

**NCSL**  
**STATE LAWS/REGULATIONS REQUIRING BACKGROUND CHECKS**  
**OR EVIDENCE OF SAFETY OF CHILD**  
**OR FITNESS OR APPROPRIATENESS OF PLACING CHILD WITH THE OTHER**  
**BIOLOGICAL PARENT**  
**WHEN CHILD HAS BEEN REMOVED FROM PARENTAL CUSTODY**

(Source: Child Welfare Information Gateway, [Placement of Children with Relatives](#), current through January 2018)

<p>CO SB15-87 Safe Placement of Children and Youth in Foster Care FAQs</p>	<p>For example, Colorado’s rules around background checks do not include biological parents in the definition of kin, so kinship care rules do not apply and “A county can use their discretion to perform additional checks on a parent.”</p>
<p>FL 2018 Florida Statutes Title V JUDICIAL BRANCH Chapter 39 PROCEEDINGS RELATING TO CHILDREN SECTION 0138 Criminal history and other records checks; limit on placement of a child</p>	<p>39.0138 Criminal history and other records checks; limit on placement of a child.—  (1) The department shall conduct a records check through the State Automated Child Welfare Information System (SACWIS) and a local and statewide criminal history records check on all persons, including parents, being considered by the department for placement of a child under this chapter, including all nonrelative placement decisions, and all members of the household, 12 years of age and older, of the person being considered. For purposes of this section, a criminal history records check may include, but is not limited to, submission of fingerprints to the Department of Law Enforcement for processing and forwarding to the Federal Bureau of Investigation for state and national criminal history information, and local criminal records checks through local law enforcement agencies of all household members 18 years of age and older and other visitors to the home. An out-of-state criminal history records check must be initiated for any person 18 years of age or older who resided in another state if that state allows the release of such records. The department shall establish by rule standards for evaluating any information contained in the automated system relating to a person who must be screened for purposes of making a placement decision.</p> <p>(2)(a) The department shall establish rules for granting an exemption from the fingerprinting requirements under subsection (1) for a household member who has a physical, developmental, or cognitive disability that prevents that person from safely submitting fingerprints.</p> <p>(b) Before granting an exemption, the department or its designee shall assess and document the physical, developmental, or cognitive limitations that justified the exemption and the effect of such limitations on the safety and well-being of the child being placed in the home.</p> <p>(c) If a fingerprint exemption is granted, a level 1 screening pursuant to s. 435.03 shall be completed on the person who is granted the exemption.</p> <p>(3) The department may not place a child with a person other than a parent if the criminal history records check reveals that the person has been convicted of any felony that falls within any of the following categories:</p> <p>(a) Child abuse, abandonment, or neglect;</p> <p>(b) Domestic violence;</p>

	<p>(c) Child pornography or other felony in which a child was a victim of the offense; or</p> <p>(d) Homicide, sexual battery, or other felony involving violence, other than felony assault or felony battery when an adult was the victim of the assault or battery, or resisting arrest with violence.</p> <p>(4) The department may not place a child with a person other than a parent if the criminal history records check reveals that the person has, within the previous 5 years, been convicted of a felony that falls within any of the following categories:</p> <p>(a) Assault;</p> <p>(b) Battery;</p> <p>(c) A drug-related offense; or</p> <p>(d) Resisting arrest with violence.</p> <p>(5) The department may place a child in a home that otherwise meets placement requirements if a name check of state and local criminal history records systems does not disqualify the applicant and if the department submits fingerprints to the Department of Law Enforcement for forwarding to the Federal Bureau of Investigation and is awaiting the results of the state and national criminal history records check.</p> <p>(6) Persons with whom placement of a child is being considered or approved must disclose to the department any prior or pending local, state, or national criminal proceedings in which they are or have been involved.</p> <p>(7) The department may examine the results of any criminal history records check of any person, including a parent, with whom placement of a child is being considered under this section. The complete criminal history records check must be considered when determining whether placement with the person will jeopardize the safety of the child being placed.</p> <p>(8)(a) The court may review a decision of the department to grant or deny the placement of a child based upon information from the criminal history records check. The review may be upon the motion of any party, the request of any person who has been denied a placement by the department, or on the court's own motion. The court shall prepare written findings to support its decision in this matter.</p> <p>(b) A person who is seeking placement of a child but is denied the placement because of the results of a criminal history records check has the burden of setting forth sufficient evidence of rehabilitation to show that the person will not present a danger to the child if the placement of the child is allowed. Evidence of rehabilitation may include, but is not limited to, the circumstances surrounding the incident providing the basis for denying the application, the time period that has elapsed since the incident, the nature of the harm caused to the victim, whether the victim was a child, the history of the person since the incident, whether the person has complied with any requirement to pay restitution, and any other evidence or circumstances indicating that the person will not present a danger to the child if the placement of the child is allowed.</p> <p>History.—s. 6, ch. 2006-86; s. 3, ch. 2008-245; s. 3, ch. 2012-178; s. 2, ch. 2018-103.</p>
<p>MT  <i>Current Through January 2018</i>  <b>Relative Placement for Foster Care and Guardianship</b>  <b>Citation: Ann. Code §§ 41-3-101;</b></p>	<p>Whenever it is necessary to remove a child from the child's home, the Department of Public Health and Human Services shall, when it is in the best interests of the child, place the child with the child's noncustodial birth parent or with the child's extended family, including adult siblings, grandparents, great-grandparents, aunts, and uncles, when placement with the extended family is approved by the department, prior to placing the child in an alternative protective or residential facility.</p> <p>If the department has legal custody of a child, the department shall give priority to a member of the child's extended family in determining the person or persons with whom the child should be placed if:</p>

<p><b>41-3-439</b></p>	<p>Placement with the extended family member is in the best interests of the child.  The extended family member has requested placement of the child.  The extended family member is able to offer the child continuity of care by providing permanency or stability in residence, schooling, and activities outside of the home.  The department has determined that the extended family member is qualified to receive and care for the child.</p> <p>If more than one extended family member has requested that the child be placed with them and all are qualified to receive and care for the child, the department may determine which extended family member to place the abandoned child with in the same manner as provided for in § 41-3-438(4).  This section does not affect the department's ability to assess the appropriateness of placement of the child with a noncustodial parent when abandonment has been found against only one parent.</p>
<p>NH  <i>Current Through January 2018</i>  <b>Relative Placement for Foster Care and Guardianship Citation: Ann. Stat. §§ 169-C:3; 169-C:19</b></p>	<p>The term 'relative' means parent, grandparent, brother, sister, stepparent, stepbrother, stepsister, uncle, aunt, nieces, nephews, or first and second cousins. Legal custody may be transferred to a child-placing agency or relative.</p> <p><b>Requirements for Placement With Relatives Citation: Ann. Stat. § 169-C:19</b>  No child shall be placed with a relative until a written social study of the relative's home, conducted by a child-placing agency, is submitted to the court.</p>
<p>NJ  <b>Requirements for Adoption by Relatives Citation: Ann. Stat. §§ 9:3-48; 9:3-54.2</b></p>	<p>Whenever a petitioner is a brother, sister, grandparent, aunt, uncle, or birth father of the child, the order may limit the investigation to an inquiry concerning the status of the parents of the child and an evaluation of the petitioner.</p>
<p>NY  <i>Current Through January 2018</i>  <b>Relative Placement for Foster Care and Guardianship Citation: Fam. Ct. Act §§ 1017; 1055-b; 1012</b></p>	<p>When the court determines that a child must be removed from his or her home, the court shall direct the local commissioner of social services to conduct an immediate investigation to locate any nonrespondent parent of the child and any relatives of the child, including all of the child's grandparents, all relatives or suitable persons identified by any respondent parent or any nonrespondent parent, and any relative identified by a child over age 5 as a relative who plays or has played a significant and positive role in his or her life. The local commissioner shall inform them in writing of the pendency of the proceeding and of the opportunity for nonrespondent parents to seek temporary release of the child or for relatives or suitable persons to become foster parents, provide free care, or seek guardianship of the child.</p> <p>At the conclusion of the dispositional hearing, the court may grant custody or guardianship of the child to a respondent parent, relative, or other suitable person if the following conditions have been met:  The respondent parent, relative, or suitable person has filed a petition for custody or guardianship of the child.  The court finds that granting custody or guardianship of the child to such person is in the best interests of the child and that the safety of the child will not be jeopardized if that person is no longer under supervision or receiving protective services.  The court finds that granting custody or guardianship of the child to such person will provide the child with a safe and permanent home.</p> <p>A 'suitable person' is any person who plays or has played a significant positive role in the child's life or in the life of the child's family.</p>

<p>NC - North Carolina law – Rylans Law, house Bill 350</p>	<p><a href="https://www.newsobserver.com/news/politics-government/state-politics/article158688434.html">https://www.newsobserver.com/news/politics-government/state-politics/article158688434.html</a></p> <p>PART X. RYLAN'S LAW/CPS OBSERVATION SECTION 10. G.S. 7B-903.1(c) reads as rewritten: "(c) If a juvenile is removed from the home and placed in the custody or placement responsibility of a county department of social services, the director shall not allow unsupervised visitation with or return physical custody of the juvenile to the parent, guardian, custodian, or caretaker without a hearing at which the court finds that the juvenile will receive proper care and supervision in a safe home. Before a county department of social services may recommend return of physical custody of the juvenile to the parent, guardian, custodian, or caretaker from whom the juvenile was removed, a county department of social services shall first observe that parent, guardian, custodian, or caretaker with the juvenile for at least two visits that support a recommendation to return physical custody. Each observation visit shall consist of an observation of not less than one hour with the juvenile, and each observation visit shall be conducted at least seven days apart. A department of social services shall provide documentation of any observation visits that it conducts to the court for its consideration as to whether physical custody should be returned to the parent, guardian, custodian, or caretaker from whom the juvenile was removed."</p>
<p>NC <i>Current Through January 2018</i>  <b>Relative Placement for Foster Care and Guardianship</b> <b>Citation: Gen. Stat. §§ 7B-505; 7B-101</b></p>	<p>A child alleged to be abused, neglected, or dependent may be placed in nonsecure custody with the Department of Social Services in any of the following:</p> <ul style="list-style-type: none"> <li>A licensed foster home</li> <li>A facility operated by the department</li> <li>Any other home or facility approved by the court, including the home of a parent, relative, nonrelative kin, or other person with legal custody of a sibling of the child</li> </ul>
<p>OH <i>Current Through January 2018</i>  <b>Relative Placement for Foster Care and Guardianship</b> <b>Citation: Rev. Code §§ 5101.85; 5153.161; Admin. Code § 5101:2-42- 05</b></p>	<p>A kinship caregiver is a person age 18 or older who is related to the child by blood or marriage and who is caring for the child in place of the child's parents. Relatives can include:</p> <ul style="list-style-type: none"> <li>Grandparents, including great, great-great, and great-great-great-grandparents</li> <li>Siblings</li> <li>Aunts, uncles, nephews, and nieces, including any relative with a great, great-great, or grand prefix</li> <li>First cousins and first cousins once removed</li> <li>Stepparents and stepsiblings of the child</li> <li>Spouses or former spouses of any of the above</li> <li>A legal guardian or legal custodian of the child</li> </ul> <p>A 'qualified nonrelative' is a nonrelative adult whom a child or the current custodial caregiver of a child identifies as having a familiar and longstanding relationship or bond with the child or the child's family that will ensure the child's social and cultural ties.</p> <p><i>In regulation:</i> When a child cannot remain in his or her own home, the child-placing agency shall explore both maternal and paternal relatives regarding their willingness and ability to assume temporary custody or guardianship of the child. Unless it is not in the child's best interests, the agency shall explore placement with a noncustodial parent before considering other relatives</p>
<p>OR</p>	<p>As provided in ORS 419B.171, when taking a child into protective custody without a</p>

<p>ORS 419B.171</p>	<p>court order, the person taking the child into custody must promptly file a brief written report with the court called a Protective Custody Report, CF464. A written report is required even if the child is released to a parent or other responsible person prior to a shelter hearing. <b>The written report must be completed and sent to the court the day the child is taken into custody or no later than the morning of the next business day.</b></p> <ul style="list-style-type: none"> <li>• If the child is not released to a parent or other responsible person, but is retained in ASS protective custody, a shelter hearing must be scheduled as required by ORS 419B.183.</li> <li>• If a child is placed in protective custody, the CPS worker must notify parents, <b>including a non-custodial parent</b>, caregivers and the child's tribe, if applicable, in writing.</li> <li>• The CPS worker or designee must immediately make diligent efforts to identify legal parents and any putative fathers after a child is taken into protective custody. Information about putative fathers must be recorded on form CF 418, "Father Questionnaire" and filed in the case record.</li> </ul> <p><i>(Nina: there is no direction as to what to do once the putative father, legal parents, etc. are notified. Are they required to undergo background checks prior to being given custody of the child? This is a gap that legislators might want to address. The Note below says that the CPS worker should make a safety plan with the adult victim, but this is only when there is an adult victim, as in a domestic violence case. There doesn't appear to be any guidance for other adults.)</i></p> <p>Note: When searching for a parent who is the perpetrator of domestic violence against the other parent, the CPS worker should inform the adult victim that the attempt to locate the other parent is being made. The CPS worker should make a safety plan with the adult victim when appropriate, but the search still needs to be made. Please refer to the booklet, Child Welfare Practices for Cases with Domestic Violence, DHS9200, <a href="http://dhsforms.hr.state.or.us/Forms/Served/CE9200.pdf">http://dhsforms.hr.state.or.us/Forms/Served/CE9200.pdf</a>.</p>
<p>UT Current Through January 2018  Relative Placement for Foster Care and Guardianship Citation: Ann. Code § 78A-6-307</p>	<p>When the court orders that a child be removed from the custody of the child's parent, <b>the court shall first determine whether there is another natural parent with whom the child is not residing who desires to assume custody of the child. If that parent requests custody, the court shall place the child with that parent unless it finds that the placement would be unsafe or otherwise detrimental to the child.</b></p> <p>For purposes of this section, 'natural parent' includes only a birth or adoptive mother, an adoptive father, or a birth father who was married to the child's birth mother at the time the child was conceived or born, or who has strictly complied with the provisions of §§ 78B-6-120 through 78B-6-122 prior to removal of the child or voluntary surrender of the child by the custodial parent.</p> <p><b>Requirements for Placement With Relatives Citation: Ann. Code § 78A-6-307</b></p> <p>The <b>court shall make a specific finding regarding the fitness of the noncustodial parent to assume custody and the safety and appropriateness of the placement. The court shall, at a minimum, order the division to visit the parent's home, perform criminal background checks, and check for any previous reports of abuse or neglect received by the division regarding the parent at issue.</b></p>
<p>VT Current Through January 2018  Relative Placement for</p>	<p>At a temporary care hearing, the Department for Children and Families shall provide to the court information about the identity and location of a noncustodial parent, a relative, or person with a significant relationship with the child known to the department who may be <b>appropriate, capable, willing, and available to assume temporary legal custody of the child.</b> If the noncustodial parent cannot be located, the department shall provide to the court a summary of the efforts made to locate the parent.</p>

<p><b>Foster Care and Guardianship</b>  <b>Citation: Ann. Stat. Tit. 33, §§ 5307; 5308</b></p>	<p>At the temporary custody hearing, the court may issue orders related to the legal custody of the child as it deems necessary and sufficient to protect the welfare and safety of the child, including:  A conditional custody order returning or granting legal custody of the child to the custodial parent, guardian, custodian, noncustodial parent, relative, or a person with a significant relationship with the child, subject to such conditions and limitations as the court may deem necessary and sufficient  An order transferring temporary legal custody of the child to a noncustodial parent or to a relative</p> <p><b>Requirements for Placement With Relatives Citation: Ann. Stat. Tit. 33, §§ 5307; 5308; 5318</b></p> <p>With respect to any person who the department has identified as a potential placement for a child pursuant to this subdivision, the department shall conduct an assessment of the suitability of the person to care for the child. The assessment shall include consideration of the person's ability to care for the child's needs, a criminal history record, and a check of allegations of prior child abuse or neglect by the person or by other adults in the person's home.</p> <p>In considering the suitability of a relative, the court may order the department to conduct an investigation and file a written report of its findings with the court. The court may place the child in the temporary custody of the department, pending such investigation.</p> <p>Whenever the court orders the transfer of legal custody to a noncustodial parent, a relative, or a person with a significant relationship with the child, such orders shall be supported by findings regarding the suitability of that person to assume legal custody of the child and the safety and appropriateness of the placement.</p>
<p>VI  <i>Current Through January 2018</i>  <b>Relative Placement for Foster Care and Guardianship</b>  <b>Citation: Ann. Code Tit. 5, §§ 2549; 2550</b></p>	<p>If a child is found to be abused or neglected at a disposition hearing, the court may make any of the following orders of disposition:  Permit the child to remain with his or her parents, guardian, or other person responsible for his or her care, subject to such conditions as the court may prescribe</p>
<p>WI  Wisconsin statute gives some guidance regarding placement of a child:</p>	<p><a href="https://docs.legis.wisconsin.gov/statutes/statutes/767/V/41">https://docs.legis.wisconsin.gov/statutes/statutes/767/V/41</a>  Compelling reasons means “a convincing and persuasive reason why it would not be in the best interest of the child to be reunified with a parent, placed for adoption or placed with a legal guardian. A compelling reason must be supported with very strong, case-specific facts and evidence including justification for the reasons and decisions why each more preferred permanency option is not reasonable, appropriate or possible.” (<i>DHS Child Welfare Procedure Manual</i>)</p>
<p>WY  <i>Current Through January 2018</i>  <b>Relative Placement for Foster Care and Guardianship</b>  <b>Citation: Ann. Stat. § 14-3-208</b></p>	<p>When a child is taken into temporary protective custody, the local Department of Family Services office shall:  Make reasonable efforts to inform the parent, noncustodial parent, or other person responsible for the child's welfare that the child has been taken into temporary protective custody, unless otherwise ordered by a court of competent jurisdiction  Arrange for care and supervision of the child in the most appropriate and least restrictive setting necessary to meet the child's needs, including foster homes or other child care facilities certified by the department or approved by the court</p> <p>When it is in the best interests of the child, the department shall place the child with the child's noncustodial birth parent or with the child's extended family, including adult siblings, grandparents, great-grandparents, aunts, or uncles.</p> <p><b>Requirements for Placement With Relatives Citation: Ann. Stat. § 14-3-208</b></p> <p>Prior to approving placement with the child's noncustodial birth parent or extended family, the department shall determine whether anyone living in the home has been convicted of a crime</p>

	involving serious harm to children or has a substantiated case listed on the central registry established pursuant to § 14-3-213.