

Explanation: This Ordinance authorizes criminal history background checks for Township of Hillsborough recreation personnel.

TOWNSHIP OF HILLSBOROUGH

ORDINANCE NO. 2006 –02

AN ORDINANCE AUTHORIZING CRIMINAL HISTORY BACKGROUND CHECKS FOR RECREATION PERSONNEL

BE IT ORDAINED, by the Township Committee of the Township of Hillsborough, County of Somerset and State of New Jersey, as follows:

Section 1. Definitions.

As used in this Chapter, the following terms shall have the meanings indicated:

Criminal history record background check. The 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 the State Bureau of Identification of the New Jersey State Police ("SBI").

Criminal history record information. Information collected by criminal justice agencies concerning persons and stored in the computerized databases of the SBI, the National Crime Information Center 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, pending court actions, dismissals, acquittals, sentencing, correctional supervision and release.

Department. The Township of Hillsborough Police Department.

Noncriminal justice purpose. Any purpose, other than administration of criminal justice or criminal justice purpose, including employment and licensing, for which applicant fingerprints or name search requests are submitted by authorized requesters, as required or permitted by a federal or state statute, rule, regulation, executive order, administrative code, local ordinance, resolution or by this Chapter, to the SBI for the dissemination of criminal history record information.

State Bureau of Identification or SBI. The New Jersey State Bureau of Identification, a bureau within the Division of State Police.

Township sponsored programs. Any programs organized and directed by the Township Recreation Department for Township children under the age of 18.

Section 2. Request for criminal background checks; costs.

- A. The Township requires that all employees and volunteers over the age of 18 years, having involvement with Township-sponsored programs involving minors, submit to a criminal history record background check. Failure to so submit to such background check shall constitute grounds for disqualification of that individual.
- B. The Township shall conduct a criminal history record background check only upon receipt of the written consent to the background check from the prospective or current employee or volunteer.
- C. The Division of State Police shall inform the individual and third-party independent agency whether the person's criminal history record background check reveals a conviction of a disqualifying crime or offense as set forth below.
- D. The fee for the background check shall be established by the Recreation Commission by the adoption of a resolution on an annual basis.
- E. The requirement for criminal background checks does not apply to those employees or volunteers which have been qualified for service within the last three (3) years upon the presentation of appropriate documentation.

Section 3. Conditions under which a person is disqualified from service.

- A. A person shall be disqualified from serving as an employee or volunteer involved with Township-sponsored programs involving minors 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. (i.e., criminal homicide; murder; manslaughter; death by vehicular homicide; aiding suicide; leaving the scene of a motor vehicle accident); N.J.S.A. 2C:12-1 et seq. (i.e., assault; endangering an injured victim; recklessly endangering another person; terroristic threats; stalking; disarming law enforcement or corrections officer); N.J.S.A. 2C:13-1 et seq. (i.e., kidnapping; criminal restraint; interference with custody; criminal coercion; enticing child into motor vehicle, structure or isolated area); N.J.S.A. 2C:14-1 et seq. (i.e., sexual assault; criminal sexual contact, lewdness; juveniles in need of supervision); N.J.S.A. 2C:15-1 et seq. (i.e., robbery; carjacking).
 - b. Against the family, children or incompetents, meaning those crimes and disorderly persons offenses set forth in N.J.S.A. 2C:24-1 et seq. (i.e., bigamy; endangering the welfare of children, incompetent persons, the elderly or disabled persons; willful nonsupport; unlawful adoptions; employing a juvenile in the commission of a crime).

- c. Involving theft as set forth in N.J.S.A. 2C:20-1 et seq. (i.e., including theft of real or personal property; receiving stolen property; fencing; theft of services; shoplifting; computer related theft).
 - d. Involving any controlled dangerous substance or controlled substance analog as set forth in N.J.S.A. 2C:35-10(a), exclusive of N.J.S.A. 2C:35-10(a)(4) (i.e., possession of fifty (50) grams or less of marijuana).
 - e. Such other crimes or disorderly persons offenses for which the SBI would disqualify an applicant, existing or current employee or volunteer.
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 Section 3A(1) of this Ordinance.
- B. For purposes of interpreting the information recorded in a criminal history record to determine the qualifications of the employee or volunteer involved with Township-sponsored programs involving minors, the Township shall presume that the employee or volunteer is innocent of any charges or arrests for which there are no final dispositions on the record, except for charges or arrests for sexual misconduct either in this State or without. As to such charges or arrests, such employee or volunteer is required to notify the Chief of Police and the Director of the Department of Recreation immediately following such charge or arrest.
- C. Notification of disqualification based on the criminal history record shall be made to the employee or volunteer by either the SBI or third-party independent agency conducting the criminal history record background check.

Section 4. Submissions; exchange of background check information.

- A. Prospective and/or current employees and volunteers of Township-sponsored programs involving minors shall submit the name, address, fingerprints and written consent to the Township for the criminal history record background check to be performed. The Township shall submit this documentation to the Police Chief of the Township, or his designee, who shall coordinate the background check.
- B. The Police Chief of the Township 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.
- C. The Township may, in its discretion, engage the services of a third-party independent agency to conduct the criminal history record background checks authorized under this Chapter. In that event, the third-party independent agency will perform the duties described in Sections 4A and 4B of this Ordinance.

Section 5. Limitations on access and use of criminal history record background checks.

- A. Access to criminal history record information for noncriminal justice purposes, including licensing and employment, is restricted to authorized personnel of the Township-sponsored program involving minors, 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 Township persons 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 shall not be disseminated to any unauthorized persons. This record, in whatever form it exists, including electronically or via computer, shall be destroyed immediately by the Township 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.

Section 6. Employee or volunteer may challenge accuracy of report.

- A. If the criminal history record disqualifies an applicant or existing employee or volunteer, the Chief of Police, or his designee, shall provide the disqualified person with an opportunity to complete and challenge the accuracy of the information contained in the criminal history record. The disqualified person shall be afforded a reasonable period 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, except for charges or arrests for sexual misconduct either in this State or without.
- B. Thereafter, the Chief of Police, or his designee, in his sole discretion, shall, within thirty (30) days after the submission of the information, determine whether the applicant, existing employee or volunteer qualifies for service.

Section 7. Severability.

If any section, paragraph, subdivision, clause or provision of this Ordinance shall be adjudged invalid, such adjudication shall apply only to the section, paragraph, subdivision, clause or provision and the remainder of this Ordinance shall be deemed valid and effective.

Section 8. Effective Date.

This Ordinance shall take effect as provided by law.

Introduced: 2/28/06
Published: 3/9/06
Public Hearing: 3/28/06
Adopted: 3/28/06
Published:

ATTEST:

**HILLSBOROUGH TOWNSHIP
COMMITTEE**

Kevin P. Davis,
Township Administrator/ Clerk

By: _____
Carl Suraci, Mayor