

General Q&A

What is a fingerprint records check?

A fingerprint records check is done using the fingerprints of the individual by the Georgia Bureau of Investigation (GBI) and the Federal Bureau of Investigation (FBI) in response to a request by DCH.

Who has to have a fingerprint records check done?

The owner(s) of Community Living Arrangement, Personal Care Homes, and Private Home Care. Also, the Directors/Managers of Personal Care Homes require a GBI and FBI fingerprint check.

How long will it take DCH to issue a determination letter once I am finger printed?

It normally takes 48 hours for DCH to receive the fingerprint results from the GBI and FBI. Once the fingerprint results are received, you should receive a determination letter within the next 5-7 days.

How long is a Satisfactory Criminal Records Determination good for?

It depends. Generally, a satisfactory criminal records check is good for 12 months.

Fingerprints

How do I submit fingerprints?

For more information and to learn how to submit electronic fingerprints, refer to the Criminal Records GAPS/COGENT Instructions.

How long does it take to get State and Federal results back?

On an average, it takes 24-48 hours to receive a response from the GBI and FBI.

Can I submit my fingerprint cards directly to the GBI/FBI?

No. You must be fingerprinted per the GAPS/COGENT Instructions.

Can I get fingerprinted at my local law enforcement agency or Police Department?

No. You must get fingerprinted at a Cogent/GAPS location.

As an owner coming from another facility or opening a second location, do I have to do my fingerprints over?

It depends. If it has been less than a year since you received a satisfactory fingerprint check determination, you do not have to have your fingerprints done over again as long as you can show proof of the satisfactory determination. If it has been more than a year since the last fingerprint check and you open another business, you will have to be fingerprinted again.

Covered Crimes - Owners 31-2-9

What are the crimes that could prevent a person from owning a Community Living Arrangement, Personal Care Home, or Private Home Care Provider business?

A covered crime is being arrested, charged or convicted of any of the following crimes

1. A violation of Code Section 16-5-1; murder
2. A violation of Code Section 16-5-21, relating to aggravated assault;
3. A violation of Code Section 16-5-70, relating to aggravated battery;
4. A violation of Code Section 16-5-70 relating to cruelty to children;
5. A violation of Code Section 131-7-12.1, unlicensed personal care home;
6. A violation of Code Section 16-6-1, relating to rape;
7. A violation of Code Section 16-6-2, relating to aggravated sodomy;
8. A violation of Code Section 16-6-4, relating to child molestation;
9. A violation of Code Section 16-6-5, relating to enticing a child for indecent purposes;
10. A violation of Code Section 16-6-5.1, relating to sexual assault against persons in custody, detained persons, or patients in hospitals or other institutions;
11. A violation of Code Section 16-6-22.2, relating to aggravated sexual battery;
12. A violation of Code Section 16-8-41; armed robbery;
13. A violation of Article 8 of Chapter 5 of Title 16; Theft of Services
14. Any other offense committed in another jurisdiction that, if committed in this state, would be deemed to be a crime listed in this paragraph without regard to its designation elsewhere.

Covered Crimes – Directors, Managers, Administrators, and Employees 31-7-250

What are the crimes that could prevent a person from working as a Director, Manager, Administrator, and Employee at a Personal Care Home?

A covered crime is being arrested, charged or convicted of any of the following crimes:

1. A violation of Code Section 16-5-21, relating to aggravated assault;
2. A violation of Code Section 16-5-24, relating to aggravated battery;
3. A violation of Code Section 16-6-1, relating to rape;
4. A felony violation of Code Section 16-8-2, relating to theft by taking;

5. A felony violation of Code Section 16-8-3, relating to theft by deception;
6. A felony violation of Code Section 16-8-4, relating to theft by conversion;
7. A violation of Code Section 16-9-1 or 16-9-2, relating to forgery;
8. A violation of Code Section 16-5-1, relating to murder and felony murder;
9. A violation of Code Section 16-4-1, relating to criminal attempt as it concerns attempted murder;
10. A violation of Code Section 16-8-40, relating to robbery;
11. A violation of Code Section 16-8-41, relating to armed robbery;
12. A violation of Chapter 13 of Title 16, relating to controlled substances;
13. A violation of Code Section 16-5-23.1, relating to battery;
14. A violation of Code Section 16-6-5.1, relating to sexual assault;
15. A violation of Article 8 of Chapter 5 of Title 16; Theft of Services
16. Any other offense committed in another jurisdiction which, if committed in this state, would be deemed to be such a crime without regard to its designation elsewhere.

Q: Can I have my employees fingerprinted with GAPS instead of using local law enforcement?

A: Yes. However, the cost of using GAPS in lieu of local law enforcement is probably more expensive. GAPS charges \$33.65 for a Georgia check only. Should you elect to register your applicant using GAPS, the PCH would select “DCH – Personal Care Home (Employee) – GA Check Only” under the Transaction (Reason). Also, the facility would NOT check the box when it asks “Does another agency make the fitness determination?” The PCH would make the fitness determination as to whether the applicant has a criminal record. The facility may view the criminal history results by clicking on the “Procedures for Using GAPS” on the GAPS homepage and following the instructions as outlined in Step F. As noted previously, the PCH cannot employ a person with an unsatisfactory determination.

Q: What do I do if an applicant for employment has not been a resident of the state for a period of three years preceding the date of application for employment?

A: The PCH shall attempt to obtain a criminal record check from the local law enforcement agency of the applicant's previous state of residence. If the local criminal record check from either the applicant's previous state of residence or this state indicates multistate offender status, the PCH shall not employ the applicant until they have made a determination as to whether the applicant has a criminal record. A PCH shall not employ a person with an unsatisfactory determination.

Q: What if I want DCH to make the fitness determination for an applicant that has a criminal record?

A: When a PCH determines that an applicant for employment has a criminal record but there are matters in mitigation of the criminal record, no physical harm was done to the victim, and they would like to hire the applicant, the PCH may request that DCH make a determination as to the applicant's

suitability for employment. The PCH shall register the applicant with GAPS and select “DCH – Personal Care Home (Employee) GA Check Only” under the Transaction (Reason). The PCH shall not hire the potential employee to work in the home until they receive notification from DCH that the applicant has a satisfactory criminal record check. DCH will only make fitness determinations for applicants having a criminal history. If the applicant does not have a criminal history, DCH will mail the criminal history results to the facility.

Q. If I get an unsatisfactory determination, what do I do? Or whom do I call?

A. If you receive an unsatisfactory determination, you will receive a letter from DCH, Office of Inspector General (OIG) which lists the covered crimes that caused you to receive an unsatisfactory criminal records check. You can appeal the unsatisfactory determination either because you were not convicted of the crimes that we show — or because you believe that despite having been convicted of the crimes, you should still be allowed to work in either a Community Living Arrangement, Personal Care Home, or Private Home Care. The letter will explain explains how to request a hearing, if you desire. General questions should be directed to the Office of General Counsel (OGC) at 404.657.5702.

Q. If I appeal the unsatisfactory determination, can I continue to operate while waiting for the hearing?

A. No. DCH has no authority under the law to allow you to continue to operate while you are waiting for your hearing.

Q. How long does it take to get a hearing and a decision? Is there any way to speed the process up?

A. The time varies considerably. But you should plan on it taking at least four (4) months and possibly longer. You can speed up the process by getting certified copies of the court records on the crimes you were charged with that are the subject of the hearing. If you get these certified copies yourself and submit them to DCH we can make the request to get the hearing scheduled sooner. If DCH requests the certified court records in writing, it can take a long time to get the court records back. DCH does not process your request for a hearing until the certified court records are received. You will be notified in writing by the OGC when your hearing request has been sent to the Office of State Administrative Hearings.

Q. Who actually schedules the hearing and how do I know when it has been scheduled?

A. The hearing is scheduled by the Office of State Administrative Hearings once they receive all the required records from us. The Office of State Administrative Hearings is a separate State agency. We have no control over when they schedule hearings. After you receive a copy of the letter from the OGC telling you that the hearing request has been processed, the Office of State Administrative Hearings will schedule the hearing and send you notice of the hearing date in writing. Questions concerning the scheduling of the hearing may be directed to the Office of State Administrative Hearings at 404.657.2800.

Abbreviations, Terms and Dispositions on Criminal History Records

Common Abbreviations:

- MISD: Misdemeanor

- FEL: Felony
- TXT: Theft by Taking
- VGCSA: Violation of Georgia's Controlled Substance Act
- SID: State Identification Number

Common Terms:

- Acquittal: A verdict of not guilty
- Adjudicate: To give judgment; to render or award judgment
- Convictions: An adjudication that a person is guilty of a crime based upon a verdict
- Dismissal: To discontinue; to order a cause, motion or prosecution to be discontinued, quashed or dismissed as finally adjudicated against the plaintiff
- Felony: A serious offense which, in Georgia, carries a sentence of 1 year or more

Common Dispositions:

- DISM: Dismissed/Dismissal
- NPGJ: Not presented to the Grand Jury – treat as a dismissal
- NFAA: No further action anticipated – treat as a dismissal
- No Bill: Treat as a dismissal ☐ Nolo Contendere: Treat as a conviction
- Nolle Prosequi/Nolle Prossed: Treat as a dismissal
- First Offender: Treat as a conviction unless it shows that there was a successful completion of the program