



**VERMONT**

**CANNABIS CONTROL BOARD**

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# **GUIDANCE ON OBTAINING AND SUBMITTING RECORD CHECKS**

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## Introduction

Vermont law requires that the Cannabis Control Board conduct criminal record checks as part of the application process. This record check must be done upon an initial license application and again every two years as part of the renewal process.

A criminal record does not necessarily exclude someone from receiving a license. However, certain criminal offenses may limit the Board's ability to grant a license or require additional information about the circumstances of the offense as part of the review process.

This guidance will assist applicants in providing the necessary information related to the criminal record section of the license application.

This guidance is not legal advice. If applicants have questions regarding their legal responsibilities, they are encouraged to consult their legal counsel.

## Important Definitions

The definitions below are in 7 V.S.A. §861. Readers may find that reviewing these definitions will aid their general understanding of the criminal record check portion of the application.

*"Applicant"* means a person that applies for a license to operate a cannabis establishment pursuant to this chapter. 7 V.S.A. §861(4).

*"Person"* shall include any natural person; corporation; municipality; the State of Vermont or any department, agency, or subdivision of the State; and any partnership, unincorporated association, or other legal entity. 7 V.S.A. §861(23).

*"Principal"* means an individual vested with the authority to conduct, manage, or supervise the business affairs of a person, and may include the president, vice president, secretary, treasurer, manager, or similar executive officer of a business; a director of a corporation, nonprofit corporation, or mutual benefit enterprise; a member of a nonprofit corporation, cooperative, or member-managed limited liability company; and a partner of a partnership. 7 V.S.A. §861(25).

Additionally, some terms are used frequently in the Cannabis Control Board Rules but don't have a formal definition. It may be helpful to understand these terms in the following ways:

*A person who controls an applicant:* It's important to remember that a "person" in this context could be an individual or an entity such as a corporation. It may be helpful to think of a "person who controls an applicant" as an individual or entity who will have a controlling interest or explicit or implicit control over the Cannabis Establishment.

## Fingerprint Requirements

Currently the Cannabis Control Board is not authorized to access fingerprint supported criminal history records through the Federal Bureau of Investigation (FBI). As a result, we are not

requiring applicants to submit fingerprints to the Board. The Board is working with the Vermont General Assembly and the FBI to obtain the authorization necessary to access these records directly. The next sections of this guidance document address the background check requirements for license applicants.

## License Application Background Check Requirements

### Criminal Record Check Partner Agencies and Verification of Information

To obtain comprehensive background check information without direct access through the FBI, the Cannabis Control Board has partnered with Creative Services Inc. (CSI) for the processing of criminal background checks. The Board is required to make a determination of suitability for each individual and entity that is listed on the application, which is based in part upon the background checks. Background checks will include, but not be limited to, a review of the following:

- Vermont and national criminal database records
- Vermont and national civil database records, including professional and occupational records
- Applicants' involvement in other cannabis-related businesses
- Any actions taken against any license or registration held by the applicants

When an applicant provides information about a civil or administrative action, or any disciplinary action against a license, registration, or certification held by the applicant, the Cannabis Control Board may contact the appropriate agency to verify the information provided.

### Cost and Process to Submit to License Application Background Check

Applicants for a cannabis establishment license will be directed to CSI to complete the required background check. Each principal or controlling party will need to submit to the background check, and the cost for each check is \$475.

## Providing Information on the License Application

### Required Information

Each individual that is required to complete a criminal record check must also provide the following details also found in Rule 1.4.2:

### Demographic and Identification Information Required for the Criminal Record Check

- The individual's full legal name and any aliases
- The individual's address
- The individual's date of birth
- A photocopy of the individual's driver's license or other government-issued I.D.

### Description of Criminal, Civil, Administrative or Other Disciplinary Action

When completing this section of the application, individuals should be as detailed as possible.

- A description of any criminal action against the individual in any jurisdiction that resulted in a conviction, guilty plea, plea of no contest, or admission to sufficient facts (See below for criminal offenses that require additional information)
- A description of any civil action that began or was resolved in the last 10 years in any jurisdiction in which the individual was named as a party. (See below for further instruction on submitting this information)
- A description of any administrative action taken against the individual in any jurisdiction (See below for further instruction on submitting this information)
- A description of any disciplinary action against a license, registration, or certification held by the individual.
  - This includes cannabis establishment or cannabis employment-related licenses or any other professional license (i.e., license to practice law, a nursing license, a journeyman's license, or another regulated license, registration, or certification)
  - Disciplinary action includes but is not limited to a suspension or revocation of a license
  - If the individual completing this section has a license to prescribe or distribute controlled substances, and that license was suspended or revoked or subject to any other disciplinary action, please include that information
- A description of any denial of a professional license in any jurisdiction and the reason for denial.

#### Instructions for descriptions of civil actions, administrative actions

While it is important to list a description of civil actions and administrative actions as required by rule and outlined in guidance, most descriptions can be brief.

Applicants should provide full, detailed descriptions of civil and administrative actions that relate to any of the following:

- The distribution of cannabis to minors;
- Revenue from the sale of cannabis to criminal enterprises, gangs and cartels;
- Diversion of cannabis from states where it is legal under state law to other states;
- Cannabis activity that has been used as a cover or pretext for the trafficking of other illegal drugs or other illegal activity;
- Activity related to the unlawful use or diversion of controlled substances;
- Violence and the use of firearms in the cultivation and distribution of cannabis;
- Drugged driving and the exacerbation of other adverse public health consequences associated with cannabis use;
- Growing of cannabis on public lands and the attendant public safety and environmental dangers posed by cannabis production on public lands; and
- Cannabis possession or use on federal property.

Other types of civil actions or administrative actions such as an uncontested divorce, child support hearings, ADA and EEO claims, Vicious Dog hearings, and Loudermill Hearings can be listed with a short description as they may have no bearing on the issuance of a license.

### Criminal Offenses that Require Additional Information

Having a criminal record does not necessarily exclude someone from receiving a license. However, certain criminal offenses may limit the Board's ability to grant a license or require additional information about the offense's circumstances as part of the review process.

The criminal offenses that require additional information are in the Board's rule 1.11.2. They are:

- A listed crime as defined in subsection [13 V.S.A. § 5301\(7\)](#) or the equivalent in another jurisdiction;
- A conviction for an offense in relating to the sexual exploitation of children ([13 V.S.A. chapter 64](#)) or the equivalent in another jurisdiction;
- State or federal felony offense involving fraud, deceit, or embezzlement;
- Convictions that demonstrate an ongoing involvement with organized criminal enterprises, including violent gangs and drug cartels;
- Trafficking of a regulated substance other than cannabis. For the purposes of the Board, this means the trafficking of cocaine, fentanyl, or methamphetamines, or the possession, selling, or trafficking of heroin ([18 V.S.A. §§ 4231\(c\), 4233\(c\), 4233a\(b\), 4234a\(c\)](#)), or a non-violent drug distribution offense in another jurisdiction that carries a maximum penalty of 30 years of incarceration or greater;
- Dispensing cannabis to a person under 21 years of age in violation of [18 V.S.A. § 4230f](#), or the equivalent offense in another jurisdiction;
- Misdemeanor convictions that occurred within the 2 years preceding the application; except for non-violent offenses; or
- Felony convictions that occurred within the 5 years preceding the application, except for non-violent offenses.

### What to provide when additional information is needed

If one or more of the offenses above is listed in the criminal record check section of the application, the individual should provide additional information.

This information will be used to help the Board determine if the individual is qualified to obtain a license. Applicants may provide this information in writing on the application, or they may request to provide the information verbally to the Board. The Board will consider the following points in making that determination:

- The nature and seriousness of the crime or offense;
- The circumstances under which the crime or offense occurred;
- The date of the crime or offense;

- The age of the person when the crime or offense was committed;
- Whether the individual committed subsequent offenses;
- Any social conditions that may have contributed to the commission of the crime or offense;
- The nature and responsibility of the position that the person with a conviction would hold, has held, or currently holds; and
- Any evidence of rehabilitation.

### Providing Further Information

If the CCB requires further information regarding your prior convictions or your petition for overcoming presumptive disqualification, the applicant will receive a request via email. It is the responsibility of the applicant to be responsive to requests from the CCB in order to avoid delays in application processing.

### Record Check and Application Process

The Board will review the information provided in the application, as well as information provided by CSI, VCIC, the FBI, and any additional information provided by the individual. When reviewing this information, the Board's responsibility is to consider whether the information indicates that licensing the individual would pose a threat to public safety or the proper functioning of the regulated cannabis market. After reviewing the information, the Board will determine if an individual is qualified to obtain a license.

### Addressing Discrepancies Between the Application and Record Check

If there are substantial discrepancies between the information provided on the application and the results of the Criminal Record Check, the Board will notify the applicant. Upon request, the Board will provide a copy of the criminal record results to the affected individual.

The applicant will have the opportunity to submit a corrected application to the Board. The Board will pause the processing of the application until the updated application is received.

### Notification of Denial Based on a Record Check

If an applicant is determined not to be qualified based on information provided in the record check, the Board will notify the applicant. Upon request, the Board will also provide a copy of the criminal record check results to the affected individual.

If the applicant chooses to do so, they may update the application and resubmit it to the Board.

For example, suppose an application would be approved, except for the criminal history of one of the principals. In that case, the applicant may choose to make new business arrangements and resubmit the application.

## Changes to a Criminal Record

An applicant, principal of an applicant, or person who controls the applicant has an ongoing duty to disclose changes in their criminal record.

Should an individual's record change while the application is pending, the individual should contact the Board for guidance on how to provide additional, updated information.

Additionally, the Board may require an individual to resubmit information if there is reason to believe that records have changed.