



Connecting Older Adults with Community-based Resources and Options

POLICY FOR CONDUCTING CRIMINAL BACKGROUND CHECKS

Note: This policy is in accordance with the Fair Credit Reporting Act (FCRA). The FCRA is the primary federal law regulating employment background checks. Despite its name the FCRA applies to all employment backgrounds checks conducted by a third party whether they include a credit report or not.

Purpose

AgeOptions recognizes the increasing incidences of exploitive crimes against older adults. In an effort to minimize these incidences, AgeOptions requires a pre-employment criminal background checks for all employees of Area Agency funded programs. In addition, volunteers participating in Area Agency funded programs with in-home client contact, and/or access to confidential client information including, but not limited to addresses, social security numbers, financial info, etc., are also required to complete a background check. The intent of this policy is to reduce risk and increase the level of safety offered to older adults and/or their caregivers through Area Agency funded programs.

Definitions

For the purposes of this policy, the following definitions apply:

- **Applicant** – any person applying for a paid or non-paid position.
- **Area Agency** – refers to AgeOptions, the Area Agency on Aging of suburban Cook County, Illinois.
- **Background check** – a criminal background check.
- **Client** – any person receiving services from programs funded by the Area Agency, and/or their caregivers.
- **Confidential client information** – information about a client including but not limited to address, social security number, and financial information.
- **Employee** - any person whose salary is paid wholly or partially through Area Agency grants/contracts.
- **Employer** – any entity receiving Area Agency funds for the provision of services to seniors and/or their caregivers.
- **Tested individual** – the employee, volunteer or applicant whose background is being checked.
- **Volunteer** - any person performing unpaid duties in Area Agency funded programs with in-home client contact and/or access to confidential client information.
- **Waiver date** – as shown on Attachment I, Table A. The number of years between the offense and the background check date that must elapse in order for that offense to be deemed “waived.”

Policy

An Employer must conduct a criminal background check on each Employee and Volunteer (as defined in this policy). The background check must review the previous seven (7) years of the tested individual's life. [Note that designated felony offenses may continue to appear in an individual's results even though the offense may have occurred more than seven years ago.]

Documentation of results from the background check must be included in applicant's personnel file.

No employee or volunteer shall be permitted to work directly with clients or have access to confidential client information if:

- the results of the background check show the person has been convicted of one or more of the offenses listed in Attachment I, Table A of this policy and a Waiver has not been received and subsequently approved; or
- the results of the background check show the person has been convicted of one or more of the offenses listed in Attachment I, Table B of this policy.

The potential employee or volunteer cannot perform any duties funded by the Area Agency until favorable background check results are received, or if warranted, a Waiver has been submitted and approved. Employers will be monitored for compliance with this policy. The Area Agency may terminate grant awards and/or contracts for any employer not in compliance with this policy. Written notice will be given prior to the termination of a grant or contract.

The use of information obtained from a background check shall be restricted to determining suitability for employment and/or volunteer opportunities. All employers receiving background information regarding an individual shall maintain the confidentiality of such information. The information should not be used in violation of any applicable Federal or State equal employment opportunity law or regulation.

Criteria for Waiver:

1. Applies only to background check offenses that are listed on Attachment I, Table A.
2. Any offenses on the background check that occurred within the previous five (5) years are not waived offenses.
3. All offenses on the background check that occurred twenty (20) or more years prior are waived offenses.
4. For each offense on the background check that occurred between five (5) and twenty (20) years prior, the waiver status of that offense is determined by Waiver Date as shown on Attachment I, Table A.
5. All offenses on the background check must be considered Waived for the Waiver request to be approved.

Procedure

1. An employee, volunteer or applicant must provide written authorization permitting a background check.
 - a. The written authorization must be provided in a completely separate document that consists solely of the disclosure.

- b. The written authorization must indicate that the background check is being obtained for employment purposes and that if the background check reveals any evidence of a criminal history, the nature of that history may make them ineligible for employment or volunteer opportunities.
 - c. The disclosure should also include a statement informing the employee, volunteer, or applicant of his or her right to request additional disclosures concerning the nature and scope of the background check, and a copy of a summary of his or her rights under the Fair Credit Reporting Act (please refer to Attachment IV). Also, they must be advised that they have the right to obtain a copy of the background check and to challenge the completeness and accuracy of the results. Please see Attachment III for a sample consent form.
2. The employer must request a pre-employment Non-Fingerprint Criminal Background Check through a competent background check service for all applicable employees, volunteers and applicants. The background check must review at minimum the previous seven (7) years.
3. The employer must review the background check results when they are received.
4. If the background check results reveal no evidence of a criminal history, the employer must file the results in the tested individual's personnel file. The results should not be a factor in any other employment action pertaining to the tested individual.
5. If the background check results reveal any evidence of a criminal history, the employer must determine if any of the identified results appear on Attachment I, either Table A or Table B.
6. If the identified results do not appear on Attachment I, Table A or Table B, the employer must file the results in the tested individual's personnel file. The results should not be a factor in any other employment action pertaining to the tested individual.
7. If the identified results appear on Attachment I (Table A or Table B), the employer must provide the tested individual with a copy of the results of the background check and a copy of a summary of his or her rights under the Fair Credit Reporting Act (see Attachments IV, V and VI).
 - a. If the identified results appear on Attachment I Table A:
 - i. The employer will provide the tested individual with a Waiver request form (see Attachment II) and inform the tested individual of his/her right to submit a Waiver request.
 - ii. If the tested individual submits a Waiver request and the Waiver request is approved, then the tested individual may work or volunteer in an Area Agency funded program.
 - iii. If the tested individual either fails to submit a Waiver request or the Waiver request is denied, then the tested individual is disqualified from working or volunteering in an Area Agency funded program. If an applicant, the tested individual must be eliminated from employment consideration (an adverse action). If an employee or volunteer, the tested individual must be terminated from his/her involvement with an Area Agency funded program (an adverse action).
 - b. If the identified results appear on Attachment I Table B, the tested individual is disqualified from working or volunteering in an Area Agency funded program. If an applicant, the tested individual must be eliminated from employment

consideration (an adverse action). If an employee or volunteer, the tested individual must be terminated from his/her involvement with an Area Agency funded program (an adverse action).

8. After an adverse action has been taken, the employer must give the employee/volunteer/applicant notice of the action. This notice can be given in writing, or electronically and must include:
 - a. the name, address, and telephone number of the consumer reporting agency;
 - b. a statement that the consumer reporting agency did not make the decision to take the adverse action and is unable to provide the specific reasons why the adverse action was taken;
 - c. that the employee/volunteer/applicant may obtain a free copy of the consumer report from the consumer reporting agency if requested within 60 days of notice of the adverse action; and
 - d. that the employee/volunteer/applicant may dispute with the consumer reporting agency the accuracy or completeness of any information included in the report furnished by the agency.

Updated 03/14/2019

ATTACHMENT I

TABLE A: Disqualifying Offenses that May Be Considered for a Waiver			
Illinois Compiled Statutes Citation	Offense	Act	Waiver date (years since date of offense)
[720 ILCS 5/10-3]	Unlawful Restraint	Criminal Code of 2012	20
[720 ILCS 5/10-3.1]	Aggravated Unlawful Restraint	Criminal Code of 2012	20
[720 ILCS 5/10-4]	Forcible Detention	Criminal Code of 2012	20
[720 ILCS 5/10-5]	Child Abduction	Criminal Code of 2012	20
[720 ILCS 5/10-7]	Aiding and Abetting Child Abduction	Criminal Code of 2012	20
[720 ILCS 5/12-1]	Assault	Criminal Code of 2012	20
[720 ILCS 5/12-2]	Aggravated Assault	Criminal Code of 2012	20
[720 ILCS 5/12-3]	Battery	Criminal Code of 2012	20
[720 ILCS 5/12-3.1]	Battery of an Unborn Child	Criminal Code of 2012	20
[720 ILCS 5/12-3.2]	Domestic Battery	Criminal Code of 2012	20
[720 ILCS 5/12-4.5]	Tampering with Food, Drugs or Cosmetics	Criminal Code of 2012	20
[720 ILCS 5/12-7.4]	Aggravated Stalking	Criminal Code of 2012	20
[720 ILCS 5/12-11]	Home Invasion	Criminal Code of 2012	20
[720 ILCS 5/12-21.6]	Endangering the Life or Health of a Child	Criminal Code of 2012	20
[720 ILCS 5/12-32]	Ritual Mutilation	Criminal Code of 2012	20
[720 ILCS 5/12-33]	Ritual Abuse of a Child	Criminal Code of 2012	20
[720 ILCS 5/16-1]	Theft	Criminal Code of 2012	10
[720 ILCS 5/16-2]	Theft of Lost or Mislaid Property	Criminal Code of 2012	10
[720 ILCS 5/16A-3]	Retail Theft	Criminal Code of 2012	10
[720 ILCS 5/16G-15]	Identity Theft	Criminal Code of 2012	10
[720 ILCS 5/16G-20]	Aggravated Identity Theft	Criminal Code of 2012	10
[720 ILCS 5/17-3]	Forgery	Criminal Code of 2012	10
[720 ILCS 5/18-1]	Robbery	Criminal Code of 2012	20
[720 ILCS 5/18-3]	Vehicular Hijacking	Criminal Code of 2012	20
[720 ILCS 5/19-1]	Burglary	Criminal Code of 2012	5
[720 ILCS 5/19-3]	Residential Burglary	Criminal Code of 2012	5
[720 ILCS 5/19-4]	Criminal Trespass to Residence	Criminal Code of 2012	5
[720 ILCS 5/20-1]	Arson	Criminal Code of 2012	20
[720 ILCS 5/20-1.1]	Aggravated Arson	Criminal Code of 2012	20
[720 ILCS 5/20-1.2]	Residential Arson	Criminal Code of 2012	20
[720 ILCS 5/24-1]	Unlawful Use of a Weapon	Criminal Code of 2012	20
[720 ILCS 5/24-1.1]	Unlawful Use or Possession of Weapons by Felons or Persons in the Custody of the Department of Corrections Facilities	Criminal Code of 2012	20

TABLE A CONTINUED: Disqualifying Offenses that May Be Considered for a Waiver			
Illinois Compiled Statutes Citation	Offense	Act	Waiver date (years since date of offense)
[720 ILCS 5/24-1.2]	Aggravated Discharge of a Firearm	Criminal Code of 2012	20
[720 ILCS 5/24-1.2-5]	Aggravated Discharge of a Machine Gun or a Firearm Equipped with a Device Designed or Used for Silencing the Report of a Firearm	Criminal Code of 2012	20
[720 ILCS 5/24-1.5]	Reckless Discharge of a Firearm	Criminal Code of 2012	20
[720 ILCS 5/24-1.6]	Aggravated Unlawful Use of a Weapon	Criminal Code of 2012	20
[720 ILCS 5/24-3.2]	Unlawful Discharge of Firearm Projectiles	Criminal Code of 2012	20
[720 ILCS 5/24-3.3]	Unlawful Sale or Delivery of Firearms on the Premises of Any School	Criminal Code of 2012	20
[720 ILCS 5/33A-2]	Armed Violence	Criminal Code of 2012	20
[225 ILCS 65/10-5]	Practice of Nursing without a License	Nurse Practice Act	10
[720 ILCS 150/4]	Endangering Life or Health of a Child	Wrongs to Children Act	20
[720 ILCS 150/5.1]	Permitting Sexual Abuse of a Child	Wrongs to Children Act	20
[720 ILCS 115/53]	Cruelty to Children	Criminal Jurisprudence Act (Cruelty to Children)	20
[720 ILCS 250/4]	Receiving Stolen Credit Card or Debit Card	Credit Card & Debit Card Act	20
[720 ILCS 250/5]	Receiving a Credit or Debit Card with Intent to Use, Sell, or Transfer	Credit Card & Debit Card Act	20
[720 ILCS 250/6]	Selling a Credit Card or Debit Card, without the Consent of the Issuer	Credit Card & Debit Card Act	20
[720 ILCS 250/8]	Using a Credit or Debit Card with the Intent to Defraud	Credit Card & Debit Card Act	20
[720 ILCS 250/17.02]	Fraudulent Use of Electronic Transmission	Credit Card & Debit Card Act	20
[720 ILCS 550/5]	Manufacture, Delivery, or Possession with Intent to Deliver, or Manufacture, Cannabis	Cannabis Control Act	5
[720 ILCS 550/5.1]	Cannabis Trafficking	Cannabis Control Act	5
[720 ILCS 550/5.2]	Delivery of Cannabis on School Grounds	Cannabis Control Act	5
[720 ILCS 550/7]	Delivering Cannabis to a Person under 18	Cannabis Control Act	5
[720 ILCS 550/9]	Calculated Criminal Cannabis Conspiracy	Cannabis Control Act	5

TABLE A CONTINUED: Disqualifying Offenses that May Be Considered for a Waiver			
Illinois Compiled Statutes Citation	Offense	Act	Waiver date (years since date of offense)
[720 ILCS 570/401]	Manufacture or Delivery, or Possession with Intent to Manufacture or Deliver, a Controlled Substance Other than Methamphetamine, a Counterfeit Substance, or a Controlled Substance Analog	Illinois Controlled Substances Act	5
[720 ILCS 570/401.1]	Controlled Substance Trafficking	Illinois Controlled Substances Act	5
[720 ILCS 570/404]	Distribution, Advertisement, or Possession with Intent to Manufacture or Distribute a Look-alike Substance	Illinois Controlled Substances Act	5
[720 ILCS 570/405]	Calculated Criminal Drug Conspiracy	Illinois Controlled Substances Act	5
[720 ILCS 570/405.1]	Criminal Drug Conspiracy	Illinois Controlled Substances Act	5
[720 ILCS 570/407]	Delivering a Controlled, Counterfeit or Look-alike Substance to a Person under 18	Illinois Controlled Substances Act	5
[720 ILCS 570/407.1]	Engaging or Employing Person under 18 to Deliver a Controlled, Counterfeit or Look-alike Substance	Illinois Controlled Substances Act	5
[720 ILCS 646]	Violations under the Methamphetamine Control and Community Protection Act	Illinois Controlled Substances Act	5

TABLE B: Offenses that Are Always Disqualifying		
Illinois Compiled Statutes Citation	Offense	Act
[720 ILCS 5/8-1.1]	Solicitation of Murder	Criminal Code of 2012
[720 ILCS 5/8-1.2]	Solicitation of Murder for Hire	Criminal Code of 2012
[720 ILCS 5/9-1]	First Degree Murder	Criminal Code of 2012
[720 ILCS 5/9-1.2]	Intentional Homicide of an Unborn Child	Criminal Code of 2012
[720 ILCS 5/9-2]	Second Degree Murder	Criminal Code of 2012
[720 ILCS 5/9-2.1]	Voluntary Manslaughter of an Unborn Child	Criminal Code of 2012
[720 ILCS 5/9-3]	Involuntary Manslaughter and Reckless Homicide	Criminal Code of 2012
[720 ILCS 5/9-3.1]	Concealment of Homicidal Death	Criminal Code of 2012
[720 ILCS 5/9-3.2]	Involuntary Manslaughter and Reckless Homicide of an Unborn Child	Criminal Code of 2012
[720 ILCS 5/9-3.3]	Drug Induced Homicide	Criminal Code of 2012
[720 ILCS 5/10-1]	Kidnapping	Criminal Code of 2012
[720 ILCS 5/10-2]	Aggravated Kidnapping	Criminal Code of 2012
[720 ILCS 5/11-6]	Indecent Solicitation of a Child	Criminal Code of 2012
[720 ILCS 5/11-9.1]	Sexual Exploitation of a Child	Criminal Code of 2012
[720 ILCS 5/11-9.5]	Sexual Misconduct with a Person with a Disability	Criminal Code of 2012
[720 ILCS 5/11-19.2]	Exploitation of a Child	Criminal Code of 2012
[720 ILCS 5/11-20.1]	Child Pornography	Criminal Code of 2012
[720 ILCS 5/12-3.3]	Aggravated Domestic Battery	Criminal Code of 2012
[720 ILCS 5/12-4]	Aggravated Battery	Criminal Code of 2012
[720 ILCS 5/12-4.1]	Heinous Battery	Criminal Code of 2012
[720 ILCS 5/12-4.2]	Aggravated Battery with a Firearm	Criminal Code of 2012
[720 ILCS 5/12-4.2-5]	Aggravated Battery with a Machine Gun or a Firearm Equipped with Any Device or Attachment Designed or Used for Silencing the Report of a Firearm	Criminal Code of 2012
[720 ILCS 5/12-4.3]	Aggravated Battery of a Child	Criminal Code of 2012
[720 ILCS 5/12-4.4]	Aggravated Battery of an Unborn Child	Criminal Code of 2012
[720 ILCS 5/12-4.6]	Aggravated Battery of a Senior Citizen	Criminal Code of 2012
[720 ILCS 5/12-4.7]	Drug Induced Infliction of Great Bodily Harm	Criminal Code of 2012
[720 ILCS 5/12-13]	Criminal Sexual Assault	Criminal Code of 2012
[720 ILCS 5/12-14]	Aggravated Criminal Sexual Assault	Criminal Code of 2012

TABLE B CONTINUED: Offenses that Are Always Disqualifying		
Illinois Compiled Statutes Citation	Offense	Act
[720 ILCS 5/12-14.1]	Predatory Criminal Sexual Assault of a Child	Criminal Code of 2012
[720 ILCS 5/12-15]	Criminal Sexual Abuse	Criminal Code of 2012
[720 ILCS 5/12-16]	Aggravated Criminal Sexual Abuse	Criminal Code of 2012
[720 ILCS 5/12-19]	Abuse and Criminal Neglect of a LTC Facility Resident	Criminal Code of 2012
[720 ILCS 5/12-21]	Criminal Abuse or Neglect of an Elderly Person or Person with a Disability	Criminal Code of 2012
[720 ILCS 5/16-1.3]	Financial Exploitation of an Elderly Person or a Person with a Disability	Criminal Code of 2012
[720 ILCS 5/18-2]	Armed Robbery	Criminal Code of 2012
[720 ILCS 5/18-4]	Aggravated Vehicular Hijacking	Criminal Code of 2012
[720 ILCS 5/18-5]	Aggravated Robbery	Criminal Code of 2012

ATTACHMENT II

Waiver Request Form

Name of tested individual:	
Position:	
Funded by Title :	<input checked="" type="checkbox"/> IIIB <input type="checkbox"/> IIIC1 <input type="checkbox"/> IIIC2 <input checked="" type="checkbox"/> IIID <input type="checkbox"/> IIIE <input type="checkbox"/> APS
Date of background check:	

I request that _____ [Employer Organization] review the results of my background check as dated above to determine whether any offenses may be waived from disqualifying my employment.

Signature

Date

FOR EMPLOYER USE ONLY

Waiver Criteria – to be answered in sequence by employer

1. Were any background check results from Table B?	YES – STOP. Waiver denied	NO – go to next question
2. Did <u>any</u> background check offenses from Table A occur less than five (5) years prior?	YES – STOP. Waiver denied	NO – go to next question
3. Did <u>all</u> background check offenses from Table A occur twenty (20) or more years prior?	YES – STOP. Waiver approved	NO – go to next question
4. Does each background check offense meet the Waiver Date requirement as shown on Attachment I, Table A?	YES – STOP. Waiver approved	NO – STOP. Waiver denied

I have reviewed the results of this tested individual’s background check and determined that based on current policy, this Waiver request is **DENIED** **APPROVED**

Signature

Printed name

Title

Date

ATTACHMENT III

[TO BE USED WHEN CONSUMER REPORT IS REQUESTED]

**FAIR CREDIT REPORTING ACT CONSUMER REPORT DISCLOSURE AND
GENERAL AUTHORIZATION**

In connection with my application for employment with _____, I understand that a consumer report may be obtained by both _____ and AgeOptions from a consumer reporting agency (“Agency”). I further understand that the Agency may not give out information about me to _____ or AgeOptions without my written consent. It is also understood that the Agency may not report medical information about me to _____ or AgeOptions without my specific prior consent as to the release of such information, which is in addition to my general authorization herein.

I hereby authorize _____ and AgeOptions now, or at any time while I am employed by _____, to obtain a consumer report on me. This authorization does not include the release of my medical information. I further acknowledge that I have received a summary of my rights under the Fair Credit Reporting Act.

Applicant Signature

Today’s Date

Printed Name

RESOURCES

1. Credit and Your Consumer Rights
<https://www.consumer.ftc.gov/articles/0070-credit-and-your-consumer-rights>
Para informacion en espanol, visite www.ftc.gov/credit o escribe a la FTC Consumer Response Center, Room 130-A 600 Pennsylvania Ave. N.W., Washington, D.C. 20580.
2. Using Consumer Reports: What Employers Need to Know
<https://www.ftc.gov/tips-advice/business-center/guidance/using-consumer-reports-what-employers-need-know>
3. Background Checks
<https://www.consumer.ftc.gov/articles/pdf-0044-background-checks.pdf>