

Criminal Background Checks 101

Once you have determined that you would like to require criminal background checks as part of your hiring, licensure, or volunteer-selection process, **please contact BCI at 801-965-4445, option #6 to determine which of the options below will best suit your needs.** Our hours are 8:00 am to 5:00 pm, Monday through Friday. We are closed weekends and holidays.

Options

1. **Personal Records Check** - through Utah BCI and the FBI
 - a. The person requests a background check on themselves and turns the results over to the requesting entity.
 - b. There are different processes for the Utah check and the FBI check (see below for instructions/forms).
 - c. A third party release may be signed by the person to release the results of the Utah background check to the entity rather than the person turning the results over to the entity.
2. **Name and DOB Records Check** (Applicant Background Checks) through Utah BCI
 - a. Under Utah Code Annotated [53-10-108](#) background checks are allowed for qualified entities.
 - b. Non-qualified entities may petition the Commissioner of the Department of Public Safety for access to Utah records for employment purposes.
 - c. No Name and DOB records checks are allowed through the FBI.
3. **Fingerprint-based Records Checks** (Applicant Background Checks) through WIN and/or the FBI
 - a. Entities qualify for Western Identification Network (WIN) fingerprint-based background checks under state statute 53-10-108, other Utah state statute allowing qualification, or authorization from the Commissioner of the Department of Public Safety.
 - b. Entities qualify for nationwide fingerprint-based background checks under Public Law 105-251 (see below), Public Law 109-248 (see below) or under Public Law 92-544 with appropriate state statute in place (see below).

Category 1

Employment, Volunteer-Selection, and Licensure Background Checks

Entities working with: children and vulnerable adults, fiduciary trust over money, and national security interests. Options 1, 2, and 3 available for selection once qualification is determined.

Utah Code Annotated [53-10-108](#) allows qualifying entities to request Utah criminal history information. This includes: 1) care, custody and control of children, 2) fiduciary trusts, 3) national security interests, and 4) the care of vulnerable adults.

[Public Law 105-251 \(PL 105-251\)](#), the Volunteers for Children Act which amended the National Child Protection Act of 1993, was enacted October 9, 1998 to allow the qualifying entities who care for children and vulnerable adults to request fingerprint-based national criminal history record checks of their volunteers and employees. For more information, download the [Application Form](#).

[Public Law 109-248 \(PL 109-248\)](#), (b) The Attorney General of the United States shall, upon request of the chief executive officer of a State, conduct fingerprint-based checks of the national crime information databases submitted by a child welfare agency for the purpose of conducting a background on individuals under consideration as prospective foster or adoptive parents or an investigation relating to an incident of abuse or neglect of a minor; or a private or public elementary school, a private or public secondary school, a local educational agency, or State educational agency in that State, on individuals employed by, under consideration for employment by, or otherwise in a position in which the individual would work with or around children in the school or agency.

[Public Law 92-544 \(PL 92-544\)](#), Federal law allows officials of state and local governments authorized by state statutes to use FBI identification records for the purpose of employment and licensing. The statute must exist as a result of legislative enactment. It must require fingerprinting of the applicants. It must expressly or by implication authorize the use of FBI records. It must identify the specific category of applicants. It may not authorize receipt of FBI criminal information by a private entity. If your entity qualifies, download the application [here](#).

Category 2

Private Entities and Private Adoption Background Checks

Private entities working with: child care placement services, adoptions, and other specific services. Options 1, 2, and 3 available for selection once qualification is determined.

Utah Code Annotated [53-10-108](#) allows qualifying entities to request Utah criminal history information. This includes: 1) care, custody and control of children, 2) fiduciary trusts, 3) national security interests, and 4) the care of vulnerable adults.

The FBI has determined that under Public Law 105-251 private entities can receive FBI criminal data (CHRI). This includes any private entity that provides child care placement services and adoptions. Utah is also approved to provide FBI criminal information to private entities who qualify under [Public Law 109-248 the Adam Walsh Act](#). If your entity qualifies, download the application [here](#).

Category 3

Other Employers/Entities Background Checks

If your entity does not fall under category 1 or 2 above, your only option is to request that your employees apply directly to BCI and/or the FBI for a copy of their own criminal history. See option 1 above. Find out more about obtaining a copy of your own Utah criminal history record [here](#). For national background check information request that your employees apply directly to the FBI for a copy of their own criminal history (Find out more about obtaining a copy of your own FBI criminal history record [here](#).)

Privacy Statements, Signed Waivers, and Other Information

All applicants must be notified that a criminal history background check will be conducted according to the guidelines set in UCA [53-10-108](#) and they will have an opportunity to review and challenge the results of the background check.

UCA [53-10-108](#) does not allow a copy of any background check information, including information for FBI databases, to be given to the applicant. Applicants have the opportunity to obtain a copy using the procedures outlined in the previous section, Other Employees.

In addition to the signed waiver, any qualifying entity who receives FBI criminal history must also provide the applicant with the [FBI Privacy Act Statement](#) and the [FBI Noncriminal Justice Applicant's Privacy Rights](#)