

Dear Christian School Leader:

This issue of the *Legal/Legislative Update* includes some of the necessary tools and contacts for you to do an effective job of completing background checks of new employees or volunteers. In a few states background checks are mandated by law. In other states there may be no legal mandate, or religious schools may even be exempt from having to conduct background checks. Whatever the law is in your state, we urge you to make every effort to check out each employee or volunteer having unsupervised access to the children God has entrusted to your school.

I know that background checks may be expensive and involve an inconvenience, but such checks may reveal what we fear the most. Endeavor in every way you can to spare yourself and your Christian school the grief of hiring someone who might abuse one of your students. Christ Jesus warns us specifically about this in Luke 17.

The brief cover story introduces the Volunteers for Children Act that was recently passed by Congress. Later, in the Administrator's Notebook, you will learn the details about how your school can arrange for background checks. Please read these articles carefully and put forth the effort to conduct the background checks. Also thoroughly check people's references, even secondary references. I know, as you do, that no phone call, form, or fingerprint check can eliminate all risk, but your diligent effort will lower the legal and liability risks of hiring the wrong kind of person at your Christian school.

Sincerely,

Ken Smitherman
ACSI President

Christian Schools Can Request Nationwide Background Checks

ACSI encourages administrators and directors of all Christian schools and preschools to do everything they can to prevent any form of child abuse at their institutions. Prevention begins with adequate background research on every employee or volunteer who has unsupervised access to children. Some states require fingerprinting. California requires workers with children to sign a statement acknowledging their familiarity with the state's abuse law. Appropriate background checks may even reduce a school's liability insurance costs.

The National Child Protection Act of 1993 was designed to make background checks of people who work with children more readily available. The process was hamstrung, however, by the fact that many states chose not to set up the necessary agency that would make background checks available to private entities that work with children. That problem has been solved. The Volunteers for Children Act, which was recently signed into law, makes it possible for private schools and preschools to voluntarily bypass the states that have no agency set-up for them and access criminal background checks both statewide and nationwide.

This issue of the ACSI *Legal/Legislative Update* contains an article in the Administrators Notebook about the national background checks process, an FBI list of "State Control Terminal Officers" who can assist member schools in obtaining help in utilizing the Volunteers for Children Act, and a form developed by the FBI that can be filled out by a potential or current employee or volunteer.

Nationwide Background Checks Now Available

In 1993, the National Child Protection Act (NCPA), Public Law 103-209, encouraged states to adopt appropriate legislation so that background checks could be used to determine an employee's or volunteer's fitness to care for the safety and well-being of children. In spite of this law, many states did not enact the necessary legislation to utilize NCPA. Failure to do so made it difficult for agencies that work with children, such as Christian schools, to obtain the needed information to protect their children with criminal background checks.

Then in 1998, Congress enacted the Crime Identification Technology Act, Public Law 105-251. The law includes sections 221 and 222, which are referred to as the "Volunteers for Children Act." The VCA relieves the states of the necessity of having state legislation in place to be able to access national criminal history record information under the authority of the NCPA. During the Senate floor debate, Senator Orrin Hatch stated that the Volunteers for Children Act "amends the NCPA to permit child care, elder care, and volunteer organizations, known as qualified entities, to request background checks through state agencies in the absence of state laws implementing the NCPA." Also permitted were background checks for people who assist individuals with disabilities.

As a result of the Volunteers for Children Act, "qualified entities" that work with children can seek a background check of an employee or volunteer to protect their children in two ways. The first source is through the state, if the state has procedures in place to request statewide and nationwide background checks. The second procedure would go into effect if the state has no appropriate laws or procedures in place: "A qualified entity...may contact an authorized agency of the state to request national criminal fingerprint background checks." A "qualified entity" is defined as a "business or organization, whether public, private, for-profit, not-for-profit, or voluntary, that provides care or care placement services..." The status of a qualified entity is designated by the state. An "authorized agency" is an agency (or agencies) designated by the state "to report, receive, or disseminate information" under the Volunteers for Children Act.

Because of the VCA amendment, the National Child Protection Act now authorizes national fingerprint-based criminal history background checks of volunteers and employees of qualified entities that provide care for, or have unsupervised access to, children. The purpose of these checks is to determine whether the volunteers or employees "have been convicted of crimes that bear upon their fitness to have responsibility for the safety and well-being of children.

As a "qualifying entity," no Christian school is required to obtain fingerprints. As Congressman Bill McCollum (R-FL) stated, "This bill in no way requires these organizations to conduct fingerprint checks. ...the bill simply provides organizations with the option of requesting the checks if there is no law in place precluding them." Thus a school could choose to request background checks on some applicants/employees/volunteers and not on others.

The role of the Christian school or preschool as a participating "qualified entity" in the background check process is threefold:

- (1) The school would to obtain fingerprints from a proposed employee or volunteer, along with a signed statement that includes the person's name, address, and date of birth. The person signs that he/she has not been convicted

of a crime. If the provider has been convicted of a crime, the application must contain a description of the crime and the particulars of the conviction. [See the Applicant Form that was designed by the FBI to comply with the Volunteers for Children Act.]

(2) The school notifies the person that the school may request a background check and that he/she may “obtain a copy of any background check report.” The person may challenge the accuracy and completeness of any information contained in the report. The school may “choose to deny the provider (employee or volunteer) unsupervised access” to the children until the background check is completed.

(3) Once the response comes from the “authorized agency,” the school administration communicates the determination of fitness to the person. Neither the school nor the person sees the actual criminal history, only the determination of fitness that comes from the “authorized authority.”

For additional information to implement the Volunteers for Children Act, please refer to the list of “State Control Terminal Officers,” who should be able to assist member schools and preschools in the 50 states, the District of Columbia, Virgin Islands, Puerto Rico, and Canada.

Authored by John Holmes, ACSI Director, Government Affairs, Washington, DC

**APPLICATION AND NOTICE
PURSUANT TO THE NATIONAL CHILD PROTECTION ACT OF 1993
AS AMENDED BY THE VOLUNTEERS FOR CHILDREN ACT**

To the applicant:

The National Child Protection Act of 1993 (NCPA), Public Law (Pub. L.) 103-209, as amended by the Volunteers for Children Act (VCA), Pub. L. 105-251 (Sections 221 and 222 of the Crime Identification Technology Act of 1998), codified at 42 United States Code (U.S.C.) Sections 5119a and 5119c, authorizes a state and national criminal history background check to determine the fitness of an employee, or volunteer, or a person with unsupervised access to children, the elderly, or individuals with disabilities.

Pursuant to the VCA, the entity (a) to which you have applied for employment or to serve as a volunteer; (b) by which you are employed or serve as a volunteer; or (c) which provides care to someone to whom you have or may have unsupervised access, may request a background check. Your rights and responsibilities under the VCA are as follows:

1. Provide a set of fingerprints.
2. Provide your name, address, and date of birth, as it appears on a document made or issued by or under the authority of the United States Government, a State, political subdivision of a State, a foreign government, a political subdivision of a foreign government, an international governmental or an international quasi-governmental organization which, when completed with information concerning a particular individual, is of a type intended or commonly accepted for the purpose of identification of individuals. 18 U.S.C §1028(d)(2).
3. Provide certification that you (a) have not been convicted of a crime, (b) are not under indictment for a crime, or (c) have been convicted of a crime. If you are under indictment or have been convicted of a crime, you must describe the crime and the particulars of the conviction, if any.
4. You are entitled to (a) obtain a copy of any background check report and (b) challenge the accuracy and completeness of any information contained in any such report and obtain a prompt determination as to the validity of such challenge before a final determination is made by the state government agency performing the background check. Such request for a copy of your criminal history record and any challenge to the accuracy of such record should be addressed to [state agency].
5. Prior to the completion of the background check, the entity may choose to deny you unsupervised access to a person to whom the entity provides care. The government agency shall access and review state and federal criminal history records and shall make reasonable efforts to make a determination whether you have been convicted of, or are under pending indictment for, a crime that bears upon your fitness to work with children, the disabled, or the elderly and shall convey that determination to the qualified entity. The government agency shall make reasonable efforts to respond to the inquiry within 15 business days.

Name: _____
First Middle Maiden Last

Date of Birth: _____

Address: _____
Street Apt.
City State Zip

Document referenced: _____

- ☐ I have been convicted of, or am under pending indictment for, the following crimes [include the dates, location/jurisdiction, circumstances and outcome]:

- ☐ I have not been convicted of, nor am I under pending indictment for, any crimes.

I have been provided with a copy of this form. I have read and understood the foregoing and my certification is true and correct to the best of my knowledge and belief.

Date Signature of Applicant

State Control Terminal Officers

Ms. Kathleen L. Mather
Data Processing Manager
Dept. of Public Safety
Information Systems Section
5700 East Tudor Road
Anchorage, AK 99507

Mr. Isaac Kervin
Information Technology Director
Alabama Criminal Justice Information Center
770 Washington Avenue, Suite 350
Montgomery, AL 36104

Mr. Charlie Pruitt, Deputy Director
Arkansas Crime Information Center
One Capitol Mall, 4D-200
Little Rock, AR 72201

Ms. Georgene Ramming, Chief
Technology & Communications Bureau
Arizona Dept. of Public Safety
PO Box 6638
Phoenix, AZ 85005-6638

Mr. Doug Smith, Chief
Bureau of Criminal Information & Analysis
California Department of Justice
PO Box 903417
Sacramento, CA 94203-4170

Mr. Michael W. Igoe
AIC, Crime Information Center
Colorado Bureau of Investigation
Colorado Department of Public Safety
690 Kipling Street, Suite 3000
Denver, CO 80215

Ms. Mary Jane D'Aloia
Connecticut Online Law Enforcement
Communications and Teleprocessing
Dept. of Public Safety
Connecticut Dept. of State Police
PO Box 2794
Middletown, CT 06457-9294

Mr. Stephen Gaffigan
Acting Chief Information Officer
District of Columbia
Metropolitan Police Department
Room 5056
300 Indiana Avenue, NW
Washington, DC 20002

Major Michael McDonald
Director Information Technology
Dept. of Public Safety
Delaware State Police Headquarters
165 Brickstore Landing Road
Smyrna, DE 19977

Ms. Donna M. Uzzell, Director
Criminal Justice Information Services
Florida Department of Law Enforcement
PO Box 1489
Tallahassee, FL 32302

Mr. Paul C. Heppner
Deputy Director for GCIC
Georgia Bureau of Investigation
PO Box 370748
Decatur, GA 30037-0748

Mr. Frederick R. Witte
Data Processing Systems Analyst
Research and Development Division
Honolulu Police Department
801 South Beretania Street
Honolulu, HI 96813

Mr. Carroll L. Bidler
Director of Administrative Services
Iowa Dept. of Public Safety
Wallace State Office Building
East Ninth and Grand
Des Moines, IA 50319

Mr. Robert Taylor, Bureau Chief
Idaho Bureau of Criminal Identification
Idaho Department of Law Enforcement
PO Box 700
Meridian, ID 83680-0700

Mr. Ted L. Stoica
Assistant Deputy Director
Division of Administration
Illinois State Police
PO Box 19461
Springfield, IL 62794-9461

Major Fred C. Pryor, Commander
Information Technology Division
Indiana State Police
Indiana Government Center North
100 North Senate Avenue, 3rd Floor
Indianapolis, IN 46204

Captain Ken Justice

Communications Commander
NCIC/CJIS Training and Audit
Kansas Highway Patrol
122 Southwest Seventh Street
Topeka, KS 66603-3847

Captain Rob Miller
Data Processing Section
Kentucky State Police
1250 Louisville Road
Frankfort, KY 40601

Lt. Jerry Patrick
Louisiana Dept. of Public Safety
Communications Division of State Police
PO Box 66614
Baton Rouge, LA 70896

Mr. Harry J. MacDonald
Director of Field Services
Criminal History Systems Board
200 Arlington Street, Suite 2200
Chelsea, MA 02150

Ms. Jillian S. Watts
MILES/NCIC/NLETS
Maryland State Police Headquarters
1201 Reisterstown Road
Pikesville, MD 21208

Major Jeffrey Harmon
Director of Support Services
Maine State Police
36 Hospital Street
Augusta, ME 04333

Mr. Thomas L. Miller, Sr.
Criminal Justice Data Center
Michigan Department of State Police
714 South Harrison Road
East Lansing, MI 48823

Mr. Steven E. Correll, Asst. Director
Bureau of Criminal Apprehension
Minnesota Dept. of Public Safety
1246 University Avenue
St. Paul, MN 55104

Major William K. Seibert, Jr.
Technical Services Bureau
Missouri State Highway Patrol
1510 East Elm Street
Jefferson City, MO 65102

Ms. Sherry L. Yeatman

Lead Programmer Analyst
Management Information Systems
Mississippi Department of Public Safety
3891 Highway 468 West
Pearl, MS 39208

Ms. Nancy Bloom, Section Supervisor
Criminal Justice Information Network
Montana Dept. of Justice
303 North Roberts, Room 573
Helena, MT 59620

Mr. Ronald P. Hawley, Asst. Director
Division of Criminal Information
North Carolina State Bureau of Investigation
407 North Blount Street
Raleigh, NC 27601

Mr. James D. Lueder, Asst. Director
North Dakota State Radio Communications
PO Box 5511
Bismarck, ND 58502-5511

Lt. Ray R. Kastanek
Nebraska State Patrol
PO Box 94907
Lincoln, NE 68509-4907

Major Frederick H. Booth, Commander
Support Services Bureau
New Hampshire State Police
10 Hazen Drive
Concord, NH 03305

Lt. Russell Dunfee
CJIS Control Unit
New Jersey State Police
PO Box 7068
West Trenton, NJ 08628-0068

Mr. Jeffery Wilkerson, Planning Director
Technical and Emergency Support Division
Communication Management Bureau
Department of Public Safety
PO Box 1628
Santa Fe, NM 87504-1628

Mr. Dennis A. DeBacco, Manager
Records and Identification Services Bureau
Nevada Highway Patrol
808 West Nye Lane
Carson City, NV 89703

Lt. Col. Raymond G. Dutcher
Assistant Deputy Superintendent

New York State Police
Building #22
1220 Washington Avenue
Albany, NY 12226

Major Robert D. Myers, Commander
Office of Tech. and Comm. Services
Ohio State Highway Patrol
PO Box 182075
Columbus, OH 43218-2075

Mr. Brad Long, Director
Oklahoma Law Enforcement
Telecommunications System
Oklahoma Dept. of Public Safety
PO Box 11415
Oklahoma City, OK 73136

Mr. David C. Yandell, Director
Law Enforcement Data System (LEDS)
Oregon State Police
400 Public Service Building
Salem, OR 97310

Corporal John Albring
Bureau of Technology Services
Operations Division
Pennsylvania State Police
1800 Elmerton Avenue
Harrisburg, PA 17110

Mr. Alfonso Golderos, Executive Director
Criminal Justice Information System
G.P.O. Box 902192
San Juan, PR 00902-0192

Mr. Brian J. Glancy
Technical Services Unit
Rhode Island State Police
311 Danielson Pike
North Scituate, RI 02857

Major Mark Huguley, Asst. Director
SC Law Enforcement Division
PO Box 21398
Columbia, SC 29221-1398

Mr. Delton K. Tipton
Network Operations Manager
Division of Criminal Investigation
500 East Capitol Ave.
Pierre, SD 57501

Ms. June Still
Law Enforcement Support Manager

Tennessee Bureau of Investigation
Menzler-Nix Building
1148 Foster Avenue
Nashville, TN 37210

Mr. David Gavin, Assistant Chief
Administrative Division
Texas Department of Public Safety
PO Box 4143
Austin, TX 78765-4143

Captain Stuart G. Smith, Bureau Chief
Utah Bureau of Criminal Identification
3888 West 5400 South
PO Box 8280
Salt Lake, UT 84114-8280

Captain R. Lewis Vass
Criminal Justice Infor. Services Divsn.
Virginia State Police
PO Box 27472
Richmond, VA 23261-7472

Mrs. Juliette Francis-Greaux
Lead Computer Operator
US Virgin Islands Police Dept.
8712 Subbase, Suite 3
Charlotte Amalie, St Thomas
US Virgin Islands 00802-5803

Mr. Max Schlueter, Director
Vermont Crime Information Center
Dept. of Public Safety
103 South Main Street
Waterbury, VT 05671-2101

Captain John D. Broome
Criminal Records Division
Washington State Patrol
321 Cleveland Avenue, Suite A
Tumwater, WA 98501

Mr. Michael Moschkau, Director
Crime Information Bureau
Wisconsin Department of Justice
PO Box 2718
Madison, WI 53701-2718

Sergeant Roy L. McCallister, Director
Communications Section
West Virginia State Police
725 Jefferson Road
South Charleston, WV 25309

Mr. James M. Wilson, Supervisor

Division of Criminal Investigation
Control Terminal/Criminal Records Sections
Rogers Building
316 West 22nd Street
Cheyenne, WY 82002

CANADA

Superintendent Fred L. Lyle
Canadian Police Information Centre
User Services
Royal Canadian Mounted Police
1200 Vanier Parkway
Ottawa, ONTARIO CANADA K1A 0R2