

## **PROCEDURE XIII-A9: Name Removal from Child Maltreatment Central Registry by an Adult Offender's Request**

07/2014

### **REMOVAL CRITERIA**

An adult offender is defined as a person age 18 years or older at the time of the act or omission that resulted in a true finding of child maltreatment.

An adult offender may request his or her name be removed from the Child Maltreatment Central Registry when:

- A. The individual has not had a subsequent true report of this type for one year; and,
- B. More than one year has passed since the adult offender's name was placed on the Child Maltreatment Central Registry.

However, the adult offender may not request removal from the Child Maltreatment Central Registry if any of the following apply:

- A. The adult offender was placed into the Child Maltreatment Central Registry for any type of child maltreatment that resulted in a child fatality as a direct result of the offender's act or omission.
- B. The adult offender is still involved in an open protective services or foster care case for the type of maltreatment for which he or she was placed into the Child Maltreatment Central Registry.
- C. The adult offender was placed into the Child Maltreatment Central Registry for any of the child maltreatment types listed below and his or her parental rights were subsequently terminated either voluntarily or involuntarily:
  - Abuse with deadly weapon
  - Bone fractures
  - Brain Damage/Skull Fracture
  - Burns/scalding
  - Immersion
  - Inadequate supervision – children less than 6 years of age
  - Interfering with a child's breathing
  - Internal injuries
  - Malnutrition
  - Oral sex
  - Poison/noxious substances
  - Presence of illegal substance in child or its mother at time of birth resulting from mother's knowing use of the substance
  - Sexual exploitation
  - Sexual penetration
  - Shaking a child age 3 or younger
  - Striking a child with a closed fist
  - Subdural hematoma
  - Suffocation

(A.C.A. § 12-18-908 allows the types of maltreatment that may be considered for removal to be set at the discretion of the Director of the Department. However, these can only be changed through normal promulgation *after* a special review by the House Interim Committee on Aging, Children and Youth, Legislative and Military Affairs and the Senate Interim Committee on Children and Youth [A.C.A. § 12-18-908]).

Finally, per A.C.A. § 12-18-908, If an adult offender is found guilty of, pleads guilty to, or pleads nolo contendere to an act that is the same act for which the offender is named in the Child Maltreatment Central Registry regardless of any subsequent expungement of the offense from the offender's criminal record, the offender shall always remain in the Child Maltreatment Central Registry unless the conviction is reversed or vacated.

#### APPLICATION FORMAT FOR AN ADULT OFFENDER

An application for name removal from the Child Maltreatment Central Registry shall conform to the following:

- A. The adult offender will submit his or her request to the DCFS Director via the CFS-328-A: Request for Name Removal from the Child Maltreatment Central Registry by Adult Offender and shall also submit:
  - 1) A personal letter describing:
    - a) The offender's reason for the removal request;
    - b) The events and circumstances surrounding the child maltreatment finding; and,
    - c) The offender's rehabilitation.
  - 2) Arkansas Child Maltreatment Central Registry results free from a true finding of the same maltreatment type for the preceding year;
  - 3) Child Maltreatment Registry results from the offender's current state of residence and/or any state in which the offender has resided in the preceding year free from a true finding of the same maltreatment type for the preceding year;
  - 4) Arkansas Crime Information Center (ACIC) background check results free from child maltreatment-related offense for the preceding one year;
  - 5) State background check results from the offender's current state of residence and/or any state in which the offender has resided in the preceding year free from child maltreatment-related offense for the preceding one year;
  - 6) Description and documentation (e.g., court records, letter from the adult offender's attorney, probation officer, or prosecuting attorney) of any current pending criminal charges, if applicable;
  - 7) Evidence of the offender's rehabilitation, including, but not limited to:
    - a) Documentation proving completion of treatment, remediation, or rehabilitation programs as related to the specific offense if applicable.
      - i. For removal requests related to sexual abuse, proof of rehabilitation must include documentation from a licensed mental health professional that:
        - a) States that the requestor has participated in therapy with the licensed mental health professional to address the issues related to the sexual abuse offense;
        - b) States total length of time the requestor has participated in therapy with the licensed mental health professional to address the issues related to the sexual abuse offense and the frequency of therapy sessions during that period of time;
        - c) Indicates whether a sex offender specific assessment was conducted during the therapy period (e.g., the Vermont Assessment of Sex Offender Risk (VASOR), Clarke Sex History Questionnaire for Males-Revised, Hare Psychotherapy Scale) (note: the use of such an assessment is not necessarily a requirement for removal but the presence or absence of such an assessment will be considered);
        - d) Provides the licensed mental health professional's assessment of the requestor's participation during the therapy period.
      - b) One to three letters of reference from professionals (not to include DCFS employees), employers, spiritual counselors, friends, or family describing the offender's rehabilitation
        - i. No more than one letter of reference can be submitted from a family member.

The Child Maltreatment Central Registry Review Team, as described in Procedure XIII-A9, may select additional, non-child maltreatment-related offenses which prevent name removal from the Child Maltreatment Central Registry.

#### DETERMINATION OF NAME REMOVAL REQUEST BY AN ADULT OFFENDER

The Child Maltreatment Central Registry Review Team will consider requests for removal of names from the Registry. In determining whether or not to remove an offender from the Child Maltreatment Central Registry the Review Team shall consider any relevant evidence, which may include, but is not limited to the following:

- A. The circumstances surrounding the maltreatment;
- B. The seriousness of the harm caused by the maltreatment to the child or children;
- C. The probability of the offender engaging in future maltreatment;
- D. Evidence of the offender's completion of training, rehabilitation, and efforts to learn effective strategies to care for children;
- E. And any other information that is relevant to the specific offense.

If the child maltreatment type is in the removal-by-request category, and the adult offender has not had a subsequent true report of this type for one year and more than one year has passed since the offender's name was placed on the Child Maltreatment Central Registry, he will have a right to a review of the case.

If the Review Team denies the request-for-removal of the name from the Child Maltreatment Central Registry, the Review Team shall send a denial letter to the adult offender explaining the reason for denial as it relates to:

- A. The circumstances surrounding the maltreatment;
- B. The seriousness of the harm caused by the maltreatment to the child or children;
- C. The probability of the offender engaging in future maltreatment;
- D. Evidence of the offender's completion of training, rehabilitation, and efforts to learn effective strategies to care for children;
- E. Any pending criminal charges surrounding the maltreatment;
- F. And any other information that is relevant to the specific offense.

The adult offender shall wait one year from the date of the request for removal before filing a new petition with the Division requesting the offender's name be removed from the Child Maltreatment Central Registry. However, if the Review Team needs additional information from the adult offender in order to make the determination as to whether to remove his or her name from the Child Maltreatment Central Registry, the Review Team may request that the adult offender provide the additional information without requiring the adult offender to wait an additional year to file a new petition. The Review Team shall inform the adult offender in writing of the specific additional information requested. The adult offender shall have ten (10) calendar days from the date of the request to submit the requested additional information. If the request is sent via mail, the adult offender shall be given an additional three (3) calendar days to submit the information. If the requested information is not submitted within the specified timeframe, then the adult offender shall wait one year from the date of the request to file a new petition requesting his or her name be removed from the Child Maltreatment Central Registry.

If the Review Team denies the request-for-removal of the name from the Child Maltreatment Central Registry, the adult offender may request an administrative hearing within 30 days from the receipt of the Division's decision.

### **PROCEDURE XIII-A10: Name Removal from Child Maltreatment Central Registry for a Juvenile Offender**

07/2014

#### **REMOVAL CRITERIA**

Pursuant to A.C.A. § 12-18-908, the name of an offender who was a juvenile at the time of the offense shall not be removed from the Child Maltreatment Central Registry if the offender was found guilty of, pleaded guilty to, or pleaded nolo contendere to a felony in circuit court as an adult for the act that is the same act for which the offender is named in the Child Maltreatment Central Registry unless the conviction is reversed or vacated.

However, the name of an offender who was a juvenile at the time of the offense shall be removed from the Child Maltreatment Central Registry, as provided by A.C.A. § 12-18-908, when:

- A. The juvenile has reached the age of 18 or more than one year has passed from the date of the act or omission that caused the true finding of child maltreatment and there have been no subsequent acts or omissions resulting in a true finding of child maltreatment; and,
- B. The juvenile offender can prove by a preponderance of the evidence that he/she has been rehabilitated.

#### APPLICATION FORMAT FOR A JUVENILE OFFENDER

An application for name removal from the Child Maltreatment Central Registry shall conform to the following:

- A. The juvenile offender will submit his request to the DCFS Director via the CFS-328-B: Request for Name Removal from the Child Maltreatment Central Registry by Juvenile Offender and shall also submit:
  - 1) Arkansas Child Maltreatment Central Registry results free from a true finding of the same maltreatment type for the preceding year;
  - 2) Child Maltreatment Registry results from the offender's current state of residence and/or any state in which the offender has resided in the preceding year free from a true finding of the same maltreatment type for the preceding year;
  - 3) Arkansas Crime Information Center (ACIC) background check results free from child maltreatment-related offense for the preceding one year;
  - 4) State background check results from the offender's current state of residence and any state in which the offender has resided in the preceding year free from child maltreatment-related offense for the preceding one year;
  - 5) Evidence of the offender's rehabilitation, which may include, but is not limited to:
    - a) A personal letter from the offender describing his rehabilitation;
    - b) Documents proving participation in treatment, remediation, or rehabilitation programs;
    - c) One to three letter of reference from professionals (not to include DCFS employees), employers, spiritual counselors, friends, or family describing the offender's rehabilitation.

#### DETERMINATION OF NAME REMOVAL REQUEST BY A JUVENILE OFFENDER

The Child Maltreatment Central Registry Review Team will consider requests for removal of names from the Registry. In determining whether or not to remove a juvenile offender's name from the Child Maltreatment Central Registry, the Review Team shall consider the following:

- A. Whether the criminal history reveals any convictions as an adult for the same act for which the offender is named in the registry; and,
- B. Whether the juvenile offender has reached the age of eighteen (18); or, one year has passed from the date of the act or omission that caused the true finding of child maltreatment; and,
- C. There have been no subsequent acts or omissions resulting in a true finding of child maltreatment; and,
- D. The information submitted proves, by a preponderance of the evidence, that the juvenile offender has been rehabilitated.

If the Review Team denies the request-for-removal of the name from the Child Maltreatment Central Registry, the Review Team shall send a denial letter to the juvenile offender explaining the reason for denial. The juvenile offender shall wait one year from the date of the request for removal before filing a new petition with the Division requesting the offender's name be removed from the Child Maltreatment Central Registry. If the Review Team denies the request-for-removal of the name from the Child Maltreatment Central Registry, the juvenile offender may request an administrative hearing within 30 days from the receipt of the division's decision.

However, if the Review Team needs additional information from the juvenile offender in order to make the determination as to whether to remove his or her name from the Child Maltreatment Central Registry, the Review Team may request that the juvenile offender provide the additional information without requiring the juvenile offender to wait an additional year to file a new petition. The Review Team shall inform the juvenile offender in writing of the specific additional information requested. The juvenile offender shall have ten (10) calendar days from the date of the request to submit the requested additional information. If the request is sent via email, the juvenile offender shall be given an additional three (3) calendar days to submit the information. If the requested information is not submitted within the specified timeframe, then the juvenile offender shall wait one year from

the date of the request to file a new petition requesting his or her name be removed from the Child Maltreatment Central Registry.

CLEAN