locate Live Scan fingerprinting services during the COVID-19 emergency. The DOJ also implemented a new fingerprint capture method for Live Scan sites in order to reduce the amount of time and physical contact between the applicant and the Live Scan operator while continuing to provide fingerprint-based background checks to California citizens in need of employment, licensing, certification or other approval.

If Live Scan Services Are Available

Any new hire without a CDSS clearance or exemption may start working immediately upon submission to the licensee of a completed Criminal Record Statement (LIC 508), signed under penalty of perjury, that does not include any

disclosed criminal history. Additionally, a new hire must submit a copy of a completed [Request for Live Scan Service - Community Care Licensing \(LIC 9163\)](#) to the licensee. Within 5 business days of starting work, the new staff shall complete a Live Scan check to associate to the licensee.

If Live Scan Services Are Not Available:

Any new hire without a CDSS clearance or exemption may start working immediately upon submission to the licensee of a completed Criminal Record Statement (LIC 508), signed under penalty of perjury, that does not include any disclosed criminal history. Additionally, a new hire must submit a copy of a completed and signed DOJ Bureau of Criminal Information and Analysis ([BCIA 9010-COVID-19](#)) Name-Check Form to the licensee.

If new staff are unable to complete a Live Scan within 5 business days of starting work due to closure of Live Scan facilities in the geographical area where the new staff resides, [Executive Order N-52-20](#) allows for a DOJ background search based on identifying information other than fingerprints, including name, address, date of birth, social security number, driver's license number, and other identifying information ("name-based search"). CDSS has a new background check system, *Guardian*, in order to facilitate a name-based search with DOJ pursuant to this executive order. Individuals completing a background check via the name-based search process in *Guardian* will be eligible to work under the temporary waiver authority provided in this PIN, provided there is compliance with all other requirements, including those listed below:

Accessing the *Guardian* System

The *Guardian* system is an online portal to allow licensees the ability to initiate a request for a name-based background check. To gain access to this portal, licensees must activate a user account. Instructions will be forthcoming via email to each licensee currently on file at CDSS. For those licensees without active or current email addresses on file, instructions for activating your account will be sent through the US postal service. Licensees may submit an email to Guardian@dss.ca.gov for assistance with activating a user account.

If a licensee is unable to access this web-based portal, a completed and signed [LIC 508](#), and a completed and signed DOJ Bureau of Criminal Information and Analysis ([BCIA 9010-COVID-19](#)) Name-Check Form must be sent to Guardian@dss.ca.gov.

Initiating the *Guardian* Portal DOJ Criminal History and Child Abuse Central Index (CACI) Search

If Live Scan is unavailable, and once access to the *Guardian* portal is granted, the licensee shall submit any request for a name-based search of DOJ criminal history and CACI using the *Guardian* portal and attest to the following:

- The new hire appeared before the Licensee, with a completed BCIA 9010-COVID-19 form, and that the new hire presented a valid photo identification;
- That the new hire represented to the licensee that he/she made a good faith effort to locate a Live Scan service, but none was available;
- That they are submitting a request to perform a name-based check of the California criminal history records and/or Child Abuse Central Index (CACI); and
- New hires will be required to submit his/her fingerprints for a fingerprint-based background check, as prescribed in statute or regulation, as soon as Live Scan services are available.

Once the licensee submits the name of the new hire to the *Guardian* Portal, an email is sent to the new hire to complete the following:

- Certification that the new hire is unable to locate Live Scan/fingerprinting services and therefore is unable to provide fingerprint impressions for this reason;
- An acknowledgment that the new hire is required to submit fingerprints for a fingerprint-based check of State and federal criminal history records, as prescribed in statute or regulation, as soon as Live Scan services are available.
- A disclosure of whether or not the new hire ever has been convicted of a crime in California;
- A disclosure of whether or not the new hire ever has been convicted of a crime from another state, federal court, military, or jurisdiction outside of U.S; and
- A declaration under penalty of perjury under the laws of the State of California that the new hire has read and understands the information contained in the affidavit and that the responses and any accompanying attachments are true and correct.

The names of new hires submitted by licensees through the *Guardian* Portal will be associated to the facility immediately following submission of request for name-based search.

Pursuant to Penal Code section 11105.7, the DOJ will respond to CDSS name-based searches based upon available identifying characteristics of the applicant matched to those that appear in the criminal history information and CACI information. In cases where the DOJ is not able to

complete the name-based search because the new hire's application does not provide enough information, the results will be inconclusive and will not satisfy the background check requirements pursuant to this waiver. The timeframe for the DOJ to complete the name-based search will vary depending on each application. Neither the DOJ nor any of its employees nor any requesting agency or entity shall be liable to any applicant for misidentifications.

Supervision Pending Live Scan Clearance

Licensees must ensure all new facility staff without a completed Live Scan fingerprint background check are supervised by an onsite staff person with a Live Scan fingerprint background clearance or exemption who has regular in-person check-ins with the new staff when the new staff is present at the facility.

Reporting

Licensees must provide monthly reports to the [Regional Office](#) identifying all individuals hired during that month who have not completed a Live Scan fingerprint background check and who are working pursuant to the terms and conditions of this waiver. The report shall include a copy of each new staff's completed [LIC 508](#), a copy of the completed [BCIA 9010-COVID-19](#), a copy of the individual's Driver's License or government issued photo identification, job title, and start date. The first monthly report must be submitted by May 31, 2020 and shall include any individuals hired during April and May 2020.

Compliance

Live scan fingerprint background check submissions shall be completed as soon as possible after Live Scan services are available in the geographic area where the new staff resides, and in any event no later than June 15, 2020, unless extended by CDSS.

These waivers apply to background check requirements under Health and Safety Code Health and Safety Code sections 1522 and 1522.1; and Title 22, Cal. Code of Regulations, Division 6, sections 80019, 80019.1, 80019.2, 86519, 86519.1, 86519.2.

Terms and Conditions of All Waivers

Licensees may implement the waiver described in this PIN only on an as-needed basis,

in a reasonable manner, and in accordance with any guidance or instructions from CDSS, health care providers, CDC, CDPH, and local health departments. Licensees shall continue to comply with standards that have not been waived in this PIN's statewide waiver or pursuant to a different individual waiver or exception granted by CDSS. Any approved and pending waiver requests for any of the waiver provisions above shall continue to be in force but shall be replaced by this PIN, as specified. Licensees may continue to request individual waivers for standards not included in a statewide waiver in accordance with [PIN 20-04-CCLD](#).

Requirements for Ongoing Compliance with Background Check Waiver; Rescission or Modification

Continued use of this waiver is based on each licensee's compliance with the following terms and conditions:

1. The licensee shall notify the [Regional Office](#) by monthly report for each new staff hired and working pursuant to the background check waiver in this PIN, following the Reporting instruction section of this PIN, and facilities shall post this waiver in a public location.
2. A licensee's revised policies that are impacted by the waiver shall be developed in compliance with the waiver; be readily available for the public's review; and a copy shall be provided to the licensing [Regional Office](#). The policy must include a justification for the need of a waiver.
3. A licensee must inform the authorized representative of a child or nonminor dependent in care of any revised policy impacted by the waiver.
4. The licensee shall comply with directives of state and local health departments.
5. The licensee shall not restrict CDSS, CDPH, local health department officials, and healthcare providers, Ombudsman, and essential government authorities from entering or conducting investigations.
6. Licensees should accommodate the use of video conferencing, teleconferencing, or other technology to support oversight that is conducted remotely.
7. Licensees shall notify the authorized representative of a child or nonminor dependent in care that an individual is working in the facility pursuant to this waiver without a completed Live Scan fingerprint background check. (See Attachment A: Notice to Authorized Representative.)

CDSS may rescind this waiver for an individual licensee at any time if CDSS receives DOJ notification or other evidence of a CACI listing, a conviction requiring a criminal record exemption, an arrest for a crime listed at Health and Safety Code 1522(e), or

other conduct indicating a risk or threat to the health and safety of a child or nonminor dependent or the people of the state of California.

Effective Dates of Statewide Waivers

The statewide waiver in this PIN shall expire on June 15, 2020, or earlier upon written notice from the CDSS. Once these waivers have expired, all licensing requirements shall be reinstated.

Additional Resources

- [California Coronavirus \(COVID-19\) Response](#)
- [California Department of Social Services](#)
- [California Department of Public Health](#)
- [Centers for Disease Control and Prevention](#)
- [Local County Health Departments](#)

If you have questions regarding this PIN, please contact your [Regional Office](#).

**ATTACHMENT A:
IMPORTANT NOTICE TO AUTHORIZED REPRESENTATIVE
Regarding California Department of Social Services
Caregiver Background Check Covid-19 Waiver**

Dear Parent or Authorized Representative:

You are receiving this notice because you are the parent or authorized representative of a child or nonminor dependent in care in a facility identified below that is licensed by the California Department of Social Services (CDSS).

The Proclamation of a State of Emergency in response to a rising number of cases of Coronavirus Disease 2019 (COVID-19) in California permits the CDSS to address the needs of care facilities within its jurisdiction by waiving certain licensing requirements.

The highest priority of CDSS is to protect the health and safety of children or nonminor dependents in our children's residential facilities. In order to ensure that licensed care facilities have sufficient caregiving staff for persons in care during the time that the California Department of Public Health requires the use of physical distancing, CDSS has implemented statewide temporary waivers for certain licensing requirements, including certain background check requirements. Attached to this notice is background check waiver information related to this notice.

Licensed care facilities are required to strictly comply with numerous terms and conditions in order to use the temporary background check waivers, including using them only as needed, in a reasonable manner, and in accordance with any guidance or instructions from the CDSS.

The facility below has hired at least one person under a background check waiver who has not completed a Live Scan fingerprint background check, and instead completed a name-check based process, through the California Department of Justice. Note that all new staff in this facility have completed a self-attestation under penalty of perjury that they do not have a criminal record and their identifying information has been submitted to the Department of Justice for a non-fingerprint-based background check. Please note new staff will not be allowed to work in the facility if they have any known California child abuse history or criminal history, without a criminal record exemption.

The facility must ensure all new facility staff without a completed Live Scan fingerprint background check are supervised by an onsite staff person with a Live Scan fingerprint background clearance or exemption, who will regularly check in with the employee throughout their shift. *(Facility to enter the following information and mail notice to authorized representative.)*

Name of Facility: _____

Facility License #: _____

Facility Address: _____

Facility Phone: _____

If you have questions or concerns regarding the information in this notice, please contact the facility listed above. If you would like to contact the Community Care Licensing Division (CCLD), you may visit the [CCLD Home Page](#) to access the contact information for your local Children's Residential Program Regional Office.

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In addition to complying with the requirements below, licensees should give preference to hiring individuals with a verified existing background clearance from a school district, state, or local government agency or other agency that conditions employment or participation on a background clearance.

1. Transferring a Current CDSS Record Clearance or Exemption:

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Newly hired staff must make every effort to complete the Live Scan requirements within 5 days of starting employment, in addition to any other background check requirements. The Office of the Attorney General has a [location search](#) for providers to locate Live Scan fingerprinting services during the COVID-19 emergency.

If Live Scan Services Are Available

Any new hire without a CDSS clearance or exemption may start working immediately upon submission to the licensee of a completed Criminal Record Statement (LIC 508), signed under penalty of perjury, that does not include any disclosed criminal history. Additionally, a new hire must submit a copy of a completed [Request for Live Scan Service - Community Care Licensing \(LIC 9163\)](#) to the licensee. Within 5 business days of starting work, the new staff shall complete a Live Scan to associate to the licensee.

If Live Scan Services Are Not Available:

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date of birth, social security number, driver's license number, and other identifying information ("name-based search"). CDSS has a new background check system, *Guardian*, in order to facilitate a name-based search with DOJ pursuant to this order. Individuals completing a background check via the name-based search process in *Guardian* will be eligible to work under this temporary waiver authority, provided there is compliance with all other requirements.

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Licensees must provide monthly reports to the [Regional Office](#) identifying all individuals hired during that month who have not completed a Live Scan fingerprint background check and who are working pursuant to the terms and conditions of this waiver. The first monthly report must be submitted by May 31, 2020 and shall include any individuals hired during April and May 2020.

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