



**DEPARTMENT OF CORRECTIONS  
PROBATION AND PAROLE DIVISION  
FACILITY OPERATIONAL REQUIREMENT**

Requirement No.: PPD 6.2.402	Subject: <b>BACKGROUND CHECKS</b>
Reference: 53-1-203, MCA	Page 1 of 4
Effective Date: 03/14/18	Revised: 07/02/18
Signature / Title: /s/ Kevin Olson, Probation and Parole Division Administrator	

**This requirement is referenced as *ACCD 1.3.402 Background Investigations* in Section 4.C.4. Facility Management; Staffing/Certification/Training; Background Staff Investigations, in the following contracts: Alternatives, Inc., Butte Prerelease, Gallatin County Reentry Program, Helena Prerelease, Passages, Connections Corrections Program (CCP), Elkhorn, Nexus, START, and WATCH Contract.**

## **I. PURPOSE**

The Probation and Parole Division is committed to protecting the safety of offenders, PPD employees, and the employees and other individuals of PPD contract facilities and providers; therefore, background checks are required for all prospective employees with contracted facilities and providers.

## **II. DEFINITIONS**

**Administrator** – The official, regardless of local title (division or facility administrator, bureau chief, warden, superintendent), that is ultimately responsible for the division, facility or program operation and management.

**Criminal Conduct** – A charge or conviction of a violation of city, county, tribal, state or federal law that includes all felonies and serious misdemeanors, including but not limited to; assault, sexual assault, traffic violations, i.e., hit and run, driving under the influence (DUI), reckless driving, or other violations by staff that could result in the imposition of a jail sentence and/ or suspension or revocation of the violator's driver's license.

**Facility/Program** – Refers to any division, prison, secure care correctional facility, correctional or training program, or community-based program under Department jurisdiction or contract. This term includes the facility building or residence, including property and land owned or leased and operated by the Department or contractor.

**PPD-Probation and Parole Division** – The Division oversees the Probation & Parole regional offices, interstate transfers, and the facilities providing assessments and sanctions, prerelease, and treatment services.

**Prerelease and Treatment Facilities Contract Manager** – The Department's employee who acts as the liaison for services and monitors the contractual agreements between the Department and PPD contract prerelease centers and treatment facilities.

## **III. REQUIREMENTS**

### **A. GENERAL:**

1. The PPD and contract facilities/providers will comply with all federal anti-discrimination laws in all employee selection processes.

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2. A PPD contract facility may use the process for background checks pursuant to this requirement or a process established by the facility whereby background checks are paid for, conducted, and maintained by the facility.
3. An offer of employment may be made contingent on a completed background check; however, the applicant's start date will be established after a final determination of eligibility has been made.
4. The PPD will conduct criminal background checks on successful applicants to a contract facility/provider prior to the hiring of the applicant. Following the steps given below, facilities/providers will initiate background checks on current employees every five (5) years in accordance with the *Prison Rape Elimination Act of 2003* to check for new convictions.
5. Employees must self-report subsequent criminal charges and convictions within five (5) calendar days to their immediate supervisor. The self-reporting will be documented and forwarded to the Prerelease and Treatment Facilities Contract Manager (Contract Manager) within five (5) business days
6. The PPD may further review a facility employee's criminal background during his/her employment at any time for due cause.
7. If an administrator or supervisor has reason to believe a current employee may have been involved in criminal conduct, he or she will notify local law enforcement and the Contract Manager immediately.

## **B. DISCLOSURE OF CRIMINAL HISTORY:**

1. Applicant must disclose his/her criminal history to the facility during the hiring process.
2. Evidence of a conviction may not automatically disqualify an applicant or an employee from employment with a facility/provider.
  - a. If an individual has a criminal history, the following factors will be considered: the nature and gravity of the offense; the time period since the completion of the sentence; and the nature of the job held or sought along with the relatedness of the conviction.
  - b. Applicants with offenses that include, but are not limited to, violent offenses, DUI, partner/family member assault (PFMA), and stalking, will warrant additional consideration by PPD on a case-by-case basis.
3. Because reparations to victims is an important part of the Department's mission, additional consideration will be given when an applicant owes restitution. Payment of restitution may be required of the applicant as a condition of employment.
4. The PPD will not approve the hiring or continuing employment of an employee or subcontractor who has:
  - a. engaged in sexual harassment and/or abuse in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution;
  - b. been convicted of engaging in or attempting to engage in sexual activity in the community facilitated by force, overt or implied threats of force, or coercion, or if the victim did not consent or was unable to consent or refuse;
  - c. been civilly or administratively adjudicated to have engaged in the activity described in paragraph (b) of this section.

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5. Employees have a continuing affirmative duty to disclose any of the misconduct listed in section #5 above.

### **C. CRIMINAL BACKGROUND CHECKS AND EVALUATION OF CRIMINAL RECORD HISTORY:**

1. Criminal background checks will be conducted on successful applicants to a PPD contract facility/provider.
2. To initiate a background check, the facility/provider will complete the following:
  - a. Applicant will review and sign *PPD 6.2.402(A) Requirements for Employment*.
  - b. Applicant is provided *PPD 6.2.402(B) Request for Background Check* and **must** take the form to his/her local law enforcement agency to provide fingerprints and request a background check by the Department of Justice (DOJ). Applicant or facility/provider is responsible for the costs associated with fingerprinting.
  - c. Using a file transfer system to maintain confidentiality, a copy of signed *Requirements for Employment* is emailed to Contract Manager at [correquests@mt.gov](mailto:correquests@mt.gov). Contract Manager will initiate Department's process for obtaining completed background check.
3. Once DOJ completes background check, PPD will review the results. If there is a verifiable conviction from the background check, it will be transmitted securely and swiftly, via fax or the secure file transfer service, to the Contract Manager to determine if an offer of employment can be made or not due to the conviction.
4. Contract Manager completes *PPD 6.2.402(C) Determination of Eligibility* indicating whether the applicant does or does not meet the eligibility criteria for hiring, and forwards the form to the facility's designee.
5. The applicant or facility may request reconsideration of the decision if the *Determination* shows applicant does not meet eligibility requirements.
  - a. the applicant may contact the facility; and facility will staff the reconsideration with the Contract Manager;
  - b. the facility may contact the Contract Manager to staff the reconsideration.

### **D. CONFIDENTIALITY:**

1. Any and all information pertaining to an employee's or applicant's criminal record history is confidential communication. Access to this information is limited to those who have a legitimate need to know and will only be disseminated in conformity with relevant laws and Department policy. These records will include:
  - a. *PPD 6.2.402(A) Requirements for Employment* and *PPD 6.2.402(C) Determination of Eligibility* forms;
  - b. analysis and decision regarding any convictions;
  - c. documentation of applicant not meeting criteria for hire; and
  - d. correspondence related to background check.
2. Employee records will be securely maintained by the facility during the duration of employment and in accordance with the contract.

**IV. CLOSING**

Questions concerning this requirement should be directed to the Prerelease and Treatment Facilities Contract Manager.

**V. FORMS**

PPD 6.2.402 (A) Requirements for Employment  
PPD 6.2.402 (B) Request for Background Check  
PPD 6.2.402 (C) Determination of Eligibility