



1. What is the difference between the National Child Protection Act (NCPA) and the Volunteers for Children Act?

Names you may hear that refer to the same federal law and its amendment are as follows: the National Child Protection Act, the Foley Act, and the Volunteers for Children Act. These laws are sometimes named for sponsors or persons who supported the new laws or amendments. For the purposes of the available criminal history information, these different names refer to the same basic law. Section 943.0542 of the 1999 Florida Statutes was enacted to implement this federal legislation.



2. On what legislation is the VECHS program based?

The Florida Department of Law Enforcement initiated the VECHS program in 1999, after the Florida Legislature enacted section 943.0542 of the Florida Statutes (1999). This statute is based upon the National Child Protection Act (NCPA), as amended. The federal guidelines for the NCPA offer further interpretations of the NCPA, along with mandates for states that choose to implement corresponding legislation and programs. The federal guidelines apply to the interpretation of our legislation in Florida, and therefore, to the implementation of the VECHS program. Although FDLE desires to offer the broadest services and protection available under the authorizing legislation, we are not permitted to expand the parameters of the governing laws.



3. What is a "qualified entity"? Who can obtain criminal history record checks under the NCPA and section 943.0542, Florida Statutes?

To be qualified to participate in the VECHS program, an entity must provide some type of "care" or "care placement services" for children, the elderly, or the disabled, even if only as a limited part of the entity's overall business. Once qualified to participate in the program, an entity may request criminal history information on all current and prospective employees and volunteers, not only those who work with vulnerable persons. A qualified entity may also request criminal history information on employees or volunteers who have or who seek to have unsupervised access to the populations described above.

"Qualified entities" are authorized to obtain criminal history record information as described under the NCPA and related federal guidelines. Under the NCPA and our Florida statute, a "qualified entity" is a business or organization, whether public, private, for profit, not-for-profit, or voluntary, that provides care or care placement services, including a business or organization that licenses or certifies others to provide care or care placement services. "Care" means the provision of care, treatment, education, training, instruction, supervision, or recreation to children, the elderly, or individuals with disabilities.



4. If I am now required to only obtain state criminal history record checks, can I request the additional national check through the VECHS program?

This program does not apply to those entities or persons currently required to have criminal history record checks under other statutory provisions. These entities and persons should continue to follow the statutory mandates that specifically apply to them. One exception to this might be for entities now required to obtain only state record checks on some or all of their employees or volunteers. If these entities wish to also obtain national record checks on the same employees or volunteers, the VECHS program may be able to assist by processing their required state checks, along with the national checks, through one system.

If an entity is required to obtain state and national checks on only specific types of employees or volunteers, the VECHS program may be able to process requests for state and national checks on the entity's other employees or volunteers.



5. Who are considered "children, the elderly, or individuals with disabilities" under the applicable laws and the VECHS program?

The term "child" means any unmarried person under 18 years of age, who has not been emancipated by order of the court. An "elderly person" is a person who is 60 years of age or older. "Individuals with disabilities" are persons with a mental or physical impairment who require assistance to perform one or more daily living tasks.



6. How can my organization become a qualified entity?

If you believe your business or organization meets the criteria of a "qualified entity", you may download and complete a copy of the Qualified Entity Application and the User Agreement from this site. Or you may contact the VECHS Unit at the Florida Department of Law Enforcement at (850) 410-VECHS (850-410-8324), to request a copy of each document be mailed to you.

Your next step would be to complete the application, explaining what functions the entity performs that would serve children, elderly or disabled persons, and whether the requests for criminal history records would be for your entity's employees or volunteers. You would then have an authorized representative of the entity sign the User Agreement, stating that your entity will abide by all laws, regulations, and instructions pertaining to this program, particularly that your entity will use the criminal history information supplied through the program only to screen your entity's employees and volunteers.

When you have completed the Qualified Entity Application and User Agreement and obtained the necessary signatures from a representative of your entity, you will need to send the originals of both documents to the VECHS Unit. We will accept an initial faxed copy of both documents, to expedite the qualifying process. However, prior to forwarding fingerprint cards to your entity or processing any requests for criminal history record checks, we will need the original, signed

application and agreement from your entity.



7. What happens once I submit my Qualified Entity Application and User Agreement?

FDLE staff will review the application. If it is determined that your organization meets the requirements, FDLE will provide you with:

- Instructions regarding how to submit the fingerprint cards and payments for the criminal history information.
- Fingerprint cards on which the employees or volunteers will have their fingerprints rolled.
- A Waiver form must be signed by the employee or volunteer.



8. If my entity is governmental and we currently obtain some state and national checks for certain employees, can we use our current ORI number to receive state and national criminal history checks on other employees or volunteers through the VECHS program?

No, you may not use any ORI Number you have been assigned previously to process your requests for record checks through the VECHS Program. Upon your approval to participate in the VECHS program, depending upon the volume of fingerprint cards you predict you will need, FDLE will either provide you with fingerprint cards preprinted with the VECHS Program ORI Number, or we will request the FBI to issue your agency a new ORI number and to mail you new fingerprint cards preprinted with this new number for your use with the VECHS Program.



9. If my organization is approved to participate in the VECHS program, will my organization be required to obtain criminal history record checks on my current or prospective employees and volunteers?

Participation in the VECHS program is strictly voluntary for those organizations that are not otherwise required to obtain criminal history record checks on their employees and volunteers. The NCPA does not replace the existing Florida statutes that mandate state and national criminal history record checks for employees of specified caretaker programs, which include, but are not limited to the following: school district instructional and non-instructional personnel; nursing home administrators and financial officers; and child care, substance abuse, mental health, and developmental service programs. If your organization is presently required to obtain criminal history checks on employees and/or volunteers, you must continue to do so under the applicable Florida law.



10. Is there a fee for this service?

Yes. There are both State and National fees associated with conducting background checks through VECHS. The following chart outlines the associated fees by applicant type based on hard card and electronic fingerprint submissions:

VECHS Qualified Entities	State Fee (defined in 943, F.S.)	Federal Fee <u>HARD CARD</u>	Federal Fee <u>ELECTRONIC</u>	State Fee plus Federal Fee <u>HARD CARD</u>	State Fee plus Federal Fee <u>ELECTRONIC</u>
Current or Prospective Employees	\$24.00	\$30.25	\$19.25	\$54.25	\$43.25
Current or Prospective Volunteers	\$18.00	\$15.25	\$15.25	\$33.25	\$33.25

FDLE collects both payments and forwards the appropriate federal fees to the FBI.

If your organization is a governmental agency, you may request to be invoiced monthly for the services.

If your organization is not a governmental agency, you will be required to submit payment with the fingerprint cards or set up an escrow account. If payment is made with each submission of fingerprint cards, the payment must be in the form of a check or money order.



11. What will I receive when I submit requests (and appropriate payment) for criminal history record checks?

If FDLE qualifies your entity to participate in the VECHS program, and your entity submits authorized requests and payment for criminal history record information to FDLE, FDLE/the FBI will provide either of the following to your entity, for each criminal history record request: 1) a notification that the individual as described on the fingerprint card does not have a criminal history record; or 2) a copy of the individual's criminal history record. In addition, FDLE will advise the entity if the individual is subject to a Florida warrant for arrest or a Florida domestic violence injunction and what agency has the warrant or injunction.



12. How long will it take for me to get the results?

The NCPA requires FDLE and the FBI to make a reasonable effort to return your criminal history information within 15 business days. This does not include mail time. Currently, FDLE processes Florida record checks within approximately five or less business days from the date appropriate requests for criminal history record checks and payments are received. We are constantly exploring alternative ways to reduce this turnaround time. Errors on the fingerprint cards or in the amount of the payment may require additional time to process the requests or may require the

requests be returned to you for correction.

Regarding the FBI's turnaround time, FDLE has no control over how and when the FBI processes requests for national criminal history records. However, during the months of February through May of 2000, FDLE observed a reduction in the FBI turnaround time to 10-20 calendar days, including mail time. Our experience working with the FBI tells us that they, too, strive to meet and reduce the turnaround time required of them by the NCPA.

FDLE is able to obtain both state and national responses more quickly if the fingerprints are submitted in an automated form from a livescan device. These devices are expected to become more and more available to applicants over the next few years. They allow for the fingerprints to be sent immediately to FDLE. The FDLE and the FBI processing are completed in about three working days, at which time the customer can retrieve state and national results on the applicant. Agencies can buy these devices or check with local law enforcement agencies or other governmental entities or service providers to determine if they provide this service.



13. How should my organization use the results of our requests for criminal history record checks?

You will need to review the information to determine if there is any reason that the employee or volunteer should not be allowed to work with children, the elderly, or the disabled. If no criminal history record is found, you should not necessarily assume that there are no risks to employing or using the volunteer services of the individual. Simply stated, "no record" means that he or she does not have an arrest or conviction known to FDLE or the FBI. Other recommended practices would include checking former places of employment, conducting neighborhood interviews, obtaining information from local law enforcement agencies, and asking for more information from the individual.

If the employee or volunteer has a criminal record, you should evaluate whether the individual should be permitted contact with children, the elderly, or the disabled. Neither the National Child Protection Act nor Florida law governing the VECHS program defines specific criteria to use during this evaluation of an entity's employee or volunteer. Therefore, FDLE does not set specific screening criteria either.

Background screening by your organization may already be covered under other statutory provisions. Your organization will need to comply with all required screening criteria under these laws. If these laws apply to you, and if your organization should decide to disqualify an individual during the screening process, the employee or volunteer may have a right to contest or request an exemption from the disqualification. Please consult with your legal representative for more advice on these provisions and how they apply to your organization.

The U.S. Department of Justice has published a document that might be helpful to your organization as you screen your current and prospective employees and volunteers: [Guidelines for the Screening of Persons Working With Children, the Elderly, and Individuals with Disabilities in Need of Support](#) (April 1998). These guidelines may be obtained from:

Juvenile Justice Clearinghouse/NCJRS
P. O. Box 6000

Rockville, MD 20849-6000
Phone: 1-800-638-8736
Fax-on-Demand: 1-800-638-8736
(restrictions apply)
Online: www.ncjrs.org/ojjhome.htm

You may also exchange the results of your state and national criminal history record checks with those of other qualified entities, if the employee or volunteer has agreed to this in the Waiver form signed at the time of fingerprinting, and if you follow specific procedures in recording the exchange of the information. This exchange of information, depending on its timeliness, may assist you and other qualified entities in reducing the costs of criminal history records checks on the same persons. It may also assist all qualified entities in screening out those employees or volunteers who should not be in contact with vulnerable individuals.



14. Can I get information from other qualified entities if they have already checked my employees and volunteers?

You may obtain criminal history information from other qualified entities, if the employee or volunteer agreed to this on the Waiver form required to be signed when he/she was fingerprinted, and if the transfer of information is recorded by the other qualified entity on its Dissemination Log. The restrictions on this process are described in the User Agreement qualified entities must sign.



15. For what period of time should I rely on the criminal history record that I receive on an employee or volunteer?

The criminal history repository is a dynamic file with new arrests added daily and changes frequently. Currency of information is critical because the qualified entities will want to know about all arrests, no matter how recent. On the practical side, however, the qualified entities will not be able to request the criminal history information daily. Each qualified entity will have to determine how frequently its employees or volunteers need to be checked. The qualified entity will also need to determine whether criminal history information available from another qualified entity is too old to use for its screening purposes.



16. What if there is no disposition in the criminal history record showing what happened in court?

When the court disposition of a Florida arrest is sent to FDLE, it is added to the criminal history record. If there is an arrest in the Florida criminal history record of the employee or volunteer that does not reflect a court disposition, FDLE will not have any further information on that specific arrest. The qualified entity may determine if the nature of the arrest is something that it would be concerned about if the employee or volunteer were convicted. If the court disposition is important, the qualified entity may call the Clerk of Court in the county where the arrest took place. The Clerk will retrieve and provide the court disposition if one is available. There may be a charge for this service depending on which county you contact. FDLE has a list of phone numbers for Florida Clerks of Court. This will be provided to entities after they are qualified.

When the court disposition on an arrest from another state is missing, the same process can be followed. FDLE, however, does not have a listing for all of the Clerks of Court or their equivalent in other states. If the qualified entity needs the court disposition in these cases, it will be necessary to work with the repository in the state of arrest or to contact the court which heard the case.



17. Why aren't sealed and expunged data returned to VECHS entities?

Florida law restricts the dissemination of sealed and expunged data to agencies and purposes outlined in the law itself. See s. 943.0585(4)(a), Florida Statutes for more detail.



18. Is it possible that VECHS agencies will be able to access criminal history records with terminals connected directly to FDLE?

VECHS entities are allowed to access criminal record information only after the submission of descriptive and fingerprint information on the employee or volunteer. There is no direct terminal access for this access. However, VECHS entities can submit the data from a "livescan" device which transfers the data electronically to FDLE and allows for the electronic transfer of results in two to three working days.



19. Can I contact my law enforcement agency to do these checks and not pay the \$24 fee?

Law enforcement agencies are not authorized to conduct searches for VECHS entities through the Florida Crime Information Center. If they do so, the agency could be cut off and not allowed to access state or national criminal information systems. Local agencies may provide data from local systems. The only authorized way for the VECHS entity to obtain state or national criminal information is through the submission of a fingerprint card and payment of established fees.



20. How often will VECHS audits be performed?

There is not a scheduled time for VECHS audits. They will be scheduled periodically and a sample of agencies will be audited. Some audits may be conducted via a telephone interview, a letter asking specific questions or an on-site audit. When questions arise regarding the confidentiality or the security of information from a specific qualified entity, FDLE may conduct an audit of the entity to ensure that all provisions in the user agreement are being enforced.



21. If I deny a person the opportunity to volunteer with or be employed by the qualified entity, may I give a copy of the FDLE and FBI criminal record to this applicant? What if the applicant indicates the record is incorrect?

If a person challenges his or her opportunity to volunteer or be employed, and the reason for the decision was based on criminal history results, the person can be shown the criminal history record after ensuring the identity of the requestor. If the

challenge results in civil litigation, a copy of the record can be provided for the purpose of a hearing, but cannot be made part of any record or file available to the public.

If the person believes his or her criminal record is in error, he or she may contact FDLE for assistance in correcting the record.



22. Does FDLE maintain records of all arrests, including Notices to Appear and Direct Files?

FDLE's criminal record repository contains information on all arrested persons in Florida where the arresting agency submitted a fingerprint at the time of the arrest. For the most part, this means that all felony and serious misdemeanor arrests are available. However, if there was not an arrest but, rather, a *Notice to Appear* was issued or the State Attorney issued a *Direct File*, this information would not be "fingerprint based" and therefore **not** be contained in the criminal history repository.



23. Does FDLE maintain a record of all criminal history records in the nation or just for the state of Florida?

The FDLE repository contains Florida arrest information only. Arrests by the federal government or another state are not included in the Florida repository. VECHS customers are eligible for the out-of-state criminal record information and will be provided it either directly from the FBI or FDLE.



24. May VECHS fingerprints be submitted electronically from a livescan device?

Live scan devices allow for fingerprint information to be sent to FDLE electronically which speeds up the entire process. The descriptive data on the applicant as well as the fingerprints are sent in electronically to FDLE. The state and national criminal record search results are packaged together for each applicant and are made available to the regulatory agency within two to three working days.

NOTE --- The criminal history request fees for electronic submissions are identical to the regular fingerprint card submissions –and– there are multiple companies that sell live scan equipment that can be used for the electronic submissions. Please contact a member of the FDLE Civil Workflow Control System (CWCS) Operational Team, at (850) 410-8161, for further information regarding the electronic submission process.