



Ability and Choice Services, Inc. Background Screening Rules

Federal Law requires that we not hire staff with certain types of criminal histories. ACS & UTA policies have further restrictions of driving the vans and personal vehicles for business purposes (more than 2 moving violations in the last 3 years of conviction date).

ACS Policy is to conduct a pre-offer BCI screening prior to offering employment for applicants who have a criminal record.

The below list are the state guidelines. Even if allowed by statute, ACS may deny employment reviewed on a case-by-case basis for any criminal history.

Utah Administrative Rules R501-14 (62A-2-120(5))

- Applicants may work under direct supervision while the BCI is being processed (the person being supervised is under the uninterrupted visual and auditory surveillance of the person doing the supervising); forms are to be submitted within 5 days
- Renewals shall be submitted at least 14 days prior to their expiration
- Fingerprints are required for initial applications who have not lived in Utah for the past 5 years (excluding absences of less than 6 consecutive weeks); also out of state Driver's license automatically placed the applicant in the fingerprint requirement; renewals are not required to re-submit FP cards if they have not been out of the state for the 6 consecutive weeks
- Out of Country: (a) a criminal history report from each country lived in; (b) a letter of honorable release from U.S. military or full-time ecclesiastical service, from each country lived in; or (c) other written verification of criminal history from each country lived in, as approved by the Office of Licensing Background Screening Unit supervisor

Criminal History Criteria (*requires extended or comprehensive review*)

- **Less than 5 years** since the resolution of the offence, only minor traffic offences (Class C or Infractions). Common issues which require notification and possible review are:
 - FTA - Failure to Appear (even for a traffic ticket which was later dismissed)
 - Any Guilty no-contest to non-traffic offence
 - PIA – Plea in Abeyance which is has not yet been dismissed
 - Underage drinking
 - Drug Possession offences
 - Automatic Denials (without appeal)
 - aggravated assault, as described in Section 76-5-103;
 - aggravated assault by a prisoner, as described in Section 76-5-103.5;
 - mayhem, as described in Section 76-5-105;
 - an offense described in Title 58, Chapter 37, Utah Controlled Substances Act;
 - an offense described in Title 58, Chapter 37a, Utah Drug Paraphernalia Act;
 - an offense described in Title 58, Chapter 37b, Imitation Controlled Substances Act;
 - an offense described in Title 58, Chapter 37c, Utah Controlled Substance Precursor Act; or
 - an offense described in Title 58, Chapter 37d, Clandestine Drug Lab Act.
- **More than 5 Years** since the resolution of the offence (from conviction or case dismissed (2)(a)(B)) only Misdemeanors or Infractions and not on the following list:
 - identified as a sexual offense, domestic violence, lewdness, assault, or battery;
 - a violation of any pornography law, including sexual exploitation of a minor;
 - prostitution;
 - included in:
 - Title 76, Chapter 5, Offenses Against the Person;
 - Section 76-5b-201, Sexual Exploitation of a Minor; or
 - Title 76, Chapter 7, Offenses Against the Family;
 - a violation of Section 76-6-103, aggravated arson;
 - a violation of Section 76-6-203, aggravated burglary;
 - a violation of Section 76-6-302, aggravated robbery; or
 - a conviction for an offense committed outside of the state that, if committed in the state, would constitute a violation of an offense described in Subsections (3)(d) through (g)



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- **More than 10 Years** since the resolution of the offense (from conviction or case dismissed (2)(a)(B)) not on the following list (can be either a misdemeanor or felony if not on the list)
 - a felony involving conduct that constitutes any of the following:
 - child abuse, as described in Section 76-5-109;
 - commission of domestic violence in the presence of a child, Section 76-5-109.1;
 - abuse or neglect of a child with a disability, as described in Section 76-5-110;
 - endangerment of a child, as described in Section 76-5-112.5;
 - aggravated murder, as described in Section 76-5-202;
 - murder, as described in Section 76-5-203;
 - manslaughter, as described in Section 76-5-205;
 - child abuse homicide, as described in Section 76-5-208;
 - homicide by assault, as described in Section 76-5-209;
 - kidnapping, as described in Section 76-5-301;
 - child kidnapping, as described in Section 76-5-301.1;
 - aggravated kidnapping, as described in Section 76-5-302;
 - an offense described in Title 76, Chapter 5, Part 4, Sexual Offenses;
 - an offense described in Section 76-5b-201, Sexual Exploitation of a Minor;
 - aggravated arson, as described in Section 76-6-103;
 - aggravated burglary, as described in Section 76-6-203;
 - aggravated robbery, as described in Section 76-6-302; or
 - domestic violence, as described in Section 77-36-1; or
 - an offense committed outside the state that, if committed in the state, would constitute a violation of an offense described in Subsection (8)(a)(i).

Comprehensive Review Committee

- (b) The comprehensive review under Subsection (4)(a) shall include an examination of:
- (i) the date of the offense or incident;
 - (ii) the nature and seriousness of the offense or incident;
 - (iii) the circumstances under which the offense or incident occurred;
 - (iv) the age of the perpetrator when the offense or incident occurred;
 - (v) whether the offense or incident was an isolated or repeated incident;
 - (vi) whether the offense or incident directly relates to abuse of a child or vulnerable adult, including:
 - (A) actual or threatened, nonaccidental physical or mental harm;
 - (B) sexual abuse;
 - (C) sexual exploitation; and
 - (D) negligent treatment;
 - (vii) any evidence provided by the person of rehabilitation, counseling, or psychiatric treatment received, or additional academic or vocational schooling completed, by the person; and
 - (viii) any other pertinent information.
- (c) At the conclusion of the comprehensive review under Subsection (4)(a), the office shall approve the applicant who is the subject of the review to have direct access to children or vulnerable adults, unless it finds that approval will likely create a risk of harm to a child or vulnerable adult.
- (d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office may make rules, consistent with this chapter, defining procedures for the comprehensive review described in this Subsection (4).