

As Introduced

134th General Assembly

Regular Session

2021-2022

H. B. No. 179

Representatives Ginter, Fraizer

Cosponsor: Representative Young, T.



A BILL

To amend sections 109.57, 109.572, 173.38, 173.381, 1
1337.11, 2133.01, 2317.54, 3701.362, 3701.881, 2
3701.916, 3721.02, 4715.36, 4719.01, 4723.431, 3
4729.43, 5101.63, 5164.34, and 5164.342; to 4
amend, for the purpose of adopting a new section 5
number as indicated in parentheses, section 6
3701.881 (3722.11); and to enact sections 7
3722.01, 3722.02, 3722.03, 3722.04, 3722.05, 8
3722.07, 3722.10, and 3722.99 of the Revised 9
Code to modify the laws governing expedited 10
licensure inspections and reviewing plans for 11
long-term care facilities and to license 12
providers of home health services. 13

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 109.57, 109.572, 173.38, 173.381, 14
1337.11, 2133.01, 2317.54, 3701.362, 3701.881, 3701.916, 15
3721.02, 4715.36, 4719.01, 4723.431, 4729.43, 5101.63, 5164.34, 16
and 5164.342 be amended; section 3701.881 (3722.11) be amended 17
for the purpose of adopting a new section number as indicated in 18
parentheses; and sections 3722.01, 3722.02, 3722.03, 3722.04, 19

3722.05, 3722.07, 3722.10, and 3722.99 of the Revised Code be 20
enacted to read as follows: 21

Sec. 109.57. (A) (1) The superintendent of the bureau of 22
criminal identification and investigation shall procure from 23
wherever procurable and file for record photographs, pictures, 24
descriptions, fingerprints, measurements, and other information 25
that may be pertinent of all persons who have been convicted of 26
committing within this state a felony, any crime constituting a 27
misdemeanor on the first offense and a felony on subsequent 28
offenses, or any misdemeanor described in division (A) (1) (a), 29
(A) (5) (a), or (A) (7) (a) of section 109.572 of the Revised Code, 30
of all children under eighteen years of age who have been 31
adjudicated delinquent children for committing within this state 32
an act that would be a felony or an offense of violence if 33
committed by an adult or who have been convicted of or pleaded 34
guilty to committing within this state a felony or an offense of 35
violence, and of all well-known and habitual criminals. The 36
person in charge of any county, multicounty, municipal, 37
municipal-county, or multicounty-municipal jail or workhouse, 38
community-based correctional facility, halfway house, 39
alternative residential facility, or state correctional 40
institution and the person in charge of any state institution 41
having custody of a person suspected of having committed a 42
felony, any crime constituting a misdemeanor on the first 43
offense and a felony on subsequent offenses, or any misdemeanor 44
described in division (A) (1) (a), (A) (5) (a), or (A) (7) (a) of 45
section 109.572 of the Revised Code or having custody of a child 46
under eighteen years of age with respect to whom there is 47
probable cause to believe that the child may have committed an 48
act that would be a felony or an offense of violence if 49
committed by an adult shall furnish such material to the 50

superintendent of the bureau. Fingerprints, photographs, or 51
other descriptive information of a child who is under eighteen 52
years of age, has not been arrested or otherwise taken into 53
custody for committing an act that would be a felony or an 54
offense of violence who is not in any other category of child 55
specified in this division, if committed by an adult, has not 56
been adjudicated a delinquent child for committing an act that 57
would be a felony or an offense of violence if committed by an 58
adult, has not been convicted of or pleaded guilty to committing 59
a felony or an offense of violence, and is not a child with 60
respect to whom there is probable cause to believe that the 61
child may have committed an act that would be a felony or an 62
offense of violence if committed by an adult shall not be 63
procured by the superintendent or furnished by any person in 64
charge of any county, multicounty, municipal, municipal-county, 65
or multicounty-municipal jail or workhouse, community-based 66
correctional facility, halfway house, alternative residential 67
facility, or state correctional institution, except as 68
authorized in section 2151.313 of the Revised Code. 69

(2) Every clerk of a court of record in this state, other 70
than the supreme court or a court of appeals, shall send to the 71
superintendent of the bureau a weekly report containing a 72
summary of each case involving a felony, involving any crime 73
constituting a misdemeanor on the first offense and a felony on 74
subsequent offenses, involving a misdemeanor described in 75
division (A) (1) (a), (A) (5) (a), or (A) (7) (a) of section 109.572 76
of the Revised Code, or involving an adjudication in a case in 77
which a child under eighteen years of age was alleged to be a 78
delinquent child for committing an act that would be a felony or 79
an offense of violence if committed by an adult. The clerk of 80
the court of common pleas shall include in the report and 81

summary the clerk sends under this division all information 82
described in divisions (A) (2) (a) to (f) of this section 83
regarding a case before the court of appeals that is served by 84
that clerk. The summary shall be written on the standard forms 85
furnished by the superintendent pursuant to division (B) of this 86
section and shall include the following information: 87

(a) The incident tracking number contained on the standard 88
forms furnished by the superintendent pursuant to division (B) 89
of this section; 90

(b) The style and number of the case; 91

(c) The date of arrest, offense, summons, or arraignment; 92

(d) The date that the person was convicted of or pleaded 93
guilty to the offense, adjudicated a delinquent child for 94
committing the act that would be a felony or an offense of 95
violence if committed by an adult, found not guilty of the 96
offense, or found not to be a delinquent child for committing an 97
act that would be a felony or an offense of violence if 98
committed by an adult, the date of an entry dismissing the 99
charge, an entry declaring a mistrial of the offense in which 100
the person is discharged, an entry finding that the person or 101
child is not competent to stand trial, or an entry of a nolle 102
prosequi, or the date of any other determination that 103
constitutes final resolution of the case; 104

(e) A statement of the original charge with the section of 105
the Revised Code that was alleged to be violated; 106

(f) If the person or child was convicted, pleaded guilty, 107
or was adjudicated a delinquent child, the sentence or terms of 108
probation imposed or any other disposition of the offender or 109
the delinquent child. 110

If the offense involved the disarming of a law enforcement officer or an attempt to disarm a law enforcement officer, the clerk shall clearly state that fact in the summary, and the superintendent shall ensure that a clear statement of that fact is placed in the bureau's records.

(3) The superintendent shall cooperate with and assist sheriffs, chiefs of police, and other law enforcement officers in the establishment of a complete system of criminal identification and in obtaining fingerprints and other means of identification of all persons arrested on a charge of a felony, any crime constituting a misdemeanor on the first offense and a felony on subsequent offenses, or a misdemeanor described in division (A) (1) (a), (A) (5) (a), or (A) (7) (a) of section 109.572 of the Revised Code and of all children under eighteen years of age arrested or otherwise taken into custody for committing an act that would be a felony or an offense of violence if committed by an adult. The superintendent also shall file for record the fingerprint impressions of all persons confined in a county, multicounty, municipal, municipal-county, or multicounty-municipal jail or workhouse, community-based correctional facility, halfway house, alternative residential facility, or state correctional institution for the violation of state laws and of all children under eighteen years of age who are confined in a county, multicounty, municipal, municipal-county, or multicounty-municipal jail or workhouse, community-based correctional facility, halfway house, alternative residential facility, or state correctional institution or in any facility for delinquent children for committing an act that would be a felony or an offense of violence if committed by an adult, and any other information that the superintendent may receive from law enforcement officials of the state and its

political subdivisions. 142

(4) The superintendent shall carry out Chapter 2950. of 143
the Revised Code with respect to the registration of persons who 144
are convicted of or plead guilty to a sexually oriented offense 145
or a child-victim oriented offense and with respect to all other 146
duties imposed on the bureau under that chapter. 147

(5) The bureau shall perform centralized recordkeeping 148
functions for criminal history records and services in this 149
state for purposes of the national crime prevention and privacy 150
compact set forth in section 109.571 of the Revised Code and is 151
the criminal history record repository as defined in that 152
section for purposes of that compact. The superintendent or the 153
superintendent's designee is the compact officer for purposes of 154
that compact and shall carry out the responsibilities of the 155
compact officer specified in that compact. 156

(6) The superintendent shall, upon request, assist a 157
county coroner in the identification of a deceased person 158
through the use of fingerprint impressions obtained pursuant to 159
division (A)(1) of this section or collected pursuant to section 160
109.572 or 311.41 of the Revised Code. 161

(B) The superintendent shall prepare and furnish to every 162
county, multicounty, municipal, municipal-county, or 163
multicounty-municipal jail or workhouse, community-based 164
correctional facility, halfway house, alternative residential 165
facility, or state correctional institution and to every clerk 166
of a court in this state specified in division (A)(2) of this 167
section standard forms for reporting the information required 168
under division (A) of this section. The standard forms that the 169
superintendent prepares pursuant to this division may be in a 170
tangible format, in an electronic format, or in both tangible 171

formats and electronic formats. 172

(C) (1) The superintendent may operate a center for 173
electronic, automated, or other data processing for the storage 174
and retrieval of information, data, and statistics pertaining to 175
criminals and to children under eighteen years of age who are 176
adjudicated delinquent children for committing an act that would 177
be a felony or an offense of violence if committed by an adult, 178
criminal activity, crime prevention, law enforcement, and 179
criminal justice, and may establish and operate a statewide 180
communications network to be known as the Ohio law enforcement 181
gateway to gather and disseminate information, data, and 182
statistics for the use of law enforcement agencies and for other 183
uses specified in this division. The superintendent may gather, 184
store, retrieve, and disseminate information, data, and 185
statistics that pertain to children who are under eighteen years 186
of age and that are gathered pursuant to sections 109.57 to 187
109.61 of the Revised Code together with information, data, and 188
statistics that pertain to adults and that are gathered pursuant 189
to those sections. 190

(2) The superintendent or the superintendent's designee 191
shall gather information of the nature described in division (C) 192
(1) of this section that pertains to the offense and delinquency 193
history of a person who has been convicted of, pleaded guilty 194
to, or been adjudicated a delinquent child for committing a 195
sexually oriented offense or a child-victim oriented offense for 196
inclusion in the state registry of sex offenders and child- 197
victim offenders maintained pursuant to division (A) (1) of 198
section 2950.13 of the Revised Code and in the internet database 199
operated pursuant to division (A) (13) of that section and for 200
possible inclusion in the internet database operated pursuant to 201
division (A) (11) of that section. 202

(3) In addition to any other authorized use of 203
information, data, and statistics of the nature described in 204
division (C)(1) of this section, the superintendent or the 205
superintendent's designee may provide and exchange the 206
information, data, and statistics pursuant to the national crime 207
prevention and privacy compact as described in division (A)(5) 208
of this section. 209

(4) The Ohio law enforcement gateway shall contain the 210
name, confidential address, and telephone number of program 211
participants in the address confidentiality program established 212
under sections 111.41 to 111.47 of the Revised Code. 213

(5) The attorney general may adopt rules under Chapter 214
119. of the Revised Code establishing guidelines for the 215
operation of and participation in the Ohio law enforcement 216
gateway. The rules may include criteria for granting and 217
restricting access to information gathered and disseminated 218
through the Ohio law enforcement gateway. The attorney general 219
shall adopt rules under Chapter 119. of the Revised Code that 220
grant access to information in the gateway regarding an address 221
confidentiality program participant under sections 111.41 to 222
111.47 of the Revised Code to only chiefs of police, village 223
marshals, county sheriffs, county prosecuting attorneys, and a 224
designee of each of these individuals. The attorney general 225
shall permit the state medical board and board of nursing to 226
access and view, but not alter, information gathered and 227
disseminated through the Ohio law enforcement gateway. 228

The attorney general may appoint a steering committee to 229
advise the attorney general in the operation of the Ohio law 230
enforcement gateway that is comprised of persons who are 231
representatives of the criminal justice agencies in this state 232

that use the Ohio law enforcement gateway and is chaired by the	233
superintendent or the superintendent's designee.	234
(D) (1) The following are not public records under section	235
149.43 of the Revised Code:	236
(a) Information and materials furnished to the	237
superintendent pursuant to division (A) of this section;	238
(b) Information, data, and statistics gathered or	239
disseminated through the Ohio law enforcement gateway pursuant	240
to division (C) (1) of this section;	241
(c) Information and materials furnished to any board or	242
person under division (F) or (G) of this section.	243
(2) The superintendent or the superintendent's designee	244
shall gather and retain information so furnished under division	245
(A) of this section that pertains to the offense and delinquency	246
history of a person who has been convicted of, pleaded guilty	247
to, or been adjudicated a delinquent child for committing a	248
sexually oriented offense or a child-victim oriented offense for	249
the purposes described in division (C) (2) of this section.	250
(E) (1) The attorney general shall adopt rules, in	251
accordance with Chapter 119. of the Revised Code and subject to	252
division (E) (2) of this section, setting forth the procedure by	253
which a person may receive or release information gathered by	254
the superintendent pursuant to division (A) of this section. A	255
reasonable fee may be charged for this service. If a temporary	256
employment service submits a request for a determination of	257
whether a person the service plans to refer to an employment	258
position has been convicted of or pleaded guilty to an offense	259
listed or described in division (A) (1), (2), or (3) of section	260
109.572 of the Revised Code, the request shall be treated as a	261

single request and only one fee shall be charged. 262

(2) Except as otherwise provided in this division or 263
division (E) (3) or (4) of this section, a rule adopted under 264
division (E) (1) of this section may provide only for the release 265
of information gathered pursuant to division (A) of this section 266
that relates to the conviction of a person, or a person's plea 267
of guilty to, a criminal offense or to the arrest of a person as 268
provided in division (E) (3) of this section. The superintendent 269
shall not release, and the attorney general shall not adopt any 270
rule under division (E) (1) of this section that permits the 271
release of, any information gathered pursuant to division (A) of 272
this section that relates to an adjudication of a child as a 273
delinquent child, or that relates to a criminal conviction of a 274
person under eighteen years of age if the person's case was 275
transferred back to a juvenile court under division (B) (2) or 276
(3) of section 2152.121 of the Revised Code and the juvenile 277
court imposed a disposition or serious youthful offender 278
disposition upon the person under either division, unless either 279
of the following applies with respect to the adjudication or 280
conviction: 281

(a) The adjudication or conviction was for a violation of 282
section 2903.01 or 2903.02 of the Revised Code. 283

(b) The adjudication or conviction was for a sexually 284
oriented offense, the juvenile court was required to classify 285
the child a juvenile offender registrant for that offense under 286
section 2152.82, 2152.83, or 2152.86 of the Revised Code, that 287
classification has not been removed, and the records of the 288
adjudication or conviction have not been sealed or expunged 289
pursuant to sections 2151.355 to 2151.358 or sealed pursuant to 290
section 2952.32 of the Revised Code. 291

(3) A rule adopted under division (E)(1) of this section	292
may provide for the release of information gathered pursuant to	293
division (A) of this section that relates to the arrest of a	294
person who is eighteen years of age or older when the person has	295
not been convicted as a result of that arrest if any of the	296
following applies:	297
(a) The arrest was made outside of this state.	298
(b) A criminal action resulting from the arrest is	299
pending, and the superintendent confirms that the criminal	300
action has not been resolved at the time the criminal records	301
check is performed.	302
(c) The bureau cannot reasonably determine whether a	303
criminal action resulting from the arrest is pending, and not	304
more than one year has elapsed since the date of the arrest.	305
(4) A rule adopted under division (E)(1) of this section	306
may provide for the release of information gathered pursuant to	307
division (A) of this section that relates to an adjudication of	308
a child as a delinquent child if not more than five years have	309
elapsed since the date of the adjudication, the adjudication was	310
for an act that would have been a felony if committed by an	311
adult, the records of the adjudication have not been sealed or	312
expunged pursuant to sections 2151.355 to 2151.358 of the	313
Revised Code, and the request for information is made under	314
division (F) of this section or under section 109.572 of the	315
Revised Code. In the case of an adjudication for a violation of	316
the terms of community control or supervised release, the five-	317
year period shall be calculated from the date of the	318
adjudication to which the community control or supervised	319
release pertains.	320

(F) (1) As used in division (F) (2) of this section, "head start agency" means an entity in this state that has been approved to be an agency for purposes of subchapter II of the "Community Economic Development Act," 95 Stat. 489 (1981), 42 U.S.C.A. 9831, as amended.

(2) (a) In addition to or in conjunction with any request that is required to be made under section 109.572, 2151.86, 3301.32, 3301.541, division (C) of section 3310.58, or section 3319.39, 3319.391, 3327.10, ~~3701.881~~ 3722.11, 5104.013, 5123.081, or 5153.111 of the Revised Code or that is made under section 3314.41, 3319.392, 3326.25, or 3328.20 of the Revised Code, the board of education of any school district; the director of developmental disabilities; any county board of developmental disabilities; any provider or subcontractor as defined in section 5123.081 of the Revised Code; the chief administrator of any chartered nonpublic school; the chief administrator of a registered private provider that is not also a chartered nonpublic school; the chief administrator of any home health agency; the chief administrator of or person operating any child day-care center, type A family day-care home, or type B family day-care home licensed under Chapter 5104. of the Revised Code; the chief administrator of any head start agency; the executive director of a public children services agency; a private company described in section 3314.41, 3319.392, 3326.25, or 3328.20 of the Revised Code; or an employer described in division (J) (2) of section 3327.10 of the Revised Code may request that the superintendent of the bureau investigate and determine, with respect to any individual who has applied for employment in any position after October 2, 1989, or any individual wishing to apply for employment with a board of education may request, with regard to the individual,

whether the bureau has any information gathered under division 352
(A) of this section that pertains to that individual. On receipt 353
of the request, subject to division (E) (2) of this section, the 354
superintendent shall determine whether that information exists 355
and, upon request of the person, board, or entity requesting 356
information, also shall request from the federal bureau of 357
investigation any criminal records it has pertaining to that 358
individual. The superintendent or the superintendent's designee 359
also may request criminal history records from other states or 360
the federal government pursuant to the national crime prevention 361
and privacy compact set forth in section 109.571 of the Revised 362
Code. Within thirty days of the date that the superintendent 363
receives a request, subject to division (E) (2) of this section, 364
the superintendent shall send to the board, entity, or person a 365
report of any information that the superintendent determines 366
exists, including information contained in records that have 367
been sealed under section 2953.32 of the Revised Code, and, 368
within thirty days of its receipt, subject to division (E) (2) of 369
this section, shall send the board, entity, or person a report 370
of any information received from the federal bureau of 371
investigation, other than information the dissemination of which 372
is prohibited by federal law. 373

(b) When a board of education or a registered private 374
provider is required to receive information under this section 375
as a prerequisite to employment of an individual pursuant to 376
division (C) of section 3310.58 or section 3319.39 of the 377
Revised Code, it may accept a certified copy of records that 378
were issued by the bureau of criminal identification and 379
investigation and that are presented by an individual applying 380
for employment with the district in lieu of requesting that 381
information itself. In such a case, the board shall accept the 382

certified copy issued by the bureau in order to make a photocopy 383
of it for that individual's employment application documents and 384
shall return the certified copy to the individual. In a case of 385
that nature, a district or provider only shall accept a 386
certified copy of records of that nature within one year after 387
the date of their issuance by the bureau. 388

(c) Notwithstanding division (F) (2) (a) of this section, in 389
the case of a request under section 3319.39, 3319.391, or 390
3327.10 of the Revised Code only for criminal records maintained 391
by the federal bureau of investigation, the superintendent shall 392
not determine whether any information gathered under division 393
(A) of this section exists on the person for whom the request is 394
made. 395

(3) The state board of education may request, with respect 396
to any individual who has applied for employment after October 397
2, 1989, in any position with the state board or the department 398
of education, any information that a school district board of 399
education is authorized to request under division (F) (2) of this 400
section, and the superintendent of the bureau shall proceed as 401
if the request has been received from a school district board of 402
education under division (F) (2) of this section. 403

(4) When the superintendent of the bureau receives a 404
request for information under section 3319.291 of the Revised 405
Code, the superintendent shall proceed as if the request has 406
been received from a school district board of education and 407
shall comply with divisions (F) (2) (a) and (c) of this section. 408

(G) In addition to or in conjunction with any request that 409
is required to be made under section ~~3701.881~~, 3712.09, ~~or~~ 410
3721.121, or 3722.11 of the Revised Code with respect to an 411
individual who has applied for employment in a position that 412

involves providing direct care to an older adult or adult 413
resident, the chief administrator of a home health agency, 414
hospice care program, home licensed under Chapter 3721. of the 415
Revised Code, or adult day-care program operated pursuant to 416
rules adopted under section 3721.04 of the Revised Code may 417
request that the superintendent of the bureau investigate and 418
determine, with respect to any individual who has applied after 419
January 27, 1997, for employment in a position that does not 420
involve providing direct care to an older adult or adult 421
resident, whether the bureau has any information gathered under 422
division (A) of this section that pertains to that individual. 423

In addition to or in conjunction with any request that is 424
required to be made under section 173.27 of the Revised Code 425
with respect to an individual who has applied for employment in 426
a position that involves providing ombudsman services to 427
residents of long-term care facilities or recipients of 428
community-based long-term care services, the state long-term 429
care ombudsman, the director of aging, a regional long-term care 430
ombudsman program, or the designee of the ombudsman, director, 431
or program may request that the superintendent investigate and 432
determine, with respect to any individual who has applied for 433
employment in a position that does not involve providing such 434
ombudsman services, whether the bureau has any information 435
gathered under division (A) of this section that pertains to 436
that applicant. 437

In addition to or in conjunction with any request that is 438
required to be made under section 173.38 of the Revised Code 439
with respect to an individual who has applied for employment in 440
a direct-care position, the chief administrator of a provider, 441
as defined in section 173.39 of the Revised Code, may request 442
that the superintendent investigate and determine, with respect 443

to any individual who has applied for employment in a position 444
that is not a direct-care position, whether the bureau has any 445
information gathered under division (A) of this section that 446
pertains to that applicant. 447

In addition to or in conjunction with any request that is 448
required to be made under section 3712.09 of the Revised Code 449
with respect to an individual who has applied for employment in 450
a position that involves providing direct care to a pediatric 451
respite care patient, the chief administrator of a pediatric 452
respite care program may request that the superintendent of the 453
bureau investigate and determine, with respect to any individual 454
who has applied for employment in a position that does not 455
involve providing direct care to a pediatric respite care 456
patient, whether the bureau has any information gathered under 457
division (A) of this section that pertains to that individual. 458

On receipt of a request under this division, the 459
superintendent shall determine whether that information exists 460
and, on request of the individual requesting information, shall 461
also request from the federal bureau of investigation any 462
criminal records it has pertaining to the applicant. The 463
superintendent or the superintendent's designee also may request 464
criminal history records from other states or the federal 465
government pursuant to the national crime prevention and privacy 466
compact set forth in section 109.571 of the Revised Code. Within 467
thirty days of the date a request is received, subject to 468
division (E)(2) of this section, the superintendent shall send 469
to the requester a report of any information determined to 470
exist, including information contained in records that have been 471
sealed under section 2953.32 of the Revised Code, and, within 472
thirty days of its receipt, shall send the requester a report of 473
any information received from the federal bureau of 474

investigation, other than information the dissemination of which 475
is prohibited by federal law. 476

(H) Information obtained by a government entity or person 477
under this section is confidential and shall not be released or 478
disseminated. 479

(I) The superintendent may charge a reasonable fee for 480
providing information or criminal records under division (F) (2) 481
or (G) of this section. 482

(J) As used in this section: 483

(1) "Pediatric respite care program" and "pediatric care 484
patient" have the same meanings as in section 3712.01 of the 485
Revised Code. 486

(2) "Sexually oriented offense" and "child-victim oriented 487
offense" have the same meanings as in section 2950.01 of the 488
Revised Code. 489

(3) "Registered private provider" means a nonpublic school 490
or entity registered with the superintendent of public 491
instruction under section 3310.41 of the Revised Code to 492
participate in the autism scholarship program or section 3310.58 493
of the Revised Code to participate in the Jon Peterson special 494
needs scholarship program. 495

Sec. 109.572. (A) (1) Upon receipt of a request pursuant to 496
section 121.08, 3301.32, 3301.541, or 3319.39 of the Revised 497
Code, a completed form prescribed pursuant to division (C) (1) of 498
this section, and a set of fingerprint impressions obtained in 499
the manner described in division (C) (2) of this section, the 500
superintendent of the bureau of criminal identification and 501
investigation shall conduct a criminal records check in the 502
manner described in division (B) of this section to determine 503

whether any information exists that indicates that the person 504
who is the subject of the request previously has been convicted 505
of or pleaded guilty to any of the following: 506

(a) A violation of section 2903.01, 2903.02, 2903.03, 507
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 508
2905.01, 2905.02, 2905.05, 2907.02, 2907.03, 2907.04, 2907.05, 509
2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 510
2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 511
2911.01, 2911.02, 2911.11, 2911.12, 2919.12, 2919.22, 2919.24, 512
2919.25, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.04, 513
2925.05, 2925.06, or 3716.11 of the Revised Code, felonious 514
sexual penetration in violation of former section 2907.12 of the 515
Revised Code, a violation of section 2905.04 of the Revised Code 516
as it existed prior to July 1, 1996, a violation of section 517
2919.23 of the Revised Code that would have been a violation of 518
section 2905.04 of the Revised Code as it existed prior to July 519
1, 1996, had the violation been committed prior to that date, or 520
a violation of section 2925.11 of the Revised Code that is not a 521
minor drug possession offense; 522

(b) A violation of an existing or former law of this 523
state, any other state, or the United States that is 524
substantially equivalent to any of the offenses listed in 525
division (A)(1)(a) of this section; 526

(c) If the request is made pursuant to section 3319.39 of 527
the Revised Code for an applicant who is a teacher, any offense 528
specified under section 9.79 of the Revised Code or in section 529
3319.31 of the Revised Code. 530

(2) On receipt of a request pursuant to section 3712.09 or 531
3721.121 of the Revised Code, a completed form prescribed 532
pursuant to division (C)(1) of this section, and a set of 533

fingerprint impressions obtained in the manner described in 534
division (C) (2) of this section, the superintendent of the 535
bureau of criminal identification and investigation shall 536
conduct a criminal records check with respect to any person who 537
has applied for employment in a position for which a criminal 538
records check is required by those sections. The superintendent 539
shall conduct the criminal records check in the manner described 540
in division (B) of this section to determine whether any 541
information exists that indicates that the person who is the 542
subject of the request previously has been convicted of or 543
pleaded guilty to any of the following: 544

(a) A violation of section 2903.01, 2903.02, 2903.03, 545
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 546
2905.01, 2905.02, 2905.11, 2905.12, 2907.02, 2907.03, 2907.05, 547
2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 2907.25, 2907.31, 548
2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 549
2911.11, 2911.12, 2911.13, 2913.02, 2913.03, 2913.04, 2913.11, 550
2913.21, 2913.31, 2913.40, 2913.43, 2913.47, 2913.51, 2919.25, 551
2921.36, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.11, 552
2925.13, 2925.22, 2925.23, or 3716.11 of the Revised Code; 553

(b) An existing or former law of this state, any other 554
state, or the United States that is substantially equivalent to 555
any of the offenses listed in division (A) (2) (a) of this 556
section. 557

(3) On receipt of a request pursuant to section 173.27, 558
173.38, 173.381, ~~3701.881~~3722.11, 5119.34, 5164.34, 5164.341, 559
5164.342, or 5123.081 of the Revised Code, a completed form 560
prescribed pursuant to division (C) (1) of this section, and a 561
set of fingerprint impressions obtained in the manner described 562
in division (C) (2) of this section, the superintendent of the 563

bureau of criminal identification and investigation shall 564
conduct a criminal records check of the person for whom the 565
request is made. The superintendent shall conduct the criminal 566
records check in the manner described in division (B) of this 567
section to determine whether any information exists that 568
indicates that the person who is the subject of the request 569
previously has been convicted of, has pleaded guilty to, or 570
(except in the case of a request pursuant to section 5164.34, 571
5164.341, or 5164.342 of the Revised Code) has been found 572
eligible for intervention in lieu of conviction for any of the 573
following, regardless of the date of the conviction, the date of 574
entry of the guilty plea, or (except in the case of a request 575
pursuant to section 5164.34, 5164.341, or 5164.342 of the 576
Revised Code) the date the person was found eligible for 577
intervention in lieu of conviction: 578

(a) A violation of section 959.13, 959.131, 2903.01, 579
2903.02, 2903.03, 2903.04, 2903.041, 2903.11, 2903.12, 2903.13, 580
2903.15, 2903.16, 2903.21, 2903.211, 2903.22, 2903.34, 2903.341, 581
2905.01, 2905.02, 2905.05, 2905.11, 2905.12, 2905.32, 2905.33, 582
2907.02, 2907.03, 2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 583
2907.09, 2907.21, 2907.22, 2907.23, 2907.24, 2907.25, 2907.31, 584
2907.32, 2907.321, 2907.322, 2907.323, 2907.33, 2909.02, 585
2909.03, 2909.04, 2909.22, 2909.23, 2909.24, 2911.01, 2911.02, 586
2911.11, 2911.12, 2911.13, 2913.02, 2913.03, 2913.04, 2913.05, 587
2913.11, 2913.21, 2913.31, 2913.32, 2913.40, 2913.41, 2913.42, 588
2913.43, 2913.44, 2913.441, 2913.45, 2913.46, 2913.47, 2913.48, 589
2913.49, 2913.51, 2917.01, 2917.02, 2917.03, 2917.31, 2919.12, 590
2919.121, 2919.123, 2919.124, 2919.22, 2919.23, 2919.24, 591
2919.25, 2921.03, 2921.11, 2921.12, 2921.13, 2921.21, 2921.24, 592
2921.32, 2921.321, 2921.34, 2921.35, 2921.36, 2921.51, 2923.12, 593
2923.122, 2923.123, 2923.13, 2923.161, 2923.162, 2923.21, 594

2923.32, 2923.42, 2925.02, 2925.03, 2925.04, 2925.041, 2925.05, 595
2925.06, 2925.09, 2925.11, 2925.13, 2925.14, 2925.141, 2925.22, 596
2925.23, 2925.24, 2925.36, 2925.55, 2925.56, 2927.12, or 3716.11 597
of the Revised Code; 598

(b) Felonious sexual penetration in violation of former 599
section 2907.12 of the Revised Code; 600

(c) A violation of section 2905.04 of the Revised Code as 601
it existed prior to July 1, 1996; 602

(d) A violation of section 2923.01, 2923.02, or 2923.03 of 603
the Revised Code when the underlying offense that is the object 604
of the conspiracy, attempt, or complicity is one of the offenses 605
listed in divisions (A) (3) (a) to (c) of this section; 606

(e) A violation of an existing or former municipal 607
ordinance or law of this state, any other state, or the United 608
States that is substantially equivalent to any of the offenses 609
listed in divisions (A) (3) (a) to (d) of this section. 610

(4) On receipt of a request pursuant to section 2151.86 or 611
2151.904 of the Revised Code, a completed form prescribed 612
pursuant to division (C) (1) of this section, and a set of 613
fingerprint impressions obtained in the manner described in 614
division (C) (2) of this section, the superintendent of the 615
bureau of criminal identification and investigation shall 616
conduct a criminal records check in the manner described in 617
division (B) of this section to determine whether any 618
information exists that indicates that the person who is the 619
subject of the request previously has been convicted of or 620
pleaded guilty to any of the following: 621

(a) A violation of section 959.13, 2903.01, 2903.02, 622
2903.03, 2903.04, 2903.11, 2903.12, 2903.13, 2903.15, 2903.16, 623

2903.21, 2903.211, 2903.22, 2903.34, 2905.01, 2905.02, 2905.05, 624
2907.02, 2907.03, 2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 625
2907.09, 2907.21, 2907.22, 2907.23, 2907.25, 2907.31, 2907.32, 626
2907.321, 2907.322, 2907.323, 2909.02, 2909.03, 2909.22, 627
2909.23, 2909.24, 2911.01, 2911.02, 2911.11, 2911.12, 2913.49, 628
2917.01, 2917.02, 2919.12, 2919.22, 2919.24, 2919.25, 2923.12, 629
2923.13, 2923.161, 2925.02, 2925.03, 2925.04, 2925.05, 2925.06, 630
2927.12, or 3716.11 of the Revised Code, a violation of section 631
2905.04 of the Revised Code as it existed prior to July 1, 1996, 632
a violation of section 2919.23 of the Revised Code that would 633
have been a violation of section 2905.04 of the Revised Code as 634
it existed prior to July 1, 1996, had the violation been 635
committed prior to that date, a violation of section 2925.11 of 636
the Revised Code that is not a minor drug possession offense, 637
two or more OVI or OVUAC violations committed within the three 638
years immediately preceding the submission of the application or 639
petition that is the basis of the request, or felonious sexual 640
penetration in violation of former section 2907.12 of the 641
Revised Code; 642

(b) A violation of an existing or former law of this 643
state, any other state, or the United States that is 644
substantially equivalent to any of the offenses listed in 645
division (A) (4) (a) of this section. 646

(5) Upon receipt of a request pursuant to section 5104.013 647
of the Revised Code, a completed form prescribed pursuant to 648
division (C) (1) of this section, and a set of fingerprint 649
impressions obtained in the manner described in division (C) (2) 650
of this section, the superintendent of the bureau of criminal 651
identification and investigation shall conduct a criminal 652
records check in the manner described in division (B) of this 653
section to determine whether any information exists that 654

indicates that the person who is the subject of the request has 655
been convicted of or pleaded guilty to any of the following: 656

(a) A violation of section 2151.421, 2903.01, 2903.02, 657
2903.03, 2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 658
2903.22, 2903.34, 2905.01, 2905.02, 2905.05, 2905.11, 2905.32, 659
2907.02, 2907.03, 2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 660
2907.09, 2907.19, 2907.21, 2907.22, 2907.23, 2907.24, 2907.25, 661
2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2909.02, 662
2909.03, 2909.04, 2909.05, 2911.01, 2911.02, 2911.11, 2911.12, 663
2913.02, 2913.03, 2913.04, 2913.041, 2913.05, 2913.06, 2913.11, 664
2913.21, 2913.31, 2913.32, 2913.33, 2913.34, 2913.40, 2913.41, 665
2913.42, 2913.43, 2913.44, 2913.441, 2913.45, 2913.46, 2913.47, 666
2913.48, 2913.49, 2917.01, 2917.02, 2917.03, 2917.31, 2919.12, 667
2919.22, 2919.224, 2919.225, 2919.24, 2919.25, 2921.03, 2921.11, 668
2921.13, 2921.14, 2921.34, 2921.35, 2923.01, 2923.12, 2923.13, 669
2923.161, 2925.02, 2925.03, 2925.04, 2925.05, 2925.06, or 670
3716.11 of the Revised Code, felonious sexual penetration in 671
violation of former section 2907.12 of the Revised Code, a 672
violation of section 2905.04 of the Revised Code as it existed 673
prior to July 1, 1996, a violation of section 2919.23 of the 674
Revised Code that would have been a violation of section 2905.04 675
of the Revised Code as it existed prior to July 1, 1996, had the 676
violation been committed prior to that date, a violation of 677
section 2925.11 of the Revised Code that is not a minor drug 678
possession offense, a violation of section 2923.02 or 2923.03 of 679
the Revised Code that relates to a crime specified in this 680
division, or a second violation of section 4511.19 of the 681
Revised Code within five years of the date of application for 682
licensure or certification. 683

(b) A violation of an existing or former law of this 684
state, any other state, or the United States that is 685

substantially equivalent to any of the offenses or violations 686
described in division (A) (5) (a) of this section. 687

(6) Upon receipt of a request pursuant to section 5153.111 688
of the Revised Code, a completed form prescribed pursuant to 689
division (C) (1) of this section, and a set of fingerprint 690
impressions obtained in the manner described in division (C) (2) 691
of this section, the superintendent of the bureau of criminal 692
identification and investigation shall conduct a criminal 693
records check in the manner described in division (B) of this 694
section to determine whether any information exists that 695
indicates that the person who is the subject of the request 696
previously has been convicted of or pleaded guilty to any of the 697
following: 698

(a) A violation of section 2903.01, 2903.02, 2903.03, 699
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 700
2905.01, 2905.02, 2905.05, 2907.02, 2907.03, 2907.04, 2907.05, 701
2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 702
2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 703
2909.02, 2909.03, 2911.01, 2911.02, 2911.11, 2911.12, 2919.12, 704
2919.22, 2919.24, 2919.25, 2923.12, 2923.13, 2923.161, 2925.02, 705
2925.03, 2925.04, 2925.05, 2925.06, or 3716.11 of the Revised 706
Code, felonious sexual penetration in violation of former 707
section 2907.12 of the Revised Code, a violation of section 708
2905.04 of the Revised Code as it existed prior to July 1, 1996, 709
a violation of section 2919.23 of the Revised Code that would 710
have been a violation of section 2905.04 of the Revised Code as 711
it existed prior to July 1, 1996, had the violation been 712
committed prior to that date, or a violation of section 2925.11 713
of the Revised Code that is not a minor drug possession offense; 714

(b) A violation of an existing or former law of this 715

state, any other state, or the United States that is 716
substantially equivalent to any of the offenses listed in 717
division (A) (6) (a) of this section. 718

(7) On receipt of a request for a criminal records check 719
from an individual pursuant to section 4749.03 or 4749.06 of the 720
Revised Code, accompanied by a completed copy of the form 721
prescribed in division (C) (1) of this section and a set of 722
fingerprint impressions obtained in a manner described in 723
division (C) (2) of this section, the superintendent of the 724
bureau of criminal identification and investigation shall 725
conduct a criminal records check in the manner described in 726
division (B) of this section to determine whether any 727
information exists indicating that the person who is the subject 728
of the request has been convicted of or pleaded guilty to any 729
criminal offense in this state or in any other state. If the 730
individual indicates that a firearm will be carried in the 731
course of business, the superintendent shall require information 732
from the federal bureau of investigation as described in 733
division (B) (2) of this section. Subject to division (F) of this 734
section, the superintendent shall report the findings of the 735
criminal records check and any information the federal bureau of 736
investigation provides to the director of public safety. 737

(8) On receipt of a request pursuant to section 1321.37, 738
1321.53, or 4763.05 of the Revised Code, a completed form 739
prescribed pursuant to division (C) (1) of this section, and a 740
set of fingerprint impressions obtained in the manner described 741
in division (C) (2) of this section, the superintendent of the 742
bureau of criminal identification and investigation shall 743
conduct a criminal records check with respect to any person who 744
has applied for a license, permit, or certification from the 745
department of commerce or a division in the department. The 746

superintendent shall conduct the criminal records check in the 747
manner described in division (B) of this section to determine 748
whether any information exists that indicates that the person 749
who is the subject of the request previously has been convicted 750
of or pleaded guilty to any criminal offense in this state, any 751
other state, or the United States. 752

(9) On receipt of a request for a criminal records check 753
from the treasurer of state under section 113.041 of the Revised 754
Code or from an individual under section 928.03, 4701.08, 755
4715.101, 4717.061, 4725.121, 4725.501, 4729.071, 4729.53, 756
4729.90, 4729.92, 4730.101, 4730.14, 4730.28, 4731.081, 4731.15, 757
4731.171, 4731.222, 4731.281, 4731.531, 4732.091, 4734.202, 758
4740.061, 4741.10, 4747.051, 4751.20, 4751.201, 4751.202, 759
4751.21, 4753.061, 4755.70, 4757.101, 4759.061, 4760.032, 760
4760.06, 4761.051, 4762.031, 4762.06, 4774.031, 4774.06, 761
4776.021, 4778.04, 4778.07, 4779.091, or 4783.04 of the Revised 762
Code, accompanied by a completed form prescribed under division 763
(C)(1) of this section and a set of fingerprint impressions 764
obtained in the manner described in division (C)(2) of this 765
section, the superintendent of the bureau of criminal 766
identification and investigation shall conduct a criminal 767
records check in the manner described in division (B) of this 768
section to determine whether any information exists that 769
indicates that the person who is the subject of the request has 770
been convicted of or pleaded guilty to any criminal offense in 771
this state or any other state. Subject to division (F) of this 772
section, the superintendent shall send the results of a check 773
requested under section 113.041 of the Revised Code to the 774
treasurer of state and shall send the results of a check 775
requested under any of the other listed sections to the 776
licensing board specified by the individual in the request. 777

(10) On receipt of a request pursuant to section 124.74, 778
718.131, 1121.23, 1315.141, 1733.47, 1761.26, or 5123.169 of the 779
Revised Code, a completed form prescribed pursuant to division 780
(C) (1) of this section, and a set of fingerprint impressions 781
obtained in the manner described in division (C) (2) of this 782
section, the superintendent of the bureau of criminal 783
identification and investigation shall conduct a criminal 784
records check in the manner described in division (B) of this 785
section to determine whether any information exists that 786
indicates that the person who is the subject of the request 787
previously has been convicted of or pleaded guilty to any 788
criminal offense under any existing or former law of this state, 789
any other state, or the United States. 790

(11) On receipt of a request for a criminal records check 791
from an appointing or licensing authority under section 3772.07 792
of the Revised Code, a completed form prescribed under division 793
(C) (1) of this section, and a set of fingerprint impressions 794
obtained in the manner prescribed in division (C) (2) of this 795
section, the superintendent of the bureau of criminal 796
identification and investigation shall conduct a criminal 797
records check in the manner described in division (B) of this 798
section to determine whether any information exists that 799
indicates that the person who is the subject of the request 800
previously has been convicted of or pleaded guilty or no contest 801
to any offense under any existing or former law of this state, 802
any other state, or the United States that is a disqualifying 803
offense as defined in section 3772.07 of the Revised Code or 804
substantially equivalent to such an offense. 805

(12) On receipt of a request pursuant to section 2151.33 806
or 2151.412 of the Revised Code, a completed form prescribed 807
pursuant to division (C) (1) of this section, and a set of 808

fingerprint impressions obtained in the manner described in 809
division (C) (2) of this section, the superintendent of the 810
bureau of criminal identification and investigation shall 811
conduct a criminal records check with respect to any person for 812
whom a criminal records check is required under that section. 813
The superintendent shall conduct the criminal records check in 814
the manner described in division (B) of this section to 815
determine whether any information exists that indicates that the 816
person who is the subject of the request previously has been 817
convicted of or pleaded guilty to any of the following: 818

(a) A violation of section 2903.01, 2903.02, 2903.03, 819
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 820
2905.01, 2905.02, 2905.11, 2905.12, 2907.02, 2907.03, 2907.05, 821
2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 2907.25, 2907.31, 822
2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 823
2911.11, 2911.12, 2911.13, 2913.02, 2913.03, 2913.04, 2913.11, 824
2913.21, 2913.31, 2913.40, 2913.43, 2913.47, 2913.51, 2919.25, 825
2921.36, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.11, 826
2925.13, 2925.22, 2925.23, or 3716.11 of the Revised Code; 827

(b) An existing or former law of this state, any other 828
state, or the United States that is substantially equivalent to 829
any of the offenses listed in division (A) (12) (a) of this 830
section. 831

(13) On receipt of a request pursuant to section 3796.12 832
of the Revised Code, a completed form prescribed pursuant to 833
division (C) (1) of this section, and a set of fingerprint 834
impressions obtained in a manner described in division (C) (2) of 835
this section, the superintendent of the bureau of criminal 836
identification and investigation shall conduct a criminal 837
records check in the manner described in division (B) of this 838

section to determine whether any information exists that 839
indicates that the person who is the subject of the request 840
previously has been convicted of or pleaded guilty to the 841
following: 842

(a) A disqualifying offense as specified in rules adopted 843
under section 9.79 and division (B) (2) (b) of section 3796.03 of 844
the Revised Code if the person who is the subject of the request 845
is an administrator or other person responsible for the daily 846
operation of, or an owner or prospective owner, officer or 847
prospective officer, or board member or prospective board member 848
of, an entity seeking a license from the department of commerce 849
under Chapter 3796. of the Revised Code; 850

(b) A disqualifying offense as specified in rules adopted 851
under section 9.79 and division (B) (2) (b) of section 3796.04 of 852
the Revised Code if the person who is the subject of the request 853
is an administrator or other person responsible for the daily 854
operation of, or an owner or prospective owner, officer or 855
prospective officer, or board member or prospective board member 856
of, an entity seeking a license from the state board of pharmacy 857
under Chapter 3796. of the Revised Code. 858

(14) On receipt of a request required by section 3796.13 859
of the Revised Code, a completed form prescribed pursuant to 860
division (C) (1) of this section, and a set of fingerprint 861
impressions obtained in a manner described in division (C) (2) of 862
this section, the superintendent of the bureau of criminal 863
identification and investigation shall conduct a criminal 864
records check in the manner described in division (B) of this 865
section to determine whether any information exists that 866
indicates that the person who is the subject of the request 867
previously has been convicted of or pleaded guilty to the 868

following: 869

(a) A disqualifying offense as specified in rules adopted 870
under division (B) (8) (a) of section 3796.03 of the Revised Code 871
if the person who is the subject of the request is seeking 872
employment with an entity licensed by the department of commerce 873
under Chapter 3796. of the Revised Code; 874

(b) A disqualifying offense as specified in rules adopted 875
under division (B) (14) (a) of section 3796.04 of the Revised Code 876
if the person who is the subject of the request is seeking 877
employment with an entity licensed by the state board of 878
pharmacy under Chapter 3796. of the Revised Code. 879

(15) On receipt of a request pursuant to section 4768.06 880
of the Revised Code, a completed form prescribed under division 881
(C) (1) of this section, and a set of fingerprint impressions 882
obtained in the manner described in division (C) (2) of this 883
section, the superintendent of the bureau of criminal 884
identification and investigation shall conduct a criminal 885
records check in the manner described in division (B) of this 886
section to determine whether any information exists indicating 887
that the person who is the subject of the request has been 888
convicted of or pleaded guilty to any criminal offense in this 889
state or in any other state. 890

(16) On receipt of a request pursuant to division (B) of 891
section 4764.07 or division (A) of section 4735.143 of the 892
Revised Code, a completed form prescribed under division (C) (1) 893
of this section, and a set of fingerprint impressions obtained 894
in the manner described in division (C) (2) of this section, the 895
superintendent of the bureau of criminal identification and 896
investigation shall conduct a criminal records check in the 897
manner described in division (B) of this section to determine 898

whether any information exists indicating that the person who is 899
the subject of the request has been convicted of or pleaded 900
guilty to any criminal offense in any state or the United 901
States. 902

(17) On receipt of a request for a criminal records check 903
under section 147.022 of the Revised Code, a completed form 904
prescribed under division (C)(1) of this section, and a set of 905
fingerprint impressions obtained in the manner prescribed in 906
division (C)(2) of this section, the superintendent of the 907
bureau of criminal identification and investigation shall 908
conduct a criminal records check in the manner described in 909
division (B) of this section to determine whether any 910
information exists that indicates that the person who is the 911
subject of the request previously has been convicted of or 912
pleaded guilty or no contest to any criminal offense under any 913
existing or former law of this state, any other state, or the 914
United States. 915

(B) Subject to division (F) of this section, the 916
superintendent shall conduct any criminal records check to be 917
conducted under this section as follows: 918

(1) The superintendent shall review or cause to be 919
reviewed any relevant information gathered and compiled by the 920
bureau under division (A) of section 109.57 of the Revised Code 921
that relates to the person who is the subject of the criminal 922
records check, including, if the criminal records check was 923
requested under section 113.041, 121.08, 124.74, 173.27, 173.38, 924
173.381, 718.131, 928.03, 1121.23, 1315.141, 1321.37, 1321.53, 925
1733.47, 1761.26, 2151.86, 3301.32, 3301.541, 3319.39, 926
~~3701.881~~3722.11, 3712.09, 3721.121, 3772.07, 3796.12, 3796.13, 927
4729.071, 4729.53, 4729.90, 4729.92, 4749.03, 4749.06, 4763.05, 928

4764.07, 4768.06, 5104.013, 5164.34, 5164.341, 5164.342, 929
5123.081, 5123.169, or 5153.111 of the Revised Code, any 930
relevant information contained in records that have been sealed 931
under section 2953.32 of the Revised Code; 932

(2) If the request received by the superintendent asks for 933
information from the federal bureau of investigation, the 934
superintendent shall request from the federal bureau of 935
investigation any information it has with respect to the person 936
who is the subject of the criminal records check, including 937
fingerprint-based checks of national crime information databases 938
as described in 42 U.S.C. 671 if the request is made pursuant to 939
section 2151.86 or 5104.013 of the Revised Code or if any other 940
Revised Code section requires fingerprint-based checks of that 941
nature, and shall review or cause to be reviewed any information 942
the superintendent receives from that bureau. If a request under 943
section 3319.39 of the Revised Code asks only for information 944
from the federal bureau of investigation, the superintendent 945
shall not conduct the review prescribed by division (B) (1) of 946
this section. 947

(3) The superintendent or the superintendent's designee 948
may request criminal history records from other states or the 949
federal government pursuant to the national crime prevention and 950
privacy compact set forth in section 109.571 of the Revised 951
Code. 952

(4) The superintendent shall include in the results of the 953
criminal records check a list or description of the offenses 954
listed or described in division (A) (1), (2), (3), (4), (5), (6), 955
(7), (8), (9), (10), (11), (12), (13), (14), (15), (16), or (17) 956
of this section, whichever division requires the superintendent 957
to conduct the criminal records check. The superintendent shall 958

exclude from the results any information the dissemination of 959
which is prohibited by federal law. 960

(5) The superintendent shall send the results of the 961
criminal records check to the person to whom it is to be sent 962
not later than the following number of days after the date the 963
superintendent receives the request for the criminal records 964
check, the completed form prescribed under division (C) (1) of 965
this section, and the set of fingerprint impressions obtained in 966
the manner described in division (C) (2) of this section: 967

(a) If the superintendent is required by division (A) of 968
this section (other than division (A) (3) of this section) to 969
conduct the criminal records check, thirty; 970

(b) If the superintendent is required by division (A) (3) 971
of this section to conduct the criminal records check, sixty. 972

(C) (1) The superintendent shall prescribe a form to obtain 973
the information necessary to conduct a criminal records check 974
from any person for whom a criminal records check is to be 975
conducted under this section. The form that the superintendent 976
prescribes pursuant to this division may be in a tangible 977
format, in an electronic format, or in both tangible and 978
electronic formats. 979

(2) The superintendent shall prescribe standard impression 980
sheets to obtain the fingerprint impressions of any person for 981
whom a criminal records check is to be conducted under this 982
section. Any person for whom a records check is to be conducted 983
under this section shall obtain the fingerprint impressions at a 984
county sheriff's office, municipal police department, or any 985
other entity with the ability to make fingerprint impressions on 986
the standard impression sheets prescribed by the superintendent. 987

The office, department, or entity may charge the person a 988
reasonable fee for making the impressions. The standard 989
impression sheets the superintendent prescribes pursuant to this 990
division may be in a tangible format, in an electronic format, 991
or in both tangible and electronic formats. 992

(3) Subject to division (D) of this section, the 993
superintendent shall prescribe and charge a reasonable fee for 994
providing a criminal records check under this section. The 995
person requesting the criminal records check shall pay the fee 996
prescribed pursuant to this division. In the case of a request 997
under section 1121.23, 1155.03, 1163.05, 1315.141, 1733.47, 998
1761.26, 2151.33, 2151.412, or 5164.34 of the Revised Code, the 999
fee shall be paid in the manner specified in that section. 1000

(4) The superintendent of the bureau of criminal 1001
identification and investigation may prescribe methods of 1002
forwarding fingerprint impressions and information necessary to 1003
conduct a criminal records check, which methods shall include, 1004
but not be limited to, an electronic method. 1005

(D) The results of a criminal records check conducted 1006
under this section, other than a criminal records check 1007
specified in division (A) (7) of this section, are valid for the 1008
person who is the subject of the criminal records check for a 1009
period of one year from the date upon which the superintendent 1010
completes the criminal records check. If during that period the 1011
superintendent receives another request for a criminal records 1012
check to be conducted under this section for that person, the 1013
superintendent shall provide the results from the previous 1014
criminal records check of the person at a lower fee than the fee 1015
prescribed for the initial criminal records check. 1016

(E) When the superintendent receives a request for 1017

information from a registered private provider, the 1018
superintendent shall proceed as if the request was received from 1019
a school district board of education under section 3319.39 of 1020
the Revised Code. The superintendent shall apply division (A) (1) 1021
(c) of this section to any such request for an applicant who is 1022
a teacher. 1023

(F) (1) Subject to division (F) (2) of this section, all 1024
information regarding the results of a criminal records check 1025
conducted under this section that the superintendent reports or 1026
sends under division (A) (7) or (9) of this section to the 1027
director of public safety, the treasurer of state, or the 1028
person, board, or entity that made the request for the criminal 1029
records check shall relate to the conviction of the subject 1030
person, or the subject person's plea of guilty to, a criminal 1031
offense. 1032

(2) Division (F) (1) of this section does not limit, 1033
restrict, or preclude the superintendent's release of 1034
information that relates to the arrest of a person who is 1035
eighteen years of age or older, to an adjudication of a child as 1036
a delinquent child, or to a criminal conviction of a person 1037
under eighteen years of age in circumstances in which a release 1038
of that nature is authorized under division (E) (2), (3), or (4) 1039
of section 109.57 of the Revised Code pursuant to a rule adopted 1040
under division (E) (1) of that section. 1041

(G) As used in this section: 1042

(1) "Criminal records check" means any criminal records 1043
check conducted by the superintendent of the bureau of criminal 1044
identification and investigation in accordance with division (B) 1045
of this section. 1046

(2) "Minor drug possession offense" has the same meaning 1047
as in section 2925.01 of the Revised Code. 1048

(3) "OVI or OVUAC violation" means a violation of section 1049
4511.19 of the Revised Code or a violation of an existing or 1050
former law of this state, any other state, or the United States 1051
that is substantially equivalent to section 4511.19 of the 1052
Revised Code. 1053

(4) "Registered private provider" means a nonpublic school 1054
or entity registered with the superintendent of public 1055
instruction under section 3310.41 of the Revised Code to 1056
participate in the autism scholarship program or section 3310.58 1057
of the Revised Code to participate in the Jon Peterson special 1058
needs scholarship program. 1059

Sec. 173.38. (A) As used in this section: 1060

(1) "Applicant" means a person who is under final 1061
consideration for employment with a responsible party in a full- 1062
time, part-time, or temporary direct-care position or is 1063
referred to a responsible party by an employment service for 1064
such a position. "Applicant" does not include a person being 1065
considered for a direct-care position as a volunteer. 1066

(2) "Area agency on aging" has the same meaning as in 1067
section 173.14 of the Revised Code. 1068

(3) "Chief administrator of a responsible party" includes 1069
a consumer when the consumer is a responsible party. 1070

(4) "Community-based long-term care services" means 1071
community-based long-term care services, as defined in section 1072
173.14 of the Revised Code, that are provided under a program 1073
the department of aging administers. 1074

- (5) "Consumer" means an individual who receives community-based long-term care services. 1075
1076
- (6) "Criminal records check" has the same meaning as in section 109.572 of the Revised Code. 1077
1078
- (7) (a) "Direct-care position" means an employment position in which an employee has either or both of the following: 1079
1080
- (i) In-person contact with one or more consumers; 1081
- (ii) Access to one or more consumers' personal property or records. 1082
1083
- (b) "Direct-care position" does not include a person whose sole duties are transporting individuals under Chapter 306. of the Revised Code. 1084
1085
1086
- (8) "Disqualifying offense" means any of the offenses listed or described in divisions (A) (3) (a) to (e) of section 109.572 of the Revised Code. 1087
1088
1089
- (9) "Employee" means a person employed by a responsible party in a full-time, part-time, or temporary direct-care position and a person who works in such a position due to being referred to a responsible party by an employment service. 1090
1091
1092
1093
"Employee" does not include a person who works in a direct-care position as a volunteer. 1094
1095
- (10) "PASSPORT administrative agency" has the same meaning as in section 173.42 of the Revised Code. 1096
1097
- (11) "Provider" has the same meaning as in section 173.39 of the Revised Code. 1098
1099
- (12) "Responsible party" means the following: 1100
- (a) An area agency on aging in the case of either of the 1101

following: 1102

(i) A person who is an applicant because the person is 1103
under final consideration for employment with the agency in a 1104
full-time, part-time, or temporary direct-care position or is 1105
referred to the agency by an employment service for such a 1106
position; 1107

(ii) A person who is an employee because the person is 1108
employed by the agency in a full-time, part-time, or temporary 1109
direct-care position or works in such a position due to being 1110
referred to the agency by an employment service. 1111

(b) A PASSPORT administrative agency in the case of either 1112
of the following: 1113

(i) A person who is an applicant because the person is 1114
under final consideration for employment with the agency in a 1115
full-time, part-time, or temporary direct-care position or is 1116
referred to the agency by an employment service for such a 1117
position; 1118

(ii) A person who is an employee because the person is 1119
employed by the agency in a full-time, part-time, or temporary 1120
direct-care position or works in such a position due to being 1121
referred to the agency by an employment service. 1122

(c) A provider in the case of either of the following: 1123

(i) A person who is an applicant because the person is 1124
under final consideration for employment with the provider in a 1125
full-time, part-time, or temporary direct-care position or is 1126
referred to the provider by an employment service for such a 1127
position; 1128

(ii) A person who is an employee because the person is 1129

employed by the provider in a full-time, part-time, or temporary 1130
direct-care position or works in such a position due to being 1131
referred to the provider by an employment service. 1132

(d) A subcontractor in the case of either of the 1133
following: 1134

(i) A person who is an applicant because the person is 1135
under final consideration for employment with the subcontractor 1136
in a full-time, part-time, or temporary direct-care position or 1137
is referred to the subcontractor by an employment service for 1138
such a position; 1139

(ii) A person who is an employee because the person is 1140
employed by the subcontractor in a full-time, part-time, or 1141
temporary direct-care position or works in such a position due 1142
to being referred to the subcontractor by an employment service. 1143

(e) A consumer in the case of either of the following: 1144

(i) A person who is an applicant because the person is 1145
under final consideration for employment with the consumer in a 1146
full-time, part-time, or temporary direct-care position for 1147
which the consumer, as the employer of record, is to direct the 1148
person in the provision of community-based long-term care 1149
services the person is to provide the consumer or is referred to 1150
the consumer by an employment service for such a position; 1151

(ii) A person who is an employee because the person is 1152
employed by the consumer in a full-time, part-time, or temporary 1153
direct-care position for which the consumer, as the employer of 1154
record, directs the person in the provision of community-based 1155
long-term care services the person provides to the consumer or 1156
who works in such a position due to being referred to the 1157
consumer by an employment service. 1158

- (13) "Subcontractor" has the meaning specified in rules 1159
adopted under this section. 1160
- (14) "Volunteer" means a person who serves in a direct- 1161
care position without receiving or expecting to receive any form 1162
of remuneration other than reimbursement for actual expenses. 1163
- (15) "Waiver agency" has the same meaning as in section 1164
5164.342 of the Revised Code. 1165
- (B) This section does not apply to any individual who is 1166
subject to a database review or criminal records check under 1167
section 173.381 or ~~3701.881~~3722.11 of the Revised Code or to 1168
any individual who is subject to a criminal records check under 1169
section 3721.121 of the Revised Code. 1170
- (C) No responsible party shall employ an applicant or 1171
continue to employ an employee in a direct-care position if any 1172
of the following apply: 1173
- (1) A review of the databases listed in division (E) of 1174
this section reveals any of the following: 1175
- (a) That the applicant or employee is included in one or 1176
more of the databases listed in divisions (E) (1) to (5) of this 1177
section; 1178
- (b) That there is in the state nurse aide registry 1179
established under section 3721.32 of the Revised Code a 1180
statement detailing findings by the director of health that the 1181
applicant or employee abused, neglected, or exploited a long- 1182
term care facility or residential care facility resident or 1183
misappropriated property of such a resident; 1184
- (c) That the applicant or employee is included in one or 1185
more of the databases, if any, specified in rules adopted under 1186

this section and the rules prohibit the responsible party from 1187
employing an applicant or continuing to employ an employee 1188
included in such a database in a direct-care position. 1189

(2) After the applicant or employee is provided, pursuant 1190
to division (F) (2) (a) of this section, a copy of the form 1191
prescribed pursuant to division (C) (1) of section 109.572 of the 1192
Revised Code and the standard impression sheet prescribed 1193
pursuant to division (C) (2) of that section, the applicant or 1194
employee fails to complete the form or provide the applicant's 1195
or employee's fingerprint impressions on the standard impression 1196
sheet. 1197

(3) Unless the applicant or employee meets standards 1198
specified in rules adopted under this section, the applicant or 1199
employee is found by a criminal records check required by this 1200
section to have been convicted of, pleaded guilty to, or been 1201
found eligible for intervention in lieu of conviction for a 1202
disqualifying offense. 1203

(D) Except as provided by division (G) of this section, 1204
the chief administrator of a responsible party shall inform each 1205
applicant of both of the following at the time of the 1206
applicant's initial application for employment or referral to 1207
the responsible party by an employment service for a direct-care 1208
position: 1209

(1) That a review of the databases listed in division (E) 1210
of this section will be conducted to determine whether the 1211
responsible party is prohibited by division (C) (1) of this 1212
section from employing the applicant in the direct-care 1213
position; 1214

(2) That, unless the database review reveals that the 1215

applicant may not be employed in the direct-care position, a 1216
criminal records check of the applicant will be conducted and 1217
the applicant is required to provide a set of the applicant's 1218
fingerprint impressions as part of the criminal records check. 1219

(E) As a condition of employing any applicant in a direct- 1220
care position, the chief administrator of a responsible party 1221
shall conduct a database review of the applicant in accordance 1222
with rules adopted under this section. If rules adopted under 1223
this section so require, the chief administrator of a 1224
responsible party shall conduct a database review of an employee 1225
in accordance with the rules as a condition of continuing to 1226
employ the employee in a direct-care position. However, a chief 1227
administrator is not required to conduct a database review of an 1228
applicant or employee if division (G) of this section applies. A 1229
database review shall determine whether the applicant or 1230
employee is included in any of the following: 1231

(1) The excluded parties list system that is maintained by 1232
the United States general services administration pursuant to 1233
subpart 9.4 of the federal acquisition regulation and available 1234
at the federal web site known as the system for award 1235
management; 1236

(2) The list of excluded individuals and entities 1237
maintained by the office of inspector general in the United 1238
States department of health and human services pursuant to the 1239
"Social Security Act," sections 1128 and 1156, 42 U.S.C. 1320a-7 1240
and 1320c-5; 1241

(3) The registry of developmental disabilities employees 1242
established under section 5123.52 of the Revised Code; 1243

(4) The internet-based sex offender and child-victim 1244

offender database established under division (A) (11) of section 1245
2950.13 of the Revised Code; 1246

(5) The internet-based database of inmates established 1247
under section 5120.66 of the Revised Code; 1248

(6) The state nurse aide registry established under 1249
section 3721.32 of the Revised Code; 1250

(7) Any other database, if any, specified in rules adopted 1251
under this section. 1252

(F) (1) As a condition of employing any applicant in a 1253
direct-care position, the chief administrator of a responsible 1254
party shall request that the superintendent of the bureau of 1255
criminal identification and investigation conduct a criminal 1256
records check of the applicant. If rules adopted under this 1257
section so require, the chief administrator of a responsible 1258
party shall request that the superintendent conduct a criminal 1259
records check of an employee at times specified in the rules as 1260
a condition of continuing to employ the employee in a direct- 1261
care position. However, the chief administrator is not required 1262
to request the criminal records check of the applicant or 1263
employee if division (G) of this section applies or the 1264
responsible party is prohibited by division (C) (1) of this 1265
section from employing the applicant or continuing to employ the 1266
employee in a direct-care position. If an applicant or employee 1267
for whom a criminal records check request is required by this 1268
section does not present proof of having been a resident of this 1269
state for the five-year period immediately prior to the date the 1270
criminal records check is requested or provide evidence that 1271
within that five-year period the superintendent has requested 1272
information about the applicant or employee from the federal 1273
bureau of investigation in a criminal records check, the chief 1274

administrator shall request that the superintendent obtain 1275
information from the federal bureau of investigation as part of 1276
the criminal records check. Even if an applicant or employee for 1277
whom a criminal records check request is required by this 1278
section presents proof of having been a resident of this state 1279
for the five-year period, the chief administrator may request 1280
that the superintendent include information from the federal 1281
bureau of investigation in the criminal records check. 1282

(2) The chief administrator shall do all of the following: 1283

(a) Provide to each applicant and employee for whom a 1284
criminal records check request is required by this section a 1285
copy of the form prescribed pursuant to division (C) (1) of 1286
section 109.572 of the Revised Code and a standard impression 1287
sheet prescribed pursuant to division (C) (2) of that section; 1288

(b) Obtain the completed form and standard impression 1289
sheet from the applicant or employee; 1290

(c) Forward the completed form and standard impression 1291
sheet to the superintendent. 1292

(3) A responsible party shall pay to the bureau of 1293
criminal identification and investigation the fee prescribed 1294
pursuant to division (C) (3) of section 109.572 of the Revised 1295
Code for each criminal records check the responsible party 1296
requests under this section. A responsible party may charge an 1297
applicant a fee not exceeding the amount the responsible party 1298
pays to the bureau under this section if both of the following 1299
apply: 1300

(a) The responsible party notifies the applicant at the 1301
time of initial application for employment of the amount of the 1302
fee and that, unless the fee is paid, the applicant will not be 1303

considered for employment. 1304

(b) The medicaid program does not pay the responsible 1305
party for the fee it pays to the bureau under this section. 1306

(G) Divisions (D) to (F) of this section do not apply with 1307
regard to an applicant or employee if the applicant or employee 1308
is referred to a responsible party by an employment service that 1309
supplies full-time, part-time, or temporary staff for direct- 1310
care positions and both of the following apply: 1311

(1) The chief administrator of the responsible party 1312
receives from the employment service confirmation that a review 1313
of the databases listed in division (E) of this section was 1314
conducted of the applicant or employee. 1315

(2) The chief administrator of the responsible party 1316
receives from the employment service, applicant, or employee a 1317
report of the results of a criminal records check of the 1318
applicant or employee that has been conducted by the 1319
superintendent within the one-year period immediately preceding 1320
the following: 1321

(a) In the case of an applicant, the date of the 1322
applicant's referral by the employment service to the 1323
responsible party; 1324

(b) In the case of an employee, the date by which the 1325
responsible party would otherwise have to request a criminal 1326
records check of the employee under division (F) of this 1327
section. 1328

(H) (1) A responsible party may employ conditionally an 1329
applicant for whom a criminal records check request is required 1330
by this section prior to obtaining the results of the criminal 1331
records check if the responsible party is not prohibited by 1332

division (C) (1) of this section from employing the applicant in 1333
a direct-care position and either of the following applies: 1334

(a) The chief administrator of the responsible party 1335
requests the criminal records check in accordance with division 1336
(F) of this section before conditionally employing the 1337
applicant. 1338

(b) The applicant is referred to the responsible party by 1339
an employment service, the employment service or the applicant 1340
provides the chief administrator of the responsible party a 1341
letter that is on the letterhead of the employment service, the 1342
letter is dated and signed by a supervisor or another designated 1343
official of the employment service, and the letter states all of 1344
the following: 1345

(i) That the employment service has requested the 1346
superintendent to conduct a criminal records check regarding the 1347
applicant; 1348

(ii) That the requested criminal records check is to 1349
include a determination of whether the applicant has been 1350
convicted of, pleaded guilty to, or been found eligible for 1351
intervention in lieu of conviction for a disqualifying offense; 1352

(iii) That the employment service has not received the 1353
results of the criminal records check as of the date set forth 1354
on the letter; 1355

(iv) That the employment service promptly will send a copy 1356
of the results of the criminal records check to the chief 1357
administrator of the responsible party when the employment 1358
service receives the results. 1359

(2) If a responsible party employs an applicant 1360
conditionally pursuant to division (H) (1) (b) of this section, 1361

the employment service, on its receipt of the results of the 1362
criminal records check, promptly shall send a copy of the 1363
results to the chief administrator of the responsible party. 1364

(3) A responsible party that employs an applicant 1365
conditionally pursuant to division (H) (1) (a) or (b) of this 1366
section shall terminate the applicant's employment if the 1367
results of the criminal records check, other than the results of 1368
any request for information from the federal bureau of 1369
investigation, are not obtained within the period ending sixty 1370
days after the date the request for the criminal records check 1371
is made. Regardless of when the results of the criminal records 1372
check are obtained, if the results indicate that the applicant 1373
has been convicted of, pleaded guilty to, or been found eligible 1374
for intervention in lieu of conviction for a disqualifying 1375
offense, the responsible party shall terminate the applicant's 1376
employment unless the applicant meets standards specified in 1377
rules adopted under this section that permit the responsible 1378
party to employ the applicant and the responsible party chooses 1379
to employ the applicant. Termination of employment under this 1380
division shall be considered just cause for discharge for 1381
purposes of division (D) (2) of section 4141.29 of the Revised 1382
Code if the applicant makes any attempt to deceive the 1383
responsible party about the applicant's criminal record. 1384

(I) The report of any criminal records check conducted 1385
pursuant to a request made under this section is not a public 1386
record for the purposes of section 149.43 of the Revised Code 1387
and shall not be made available to any person other than the 1388
following: 1389

(1) The applicant or employee who is the subject of the 1390
criminal records check or the applicant's or employee's 1391

representative;	1392
(2) The chief administrator of the responsible party	1393
requesting the criminal records check or the administrator's	1394
representative;	1395
(3) The administrator of any other facility, agency, or	1396
program that provides community-based long-term care services	1397
that is owned or operated by the same entity that owns or	1398
operates the responsible party that requested the criminal	1399
records check;	1400
(4) The employment service that requested the criminal	1401
records check;	1402
(5) The director of aging or a person authorized by the	1403
director to monitor a responsible party's compliance with this	1404
section;	1405
(6) The medicaid director and the staff of the department	1406
of medicaid who are involved in the administration of the	1407
medicaid program if any of the following apply:	1408
(a) In the case of a criminal records check requested by a	1409
provider or subcontractor, the provider or subcontractor also is	1410
a waiver agency;	1411
(b) In the case of a criminal records check requested by	1412
an employment service, the employment service makes the request	1413
for an applicant or employee the employment service refers to a	1414
provider or subcontractor that also is a waiver agency;	1415
(c) The criminal records check is requested by a consumer	1416
who is acting as a responsible party.	1417
(7) A court, hearing officer, or other necessary	1418
individual involved in a case dealing with any of the following:	1419

(a) A denial of employment of the applicant or employee;	1420
(b) Employment or unemployment benefits of the applicant or employee;	1421 1422
(c) A civil or criminal action regarding the medicaid program or a program the department of aging administers.	1423 1424
(J) In a tort or other civil action for damages that is brought as the result of an injury, death, or loss to person or property caused by an applicant or employee who a responsible party employs in a direct-care position, all of the following shall apply:	1425 1426 1427 1428 1429
(1) If the responsible party employed the applicant or employee in good faith and reasonable reliance on the report of a criminal records check requested under this section, the responsible party shall not be found negligent solely because of its reliance on the report, even if the information in the report is determined later to have been incomplete or inaccurate.	1430 1431 1432 1433 1434 1435 1436
(2) If the responsible party employed the applicant in good faith on a conditional basis pursuant to division (H) of this section, the responsible party shall not be found negligent solely because it employed the applicant prior to receiving the report of a criminal records check requested under this section.	1437 1438 1439 1440 1441
(3) If the responsible party in good faith employed the applicant or employee because the applicant or employee meets standards specified in rules adopted under this section, the responsible party shall not be found negligent solely because the applicant or employee has been convicted of, pleaded guilty to, or been found eligible for intervention in lieu of conviction for a disqualifying offense.	1442 1443 1444 1445 1446 1447 1448

(K) The director of aging shall adopt rules in accordance 1449
with Chapter 119. of the Revised Code to implement this section. 1450

(1) The rules may do the following: 1451

(a) Require employees to undergo database reviews and 1452
criminal records checks under this section; 1453

(b) If the rules require employees to undergo database 1454
reviews and criminal records checks under this section, exempt 1455
one or more classes of employees from the requirements; 1456

(c) For the purpose of division (E) (7) of this section, 1457
specify other databases that are to be checked as part of a 1458
database review conducted under this section. 1459

(2) The rules shall specify all of the following: 1460

(a) The meaning of the term "subcontractor"; 1461

(b) The procedures for conducting database reviews under 1462
this section; 1463

(c) If the rules require employees to undergo database 1464
reviews and criminal records checks under this section, the 1465
times at which the database reviews and criminal records checks 1466
are to be conducted; 1467

(d) If the rules specify other databases to be checked as 1468
part of the database reviews, the circumstances under which a 1469
responsible party is prohibited from employing an applicant or 1470
continuing to employ an employee who is found by a database 1471
review to be included in one or more of those databases; 1472

(e) Standards that an applicant or employee must meet for 1473
a responsible party to be permitted to employ the applicant or 1474
continue to employ the employee in a direct-care position if the 1475

applicant or employee is found by a criminal records check 1476
required by this section to have been convicted of, pleaded 1477
guilty to, or been found eligible for intervention in lieu of 1478
conviction for a disqualifying offense. 1479

Sec. 173.381. (A) As used in this section: 1480

(1) "Community-based long-term care services" means 1481
community-based long-term care services, as defined in section 1482
173.14 of the Revised Code, that are provided under a program 1483
the department of aging administers. 1484

(2) "Community-based long-term care services certificate" 1485
means a certificate issued under section 173.391 of the Revised 1486
Code. 1487

(3) "Community-based long-term care services contract or 1488
grant" means a contract or grant awarded under section 173.392 1489
of the Revised Code. 1490

(4) "Criminal records check" has the same meaning as in 1491
section 109.572 of the Revised Code. 1492

(5) "Disqualifying offense" means any of the offenses 1493
listed or described in divisions (A) (3) (a) to (e) of section 1494
109.572 of the Revised Code. 1495

(6) "Provider" has the same meaning as in section 173.39 1496
of the Revised Code. 1497

(7) "Self-employed provider" means a provider who works 1498
for the provider's self and has no employees. 1499

(B) This section does not apply to any individual who is 1500
subject to a database review or criminal records check under 1501
section ~~3701.881~~3722.11 of the Revised Code. 1502

(C) (1) The department of aging or its designee shall take 1503
the following actions when the circumstances specified in 1504
division (C) (2) of this section apply: 1505

(a) Refuse to issue a community-based long-term care 1506
services certificate to a self-employed provider; 1507

(b) Revoke a self-employed provider's community-based 1508
long-term care services certificate; 1509

(c) Refuse to award a community-based long-term care 1510
services contract or grant to a self-employed provider; 1511

(d) Terminate a self-employed provider's community-based 1512
long-term care services contract or grant awarded on or after 1513
September 15, 2014. 1514

(2) The following are the circumstances that require the 1515
department of aging or its designee to take action under 1516
division (C) (1) of this section: 1517

(a) A review of the databases listed in division (E) of 1518
this section reveals any of the following: 1519

(i) That the self-employed provider is included in one or 1520
more of the databases listed in divisions (E) (1) to (5) of this 1521
section; 1522

(ii) That there is in the state nurse aide registry 1523
established under section 3721.32 of the Revised Code a 1524
statement detailing findings by the director of health that the 1525
self-employed provider abused, neglected, or exploited a long- 1526
term care facility or residential care facility resident or 1527
misappropriated property of such a resident; 1528

(iii) That the self-employed provider is included in one 1529
or more of the databases, if any, specified in rules adopted 1530

under this section and the rules require the department or its designee to take action under division (C) (1) of this section if a self-employed provider is included in such a database.

(b) After the self-employed provider is provided, pursuant to division (F) (2) (a) of this section, a copy of the form prescribed pursuant to division (C) (1) of section 109.572 of the Revised Code and the standard impression sheet prescribed pursuant to division (C) (2) of that section, the self-employed provider fails to complete the form or provide the self-employed provider's fingerprint impressions on the standard impression sheet.

(c) Unless the self-employed provider meets standards specified in rules adopted under this section, the self-employed provider is found by a criminal records check required by this section to have been convicted of, pleaded guilty to, or been found eligible for intervention in lieu of conviction for a disqualifying offense.

(D) The department of aging or its designee shall inform each self-employed provider of both of the following at the time of the self-employed provider's initial application for a community-based long-term care services certificate or initial bid for a community-based long-term care services contract or grant:

(1) That a review of the databases listed in division (E) of this section will be conducted to determine whether the department or its designee is required by division (C) of this section to refuse to issue or award a community-based long-term care services certificate or community-based long-term care services contract or grant to the self-employed provider;

(2) That, unless the database review reveals that the
department or its designee is required to refuse to issue or
award a community-based long-term care services certificate or
community-based long-term care services contract or grant to the
self-employed provider, a criminal records check of the self-
employed provider will be conducted and the self-employed
provider is required to provide a set of the self-employed
provider's fingerprint impressions as part of the criminal
records check.

(E) As a condition of issuing or awarding a community-
based long-term care services certificate or community-based
long-term care services contract or grant to a self-employed
provider, the department of aging or its designee shall conduct
a database review of the self-employed provider in accordance
with rules adopted under this section. If rules adopted under
this section so require, the department or its designee shall
conduct a database review of a self-employed provider in
accordance with the rules as a condition of not revoking or
terminating the self-employed provider's community-based long-
term care services certificate or community-based long-term care
services contract or grant. A database review shall determine
whether the self-employed provider is included in any of the
following:

(1) The excluded parties list system that is maintained by
the United States general services administration pursuant to
subpart 9.4 of the federal acquisition regulation and available
at the federal web site known as the system for award
management;

(2) The list of excluded individuals and entities
maintained by the office of inspector general in the United

States department of health and human services pursuant to the 1590
"Social Security Act," 42 U.S.C. 1320a-7 and 1320c-5; 1591

(3) The registry of developmental disabilities employees 1592
established under section 5123.52 of the Revised Code; 1593

(4) The internet-based sex offender and child-victim 1594
offender database established under division (A)(11) of section 1595
2950.13 of the Revised Code; 1596

(5) The internet-based database of inmates established 1597
under section 5120.66 of the Revised Code; 1598

(6) The state nurse aide registry established under 1599
section 3721.32 of the Revised Code; 1600

(7) Any other database, if any, specified in rules adopted 1601
under this section. 1602

(F)(1) As a condition of issuing or awarding a community- 1603
based long-term care services certificate or community-based 1604
long-term care services contract or grant to a self-employed 1605
provider, the department of aging or its designee shall request 1606
that the superintendent of the bureau of criminal identification 1607
and investigation conduct a criminal records check of the self- 1608
employed provider. If rules adopted under this section so 1609
require, the department or its designee shall request that the 1610
superintendent conduct a criminal records check of a self- 1611
employed provider at times specified in the rules as a condition 1612
of not revoking or terminating the self-employed provider's 1613
community-based long-term care services certificate or 1614
community-based long-term care services contract or grant. 1615
However, the department or its designee is not required to 1616
request the criminal records check of the self-employed provider 1617
if the department or its designee, because of circumstances 1618

specified in division (C)(2)(a) of this section, is required to 1619
refuse to issue or award a community-based long-term care 1620
services certificate or community-based long-term care services 1621
contract or grant to the self-employed provider or to revoke or 1622
terminate the self-employed provider's certificate or contract 1623
or grant. 1624

If a self-employed provider for whom a criminal records 1625
check request is required by this section does not present proof 1626
of having been a resident of this state for the five-year period 1627
immediately prior to the date the criminal records check is 1628
requested or provide evidence that within that five-year period 1629
the superintendent has requested information about the self- 1630
employed provider from the federal bureau of investigation in a 1631
criminal records check, the department or its designee shall 1632
request that the superintendent obtain information from the 1633
federal bureau of investigation as part of the criminal records 1634
check. Even if a self-employed provider for whom a criminal 1635
records check request is required by this section presents proof 1636
of having been a resident of this state for the five-year 1637
period, the department or its designee may request that the 1638
superintendent include information from the federal bureau of 1639
investigation in the criminal records check. 1640

(2) The department or its designee shall do all of the 1641
following: 1642

(a) Provide to each self-employed provider for whom a 1643
criminal records check request is required by this section a 1644
copy of the form prescribed pursuant to division (C)(1) of 1645
section 109.572 of the Revised Code and a standard impression 1646
sheet prescribed pursuant to division (C)(2) of that section; 1647

(b) Obtain the completed form and standard impression 1648

sheet from the self-employed provider; 1649

(c) Forward the completed form and standard impression 1650
sheet to the superintendent. 1651

(3) The department or its designee shall pay to the bureau 1652
of criminal identification and investigation the fee prescribed 1653
pursuant to division (C) (3) of section 109.572 of the Revised 1654
Code for each criminal records check of a self-employed provider 1655
the department or its designee requests under this section. The 1656
department or its designee may charge the self-employed provider 1657
a fee that does not exceed the amount the department or its 1658
designee pays to the bureau. 1659

(G) The report of any criminal records check of a self- 1660
employed provider conducted pursuant to a request made under 1661
this section is not a public record for the purposes of section 1662
149.43 of the Revised Code and shall not be made available to 1663
any person other than the following: 1664

(1) The self-employed provider or the self-employed 1665
provider's representative; 1666

(2) The department of aging, the department's designee, or 1667
a representative of the department or its designee; 1668

(3) The medicaid director and the staff of the department 1669
of medicaid who are involved in the administration of the 1670
medicaid program if the self-employed provider is to provide, or 1671
provides, community-based long-term care services under a 1672
component of the medicaid program that the department of aging 1673
administers; 1674

(4) A court, hearing officer, or other necessary 1675
individual involved in a case dealing with any of the following: 1676

(a) A refusal to issue or award a community-based long-term services certificate or community-based long-term care services contract or grant to the self-employed provider; 1677
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1679

(b) A revocation or termination of the self-employed provider's community-based long-term care services certificate or community-based long-term care services contract or grant; 1680
1681
1682

(c) A civil or criminal action regarding a program the department of aging administers. 1683
1684

(H) In a tort or other civil action for damages that is brought as the result of an injury, death, or loss to person or property caused by a self-employed provider, both of the following shall apply: 1685
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1688

(1) If the department of aging or its designee, in good faith and reasonable reliance on the report of a criminal records check requested under this section, issued or awarded a community-based long-term care services certificate or community-based long-term care services contract or grant to the self-employed provider or did not revoke or terminate the self-employed provider's certificate or contract or grant, the department and its designee shall not be found negligent solely because of its reliance on the report, even if the information in the report is determined later to have been incomplete or inaccurate. 1689
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(2) If the department or its designee in good faith issued or awarded a community-based long-term care services certificate or community-based long-term care services contract or grant to the self-employed provider or did not revoke or terminate the self-employed provider's certificate or contract or grant because the self-employed provider meets standards specified in 1700
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rules adopted under this section, the department and its 1706
designee shall not be found negligent solely because the self- 1707
employed provider has been convicted of, pleaded guilty to, or 1708
been found eligible for intervention in lieu of conviction for a 1709
disqualifying offense. 1710

(I) The director of aging shall adopt rules in accordance 1711
with Chapter 119. of the Revised Code to implement this section. 1712

(1) The rules may do the following: 1713

(a) Require self-employed providers who have been issued 1714
or awarded community-based long-term care services certificates 1715
or community-based long-term care services contracts or grants 1716
to undergo database reviews and criminal records checks under 1717
this section; 1718

(b) If the rules require self-employed providers who have 1719
been issued or awarded community-based long-term care services 1720
certificates or community-based long-term care services 1721
contracts or grants to undergo database reviews and criminal 1722
records checks under this section, exempt one or more classes of 1723
such self-employed providers from the requirements; 1724

(c) For the purpose of division (E) (7) of this section, 1725
specify other databases that are to be checked as part of a 1726
database review conducted under this section. 1727

(2) The rules shall specify all of the following: 1728

(a) The procedures for conducting database reviews under 1729
this section; 1730

(b) If the rules require self-employed providers who have 1731
been issued or awarded community-based long-term care services 1732
certificates or community-based long-term care services 1733

contracts or grants to undergo database reviews and criminal 1734
records checks under this section, the times at which the 1735
database reviews and criminal records checks are to be 1736
conducted; 1737

(c) If the rules specify other databases to be checked as 1738
part of the database reviews, the circumstances under which the 1739
department of aging or its designee is required to refuse to 1740
issue or award a community-based long-term care services 1741
certificate or community-based long-term care services contract 1742
or grant to a self-employed provider or to revoke or terminate a 1743
self-employed provider's certificate or contract or grant when 1744
the self-employed provider is found by a database review to be 1745
included in one or more of those databases; 1746

(d) Standards that a self-employed provider must meet for 1747
the department or its designee to be permitted to issue or award 1748
a community-based long-term care services certificate or 1749
community-based long-term care services contract or grant to the 1750
self-employed provider or not to revoke or terminate the self- 1751
employed provider's certificate or contract or grant if the 1752
self-employed provider is found by a criminal records check 1753
required by this section to have been convicted of, pleaded 1754
guilty to, or been found eligible for intervention in lieu of 1755
conviction for a disqualifying offense. 1756

Sec. 1337.11. As used in sections 1337.11 to 1337.17 of 1757
the Revised Code: 1758

(A) "Adult" means a person who is eighteen years of age or 1759
older. 1760

(B) "Attending physician" means the physician to whom a 1761
principal or the family of a principal has assigned primary 1762

responsibility for the treatment or care of the principal or, if 1763
the responsibility has not been assigned, the physician who has 1764
accepted that responsibility. 1765

(C) "Comfort care" means any of the following: 1766

(1) Nutrition when administered to diminish the pain or 1767
discomfort of a principal, but not to postpone death; 1768

(2) Hydration when administered to diminish the pain or 1769
discomfort of a principal, but not to postpone death; 1770

(3) Any other medical or nursing procedure, treatment, 1771
intervention, or other measure that is taken to diminish the 1772
pain or discomfort of a principal, but not to postpone death. 1773

(D) "Consulting physician" means a physician who, in 1774
conjunction with the attending physician of a principal, makes 1775
one or more determinations that are required to be made by the 1776
attending physician, or to be made by the attending physician 1777
and one other physician, by an applicable provision of sections 1778
1337.11 to 1337.17 of the Revised Code, to a reasonable degree 1779
of medical certainty and in accordance with reasonable medical 1780
standards. 1781

(E) "Declaration for mental health treatment" has the same 1782
meaning as in section 2135.01 of the Revised Code. 1783

(F) "Guardian" means a person appointed by a probate court 1784
pursuant to Chapter 2111. of the Revised Code to have the care 1785
and management of the person of an incompetent. 1786

(G) "Health care" means any care, treatment, service, or 1787
procedure to maintain, diagnose, or treat an individual's 1788
physical or mental condition or physical or mental health. 1789

(H) "Health care decision" means informed consent, refusal 1790

to give informed consent, or withdrawal of informed consent to health care.	1791 1792
(I) "Health care facility" means any of the following:	1793
(1) A hospital;	1794
(2) A hospice care program, pediatric respite care program, or other institution that specializes in comfort care of patients in a terminal condition or in a permanently unconscious state;	1795 1796 1797 1798
(3) A nursing home;	1799
(4) A home health agency;	1800
(5) An intermediate care facility for individuals with intellectual disabilities;	1801 1802
(6) A regulated community mental health organization.	1803
(J) "Health care personnel" means physicians, nurses, physician assistants, emergency medical technicians-basic, emergency medical technicians-intermediate, emergency medical technicians-paramedic, medical technicians, dietitians, other authorized persons acting under the direction of an attending physician, and administrators of health care facilities.	1804 1805 1806 1807 1808 1809
(K) "Home health agency" has the same meaning as in section 3701.881 <u>3722.01</u> of the Revised Code.	1810 1811
(L) "Hospice care program" and "pediatric respite care program" have the same meanings as in section 3712.01 of the Revised Code.	1812 1813 1814
(M) "Hospital" has the same meanings as in sections 3701.01, 3727.01, and 5122.01 of the Revised Code.	1815 1816
(N) "Hydration" means fluids that are artificially or	1817

technologically administered.	1818
(O) "Incompetent" has the same meaning as in section 2111.01 of the Revised Code.	1819 1820
(P) "Intermediate care facility for individuals with intellectual disabilities" has the same meaning as in section 5124.01 of the Revised Code.	1821 1822 1823
(Q) "Life-sustaining treatment" means any medical procedure, treatment, intervention, or other measure that, when administered to a principal, will serve principally to prolong the process of dying.	1824 1825 1826 1827
(R) "Medical claim" has the same meaning as in section 2305.113 of the Revised Code.	1828 1829
(S) "Mental health treatment" has the same meaning as in section 2135.01 of the Revised Code.	1830 1831
(T) "Nursing home" has the same meaning as in section 3721.01 of the Revised Code.	1832 1833
(U) "Nutrition" means sustenance that is artificially or technologically administered.	1834 1835
(V) "Permanently unconscious state" means a state of permanent unconsciousness in a principal that, to a reasonable degree of medical certainty as determined in accordance with reasonable medical standards by the principal's attending physician and one other physician who has examined the principal, is characterized by both of the following:	1836 1837 1838 1839 1840 1841
(1) Irreversible unawareness of one's being and environment.	1842 1843
(2) Total loss of cerebral cortical functioning, resulting	1844

in the principal having no capacity to experience pain or 1845
suffering. 1846

(W) "Person" has the same meaning as in section 1.59 of 1847
the Revised Code and additionally includes political 1848
subdivisions and governmental agencies, boards, commissions, 1849
departments, institutions, offices, and other instrumentalities. 1850

(X) "Physician" means a person who is authorized under 1851
Chapter 4731. of the Revised Code to practice medicine and 1852
surgery or osteopathic medicine and surgery. 1853

(Y) "Political subdivision" and "state" have the same 1854
meanings as in section 2744.01 of the Revised Code. 1855

(Z) "Professional disciplinary action" means action taken 1856
by the board or other entity that regulates the professional 1857
conduct of health care personnel, including the state medical 1858
board and the board of nursing. 1859

(AA) "Regulated community mental health organization" 1860
means a residential facility as defined and licensed under 1861
section 5119.34 of the Revised Code or a community mental health 1862
services provider as defined in section 5122.01 of the Revised 1863
Code. 1864

(BB) "Terminal condition" means an irreversible, 1865
incurable, and untreatable condition caused by disease, illness, 1866
or injury from which, to a reasonable degree of medical 1867
certainty as determined in accordance with reasonable medical 1868
standards by a principal's attending physician and one other 1869
physician who has examined the principal, both of the following 1870
apply: 1871

(1) There can be no recovery. 1872

(2) Death is likely to occur within a relatively short 1873
time if life-sustaining treatment is not administered. 1874

(CC) "Tort action" means a civil action for damages for 1875
injury, death, or loss to person or property, other than a civil 1876
action for damages for a breach of contract or another agreement 1877
between persons. 1878

Sec. 2133.01. Unless the context otherwise requires, as 1879
used in sections 2133.01 to 2133.15 of the Revised Code: 1880

(A) "Adult" means an individual who is eighteen years of 1881
age or older. 1882

(B) "Attending physician" means the physician to whom a 1883
declarant or other patient, or the family of a declarant or 1884
other patient, has assigned primary responsibility for the 1885
treatment or care of the declarant or other patient, or, if the 1886
responsibility has not been assigned, the physician who has 1887
accepted that responsibility. 1888

(C) "Comfort care" means any of the following: 1889

(1) Nutrition when administered to diminish the pain or 1890
discomfort of a declarant or other patient, but not to postpone 1891
the declarant's or other patient's death; 1892

(2) Hydration when administered to diminish the pain or 1893
discomfort of a declarant or other patient, but not to postpone 1894
the declarant's or other patient's death; 1895

(3) Any other medical or nursing procedure, treatment, 1896
intervention, or other measure that is taken to diminish the 1897
pain or discomfort of a declarant or other patient, but not to 1898
postpone the declarant's or other patient's death. 1899

(D) "Consulting physician" means a physician who, in 1900

conjunction with the attending physician of a declarant or other patient, makes one or more determinations that are required to be made by the attending physician, or to be made by the attending physician and one other physician, by an applicable provision of this chapter, to a reasonable degree of medical certainty and in accordance with reasonable medical standards.

(E) "Declarant" means any adult who has executed a declaration in accordance with section 2133.02 of the Revised Code.

(F) "Declaration" means a written document executed in accordance with section 2133.02 of the Revised Code.

(G) "Durable power of attorney for health care" means a document created pursuant to sections 1337.11 to 1337.17 of the Revised Code.

(H) "Guardian" means a person appointed by a probate court pursuant to Chapter 2111. of the Revised Code to have the care and management of the person of an incompetent.

(I) "Health care facility" means any of the following:

(1) A hospital;

(2) A hospice care program, pediatric respite care program, or other institution that specializes in comfort care of patients in a terminal condition or in a permanently unconscious state;

(3) A nursing home or residential care facility, as defined in section 3721.01 of the Revised Code;

(4) A home health agency and any residential facility where a person is receiving care under the direction of a home health agency;

(5) An intermediate care facility for individuals with intellectual disabilities.	1929 1930
(J) "Health care personnel" means physicians, nurses, physician assistants, emergency medical technicians-basic, emergency medical technicians-intermediate, emergency medical technicians-paramedic, medical technicians, dietitians, other authorized persons acting under the direction of an attending physician, and administrators of health care facilities.	1931 1932 1933 1934 1935 1936
(K) "Home health agency" has the same meaning as in section 3701.881 <u>3722.01</u> of the Revised Code.	1937 1938
(L) "Hospice care program" and "pediatric respite care program" have the same meanings as in section 3712.01 of the Revised Code.	1939 1940 1941
(M) "Hospital" has the same meanings as in sections 3701.01, 3727.01, and 5122.01 of the Revised Code.	1942 1943
(N) "Hydration" means fluids that are artificially or technologically administered.	1944 1945
(O) "Incompetent" has the same meaning as in section 2111.01 of the Revised Code.	1946 1947
(P) "Intermediate care facility for the individuals with intellectual disabilities" has the same meaning as in section 5124.01 of the Revised Code.	1948 1949 1950
(Q) "Life-sustaining treatment" means any medical procedure, treatment, intervention, or other measure that, when administered to a qualified patient or other patient, will serve principally to prolong the process of dying.	1951 1952 1953 1954
(R) "Nurse" means a person who is licensed to practice nursing as a registered nurse or to practice practical nursing	1955 1956

as a licensed practical nurse pursuant to Chapter 4723. of the Revised Code. 1957
1958

(S) "Nursing home" has the same meaning as in section 3721.01 of the Revised Code. 1959
1960

(T) "Nutrition" means sustenance that is artificially or technologically administered. 1961
1962

(U) "Permanently unconscious state" means a state of permanent unconsciousness in a declarant or other patient that, to a reasonable degree of medical certainty as determined in accordance with reasonable medical standards by the declarant's or other patient's attending physician and one other physician who has examined the declarant or other patient, is characterized by both of the following: 1963
1964
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(1) Irreversible unawareness of one's being and environment. 1970
1971

(2) Total loss of cerebral cortical functioning, resulting in the declarant or other patient having no capacity to experience pain or suffering. 1972
1973
1974

(V) "Person" has the same meaning as in section 1.59 of the Revised Code and additionally includes political subdivisions and governmental agencies, boards, commissions, departments, institutions, offices, and other instrumentalities. 1975
1976
1977
1978

(W) "Physician" means a person who is authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery. 1979
1980
1981

(X) "Political subdivision" and "state" have the same meanings as in section 2744.01 of the Revised Code. 1982
1983

(Y) "Professional disciplinary action" means action taken 1984

by the board or other entity that regulates the professional 1985
conduct of health care personnel, including the state medical 1986
board and the board of nursing. 1987

(Z) "Qualified patient" means an adult who has executed a 1988
declaration and has been determined to be in a terminal 1989
condition or in a permanently unconscious state. 1990

(AA) "Terminal condition" means an irreversible, 1991
incurable, and untreatable condition caused by disease, illness, 1992
or injury from which, to a reasonable degree of medical 1993
certainty as determined in accordance with reasonable medical 1994
standards by a declarant's or other patient's attending 1995
physician and one other physician who has examined the declarant 1996
or other patient, both of the following apply: 1997

(1) There can be no recovery. 1998

(2) Death is likely to occur within a relatively short 1999
time if life-sustaining treatment is not administered. 2000

(BB) "Tort action" means a civil action for damages for 2001
injury, death, or loss to person or property, other than a civil 2002
action for damages for breach of a contract or another agreement 2003
between persons. 2004

Sec. 2317.54. No hospital, home health agency, ambulatory 2005
surgical facility, or provider of a hospice care program or 2006
pediatric respite care program shall be held liable for a 2007
physician's failure to obtain an informed consent from the 2008
physician's patient prior to a surgical or medical procedure or 2009
course of procedures, unless the physician is an employee of the 2010
hospital, home health agency, ambulatory surgical facility, or 2011
provider of a hospice care program or pediatric respite care 2012
program. 2013

Written consent to a surgical or medical procedure or 2014
course of procedures shall, to the extent that it fulfills all 2015
the requirements in divisions (A), (B), and (C) of this section, 2016
be presumed to be valid and effective, in the absence of proof 2017
by a preponderance of the evidence that the person who sought 2018
such consent was not acting in good faith, or that the execution 2019
of the consent was induced by fraudulent misrepresentation of 2020
material facts, or that the person executing the consent was not 2021
able to communicate effectively in spoken and written English or 2022
any other language in which the consent is written. Except as 2023
herein provided, no evidence shall be admissible to impeach, 2024
modify, or limit the authorization for performance of the 2025
procedure or procedures set forth in such written consent. 2026

(A) The consent sets forth in general terms the nature and 2027
purpose of the procedure or procedures, and what the procedures 2028
are expected to accomplish, together with the reasonably known 2029
risks, and, except in emergency situations, sets forth the names 2030
of the physicians who shall perform the intended surgical 2031
procedures. 2032

(B) The person making the consent acknowledges that such 2033
disclosure of information has been made and that all questions 2034
asked about the procedure or procedures have been answered in a 2035
satisfactory manner. 2036

(C) The consent is signed by the patient for whom the 2037
procedure is to be performed, or, if the patient for any reason 2038
including, but not limited to, competence, minority, or the fact 2039
that, at the latest time that the consent is needed, the patient 2040
is under the influence of alcohol, hallucinogens, or drugs, 2041
lacks legal capacity to consent, by a person who has legal 2042
authority to consent on behalf of such patient in such 2043

circumstances, including either of the following: 2044

(1) The parent, whether the parent is an adult or a minor, 2045
of the parent's minor child; 2046

(2) An adult whom the parent of the minor child has given 2047
written authorization to consent to a surgical or medical 2048
procedure or course of procedures for the parent's minor child. 2049

Any use of a consent form that fulfills the requirements 2050
stated in divisions (A), (B), and (C) of this section has no 2051
effect on the common law rights and liabilities, including the 2052
right of a physician to obtain the oral or implied consent of a 2053
patient to a medical procedure, that may exist as between 2054
physicians and patients on July 28, 1975. 2055

As used in this section the term "hospital" has the same 2056
meaning as in section 2305.113 of the Revised Code; ~~"home health-~~ 2057
~~agency" has the same meaning as in section 3701.881 of the~~ 2058
~~Revised Code;~~ "ambulatory surgical facility" has the same 2059
meaning as in section 3702.30 of the Revised Code; ~~and~~ "hospice 2060
care program" and "pediatric respite care program" have the same 2061
meanings as in section 3712.01 of the Revised Code, and "home 2062
health agency" has the same meaning as in section 3722.01 of the 2063
Revised Code. The provisions of this division apply to 2064
hospitals, doctors of medicine, doctors of osteopathic medicine, 2065
and doctors of podiatric medicine. 2066

Sec. 3701.362. (A) Each of the health care facilities and 2067
providers identified in division (B) of this section shall do 2068
both of the following: 2069

(1) Establish a system for identifying patients or 2070
residents who could benefit from palliative care; 2071

(2) Provide information on palliative care to patients and 2072

residents who could benefit from palliative care. 2073

(B) Division (A) of this section applies to all of the 2074
following: 2075

(1) A hospital registered under section 3701.07 of the 2076
Revised Code; 2077

(2) An ambulatory surgical facility, as defined in section 2078
3702.30 of the Revised Code; 2079

(3) A nursing home, residential care facility, county 2080
home, or district home, as defined in section 3721.01 of the 2081
Revised Code; 2082

(4) A veterans' home operated under Chapter 5907. of the 2083
Revised Code; 2084

(5) A hospice care program or pediatric respite care 2085
program, as defined in section 3712.01 of the Revised Code; 2086

(6) A home health agency, as defined in section ~~3701.881-~~ 2087
3722.01 of the Revised Code. 2088

Sec. 3701.916. (A) As used in this section, "direct care" 2089
and "home health agency" have the same meanings as in section 2090
~~3701.881-~~3722.01 of the Revised Code. 2091

(B) For the purpose of identifying jobs that are in demand 2092
in this state under section 6301.11 of the Revised Code, direct 2093
care provided by a home health agency shall be considered a 2094
targeted industry sector as identified by the governor's office 2095
of workforce transformation. 2096

(C) The director of job and family services shall review 2097
the criteria for any program that provides occupational 2098
training, adult education, or career pathway assistance through 2099

a grant or other source of funding to determine whether an 2100
employee of a home health agency may participate in the program, 2101
and, to the extent possible, make any necessary changes to the 2102
criteria to allow a home health agency employee to participate 2103
in the program. 2104

Sec. 3721.02. (A) As used in this section, "residential 2105
facility" means a residential facility licensed under section 2106
5119.34 of the Revised Code that provides accommodations, 2107
supervision, and personal care services for three to sixteen 2108
unrelated adults. 2109

(B) (1) The director of health shall license homes and 2110
establish procedures to be followed in inspecting and licensing 2111
homes. The director may inspect a home at any time. ~~Each~~ 2112

Each home shall be inspected by the director at least once 2113
prior to the issuance of a license and at least once every 2114
fifteen months thereafter. The state fire marshal or a township, 2115
municipal, or other legally constituted fire department approved 2116
by the marshal shall also inspect a home prior to issuance of a 2117
license, at least once every fifteen months thereafter, and at 2118
any other time requested by the director. ~~A~~ 2119

A home does not have to be inspected prior to issuance of 2120
a license by the director, state fire marshal, or a fire 2121
department if ownership of the home is assigned or transferred 2122
to a different person and the home was licensed under this 2123
chapter immediately prior to the assignment or transfer. ~~A~~ In 2124
the case of a home that is licensed as a nursing home, the 2125
nursing home does not need to be inspected before the director 2126
increases the nursing home's licensed capacity if the beds being 2127
added to the nursing home are placed in resident rooms that were 2128
inspected, as part of the most recent previous inspection of the 2129

nursing home, for the same number of residents proposed to be 2130
placed in a room after the capacity increase. ~~The~~ 2131

The director may enter at any time, for the purposes of 2132
investigation, any institution, residence, facility, or other 2133
structure that has been reported to the director or that the 2134
director has reasonable cause to believe is operating as a 2135
nursing home, residential care facility, or home for the aging 2136
without a valid license required by section 3721.05 of the 2137
Revised Code or, in the case of a county home or district home, 2138
is operating despite the revocation of its residential care 2139
facility license. ~~The~~ 2140

The director may delegate the director's authority and 2141
duties under this chapter to any division, bureau, agency, or 2142
official of the department of health. 2143

(2) (a) ~~If, prior to issuance of a license, a home~~ The 2144
inspection procedures established under division (B)(1) of this 2145
section shall include a process for conducting expedited 2146
licensing inspections. An expedited licensing inspection may be 2147
requested by an applicant seeking a license for a new home or, 2148
in the case of an existing home that is licensed as a 2149
residential care facility, an applicant seeking approval to 2150
increase or decrease the facility's licensed capacity or to make 2151
any other change for which the director requires a licensing 2152
inspection to be conducted. 2153

If an applicant submits a request for an expedited 2154
licensing inspection and the request is submitted in a manner 2155
and form approved by the director, the director shall commence 2156
~~an~~ the inspection of the home not later than ten business days 2157
after receiving the request. 2158

Any rules adopted by the director pursuant to section 3721.04 of the Revised Code to implement the requirements described in division (B)(2)(a) of this section are not subject to the requirements of division (F) of section 121.95 of the Revised Code. 2159
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~~(b) On request, submitted in a manner and form approved by the director, the director may review plans for a building that is to be used as a home for compliance with applicable state and local building and safety codes.~~ 2164
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~~(e) The director may charge a fee for an expedited licensing inspection or a plan review that is adequate to cover the expense of expediting the inspection or reviewing the plans. The fee shall be deposited in the state treasury to the credit of the general operations fund created in section 3701.83 of the Revised Code and used solely for expediting inspections and reviewing plans.~~ 2168
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(C) A single facility may be licensed both as a nursing home pursuant to this chapter and as a residential facility pursuant to section 5119.34 of the Revised Code if the director determines that the part or unit to be licensed as a nursing home can be maintained separate and discrete from the part or unit to be licensed as a residential facility. 2175
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(D) In determining the number of residents in a home for the purpose of licensing, the director shall consider all the individuals for whom the home provides accommodations as one group unless one of the following is the case: 2181
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(1) The home is a home for the aging, in which case all the individuals in the part or unit licensed as a nursing home shall be considered as one group, and all the individuals in the 2185
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part or unit licensed as a ~~rest home~~ residential care facility 2188
shall be considered as another group. 2189

(2) The home is both a nursing home and a residential 2190
facility. In that case, all the individuals in the part or unit 2191
licensed as a nursing home shall be considered as one group, and 2192
all the individuals in the part or unit licensed as ~~an adult~~ 2193
~~care~~ a residential facility shall be considered as another 2194
group. 2195

(3) The home maintains, in addition to a nursing home or 2196
residential care facility, a separate and discrete part or unit 2197
that provides accommodations to individuals who do not require 2198
or receive skilled nursing care and do not receive personal care 2199
services from the home, in which case the individuals in the 2200
separate and discrete part or unit shall not be considered in 2201
determining the number of residents in the home if the separate 2202
and discrete part or unit is in compliance with the Ohio basic 2203
building code established by the board of building standards 2204
under Chapters 3781. and 3791. of the Revised Code and the home 2205
permits the director, on request, to inspect the separate and 2206
discrete part or unit and speak with the individuals residing 2207
there, if they consent, to determine whether the separate and 2208
discrete part or unit meets the requirements of this division. 2209

(E) (1) The director of health shall charge the following 2210
application fee and annual renewal licensing and inspection fee 2211
for each fifty persons or part thereof of a home's licensed 2212
capacity: 2213

(a) For state fiscal year 2010, two hundred twenty 2214
dollars; 2215

(b) For state fiscal year 2011, two hundred seventy 2216

dollars; 2217

(c) For each state fiscal year thereafter, three hundred 2218
twenty dollars. 2219

(2) All fees collected by the director for the issuance or 2220
renewal of licenses shall be deposited into the state treasury 2221
to the credit of the general operations fund created in section 2222
3701.83 of the Revised Code for use only in administering and 2223
enforcing this chapter and rules adopted under it. 2224

(F) (1) Except as otherwise provided in this section, the 2225
results of an inspection or investigation of a home that is 2226
conducted under this section, including any statement of 2227
deficiencies and all findings and deficiencies cited in the 2228
statement on the basis of the inspection or investigation, shall 2229
be used solely to determine the home's compliance with this 2230
chapter or another chapter of the Revised Code in any action or 2231
proceeding other than an action commenced under division (I) of 2232
section 3721.17 of the Revised Code. Those results of an 2233
inspection or investigation, that statement of deficiencies, and 2234
the findings and deficiencies cited in that statement shall not 2235
be used in either of the following: 2236

(a) Any court or in any action or proceeding that is 2237
pending in any court and are not admissible in evidence in any 2238
action or proceeding unless that action or proceeding is an 2239
appeal of an action by the department of health under this 2240
chapter or is an action by any department or agency of the state 2241
to enforce this chapter or another chapter of the Revised Code; 2242

(b) An advertisement, unless the advertisement includes 2243
all of the following: 2244

(i) The date the inspection or investigation was 2245

conducted;	2246
(ii) A statement that the director of health inspects all homes at least once every fifteen months;	2247 2248
(iii) If a finding or deficiency cited in the statement of deficiencies has been substantially corrected, a statement that the finding or deficiency has been substantially corrected and the date that the finding or deficiency was substantially corrected;	2249 2250 2251 2252 2253
(iv) The number of findings and deficiencies cited in the statement of deficiencies on the basis of the inspection or investigation;	2254 2255 2256
(v) The average number of findings and deficiencies cited in a statement of deficiencies on the basis of an inspection or investigation conducted under this section during the same calendar year as the inspection or investigation used in the advertisement;	2257 2258 2259 2260 2261
(vi) A statement that the advertisement is neither authorized nor endorsed by the department of health or any other government agency.	2262 2263 2264
(2) Nothing in division (F)(1) of this section prohibits the results of an inspection or investigation conducted under this section from being used in a criminal investigation or prosecution.	2265 2266 2267 2268
<u>Sec. 3722.01. As used in this chapter:</u>	2269
<u>(A) "Community-based long-term care provider" means a provider, as defined in section 173.39 of the Revised Code.</u>	2270 2271
<u>(B) "Community-based long-term care subcontractor" means a subcontractor, as defined in section 173.38 of the Revised Code.</u>	2272 2273

<u>(C) "Criminal records check" has the same meaning as in</u>	2274
<u>section 109.572 of the Revised Code.</u>	2275
<u>(D) "Direct care" means any of the following:</u>	2276
<u>(1) Any service identified in divisions (G) (1) to (6) of</u>	2277
<u>this section that is provided in a patient's place of residence</u>	2278
<u>used as the patient's home;</u>	2279
<u>(2) Any activity that requires the person performing the</u>	2280
<u>activity to be routinely alone with a patient or to routinely</u>	2281
<u>have access to a patient's personal property or financial</u>	2282
<u>documents regarding a patient;</u>	2283
<u>(3) For each home health agency individually, any other</u>	2284
<u>routine service or activity that the chief administrator of the</u>	2285
<u>home health agency designates as direct care.</u>	2286
<u>(E) "Disqualifying offense" means any of the offenses</u>	2287
<u>listed or described in divisions (A) (3) (a) to (e) of section</u>	2288
<u>109.572 of the Revised Code.</u>	2289
<u>(F) "Employee" means a person employed by a home health</u>	2290
<u>agency in a full-time, part-time, or temporary position that</u>	2291
<u>involves providing direct care to an individual and a person who</u>	2292
<u>works in such a position due to being referred to a home health</u>	2293
<u>agency by an employment service.</u>	2294
<u>(G) "Home health agency" means a person or government</u>	2295
<u>entity, other than a nursing home, residential care facility,</u>	2296
<u>hospice care program, pediatric respite care program, or</u>	2297
<u>immediate family member, that has the primary function of</u>	2298
<u>providing any of the following services to a patient at a place</u>	2299
<u>of residence used as the patient's home:</u>	2300
<u>(1) Skilled nursing care;</u>	2301

<u>(2) Physical therapy;</u>	2302
<u>(3) Occupational therapy;</u>	2303
<u>(4) Speech-language pathology;</u>	2304
<u>(5) Medical social services;</u>	2305
<u>(6) Home health aide services.</u>	2306
<u>(H) "Home health aide services" means any of the following</u>	2307
<u>services provided by an employee of a home health agency:</u>	2308
<u>(1) Hands-on bathing or assistance with a tub bath or</u>	2309
<u>shower;</u>	2310
<u>(2) Assistance with dressing, ambulation, and toileting;</u>	2311
<u>(3) Catheter care but not insertion;</u>	2312
<u>(4) Meal preparation and feeding.</u>	2313
<u>(I) "Hospice care program" and "pediatric respite care</u>	2314
<u>program" have the same meanings as in section 3712.01 of the</u>	2315
<u>Revised Code.</u>	2316
<u>(J) "Immediate family member" means a parent, grandparent,</u>	2317
<u>brother, sister, spouse, son, daughter, aunt, uncle, mother-in-</u>	2318
<u>law, father-in-law, brother-in-law, sister-in-law, son-in-law,</u>	2319
<u>and daughter-in-law.</u>	2320
<u>(K) "Medical social services" means services provided by a</u>	2321
<u>social worker under the direction of a patient's attending</u>	2322
<u>physician.</u>	2323
<u>(L) "Minor drug possession offense" has the same meaning</u>	2324
<u>as in section 2925.01 of the Revised Code.</u>	2325
<u>(M) "Nonagency provider" means a person who provides</u>	2326
<u>direct care to an individual on a self-employed basis and does</u>	2327

not employ, directly or through contract, another person to 2328
provide the services. "Nonagency provider" does not include a 2329
caregiver who is an immediate family member of the individual 2330
receiving direct care. 2331

(N) "Nonmedical home health services" means any of the 2332
following: 2333

(1) Any service identified in divisions (H) (1) to (4) of 2334
this section; 2335

(2) Personal care services; 2336

(3) Any other service the director of health designates as 2337
a nonmedical home health service in rules adopted under section 2338
3722.10 of the Revised Code. 2339

(O) "Nursing home," "residential care facility," and 2340
"skilled nursing care" have the same meanings as in section 2341
3721.01 of the Revised Code. 2342

(P) "Occupational therapy" has the same meaning as in 2343
section 4755.04 of the Revised Code. 2344

(Q) "Personal care services" has the same meaning as in 2345
section 3721.01 of the Revised Code. 2346

(R) "Physical therapy" has the same meaning as in section 2347
4755.40 of the Revised Code. 2348

(S) "Skilled home health services" means any of the 2349
following: 2350

(1) Any service identified in divisions (G) (1) to (5) of 2351
this section; 2352

(2) Any other service the director of health designates as 2353
a skilled home health service in rules adopted under section 2354

<u>3722.10 of the Revised Code.</u>	2355
<u>(T) "Social worker" means a person licensed under Chapter 4757. of the Revised Code to practice as a social worker or independent social worker.</u>	2356 2357 2358
<u>(U) "Speech-language pathology" has the same meaning as in section 4753.01 of the Revised Code.</u>	2359 2360
<u>(V) "Waiver agency" has the same meaning as in section 5164.342 of the Revised Code.</u>	2361 2362
<u>Sec. 3722.02. Beginning one year after the effective date of this section:</u>	2363 2364
<u>(A) (1) No home health agency shall do either of the following unless the agency holds a current, valid license to provide skilled home health services issued under this chapter:</u>	2365 2366 2367
<u>(a) Provide skilled home health services through one or more employees;</u>	2368 2369
<u>(b) Hold the agency, or any employee of the agency, out as a provider of skilled home health services.</u>	2370 2371
<u>(2) No home health agency shall do either of the following unless the agency holds either a current, valid license to provide nonmedical home health services, or a current, valid license to provide skilled home health services, issued under this chapter:</u>	2372 2373 2374 2375 2376
<u>(a) Provide nonmedical home health services through one or more employees;</u>	2377 2378
<u>(b) Hold the agency, or any employee of the agency, out as a provider of nonmedical home health services.</u>	2379 2380
<u>(B) (1) No nonagency provider shall do either of the</u>	2381

<u>following unless the provider holds a current, valid license to</u>	2382
<u>provide skilled home health services issued under this chapter:</u>	2383
<u>(a) Provide skilled home health services;</u>	2384
<u>(b) Hold oneself out as a provider of skilled home health</u>	2385
<u>services.</u>	2386
<u>(2) No nonagency provider shall do either of the following</u>	2387
<u>unless the provider holds either a current, valid license to</u>	2388
<u>provide nonmedical home health services, or a current, valid</u>	2389
<u>license to provide skilled home health services, issued under</u>	2390
<u>this chapter:</u>	2391
<u>(a) Provide nonmedical home health services;</u>	2392
<u>(b) Hold oneself out as a provider of nonmedical home</u>	2393
<u>health services.</u>	2394
<u>Sec. 3722.03. (A) (1) A home health agency or nonagency</u>	2395
<u>provider seeking to provide skilled home health services shall</u>	2396
<u>apply to the department of health for a skilled home health</u>	2397
<u>services license. The application shall include all of the</u>	2398
<u>following:</u>	2399
<u>(a) Evidence that the agency or provider meets one of the</u>	2400
<u>following:</u>	2401
<u>(i) Is certified for participation in the medicare</u>	2402
<u>program;</u>	2403
<u>(ii) Is accredited by the accreditation commission for</u>	2404
<u>health care, the community health accreditation partner, the</u>	2405
<u>joint commission, or another national accreditation organization</u>	2406
<u>approved by the United States centers for medicare and medicaid</u>	2407
<u>services and recognized by the department pursuant to rules</u>	2408
<u>adopted under section 3722.10 of the Revised Code;</u>	2409

(iii) To the extent authorized by rules adopted under 2410
section 3722.10 of the Revised Code, is either certified by the 2411
department of aging under section 173.391 of the Revised Code to 2412
provide community-based long-term care services or is certified 2413
by the department of developmental disabilities under section 2414
5123.161 of the Revised Code to provide supported living; 2415

(iv) Otherwise meets medicare conditions of participation, 2416
even though not certified for participation in the medicare 2417
program. 2418

(b) Evidence that the applicant was providing direct care 2419
on or immediately prior to the effective date of this section, 2420
or if the applicant was not providing direct care immediately 2421
prior to the effective date of this section, a surety bond 2422
issued by a company licensed to do business in this state in the 2423
amount of fifty thousand dollars. 2424

(c) An application fee in the amount of two hundred fifty 2425
dollars. 2426

(2) An applicant applying on the basis of division (A)(1) 2427
(a)(iv) of this section shall provide documentation and comply 2428
with conditions as prescribed by rules adopted under section 2429
3722.10 of the Revised Code. 2430

(B)(1) Except as provided in division (B)(2) of this 2431
section, a home health agency or nonagency provider seeking to 2432
provide nonmedical home health services shall apply to the 2433
department of health for a nonmedical home health services 2434
license. Except as provided in division (B)(3) of this section, 2435
the application shall include all of the following: 2436

(a) Fingerprint impressions of the primary owner of the 2437
home health agency or of the nonagency provider; 2438

<u>(b) Copies of any documents filed and recorded with the</u>	2439
<u>secretary of state;</u>	2440
<u>(c) A notarized affidavit verifying the identity of the</u>	2441
<u>applicant;</u>	2442
<u>(d) If the applicant is a home health agency, a copy of</u>	2443
<u>the agency's criminal records check policy;</u>	2444
<u>(e) A statement identifying the days and hours of</u>	2445
<u>operation for the applicant;</u>	2446
<u>(f) A description of the nonmedical home health services</u>	2447
<u>to be provided, and any policies and procedures related to those</u>	2448
<u>services, if applicable;</u>	2449
<u>(g) Identification of the applicant's primary place of</u>	2450
<u>business and a description of the geographic area to be served;</u>	2451
<u>(h) Evidence that the applicant was providing direct care</u>	2452
<u>on or immediately prior to the effective date of this section,</u>	2453
<u>or if the applicant was not providing direct care immediately</u>	2454
<u>prior to the effective date of this section, a surety bond</u>	2455
<u>issued by a company licensed to do business in this state in the</u>	2456
<u>amount of twenty thousand dollars;</u>	2457
<u>(i) An application fee in the amount of two hundred fifty</u>	2458
<u>dollars.</u>	2459
<u>(2) A home health agency or nonagency provider that holds</u>	2460
<u>a skilled home health services license issued under division (A)</u>	2461
<u>of this section may provide nonmedical home health services</u>	2462
<u>without obtaining a nonmedical home health services license.</u>	2463
<u>(3) To the extent authorized by rules adopted under</u>	2464
<u>section 3722.10 of the Revised Code, the director of health may</u>	2465
<u>waive receipt of one or more of the items identified in</u>	2466

divisions (B) (1) (a) to (g) of this section if the agency or 2467
provider submits evidence that the agency or provider is either 2468
certified by the department of aging under section 173.391 of 2469
the Revised Code to provide community-based long-term care 2470
services or is certified by the department of developmental 2471
disabilities under section 5123.161 of the Revised Code to 2472
provide supported living. 2473

(C) An applicant under this section shall use the 2474
application form prescribed by rules adopted under section 2475
3722.10 of the Revised Code and comply with license procedures 2476
established by those rules. 2477

Sec. 3722.04. The department of health shall review each 2478
license application received under section 3722.03 of the 2479
Revised Code. The department's review of the application shall 2480
include a site visit to verify that medicare conditions of 2481
participation are met if the applicant has not had such a site 2482
visit within the five-year period immediately preceding the date 2483
of the application. 2484

Except as provided in section 3722.07 of the Revised Code, 2485
the department shall issue the appropriate license to an 2486
applicant if the applicant has paid the application fee and 2487
demonstrated to the department's satisfaction that the 2488
requirements established under section 3722.03 of the Revised 2489
Code are met. 2490

Sec. 3722.05. (A) Except as provided in section 3722.07 of 2491
the Revised Code and in division (B) of this section, a license 2492
issued under section 3722.04 of the Revised Code is valid for 2493
three years. A person seeking to renew the license shall apply 2494
to the department of health using a license renewal form 2495
prescribed by rules adopted under section 3722.10 of the Revised 2496

Code and comply with any renewal application procedures 2497
established by those rules. The department shall review each 2498
application for license renewal and shall renew the license for 2499
three years if the applicant has paid the renewal fee of two 2500
hundred fifty dollars and demonstrated to the department's 2501
satisfaction that the applicant continues to meet the 2502
requirements established in section 3722.03 of the Revised Code. 2503

(B) The department may adjust an initial license renewal 2504
date to align renewal of a license issued under this chapter 2505
with the renewal of a certification or accreditation identified 2506
in divisions (A) (1) (a) (i) to (iii) of section 3722.03 of the 2507
Revised Code. 2508

Sec. 3722.07. (A) For any of the reasons established in 2509
rules adopted under section 3722.10 of the Revised Code, the 2510
department of health may take one or more of the following 2511
actions, as applicable, with respect to an applicant for or the 2512
holder of a license under this chapter: 2513

(1) Refuse to issue a license; 2514

(2) Refuse to renew or reinstate the holder's license; 2515

(3) Impose limitations on the holder's license; 2516

(4) Revoke or suspend the holder's license; 2517

(5) Place the license holder on probation with regard to 2518
the holder's license or otherwise reprimand the license holder. 2519

(B) All actions taken under this section shall be taken in 2520
accordance with Chapter 119. of the Revised Code. 2521

Sec. 3722.10. (A) The director of health shall adopt rules 2522
as the director considers necessary to implement this chapter, 2523
including rules that do all of the following: 2524

<u>(1) Prescribe license application forms and procedures;</u>	2525
<u>(2) Specify the extent to which either of the following certifications may satisfy the requirements for licensure set forth in section 3722.03 of the Revised Code, including any procedures, conditions, or limitations related to the manner in which the certifications may satisfy the requirements:</u>	2526
	2527
	2528
	2529
	2530
<u>(a) A certification by the department of aging under section 173.391 of the Revised Code to provide community-based long-term care services;</u>	2531
	2532
	2533
<u>(b) A certification by the department of developmental disabilities under section 5123.161 of the Revised Code to provide supported living.</u>	2534
	2535
	2536
<u>(3) Specify the documentation that must be provided and conditions that must be met by an applicant seeking a license on the basis of division (A) (1) (a) (iv) of section 3722.03 of the Revised Code;</u>	2537
	2538
	2539
	2540
<u>(4) Prescribe license renewal application forms and procedures;</u>	2541
	2542
<u>(5) Establish the reasons for which the department of health may take action under section 3722.07 of the Revised Code.</u>	2543
	2544
	2545
<u>(B) All rules adopted under this section shall be adopted in accordance with Chapter 119. of the Revised Code. In addition, the rules shall be adopted in consultation with the director of aging, director of developmental disabilities, and medicaid director.</u>	2546
	2547
	2548
	2549
	2550
Sec. 3701.881 3722.11. (A) As used in this section+	2551
(1) "Applicant", "applicant" means a person who is under	2552

final consideration for employment with a home health agency in 2553
a full-time, part-time, or temporary position that involves 2554
providing direct care to an individual or is referred to a home 2555
health agency by an employment service for such a position. 2556

~~(2) "Community-based long-term care provider" means a 2557
provider as defined in section 173.39 of the Revised Code. 2558~~

~~(3) "Community-based long-term care subcontractor" means a 2559
subcontractor as defined in section 173.38 of the Revised Code. 2560~~

~~(4) "Criminal records check" has the same meaning as in 2561
section 109.572 of the Revised Code. 2562~~

~~(5) "Direct care" means any of the following: 2563~~

~~(a) Any service identified in divisions (A) (8) (a) to (f) 2564
of this section that is provided in a patient's place of 2565
residence used as the patient's home; 2566~~

~~(b) Any activity that requires the person performing the 2567
activity to be routinely alone with a patient or to routinely 2568
have access to a patient's personal property or financial 2569
documents regarding a patient; 2570~~

~~(c) For each home health agency individually, any other 2571
routine service or activity that the chief administrator of the 2572
home health agency designates as direct care. 2573~~

~~(6) "Disqualifying offense" means any of the offenses 2574
listed or described in divisions (A) (3) (a) to (c) of section 2575
109.572 of the Revised Code. 2576~~

~~(7) "Employee" means a person employed by a home health 2577
agency in a full-time, part-time, or temporary position that 2578
involves providing direct care to an individual and a person who 2579
works in such a position due to being referred to a home health 2580~~

agency by an employment service.	2581
(8) "Home health agency" means a person or government	2582
entity, other than a nursing home, residential care facility,	2583
hospice care program, or pediatric respite care program, that	2584
has the primary function of providing any of the following	2585
services to a patient at a place of residence used as the	2586
patient's home:	2587
(a) Skilled nursing care;	2588
(b) Physical therapy;	2589
(c) Speech language pathology;	2590
(d) Occupational therapy;	2591
(e) Medical social services;	2592
(f) Home health aide services.	2593
(9) "Home health aide services" means any of the following	2594
services provided by an employee of a home health agency:	2595
(a) Hands-on bathing or assistance with a tub bath or	2596
shower;	2597
(b) Assistance with dressing, ambulation, and toileting;	2598
(c) Catheter care but not insertion;	2599
(d) Meal preparation and feeding.	2600
(10) "Hospice care program" and "pediatric respite care	2601
program" have the same meanings as in section 3712.01 of the	2602
Revised Code.	2603
(11) "Medical social services" means services provided by	2604
a social worker under the direction of a patient's attending	2605
physician.	2606

~~(12) "Minor drug possession offense" has the same meaning as in section 2925.01 of the Revised Code.~~ 2607
2608

~~(13) "Nursing home," "residential care facility," and "skilled nursing care" have the same meanings as in section 3721.01 of the Revised Code.~~ 2609
2610
2611

~~(14) "Occupational therapy" has the same meaning as in section 4755.04 of the Revised Code.~~ 2612
2613

~~(15) "Physical therapy" has the same meaning as in section 4755.40 of the Revised Code.~~ 2614
2615

~~(16) "Social worker" means a person licensed under Chapter 4757. of the Revised Code to practice as a social worker or independent social worker.~~ 2616
2617
2618

~~(17) "Speech language pathology" has the same meaning as in section 4753.01 of the Revised Code.~~ 2619
2620

~~(18) "Waiver agency" has the same meaning as in section 5164.342 of the Revised Code.~~ 2621
2622

(B) No home health agency shall employ an applicant or 2623
continue to employ an employee in a position that involves 2624
providing direct care to an individual if any of the following 2625
apply: 2626

(1) A review of the databases listed in division (D) of 2627
this section reveals any of the following: 2628

(a) That the applicant or employee is included in one or 2629
more of the databases listed in divisions (D) (1) to (5) of this 2630
section; 2631

(b) That there is in the state nurse aide registry 2632
established under section 3721.32 of the Revised Code a 2633

statement detailing findings by the director of health that the 2634
applicant or employee abused, neglected, or exploited a long- 2635
term care facility or residential care facility resident or 2636
misappropriated property of such a resident; 2637

(c) That the applicant or employee is included in one or 2638
more of the databases, if any, specified in rules adopted under 2639
this section and the rules prohibit the home health agency from 2640
employing an applicant or continuing to employ an employee 2641
included in such a database in a position that involves 2642
providing direct care to an individual. 2643

(2) After the applicant or employee is provided, pursuant 2644
to division (E) (2) (a) of this section, a copy of the form 2645
prescribed pursuant to division (C) (1) of section 109.572 of the 2646
Revised Code and the standard impression sheet prescribed 2647
pursuant to division (C) (2) of that section, the applicant or 2648
employee fails to complete the form or provide the applicant's 2649
or employee's fingerprint impressions on the standard impression 2650
sheet. 2651

(3) Except as provided in rules adopted under this 2652
section, the applicant or employee is found by a criminal 2653
records check required by this section to have been convicted 2654
of, pleaded guilty to, or been found eligible for intervention 2655
in lieu of conviction for a disqualifying offense. 2656

(C) Except as provided by division (F) of this section, 2657
the chief administrator of a home health agency shall inform 2658
each applicant of both of the following at the time of the 2659
applicant's initial application for employment or referral to 2660
the home health agency by an employment service for a position 2661
that involves providing direct care to an individual: 2662

(1) That a review of the databases listed in division (D) 2663
of this section will be conducted to determine whether the home 2664
health agency is prohibited by division (B) (1) of this section 2665
from employing the applicant in the position; 2666

(2) That, unless the database review reveals that the 2667
applicant may not be employed in the position, a criminal 2668
records check of the applicant will be conducted and the 2669
applicant is required to provide a set of the applicant's 2670
fingerprint impressions as part of the criminal records check. 2671

(D) As a condition of employing any applicant in a 2672
position that involves providing direct care to an individual, 2673
the chief administrator of a home health agency shall conduct a 2674
database review of the applicant in accordance with rules 2675
adopted under this section. If rules adopted under this section 2676
so require, the chief administrator of a home health agency 2677
shall conduct a database review of an employee in accordance 2678
with the rules as a condition of continuing to employ the 2679
employee in a position that involves providing direct care to an 2680
individual. However, the chief administrator is not required to 2681
conduct a database review of an applicant or employee if 2682
division (F) of this section applies. A database review shall 2683
determine whether the applicant or employee is included in any 2684
of the following: 2685

(1) The excluded parties list system that is maintained by 2686
the United States general services administration pursuant to 2687
subpart 9.4 of the federal acquisition regulation and available 2688
at the federal web site known as the system for award 2689
management; 2690

(2) The list of excluded individuals and entities 2691
maintained by the office of inspector general in the United 2692

States department of health and human services pursuant to the	2693
"Social Security Act," sections 1128 and 1156, 42 U.S.C. 1320a-7	2694
and 1320c-5;	2695
(3) The registry of developmental disabilities employees	2696
established under section 5123.52 of the Revised Code;	2697
(4) The internet-based sex offender and child-victim	2698
offender database established under division (A)(11) of section	2699
2950.13 of the Revised Code;	2700
(5) The internet-based database of inmates established	2701
under section 5120.66 of the Revised Code;	2702
(6) The state nurse aide registry established under	2703
section 3721.32 of the Revised Code;	2704
(7) Any other database, if any, specified in rules adopted	2705
under this section.	2706
(E)(1) As a condition of employing any applicant in a	2707
position that involves providing direct care to an individual,	2708
the chief administrator of a home health agency shall request	2709
the superintendent of the bureau of criminal identification and	2710
investigation to conduct a criminal records check of the	2711
applicant. If rules adopted under this section so require, the	2712
chief administrator of a home health agency shall request the	2713
superintendent to conduct a criminal records check of an	2714
employee at times specified in the rules as a condition of	2715
continuing to employ the employee in a position that involves	2716
providing direct care to an individual. However, the chief	2717
administrator is not required to request the criminal records	2718
check of the applicant or the employee if division (F) of this	2719
section applies or the home health agency is prohibited by	2720
division (B)(1) of this section from employing the applicant or	2721

continuing to employ the employee in a position that involves 2722
providing direct care to an individual. If an applicant or 2723
employee for whom a criminal records check request is required 2724
by this section does not present proof of having been a resident 2725
of this state for the five-year period immediately prior to the 2726
date upon which the criminal records check is requested or does 2727
not provide evidence that within that five-year period the 2728
superintendent has requested information about the applicant 2729
from the federal bureau of investigation in a criminal records 2730
check, the chief administrator shall request that the 2731
superintendent obtain information from the federal bureau of 2732
investigation as a part of the criminal records check. Even if 2733
an applicant or employee for whom a criminal records check 2734
request is required by this section presents proof that the 2735
applicant or employee has been a resident of this state for that 2736
five-year period, the chief administrator may request that the 2737
superintendent include information from the federal bureau of 2738
investigation in the criminal records check. 2739

(2) The chief administrator shall do all of the following: 2740

(a) Provide to each applicant and employee for whom a 2741
criminal records check request is required by this section a 2742
copy of the form prescribed pursuant to division (C)(1) of 2743
section 109.572 of the Revised Code and a standard impression 2744
sheet prescribed pursuant to division (C)(2) of that section; 2745

(b) Obtain the completed form and standard impression 2746
sheet from each applicant and employee; 2747

(c) Forward the completed form and standard impression 2748
sheet to the superintendent at the time the chief administrator 2749
requests the criminal records check. 2750

(3) A home health agency shall pay to the bureau of 2751
criminal identification and investigation the fee prescribed 2752
pursuant to division (C) (3) of section 109.572 of the Revised 2753
Code for each criminal records check the agency requests under 2754
this section. A home health agency may charge an applicant a fee 2755
not exceeding the amount the agency pays to the bureau under 2756
this section if both of the following apply: 2757

(a) The home health agency notifies the applicant at the 2758
time of initial application for employment of the amount of the 2759
fee and that, unless the fee is paid, the applicant will not be 2760
considered for employment. 2761

(b) The medicaid program does not reimburse the home 2762
health agency for the fee it pays to the bureau under this 2763
section. 2764

(F) Divisions (C) to (E) of this section do not apply with 2765
regard to an applicant or employee if the applicant or employee 2766
is referred to a home health agency by an employment service 2767
that supplies full-time, part-time, or temporary staff for 2768
positions that involve providing direct care to an individual 2769
and both of the following apply: 2770

(1) The chief administrator of the home health agency 2771
receives from the employment service confirmation that a review 2772
of the databases listed in division (D) of this section was 2773
conducted with regard to the applicant or employee. 2774

(2) The chief administrator of the home health agency 2775
receives from the employment service, applicant, or employee a 2776
report of the results of a criminal records check of the 2777
applicant or employee that has been conducted by the 2778
superintendent within the one-year period immediately preceding 2779

the following: 2780

(a) In the case of an applicant, the date of the 2781
applicant's referral by the employment service to the home 2782
health agency; 2783

(b) In the case of an employee, the date by which the home 2784
health agency would otherwise have to request a criminal records 2785
check of the employee under division (E) of this section. 2786

(G) (1) A home health agency may employ conditionally an 2787
applicant for whom a criminal records check request is required 2788
by this section before obtaining the results of the criminal 2789
records check if the agency is not prohibited by division (B) of 2790
this section from employing the applicant in a position that 2791
involves providing direct care to an individual and either of 2792
the following applies: 2793

(a) The chief administrator of the home health agency 2794
requests the criminal records check in accordance with division 2795
(E) of this section not later than five business days after the 2796
applicant begins conditional employment. 2797

(b) The applicant is referred to the home health agency by 2798
an employment service, the employment service or the applicant 2799
provides the chief administrator of the agency a letter that is 2800
on the letterhead of the employment service, the letter is dated 2801
and signed by a supervisor or another designated official of the 2802
employment service, and the letter states all of the following: 2803

(i) That the employment service has requested the 2804
superintendent to conduct a criminal records check regarding the 2805
applicant; 2806

(ii) That the requested criminal records check is to 2807
include a determination of whether the applicant has been 2808

convicted of, pleaded guilty to, or been found eligible for 2809
intervention in lieu of conviction for a disqualifying offense; 2810

(iii) That the employment service has not received the 2811
results of the criminal records check as of the date set forth 2812
on the letter; 2813

(iv) That the employment service promptly will send a copy 2814
of the results of the criminal records check to the chief 2815
administrator of the home health agency when the employment 2816
service receives the results. 2817

(2) If a home health agency employs an applicant 2818
conditionally pursuant to division (G) (1) (b) of this section, 2819
the employment service, on its receipt of the results of the 2820
criminal records check, promptly shall send a copy of the 2821
results to the chief administrator of the agency. 2822

(3) A home health agency that employs an applicant 2823
conditionally pursuant to division (G) (1) (a) or (b) of this 2824
section shall terminate the applicant's employment if the 2825
results of the criminal records check, other than the results of 2826
any request for information from the federal bureau of 2827
investigation, are not obtained within the period ending sixty 2828
days after the date the request for the criminal records check 2829
is made. Regardless of when the results of the criminal records 2830
check are obtained, if the results indicate that the applicant 2831
has been convicted of, pleaded guilty to, or been found eligible 2832
for intervention in lieu of conviction for a disqualifying 2833
offense, the home health agency shall terminate the applicant's 2834
employment unless circumstances specified in rules adopted under 2835
this section that permit the agency to employ the applicant 2836
exist and the agency chooses to employ the applicant. 2837
Termination of employment under this division shall be 2838

considered just cause for discharge for purposes of division (D) 2839
(2) of section 4141.29 of the Revised Code if the applicant 2840
makes any attempt to deceive the home health agency about the 2841
applicant's criminal record. 2842

(H) The report of any criminal records check conducted by 2843
the bureau of criminal identification and investigation in 2844
accordance with section 109.572 of the Revised Code and pursuant 2845
to a request made under this section is not a public record for 2846
the purposes of section 149.43 of the Revised Code and shall not 2847
be made available to any person other than the following: 2848

(1) The applicant or employee who is the subject of the 2849
criminal records check or the applicant's or employee's 2850
representative; 2851

(2) The home health agency requesting the criminal records 2852
check or its representative; 2853

(3) The administrator of any other facility, agency, or 2854
program that provides direct care to individuals that is owned 2855
or operated by the same entity that owns or operates the home 2856
health agency that requested the criminal records check; 2857

(4) The employment service that requested the criminal 2858
records check; 2859

(5) The director of health and the staff of the department 2860
of health who monitor a home health agency's compliance with 2861
this section; 2862

(6) The director of aging or the director's designee if 2863
either of the following apply: 2864

(a) In the case of a criminal records check requested by a 2865
home health agency, the home health agency also is a community- 2866

based long-term care provider or community-based long-term care
subcontractor; 2867
2868

(b) In the case of a criminal records check requested by 2869
an employment service, the employment service makes the request 2870
for an applicant or employee the employment service refers to a 2871
home health agency that also is a community-based long-term care 2872
provider or community-based long-term care subcontractor. 2873

(7) The medicaid director and the staff of the department 2874
of medicaid who are involved in the administration of the 2875
medicaid program if either of the following apply: 2876

(a) In the case of a criminal records check requested by a 2877
home health agency, the home health agency also is a waiver 2878
agency; 2879

(b) In the case of a criminal records check requested by 2880
an employment service, the employment service makes the request 2881
for an applicant or employee the employment service refers to a 2882
home health agency that also is a waiver agency. 2883

(8) Any court, hearing officer, or other necessary 2884
individual involved in a case dealing with any of the following: 2885

(a) A denial of employment of the applicant or employee; 2886

(b) Employment or unemployment benefits of the applicant 2887
or employee; 2888

(c) A civil or criminal action regarding the medicaid 2889
program. 2890

(I) In a tort or other civil action for damages that is 2891
brought as the result of an injury, death, or loss to person or 2892
property caused by an applicant or employee who a home health 2893
agency employs in a position that involves providing direct care 2894

to an individual, all of the following shall apply: 2895

(1) If the home health agency employed the applicant or 2896
employee in good faith and reasonable reliance on the report of 2897
a criminal records check requested under this section, the 2898
agency shall not be found negligent solely because of its 2899
reliance on the report, even if the information in the report is 2900
determined later to have been incomplete or inaccurate. 2901

(2) If the home health agency employed the applicant in 2902
good faith on a conditional basis pursuant to division (G) of 2903
this section, the agency shall not be found negligent solely 2904
because it employed the applicant prior to receiving the report 2905
of a criminal records check requested under this section. 2906

(3) If the home health agency in good faith employed the 2907
applicant or employee according to the personal character 2908
standards established in rules adopted under this section, the 2909
agency shall not be found negligent solely because the applicant 2910
or employee had been convicted of, pleaded guilty to, or been 2911
found eligible for intervention in lieu of conviction for a 2912
disqualifying offense. 2913

(J) The director of health shall adopt rules in accordance 2914
with Chapter 119. of the Revised Code to implement this section. 2915

(1) The rules may do the following: 2916

(a) Require employees to undergo database reviews and 2917
criminal records checks under this section; 2918

(b) If the rules require employees to undergo database 2919
reviews and criminal records checks under this section, exempt 2920
one or more classes of employees from the requirements; 2921

(c) For the purpose of division (D) (7) of this section, 2922

specify other databases that are to be checked as part of a 2923
database review conducted under this section. 2924

(2) The rules shall specify all of the following: 2925

(a) The procedures for conducting database reviews under 2926
this section; 2927

(b) If the rules require employees to undergo database 2928
reviews and criminal records checks under this section, the 2929
times at which the database reviews and criminal records checks 2930
are to be conducted; 2931

(c) If the rules specify other databases to be checked as 2932
part of the database reviews, the circumstances under which a 2933
home health agency is prohibited from employing an applicant or 2934
continuing to employ an employee who is found by a database 2935
review to be included in one or more of those databases; 2936

(d) Circumstances under which a home health agency may 2937
employ an applicant or employee who is found by a criminal 2938
records check required by this section to have been convicted 2939
of, pleaded guilty to, or been found eligible for intervention 2940
in lieu of conviction for a disqualifying offense but meets 2941
personal character standards. 2942

Sec. 3722.99. Whoever violates section 3722.02 of the 2943
Revised Code is guilty of a misdemeanor of the second degree on 2944
a first offense; for each subsequent offense, the person is 2945
guilty of a misdemeanor of the first degree. 2946

Sec. 4715.36. As used in this section and sections 2947
4715.361 to 4715.374 of the Revised Code: 2948

(A) "Accredited dental hygiene school" means a dental 2949
hygiene school accredited by the American dental association 2950

commission on dental accreditation or a dental hygiene school 2951
whose educational standards are recognized by the American 2952
dental association commission on dental accreditation and 2953
approved by the state dental board. 2954

(B) "Authorizing dentist" means a dentist who authorizes a 2955
dental hygienist to perform dental hygiene services under 2956
section 4715.365 of the Revised Code. 2957

(C) "Clinical evaluation" means a diagnosis and treatment 2958
plan formulated for an individual patient by a dentist. 2959

(D) "Dentist" means an individual licensed under this 2960
chapter to practice dentistry. 2961

(E) "Dental hygienist" means an individual licensed under 2962
this chapter to practice as a dental hygienist. 2963

(F) "Dental hygiene services" means the prophylactic, 2964
preventive, and other procedures that dentists are authorized by 2965
this chapter and rules of the state dental board to assign to 2966
dental hygienists, except for procedures while a patient is 2967
anesthetized, definitive root planing, definitive subgingival 2968
curettage, the administration of local anesthesia, and the 2969
procedures specified in rules adopted by the board as described 2970
in division (C) (3) of section 4715.22 of the Revised Code. 2971

(G) "Facility" means any of the following: 2972

(1) A health care facility, as defined in section 4715.22 2973
of the Revised Code; 2974

(2) A state correctional institution, as defined in 2975
section 2967.01 of the Revised Code; 2976

(3) A comprehensive child development program that 2977
receives funds distributed under the "Head Start Act," 95 Stat. 2978

499 (1981), 42 U.S.C. 9831, as amended, and is licensed as a	2979
child day-care center;	2980
(4) A residential facility licensed under section 5123.19	2981
of the Revised Code;	2982
(5) A public school, as defined in section 3701.93 of the	2983
Revised Code, located in an area designated as a dental health	2984
resource shortage area pursuant to section 3702.87 of the	2985
Revised Code;	2986
(6) A nonpublic school, as defined in section 3701.93 of	2987
the Revised Code, located in an area designated as a dental	2988
health resource shortage area pursuant to section 3702.87 of the	2989
Revised Code;	2990
(7) A federally qualified health center or federally	2991
qualified health center look-alike, as defined in section	2992
3701.047 of the Revised Code;	2993
(8) A shelter for victims of domestic violence, as defined	2994
in section 3113.33 of the Revised Code;	2995
(9) A facility operated by the department of youth	2996
services under Chapter 5139. of the Revised Code;	2997
(10) A foster home, as defined in section 5103.02 of the	2998
Revised Code;	2999
(11) A nonprofit clinic, as defined in section 3715.87 of	3000
the Revised Code;	3001
(12) The residence of one or more individuals receiving	3002
services provided by a home health agency, as defined in section	3003
3701.881 <u>3722.11</u> of the Revised Code;	3004
(13) A dispensary;	3005

(14) A health care facility, such as a clinic or hospital, of the United States department of veterans affairs;	3006 3007
(15) The residence of one or more individuals enrolled in a home and community-based services medicaid waiver component, as defined in section 5166.01 of the Revised Code;	3008 3009 3010
(16) A facility operated by the board of health of a city or general health district or the authority having the duties of a board of health under section 3709.05 of the Revised Code;	3011 3012 3013
(17) A women, infants, and children clinic;	3014
(18) A mobile dental facility, as defined in section 4715.70 of the Revised Code, located at any location listed in divisions (G) (1) to (17) of this section;	3015 3016 3017
(19) Any other location, as specified by the state dental board in rules adopted under section 4715.372 of the Revised Code, that is in an area designated as a dental health resource shortage area pursuant to section 3702.87 of the Revised Code and provides health care services to individuals who are medicaid recipients and to indigent and uninsured persons, as defined in section 2305.234 of the Revised Code.	3018 3019 3020 3021 3022 3023 3024
Sec. 4719.01. (A) As used in sections 4719.01 to 4719.18 of the Revised Code:	3025 3026
(1) "Affiliate" means a business entity that is owned by, operated by, controlled by, or under common control with another business entity.	3027 3028 3029
(2) "Communication" means a written or oral notification or advertisement that meets both of the following criteria, as applicable:	3030 3031 3032
(a) The notification or advertisement is transmitted by or	3033

on behalf of the seller of goods or services and by or through 3034
any printed, audio, video, cinematic, telephonic, or electronic 3035
means. 3036

(b) In the case of a notification or advertisement other 3037
than by telephone, either of the following conditions is met: 3038

(i) The notification or advertisement is followed by a 3039
telephone call from a telephone solicitor or salesperson. 3040

(ii) The notification or advertisement invites a response 3041
by telephone, and, during the course of that response, a 3042
telephone solicitor or salesperson attempts to make or makes a 3043
sale of goods or services. As used in division (A) (2) (b) (ii) of 3044
this section, "invites a response by telephone" excludes the 3045
mere listing or inclusion of a telephone number in a 3046
notification or advertisement. 3047

(3) "Gift, award, or prize" means anything of value that 3048
is offered or purportedly offered, or given or purportedly given 3049
by chance, at no cost to the receiver and with no obligation to 3050
purchase goods or services. As used in this division, "chance" 3051
includes a situation in which a person is guaranteed to receive 3052
an item and, at the time of the offer or purported offer, the 3053
telephone solicitor does not identify the specific item that the 3054
person will receive. 3055

(4) "Goods or services" means any real property or any 3056
tangible or intangible personal property, or services of any 3057
kind provided or offered to a person. "Goods or services" 3058
includes, but is not limited to, advertising; labor performed 3059
for the benefit of a person; personal property intended to be 3060
attached to or installed in any real property, regardless of 3061
whether it is so attached or installed; timeshare estates or 3062

licenses; and extended service contracts. 3063

(5) "Purchaser" means a person that is solicited to become 3064
or does become financially obligated as a result of a telephone 3065
solicitation. 3066

(6) "Salesperson" means an individual who is employed, 3067
appointed, or authorized by a telephone solicitor to make 3068
telephone solicitations but does not mean any of the following: 3069

(a) An individual who comes within one of the exemptions 3070
in division (B) of this section; 3071

(b) An individual employed, appointed, or authorized by a 3072
person who comes within one of the exemptions in division (B) of 3073
this section; 3074

(c) An individual under a written contract with a person 3075
who comes within one of the exemptions in division (B) of this 3076
section, if liability for all transactions with purchasers is 3077
assumed by the person so exempted. 3078

(7) "Telephone solicitation" means a communication to a 3079
person that meets both of the following criteria: 3080

(a) The communication is initiated by or on behalf of a 3081
telephone solicitor or by a salesperson. 3082

(b) The communication either represents a price or the 3083
quality or availability of goods or services or is used to 3084
induce the person to purchase goods or services, including, but 3085
not limited to, inducement through the offering of a gift, 3086
award, or prize. 3087

(8) "Telephone solicitor" means a person that engages in 3088
telephone solicitation directly or through one or more 3089
salespersons either from a location in this state, or from a 3090

location outside this state to persons in this state. "Telephone solicitor" includes, but is not limited to, any such person that is an owner, operator, officer, or director of, partner in, or other individual engaged in the management activities of, a business.

(B) A telephone solicitor is exempt from the provisions of sections 4719.02 to 4719.18 and section 4719.99 of the Revised Code if the telephone solicitor is any one of the following:

(1) A person engaging in a telephone solicitation that is a one-time or infrequent transaction not done in the course of a pattern of repeated transactions of a like nature;

(2) A person engaged in telephone solicitation solely for religious or political purposes; a charitable organization, fund-raising counsel, or professional solicitor in compliance with the registration and reporting requirements of Chapter 1716. of the Revised Code; or any person or other entity exempt under section 1716.03 of the Revised Code from filing a registration statement under section 1716.02 of the Revised Code;

(3) A person, making a telephone solicitation involving a home solicitation sale as defined in section 1345.21 of the Revised Code, that makes the sales presentation and completes the sale at a later, face-to-face meeting between the seller and the purchaser rather than during the telephone solicitation. However, if the person, following the telephone solicitation, causes another person to collect the payment of any money, this exemption does not apply.

(4) A licensed securities, commodities, or investment broker, dealer, investment advisor, or associated person when

making a telephone solicitation within the scope of the person's 3120
license. As used in division (B) (4) of this section, "licensed 3121
securities, commodities, or investment broker, dealer, 3122
investment advisor, or associated person" means a person subject 3123
to licensure or registration as such by the securities and 3124
exchange commission; the National Association of Securities 3125
Dealers or other self-regulatory organization, as defined by 15 3126
U.S.C.A. 78c; by the division of securities under Chapter 1707. 3127
of the Revised Code; or by an official or agency of any other 3128
state of the United States. 3129

(5) (a) A person primarily engaged in soliciting the sale 3130
of a newspaper of general circulation; 3131

(b) As used in division (B) (5) (a) of this section, 3132
"newspaper of general circulation" includes, but is not limited 3133
to, both of the following: 3134

(i) A newspaper that is a daily law journal designated as 3135
an official publisher of court calendars pursuant to section 3136
2701.09 of the Revised Code; 3137

(ii) A newspaper or publication that has at least twenty- 3138
five per cent editorial, non-advertising content, exclusive of 3139
inserts, measured relative to total publication space, and an 3140
audited circulation to at least fifty per cent of the households 3141
in the newspaper's retail trade zone as defined by the audit. 3142

(6) (a) An issuer, or its subsidiary, that has a class of 3143
securities to which all of the following apply: 3144

(i) The class of securities is subject to section 12 of 3145
the "Securities Exchange Act of 1934," 15 U.S.C.A. 781, and is 3146
registered or is exempt from registration under 15 U.S.C.A. 3147
781(g) (2) (A), (B), (C), (E), (F), (G), or (H); 3148

(ii) The class of securities is listed on the New York 3149
stock exchange, the American stock exchange, or the NASDAQ 3150
national market system; 3151

(iii) The class of securities is a reported security as 3152
defined in 17 C.F.R. 240.11Aa3-1(a)(4). 3153

(b) An issuer, or its subsidiary, that formerly had a 3154
class of securities that met the criteria set forth in division 3155
(B)(6)(a) of this section if the issuer, or its subsidiary, has 3156
a net worth in excess of one hundred million dollars, files or 3157
its parent files with the securities and exchange commission an 3158
S.E.C. form 10-K, and has continued in substantially the same 3159
business since it had a class of securities that met the 3160
criteria in division (B)(6)(a) of this section. As used in 3161
division (B)(6)(b) of this section, "issuer" and "subsidiary" 3162
include the successor to an issuer or subsidiary. 3163

(7) A person soliciting a transaction regulated by the 3164
commodity futures trading commission, if the person is 3165
registered or temporarily registered for that activity with the 3166
commission under 7 U.S.C.A. 1 et seq. and the registration or 3167
temporary registration has not expired or been suspended or 3168
revoked; 3169

(8) A person soliciting the sale of any book, record, 3170
audio tape, compact disc, or video, if the person allows the 3171
purchaser to review the merchandise for at least seven days and 3172
provides a full refund within thirty days to a purchaser who 3173
returns the merchandise or if the person solicits the sale on 3174
behalf of a membership club operating in compliance with 3175
regulations adopted by the federal trade commission in 16 C.F.R. 3176
425; 3177

(9) A supervised financial institution or its subsidiary.	3178
As used in division (B) (9) of this section, "supervised	3179
financial institution" means a bank, trust company, savings and	3180
loan association, savings bank, credit union, industrial loan	3181
company, consumer finance lender, commercial finance lender, or	3182
institution described in section 2(c) (2) (F) of the "Bank Holding	3183
Company Act of 1956," 12 U.S.C.A. 1841(c) (2) (F), as amended,	3184
supervised by an official or agency of the United States, this	3185
state, or any other state of the United States; or a licensee or	3186
registrant under sections 1321.01 to 1321.19, 1321.51 to	3187
1321.60, or 1321.71 to 1321.83, or Chapter 1322. of the Revised	3188
Code.	3189
(10) (a) An insurance company, association, or other	3190
organization that is licensed or authorized to conduct business	3191
in this state by the superintendent of insurance pursuant to	3192
Title XXXIX of the Revised Code or Chapter 1751. of the Revised	3193
Code, when soliciting within the scope of its license or	3194
authorization.	3195
(b) A licensed insurance broker, agent, or solicitor when	3196
soliciting within the scope of the person's license. As used in	3197
division (B) (10) (b) of this section, "licensed insurance broker,	3198
agent, or solicitor" means any person licensed as an insurance	3199
broker, agent, or solicitor by the superintendent of insurance	3200
pursuant to Title XXXIX of the Revised Code.	3201
(11) A person soliciting the sale of services provided by	3202
a cable television system operating under authority of a	3203
governmental franchise or permit;	3204
(12) A person soliciting a business-to-business sale under	3205
which any of the following conditions are met:	3206

(a) The telephone solicitor has been operating 3207
continuously for at least three years under the same business 3208
name under which it solicits purchasers, and at least fifty-one 3209
per cent of its gross dollar volume of sales consists of repeat 3210
sales to existing customers to whom it has made sales under the 3211
same business name. 3212

(b) The purchaser business intends to resell the goods 3213
purchased. 3214

(c) The purchaser business intends to use the goods or 3215
services purchased in a recycling, reuse, manufacturing, or 3216
remanufacturing process. 3217

(d) The telephone solicitor is a publisher of a periodical 3218
or of magazines distributed as controlled circulation 3219
publications as defined in division (CC) of section 5739.01 of 3220
the Revised Code and is soliciting sales of advertising, 3221
subscriptions, reprints, lists, information databases, 3222
conference participation or sponsorships, trade shows or media 3223
products related to the periodical or magazine, or other 3224
publishing services provided by the controlled circulation 3225
publication. 3226

(13) A person that, not less often than once each year, 3227
publishes and delivers to potential purchasers a catalog that 3228
complies with both of the following: 3229

(a) It includes all of the following: 3230

(i) The business address of the seller; 3231

(ii) A written description or illustration of each good or 3232
service offered for sale; 3233

(iii) A clear and conspicuous disclosure of the sale price 3234

of each good or service; shipping, handling, and other charges;	3235
and return policy.	3236
(b) One of the following applies:	3237
(i) The catalog includes at least twenty-four pages of	3238
written material and illustrations, is distributed in more than	3239
one state, and has an annual postage-paid mail circulation of	3240
not less than two hundred fifty thousand households;	3241
(ii) The catalog includes at least ten pages of written	3242
material or an equivalent amount of material in electronic form	3243
on the internet or an on-line computer service, the person does	3244
not solicit customers by telephone but solely receives telephone	3245
calls made in response to the catalog, and during the calls the	3246
person takes orders but does not engage in further solicitation	3247
of the purchaser. As used in division (B) (13) (b) (ii) of this	3248
section, "further solicitation" does not include providing the	3249
purchaser with information about, or attempting to sell, any	3250
other item in the catalog that prompted the purchaser's call or	3251
in a substantially similar catalog issued by the seller.	3252
(14) A political subdivision or instrumentality of the	3253
United States, this state, or any state of the United States;	3254
(15) A college or university or any other public or	3255
private institution of higher education in this state;	3256
(16) A public utility as defined in section 4905.02 of the	3257
Revised Code or a retail natural gas supplier as defined in	3258
section 4929.01 of the Revised Code, if the utility or supplier	3259
is subject to regulation by the public utilities commission, or	3260
the affiliate of the utility or supplier;	3261
(17) A person that solicits sales through a television	3262
program or advertisement that is presented in the same market	3263

area no fewer than twenty days per month or offers for sale no 3264
fewer than ten distinct items of goods or services; and offers 3265
to the purchaser an unconditional right to return any good or 3266
service purchased within a period of at least seven days and to 3267
receive a full refund within thirty days after the purchaser 3268
returns the good or cancels the service; 3269

(18) (a) A person that, for at least one year, has been 3270
operating a retail business under the same name as that used in 3271
connection with telephone solicitation and both of the following 3272
occur on a continuing basis: 3273

(i) The person either displays goods and offers them for 3274
retail sale at the person's business premises or offers services 3275
for sale and provides them at the person's business premises. 3276

(ii) At least fifty-one per cent of the person's gross 3277
dollar volume of retail sales involves purchases of goods or 3278
services at the person's business premises. 3279

(b) An affiliate of a person that meets the requirements 3280
in division (B) (18) (a) of this section if the affiliate meets 3281
all of the following requirements: 3282

(i) The affiliate has operated a retail business for a 3283
period of less than one year; 3284

(ii) The affiliate either displays goods and offers them 3285
for retail sale at the affiliate's business premises or offers 3286
services for sale and provides them at the affiliate's business 3287
premises; 3288

(iii) At least fifty-one per cent of the affiliate's gross 3289
dollar volume of retail sales involves purchases of goods or 3290
services at the affiliate's business premises. 3291

(c) A person that, for a period of less than one year, has
been operating a retail business in this state under the same
name as that used in connection with telephone solicitation, as
long as all of the following requirements are met:

(i) The person either displays goods and offers them for
retail sale at the person's business premises or offers services
for sale and provides them at the person's business premises;

(ii) The goods or services that are the subject of
telephone solicitation are sold at the person's business
premises, and at least sixty-five per cent of the person's gross
dollar volume of retail sales involves purchases of goods or
services at the person's business premises;

(iii) The person conducts all telephone solicitation
activities according to sections 310.3, 310.4, and 310.5 of the
telemarketing sales rule adopted by the federal trade commission
in 16 C.F.R. part 310.

(19) A person who performs telephone solicitation sales
services on behalf of other persons and to whom one of the
following applies:

(a) The person has operated under the same ownership,
control, and business name for at least five years, and the
person receives at least seventy-five per cent of its gross
revenues from written telephone solicitation contracts with
persons who come within one of the exemptions in division (B) of
this section.

(b) The person is an affiliate of one or more exempt
persons and makes telephone solicitations on behalf of only the
exempt persons of which it is an affiliate.

(c) The person makes telephone solicitations on behalf of

only exempt persons, the person and each exempt person on whose behalf telephone solicitations are made have entered into a written contract that specifies the manner in which the telephone solicitations are to be conducted and that at a minimum requires compliance with the telemarketing sales rule adopted by the federal trade commission in 16 C.F.R. part 310, and the person conducts the telephone solicitations in the manner specified in the written contract.

(d) The person performs telephone solicitation for religious or political purposes, a charitable organization, a fund-raising council, or a professional solicitor in compliance with the registration and reporting requirements of Chapter 1716. of the Revised Code; and meets all of the following requirements:

(i) The person has operated under the same ownership, control, and business name for at least five years, and the person receives at least fifty-one per cent of its gross revenues from written telephone solicitation contracts with persons who come within the exemption in division (B) (2) of this section;

(ii) The person does not conduct a prize promotion or offer the sale of an investment opportunity;

(iii) The person conducts all telephone solicitation activities according to sections 310.3, 310.4, and 310.5 of the telemarketing sales rules adopted by the federal trade commission in 16 C.F.R. part 310.

(20) A person that is a licensed real estate salesperson or broker under Chapter 4735. of the Revised Code when soliciting within the scope of the person's license;

(21) (a) Either of the following:	3350
(i) A publisher that solicits the sale of the publisher's periodical or magazine of general, paid circulation, or a person that solicits a sale of that nature on behalf of a publisher under a written agreement directly between the publisher and the person.	3351 3352 3353 3354 3355
(ii) A publisher that solicits the sale of the publisher's periodical or magazine of general, paid circulation, or a person that solicits a sale of that nature as authorized by a publisher under a written agreement directly with a publisher's clearinghouse provided the person is a resident of Ohio for more than three years and initiates all telephone solicitations from Ohio and the person conducts the solicitation and sale in compliance with 16 C.F.R. part 310, as adopted by the federal trade commission.	3356 3357 3358 3359 3360 3361 3362 3363 3364
(b) As used in division (B) (21) of this section, "periodical or magazine of general, paid circulation" excludes a periodical or magazine circulated only as part of a membership package or given as a free gift or prize from the publisher or person.	3365 3366 3367 3368 3369
(22) A person that solicits the sale of food, as defined in section 3715.01 of the Revised Code, or the sale of products of horticulture, as defined in section 5739.01 of the Revised Code, if the person does not intend the solicitation to result in, or the solicitation actually does not result in, a sale that costs the purchaser an amount greater than five hundred dollars.	3370 3371 3372 3373 3374 3375
(23) A funeral director licensed pursuant to Chapter 4717. of the Revised Code when soliciting within the scope of that license, if both of the following apply:	3376 3377 3378

(a) The solicitation and sale are conducted in compliance 3379
with 16 C.F.R. part 453, as adopted by the federal trade 3380
commission, and with sections 1107.33 and 1345.21 to 1345.28 of 3381
the Revised Code; 3382

(b) The person provides to the purchaser of any preneed 3383
funeral contract a notice that clearly and conspicuously sets 3384
forth the cancellation rights specified in division (G) of 3385
section 1107.33 of the Revised Code, and retains a copy of the 3386
notice signed by the purchaser. 3387

(24) A person, or affiliate thereof, licensed to sell or 3388
issue Ohio instruments designated as travelers checks pursuant 3389
to sections 1315.01 to 1315.18 of the Revised Code. 3390

(25) A person that solicits sales from its previous 3391
purchasers and meets all of the following requirements: 3392

(a) The solicitation is made under the same business name 3393
that was previously used to sell goods or services to the 3394
purchaser; 3395

(b) The person has, for a period of not less than three 3396
years, operated a business under the same business name as that 3397
used in connection with telephone solicitation; 3398

(c) The person does not conduct a prize promotion or offer 3399
the sale of an investment opportunity; 3400

(d) The person conducts all telephone solicitation 3401
activities according to sections 310.3, 310.4, and 310.5 of the 3402
telemarketing sales rules adopted by the federal trade 3403
commission in 16 C.F.R. part 310; 3404

(e) Neither the person nor any of its principals has been 3405
convicted of, pleaded guilty to, or has entered a plea of no 3406

contest for a felony or a theft offense as defined in sections 3407
2901.02 and 2913.01 of the Revised Code or similar law of 3408
another state or of the United States; 3409

(f) Neither the person nor any of its principals has had 3410
entered against them an injunction or a final judgment or order, 3411
including an agreed judgment or order, an assurance of voluntary 3412
compliance, or any similar instrument, in any civil or 3413
administrative action involving engaging in a pattern of corrupt 3414
practices, fraud, theft, embezzlement, fraudulent conversion, or 3415
misappropriation of property; the use of any untrue, deceptive, 3416
or misleading representation; or the use of any unfair, 3417
unlawful, deceptive, or unconscionable trade act or practice. 3418

(26) An institution defined as a home health agency in 3419
section ~~3701.881~~3722.01 of the Revised Code, that conducts all 3420
telephone solicitation activities according to sections 310.3, 3421
310.4, and 310.5 of the telemarketing sales rules adopted by the 3422
federal trade commission in 16 C.F.R. part 310, and engages in 3423
telephone solicitation only within the scope of the 3424
institution's certification, accreditation, contract with the 3425
department of aging, or status as a home health agency; and that 3426
meets one of the following requirements: 3427

(a) The institution is certified as a provider of home 3428
health services under Title XVIII of the Social Security Act, 49 3429
Stat. 620, 42 U.S.C. 301, as amended; 3430

(b) The institution is accredited by either the joint 3431
commission on accreditation of health care organizations or the 3432
community health accreditation program; 3433

(c) The institution is providing PASSPORT services under 3434
the direction of the department of aging under sections 173.52 3435

to 173.523 of the Revised Code; 3436

(d) An affiliate of an institution that meets the 3437
requirements of division (B) (26) (a), (b), or (c) of this section 3438
when offering for sale substantially the same goods and services 3439
as those that are offered by the institution that meets the 3440
requirements of division (B) (26) (a), (b), or (c) of this 3441
section. 3442

(27) A person licensed by the department of health 3443
pursuant to section 3712.04 or 3712.041 of the Revised Code to 3444
provide a hospice care program or pediatric respite care program 3445
when conducting telephone solicitations within the scope of the 3446
person's license and according to sections 310.3, 310.4, and 3447
310.5 of the telemarketing sales rules adopted by the federal 3448
trade commission in 16 C.F.R. part 310. 3449

Sec. 4723.431. (A) (1) An advanced practice registered 3450
nurse who is designated as a clinical nurse specialist, 3451
certified nurse-midwife, or certified nurse practitioner may 3452
practice only in accordance with a standard care arrangement 3453
entered into with each physician or podiatrist with whom the 3454
nurse collaborates. A copy of the standard care arrangement 3455
shall be retained on file by the nurse's employer. Prior 3456
approval of the standard care arrangement by the board of 3457
nursing is not required, but the board may periodically review 3458
it for compliance with this section. 3459

A clinical nurse specialist, certified nurse-midwife, or 3460
certified nurse practitioner may enter into a standard care 3461
arrangement with one or more collaborating physicians or 3462
podiatrists. If a collaborating physician or podiatrist enters 3463
into standard care arrangements with more than five nurses, the 3464
physician or podiatrist shall not collaborate at the same time 3465

with more than five nurses in the prescribing component of their practices. 3466
3467

Not later than thirty days after first engaging in the 3468
practice of nursing as a clinical nurse specialist, certified 3469
nurse-midwife, or certified nurse practitioner, the nurse shall 3470
submit to the board the name and business address of each 3471
collaborating physician or podiatrist. Thereafter, the nurse 3472
shall notify the board of any additions or deletions to the 3473
nurse's collaborating physicians or podiatrists. Except as 3474
provided in division (D) of this section, the notice must be 3475
provided not later than thirty days after the change takes 3476
effect. 3477

(2) All of the following conditions apply with respect to 3478
the practice of a collaborating physician or podiatrist with 3479
whom a clinical nurse specialist, certified nurse-midwife, or 3480
certified nurse practitioner may enter into a standard care 3481
arrangement: 3482

(a) The physician or podiatrist must be authorized to 3483
practice in this state. 3484

(b) Except as provided in division (A) (2) (c) of this 3485
section, the physician or podiatrist must be practicing in a 3486
specialty that is the same as or similar to the nurse's nursing 3487
specialty. 3488

(c) If the nurse is a clinical nurse specialist who is 3489
certified as a psychiatric-mental health CNS by the American 3490
nurses credentialing center or a certified nurse practitioner 3491
who is certified as a psychiatric-mental health NP by the 3492
American nurses credentialing center, the nurse may enter into a 3493
standard care arrangement with a physician but not a podiatrist 3494

and the collaborating physician must be practicing in one of the	3495
following specialties:	3496
(i) Psychiatry;	3497
(ii) Pediatrics;	3498
(iii) Primary care or family practice.	3499
(B) A standard care arrangement shall be in writing and	3500
shall contain all of the following:	3501
(1) Criteria for referral of a patient by the clinical	3502
nurse specialist, certified nurse-midwife, or certified nurse	3503
practitioner to a collaborating physician or podiatrist or	3504
another physician or podiatrist;	3505
(2) A process for the clinical nurse specialist, certified	3506
nurse-midwife, or certified nurse practitioner to obtain a	3507
consultation with a collaborating physician or podiatrist or	3508
another physician or podiatrist;	3509
(3) A plan for coverage in instances of emergency or	3510
planned absences of either the clinical nurse specialist,	3511
certified nurse-midwife, or certified nurse practitioner or a	3512
collaborating physician or podiatrist that provides the means	3513
whereby a physician or podiatrist is available for emergency	3514
care;	3515
(4) The process for resolution of disagreements regarding	3516
matters of patient management between the clinical nurse	3517
specialist, certified nurse-midwife, or certified nurse	3518
practitioner and a collaborating physician or podiatrist;	3519
(5) Any other criteria required by rule of the board	3520
adopted pursuant to section 4723.07 or 4723.50 of the Revised	3521
Code.	3522

(C) (1) A standard care arrangement entered into pursuant 3523
to this section may permit a clinical nurse specialist, 3524
certified nurse-midwife, or certified nurse practitioner to 3525
supervise services provided by a home health agency as defined 3526
in section ~~3701.881~~3722.01 of the Revised Code. 3527

(2) A standard care arrangement entered into pursuant to 3528
this section may permit a clinical nurse specialist, certified 3529
nurse-midwife, or certified nurse practitioner to admit a 3530
patient to a hospital in accordance with section 3727.06 of the 3531
Revised Code. 3532

(D) (1) Except as provided in division (D) (2) of this 3533
section, if a physician or podiatrist terminates the 3534
collaboration between the physician or podiatrist and a 3535
certified nurse-midwife, certified nurse practitioner, or 3536
clinical nurse specialist before their standard care arrangement 3537
expires, all of the following apply: 3538

(a) The physician or podiatrist must give the nurse 3539
written or electronic notice of the termination. 3540

(b) Once the nurse receives the termination notice, the 3541
nurse must notify the board of nursing of the termination as 3542
soon as practicable by submitting to the board a copy of the 3543
physician's or podiatrist's termination notice. 3544

(c) Notwithstanding the requirement of section 4723.43 of 3545
the Revised Code that the nurse practice in collaboration with a 3546
physician or podiatrist, the nurse may continue to practice 3547
under the existing standard care arrangement without a 3548
collaborating physician or podiatrist for not more than one 3549
hundred twenty days after submitting to the board a copy of the 3550
termination notice. 3551

(2) In the event that the collaboration between a 3552
physician or podiatrist and a certified nurse-midwife, certified 3553
nurse practitioner, or clinical nurse specialist terminates 3554
because of the physician's or podiatrist's death, the nurse must 3555
notify the board of the death as soon as practicable. The nurse 3556
may continue to practice under the existing standard care 3557
arrangement without a collaborating physician or podiatrist for 3558
not more than one hundred twenty days after notifying the board 3559
of the physician's or podiatrist's death. 3560

(E) Nothing in this section prohibits a hospital from 3561
hiring a clinical nurse specialist, certified nurse-midwife, or 3562
certified nurse practitioner as an employee and negotiating 3563
standard care arrangements on behalf of the employee as 3564
necessary to meet the requirements of this section. A standard 3565
care arrangement between the hospital's employee and the 3566
employee's collaborating physician is subject to approval by the 3567
medical staff and governing body of the hospital prior to 3568
implementation of the arrangement at the hospital. 3569

Sec. 4729.43. (A) As used in this section: 3570

(1) "Home health agency" has the same meaning as in 3571
section ~~3701.881~~3722.01 of the Revised Code. 3572

(2) "Hospice care program" and "hospice patient" have the 3573
same meanings as in section 3712.01 of the Revised Code. 3574

(B) With regard to a dangerous drug that is indicated for 3575
the treatment of cancer or a cancer-related illness, must be 3576
administered intravenously or by subcutaneous injection, and 3577
cannot reasonably be self-administered by the patient to whom 3578
the drug is prescribed or by an individual assisting the patient 3579
with the self-administration, a pharmacist shall not dispense 3580

the drug by delivering the drug directly to any of the following 3581
or causing the drug to be delivered directly to any of the 3582
following: 3583

(1) The patient; 3584

(2) The patient's representative, which may include the 3585
patient's guardian or a family member or friend of the patient; 3586

(3) The patient's private residence unless any of the 3587
following is the case: 3588

(a) The patient's private residence is a nursing home, 3589
residential care facility, rehabilitation facility, or similar 3590
institutional facility or health care facility. 3591

(b) If the patient is an adult and a hospice patient or 3592
client of a home health agency, the patient, the licensed health 3593
professional authorized to prescribe drugs who prescribed the 3594
drug to the patient, or an employee or agent of the prescriber 3595
has notified the pharmacist that the patient is a hospice 3596
patient or client of a home health agency and an employee or 3597
agent of the hospice care program or home health agency will be 3598
administering the drug to the patient. 3599

(c) If the patient is a minor and a hospice patient or 3600
client of a home health agency, either of the following has 3601
notified the pharmacist that the patient is a client of a home 3602
health agency and an employee or agent of the hospice care 3603
program or home health agency will be administering the drug to 3604
the patient: 3605

(i) The licensed health professional authorized to 3606
prescribe drugs who prescribed the drug to the patient or an 3607
employee or agent of the prescriber; 3608

(ii) The parent, guardian, or other person who has care or charge of the patient and is authorized to consent to medical treatment on behalf of the patient.

Sec. 5101.63. (A) (1) Any individual listed in division (A) (2) of this section having reasonable cause to believe that an adult is being abused, neglected, or exploited, or is in a condition which is the result of abuse, neglect, or exploitation shall immediately report such belief to the county department of job and family services.

(2) All of the following are subject to division (A) (1) of this section:

(a) An attorney admitted to the practice of law in this state;

(b) An individual authorized under Chapter 4731. of the Revised Code to practice medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery;

(c) An individual licensed under Chapter 4734. of the Revised Code as a chiropractor;

(d) An individual licensed under Chapter 4715. of the Revised Code as a dentist;

(e) An individual licensed under Chapter 4723. of the Revised Code as a registered nurse or licensed practical nurse;

(f) An individual licensed under Chapter 4732. of the Revised Code as a psychologist;

(g) An individual licensed under Chapter 4757. of the Revised Code as a social worker, independent social worker, professional counselor, professional clinical counselor, marriage and family therapist, or independent marriage and

family therapist;	3637
(h) An individual licensed under Chapter 4729. of the Revised Code as a pharmacist;	3638 3639
(i) An individual holding a certificate to practice as a dialysis technician issued under Chapter 4723. of the Revised Code;	3640 3641 3642
(j) An employee of a home health agency, as defined in section 3701.881 <u>3722.01</u> of the Revised Code;	3643 3644
(k) An employee of an outpatient health facility;	3645
(l) An employee of a hospital, as defined in section 3727.01 of the Revised Code;	3646 3647
(m) An employee of a hospital or public hospital, as defined in section 5122.01 of the Revised Code;	3648 3649
(n) An employee of a nursing home or residential care facility, as defined in section 3721.01 of the Revised Code;	3650 3651
(o) An employee of a residential facility licensed under section 5119.22 of the Revised Code that provides accommodations, supervision, and personal care services for three to sixteen unrelated adults;	3652 3653 3654 3655
(p) An employee of a health department operated by the board of health of a city or general health district or the authority having the duties of a board of health under section 3709.05 of the Revised Code;	3656 3657 3658 3659
(q) An employee of a community mental health agency, as defined in section 5122.01 of the Revised Code;	3660 3661
(r) An agent of a county humane society organized under section 1717.05 of the Revised Code;	3662 3663

(s) An individual who is a firefighter for a lawfully constituted fire department;	3664 3665
(t) An individual who is an ambulance driver for an emergency medical service organization, as defined in section 4765.01 of the Revised Code;	3666 3667 3668
(u) A first responder, emergency medical technician-basic, emergency medical technician-intermediate, or paramedic, as those terms are defined in section 4765.01 of the Revised Code;	3669 3670 3671
(v) An official employed by a local building department to conduct inspections of houses and other residential buildings;	3672 3673
(w) A peace officer;	3674
(x) A coroner;	3675
(y) A member of the clergy;	3676
(z) An individual who holds a certificate issued under Chapter 4701. of the Revised Code as a certified public accountant or is registered under that chapter as a public accountant;	3677 3678 3679 3680
(aa) An individual licensed under Chapter 4735. of the Revised Code as a real estate broker or real estate salesperson;	3681 3682
(bb) An individual appointed and commissioned under section 147.01 of the Revised Code as a notary public;	3683 3684
(cc) An employee of a bank, savings bank, savings and loan association, or credit union organized under the laws of this state, another state, or the United States;	3685 3686 3687
(dd) A dealer, investment adviser, sales person, or investment advisor representative licensed under Chapter 1707. of the Revised Code;	3688 3689 3690

(ee) A financial planner accredited by a national 3691
accreditation agency; 3692

(ff) Any other individual who is a senior service 3693
provider, other than a representative of the office of the state 3694
long-term care ombudsman program as defined in section 173.14 of 3695
the Revised Code. 3696

(B) Any person having reasonable cause to believe that an 3697
adult has suffered abuse, neglect, or exploitation may report, 3698
or cause a report to be made of such belief to the county 3699
department of job and family services. 3700

This division applies to a representative of the office of 3701
the state long-term care ombudsman program only to the extent 3702
permitted by federal law. 3703

(C) The reports made under this section shall be made 3704
orally or in writing except that oral reports shall be followed 3705
by a written report if a written report is requested by the 3706
department. Written reports shall include: 3707

(1) The name, address, and approximate age of the adult 3708
who is the subject of the report; 3709

(2) The name and address of the individual responsible for 3710
the adult's care, if any individual is, and if the individual is 3711
known; 3712

(3) The nature and extent of the alleged abuse, neglect, 3713
or exploitation of the adult; 3714

(4) The basis of the reporter's belief that the adult has 3715
been abused, neglected, or exploited. 3716

(D) Any person with reasonable cause to believe that an 3717
adult is suffering abuse, neglect, or exploitation who makes a 3718

report pursuant to this section or who testifies in any 3719
administrative or judicial proceeding arising from such a 3720
report, or any employee of the state or any of its subdivisions 3721
who is discharging responsibilities under section 5101.65 of the 3722
Revised Code shall be immune from civil or criminal liability on 3723
account of such investigation, report, or testimony, except 3724
liability for perjury, unless the person has acted in bad faith 3725
or with malicious purpose. 3726

(E) No employer or any other person with the authority to 3727
do so shall do any of the following as a result of an employee's 3728
having filed a report under this section: 3729

(1) Discharge, demote, transfer, or prepare a negative 3730
work performance evaluation; 3731

(2) Reduce benefits, pay, or work privileges; 3732

(3) Take any other action detrimental to an employee or in 3733
any way retaliate against the employee. 3734

(F) The written or oral report provided for in this 3735
section and the investigatory report provided for in section 3736
5101.65 of the Revised Code are confidential and are not public 3737
records, as defined in section 149.43 of the Revised Code. In 3738
accordance with rules adopted by the department of job and 3739
family services, information contained in the report shall upon 3740
request be made available to the adult who is the subject of the 3741
report and to legal counsel for the adult. If it determines that 3742
there is a risk of harm to a person who makes a report under 3743
this section or to the adult who is the subject of the report, 3744
the county department of job and family services may redact the 3745
name and identifying information related to the person who made 3746
the report. 3747

(G) The county department of job and family services shall 3748
be available to receive the written or oral report provided for 3749
in this section twenty-four hours a day and seven days a week. 3750

Sec. 5164.34. (A) As used in this section: 3751

(1) "Criminal records check" has the same meaning as in 3752
section 109.572 of the Revised Code. 3753

(2) "Disqualifying offense" means any of the offenses 3754
listed or described in divisions (A)(3)(a) to (e) of section 3755
109.572 of the Revised Code. 3756

(3) "Owner" means a person who has an ownership interest 3757
in a medicaid provider in an amount designated in rules 3758
authorized by this section. 3759

(4) "Person subject to the criminal records check 3760
requirement" means the following: 3761

(a) A medicaid provider who is notified under division (E) 3762
(1) of this section that the provider is subject to a criminal 3763
records check; 3764

(b) An owner or prospective owner, officer or prospective 3765
officer, or board member or prospective board member of a 3766
medicaid provider if, pursuant to division (E)(1)(a) of this 3767
section, the owner or prospective owner, officer or prospective 3768
officer, or board member or prospective board member is 3769
specified in information given to the provider under division 3770
(E)(1) of this section; 3771

(c) An employee or prospective employee of a medicaid 3772
provider if both of the following apply: 3773

(i) The employee or prospective employee is specified, 3774
pursuant to division (E)(1)(b) of this section, in information 3775

given to the provider under division (E) (1) of this section. 3776

(ii) The provider is not prohibited by division (D) (3) (b) 3777
of this section from employing the employee or prospective 3778
employee. 3779

(5) "Responsible entity" means the following: 3780

(a) With respect to a criminal records check required 3781
under this section for a medicaid provider, the department of 3782
medicaid or the department's designee; 3783

(b) With respect to a criminal records check required 3784
under this section for an owner or prospective owner, officer or 3785
prospective officer, board member or prospective board member, 3786
or employee or prospective employee of a medicaid provider, the 3787
provider. 3788

(B) This section does not apply to any of the following: 3789

(1) An individual who is subject to a criminal records 3790
check under section 3712.09, 3721.121, 5123.081, or 5123.169 of 3791
the Revised Code; 3792

(2) An individual who is subject to a database review or 3793
criminal records check under section 173.38, 173.381, ~~3701.881~~ 3794
3722.11, or 5164.342 of the Revised Code; 3795

(3) An individual who is an applicant or independent 3796
provider, both as defined in section 5164.341 of the Revised 3797
Code. 3798

(C) The department of medicaid may do any of the 3799
following: 3800

(1) Require that any medicaid provider submit to a 3801
criminal records check as a condition of obtaining or 3802

maintaining a provider agreement; 3803

(2) Require that any medicaid provider require an owner or 3804
prospective owner, officer or prospective officer, or board 3805
member or prospective board member of the provider submit to a 3806
criminal records check as a condition of being an owner, 3807
officer, or board member of the provider; 3808

(3) Require that any medicaid provider do the following: 3809

(a) If so required by rules authorized by this section, 3810
determine pursuant to a database review conducted under division 3811
(F) (1) (a) of this section whether any employee or prospective 3812
employee of the provider is included in a database; 3813

(b) Unless the provider is prohibited by division (D) (3) 3814
(b) of this section from employing the employee or prospective 3815
employee, require the employee or prospective employee to submit 3816
to a criminal records check as a condition of being an employee 3817
of the provider. 3818

(D) (1) The department or the department's designee shall 3819
deny or terminate a medicaid provider's provider agreement if 3820
the provider is a person subject to the criminal records check 3821
requirement and either of the following applies: 3822

(a) The provider fails to obtain the criminal records 3823
check after being given the information specified in division 3824
(G) (1) of this section. 3825

(b) Except as provided in rules authorized by this 3826
section, the provider is found by the criminal records check to 3827
have been convicted of or have pleaded guilty to a disqualifying 3828
offense, regardless of the date of the conviction or the date of 3829
entry of the guilty plea. 3830

(2) No medicaid provider shall permit a person to be an owner, officer, or board member of the provider if the person is a person subject to the criminal records check requirement and either of the following applies:

(a) The person fails to obtain the criminal records check after being given the information specified in division (G) (1) of this section.

(b) Except as provided in rules authorized by this section, the person is found by the criminal records check to have been convicted of or have pleaded guilty to a disqualifying offense, regardless of the date of the conviction or the date of entry of the guilty plea.

(3) Except as provided in division (I) of this section, no medicaid provider shall employ a person if any of the following apply:

(a) The person has been excluded from being a medicaid provider, a medicare provider, or provider for any other federal health care program.

(b) If the person is subject to a database review conducted under division (F) (1) (a) of this section, the person is found by the database review to be included in a database and the rules authorized by this section regarding the database review prohibit the provider from employing a person included in the database.

(c) If the person is a person subject to the criminal records check requirement, either of the following applies:

(i) The person fails to obtain the criminal records check after being given the information specified in division (G) (1) of this section.

(ii) Except as provided in rules authorized by this 3860
section, the person is found by the criminal records check to 3861
have been convicted of or have pleaded guilty to a disqualifying 3862
offense, regardless of the date of the conviction or the date of 3863
entry of the guilty plea. 3864

(E) (1) The department or the department's designee shall 3865
inform each medicaid provider whether the provider is subject to 3866
a criminal records check. For providers with valid provider 3867
agreements, the information shall be given at times designated 3868
in rules authorized by this section. For providers applying to 3869
be medicaid providers, the information shall be given at the 3870
time of initial application. When the information is given, the 3871
department or the department's designee shall specify the 3872
following: 3873

(a) Which of the provider's owners or prospective owners, 3874
officers or prospective officers, or board members or 3875
prospective board members are subject to a criminal records 3876
check; 3877

(b) Which of the provider's employees or prospective 3878
employees are subject to division (C) (3) of this section. 3879

(2) At times designated in rules authorized by this 3880
section, a medicaid provider that is a person subject to the 3881
criminal records check requirement shall do the following: 3882

(a) Inform each person specified under division (E) (1) (a) 3883
of this section that the person is required to submit to a 3884
criminal records check as a condition of being an owner, 3885
officer, or board member of the provider; 3886

(b) Inform each person specified under division (E) (1) (b) 3887
of this section that the person is subject to division (C) (3) of 3888

this section. 3889

(F) (1) If a medicaid provider is a person subject to the 3890
criminal records check requirement, the department or the 3891
department's designee shall require the conduct of a criminal 3892
records check by the superintendent of the bureau of criminal 3893
identification and investigation. A medicaid provider shall 3894
require the conduct of a criminal records check by the 3895
superintendent with respect to each of the persons specified 3896
under division (E) (1) (a) of this section. With respect to each 3897
employee and prospective employee specified under division (E) 3898
(1) (b) of this section, a medicaid provider shall do the 3899
following: 3900

(a) If rules authorized by this section require the 3901
provider to conduct a database review to determine whether the 3902
employee or prospective employee is included in a database, 3903
conduct the database review in accordance with the rules; 3904

(b) Unless the provider is prohibited by division (D) (3) 3905
(b) of this section from employing the employee or prospective 3906
employee, require the conduct of a criminal records check of the 3907
employee or prospective employee by the superintendent. 3908

(2) If a person subject to the criminal records check 3909
requirement does not present proof of having been a resident of 3910
this state for the five-year period immediately prior to the 3911
date the criminal records check is requested or provide evidence 3912
that within that five-year period the superintendent has 3913
requested information about the person from the federal bureau 3914
of investigation in a criminal records check, the responsible 3915
entity shall require the person to request that the 3916
superintendent obtain information from the federal bureau of 3917
investigation as part of the criminal records check of the 3918

person. Even if the person presents proof of having been a 3919
resident of this state for the five-year period, the responsible 3920
entity may require that the person request that the 3921
superintendent obtain information from the federal bureau of 3922
investigation and include it in the criminal records check of 3923
the person. 3924

(G) Criminal records checks required by this section shall 3925
be obtained as follows: 3926

(1) The responsible entity shall provide each person 3927
subject to the criminal records check requirement information 3928
about accessing and completing the form prescribed pursuant to 3929
division (C) (1) of section 109.572 of the Revised Code and the 3930
standard impression sheet prescribed pursuant to division (C) (2) 3931
of that section. 3932

(2) The person subject to the criminal records check 3933
requirement shall submit the required form and one complete set 3934
of the person's fingerprint impressions directly to the 3935
superintendent for purposes of conducting the criminal records 3936
check using the applicable methods prescribed by division (C) of 3937
section 109.572 of the Revised Code. The person shall pay all 3938
fees associated with obtaining the criminal records check. 3939

(3) The superintendent shall conduct the criminal records 3940
check in accordance with section 109.572 of the Revised Code. 3941
The person subject to the criminal records check requirement 3942
shall instruct the superintendent to submit the report of the 3943
criminal records check directly to the responsible entity. If 3944
the department or the department's designee is not the 3945
responsible entity, the department or designee may require the 3946
responsible entity to submit the report to the department or 3947
designee. 3948

(H) (1) A medicaid provider may employ conditionally a 3949
person for whom a criminal records check is required by this 3950
section prior to obtaining the results of the criminal records 3951
check if both of the following apply: 3952

(a) The provider is not prohibited by division (D) (3) (b) 3953
of this section from employing the person. 3954

(b) The person submits a request for the criminal records 3955
check not later than five business days after the person begins 3956
conditional employment. 3957

(2) Except as provided in division (I) of this section, a 3958
medicaid provider that employs a person conditionally under 3959
division (H) (1) of this section shall terminate the person's 3960
employment if either of the following apply: 3961

(a) The results of the criminal records check request are 3962
not obtained within the period ending sixty days after the date 3963
the request is made. 3964

(b) Regardless of when the results of the criminal records 3965
check are obtained, the results indicate that the person has 3966
been convicted of or has pleaded guilty to a disqualifying 3967
offense, unless circumstances specified in rules authorized by 3968
this section exist that permit the provider to employ the person 3969
and the provider chooses to employ the person. 3970

(I) As used in this division, "behavioral health services" 3971
means alcohol and drug addiction services, mental health 3972
services, or both. 3973

A medicaid provider of behavioral health services may 3974
choose to employ a person who the provider would be prohibited 3975
by division (D) (3) of this section from employing or would be 3976
required by division (H) (2) of this section to terminate the 3977

person's employment if both of the following apply: 3978

(1) The person holds a valid health professional license 3979
issued under the Revised Code granting the person authority to 3980
provide behavioral health services, holds a valid peer recovery 3981
supporter certificate issued pursuant to rules adopted by the 3982
department of mental health and addiction services, or is in the 3983
process of obtaining such a license or certificate. 3984

(2) The provider does not submit any medicaid claims for 3985
any services the person provides. 3986

(J) The report of a criminal records check conducted 3987
pursuant to this section is not a public record for the purposes 3988
of section 149.43 of the Revised Code and shall not be made 3989
available to any person other than the following: 3990

(1) The person who is the subject of the criminal records 3991
check or the person's representative; 3992

(2) The medicaid director and the staff of the department 3993
who are involved in the administration of the medicaid program; 3994

(3) The department's designee; 3995

(4) The medicaid provider who required the person who is 3996
the subject of the criminal records check to submit to the 3997
criminal records check; 3998

(5) An individual receiving or deciding whether to 3999
receive, from the subject of the criminal records check, home 4000
and community-based services available under the medicaid state 4001
plan; 4002

(6) A court, hearing officer, or other necessary 4003
individual involved in a case dealing with any of the following: 4004

(a) The denial or termination of a provider agreement;	4005
(b) A person's denial of employment, termination of employment, or employment or unemployment benefits;	4006 4007
(c) A civil or criminal action regarding the medicaid program.	4008 4009
(K) The medicaid director may adopt rules under section 5164.02 of the Revised Code to implement this section. If the director adopts such rules, the rules shall designate the times at which a criminal records check must be conducted under this section. The rules may do any of the following:	4010 4011 4012 4013 4014
(1) Designate the categories of persons who are subject to a criminal records check under this section;	4015 4016
(2) Specify circumstances under which the department or the department's designee may continue a provider agreement or issue a provider agreement when the medicaid provider is found by a criminal records check to have been convicted of or pleaded guilty to a disqualifying offense;	4017 4018 4019 4020 4021
(3) Specify circumstances under which a medicaid provider may permit a person to be an employee, owner, officer, or board member of the provider when the person is found by a criminal records check conducted pursuant to this section to have been convicted of or have pleaded guilty to a disqualifying offense;	4022 4023 4024 4025 4026
(4) Specify all of the following:	4027
(a) The circumstances under which a database review must be conducted under division (F) (1) (a) of this section to determine whether an employee or prospective employee of a medicaid provider is included in a database;	4028 4029 4030 4031
(b) The procedures for conducting the database review;	4032

(c) The databases that are to be checked;	4033
(d) The circumstances under which, except as provided in division (I) of this section, a medicaid provider is prohibited from employing a person who is found by the database review to be included in a database.	4034 4035 4036 4037
Sec. 5164.342. (A) As used in this section:	4038
"Applicant" means a person who is under final consideration for employment with a waiver agency in a full-time, part-time, or temporary position that involves providing home and community-based services.	4039 4040 4041 4042
"Community-based long-term care provider" means a provider as defined in section 173.39 of the Revised Code.	4043 4044
"Community-based long-term care subcontractor" means a subcontractor as defined in section 173.38 of the Revised Code.	4045 4046
"Criminal records check" has the same meaning as in section 109.572 of the Revised Code.	4047 4048
"Disqualifying offense" means any of the offenses listed or described in divisions (A) (3) (a) to (e) of section 109.572 of the Revised Code.	4049 4050 4051
"Employee" means a person employed by a waiver agency in a full-time, part-time, or temporary position that involves providing home and community-based services.	4052 4053 4054
"Waiver agency" means a person or government entity that provides home and community-based services under a home and community-based services medicaid waiver component administered by the department of medicaid, other than such a person or government entity that is certified under the medicare program.	4055 4056 4057 4058 4059
"Waiver agency" does not mean an independent provider as defined	4060

in section 5164.341 of the Revised Code. 4061

(B) This section does not apply to any individual who is 4062
subject to a database review or criminal records check under 4063
section ~~3701.881~~3722.11 of the Revised Code. If a waiver agency 4064
also is a community-based long-term care provider or community- 4065
based long-term care subcontractor, the waiver agency may 4066
provide for any of its applicants and employees who are not 4067
subject to database reviews and criminal records checks under 4068
section 173.38 of the Revised Code to undergo database reviews 4069
and criminal records checks in accordance with that section 4070
rather than this section. 4071

(C) No waiver agency shall employ an applicant or continue 4072
to employ an employee in a position that involves providing home 4073
and community-based services if any of the following apply: 4074

(1) A review of the databases listed in division (E) of 4075
this section reveals any of the following: 4076

(a) That the applicant or employee is included in one or 4077
more of the databases listed in divisions (E) (1) to (5) of this 4078
section; 4079

(b) That there is in the state nurse aide registry 4080
established under section 3721.32 of the Revised Code a 4081
statement detailing findings by the director of health that the 4082
applicant or employee abused, neglected, or exploited a long- 4083
term care facility or residential care facility resident or 4084
misappropriated property of such a resident; 4085

(c) That the applicant or employee is included in one or 4086
more of the databases, if any, specified in rules authorized by 4087
this section and the rules prohibit the waiver agency from 4088
employing an applicant or continuing to employ an employee 4089

included in such a database in a position that involves 4090
providing home and community-based services. 4091

(2) After the applicant or employee is given the 4092
information and notification required by divisions (F) (2) (a) and 4093
(b) of this section, the applicant or employee fails to do 4094
either of the following: 4095

(a) Access, complete, or forward to the superintendent of 4096
the bureau of criminal identification and investigation the form 4097
prescribed to division (C) (1) of section 109.572 of the Revised 4098
Code or the standard impression sheet prescribed pursuant to 4099
division (C) (2) of that section; 4100

(b) Instruct the superintendent to submit the completed 4101
report of the criminal records check required by this section 4102
directly to the chief administrator of the waiver agency. 4103

(3) Except as provided in rules authorized by this 4104
section, the applicant or employee is found by a criminal 4105
records check required by this section to have been convicted of 4106
or have pleaded guilty to a disqualifying offense, regardless of 4107
the date of the conviction or date of entry of the guilty plea. 4108

(D) At the time of each applicant's initial application 4109
for employment in a position that involves providing home and 4110
community-based services, the chief administrator of a waiver 4111
agency shall inform the applicant of both of the following: 4112

(1) That a review of the databases listed in division (E) 4113
of this section will be conducted to determine whether the 4114
waiver agency is prohibited by division (C) (1) of this section 4115
from employing the applicant in the position; 4116

(2) That, unless the database review reveals that the 4117
applicant may not be employed in the position, a criminal 4118

records check of the applicant will be conducted and the 4119
applicant is required to provide a set of the applicant's 4120
fingerprint impressions as part of the criminal records check. 4121

(E) As a condition of employing any applicant in a 4122
position that involves providing home and community-based 4123
services, the chief administrator of a waiver agency shall 4124
conduct a database review of the applicant in accordance with 4125
rules authorized by this section. If rules authorized by this 4126
section so require, the chief administrator of a waiver agency 4127
shall conduct a database review of an employee in accordance 4128
with the rules as a condition of continuing to employ the 4129
employee in a position that involves providing home and 4130
community-based services. A database review shall determine 4131
whether the applicant or employee is included in any of the 4132
following: 4133

(1) The excluded parties list system that is maintained by 4134
the United States general services administration pursuant to 4135
subpart 9.4 of the federal acquisition regulation and available 4136
at the federal web site known as the system for award 4137
management; 4138

(2) The list of excluded individuals and entities 4139
maintained by the office of inspector general in the United 4140
States department of health and human services pursuant to the 4141
"Social Security Act," sections 1128 and 1156, 42 U.S.C. 1320a-7 4142
and 1320c-5; 4143

(3) The registry of developmental disabilities employees 4144
established under section 5123.52 of the Revised Code; 4145

(4) The internet-based sex offender and child-victim 4146
offender database established under division (A)(11) of section 4147

2950.13 of the Revised Code; 4148

(5) The internet-based database of inmates established 4149
under section 5120.66 of the Revised Code; 4150

(6) The state nurse aide registry established under 4151
section 3721.32 of the Revised Code; 4152

(7) Any other database, if any, specified in rules 4153
authorized by this section. 4154

(F) (1) As a condition of employing any applicant in a 4155
position that involves providing home and community-based 4156
services, the chief administrator of a waiver agency shall 4157
require the applicant to request that the superintendent of the 4158
bureau of criminal identification and investigation conduct a 4159
criminal records check of the applicant. If rules authorized by 4160
this section so require, the chief administrator of a waiver 4161
agency shall require an employee to request that the 4162
superintendent conduct a criminal records check of the employee 4163
at times specified in the rules as a condition of continuing to 4164
employ the employee in a position that involves providing home 4165
and community-based services. However, a criminal records check 4166
is not required for an applicant or employee if the waiver 4167
agency is prohibited by division (C) (1) of this section from 4168
employing the applicant or continuing to employ the employee in 4169
a position that involves providing home and community-based 4170
services. If an applicant or employee for whom a criminal 4171
records check request is required by this section does not 4172
present proof of having been a resident of this state for the 4173
five-year period immediately prior to the date the criminal 4174
records check is requested or provide evidence that within that 4175
five-year period the superintendent has requested information 4176
about the applicant or employee from the federal bureau of 4177

investigation in a criminal records check, the chief 4178
administrator shall require the applicant or employee to request 4179
that the superintendent obtain information from the federal 4180
bureau of investigation as part of the criminal records check. 4181
Even if an applicant or employee for whom a criminal records 4182
check request is required by this section presents proof of 4183
having been a resident of this state for the five-year period, 4184
the chief administrator may require the applicant or employee to 4185
request that the superintendent include information from the 4186
federal bureau of investigation in the criminal records check. 4187

(2) The chief administrator shall provide the following to 4188
each applicant and employee for whom a criminal records check is 4189
required by this section: 4190

(a) Information about accessing, completing, and 4191
forwarding to the superintendent of the bureau of criminal 4192
identification and investigation the form prescribed pursuant to 4193
division (C)(1) of section 109.572 of the Revised Code and the 4194
standard impression sheet prescribed pursuant to division (C)(2) 4195
of that section; 4196

(b) Written notification that the applicant or employee is 4197
to instruct the superintendent to submit the completed report of 4198
the criminal records check directly to the chief administrator. 4199

(3) A waiver agency shall pay to the bureau of criminal 4200
identification and investigation the fee prescribed pursuant to 4201
division (C)(3) of section 109.572 of the Revised Code for any 4202
criminal records check required by this section. However, a 4203
waiver agency may require an applicant to pay to the bureau the 4204
fee for a criminal records check of the applicant. If the waiver 4205
agency pays the fee for an applicant, it may charge the 4206
applicant a fee not exceeding the amount the waiver agency pays 4207

to the bureau under this section if the waiver agency notifies 4208
the applicant at the time of initial application for employment 4209
of the amount of the fee and that, unless the fee is paid, the 4210
applicant will not be considered for employment. 4211

(G) (1) A waiver agency may employ conditionally an 4212
applicant for whom a criminal records check is required by this 4213
section prior to obtaining the results of the criminal records 4214
check if both of the following apply: 4215

(a) The waiver agency is not prohibited by division (C) (1) 4216
of this section from employing the applicant in a position that 4217
involves providing home and community-based services. 4218

(b) The chief administrator of the waiver agency requires 4219
the applicant to request a criminal records check regarding the 4220
applicant in accordance with division (F) (1) of this section not 4221
later than five business days after the applicant begins 4222
conditional employment. 4223

(2) A waiver agency that employs an applicant 4224
conditionally under division (G) (1) of this section shall 4225
terminate the applicant's employment if the results of the 4226
criminal records check, other than the results of any request 4227
for information from the federal bureau of investigation, are 4228
not obtained within the period ending sixty days after the date 4229
the request for the criminal records check is made. Regardless 4230
of when the results of the criminal records check are obtained, 4231
if the results indicate that the applicant has been convicted of 4232
or has pleaded guilty to a disqualifying offense, the waiver 4233
agency shall terminate the applicant's employment unless 4234
circumstances specified in rules authorized by this section 4235
exist that permit the waiver agency to employ the applicant and 4236
the waiver agency chooses to employ the applicant. 4237

- (H) The report of any criminal records check conducted 4238
pursuant to a request made under this section is not a public 4239
record for the purposes of section 149.43 of the Revised Code 4240
and shall not be made available to any person other than the 4241
following: 4242
- (1) The applicant or employee who is the subject of the 4243
criminal records check or the representative of the applicant or 4244
employee; 4245
- (2) The chief administrator of the waiver agency that 4246
requires the applicant or employee to request the criminal 4247
records check or the administrator's representative; 4248
- (3) The medicaid director and the staff of the department 4249
who are involved in the administration of the medicaid program; 4250
- (4) The director of aging or the director's designee if 4251
the waiver agency also is a community-based long-term care 4252
provider or community-based long-term care subcontractor; 4253
- (5) An individual receiving or deciding whether to receive 4254
home and community-based services from the subject of the 4255
criminal records check; 4256
- (6) A court, hearing officer, or other necessary 4257
individual involved in a case dealing with any of the following: 4258
- (a) A denial of employment of the applicant or employee; 4259
- (b) Employment or unemployment benefits of the applicant 4260
or employee; 4261
- (c) A civil or criminal action regarding the medicaid 4262
program. 4263
- (I) The medicaid director shall adopt rules under section 4264

5164.02 of the Revised Code to implement this section.	4265
(1) The rules may do the following:	4266
(a) Require employees to undergo database reviews and criminal records checks under this section;	4267 4268
(b) If the rules require employees to undergo database reviews and criminal records checks under this section, exempt one or more classes of employees from the requirements;	4269 4270 4271
(c) For the purpose of division (E)(7) of this section, specify other databases that are to be checked as part of a database review conducted under this section.	4272 4273 4274
(2) The rules shall specify all of the following:	4275
(a) The procedures for conducting a database review under this section;	4276 4277
(b) If the rules require employees to undergo database reviews and criminal records checks under this section, the times at which the database reviews and criminal records checks are to be conducted;	4278 4279 4280 4281
(c) If the rules specify other databases to be checked as part of a database review, the circumstances under which a waiver agency is prohibited from employing an applicant or continuing to employ an employee who is found by the database review to be included in one or more of those databases;	4282 4283 4284 4285 4286
(d) The circumstances under which a waiver agency may employ an applicant or employee who is found by a criminal records check required by this section to have been convicted of or have pleaded guilty to a disqualifying offense.	4287 4288 4289 4290
(J) The amendments made by H.B. 487 of the 129th general	4291

assembly to this section do not preclude the department of 4292
medicaid from taking action against a person for failure to 4293
comply with former division (H) of this section as that division 4294
existed on the day preceding January 1, 2013. 4295

Section 2. That existing sections 109.57, 109.572, 173.38, 4296
173.381, 1337.11, 2133.01, 2317.54, 3701.362, 3701.881, 4297
3701.916, 3721.02, 4715.36, 4719.01, 4723.431, 4729.43, 5101.63, 4298
5164.34, and 5164.342 of the Revised Code are hereby repealed. 4299

Section 3. The General Assembly, applying the principle 4300
stated in division (B) of section 1.52 of the Revised Code that 4301
amendments are to be harmonized if reasonably capable of 4302
simultaneous operation, finds that the following sections, 4303
presented in this act as composites of the sections as amended 4304
by the acts indicated, are the resulting versions of the 4305
sections in effect prior to the effective date of the sections 4306
as presented in this act: 4307

Section 109.572 of the Revised Code as amended by both 4308
H.B. 263 and S.B. 260 of the 133rd General Assembly. 4309

Section 2317.54 of the Revised Code as amended by both 4310
H.B. 49 of the 132nd General Assembly and H.B. 166 of the 133rd 4311
General Assembly. 4312