

Borough of Hillsdale

**Ordinance 11-11
(Adoption)**

Title: Establishing Mandatory Criminal Background Checks of Employees and Volunteers Involved with Borough Related Recreational Programs Involving Minors.

NOW BE IT ORDAINED by the Mayor and Council of the Borough of Hillsdale that mandatory criminal history background checks be instituted in the Borough of Hillsdale as follows:

CRIMINAL HISTORY BACKGROUND CHECKS OF EMPLOYEES AND VOLUNTEERS INVOLVED WITH BOROUGH RELATED RECREATIONAL PROGRAMS INVOLVING MINORS.

SECTION 1. DEFINITIONS RELATIVE TO CRIMINAL HISTORY BACKGROUND CHECKS OF EMPLOYEES AND VOLUNTEERS INVOLVED WITH BOROUGH RELATED RECREATIONAL PROGRAMS INVOLVING MINORS.

As used in this Ordinance:

- (a) BOROUGH RELATED RECREATIONAL PROGRAMS INVOLVING MINORS means any programs so designated by Recreation Commission of the Borough of Hillsdale.
- (b) CRIMINAL HISTORY RECORD BACKGROUND CHECK means a determination of whether a person has a criminal record by cross-referencing that person's name and fingerprints with those on file with the Federal Bureau of Investigation, Identification Division, and/or the State Bureau of Identification of the New Jersey State Police.
- (c) CRIMINAL HISTORY RECORD INFORMATION or CHRI means information collected by criminal justice agencies concerning persons and stored in the computerized databases of the New Jersey State Police SBI Criminal History Information System, the National Law Enforcement Telecommunications System or other states' computerized repositories containing criminal history record information consisting of identifiable descriptions and notations of arrests, indictments, or other formal criminal charges, and any dispositions arising therefrom, including convictions, dismissals, correctional supervision and release.
- (d) DEPARTMENT means the Borough of Hillsdale Police Department.
- (e) NONCRIMINAL JUSTICE PURPOSE means any purpose, other than administration of criminal justice or criminal justice purpose, including employment and licensing, for which applicant fingerprints and search requests are submitted by authorized requesters, as required or permitted by a federal or state statute, rule or regulation, executive order, administrative code provision, local ordinance, resolution or

by this chapter, to the State Bureau of Identification for the dissemination of criminal history record information.

(f) NONPROFIT YOUTH-SERVING ORGANIZATION or ORGANIZATION means any corporation, association or other organization established pursuant to Title 15 of the Revised Statutes, Title 15A of the New Jersey Statutes, or other law of this state, but excluding public and nonpublic schools, and which provides recreational, cultural, charitable, social or other activities or services for persons younger than 18 years of age, and is exempt from federal income taxes.

(g) STATE BUREAU OF IDENTIFICATION or SBI means the New Jersey State Bureau of Identification created by P.L. 1930, c.65 (N.J.S.A. 52:1-12 et seq.),

SECTION 2. REQUEST FOR CRIMINAL BACKGROUND CHECKS; COSTS

(a) The Borough requires that, as a condition of employment or volunteerism with the Borough, all prospective or current employees and volunteers, 18 years of age and older, involved with borough related recreational programs involving minors in which they have regular, unsupervised contact with minors, request and consent in writing through the Hillsdale Recreation Department, that the State Bureau of Identification conduct a criminal history background check of their record pursuant to the New Jersey State Police Volunteer Review Operation program, before involvement in any borough related program, and repeated every three (3) years. Each employee or volunteer under this section shall also have an ongoing duty to report to the borough any new information that would be revealed by such a search.

(b) The Division of State Police shall inform the Department and the individual whether the person's criminal history record background check reveals a conviction of a disqualifying crime or offense set forth in Section 4 of this chapter.

(c) The Recreation Department shall request a criminal history record background check only upon receipt of the written consent to the check from the prospective or current employee or volunteer.

(d) The employee, volunteer or non-profit youth serving organization shall bear the costs associated with conducting the background check, in accordance with fees established by the State Bureau of Identification and the Division of State Police and in accordance with N.J.S.A. 15A:3A-2(d). The employee, volunteer or non-profit youth serving organization may inquire as to the possible availability of grant money that may be applied to help offset this cost.

(e) Criminal history background checks will be performed for individuals over the age of 18 in accordance with N.J.A.C. 13:59-1.1 et seq. and with the procedures and guidelines adopted by the State Bureau of Identification, Volunteer Review Operation.

SECTION 3. SUBMISSIONS, EXCHANGE OF BACKGROUND CHECK INFORMATION.

(a) Prospective or current employees and volunteers, 18 years of age and older, involved with borough related recreational programs involving minors in which they have regular, unsupervised contact with minors shall submit their name, address,

fingerprints, other required information and written consent to the Department designated service provider for the criminal history record background check to be performed and comply with all service provider requirements for the check to be completed.

(b) The Recreation Department shall act as a clearinghouse for the collection and dissemination of information obtained as a result of conducting criminal history record background checks pursuant to this chapter.

SECTION 4. CONDITIONS UNDER WHICH A PERSON IS DISQUALIFIED FROM SERVICE.

(a) A person may be disqualified from serving as an employee or volunteer of a nonprofit youth-serving organization if that person's criminal history record background check reveals a record of conviction of any of the following crimes or offenses:

(1) In New Jersey, any crime or disorderly persons offense:

(a) Involving danger to the person, meaning those crimes and disorderly persons offenses set forth in N.J.S.A. 2C:11-1 et seq., N.J.S.A. 2C:12-1 et seq., N.J.S.A. 2C:13-1 et seq., N.J.S.A. 2C:14-1 et seq., or N.J.S.A. 2C:15-1 et seq.

(b) Against the family, children or incompetents, meaning those crimes and disorderly persons offenses set forth in N.J.S.A. 2C:14-1 et seq.

(c) Involving theft as set forth in Chapter 20 of Title 2C of the New Jersey Statutes.

(d) Involving any controlled dangerous substance or controlled substance analog as set forth in Chapter 35 of Title 2C of the New Jersey Statutes except paragraph (4) of subsection (a) of N.J.S.A. 2C:35-10.

(2) In any other state or jurisdiction, conduct which, if committed in New Jersey, would constitute any of the crimes or disorderly persons' offenses described in Subsection (a)(1) of this section.

(b) For purposes of interpreting the information recorded in a criminal history record to determine the qualifications of the employee or volunteer of a nonprofit youth servicing organization and/or the employee or volunteer involved with borough related recreational programs involving minors, the Borough shall presume that the employee or volunteer is innocent of any charges or arrests for which there are no final dispositions on the record.

(c) The determination of whether the information contained in the criminal history record is sufficient to disqualify an employee or volunteer shall be made by the Volunteer Review Operation. Any employee or volunteer dissatisfied with the determination shall be entitled to file an appeal with the Criminal Background Check Appeal Panel created pursuant to this chapter.

SECTION 5.

(a) Access to criminal history record information for noncriminal justice purposes, including licensing and employment, is restricted to the Police Department and Criminal Background Check Appeal Panel, on a need-to-know basis, as authorized by federal or state statute, rule or regulation, executive order, administrative code, local ordinance or

resolution regarding obtaining and dissemination of criminal history record information obtained under this chapter.

(b) Such persons or organizations shall limit their use of criminal history record information solely to the authorized purpose for which it was obtained, and criminal history record information furnished shall not be disseminated to persons or organizations not authorized to receive the records for authorized purposes. Use of this record shall be limited solely to the authorized purpose for which it was given, and it shall not be disseminated to any unauthorized persons. This record shall be destroyed immediately after it has served its intended and authorized purpose. Any person violating federal or state regulations governing access to criminal history record information may be subject to criminal and/or civil penalties.

If this criminal history record may disqualify an applicant or existing employee or volunteer for any purpose, the disqualified person shall have an opportunity to complete and challenge the accuracy of the information contained in the criminal history record or request an exception. The disqualified person shall be afforded a reasonable period of time to correct and complete this record. A person is not presumed guilty of any charges or arrests for which there are no final dispositions indicated on the record.

SECTION 6.

(a) Criminal background check appeal process. If the State Police disqualifies an employee or volunteer, the employee or volunteer may appeal that disqualification by filing a written notice of appeal with the Chief of Police no later than 20 days after receiving notice of the disqualification from the State Police. Any appeal requested shall proceed before the Criminal Background Check Appeal Panel.

(b) Criminal Background Check Appeal Panel. In order to monitor and supervise the enforcement of this chapter the Borough of Hillsdale hereby creates a Criminal Background Check Appeal Panel, which shall consist of three members. The composition of the Criminal Background Check Appeal Panel shall be as follows:

(1) One member of the Criminal Background Check Appeal Panel shall be the Police Chief, or his designee.

(2) One member of the Criminal Background Check Appeal Panel shall be the Director of the Hillsdale Recreation Commission.

(3) One member of the Criminal Background Check Appeal Panel shall be a person selected by the Chief of Police.

(c) Powers. The Criminal Background Check Appeal Panel is granted and shall have and exercise, in addition to other powers herein granted, all the powers necessary and appropriate to carry out and execute the purposes of this chapter, including but not limited to, the following:

(1) To hold hearings and adjudicate appeals by employees and volunteers dissatisfied with the disqualification.

(2) To hold hearings and adjudicate appeals by employees and volunteers dissatisfied with the determination concerning the accuracy of the criminal history record.

(3) To grant exceptions where appropriate.

(d) Findings. Not later than 45 days after the conclusion of the hearing, the Criminal Background Check Appeal Panel shall issue its findings of fact and the Panel's decision to the employee/volunteer involved in the appeal and to the Recreation Department, which shall act in accordance with the Panel's decision.

Council member	Motion	Second	Yes	No	Absent	Abstain
DeJoseph, Jonathan			✓			
Frank, Douglas			✓			
Giancarlo, Michael	✓		✓			
Hanlon, Marie			✓			
Schiavone, Donna			✓			
Weinstein, Andrew		✓	✓			

Adopted: May 3, 2011

Attest: 
 Robert P. Sandt, RMC
 Municipal Clerk


 Mayor Max Arnowitz