

Child Welfare Policy Manual

Questions & Answers

2.1J CAPTA, Assurances and Requirements, Criminal Background Checks

1. Question: Are fingerprints required as part of the criminal background check requirement in section 106(b)(2)(B)(xxii) of CAPTA?

(Deleted 09/05/2019)

2. Question: Does the requirement at section 106(b)(2)(A)(xxii) of the Child Abuse Prevention and Treatment Act (CAPTA) for criminal background checks for prospective foster and adoptive parents and other adults living in the household apply if no title IV-E foster care or adoption assistance payments are made?

(Deleted 02/09/2012)

3. Question: Are fingerprints required as part of the criminal background check requirement in section 106(b)(2)(B)(xxii) of CAPTA?

Answer: Yes. Public Law 111-320 amended section 106(b)(2)(B)(xxii) of CAPTA in 2010 to require that States have provisions and procedures that require criminal background checks for prospective foster and adoptive parents and other adults residing in the household that meet the title IV-E criminal background check requirements. The title IV-E requirements in section 471(a)(20) of the Social Security Act require fingerprint-based criminal record checks of national crime information databases for prospective foster and adoptive parents with exceptions permitted as outlined in CWPM section 8.4F #30.

For CAPTA purposes, the state may apply these same exceptions to other adults residing in the household. Additionally, for CAPTA purposes, the state may apply the exception for inability to obtain fingerprints due to a physical disability to other adults residing in the household who have a mental or cognitive disability which prevents fingerprinting. For example, severe dementia that results in the loss of ability to communicate; the need for full-time daily assistance with tasks; and/or a loss of physical capabilities would be considered a mental or cognitive disability that prevents fingerprinting.

- **Source/Date:** 9/5/2019

- **Legal and Related References:** Social Security Act section 471(a)(20); Child Abuse Prevention and Treatment Act (CAPTA), as amended (42 U.S.C. 5101 et seq.); section 106(b)(2)(B)(xxii)