

Checking the Criminal Background of Persons Working with Children



Ministry of Economic Affairs
and Employment of Finland



Ministry of Economic Affairs and Employment of Finland

Employment and Well-Functioning Markets

PO Box 32, FI-00023 Government, Finland

Telephone switchboard. +358 29 516 001

www.tem.fi/en

MEAE guidelines and other publications 2021:2c EN

ISSN 2342-7922 (electronic publications)

ISBN 978-952-327-761-8

Layout: MEAE, Communications Unit 7/2021

Contents

Introduction	3
Purpose of the Act and scope of application (sections 1–2)	4
Duty of the employer to ask to be shown an extract from the criminal record (section 3)	7
Those comparable with employer under obligation to check the criminal background	11
Extract from the criminal record of a provider of private social services or private health care services (section 4)	12
Extract from the criminal record of a family carer (section 5)	13
Application of the procedure to acquiring of the services of morning and afternoon activities as referred to in the Basic Education Act (section 5 a) ...	14
Right to ask an extract from the criminal record to be shown (section 5 b)	16
Validity of an extract from the criminal record, note on obtaining an extract from a criminal record and returning the extract (sections 6–7) ...	17
Confidentiality (section 8)	18
Advertisements for vacancies (section 9)	19
What information does the extract from the criminal record show.	20
Ordering an extract from the criminal record..	23
Penal provisions (section 10)	25
Entry into force (section 11)	27

Introduction

The Act on Checking the Criminal Background of Persons Working with Children lays down a procedure by which the criminal background of persons appointed to work with children can be checked. The aim of the Act is to reduce the risk of children to be sexually abused, subject to violence or allured to use drugs. The Act promotes children's right to a safe environment where they can grow up and learn.

The procedure to check the criminal background only applies to situations in which the nature of the work is such as to provide a chance for close interaction with the child. By virtue of the Act, a private person can get data on him/herself from the criminal record when the aim is to choose him/her for work with children. The procedure for checking the criminal background makes it possible to clarify a person's criminal background in the following situations:

- at recruitment (employment or civil service relationships)
- when applying for a permit or when realizing the duty to report the provision of private social and health services
- when preparing a commission agreement on family care to be provided for a minor
- when ordering a person to non-military service
- when making an agreement on work-try-outs
- for acquiring of the services of morning and afternoon activities as referred to in the Basic Education Act.

The Act provides among other things as follows:

- on the employer's obligation to ask a job applicant or an applicant for a service relationship to produce an extract from the criminal record, when the person in question is about to be recruited for work with minors
- on the extract from the criminal record of a family carer
- on the extract from the criminal record of providers of private social services or private health care services
- on the prohibition to take any copies of the extract from the criminal record
- on the period of validity of the extract from the criminal record
- on the presentation of the extract from the criminal record and the returning of the extract
- on confidentiality
- on advertisements for vacancies and
- on penal provisions.

Purpose of the Act and scope of application (sections 1–2)

The aim of the Act on Checking the Criminal Background of Persons Working With Children (504/2002), hereinafter called *Act on Checking the Criminal Background*, is to protect the personal integrity of minors and promote their personal security. The Act contains provisions on the procedure for obtaining the criminal record of persons appointed to work with minors i.e. persons under age of 18.

The Act applies to work performed in *employment and civil service relationships* which includes, on a *permanent basis and to a material degree* and in the guardian's absence, raising, teaching or caring for or looking after a minor or other work performed in personal contact with a minor. The precondition for applying this Act is that the child's guardian is not present in situations of contact with the child.

All employment relationships are covered by the scope of application. Thus, the employment relationships provided on in the Employment Contracts Act, the Seamen's Act, the Act on the employment relationship of domestic workers, and apprenticeship contract relationships, on which provisions are laid down in the Act on vocational training, are employment relationships that are covered by the procedure for checking the criminal background. The Act also applies to the civil servants and officeholders of the state, the municipalities, the joint municipal boards and the Church. Extending the procedure of checking the criminal background to the officeholders of the Evangelic-Lutheran Church required enactment of the procedure in the Church Code as well. The Church Assembly accepted the extension of the procedure of checking the criminal background in May 2002 to the officeholders of the Evangelic-Lutheran Church as well.

The procedure of checking the criminal background is not applied to persons who were in employment or civil service relationships when the Act came into force in 2003. If the employee after the entry of the Act on Checking the Criminal Background into force is transferred to work with children under the same employer, and the employee has not earlier had such duties, the procedure of checking the criminal background shall be applied. On the other hand, the person's criminal background is not checked if the Act enters into force while he or she

already is employed for working with children, although his or her workplace/ operational unit under the same employer would change. If the employee changes his or her employer e.g. by being transferred from municipal employment to a State Provincial Office, the new employer should ask the person to show an extract from the criminal record before recruiting the person or appointing him or her to the new duty or position. A person who remains under the same employer and who has once already submitted the extract and who is transferred to other duties needs not show any extract from the criminal record.

Under the preconditions mentioned above, the procedure of checking the criminal background is also applied to the following working situations:

- work service carried out by a person in non-military service
- work tryout
- family care provided by a family career,
- providers of private social services and private health care services, and
- services of morning and afternoon activities as referred to in the Basic Education Act.

Limit to the scope of application (Obligation to check the criminal background for work that last for more than three months)

The Act lays down a derogation concerning the obligation to check the criminal background in short-time work. However, as from 1 August 2021 the parties obliged to check the criminal background have the right to ask to be shown an extract from the criminal record for working situations of a shorter duration as well.

The procedure of checking the criminal background is not applied to employment relationships or civil service relationships, to commission relationships concerning family care or other service relationships and work covered by the procedure that last for *a maximum of three months within one year*. When a person is for the first time employed in an employment or civil service relationship

of *over three months' duration*, the employer should ask the appointed person to show an extract from the criminal record before making the final employment contract or before the appointment.

When re-recruiting a person, the employer has to check for how long a period the person has worked under the same employer in duties covered by the procedure of checking the criminal background during the year preceding the beginning of the new employment or civil service relationship. If the three months' period is filled either at the beginning of the new employment or civil service relationship or during it, the employer has to ask to be shown the person's extract from the criminal record before the beginning of the new employment or civil service relationship.

Part-time work has no significance when applying the three months' time limit. What is crucial is the duration of the employment or civil service relationship.

Duty of the employer to ask to be shown an extract from the criminal record (section 3)

Even before the notification of an open vacancy and an advertisement for application, the employer is obliged to assess whether the vacant duty, work or office is covered by the procedure of checking the criminal background. The employer defines the substance of each duty. Employers working in branches belonging to the scope of application of the Act should assess whether the duty or work is covered by the procedure of checking the criminal background. The Act does not include any separate list of occupational titles or other unambiguous grounds for limiting the number of persons covered by the procedure.

An employer must ask a person to produce an extract from the criminal record as referred to in section 6 (2) of the Criminal Records Act when the person is employed in an employment or civil service relationship which includes, *on a permanent basis and to a material degree, raising, teaching, care or other caretaking of a minor or other work in personal contact with the minor in the absence of a guardian*. The conditions of "on a permanent basis and to a material degree" should both be fulfilled. An assessment should be made according to the situation in which work and duties are assigned. The entry in the criminal record does not mean prohibition of hiring, appointing or operating. The jobseeker's applicability is always subject to the employer's deliberation according to circumstances.

The Act on Checking the Criminal Background includes a special provision on conditional appointment to an office of a municipality or a joint municipal board. Unless, when filling the office of a municipality or a joint municipal board an extract from the criminal record is available, the appointment to the office must be conditional and remain unconfirmed until the extract has been produced. A person who has been appointed to an office conditionally must produce an extract from the criminal record within 30 days of being notified of the decision on the appointment or within a longer period granted for particular reasons by the authority filling the position; otherwise the appointment is considered cancelled. The competent authority which made the conditional appointment must decide whether the appointment should be confirmed or cancelled or, in the case of confirmation, a competent subordinate executive authority.

The Act also includes a special provision on appointment to a State office or a civil service relationship. The precondition for appointment to the office governed by the State Civil Servants Act (750/1994) is that the person has on request provided the authority with an extract from his/her criminal record.

The procedure of checking the criminal background applies to upbringing and education personnel in day care work, i.e. in practice it applies to persons applying for work as nursery school teachers and children's nurses in private day nurseries and in the municipal sector. As regards teaching, the procedure of checking the criminal background is applied to teaching personnel in pre-school education, comprehensive school, upper secondary school and vocational training in the second grade. The teachers are an occupational group that is clearly covered by the procedure of checking the criminal background since the work includes teaching minors. In schools, also school assistants are covered by the procedure.

In addition to the above-mentioned, schools and day nurseries also engage maintenance staff for work that does not focus directly on children. The employer must according to the situation in the school or the institution assess his/her own duty to check the criminal background of the maintenance staff, such as kitchen staff, caretakers and any other maintenance staff. In this assessment, attention should be paid to the principles of the operational unit. The employer must assess whether the obligation of a permanent basis and to a material degree is fulfilled, and thus whether the obligation to observe the procedure of checking the criminal background is fulfilled. There are communities and duties in which the personnel are continuously in contact with the same children, such as child welfare institutions providing services for children. A society can act according to the principle that all adults of the society are expected to participate in the interaction with children. In such cases, the maintenance staff is also covered by the procedure of checking the criminal background. The nursing staff of the hospitals' paediatric wards as well as child and adolescent psychiatric wards is also covered by the procedure of checking the criminal background. Also other work than teaching and raising minors is covered by the procedure. This kind of work is done by e.g. instructing staff of youth work and sports and recreational activities.

Duties to which the procedure of checking the criminal background does not apply

The Act on Checking the Criminal Background restricts the scope of application of the procedure on the basis of the duration of the service, duty or assignment. Short-time work, temporary posts, and assignments, which last maximum three months in a year, have been restricted outside the procedure of checking the criminal background. The year does not refer to a calendar year, but the period of time is calculated from the first employment or civil service relationship onwards. An employer, a supervisory authority or some other person who is obliged to ask to be shown an extract from the criminal record is not obliged, nor entitled, to check the criminal background of persons in employment relationships of maximum three months' duration. In the Government Bill HE 3/2002 vp, examples of situations have been covered where the procedure shall not be applied. The procedure of checking the criminal background should only be observed in duties in which the guardian of the child is absent. Should the child be in the company of his or her parents, the procedure is not applied. Nor are duties focusing simultaneously on both adults and children covered by the procedure. As an example of this, the Government bill mentions indoor swimming pool attendants.

The procedure does not cover work in which the contact with the child is occasional or of the nature of reception, and in which it can be presumed that there will be no such personal or confidential relationship between the child and the employee which could lead e.g. to sexual abuse or alluring the child to test drugs. According to the preamble of the Government bill, such duties include e.g. meetings at doctor's office, or work done by social workers in a bureau, work done at educational advise centres or family advise centres, child welfare clinic activities and work performed in libraries.

Persons seeking to administer duties in accordance with the University Act, the Act on Studies at Polytechnics and the Act on Vocational Adult Training are not covered by the procedure. Neither does it cover other teaching than that of those subject to compulsory schooling referred to in section 46 of the Basic Education Act, which is limited mainly to adult students subject to compulsory schooling and who have turned 18.

Voluntary civic activities without an employment relationship (among other things in organizations) are not covered by the procedure either.

The procedure of checking the criminal background applies, regardless of employer, to all persons engaged in an employment relationship under conditions provided by law. The procedure also applies to work with children in an employment relationship in the sector of voluntary activities, under conditions provided by law. The employer can be a person who employs an employee to take care of children in his or her home. Enterprises hiring out labour are also as employers obliged to check the criminal background, if they give for consideration their employees to work with children in user enterprises. When making an agreement, the user enterprises may also remind the enterprises hiring out labour of this obligation.

Checking the criminal background of students

Previously, the requirement to check a person's criminal background did not apply to on-the-job-training completed as part of a student's curriculum and other learning in conjunction with practical work. New legislation on the revocation and restoration of the right to study, factors preventing admission, drug testing and disciplinary actions entered into force on 1 December 2012. According to this so-called SORA legislation, *an educational establishment may, at its discretion, ask the student to submit an extract from criminal background records when studies materially involve on-the-job-training or work practice with minors. The extract is provided free of charge for study purposes.* The educational institute in question will decide whether the on-the-job-learning task in question meets the criteria for scope of application, and the student will, on request, present the extract to the educational institute or the organiser of the training, or to an institute of higher education, as specified in Vocational Education and Training Act (630/1998), Vocational Adult Education Act (631/1998), Polytechnics Act (351/2003) or the Universities Act (558/2009).

The provider of the on-the-job-training opportunity or work practice has no right or obligation to ask the student to present a criminal record extract. The three months' limitation referred to in the Act on Checking the Criminal Background does not apply to students.

Those comparable with employer under obligation to check the criminal background

According to the Act on Checking the Criminal Background, a civilian service centre and an Employment and Economic Development Office entering into a contract on a work try-out are comparable with an employer.

The civilian service centre is obliged to ask the person undergoing non-military service to produce an extract of the criminal record as referred to in section 6 (2) in the Criminal Records Act before the person is ordained to a service centre where there is work with minors in duties referred to in the Act on Checking the Criminal Background.

Correspondingly, the Employment and Economic Development Office is obliged to check the criminal background of a person participating in employment measures before entering into the contract on a work try-out concerning duties covered by the procedure of checking the criminal background.

The civilian service centre cannot appoint a person to duties according to the Act on Checking the Criminal Background, nor can the Employment and Economic Development Office enter the above-mentioned contract on these duties, if the person in question is not willing to participate in them. Through this, the person's right to decide about the disclosure of his or her criminal record data is secured. In these situations, the Act secures the person's right without negative consequences to refuse to receive duties covered by the procedure of checking the criminal background.

Extract from the criminal record of a provider of private social services or private health care services (section 4)

According to the Act, the National Supervisory Authority for Welfare and Health (Valvira) or the Regional State Administrative Agency are obliged to ask the applicant to produce an extract from the criminal record as referred to in section 6 (2) in the Criminal Records Act before granting the permit for services as referred to in the Act on the Supervision of Private Social services or the Act on Private Health Care Services, if the branch of the provider of services includes provision of services for minors. Checking the criminal background of approving authorities always focuses on other personnel than that in an employment relationship. In practice, the approving authority checks the criminal background of persons who are entrepreneurs, when they apply for a permit. The entry in the criminal record does not automatically mean refusal of the permit or some other obstacle to the activities. The appropriateness of the activities is always left to be considered by the approving authority.

Correspondingly, like Valvira and the Regional State Administrative Agency, the municipality also must ask to receive for examination the above-mentioned extract from the criminal record after having received a notification from the provider of private social services about the beginning or alteration of the activities.

The provider of services is obliged to notify Valvira, the Regional State Administrative Agency or the municipality of such changes concerning persons in activities in which a new person begins as an entrepreneur (without an employment relationship) to administer duties referred to in the Act on Checking the Criminal Background. In these situations as well, Valvira, the Regional State Administrative Agency or the municipality must ask the person to produce the above-mentioned extract from the criminal record.

Extract from the criminal record of a family carer (section 5)

When the municipality or joint municipal board prepares a commission agreement on family care for minors as referred to in the Family Carers Act the municipality or the joint municipal board must, before making the commission agreement, ask the person for to produce an extract from the criminal record as referred to in section 6 (2) of the Criminal Records Act. The extract from the criminal record is only requested from a party to the commission agreement. Thus, the procedure does not apply to the spouse of a family carer if he/she is not involved in making the agreement concerning family care. The entry in the criminal record does not mean a barrier or prohibition of making an agreement, but the matter is ultimately left to be considered by the municipality or joint municipal board.

Application of the procedure to acquiring of the services of morning and afternoon activities as referred to in the Basic Education Act (section 5 a)

From the beginning of April 2004 the scope of application of the procedure of checking the criminal background was extended by law (1133/2003) to apply to the acquiring of the services of morning and afternoon activities, which are referred to in the Basic Education Act. A municipality or a joint municipal board has a possibility to organize morning or afternoon activities or acquire these services from a public or private service provider. When a municipality or a joint municipal board itself organizes morning and afternoon activities the persons executing their duties are in employment or service relationship with the organizer of the activities and the Act on Checking the Criminal Background applies to the municipality or the joint municipal board as a employer. If a municipality or a joint municipal board purchases morning and afternoon activity services from a service provider on the grounds of a contract the municipality or the joint municipal board is responsible from the beginning of April 2004 for checking the criminal background also of other persons than ones in employment or service relationship, who participate in morning and afternoon activities. The service provider must inform the municipality or the joint municipal board of other persons than those in employment or service relationship participating in the morning and afternoon activities.

The service provider is responsible for informing the municipality or joint municipal board of such changes concerning the personnel in the provider's activity in which someone else than the person indicated in the contract is taken into morning or afternoon activities without employment or service relationship. Also in these situations the municipality or the joint municipal board must ask the person participating in the activities to produce the above-mentioned extract from the criminal record.

The municipality or the joint municipal board must, before signing the contract for acquiring morning and afternoon activities, ask the persons participating in

the activity to produce an extract from the criminal record as referred to in the Criminal Records Act if the person works with children without being in employment or service relationship with the service provider. By that means the municipality or the joint municipal board finds out the criminal background of both the practitioner (i.e. service provider) and any other person who is not in employment or service relationship. Also the voluntary civic activity of associations will be a subject matter of the procedure of checking the criminal background in the services of morning and afternoon activities.

Right to ask an extract from the criminal record to be shown (section 5 b)

The Act on Checking the Criminal Background was amended on 1 August 2021 by adding provisions on the right to check the criminal background for work that lasts for a maximum of three months. Because of the amendment to the Act, parties obliged to check the criminal background, i.e. the employer, civilian service centre, Employment and Economic Development Office, National Supervisory Authority for Welfare and Health (Valvira), the Regional State Administrative Agency and municipality and joint municipal board has the right to ask to be shown an extract from the criminal record for working situations that last for a maximum of three months. It is not a question of an obligation to check the criminal background; instead the parties obliged to check the criminal background are only given the opportunity to do so. In working situations of a short duration, asking to be shown an extract from the criminal record is based on the discretion and risk assessment of the employer and each party obliged to check the criminal background. The right to check the criminal background only applies to tasks referred to in section 2 of the Act on Checking the Criminal Background. The other requirements laid down in the Act on Checking the Criminal Background shall also apply to the procedure.

Validity of an extract from the criminal record, note on obtaining an extract from a criminal record and returning the extract (sections 6–7)

The Act on Checking the Criminal Background does not give any person obliged to check the criminal background the right to collect and store delicate data on a person. On the basis of this Act, the employer or any other person obliged to ask to be shown an extract from the criminal record has no right to make entries on delicate data as referred to in section 11 of the Personal Data Act, which include criminal offences, punishment or other data on the consequences of a crime. There must be a lawful ground for handling delicate data. The Act on Checking the Criminal Background only gives the employer or some other person obliged to check the criminal background the right to ask to be shown the extract from the criminal record. The procedure of checking the criminal background is part of the consideration of a person's aptitude. The entry in the extract from the criminal record is no obstacle to employing a person or granting a permit, but the aptitude of the person is always assessed by the employer or the authority. The employer or some other person obliged to ask to be shown the extract from the criminal record can only make a note stating that a lawful extract has been presented. In addition, a note can be made of the date of the extract. Copying or any other storing of the extract from the criminal code presented is prohibited. A violation of this prohibition is punishable.

The extract from the criminal record presented may not be more than six months old, and the extract must be returned as soon as possible to the person who has presented it. The period for returning the extract depends on what the selection procedure is like. Since in practice, it is probable in the majority of cases that the extract does not mention any offences, the extract can be returned immediately to the job applicant. If the extract includes notes and information necessary for the person's aptitude assessment, the extract may not be returned until this consideration has been made.

Confidentiality (section 8)

The Act on Checking the Criminal Background includes provisions on the confidentiality of persons processing extracts from criminal records. Information in the extract from the criminal record may not be disclosed to persons other than those who need to have it in order to make a decision on whether the person in question is assigned to perform work falling within the scope of this Act. Thus, information from the extracts from criminal records must not be disclosed at workplaces or by authorities to persons whose duty it is not to process the extracts. The confidentiality continues even after the employment or civil service relationship has ended. Violating the confidentiality is punishable.

Advertisements for vacancies

(section 9)

Whenever position including work as referred to in this Act is advertised as open for application, the advertisement must also state that any person accepted for the position must produce an extract from the criminal record as referred to in section 6 (2) of the Criminal Records Act. There are special provisions on the obligation of employers in the public sector (municipalities, joint municipal boards and the state) to advertise vacancies.

The procedure of checking the criminal background only applies to the person who has been chosen. All those job applicants and applicants for an office, who are interested in the assignment, should not submit an extract from the criminal record enclosed with their application. The employer only asks the person who is about to be chosen to the assignment or position to produce an extract from the criminal record.

What information does the extract from the criminal record show

Into the criminal record it is entered court judgments by which a person has been sentenced to a harsher punishment than a fine as well as sentences of fine imposed for offences against children and sexual offences. Section 6 (2) of the Criminal Records Act includes provisions on a restricted extract from a criminal record that shall be submitted to persons chosen to assignments as referred to in the Act on Checking the Criminal Background. The aim has been for the procedure of checking the criminal background to cover offences where the guilty ones' work with children cannot generally be considered justified. Such offences include sexual offences, violent offences and drug offences.

Information on the decision by which a person has been sentenced for the following acts by virtue of the Criminal Code is entered into the extract from the criminal record:

Offences against sexual decency:

- dissemination of immoral pictures (Criminal Code 17: section 18)
- aggravated distribution of sexually obscene pictures depicting children (Criminal Code 17: section 18a)
- possession of immoral pictures of children (Criminal Code 17: section 19).

Offences against children:

- sexual abuse of children (Criminal Code 20: section 6)
- aggravated sexual abuse of children (Criminal Code 20: section 7) and
- purchase of sexual services from young people (Criminal Code 20: section 8a)
- solicitation of a child for sexual purposes (Criminal Code 20: section 8b), and
- watching indecent material on children (Criminal Code 20: section 8c).

Sexual offences:

- rape (Criminal Code 20: section 1)
- aggravated rape (Criminal Code 20: section 2)
- coercion to sexual intercourse (Criminal Code 20: section 3)
- coercion to a sexual act (Criminal Code 20: section 4)
- sexual abuse (Criminal Code 20: section 5)
- abuse of a victim of prostitution (Criminal Code 20: section 8)
- procuration (Criminal Code 20: section 9) and
- aggravated pandering (Criminal Code 20: section 9a).

Violent offences:

- manslaughter (Criminal Code 21: section 1)
- murder (Criminal Code 21: section 2)
- homicide (Criminal Code 21: section)
- aggravated assault (Criminal Code 21: section 6) and
- serious robbery (Criminal Code 31: section 2).

Drug offences:

- drug offence (Criminal Code 50: section 1)
- aggravated drug offence (Criminal Code 50: section 2)
- offence involving use of drugs (Criminal Code 50: section 2a)
- preparation of a drug offence (Criminal Code 50: section 3) and
- furthering of a drug offence (Criminal Code 50: section 4)
- abetting an aggravated narcotics offence (Criminal Code 50: section 4a).

Sentences of fines imposed for crimes on children and sexual offences referred to in Criminal Code, Chapter 17, sections 18, 18a or 19 and in Chapter 20 entered in the register of fines referred to in section 46, paragraph 1 of the Act on the

Enforcement of Fines (672/2002) are entered in the criminal record extract. In other cases, a sentence of fine is not entered in the criminal records. The extract from criminal records also contains information regarding any decisions under which a person has, outside Finland, been convicted of a crime specified above, and that the information has been entered in the Finnish criminal records pursuant to section 2, paragraph 2 of the Criminal Records Act.

Offences entered into the extract from the criminal record, and limitation of offence titles have been discussed more specifically in the Government Bill HE 3/2002 vp.

The extract from the record shows whether the court judgment is final. It also shows information on sentence of imprisonment and possible pardon.

Ordering an extract from the criminal record

The employer must ask the person to produce the above-mentioned extract from the criminal record before the appointment or signing the contract. The procedure of checking the criminal background only applies to person who will be chosen for the work, assignment or office.

The extract from the criminal record is ordered by the job applicant or the applicant for the office him- or herself. The employer is not entitled to order an extract, nor can the job applicant or the applicant for the position authorize the employer to order the extract on his or her behalf. The extract from the criminal record as referred to in the Act on Checking the Criminal Background is ordered from the Legal Register Centre. The extract can be ordered from the electronic customer service of the Legal Register Centre or through a written free-form application or by filling in a form on the website of the Legal Register Centre. Applications by phone are not considered.

Contact information of the Legal Register Centre:

Electronic customer service:

<https://asiointi2.oikeus.fi/oikeusrekisterikeskus/#/>

Legal Register Centre

PO Office 157

FI-13101 Hämeenlinna

E-mail: rikosrekisteri@om.fi

<https://www.oikeusrekisterikeskus.fi>

The customer service of the Legal Register Centre has been closed since 1 April 2013, which means that extracts cannot be collected in person.

The free-form application should mention:

- a person wants to order an extract from the criminal record required for checking the criminal background of persons working with children
- full name of the orderer
- identity number (or date and place of birth, in case there is no identity number)
- employer or authority for whom the extract is ordered, and how the position/job is related to minors
- office or assignment for which the extract is ordered
- postal address of the orderer
- date and signature.

Applications sent by e-mail may also be accepted without a signature, unless there is reason to suspect the origin or integrity of the application.

As of 1 January 2012, the criminal record extract is provided against a fee in line with the Act on Criteria for Charges Payable to the State. The fee is based on the actual costs arising from the provision of the extract. The fee is EUR 12.00 and will be invoiced to the applicant.

Penal provisions (section 10)

The Act on Checking the Criminal Background provides on punishable acts. Anyone who willfully or through gross negligence violates

- the obligation provided by the Act to ask to be shown an extract from the criminal record as referred to in section 6 (2) of the Criminal Records Act
- the obligation to inform the National Supervisory Authority for Welfare and Health (Valvira), the Regional State Administrative Agency or the municipality of employing other person than the one indicated in the permit application or the notification for work as referred to in the Act, or
- the obligation of returning without delay the extract from the criminal record to the person presenting it

shall be sentenced to a fine, unless more severe punishment is provided elsewhere in the law, for the *offence of failing to obtain a person's criminal record*.

In practice, the employer or his representative and any other obliged to ask to be shown an extract from the criminal record, and the provider of services, may be guilty of the *offence of failing to obtain a person's criminal record*. Comparable with employers are the civilian service centres for non-military service and employment authorities that make an agreement on practical training, coaching for working life or work try-outs. Other obliged to ask to be shown an extract from the criminal record include municipalities, joint municipal boards or State Provincial Offices when functioning as approving authorities, receiving notifications in accordance with the law, or making commission agreements on family care. The punishment for the above-mentioned offences is payment of a fine for failing to obtain a person's criminal record, unless more severe punishment is required under other provisions of the law. In practice, the penal provisions of the Act are seldom applicable to civil servants, since more severe provisions on offences in office, as referred to in chapter 40 of the Criminal Code, are applied to civil servants.

Punishment for violating the confidentiality prescribed in section 8 of the Act on Checking the Criminal Background is given according to chapter 38, section 1 or 2, of the Criminal Code , unless the act is punishable according to chapter 40, section 5, of the Criminal Code or unless more severe punishment is provided elsewhere in the law.

The punishment for a personal data file offence is provided in chapter 38, section 9, of the Criminal Code . Processing delicate criminal record data among other things by storing or copying without a lawful ground shall be punishable as a personal data file offence. The punishment for a personal data file offence is a fine or imprisonment for a maximum of one year.

Entry into force (section 11)

The Act on Checking the Criminal Background of Persons Working with Children (504/2002) and the Act on the Amendment of Sections 6 and 7 of the Criminal Records Act (505/2002) entered into force at the beginning of the year 2003.

Briefly

The Act on Checking the Criminal Background of Persons Working with Children lays down a procedure by which the criminal background of persons appointed to work with children can be checked. The Act promotes children's right to a safe environment where they can grow up and learn.



Ministry of Economic Affairs
and Employment of Finland