

ALABAMA JUSTICE INFORMATION COMMISSION  
ADMINISTRATIVE CODE

CHAPTER 265-X-2  
SECURITY AND CONFIDENTIALITY OF CRIMINAL JUSTICE INFORMATION

265-X-2-AE      Appendix E - Alabama Criminal Justice Information  
Center (ACJIC) Online Criminal History Sales  
Subscriber Agreement.

ALABAMA CRIMINAL JUSTICE INFORMATION CENTER (ACJIC)

ALABAMA BACKGROUND CHECK (ABC) SYSTEM SUBSCRIBER AGREEMENT

All employers seeking to subscribe to the ACJIC Alabama Background Check (ABC) system must read and sign this document. Employers will be notified via e-mail of their subscription status. (Employers who are authorized to use the CHS system shall be referred to as "subscribers" in this document.)

**Qualifications for Subscribers**

In order to qualify as a subscriber and to purchase ABC reports you must be an employer as defined below:

1. Non-Farm Business Employers -

(a) Any employer who has had in employment one or more workers on some day in 20 or more different weeks, whether or not consecutive, during the current or preceding calendar year.

(b) Any employer who has paid wages of \$1,500.00 or more in any calendar quarter during the current or preceding calendar year.

2. Household Domestic Employers -

Domestic employers are defined as any employer who had paid domestic workers in a private household, college club, fraternity or sorority house a total of \$1,000.00 or more in cash wages in any calendar quarter during the current or preceding calendar year.

3. Agricultural Employers -

Agricultural employers are defined as any employer who has had in employment 10 or more agricultural workers on the same day in 20 or more different weeks during the current or preceding calendar year or who has paid a total of \$20,000.00 in cash wages to agricultural workers during any calendar quarter of the current or preceding calendar year.

4. Government Employers -

Any state or federal agency or political subdivision of a state.

Please note the above criteria for employers are the same as those requiring an agency, nonprofit organization or other business entity to comply with state unemployment tax laws administered by the Alabama Department of Industrial Relations (DIR). Verification of Alabama employer status by ACJIC may be based on records maintained by the appropriate licensing, certification or taxation agency within the state where the subscriber is located.

ABC reports may only be obtained for employees or prospective employees of entities with a valid subscription to the ABC system.

Subscribers may designate a third party agency to perform online queries of the ABC system with the express written consent of ACJIC. In the event a third party will be using the ABC system, a separate Memorandum of Agreement for Third Party Users of the Alabama Background Check (ABC) System must be signed and approved by ACJIC.

If you meet the criteria for employers as defined above, you must sign this agreement, and send a copy to ACJIC. You must also retain the

original signed user's agreement throughout the duration of your subscription with ACJIC and for a period of three years thereafter. In order to obtain an ABC report on an employee or prospective employee, the employer must establish a "right to know" this information. For the purposes of this agreement, the right to know is established by having the employee or prospective employee to sign an ABC Report Waiver. Waivers for employees and prospective employees who submit to a criminal background check via the ABC system must be sent to ACJIC electronically in a form prescribed by ACJIC.

**Audit Requirements and Penalties for Misuse of the CHS System**

ACJIC retains the right to inspect (audit) user's agreements and/or waivers at any time during the subscription agreement or within three years of termination of service. In the event it is determined an ABC report was obtained by an agency without a valid user's agreement and/or waiver, the receiving entity may be subject to criminal prosecution for misuse of criminal history data as defined in §41-9-601, Code of Alabama 1975.

***§41-9-601 - Obtaining, etc., of criminal offender record information under false pretenses, falsification of information, etc.***

*Any person who willfully requests, obtains or seeks to obtain criminal offender record information under false pretenses or who willfully communicates or seeks to communicate criminal offender record information to any agency or person except in accordance with this article, or any member, officer, employee or agent of the ACJIC, the ACJIC or any participating agency who willfully falsifies criminal offender record information or any records relating thereto shall, for each offense, be fined not less than \$5,000.00 nor more than \$10,000.00 or imprisoned in the state penitentiary for not more than five years or both.*

Additional penalties that may apply in the event criminal history information is unlawfully obtained include, but are not limited to:

***§13A-8-100 - Offenses against intellectual property.***

(a) *Whoever willfully, knowingly, and without authorization or without reasonable grounds to believe that he or she has such authorization, attempts or achieves access, communication, examination, or modification of data, computer programs, or supporting documentation residing or existing internal or external to a computer, computer system, or computer network commits an offense against intellectual property.*

(b) *Whoever willfully, knowingly, and without authorization or without reasonable grounds to believe that he or she has such authorization, destroys data, computer programs, or supporting documentation residing or existing internal or external to a computer, computer system, or computer network commits an offense against intellectual property.*

(c) *Whoever willfully, knowingly, and without authorization or without reasonable grounds to believe that he or she has such authorization, discloses, uses, or takes data, computer programs, or supporting documentation residing or existing internal or external to a computer, computer system, or computer network commits an offense against intellectual property.*

(d) (1) *Except as otherwise provided in this subsection, an offense against intellectual property is a Class A misdemeanor, punishable as provided by law.*

(2) *If the offense is committed for the purpose of devising or executing any scheme or artifice to defraud or to obtain any property, then the offender is guilty of a Class C felony, punishable as provided by law.*

(3) *If the damage to such intellectual property is greater than two thousand five hundred dollars (\$2,500), or if there is an interruption or impairment of governmental operation or public communication, transportation, or supply of water, gas, or other public or utility service, then the offender is guilty of a Class B felony, punishable as provided by law.*

(4) *Whoever willfully, knowingly, and without authorization alters or removes data causing physical injury to any person who is not involved in said act shall be guilty of a Class A felony, punishable as provided by law.*

**Explanation of Information Contained within ABC Reports**

By signing this agreement, the employer acknowledges that ABC reports are queries based on the following identifying information provided by employers.

- Employee Name (Required)
- Employee Sex (Required)
- Employee Race (Required)

Employers must also supply two of the following "numeric" identifies for each employee or prospective employee for whom a criminal record check is requested.

- Employee Date of Birth
- Employee Social Security Number
- Employee Driver's License Number

**Any information supplied on an ABC report is derived from a name-based search using only the identifiers submitted by the subscriber. The State of Alabama in no way guarantees that information provided through the Alabama Background Check (ABC) System is for the person named in the request. Subscribers must use extreme caution in attributing record information to a specific person. If no record is found based on the identifiers submitted, the State of Alabama in no way guarantees the person does not have a record under different identifiers. Fingerprint based searches are the most reliable way to conduct criminal record checks and the least likely to result in either a false positive or false negative search result. Persons requiring a fingerprint based criminal history search should contact the Alabama Department of Public Safety.**

If the identifiers submitted match more than one person, you will be asked to provide more specific identifying information to limit the number of matches. In the event a search cannot be narrowed down to a single individual based on the identifiers provided, ACJIC personnel will further research to see if any matching records can be identified. In such cases, the subscriber will be notified that the inquiry has been flagged for further research. Subscribers will be e-mailed once a manual search has been completed.

ABC-reports contain reported felony and misdemeanor arrests, violations and court records included in databases maintained by the State of

Alabama. ABC reports contain personal information from motor vehicle records included in records maintained by the State of Alabama. Personal information is information that identifies the individuals on whom the ABC report is conducted, including photograph, social security number, driver identification number, name, address, telephone number, and medical or disability information. Juvenile, youthful offender, sealed and/or expunged records will not appear on any ABC report.

**Other Subscriber Certifications**

By signing this agreement, the employer agrees that the data obtained from the ABC system will not be used for any unlawful purposes, including violations of state or federal employment laws or regulations. All information obtained through the ABC system is for the express use of those who have established a "right to know" as defined herein. By signing this document the employer also certifies that the information will not be shared with any external agent or entity and will not be compiled into a database, spreadsheet or other document intended to aggregate the criminal history records of multiple individuals into a single electronic file.

The employer also agrees to indemnify and hold harmless the State of Alabama, its officers, directors and employees for any claim of damages (including attorneys' fees and expenses incurred by the State of Alabama in defending any claim for damages) resulting from information obtained through the ABC system.

The fee for each ABC report provided to a subscriber is set forth in Fee Schedule A which may be obtained from ACJIC. The same fee is charged for any report that shows that no criminal record exists within State of Alabama databases.

**Employer/Subscriber Information****Contact Information**

Name of Company: \_\_\_\_\_

Physical Address: \_\_\_\_\_

\_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Billing Address: \_\_\_\_\_

\_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

**Information for Employer Status Verification**

1. Under which type of employer status do you qualify? (Check one.)

Non-Farm Employer

Household Employer

Agricultural Employer

Government Employer

Will you conduct checks through the ABC System only on individuals employed by your company/employer and/or individuals who are prospective employees of your company/employer?

(Check one)  Yes  No

2. Please provide a brief description of the type of products/services this company/employer provides.

3. Please list for us local, state or federal business and/or professional license(s) granted to this company/employer:

A. Licensing Agency, Address, City, State, Zip Code, Phone Number, License Number

B. Licensing Agency, Address, City, State, Zip Code, Phone Number, License Number

C. Licensing Agency, Address, City, State, Zip Code, Phone Number, License Number

4. Please provide the Federal Employer Identification Number (FEIN#) issued to this company/employer:

5. Please provide for us the Alabama Department of Industrial Relations # issued to this company/employer:

**Contact Information for Use of ABC System**

Company Contact Person: \_\_\_\_\_

Title: \_\_\_\_\_

Address: \_\_\_\_\_

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Telephone: \_\_\_\_\_ E-mail: \_\_\_\_\_

**Authorizing Official**

By signing this agreement, I certify that the information provided to the State of Alabama is true and accurate. I also agree to the terms and conditions of use of the Alabama Background Check System and/or ABC Reports provided by ACJIC as described herein.

Authorizing Official Signature/Title: \_\_\_\_\_

Date of Signature: \_\_\_\_\_

Name/Title of Authorizing Official (Please Print or Type):

\_\_\_\_\_  
\_\_\_\_\_

Business Address of Authorizing Official: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

Authorizing Official Phone: \_\_\_\_\_

Authorizing Official E-mail: \_\_\_\_\_

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ACJIC USE ONLY

Date Approved: \_\_\_\_\_ Date Denied: \_\_\_\_\_

ACJIC Official Authorizing/Denying Access to CHS System: \_\_\_\_\_

**Author:** Becki R. Goggins

**Statutory Authority:** Code of Ala. 1975, §41 9 594.

**History:** New Appendix: Filed July 25, 2006; effective August 29, 2006. **Amended:** Filed July 29, 2008; effective September 2, 2008.