Introduction
Iowa Code section 135C.33 requires health care facilities to request criminal and child and dependent adult abuse record checks of prospective employees prior to employment. This section also applies to prospective employees of the following, if the provider is regulated by the state or receives any state or federal funding:

- An employee of a home health agency, home care aide, adult day services, or other provider of in-home services if the employee provides direct services to consumers.
- An employee of a hospice, if the employee provides direct services to consumers.
- An employee who provides direct services to consumers under a federal home and community-based services (HCBS) waiver.
- An employee of an elder group home certified under chapter 231B, if the employee provides direct services to consumers.
- An employee of an assisted living program certified under chapter 231C, if the employee provides direct services to consumers.

Iowa Code section 135B.34 requires hospitals to request criminal and child and dependent adult abuse record checks of prospective employees.

Administrative rules implementing Code sections 135C.33 and 135B.34 are found at 481—50.9 (health care facilities licensed pursuant to 135C, home health and hospice); 481—67.19 (assisted living, elder group homes, adult day services); and 481—51.41 (hospitals).

The Department routinely receives questions related to record checks. The following are representative of the most commonly asked questions.

Definitions: “employee” and “crime”
Q1: Who is an “employee” for purposes of the records check requirement?
Q1: An employee is any individual who is paid either by the facility or any other entity (i.e., temporary agency, private duty, Medicare/Medicaid or independent contractors). See also Q24.

Q2: What is a “crime” for purposes of the records check statute?
A2: “Crime” does not include offenses under chapter 321 classified as a simple misdemeanor or equivalent simple misdemeanor offenses from another jurisdiction. NOTE: Simple misdemeanors under chapter 321 do not appear on a DCI criminal history record check.
Conviction
Q3: Is a deferred judgment a conviction for purposes of the records check statute?
A3: Yes, a deferred judgment is considered a conviction for purposes of the records check statute. If a criminal background check comes back with a deferred judgment – whether it is successfully completed (discharged) or not – the employer must request a Record Check Evaluation by the Department of Human Services (DHS) in order to employ the individual. See Q7. NOTE: DCI criminal history reports may use the term “non-conviction” in reports where a deferred judgment has been discharged. A DHS Record Check Evaluation is required even if the deferred judgment has been discharged.

Q4: Is a deferred sentence a conviction for purposes of the records check statute?
A4: Yes. A deferred sentence is considered a conviction for purposes of the records check statute. If a criminal background check comes back with a deferred sentence, the employer must request a Record Check Evaluation by the Department of Human Services (DHS) in order to employ the individual.

Q5: Is the adjudication of a juvenile delinquent in juvenile court a “conviction” for purposes of the records check statute?
A5: No. A juvenile who has been adjudicated a delinquent in juvenile court has not been convicted of a crime. Because a juvenile adjudication is not a “conviction,” DHS does not have the authority under Iowa law to perform a Record Check Evaluation when an individual’s background check reveals a juvenile adjudication. An employer (or nurse aide training program) may decide to adopt internal personnel policies to address how they will handle a juvenile adjudication on a criminal record check. DHS and/or DIA have no regulatory authority over those policies.

Record Check Evaluation
Q6: How long are the results of a background check valid?
A6: The results of a background check are valid for 30 calendar days from the date the results are received by the facility (or nurse aide program).

Q7: What is a “hit”?
A7: A “hit” is generated when there is a conviction on the Criminal Background Check or a founded abuse on the Central Abuse Registry check.

Q8: If a records check comes back with a “hit,” what must the employer do?
A8: When a “hit” is triggered by something that is listed on a Criminal Background or Central Abuse Registry (Dependent Adult or Child Abuse) check, and the employer intends to employ the individual, it must request a Record Check Evaluation by the Department of Human Services (DHS). DHS will determine whether the individual is employable at that specific entity at that time. See also Q10.

Q9: How long after receiving a records check with a “hit” must the facility request a Record Check Evaluation?
A9: DHS rules provide that if a record check comes back with a “hit,” the facility has 30 days to request an evaluation. (441 IAC 119.3(1))
Q10: How long after receiving an evaluation decision from DHS must the individual begin employment with the facility?
A10: DHS rules provide that once the facility receives an evaluation decision from DHS, employment must commence within 30 days. (441 IAC 119.3(1))

Q11: Person #1 required a Record Check Evaluation by DHS while working for Employer A. As a result of the evaluation, Person #1 was permitted to work. Employer B wants to hire Person #1, and has conducted the required record checks. (Employer A and Employer B are not owned by the same corporation.) The latest record checks reveal no criminal conviction or founded abuse since the prior evaluation. Is a new Record Check Evaluation by DHS required?
A11: Not necessarily. In 2012, the Iowa Legislature amended Iowa Code section 135C.33 to address this scenario (Senate File 2164, effective July 1, 2012). If all of the following apply, Employer B would not be required to request a Record Check Evaluation:

- The position with the subsequent employer (“Employer B”) is substantially the same or has the same job responsibilities as the position for which the previous evaluation was performed. “Substantially the same or has the same job responsibilities” means that the position requires the same certification, licensure or advanced training. For example, a licensed nurse has substantially the same or the same job responsibilities as a director of nursing; a certified nurse aide does not have the same or substantially the same job responsibilities as a licensed nurse.
- Any restrictions placed on the person’s employment in the previous evaluation by DHS shall remain applicable in the person’s subsequent employment.
- The person subject to the record checks provides a copy of the previous evaluation to the subsequent employer (“Employer B”); or, the previous employer (“Employer A”) provides the previous evaluation from the person’s personnel file pursuant to the person’s authorization. If a physical copy of the previous evaluation is not provided to the subsequent employer (“Employer B”), the record checks must be reevaluated by DHS.

NOTE: Although an exemption from the evaluation requirement may be authorized, the subsequent employer may choose to request an evaluation of the record checks and may employ the person while the reevaluation is being performed.

Q12: May the facility employ a person pending the completion of the Record Check Evaluation?
A12: Senate File 347, effective in April 2013, allows employment pending a Record Check Evaluation in certain circumstances. If all the following apply, the facility may employ a person for not more than 60 calendar days (beginning the first day of the person’s employment) pending the completion of a Record Check Evaluation by DHS:

- The person is being considered for employment other than employment involving the operation of a motor vehicle;
- The person does not have a record of founded child or dependent adult abuse;
- The person has been convicted of a crime that is a simple misdemeanor offense under Iowa Code section 123.47 (providing alcohol to a minor or minor in possession of alcohol) or a first offense of operating a motor vehicle while intoxicated under Iowa Code section 321J.2(1); and
- The facility has requested that DHS perform an evaluation to determine whether the crime warrants prohibition of the person’s employment.
Q13: Who do I contact for more information about the Record Check Evaluation process?
A13: For more information regarding this process, contact staff at DHS directly:
   Main email address: recordcheckevals@dhs.state.ia.us
   Sonia Houghton (support staff) 515.362.7420 or shought@dhs.state.ia.us
   Russ Saunders 515.362.7440 or rsaunde@dhs.state.ia.us
   Rex Hall 515.362.7441 or rhall@dhs.state.ia.us

Conviction after Hire
Q14: What must a current employee of the facility do if the employee is convicted of a crime or has a record of founded child or dependent adult abuse entered in the abuse registry after the person’s employment?
A14: If an employee is convicted of a crime or has a record of founded child or dependent adult abuse entered in the abuse registry after the person’s employment, the person is required by law to inform the employer of the information within 48 hours of the conviction or entry of the record of founded abuse.

Q15: What if a current employee fails to notify the employer of a criminal conviction or entry of an abuse record within the time period required?
A15: Failure to inform the employer within the required time period is a serious misdemeanor. The employer may notify the county attorney for the county where the employer is located of any violation.

Q16: What is the employer’s duty upon learning of a current employee’s conviction or founded abuse record?
A16: The employer must act to verify the information within seven (7) calendar days of notification by the employee. If the information is provided by someone other than the employee, and the employer determines it is credible information, the employer must still act to verify the information within seven (7) calendar days.

Q17: How must the employer verify a current employee’s conviction or founded abuse?
A17: The employer may verify a conviction or founded abuse that occurs after the person’s employment by accessing the single contact repository (SING) to perform a background check, by requesting a criminal background check from the department of public safety, by requesting an abuse record check from the department of human services, by conducting an online search through the Iowa Courts Online web site (www.iowacourtsonline.org), or by contacting the county clerk of court office to obtain a copy of any documents showing a conviction. NOTE: There may be a time delay between when a conviction occurs and when it appears in the SING system.

Q18: What must the employer do after verifying a conviction or founded abuse?
A18: The employer must request a Record Check Evaluation by DHS to determine whether prohibition of the person’s employment is warranted. The employer may continue to employ the person pending performance of the evaluation.
Q19: What is the employer’s duty, if the employer learns that a current employee has been charged with a crime (but not yet convicted), to follow up with the employee to determine the disposition of the charges?
A19: While not required by law, the Department recommends the employer check quarterly to determine the status of the charges, and maintain documentation of the checks in the personnel file.

**Single Contact Repository (SING)**

Q20: What is the Single Contact Repository (SING)?
A20: The Single Contact Repository (SING) is an internet application developed and sponsored by the Iowa Department of Administrative Services / Information Technology Enterprise (DAS/ITE) that allows registered users to perform background checks from a single web screen. The application lets a user check Iowa criminal history, three abuse registries (child, dependent adult, and sex offender), and over 40 Public Health professional license types from one click on the screen. The SING web site is a secured site - only registered users can access the information. The type of organization determines to which of the databases they have legal access.

Q21: How can an employer access SING?
A21: For more information about SING and how to access it, visit [http://das.ite.iowa.gov/aegs/enterprise/sing.html](http://das.ite.iowa.gov/aegs/enterprise/sing.html) or contact Patsy Tallman, Application and E-Government Services, DAS/ITE at (515) 281-5503 or patsy.tallman@iowa.gov.

Q22: Are employers required to use SING?
A22: No. If an employer chooses not to use SING, the proper forms must be obtained from the DCI (criminal check) and DHS (child and dependent adult abuse check), completed and submitted. Additional information and forms are available at:

- DCI (criminal history): [http://www.dps.state.ia.us/DCI/supportoperations/crimhistory/obtain_records.shtml](http://www.dps.state.ia.us/DCI/supportoperations/crimhistory/obtain_records.shtml)
- DHS (child and dependent adult abuse): [http://www.dhs.state.ia.us/dhsforms.html](http://www.dhs.state.ia.us/dhsforms.html)

Q23: What if a prospective employee discloses a conviction on her/his job application, but the conviction does not appear on the SING report?
A23: There may be a time delay between when a conviction occurs and when it appears in the SING system. Iowa law prohibits a person who has been convicted of a crime or has a record of founded abuse from employment unless an evaluation has been performed by DHS. If the employer has knowledge of an applicant’s conviction, and the conviction does not appear on the SING report, the employer should follow-up on the information and seek a Record Check Evaluation where appropriate. Follow-up may include, but is not limited to: searching Iowa Courts Online ([www.iowacourtonline.org](http://www.iowacourtonline.org)) or contacting the county courthouse for the county where the conviction occurred to obtain a copy of any documents showing a conviction. Those documents may be forwarded to DHS for the Record Check Evaluation.
Independent Contractors / Staffing Agency
Q24: What is the facility’s duty regarding records checks if an individual working in the facility is employed by a temporary employment agency or contractor, rather than the facility?
A24: Generally, the temporary employment agency or contractor is responsible for conducting the records check, and proof of the checks may be kept in files maintained by the temporary agency or contractor. The facility may require the temporary agency or contractor to provide a copy of the results of the records checks, including any DHS Record Check Evaluation. The facility must be able to provide record check and evaluation information for temporary or contracted employees upon request of the Department.

Employee Transfer
Q25: An employee at Employer A transfers to Employer B, owned and operated by the same corporation, without a lapse in employment. Does Iowa law require a new record check?
A25: No.

Q26: An employee at an Iowa facility transferred to a facility in another state owned by the same corporation. Thereafter, the same employee transferred back to an Iowa facility, again within the same corporation. There was no lapse in employment and no change in ownership. Does Iowa law require a new background check be conducted in Iowa?
A26: Iowa Code section 135C.33(2)(d)(1) provides that if an employee of one facility owned and operated by the same entity transfers to another facility without a lapse in employment, a new background check is not required. Iowa law does not specify whether both of those facilities must be in Iowa.

Q27: An employee who had never worked in Iowa transferred from an out-of-state facility to a facility in Iowa owned by the same corporation. Does Iowa law require a record check be conducted in Iowa?
A27: Yes. Although the employee has maintained employment with the same corporation, the employee has not worked in an Iowa facility for that corporation. As a result, Iowa law requires that an Iowa background check be conducted.

Change of Ownership
Q28: Ownership of the facility is transferred. Does Iowa law require that new record checks be performed on all employees?
A28: No. At the time of transfer of ownership, record checks must be performed only for employees for whom there is no documentation that such record checks have been performed. The facility may continue to employ such employees pending the performance of the record checks and any related evaluation.

Re-employment
Q29: An employee leaves her/his employment and later returns to work for the same employer. Is a new background check required?
A29: Yes. If the employer–employee relationship was terminated, a new background check is required if the employee returns to work for the same employer.
Certified Nurse Aide Students
Q30: Does Iowa law require certified nurse aide students to have record checks?
A30: Yes. In 2010, the Iowa Legislature added a requirement that certified nurse aide training programs must conduct records check of students prior to a student beginning or returning to a certified nurse aide training program.

Q31: Are students in other healthcare related programs of study, such as nursing or physical therapy, required by Iowa law to have record checks prior to enrollment?
A31: Iowa Code section 152.5 requires a record check for nursing students. DIA does not regulate or enforce background checks for students in programs of study other than certified nurse aide programs. Please contact the licensing board for the specific profession for more information.

Maiden Name / Multiple Surnames
Q32: Are facilities required by law to run a record check using an individual’s maiden name?
A32: If the SING system is used, the Department’s administrative rules require the facility to submit the person’s maiden name, if applicable, with the background check request. A check of the maiden name can be performed for no extra charge.

Q33: Are facilities required by law to run a record check using an individual’s prior surname(s) or aliases?
A33: No, Iowa law does not require a record check of all surnames / aliases.