

1 individuals in their own homes as an employee or contract provider
2 of a home health or home care agency, or as a contract provider of
3 the Medicaid State Plan Personal Care Program;

4 2. "Employer" means any of the following facilities, homes,
5 agencies, or programs which are subject to the provision of this
6 section:

- 7 a. a nursing facility or specialized facility as such
8 terms are defined in the Nursing Home Care Act,
- 9 b. a residential care home as such term is defined by the
10 Residential Care Act,
- 11 c. an adult day care center as such term is defined in
12 the Adult Day Care Act,
- 13 d. an assisted living center as such term is defined by
14 the Continuum of Care and Assisted Living Act,
- 15 e. a continuum of care facility as such term is defined
16 by the Continuum of Care and Assisted Living Act,
- 17 f. a home health or home care agency,
- 18 g. the Department of Human Services, in its capacity as
19 an operator of any hospital or health care institution
20 or as a contractor with providers under the Medicaid
21 State Plan Personal Care Program,
- 22 h. any facility operated by the Oklahoma Department of
23 Veterans Affairs, and

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1 i. any facility approved and annually reviewed by the
2 United States Department of Veterans Affairs as a
3 medical foster home in which care is provided
4 exclusively to three or fewer veterans;

5 3. "Home health or home care agency" means any person,
6 partnership, association, corporation, or other organization which
7 administers, offers, or provides health care services or supportive
8 assistance for compensation to three or more ill, disabled, or
9 infirm persons in the temporary or permanent residence of such
10 persons, and includes any subunits or branch offices of a parent
11 home health or home care agency;

12 4. "Bureau" means the Oklahoma State Bureau of Investigation;
13 and

14 5. "Completion of the sentence" means the last day of the
15 entire term of the incarceration imposed by the sentence including
16 any term that is deferred, suspended, or subject to parole.

17 B. Before ~~any employer makes an offer to employ or to contract~~
18 ~~with~~ a nurse aide begins employment or a contract to provide nursing
19 care, health-related services, or supportive assistance to any
20 individual, the employer shall provide for a criminal history
21 background check to be made on the nurse aide pursuant to the
22 provisions of the ~~Long-Term~~ Long-term Care Security Act. If the
23 employer is a facility, home, or institution which is part of a
24 larger complex of buildings, the requirement of a criminal history

1 background check shall apply only to an offer of employment or
2 contract made to a person who will work primarily in the immediate
3 boundaries of the facility, home, or institution.

4 Where the provisions of the ~~Long-Term~~ Long-term Care Security
5 Act pertaining to registry screenings and national criminal history
6 record ~~check~~ checks are not in effect pending an effective date
7 established in rulemaking, an employer is authorized to obtain any
8 criminal history background records maintained by the Bureau
9 pursuant to the following:

10 1. The employer shall request the Bureau to conduct a criminal
11 history background check on the nurse aide and shall provide to the
12 Bureau any relevant information required by the Bureau to conduct
13 the check. The employer shall pay a fee of Fifteen Dollars (\$15.00)
14 to the Bureau for each criminal history background check that is
15 conducted pursuant to such a request;

16 2. An employer may make an offer of temporary employment to a
17 nurse aide pending the results of the criminal history background
18 check. The employer in such instance shall provide to the Bureau
19 the name and relevant information relating to the person within
20 seventy-two (72) hours after the date the person accepts temporary
21 employment. The employer shall not hire or contract with the nurse
22 aide on a permanent basis until the results of the criminal history
23 background check are received;

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1 3. An employer may accept a criminal history background report
2 less than one (1) year old of a person to whom such employer makes
3 an offer of employment. The report shall be obtained from the
4 previous employer or contractor of such person and shall only be
5 obtained upon the written consent of such person; and

6 4. Every employer while subject to the provisions of this
7 subsection shall inform each applicant for employment, or each
8 prospective contract provider, as applicable, that the employer is
9 required to obtain a criminal history background record before
10 making an offer of permanent employment or contract to a nurse aide.

11 C. 1. If the results of a criminal history background check
12 reveal that the subject person has been convicted of, pled guilty or
13 no contest to, or received a deferred sentence for, a felony or
14 misdemeanor offense for any of the following offenses in any state
15 or federal jurisdiction, the employer shall not hire or contract
16 with the person:

17 a. abuse, neglect, or financial exploitation of any
18 person entrusted to the care or possession of such
19 person,

20 b. rape, incest, ~~or~~ sodomy, or any crime that resulted in
21 the person being registered on a sex offender registry
22 at any time,

23 c. child abuse,

24 d. murder or attempted murder,

- e. manslaughter,
- f. kidnapping,
- g. human trafficking,
- h. aggravated assault and battery,
- ~~h.~~ i. assault and battery with a dangerous weapon, or
- ~~i.~~ j. arson in the first degree.

2. If less than ~~seven (7)~~ five (5) years have elapsed since the completion of sentence, and the results of a criminal history check reveal that the subject person has been convicted of, or pled guilty or no contest to, a felony or misdemeanor offense for any of the following offenses, in any state or federal jurisdiction, the employer shall not hire or contract with the person:

- a. assault,
- b. battery,
- c. indecent exposure and indecent exhibition, except where such offense disqualifies the applicant as a registered sex offender,
- d. pandering,
- e. burglary in the first or second degree,
- f. robbery in the first or second degree,
- g. robbery or attempted robbery with a dangerous weapon, or imitation firearm,
- h. arson in the second degree,

- i. unlawful manufacture, distribution, prescription, or dispensing of a Schedule I through V drug as defined by the Uniform Controlled Dangerous Substances Act,
- j. grand larceny, or
- k. petit larceny or shoplifting.

D. An employer shall not employ or continue employing a person addicted to any Schedule I through V drug as specified by the Uniform Controlled Dangerous Substances Act unless the person produces evidence that the person has successfully completed a drug rehabilitation program.

E. All employment eligibility determination records received by the employer pursuant to this section are confidential and are for the exclusive use of the State Department of Health and the employer which requested the information. Except on court order or with the written consent of the person being investigated, the records shall not be released or otherwise disclosed to any other person or agency. These records shall be destroyed after one (1) year from the end of employment of the person to whom such records relate.

F. As part of the inspections required by the Nursing Home Care Act, Continuum of Care and Assisted Living Act, the Residential Care Act, and the Adult Day Care Act, the State Department of Health shall review the employment files of any facility, home, or institution required to obtain a criminal history background

1 determination to ensure such facilities, homes, or institutions are
2 in compliance with the provisions of this section.

3 SECTION 2. This act shall become effective November 1, 2024.

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5 COMMITTEE REPORT BY: COMMITTEE ON HEALTH SERVICES AND LONG-TERM
6 CARE, dated 04/09/2024 - DO PASS.

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