

**DIRECT CAREGIVERS
PROCEDURES FOR CONDUCTING CRIMINAL RECORDS CHECKS
Bureau of Health Facilities Regulation
Department of Health & Environmental Control**

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PROCEDURES – DIRECT CAREGIVERS

Before initiating a criminal background check on an individual, read and become familiar with S. C. Code Ann. §44-7-2910, “Criminal Record Checks of Direct Care Staff”. These procedures are intended as a guide only and do not supersede applicable State regulations/laws or federal regulations/laws relevant to employee eligibility.

The procedures do not address or exempt facilities from federal regulations applicable to facilities that participate in the Medicare/Medicaid reimbursement program through the Centers for Medicare and Medicaid Services (CMS). Questions related to federal regulations should be addressed to DHEC Bureau of Certification by e-mail at grangess@dhec.sc.gov or by telephone at (803) 545-4283.

A. DIRECT CAREGIVER INTERPRETATION OF §44-7-2910

Anyone who is paid by or who has a written contract with the direct care entity to provide “hands-on” care to a resident, patient, or client as defined in §44-7-2910, is considered to be a direct caregiver and must have a criminal background check. This includes employees furnished by an employment agency or an employee who works in multiple direct care settings. Visitors, volunteers and family members are usually not considered direct caregivers or caregivers under the definition of §44-7-2910. However, if any volunteer, visitor or family member habitually provides or performs any services or care to a patient, resident, or client (other than a relative) as described in §44-7-2910 of the definition of a direct caregiver, then s/he will be required to have a criminal background check. Minors are not considered to be direct caregivers. However, minors must be under the supervision of an adult who has had a criminal background check if the minor is providing “hands-on” care to a resident, patient or client (other than a relative). A faculty member or student enrolled in an educational program, including clinical study in a direct care entity, are excluded from the definition of a direct caregiver and are therefore not required to have a criminal background check.

B. TYPES OF CRIMINAL BACKGROUND CHECKS

1. **State Criminal Record Check:** is the first check required and is mandatory for all facilities as defined in §44-7-2910. Before conducting a State background check, you will need to determine if the employee will require both a Federal and State background check. If you determine that only a State background check is required, you then need to determine if the person qualifies as a South Carolina (SC) resident or qualifies for residency from another State. If the person does not qualify as a resident of another State, but qualifies as a SC resident, then only a SC State background check will be required. If the person does qualify as a resident of another State, then only the background check from that State is required. There are three ways to conduct a State criminal record check:

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a.) **Electronic Fingerprint Scan** – is the first method and the most reliable. When a State background check is done using this method, it will include the Federal background check as well, even though it may not be required. The cost for conducting this type of check may be significantly higher than the other two methods as you will be charged for both checks plus any additional charges assessed for this service.

b.) **South Carolina SLED Name Based Check** – is the second method; however, the results are not as reliable as an electronic fingerprint scan. This type of check is done on an individual that can prove residency in South Carolina for the past twelve months. The name based check is done through the South Carolina State Law Enforcement Division (SLED) Web site. A background check is made using the persons name, aliases, date of birth, social security number, etc. For more information regarding SC SLED name based background checks, please visit their Website at <http://www.sled.sc.gov/default.aspx?MenuID=Home>. Please note that our Department is not involved with processing State background checks unless it is done by electronic fingerprint scan.

c.) **Other State Name Based Check** – is the third method and, as stated above, the results are not as reliable as an electronic fingerprint scan. This type of check is done on an individual that can prove residency in another State for the past twelve months. The name based check is done through the equivalent law enforcement agency of South Carolina SLED for that State, and is most likely Web based as well. Please note that our Department is not involved with processing State background checks unless it is done by electronic fingerprint scan. Additionally, our Department does not provide or maintain the Web address for other State law enforcement agencies that are able to do this type of background check.

2. **Federal Criminal Record Check:** is the second type of check and is conducted by the Federal Bureau of Investigation (FBI) and is usually done when it has been determined that the person requires both a Federal and State background check. The results will include the SC SLED and FBI database check. When a Federal criminal record check is required, it shall be done by an electronic fingerprint scan. No other type of criminal background check can be substituted for an FBI database check when a Federal background check is required.

C. RESTRICTIONS ON RELEASING RESULTS:

1. **Facilities Governed by Public Law 105-277:** With the exception of volunteers, our Department can only forward the results of the Federal background check to nursing homes and home health agencies. Results must be made available to our inspectors upon request within two hours. For volunteer where you are not permitted to receive the Federal background check results, you must maintain a copy of our Departmental letter and make it available to our inspectors upon request within two hours.

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2. **Facilities Governed by Public Law 92-544:** For employees and volunteers of Community Residential Care Facilities, Day Care Facilities for Adults, Residential Treatment Facilities for Children & Adolescents, Hospice Programs, and Employment Placement Agencies, the Department is not permitted by Public Law (P.L. 92-544) to forward or disclose the results of the Federal background check. We can only inform the direct care entity or the employment placement agency that the individual does or does not have a criminal conviction or has pled no contest (nolo-contendere). In such cases where you are not permitted to receive the Federal background check results, you must maintain a copy of our Departmental letter and make it available to our inspectors upon request within two hours.

3. **Dept of Mental Health and Dept of Disabilities & Special Needs:** For a residential program operated or contracted for operation by the Department of Mental Health or the Department of Disabilities and Special Needs, the results will be sent directly to these Departments provided that a “Memorandum of Understanding” exists between their Departments and ours. For facilities operated by these Departments where we have regulatory authority, the results must be made available to our inspectors upon request within two hours.

4. **Third Party Organizations:** For third party organizations conducting criminal background checks on behalf of a nursing home or home health agency, the results will be forwarded directly to the direct care entity. Exception: by law (P.L. 92-544) we are not permitted to release the results on volunteers. We can only inform the direct care entity that the individual does or does not have a criminal conviction or has pled no contest (nolo-contendere). In such cases where you are not permitted to receive the Federal background check results, you must maintain a copy of our Departmental letter and make it available to our inspectors upon request within two hours.

D. PRE-EMPLOYMENT REQUIREMENTS

All direct care entities employing or contracting with a direct caregiver shall conduct a State criminal record check as provided in Section §44-7-2910 prior to employing or contracting with the direct caregiver. With this in mind, you will need to have the results of the State background check to determine if the person is permitted to begin work in the facility. Please note that when both State and Federal background checks are required, the background checks are conducted by electronic fingerprint scan. As such, you will receive both results simultaneously from our Department with the exception of the federal results, if you are not permitted by Public Law (P.L. 92-544) to receive them.

1. **Employment Evaluation Criteria:** The law states that a direct care entity may consider all information revealed by a criminal background check as a factor in evaluating a direct caregiver’s application to be employed by or contract with the entity. The decision to employ a direct caregiver based on the results of a criminal background check shall be determined by the direct care entity’s policy and procedures with the following exceptions:

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a.) **Exception 1:** Community residential care facilities must comply with Regulation 61-84, Standards for Licensing Community Residential Care Facilities, Section 501.B, which states: "Staff members/direct care volunteers/private sitters of the facility shall not have a prior conviction or pled no contest (nolo-contendere) to abuse, neglect, or exploitation of a child or a vulnerable adult as defined in S.C. Code Ann. Section 43-35-10, *et seq.* (1976, as amended)."

b.) **Exception 2:** Home health agencies must comply with Regulation 61-77, Standards for Licensing Home Health Agencies, Section 1001.A, which states: "Direct care staff / volunteers shall not have prior conviction(s) of child or patient or elder abuse, neglect or mistreatment."

c.) **Exception 3:** Nursing homes must comply with Regulation 61-17, Standards for Licensing Nursing Homes, Section 601.B, which states: "Staff members of the facility shall not have a prior conviction or pled no contest (nolo-contendere) for child or adult abuse, neglect, or mistreatment, or any other felony. The facility shall coordinate with appropriate abuse-related registries prior to the employment of staff." (**Note: "any other felony"** interpretation is addressed in a provider-wide exception and is located online at <http://www.scdhec.gov/health/licen/PWE017-06.pdf>).

d.) **Exception 4:** Hospice programs must comply with Regulation 61-78, Standards for Licensing Hospices, Section 501.B, which states "Direct care staff members/direct care volunteers of the hospice shall not have a prior conviction or have pled no contest (nolo-contendere) for child or adult abuse, neglect, or mistreatment. The hospice shall coordinate with applicable registries should licensed/certified individuals be considered as employees of the hospice. For those staff members/volunteers who are licensed/certified, a copy of the license/certificate shall be available for review."

e.) **Exception 5:** Residential treatment facilities must comply with Regulation 61-103, Standards for Licensing Residential Treatment Facilities For Children and Adolescents, Section C (5), which states in part, ". . .No residential treatment facility shall knowingly employ or retain an individual who has been convicted of having committed a crime of violence, an offense against morality and decency or contributed to the delinquency of a minor. Violent crimes include but are not limited to such offenses as simple assault committed within the last three years; assault and battery; assault and battery of a high and aggravated nature; assault with a deadly weapon; assault with intent to kill; pointing and presenting a firearm; criminal sexual conduct in the first, second and third degree (rape); all forms of homicide, e.g., murder and manslaughter; kidnapping; and arson. Offenses against morality and decency include but are not limited to committing or attempting lewd acts upon a child under fourteen; distribution knowingly of obscene matter to a minor under sixteen; employment or use knowingly of a minor under sixteen to disseminate or promote obscene matter; photographing of a minor for an obscene film or photograph; dissemination of sexually oriented material to minors. Conviction includes the

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results of a jury trial, guilty plea, plea of no contest or forfeiture of bond in cases of misdemeanor."

f.) **Exception 6:** A residential program operated or contracted for operation by the Department of Mental Health or the Department of Disabilities & Special Needs that is licensed by the Department, shall not employ an individual where the applicable regulation prohibits employment for certain crimes or offenses.

E. CONDITIONS REQUIRING ONLY A STATE BACKGROUND CHECK

This Section will assist you in determining if only a State background check is required. The various methods of conducting a State background check only are discussed in Section B.

1. **Twelve-Month Residency Rule:** If the applicant can prove South Carolina residency within the past 12 months or can provide proof that they were a resident in another State for the past twelve months, then only a State criminal background check is required. You will need either to have the South Carolina State background conducted or be able to obtain the background check from another State where the person last resided. If you are unable to verify that the applicant has been a resident in this State or in another State for the past 12 months, then both a State (South Carolina) and Federal criminal background check will be required.

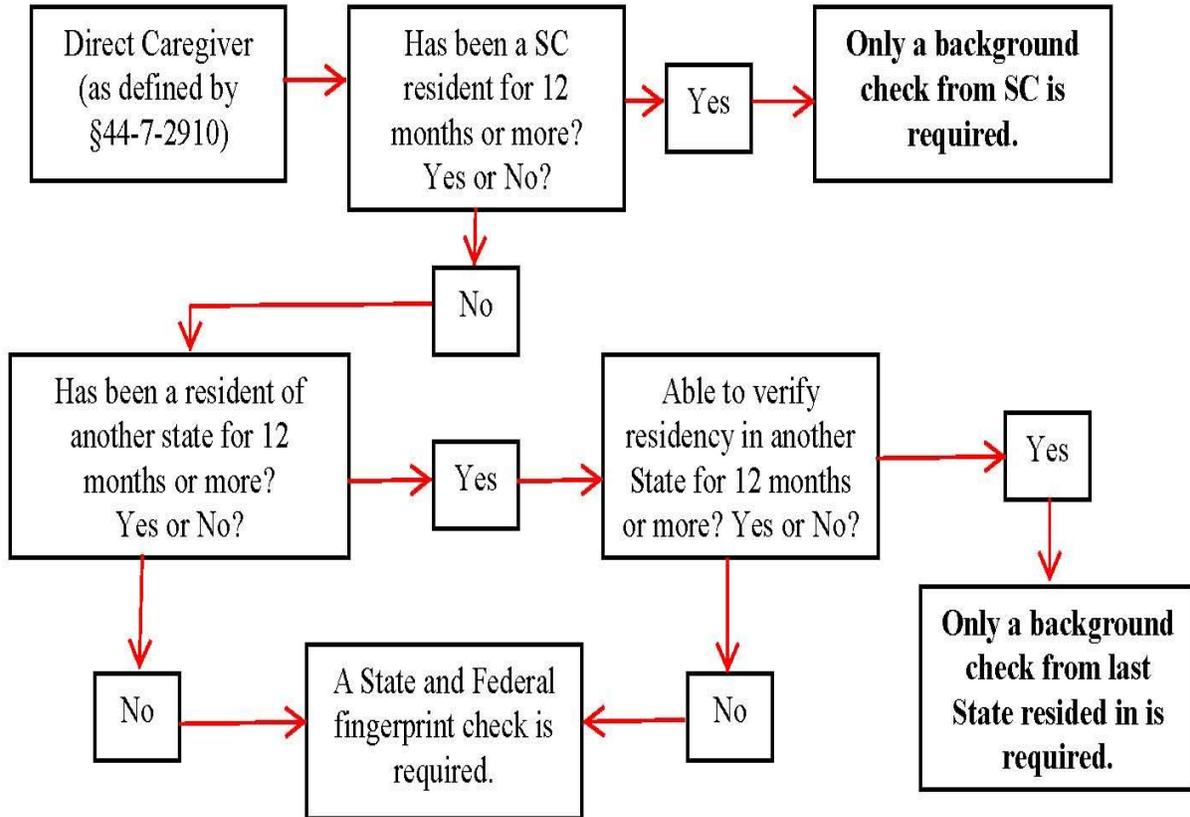
2. **Verification Documents:** The applicant must first provide verification of residency that s/he has been a resident of South Carolina for the past twelve months or has been a resident of another State for the past twelve months. Acceptable documentation is as follows:

- a.) A driver's license or identification card;
- b.) Rent, mortgage, or utility receipts in the applicant's name for a home;
- c.) Pay stubs in the applicant's name from a business; or
- d.) Bank records in the applicant's name showing a deposit or checking account held in a State branch office of a bank.

3. **Determine if a Only a State Background Check is Required:** To determine if the applicant only requires a State background check, s/he must first provide you with proof as described in Section E.2, to verify that s/he has been a resident in South Carolina for the past 12 months or has been a resident of another State for the past twelve months. The 12 month period is determined from the date of the employment application. For example, if the application is dated December 31, 2010, the applicant must have been a resident in South Carolina (or a resident of another State) no later than January 1, 2010. The following flow chart (Figure 1) will assist you in determining if only a State background check is required:

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**FIGURE 1
Determining if Only a State Background Check is Required**



F. RESPONSIBILITY OF DIRECT CARE ENTITY

The procedures contained in this section are intended for direct care entities licensed by the Department. Our ability to administer the law is limited to licensed entities only. Third party organizations, such as an employment agency, may not furnish employees to a direct care entity without conducting a criminal record check on each employee. An employee who works in multiple direct care settings must have a criminal record check on file at the location of the employment agency, the home office of his employer, or at the individual's primary place of employment. The licensed direct care entity is held responsible (not the third party organization), by the Department, for providing copies of the background check upon request, within 2 hours of receiving the request. For organizations conducting criminal background checks on behalf of a licensed direct care entity, see Section H before proceeding. For employment services organizations providing employees to a licensed direct care entity, see Section I before proceeding.

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G. PENALTIES FOR VIOLATION OF SECTION 44-7-2950

The Department of Health and Environmental Control is the entity responsible for enforcement of Section 44-7-2950. In accordance with Section 44-7-2950 of the 1976 SC Code of Laws, as amended, an individual who violates this article, or a regulation promulgated pursuant to this article, is subject to a civil fine of one hundred dollars for the first violation and five hundred dollars for each subsequent violation. A fine imposed pursuant to this section must be paid before a direct care entity's license can be renewed. Fines collected pursuant to this section must be retained by the Department to help offset the costs associated with carrying out the Department's responsibility under this article.

**H. ORGANIZATIONS CONDUCTING BACKGROUND CHECKS
ON BEHALF OF A DIRECT CARE ENTITY**

1. **Purpose:** The purpose of this section is to assist direct care entities using organizations not licensed by the Department that conduct criminal background checks on behalf of the direct care entity in complying with Section 44-7-2810. The procedures in this section are intended as a guide only and do not supersede applicable State regulations/laws or federal regulations/laws relevant to employee eligibility. The procedures do not address or exempt facilities from federal regulations applicable to facilities that participate in the Medicare/Medicaid reimbursement program through the Centers for Medicare and Medicaid Services (CMS).

2. **State Background Checks:** For State background checks, organizations may obtain results on direct caregivers directly through SC SLED or from another State law enforcement entity equivalent to SC SLED without having to go through the direct care entity, unless the check is done by electronic fingerprint scan. See Section B of these procedures regarding methods for obtaining a State background check.

3. **Federal Background Checks:** If a direct caregiver does not meet the twelve-month residency requirement of Section 44-7-2910, a State and Federal background check is required and has to be done by an electronic fingerprint scan. The results of the background check will be mailed to the direct care entity. Third party organizations are not permitted to conduct this type of check unless contracted with South Carolina SLED. However, they are permitted to make arrangements/appointments for a direct caregiver to have the scan done by a third party organization that has a contract and the capability. When completing the online application for appointment, the employer address must be that of the direct care entity and not the organization making the appointment on behalf of the direct care entity's prospective employee.

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4. **Organization Responsibilities:** Our authority to enforce Section 44-7-2910 is limited to direct care entities that the Department licenses that are affected by the law. The Department holds the direct care entity ultimately responsible for compliance with the law. If the following procedure is used, you will be in compliance with Section 44-7-2910:

a.) The organization must have a written policy for conducting criminal background checks on direct caregivers. A copy of the policy must be on file at each direct care entity where direct caregivers will be working. The policy must fully explain: (1) how the criminal background checks are being conducted and (2) the measures that are in place to maintain custody and integrity of the results.

b.) The organization must have a written contract with the direct care entity. A copy of the contract must be on file at the direct care entity. The contract must stipulate that: (1) criminal background checks will be conducted by the organization in accordance with Section 44-7-2910 of the SC Code of Laws and the requirements contained in these procedures and, (2) the organization shall be required to provide a copy of the background results to the direct care entity, or to our Department for inspection purposes, within 2 hours after receiving a request on any direct caregiver.

c.) The organization understands and agrees that a criminal background check on a direct caregiver must be kept on file at the organization for no less than two years after the direct caregiver is no longer employed by the direct care entity.

5. **Direct Care Entity Responsibilities:**

a.) Required to keep a copy of all letters sent by the third party organization regarding background checks conducted on a direct caregiver for a period of two years from the date the direct caregiver last worked for the direct care entity.

b.) Required to keep a copy of all letters sent by the third party organization clearing the direct caregiver to work for the direct care entity for a period of two years from the date the direct caregiver was terminated.

c.) Required to keep a copy of the written contract that was made with the organization for a period of two years after the contract is no longer in effect.

d.) Required to keep a copy of the organization's written policy for conducting criminal background checks for a period of two years after the written contract is no longer in effect.

e.) Responsible for ensuring that the organization is abiding by the written contract and their written policies for conducting criminal background checks.

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I. EMPLOYMENT PLACEMENT AGENCY PROVIDING DIRECT CAREGIVERS

1. **Purpose:** The purpose of this Section is to assist direct care entities using organizations not licensed by the Department who provide direct caregivers in complying with 44-7-2910, Section 44-7-2810. Section 44-7-2910 (A) (2) states: “An employment agency may not furnish employees to a direct care entity without conducting a criminal record check on each employee. An employee who works in multiple direct care settings must have a criminal record check on file at the location of the employment agency, the home office of his employer, or at the individual’s primary place of employment.” These procedures are intended as a guide only and do not supersede applicable State regulations/laws or federal regulations/laws relevant to employee eligibility. The procedures do not address or exempt facilities from federal regulations applicable to facilities that participate in the Medicare/Medicaid reimbursement program through the Centers for Medicare and Medicaid Services (CMS).

2. **State Background Checks:** For State background checks, organizations may obtain results on direct caregivers directly through SC SLED or from another Out-of-State law enforcement entity equivalent to SC SLED, unless the check is done by electronic fingerprint scan. See Section B of these procedures regarding methods for obtaining a State background check.

3. **Federal Background Checks:** If a direct caregiver does not meet the twelve-month residency requirement of Section 44-7-2910, a State and Federal background check is required and is done by an electronic fingerprint scan. Because the Federal results of the background check cannot be mailed to third party organizations, we can only inform you by letter that the individual does or does not have a criminal conviction or has pled no contest (nolo-contendere). In such cases where you are not permitted to receive the Federal background check results, you must maintain a copy of our Departmental letter and make it available to our inspectors upon request within two hours.

4. **Organization Responsibilities:** Our authority to enforce Section 44-7-2910 is limited to direct care entities that the Department licenses that are affected by the law. The Department holds the direct care entity ultimately responsible for compliance with the law. If the following procedure is used, you will be in compliance with Section 44-7-2910:

a.) The organization must have a written policy for conducting criminal background checks on their direct caregivers and be able to provide a copy of the policy to our inspectors upon request within 2 hours. The policy must fully explain: (1) how the criminal background checks are being conducted and, (2) the measures that are in place to maintain custody and integrity of the results.

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b.) The organization must have a written contract with the direct care entity. A copy of the contract must be on file at the direct care entity. The contract must stipulate that: (1) criminal background checks will be conducted by the organization in accordance with Section 44-7-2910 of the SC Code of Laws and the procedures contained in this memorandum and, (2) The organization shall be required to provide a copy of the background results to the direct care entity, or to our Department for inspection purposes, within 2 hours after receiving a request on any direct caregiver.

c.) The organization understands and agrees that a criminal background check on a direct caregiver must be kept on file at the organization for no less than two years after the direct caregiver is no longer employed by the direct care entity.

5. Direct Care Entity Responsibilities:

a.) Required to keep a copy of all letters sent by the organization regarding background checks conducted on a direct caregiver for a period of two years from the date the direct caregiver last worked for the direct care entity.

b.) Required to keep a copy of all letters sent by the organization clearing the direct caregiver to work for the direct care entity for a period of two years from the date the direct caregiver last worked for the direct care entity.

c.) Required to keep a copy of the written contract that was made with the organization for a period of two years after the contract is no longer in effect.

d.) Required to keep a copy of the organization's written policy for conducting criminal background checks for a period of two years after the written contract is no longer in effect.

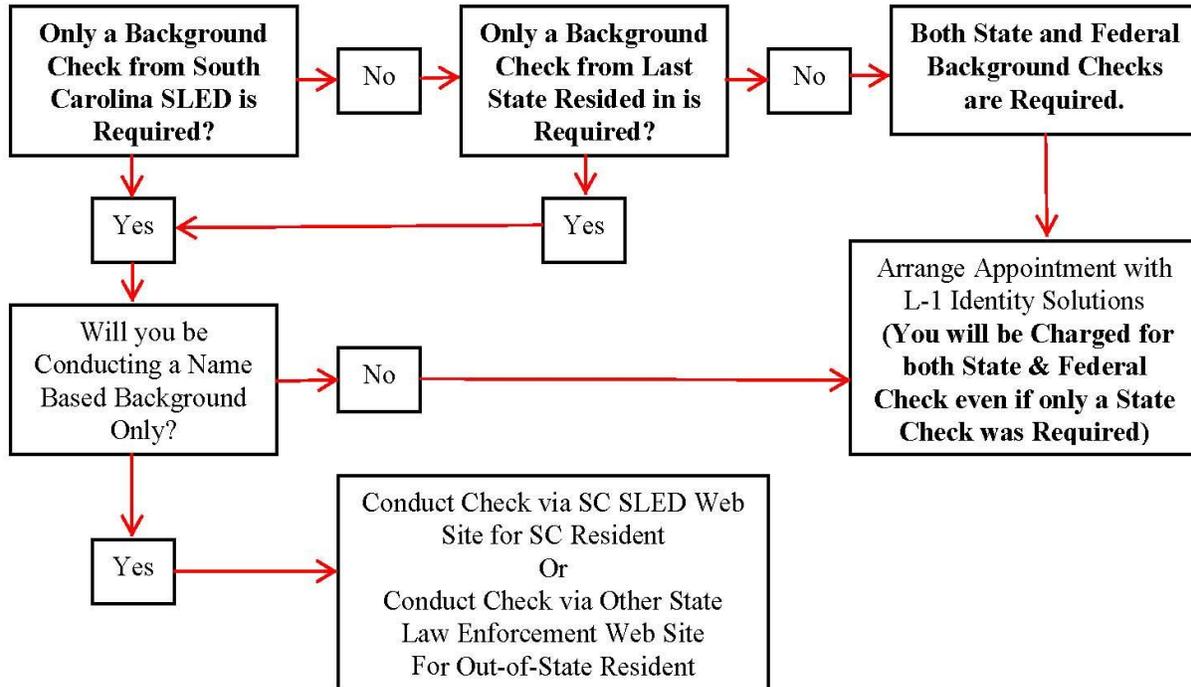
e.) Responsible for ensuring that the organization is abiding by the written contract and their written policies for conducting criminal background checks.

J. CONDUCTING A STATE & FEDERAL BACKGROUND CHECK

1. **Determine Method for Conducting Background Check:** First, determine if only a State background check is required or, if both a State and Federal background check will be required (see Section E Figure 1). If you determine that only a State background check is required or, that both a State and Federal background check are required, then you need to determine the method by which the criminal background check will be conducted. Figure 2 below will assist you in determining your options for the method that will be used for conducting a background check.

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**FIGURE 2
Choosing Method for Conducting Background Check**



2. **L-1 Enrollment Services Fingerprint Scan:** Once you have determined that both a Federal and State background check are necessary you will need to schedule the employee for an electronic fingerprint scan with L-1 Enrollment Services (a.k.a. SAFRAN MorphoTrust USA) Prospective employees are generally not permitted to make their own appointments as they may not have sufficient employer information to complete the online appointment requirements. Appointments are primarily made via the internet. If you do not have internet access, you can call to schedule appointments and arrange payment with L-1 Enrollment Services at their toll free number 1-866-254-2366.

3. **Appointment Form:** Before scheduling an appointment on-line or by phone, the employer will need to complete the Direct Caregiver Application for Electronic Fingerprint Scan form. By completing this form first, you will have all the necessary information for making the appointment. A copy of the form should be given to the applicant to take with him/her to the L-1 Enrollment Services scanning center. **Also, mail a copy of the form to the SCDHEC, Bureau of Health Facilities Regulation, 2600 Bull Street, Columbia, SC 29201.** An example of the application form is attached to these procedures as Section M. The form is also located on our Website at <http://www.scdhec.gov/health/licen/crc.htm>.

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4. **Internet Appointments:** Appointments need to be made by the employment entity on behalf of the direct caregiver. To schedule an appointment online, go to the L-1 Enrollment Services (SAFRAN MorphoTrust USA) Website at <https://sc.ibtfingerprint.com/>. Enter the Direct Caregiver’s first and last name in the spaces provided. Then click “Go”.

K. AGENCY NUMBER OR ID/EMPLOYER NUMBER

The proper selection on this Webpage depends upon the type of employer. For Sections L – O of these procedures, the instructions will vary depending upon the selection made. Before proceeding, please be sure you have completed the Direct Caregiver Application for Electronic Fingerprint Scan form (Section V).

L. DHEC: DIRECT CAREGIVERS-LICENSED HEALTH CARE FACILITY/AGENCY

Choose this option if you are an employer that has a license issued by our Department. Do not use this option for direct caregivers employed or to be employed by the Department of Mental Health, Department of Disabilities & Special Needs, or Employment Placement Agency.

1. **Employee Type:** Select the appropriate employee type from the drop down menu (Volunteer Employee, Temporary Employee, or Full Time Paid Employee).

2. **License Prefix and Number:** From the drop down menu, select the appropriate prefix from your license certificate (bottom left corner of the license certificate):

- | | |
|--|-------------------------------------|
| ADC (Day Care Facility for Adults) | HHA (Home Health Agency) |
| CRC (Community Residential Care Facility) | NCF (Nursing Home) |
| HPC (Hospice Program) | IHCP (In-home Care Provider) |
| RTF (Residential Treatment Facility for Children & Adolescents) | |

In the second field, enter the license number from the certificate which is located to the right of the certificate prefix. The following is an example of the required information:

EXAMPLE **Employee Type:**

Facility/Agency License Number: -

3. **Applicant Information:** Complete all required fields for the person that is to be fingerprinted.

4. **Applicant Employer/Facility Information:** Enter the name of the person you want the results to be sent to, the name of your facility/agency, and the mailing address in the spaces provided. **This information is critical so that we know where to send the results.**

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Follow the remaining prompts on the screen to complete the online application. Print your confirmation number and have the employee bring it with them to their scheduled appointment along with a copy of the Direct Caregiver Application for Electronic Fingerprint Scan form.

M. DHEC: DIRECT CAREGIVERS-DEPT OF DISABILITIES & SPECIAL NEEDS

Choose this option if the direct caregiver will be working for this Department.

1. **Employee Type:** Select the appropriate employee type from the drop down menu (Volunteer Employee, Temporary Employee, or Full Time Paid Employee).
2. **Applicant Information:** Complete all required fields for the person that is to be fingerprinted.
3. **Applicant Employer/Facility Information:** Enter the name of the person you want the results to be sent to, the name of your facility/agency, and the mailing address in the spaces provided. **This information is critical so that we know where to send the results.** Follow the remaining prompts on the screen to complete the online application. Print your confirmation number and have the employee bring it with them to their scheduled appointment along with a copy of the Direct Caregiver Application for Electronic Fingerprint Scan form.

N. DHEC: DIRECT CAREGIVERS-DEPT OF MENTAL HEALTH

Choose this option if the direct caregiver will be working for this Department.

1. **Employee Type:** Select the appropriate employee type from the drop down menu (Volunteer Employee, Temporary Employee, or Full Time Paid Employee).
2. **Applicant Information:** Complete all required fields for the person that is to be fingerprinted.
3. **Applicant Employer/Facility Information:** Enter the name of the person you want the results to be sent to, the name of your facility/agency, and the mailing address in the spaces provided. **This information is critical so that we know where to send the results.** Follow the remaining prompts on the screen to complete the online application. Print your confirmation number and have the employee bring it with them to their scheduled appointment along with a copy of the Direct Caregiver Application for Electronic Fingerprint Scan form.

Effective: 03/19/12

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O. DHEC: DIRECT CAREGIVERS-EMPLOYMENT PLACEMENT AGENCY

This option is for an employment placement agency that provides employees to direct care entities.

1. **Employee Type:** Select the appropriate employee type from the drop down menu (Volunteer Employee, Temporary Employee, or Full Time Paid Employee).

2. **Applicant Information:** Complete all required fields for the person that is to be fingerprinted.

3. **Applicant Employer/Facility Information:** Enter the name of the person to be notified of the outcome of the results, the name of your Organization, and the mailing address in the spaces provided. Follow the remaining prompts on the screen to complete the online application. Print your confirmation number and have the employee bring it with them to their scheduled appointment along with a copy of the Direct Caregiver Application for Electronic Fingerprint Scan form.

P. Identification (ID) Requirements: If you are being fingerprinted at an L-1 Solution Center in South Carolina (SC), you will need a valid SC Drivers License. If you do not possess a valid SC Drivers License, you will need to present two forms of identification of which one must be a photo ID. Acceptable forms of identification are listed below:

Column A - Valid Photo Identification	Column B - Valid Supplementary Identification
<input type="checkbox"/> U.S. Passport (unexpired or expired)	<input type="checkbox"/> Voter registration card
<input type="checkbox"/> Driver's License or Photo ID Card (issued by U.S. State or Territory)	<input type="checkbox"/> U.S. Military card or draft record
<input type="checkbox"/> Photo ID Card issued by federal, state, or local govt.	<input type="checkbox"/> U.S. Social Security Card
	<input type="checkbox"/> Original or certified copy of a Birth Certificate issued by authorized U.S. agency with official seal

Q. Fees for Fingerprint Scan: The cost for the fingerprint scan is **\$51.50** (\$25 SLED + \$16.50 FBI + \$10 L-1 Enrollment Services) for employees and **\$40.00** (\$15 SLED + \$15.00 FBI + \$10 L-1 Enrollment Services) for volunteers. Do not send payment to our office as payment is made to L-1 Enrollment Services. Payment can be made on-line when making the appointment. This can be done by credit/debit card, direct withdrawal from a bank account (e-check). You can also indicate on-line, that payment will be made at the time of the appointment with a business check or money order. If the employer is paying, an escrow account can be established and pre-funded. The applicant uses a billing code to pay and the account is debited at the time of appointment. All checks are to be made payable to L-1 Enrollment Services.

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R. RESULTS NOT RECEIVED AND A REJECTED SCAN: If your facility or agency has not received a notice from our Department within 15 day concerning the results of the background check, it means that a problem has occurred. The problems are usually the result of one of the following:

1. The scan was rejected as the fingerprints are unable to be scanned. In the event a scan is rejected by the FBI, South Carolina SLED will notify L-1 Enrollment Services and they will contact the applicant directly by mail to inform them that their scan was rejected. They will reschedule the applicant for a second scan. The applicant will need to bring a copy of the transaction receipt that was provided to them at the time of the first scan in order to avoid being charged again. Figure 3 below is an example of the transaction receipt.

Figure 3
Transaction Receipt

The form is titled "Transaction Receipt" and is set against a black header bar. It features three logos at the top: L-1 Identity Solutions on the left, South Carolina Easy Path Fingerprinting Services in the center, and Integrated Biometric Technology on the right. Below the logos are several fields for data entry: Applicant Name (with sub-fields for Last, First, and Initial), Agency, Amount Paid, Transaction #, Date, and Operator ID.

L-1 IDENTITY SOLUTIONS

**South Carolina
Easy Path
Fingerprinting Services**

**INTEGRATED
BIOMETRIC
TECHNOLOGY**
An L-1 Identity Solutions Company

Applicant Name: _____
Last First Initial

Agency: _____

Amount Paid: _____ Transaction #: _____

Date: _____ Operator ID: _____

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2. The wrong agency routing number (ORI) was selected when you made your appointment and the results were sent to the wrong Agency.

3. A technical problem has occurred and the result is lodged in the system.

If for any reason you have not received a notice from us within 15 days concerning the results of the scan, have the applicant bring you a copy of the transaction receipt. Then, contact our Department (See Section S-1 for our contact information). Provide us with the applicant's full name, date of birth, date of the fingerprint scan, and a copy the transaction receipt (or transaction number). We will contact SCSLED and/or the FBI for resolution.

S. ASSISTANCE & FITNESS DETERMINATION

1. **DHEC Contact Information:** The Bureau of Health Facilities Regulation has staff available to answer questions and to assist you with these procedures. You can contact our office by writing to SCDHEC, Bureau of Health Facilities Regulation, 2600 Bull Street, Columbia, SC, 29201; calling our office at (803) 545-4049; (803) 545-4370 or by e-mail at FORDSR@dhec.sc.gov.

2. **SLED Contact Information:** If you have questions regarding a South Carolina State criminal background check you may visit the SLED website at <http://www.sled.sc.gov> and access the Criminal Records Check Section or the General Information Area for frequently asked questions. You may also contact SLED at (803) 896-7005.

3. **L-1 Enrollment Services Contact Information:** If you have questions regarding fingerprint scanning, please contact L-1 Enrollment Services (a.k.a. SAFRAN MorphoTrust USA) at their toll free number 1-866-254-2366.

4. **Fitness Determination:** For determining eligibility for employment or contract services for crimes not covered by regulation, it may be necessary for you to consult with your legal counsel prior to determining eligibility.

T. ON-SITE SCANNING VIA MOBILE UNIT

A minimum of 25 employees is required in order for L-1 Enrollment Services to deploy their mobile fingerprint scanning unit at a facility location. Reservations must be made 2 weeks in advance. For more information regarding an appointment for the mobile unit, contact L-1 Enrollment Services at their toll free number 1-866-254-2366.

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U. ARTICLE 23 CRIMINAL RECORD CHECKS OF DIRECT CARE STAFF

SECTION 44-7-2910. Criminal record check for direct caregivers; definitions.

(A) (1) A direct care entity employing or contracting with a direct caregiver shall conduct a criminal record check as provided in this section prior to employing or contracting with the direct caregiver. A direct care entity may consider all information revealed by a criminal record check as a factor in evaluating a direct caregiver's application to be employed by or contract with the entity.

(2) An employment agency may not furnish employees to a direct care entity without conducting a criminal record check on each employee. An employee who works in multiple direct care settings must have a criminal record check on file at the location of the employment agency, the home office of his employer, or at the individual's primary place of employment.

(B) For purposes of this article:

(1) "Direct care entity" means:

- (a) a nursing home, as defined in Section 44-7-130;
- (b) a daycare facility for adults, as defined in Section 44-7-130;
- (c) a home health agency, as defined in Section 44-69-20;
- (d) a community residential care facility, as defined in Section 44-7-130;
- (e) a residential program operated or contracted for operation by the Department of Mental Health or the Department of Disabilities and Special Needs;
- (f) residential treatment facilities for children and adolescents;
- (g) hospice programs.
- (h) an in-home care provider, as defined in Section 44-70-20(3).

(2) "Direct caregiver" or "caregiver" means:

- (a) a registered nurse, licensed practical nurse, or certified nurse assistant;
- (b) any other licensed professional employed by or contracting with a direct care entity who provides to patients or clients direct care or services and includes, but is not limited to, a physical, speech, occupational, or respiratory care therapist;
- (c) a person who is not licensed but provides physical assistance or care to a patient or client served by a direct care entity;
- (d) a person employed by or under contract with a direct care entity who works within any building housing patients or clients;
- (e) a person employed by or under contract with by a direct care entity whose duties include the possibility of patient or client contact.

For purposes of this article, a direct caregiver does not include a faculty member or student enrolled in an educational program, including clinical study in a direct care entity.

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(C) (1) A direct caregiver applicant shall provide verification of residency for the twelve months preceding the date of the employment application. The direct care entity shall conduct a state criminal record check if the applicant has resided in South Carolina during that twelve-month period and can verify residency through:

- (a) a driver's license or identification card issued by the State of South Carolina;
- (b) rent, mortgage, or utility receipts in the applicant's name for a home within South Carolina;
- (c) pay stubs in the applicant's name from a business located in South Carolina; or
- (d) bank records in the applicant's name showing a deposit or checking account held in a South Carolina branch office of a bank.

(2) A direct care entity unable to verify South Carolina residency for a direct care applicant for the preceding twelve months shall conduct a state criminal record check on the applicant prior to employment and shall commence a federal criminal record check after employment. However, if the direct care entity can verify residency in another state for the preceding twelve months, the direct care entity may conduct only a state criminal record check in the applicant's resident state or jurisdiction where the applicant previously resided.

HISTORY: 2002 Act No. 242, Section 1, eff July 1, 2002; 2004 Act No. 264, Section 1, eff July 6, 2004; 2006 Act No. 301, Section 11, eff May 23, 2006; 2010 Act No. 207, Section 2, eff June 7, 2010; 2011 Act No. 18, Section 2, eff May 11, 2011.

SECTION 44-7-2920. Criminal record check procedures.

Criminal record checks required pursuant to this article must be conducted by the State Law Enforcement Division or by a private business, organization, or association which conducts background checks if that entity utilizes current criminal records obtained from the State Law Enforcement Division or the Federal Bureau of Investigation to determine any criminal record. An applicant shall submit with the application one complete set of the applicant's fingerprints on forms specified or furnished by the State Law Enforcement Division. Fingerprint cards submitted to the State Law Enforcement Division pursuant to this section must be used to facilitate a national criminal records check, as required by this section. The criminal record check is not required to be repeated as long as the person remains employed by or continues to contract with a direct care entity; however, if a person is not employed by or is not under contract for one year or longer with a direct care entity, the criminal record check must be repeated before resuming employment or contracting with a direct care entity. The fee charged by the Federal Bureau of Investigation, if any, for the fingerprint review must be paid by the individual direct caregiver or the direct care entity.

HISTORY: 2002 Act No. 242, Section 1, eff July 1, 2002; 2004 Act No. 264, Section 2, eff July 6, 2004.

Effective: 03/19/12

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SECTION 44-7-2930. Personnel records.

A direct care entity may furnish copies of personnel records of current or former direct caregivers to another direct care entity requesting this information. Information contained in the records may include, but is not limited to, disciplinary matters and any reasons for termination. A direct care entity releasing these records pursuant to this section is presumed to be acting in good faith and is immune from civil and criminal liability which otherwise may result by reason of releasing this information. A direct care entity receiving records pursuant to this section shall conduct its own criminal record check pursuant to this article.

HISTORY: 2002 Act No. 242, Section 1, eff July 1, 2002.

SECTION 44-7-2940. Department of Health and Environmental Control oversight of criminal record checks by direct care entities; license renewals.

The Department of Health and Environmental Control shall verify that a direct care entity is conducting criminal record checks as required in this article before the department issues a renewal license for the direct care entity. The department shall act as the channeling agency for any federal criminal record checks required by this article.

HISTORY: 2002 Act No. 242, Section 1, eff July 1, 2002.

SECTION 44-7-2950. Civil fines for violation of criminal record check requirements.

An individual who violates this article, or a regulation promulgated pursuant to this article, is subject to a civil fine of one hundred dollars for the first violation and five hundred dollars for each subsequent violation. A fine imposed pursuant to this section must be paid before a direct care entity's license is renewed. Fines collected pursuant to this section must be retained by the department to help offset the costs associated with carrying out the department's responsibilities under this article.

HISTORY: 2002 Act No. 242, Section 1, eff July 1, 2002.

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V. DIRECT CAREGIVER APPLICATION FOR ELECTRONIC SCAN (FORM)

The actual form to use is located on our Website at http://www.scdhec.gov/health/licen/crc.htm



Direct Caregiver Application for Electronic Scan
Bureau of Health Facilities Regulation

Mail a completed copy of form to: SCDHEC-FBI Program, Bureau of Health Facilities Regulation, 2600 Bull St, Columbia, SC, 29201

APPLICANT INFORMATION - (Applicant is to provide completed form to person conducting the scan)

Name: Last First Middle
Address:
City: State: Zip:
Daytime Contact #: Social Security #:
Date of Birth: Birthplace:
Citizenship: Height: Weight:
Original TCN (if this is a reprint)

Circle Codes That Apply: Sex: Male - M Female - F Race: White - W Black - B Unknown - U

Hair Color: Bald - BAL Black - BLK Brown - BRO Gray/Part Gray - GRY
Red/Auburn - RED Sandy - SDY White - WHI Blond/Strawberry - BLN

Eye Color: Black - BLK Blue - BLU Brown - BRO Gray - GRY
Green - GRN Pink - PNK Hazel - HAZ

EMPLOYER INFORMATION

Organization Name:
Mailing Address:
City: State: Zip:
License Number: (License number of the health care facility/activity if applicable)

Applicant (Check Only One): Full Time Paid Employee Temporary Paid Employee Volunteer

Circle Code (Only One) That Applies:

NCF - Nursing Home HHA - Home Health Agency HPC - Hospice Agency
ADC - Day Care Facility for Adults RTF - Residential Treatment Facility Children & Adolescents
CRC - Community Residential Care DDSN - Dept of Disabilities & Special Needs
DMH - Dept of Mental Health EPA - Employment Placement Agency IHCP - In-home Care Provider

FEES and CODING INFORMATION (Circle only the one that applies)

\$40.00 SCDHEC02Z - VOLUNTEER (For unpaid volunteer regardless of facility type)
\$51.50 SCNFHHC9Z - NCF or HHA (For Full Time Paid Employee or Temporary Paid Employee)
\$51.50 SCDHEC00Z - ADC, CRC, HPC, IHCP, RTF (Full Time Paid Employee or Temporary Paid Employee)
\$51.50 SCDHEC03Z - DDSN (Use this ORI code regardless of Facility Type or Employee Type)
\$51.50 SCDHEC04Z - DMH (Use this ORI code regardless of Facility Type or Employee Type)
\$51.50 SCDHEC05Z - EPA (Use this ORI code if referred by Employment Placement Agency)

Use Fees and Coding Information above to ensure correct processing and fees. Go to http://www.i1enrollment.com/ or call 1-866-254-2366 to schedule fingerprinting appointments. Please bring your Driver's License (or other State or Federal issued Photo ID) to your fingerprint appointment.

Effective: 03/19/12

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Department of Health & Environmental Control**

**Instructions
Direct Caregiver Application for Electronic Scan
Bureau of Health Facilities Regulation**

Purpose: the purpose of this form is to assist employers and applicants in gathering the necessary information prior to having an electronic fingerprint scan as required by §44-7-2910 "CRIMINAL RECORD CHECKS OF DIRECT CARE STAFF".

Applicant Information: Enter name, address, city, state and zip in the appropriate spaces provided. Enter daytime contact phone number, applicant's Social Security Number, date of birth, and birth place in the appropriate spaces provided. Enter the applicant's citizenship (i.e. United States Citizen, or other country). Enter applicant's height and weight in the appropriate space provided.

If the application is for a reprint (rescan), enter the original TCN as provided to you by L-1 Enrollment Services.

Circle the appropriate code for Sex, Race, Hair Color, and Eye Color.

Employer Information: Enter on the attention line, the name of the person the results are to be mailed to. Enter the organization name, mailing address, city, state and zip in the appropriate spaces provided.

Enter the license number, if applicable, that was issued to the facility by the Department.

Check the appropriate block for the applicant as Full Time Paid Employee, Temporary Paid Employee, or Volunteer. Check only one block.

Circle the appropriate code that applies.

Circle the appropriate fee and coding information based upon the information that was completed for the applicant and the employer.

Use either the Website or phone number to schedule the appointment.

Bring a copy of the application to L-1 Enrollment Services center where the applicant has their appointment to be scanned.

Mail a copy of the application to: SCDHEC, Bureau of Health Facilities Regulation, 2600 Bull St, Columbia, SC, 29201

OFFICE MECHANICS AND FILING: This is a routine form that is used by the applicant and employer to gather information prior to having an electronic fingerprint scan. This form is for public use and is not retained or required to be sent back to the Department upon completion. The Department does not maintain this completed form at its location. The usefulness of the form is limited to the date and time in which the electronic scan is completed. The person completing the application may retain a copy for their records or destroy it when no longer needed.