

Changes To The Police Record Check Process

December 2018

Introduction

This guide has been created for organizations to understand the changes to the police record check request process that were effective on November 1, 2018 as a result of the new *Police Record Checks Reform Act, 2015*.

Why are Changes Being Made to the Police Record Check Process?

Historically, many organizations across the province require that a police record check be submitted by a person wishing to work for, volunteer at or do business with that organization.

Due to the sheer number of requests from across the province and the lack of standards in place, this led to overburdened police record check providers, inconsistency in what was provided and in many cases long wait-times to receive the completed checks.

It was determined that a solution was needed to streamline the process while also ensuring that organizations receive the information they require to effectively screen applicants.

This was deemed particularly important for those organizations in the province that deal with vulnerable individuals (such as children or the elderly), as the police records requested can often be quite extensive.



Background on the *Police Record Checks Reform Act, 2015 (PRCRA)*

In response to these issues, the Ministry of Community Safety and Correctional Services developed a new set of provincial rules for the police record check process (i.e. the *Police Record Checks Reform Act (PRCRA)*) that took effect on November 1, 2018.

The objectives of the PRCRA are to:

- **Prevent** the disclosure of unnecessary information in police record checks.
- **Standardize** the three types of police record checks that can be conducted (criminal record, criminal record and judicial matters, and vulnerable sector).
- **Specify** the information that can be released in each type of record check.
- **Establish** that an applicant can only apply for one of the three types of record checks and cannot ask applicants to provide any additional police records.
- **Require** that an individual receive their police record check before being asked to consent to disclosure by a third party, such as an employer.

Types of Record Checks and Information Disclosed Under the PRCRA

The new rules state that there will only be three different types of police record checks available:

- Criminal Record
- Criminal Record and Judicial Matters
- Vulnerable Sector

Below is a chart that details the type of information that can be released in each type of record check:

		✓ Disclose ✗ Do not Disclose		
Authorized Information				
Type	Disclosure Period	Criminal Record Check	Criminal Record and Judicial Matters Check	Vulnerable Sector Check*
Criminal convictions	<ul style="list-style-type: none"> • Indefinite for indictable and hybrid offences • 5 years for summary offences 	✓	✓	✓
Findings of guilt under the Youth Criminal Justice Act (YCJA)	<ul style="list-style-type: none"> • Varies based on type of record; periods set out in the YCJA 	✓	✓	✓
Absolute discharges	<ul style="list-style-type: none"> • 1 year, per federal law 	✗	✓	✓
Conditional discharges	<ul style="list-style-type: none"> • 3 years, per federal law 	✗	✓	✓
Outstanding charges and warrants to arrest	<ul style="list-style-type: none"> • Indefinite 	✗	✓	✓
Court orders (excludes mental health related orders and family court restraining orders)	<ul style="list-style-type: none"> • Indefinite 	✗	✓	✓
Findings of not criminally responsible on account of mental disorder (excludes findings that resulted in an absolute discharge)	<ul style="list-style-type: none"> • 5 years 	✗	✗	✓
Record suspensions (formerly pardons)	<ul style="list-style-type: none"> • Indefinite 	✗	✗	✓
Certain non-convictions (includes only charges that have been dismissed, withdrawn or stayed, or that resulted in a stay of proceedings or an acquittal)	<ul style="list-style-type: none"> • Indefinite 	✗	✗	✓

***Note:** The Vulnerable Sector Check is the most thorough type of record check within the PRCRA and is intended to screen people who come into contact with vulnerable individuals (such as children or the elderly) through their employment or volunteer work.

Requesting a Police Record Check Under the PRCRA

Going forward, Vulnerable Sector Checks will only contain non-conviction information (e.g., pending, stayed, dismissed or withdrawn charges) relating to certain specified offences, if the alleged victim is a child or vulnerable person and there is a pattern of behaviour.

Requests for a police record check must now contain an individual's written consent to the particular type of check sought.

Applicants will be instructed to not disclose youth justice records unless they are being shared with either the federal, provincial or municipal government for the purposes of employment as per the *Youth Criminal Justice Act*.

Police Record Check Request Exemptions

The Ministry of Children, Community and Social Services received exemptions from the PRCRA for certain types of police record check requests in order to allow for additional information to be provided in certain circumstances.

The following page details the full list of exemptions that have been granted.

If you determine that the type of police record check request you require has been granted an exemption, it is expected that you should still receive the same information you have historically received.

If your record check request type is exempt from the PRCRA

- You should clearly state in the record check request that the check is exempt and express what type of information you are continuing to seek.
 - ◆ This is especially important as of November 1, 2018, non-conviction information will only be shared for certain specified offences, if the alleged victim is a child or vulnerable person and there is a pattern of behaviour.

Receiving the Police Record

- If you determine that an exempted police record check is missing information, you can contact your local police service to learn why the information was not included.

If you have any further questions regarding exemptions from the PRCRA please contact the ministry at: CYFSA@ontario.ca

List of Exemptions Granted to the Ministry of Children, Community and Social Services

The ministry received exemptions to the new, standardized police record check types (criminal record, criminal record and judicial matters, and vulnerable sector) when requesting police record checks for the following purposes:

When a children's aid society requests a search as part of a child protection investigation, delivering ongoing child protection or prevention services, providing care for children or supervising their placements, placing children for adoption, or otherwise fulfilling its duties under the CYFSA and its regulations.

To screen a person applying for a license to operate a children's residence or to provide residential care.

To screen a person who holds a licence to operate a children's residence or to provide residential care.

To screen a director or executive of a corporation who holds a licence to operate a children's residence or to provide residential care.

To screen a person who is or wishes to become a foster parent or who is or wishes to supervise/support a foster parent.

To screen any adults who live in a licensed residential setting.

To screen any person applying for a paid, volunteer or student position which entails providing direct care to a child/young person in a licensed residential setting.

To screen a person who already holds a position that provides direct care to a child/young person in a licensed residential setting.

To screen any prospective adoptive parent, as part of their adoption homestudy assessment.

To screen any person who is or wishes to be a foster parent providing care for a child placed for adoption by a licensee.

To screen any adults who live with a prospective adoptive parent or a foster parent providing care for a child placed for adoption by a licensee.

To screen current and potential employees, volunteers and students in a place of open or secure custody or temporary detention or a government operated or funded youth probation office.

To screen any person seeking to be awarded a contract to service a place of open or secure custody or temporary detention or a government operated and funded youth probation office, and any employees of that prospective contractor, if the contract would provide access to information, facilities, assets, systems or procedures that, if mishandled, could significantly jeopardize the safety of an individual or the security of items or information or be used to undermine the administration of justice.

To screen current and potential employees, volunteers, and students who work in, or current or prospective contractors and their employees who provide goods or services, in the Child and Parent Resource Institute.