

AN ACT

To amend sections 109.572, 173.41, 3301.0711, 3701.881, 3712.09, 3721.121, 3722.151, 4753.08, and 4753.12 and to enact sections 3319.223 and 3319.224 of the Revised Code to require studies concerning the shortage of school speech-language pathologists and audiologists, to permit the State Board of Education to issue temporary educator licenses in the specialty of school speech-language pathology, to permit school districts and educational service centers to contract with speech-language pathologists and audiologists who are licensed by the Board of Speech-Language Pathology and Audiology, to exempt certain handicapped students of nonpublic schools from proficiency tests, to modify provisions pertaining to the conditional employment of individuals in positions that involve providing direct care to older adults, to eliminate issuance of the temporary educator licenses in school speech-language pathology on January 1, 2002, by repealing section 3319.223 of the Revised Code on that date, and to declare an emergency.

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. That sections 109.572, 173.41, 3301.0711, 3701.881, 3712.09, 3721.121, 3722.151, 4753.08, and 4753.12 be amended and sections 3319.223 and 3319.224 of the Revised Code be enacted to read as follows:

Sec. 109.572. (A)(1) Upon receipt of a request pursuant to section 2151.86, 3301.32, 3301.541, 3319.39, 5104.012, 5104.013, or 5153.111 of the Revised Code, a completed form prescribed pursuant to division (C)(1) of this section, and a set of fingerprint impressions obtained in the manner

described in division (C)(2) of this section, the superintendent of the bureau of criminal identification and investigation shall conduct a criminal records check in the manner described in division (B) of this section to determine whether any information exists that indicates that the person who is the subject of the request previously has been convicted of or pleaded guilty to any of the following:

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

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

(2) On receipt of a request pursuant to section 5126.28 of the Revised Code with respect to an applicant for employment in any position with a county board of mental retardation and developmental disabilities or pursuant to section 5126.281 of the Revised Code with respect to an applicant for employment in a position with an entity contracting with a county board for employment in a position that involves providing service directly to individuals with mental retardation and developmental disabilities, a completed form prescribed pursuant to division (C)(1) of this section, and a set of fingerprint impressions obtained in the manner described in division (C)(2) of this section, the superintendent of the bureau of criminal identification and investigation shall conduct a criminal records check. The superintendent shall conduct the criminal records check in the manner described in division (B) of this section to determine whether any information exists that indicates that the person who is the subject of the request has been convicted of or pleaded guilty to any of the following:

(a) A violation of section 2903.01, 2903.02, 2903.03, 2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 2905.01, 2905.02, 2905.04,

2905.05, 2907.02, 2907.03, 2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 2907.21, 2907.22, 2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 2911.12, 2919.12, 2919.22, 2919.24, 2919.25, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, or 3716.11 of the Revised Code;

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

(3) On receipt of a request pursuant to section 173.41, 3712.09, 3721.121, or 3722.151 of the Revised Code, a completed form prescribed pursuant to division (C)(1) of this section, and a set of fingerprint impressions obtained in the manner described in division (C)(2) of this section, the superintendent of the bureau of criminal identification and investigation shall conduct a criminal records check with respect to any person who has applied for employment in a position that involves providing direct care to an older adult. The superintendent shall conduct the criminal records check in the manner described in division (B) of this section to determine whether any information exists that indicates that the person who is the subject of the request previously has been convicted of or pleaded guilty to any of the following:

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

(b) An existing or former law of this state, any other state, or the United States that is substantially equivalent to any of the offenses listed in division (A)(3)(a) of this section.

(4) On receipt of a request pursuant to section 3701.881 of the Revised Code with respect to an applicant for employment with a home health agency as a person responsible for the care, custody, or control of a child, a completed form prescribed pursuant to division (C)(1) of this section, and a set of fingerprint impressions obtained in the manner described in division (C)(2) of this section, the superintendent of the bureau of criminal identification and investigation shall conduct a criminal records check. The superintendent shall conduct the criminal records check in the manner described in division (B) of this section to determine whether any

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

(a) A violation of section 2903.01, 2903.02, 2903.03, 2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 2905.01, 2905.02, 2905.04, 2905.05, 2907.02, 2907.03, 2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 2907.21, 2907.22, 2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 2911.12, 2919.12, 2919.22, 2919.24, 2919.25, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.04, 2925.05, 2925.06, or 3716.11 of the Revised Code or a violation of section 2925.11 of the Revised Code that is not a minor drug possession offense;

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

(5) On receipt of a request pursuant to section 3701.881 of the Revised Code with respect to an applicant for employment with a home health agency in a position that involves providing direct care to an older adult, a completed form prescribed pursuant to division (C)(1) of this section, and a set of fingerprint impressions obtained in the manner described in division (C)(2) of this section, the superintendent of the bureau of criminal identification and investigation shall conduct a criminal records check. The superintendent shall conduct the criminal records check in the manner described in division (B) of this section to determine whether any information exists that indicates that the person who is the subject of the request previously has been convicted of or pleaded guilty to any of the following:

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

(b) An existing or former law of this state, any other state, or the United States that is substantially equivalent to any of the offenses listed in division (A)(5)(a) of this section.

(6) When conducting a criminal records check upon a request pursuant to section 3319.39 of the Revised Code for an applicant who is a teacher, the

superintendent shall determine whether any information exists that indicates that the person who is the subject of the request previously has been convicted of or pleaded guilty to any offense specified in section 3319.31 of the Revised Code.

(7) ~~Within~~ Not later than thirty days after the date the superintendent receives the request, completed form, and fingerprint impressions, the superintendent shall send the person who made the request any information, other than information the dissemination of which is prohibited by federal law, the superintendent determines exists with respect to the person who is the subject of the request that indicates that the person previously has been convicted of or pleaded guilty to any offense listed or described in division (A)(1), (2), (3), (4), or (5) of this section. The superintendent shall send the person who made the request a copy of the list of offenses specified in division (A)(1), (2), (3), (4), or (5) of this section. If the request was made under section 3701.881 of the Revised Code with regard to an applicant who may be both responsible for the care, custody, or control of a child and involved in providing direct care to an older adult, the superintendent shall provide a list of the offenses specified in divisions (A)(4) and (5) of this section.

(B) The superintendent shall conduct any criminal records check requested under section 173.41, 2151.86, 3301.32, 3301.541, 3319.39, 3701.881, 3712.09, 3721.121, 3722.151, 5104.012, 5104.013, 5126.28, 5126.281, or 5153.111 of the Revised Code as follows:

(1) The superintendent shall review or cause to be reviewed any relevant information gathered and compiled by the bureau under division (A) of section 109.57 of the Revised Code that relates to the person who is the subject of the request, including any relevant information contained in records that have been sealed under section 2953.32 of the Revised Code;

(2) If the request received by the superintendent asks for information from the federal bureau of investigation, the superintendent shall request from the federal bureau of investigation any information it has with respect to the person who is the subject of the request and shall review or cause to be reviewed any information the superintendent receives from that bureau.

(C)(1) The superintendent shall prescribe a form to obtain the information necessary to conduct a criminal records check from any person for whom a criminal records check is required by section 173.41, 2151.86, 3301.32, 3301.541, 3319.39, 3701.881, 3712.09, 3721.121, 3722.151, 5104.012, 5104.013, 5126.28, 5126.281, or 5153.111 of the Revised Code.

(2) The superintendent shall prescribe standard impression sheets to obtain the fingerprint impressions of any person for whom a criminal

records check is required by section 173.41, 2151.86, 3301.32, 3301.541, 3319.39, 3701.881, 3712.09, 3721.121, 3722.151, 5104.012, 5104.013, 5126.28, 5126.281, or 5153.111 of the Revised Code. Any person for whom a records check is required by any of those sections shall obtain the fingerprint impressions at a county sheriff's office, municipal police department, or any other entity with the ability to make fingerprint impressions on the standard impression sheets prescribed by the superintendent. The office, department, or entity may charge the person a reasonable fee for making the impressions.

(3) Subject to division (D) of this section, the superintendent shall prescribe and charge a reasonable fee for providing a criminal records check requested under section 173.41, 2151.86, 3301.32, 3301.541, 3319.39, 3701.881, 3712.09, 3721.121, 3722.151, 5104.012, 5104.013, 5126.28, 5126.281, or 5153.111 of the Revised Code. The person making a criminal records request under section ~~178.41~~ 173.41, 2151.86, 3301.32, 3301.541, 3319.39, 3701.881, 3712.09, 3721.121, 3722.151, 5104.012, 5104.013, 5126.28, 5126.281, or 5153.111 of the Revised Code shall pay the fee prescribed pursuant to this division. A person making a request under section 3701.881 of the Revised Code for a criminal records check for an applicant who may be both responsible for the care, custody, or control of a child and involved in providing direct care to an older adult shall pay one fee for the request.

(D) A determination whether any information exists that indicates that a person previously has been convicted of or pleaded guilty to any offense listed or described in division (A)(1)(a) or (b), (A)(2)(a) or (b), (A)(3)(a) or (b), (A)(4)(a) or (b), or (A)(5)(a) or (b) of this section that is made by the superintendent with respect to information considered in a criminal records check in accordance with this section is valid for the person who is the subject of the criminal records check for a period of one year from the date upon which the superintendent makes the determination. During the period in which the determination in regard to a person is valid, if another request under this section is made for a criminal records check for that person, the superintendent shall provide the information that is the basis for the superintendent's initial determination at a lower fee than the fee prescribed for the initial criminal records check.

(E) As used in this section:

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

(2) "Minor drug possession offense" has the same meaning as in section

2925.01 of the Revised Code.

(3) "Older adult" means a person age sixty or older.

Sec. 173.41. (A) As used in this section:

(1) "Applicant" means a person who is under final consideration for employment with a PASSPORT agency in a full-time, part-time, or temporary position that involves providing direct care to an older adult. "Applicant" does not include a person who provides direct care as a volunteer without receiving or expecting to receive any form of remuneration other than reimbursement for actual expenses.

(2) "Criminal records check" and "older adult" have the same meanings as in section 109.572 of the Revised Code.

(3) "PASSPORT agency" means a public or private entity that provides home and community-based services to older adults through the PASSPORT program created under section 173.40 of the Revised Code.

(B)(1) Except as provided in division (I) of this section, the chief administrator of a PASSPORT agency shall request that the superintendent of the bureau of criminal identification and investigation conduct a criminal records check with respect to each applicant. If the applicant does not present proof of having been a resident of this state for the five-year period immediately prior to the date the criminal records check is requested or provide evidence that within that five-year period the superintendent has requested information about the applicant from the federal bureau of investigation in a criminal records check, the chief administrator shall request that the superintendent obtain information from the federal bureau of investigation as part of the criminal records check of the applicant. Even if the applicant presents proof of having been a resident of this state for the five-year period, the chief administrator may request that the superintendent include information from the federal bureau of investigation in the criminal records check.

(2) A person required by division (B)(1) of this section to request a criminal records check shall do both of the following:

(a) Provide to each applicant a copy of the form prescribed pursuant to division (C)(1) of section 109.572 of the Revised Code and a standard fingerprint impression sheet prescribed pursuant to division (C)(2) of that section, and obtain the completed form and impression sheet from the applicant;

(b) Forward the completed form and impression sheet to the superintendent of the bureau of criminal identification and investigation.

(3) An applicant provided the form and fingerprint impression sheet under division (B)(2)(a) of this section who fails to complete the form or

provide fingerprint impressions shall not be employed in any position for which a criminal records check is required by this section.

(C)(1) Except as provided in rules adopted by the department of aging in accordance with division (F) of this section, no PASSPORT agency shall employ a person in a position that involves providing direct care to an older adult if the person has been convicted of or pleaded guilty to any of the following:

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

(b) An existing or former law of this state, any other state, or the United States that is substantially equivalent to any of the offenses ~~or violations described~~ listed in division (C)(1)(a) of this section.

(2) A PASSPORT agency may employ an applicant conditionally prior to obtaining the results of a criminal records check regarding the individual. The agency shall ~~initiate the process of obtaining request~~ request a criminal records check in accordance with division (B)(1) of this section not later than five business days after the individual begins conditional employment. The agency shall terminate the individual's employment if the results of the criminal records check, other than the results of any request for information from the federal bureau of investigation, are not obtained within the period ending sixty days after the date the request is made. ~~If~~ Regardless of when the results of the criminal records check are obtained, if the results indicate that the individual has been convicted of or pleaded guilty to any of the offenses ~~specified~~ listed or described in division (C)(1) of this section, the agency shall terminate the individual's employment unless the agency chooses to employ the individual pursuant to division (F) of this section. Termination of employment under this division shall be considered just cause for discharge for purposes of division (D)(2) of section 4141.29 of the Revised Code if the individual ~~has~~ makes any attempt to deceive the agency about the individual's criminal record.

(D)(1) Each PASSPORT agency shall pay to the bureau of criminal identification and investigation the fee prescribed pursuant to division (C)(3) of section 109.572 of the Revised Code for each criminal records check conducted pursuant to this section.

(2) A PASSPORT agency may charge an applicant a fee not exceeding the amount the agency pays under division (D)(1) of this section. An agency may collect a fee only if both of the following apply:

(a) The agency notifies the person at the time of initial application for employment of the amount of the fee and that, unless the fee is paid, the person will not be considered for employment;

(b) The medical assistance program established under Chapter 5111. of the Revised Code does not reimburse the agency the fee it pays under division (D)(1) of this section.

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

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

(2) The chief administrator of the agency requesting the criminal records check or the administrator's representative;

(3) The administrator of any other facility, agency, or program that provides direct care to older adults that is owned or operated by the same entity that owns or operates the PASSPORT agency;

(4) A court, hearing officer, or other necessary individual involved in a case dealing with a denial of employment of the applicant.

(F) The department of aging shall adopt rules in accordance with Chapter 119. of the Revised Code to implement this section. The rules shall specify circumstances under which a PASSPORT agency may ~~hire~~ employ a person who has been convicted of or pleaded guilty to an offense listed or described in division (C)(1) of this section but meets personal character standards set by the department.

(G) The chief administrator of a PASSPORT agency shall inform each person, at the time of initial application for a position that involves providing direct care to an older adult, that the person is required to provide a set of fingerprint impressions and that a criminal records check is required to be conducted if the person comes under final consideration for employment.

(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 an individual who a PASSPORT agency employs in a position that involves providing direct care to older adults, the following shall apply:

(1) If the agency employed the individual in good faith and reasonable reliance on the report of a criminal records check requested under this

section, the agency 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;

(2) If the agency employed the individual in good faith on a conditional basis pursuant to division (C)(2) of this section, the agency shall not be found negligent solely because it employed the individual prior to receiving the report of a criminal records check requested under this section;

(3) If the agency in good faith employed the individual according to the personal character standards established in rules adopted under division (F) of this section, the agency shall not be found negligent solely because the individual prior to being employed had been convicted of or pleaded guilty to an offense listed or described in division (C)(1) of this section.

(I) The chief administrator is not required to request that the superintendent of the bureau of criminal identification and investigation conduct a criminal records check of an applicant if the applicant has been referred to the PASSPORT agency by an employment service that supplies full-time, part-time, or temporary staff for positions involving the direct care of older adults and both of the following apply:

(1) The chief administrator receives from the employment service or the applicant a report of the results of a criminal records check regarding the applicant that has been conducted by the superintendent within the one-year period immediately preceding the applicant's referral;

(2) The report of the criminal records check demonstrates that the person has not been convicted of or pleaded guilty to an offense listed or described in division (C)(1) of this section.

Sec. 3301.0711. (A) The department of education shall:

(1) Annually furnish, grade, and score all tests required by section 3301.0710 of the Revised Code to city, local, and exempted village school districts;

(2) Adopt rules for the ethical use of tests and prescribing the manner in which the tests prescribed by section 3301.0710 of the Revised Code shall be administered to students.

(B) Except as provided in divisions (C) and (J)(2) of this section, the board of education of each city, local, and exempted village school district shall, in accordance with rules adopted under division (A) of this section:

(1) Administer the tests prescribed under division (A)(1) of section 3301.0710 of the Revised Code at least once annually to all students in the fourth grade.

(2) Administer any tests prescribed under division (A)(2) of section 3301.0710 of the Revised Code at least once annually to all students in the

grade designated under that division.

(3) Administer any tests prescribed under division (A)(3) of section 3301.0710 of the Revised Code at least once annually to any student in the twelfth grade who, on all the tests prescribed under division (B) of that section, has attained the applicable scores designated under such division prior to the first day of January of that year.

(4) Administer any test prescribed under division (B) of section 3301.0710 of the Revised Code at least twice annually to:

(a) All students in ninth, tenth, eleventh, or twelfth grade who have not yet attained the score on that test designated under that division;

(b) Any person who has successfully completed the curriculum in any high school or the individualized education program developed for the person by any high school pursuant to section 3323.08 of the Revised Code but has not received a high school diploma and who requests to take such test, at any time such test is administered in the district.

(C)(1) Any student receiving special education services under Chapter 3323. of the Revised Code shall be excused from taking any particular test required to be administered under this section if the individualized education program developed for the student pursuant to section 3323.08 of the Revised Code excuses the student from taking that test. In the case of any student so excused from taking a test, the school district board of education shall not prohibit ~~him~~ the student from taking the test. Any student enrolled in a chartered nonpublic school who has been identified, based on an evaluation conducted in accordance with section 3323.03 of the Revised Code or section 504 of the "Rehabilitation Act of 1973," 87 Stat. 355, 29 U.S.C.A. 794, as amended, as a child with a disability shall be excused from taking any particular test required to be administered under this section if a plan developed for the student pursuant to rules adopted by the state board excuses the student from taking that test. In the case of any student so excused from taking a test, the chartered nonpublic school shall not prohibit the student from taking the test.

(2) A district board may, for medical reasons or other good cause, excuse a student from taking a test administered under this section on the date scheduled, but any such test shall be administered to such excused student not later than fifteen days following the scheduled date. The board shall annually report the number of students who have not taken one or more of the tests required by this section to the state board of education not later than the thirty-first day of May.

(D) In the school year next succeeding the school year in which the tests prescribed by division (A)(1) of section 3301.0710 of the Revised Code are

administered to any student, the board of education of any school district in which the student is enrolled in that year shall provide intervention services to the student in any skill in which the student failed on those tests to demonstrate at least fourth-grade levels of literacy and basic competency. This division does not apply to any student receiving services pursuant to an individualized education program developed for the student pursuant to section 3323.08 of the Revised Code.

(E) No school district board of education shall permit any student to be denied promotion to a higher grade level solely because of the student's failure to attain a specified score on any test administered under this section.

(F) No person shall be charged a fee for taking any test administered under this section.

(G) Not later than sixty days after any administration of any test prescribed by section 3301.0710 of the Revised Code, the department shall send to each school district board a list of the individual test scores of all persons taking the test.

(H) Individual test scores on any tests administered under this section shall be released by a district board only in accordance with section 3319.321 of the Revised Code and the rules adopted under division (A) of this section. No district board or its employees shall utilize individual or aggregate test results in any manner that conflicts with rules for the ethical use of tests adopted pursuant to division (A) of this section.

(I) Except as provided in division (G) of this section, the department shall not release any individual test scores on any test administered under this section and shall adopt rules to ensure the protection of student confidentiality at all times.

(J) Notwithstanding division (D) of section 3311.19 and division (D) of section 3311.52 of the Revised Code, this section does not apply to the board of education of any joint vocational or cooperative education school district except as provided under rules adopted pursuant to this division.

(1) In accordance with rules that the state board of education shall adopt, the board of education of any city, exempted village, or local school district with territory in a joint vocational school district or a cooperative education school district established pursuant to divisions (A) to (C) of section 3311.52 of the Revised Code may enter into an agreement with the board of education of the joint vocational or cooperative education school district for administering any test prescribed under this section to students of the city, exempted village, or local school district who are attending school in the joint vocational or cooperative education school district.

(2) In accordance with rules that the state board of education shall

adopt, the board of education of any city, exempted village, or local school district with territory in a cooperative education school district established pursuant to section 3311.521 of the Revised Code shall enter into an agreement with the cooperative district that provides for the administration of any test prescribed under this section to both of the following:

(a) Students who are attending school in the cooperative district and who, if the cooperative district were not established, would be entitled to attend school in the city, local, or exempted village school district pursuant to section 3313.64 or 3313.65 of the Revised Code;

(b) Persons described in division (B)(4)(b) of this section.

Any testing of students pursuant to such an agreement shall be in lieu of any testing of such students or persons pursuant to this section.

(K)(1) Any chartered nonpublic school may participate in the testing program by administering any of the tests prescribed by section 3301.0710 of the Revised Code if the chief administrator of the school specifies which tests the school wishes to administer. Such specification shall be made in writing to the superintendent of public instruction prior to the first day of August of any school year in which tests are administered and shall include a pledge that the nonpublic school will administer the specified tests in the same manner as public schools are required to do under this section and rules adopted by the department.

(2) The department of education shall furnish the tests prescribed by section 3301.0710 of the Revised Code to any chartered nonpublic school electing to participate under this division.

(L)(1) Except as provided in division (L)(3) of this section, the superintendent of the state school for the blind and the superintendent of the state school for the deaf shall administer the tests described by section 3301.0710 of the Revised Code. Each superintendent shall administer the tests in the same manner as district boards are required to do under this section and rules adopted by the department of education.

(2) The department of education shall furnish the tests described by section 3301.0710 of the Revised Code to each superintendent.

(3) Any student enrolled in the state school for the blind or the state school for the deaf shall be excused from taking any particular test required to be administered under division (L)(1) of this section if the individualized education program developed for the student pursuant to section 3323.08 of the Revised Code excuses the student from taking that test. In the case of any student so excused from taking a test, the superintendent of the school shall not prohibit the student from taking the test.

(M) Notwithstanding division (B)(4) of this section and division (C)(3)

of section 3301.0710 of the Revised Code, upon request of a district board of education, the department of education shall provide for the district to administer the tests prescribed under division (B) of section 3301.0710 of the Revised Code to students in the eighth grade on a specified date during the month of March. In such a district, tests shall be administered either once or twice during the ninth grade year to students who did not attain the designated scores on such tests in the eighth grade. Such ninth grade test administration shall be prior to the thirty-first day of December or subsequent to that date but prior to the thirty-first day of March or during both such time periods. The district board of education shall determine whether to administer such tests once or twice during the ninth grade year and during which time period to administer the tests if they are only administered once during such year.

Sec. 3319.223. (A) On request of the superintendent of a school district or educational service center, the state board of education may issue a temporary license to an individual as an educator in the specialty of school speech-language pathology.

To qualify for a temporary license issued under this section, an individual must have at least a bachelor's degree in speech and hearing. The board shall evaluate each application received and issue a temporary license to each applicant who meets the qualifications for licensure.

(B) A temporary license issued under this section is valid only for teaching in the district represented by the superintendent who requested issuance of the license or, if it was requested by an educational service center superintendent, for teaching as an employee of the service center. A temporary license expires one year after the date it is issued. A temporary license may be renewed, but only if the district or service center superintendent presents evidence satisfactory to the board of one of the following:

(1) That the holder is enrolled in a master's degree program leading to licensure by the board of speech-language pathology and audiology under Chapter 4753. of the Revised Code;

(2) That the holder has applied within the past year to a master's degree program in this state leading to licensure by the board of speech-language pathology and audiology and is qualified to be unconditionally enrolled in that program, but was denied enrollment.

Sec. 3319.224. Notwithstanding section 3319.30 of the Revised Code, a school district or educational service center may contract with a provider licensed under Chapter 4753. of the Revised Code for speech and language services or for audiology services. The contracted services shall be retained

only after the district or service center has demonstrated to the department of education that attempts to obtain the services of a speech and language or audiology provider licensed under this chapter have been unsuccessful.

Sec. 3701.881. (A) As used in this section:

(1) "Applicant" means both of the following:

(a) A person who is under final consideration for appointment or employment with a home health agency in a position as a person responsible for the care, custody, or control of a child;

(b) A person who is under final consideration for employment with a home health agency in a full-time, part-time, or temporary position that involves providing direct care to an older adult. With regard to persons providing direct care to older adults, "applicant" does not include a person who provides direct care ~~to an older adult~~ as a volunteer without receiving or expecting to receive ~~a~~ any form of remuneration other than reimbursement for actual expenses.

(2) "Criminal records check" and "older adult" have the same meanings as in section 109.572 of the Revised Code.

(3) "Home health agency" has the same meaning as in section 3701.88 of the Revised Code.

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

(B)(1) Except as provided in division (I) of this section, the chief administrator of a home health agency shall request the superintendent of the bureau of criminal identification and investigation to conduct a criminal records check with respect to each applicant. If the position may involve both responsibility for the care, custody, or control of a child and provision of direct care to an older adult, the chief administrator shall request that the superintendent conduct a single criminal records check for the applicant. If the applicant does not present proof of having been a resident of this state for the five-year period immediately prior to the date upon which the criminal records check is requested or does not provide evidence that within that five-year period the superintendent has requested information about the applicant from the federal bureau of investigation in a criminal records check, the chief administrator shall request that the superintendent obtain information from the federal bureau of investigation as a part of the criminal records check for the applicant. If the applicant presents proof that the applicant has been a resident of this state for that five-year period, the chief administrator may request that the superintendent include information from the federal bureau of investigation in the criminal records check.

(2) Any person required by division (B)(1) of this section to request a

criminal records check shall provide to each applicant a copy of the form prescribed pursuant to division (C)(1) of section 109.572 of the Revised Code, provide to each applicant a standard impression sheet to obtain fingerprint impressions prescribed pursuant to division (C)(2) of section 109.572 of the Revised Code, obtain the completed form and impression sheet from each applicant, and forward the completed form and impression sheet to the superintendent of the bureau of criminal identification and investigation at the time the chief administrator requests a criminal records check pursuant to division (B)(1) of this section.

(3) An applicant who receives pursuant to division (B)(2) of this section a copy of the form prescribed pursuant to division (C)(1) of section 109.572 of the Revised Code and a copy of an impression sheet prescribed pursuant to division (C)(2) of that section and who is requested to complete the form and provide a set of fingerprint impressions shall complete the form or provide all the information necessary to complete the form and shall provide the impression sheets with the impressions of the applicant's fingerprints. If an applicant, upon request, fails to provide the information necessary to complete the form or fails to provide fingerprint impressions ~~the applicant's~~, the home health agency shall not employ that applicant for any position for which a criminal records check is required by division (B)(1) of this section.

(C)(1) Except as provided in rules adopted by the department of health in accordance with division (F) of this section, no home health agency shall employ a person as a person responsible for the care, custody, or control of a child if the person previously has been convicted of or pleaded guilty to any of the following:

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

(b) A violation of an existing or former law of this state, any other state,

or the United States that is substantially equivalent to any of the offenses ~~or violations described~~ listed in division (C)(1)(a) of this section.

(2) Except as provided in rules adopted by the department of health in accordance with division (F) of this section, no home health agency shall employ a person in a position that involves providing direct care to an older adult if the person previously has been convicted of or pleaded guilty to any of the following:

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

(b) An existing or former law of this state, any other state, or the United States that is substantially equivalent to any of the offenses ~~or violations described~~ listed in division (C)(2)(a) of this section.

(3)(a) A home health agency may employ an applicant conditionally as a person responsible for the care, custody, or control of a child until the criminal records check required by this section is completed and the agency receives the results of the criminal records check. If the results of the criminal records check indicate that, pursuant to division (C)(1) of this section, the applicant does not qualify for employment, the agency shall release the applicant from employment.

(b) A home health agency may employ an applicant conditionally in a position that involves providing direct care to an older adult prior to obtaining the results of a criminal records check regarding the individual. The agency shall ~~initiate the process of obtaining request~~ request a criminal records check in accordance with division (B)(1) of this section not later than five business days after the individual begins conditional employment. The agency shall terminate the individual's employment if the results of the criminal records check, other than the results of any request for information from the federal bureau of investigation, are not obtained within the period ending sixty days after the date the request is made. ~~If~~ Regardless of when the results of the criminal records check are obtained, if the results indicate that the individual has been convicted of or pleaded guilty to any of the offenses ~~specified~~ listed or described in division (C)(2) of this section, the agency shall terminate the individual's employment unless the agency chooses to employ the individual pursuant to division (F) of this section.

Termination of employment under this division shall be considered just cause for discharge for purposes of division (D)(2) of section 4141.29 of the Revised Code if the individual ~~lies~~ makes any attempt to deceive the agency about the individual's criminal record.

(D)(1) Each home health agency shall pay to the bureau of criminal identification and investigation the fee prescribed pursuant to division (C)(3) of section 109.572 of the Revised Code for each criminal records check conducted in accordance with that section upon the request pursuant to division (B)(1) of this section of the chief administrator of the home health agency.

(2) A home health agency may charge an applicant a fee for the costs it incurs in obtaining a criminal records check under this section, unless the medical assistance program established under Chapter 5111. of the Revised Code reimburses the agency for the costs. A fee charged under division (D)(2) of this section shall not exceed the amount of fees the agency pays under division (D)(1) of this section. If a fee is charged under division (D)(2) of this section, the agency shall notify the applicant at the time of the applicant's initial application for employment of the amount of the fee and that, unless the fee is paid, the agency will not consider the applicant for employment.

(E) The report of any criminal records check conducted by the bureau of criminal identification and investigation in accordance with section 109.572 of the Revised Code and pursuant to a request made under division (B)(1) of this section is not a public record for the purposes of section 149.43 of the Revised Code and shall not be made available to any person other than the following:

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

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

(3) The administrator of any other facility, agency, or program that provides direct care to older adults that is owned or operated by the same entity that owns or operates the home health agency;

(4) Any court, hearing officer, or other necessary individual involved in a case dealing with the denial of employment of the applicant.

(F) The department of health shall adopt rules in accordance with Chapter 119. of the Revised Code to implement this section. The rules shall specify circumstances under which the home health agency may ~~hire~~ employ a person who has been convicted of or pleaded guilty to an offense listed or described in division (C)(1) of this section but who meets standards

in regard to rehabilitation set by the department or ~~hire~~ employ a person who has been convicted of or pleaded guilty to an offense listed or described in division (C)(2) of this section but meets personal character standards set by the department.

(G) Any person required by division (B)(1) of this section to request a criminal records check shall inform each person, at the time of initial application for employment that the person is required to provide a set of fingerprint impressions and that a criminal records check is required to be conducted and satisfactorily completed in accordance with section 109.572 of the Revised Code if the person comes under final consideration for appointment or employment as a precondition to employment for that position.

(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 an individual who a home health agency employs in a position that involves providing direct care to older adults, the following shall apply:

(1) If the agency employed the individual in good faith and reasonable reliance on the report of a criminal records check requested under this section, the agency 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;

(2) If the agency employed the individual in good faith on a conditional basis pursuant to division (C)(2)(b) of this section, the agency shall not be found negligent solely because it employed the individual prior to receiving the report of a criminal records check requested under this section;

(3) If the agency in good faith employed the individual according to the personal character standards established in rules adopted under division (F) of this section, the agency shall not be found negligent solely because the individual prior to being employed had been convicted of or pleaded guilty to an offense listed or described in division (C)(1) of this section.

(I) The chief administrator is not required to request that the superintendent of the bureau of criminal identification and investigation conduct a criminal records check of an applicant if the applicant has been referred to the home health agency by an employment service that supplies full-time, part-time, or temporary staff for positions involving the direct care of older adults and both of the following apply:

(1) The chief administrator receives from the employment service or the applicant a report of the results of a criminal records check regarding the applicant that has been conducted by the superintendent within the one-year period immediately preceding the applicant's referral;

(2) The report of the criminal records check demonstrates that the person has not been convicted of or pleaded guilty to an offense listed or described in division (C)(2) of this section.

Sec. 3712.09. (A) As used in this section:

(1) "Applicant" means a person who is under final consideration for employment with a hospice care program in a full-time, part-time, or temporary position that involves providing direct care to an older adult. "Applicant" does not include a person who provides direct care as a volunteer without receiving or expecting to receive any form of remuneration other than reimbursement for actual expenses.

(2) "Criminal records check" and "older adult" have the same meanings as in section 109.572 of the Revised Code.

(B)(1) Except as provided in division (I) of this section, the chief administrator of a hospice care program shall request that the superintendent of the bureau of criminal identification and investigation conduct a criminal records check with respect to each applicant. If the applicant does not present proof of having been a resident of this state for the five-year period immediately prior to the date the criminal records check is requested or provide evidence that within that five-year period the superintendent has requested information about the applicant from the federal bureau of investigation in a criminal records check, the chief administrator shall request that the superintendent obtain information from the federal bureau of investigation as part of the criminal records check of the applicant. Even if the applicant presents proof of having been a resident of this state for the five-year period, the chief administrator may request that the superintendent include information from the federal bureau of investigation in the criminal records check.

(2) A person required by division (B)(1) of this section to request a criminal records check shall do both of the following:

(a) Provide to each applicant a copy of the form prescribed pursuant to division (C)(1) of section 109.572 of the Revised Code and a standard fingerprint impression sheet prescribed pursuant to division (C)(2) of that section, and obtain the completed form and impression sheet from the applicant;

(b) Forward the completed form and impression sheet to the superintendent of the bureau of criminal identification and investigation.

(3) An applicant provided the form and fingerprint impression sheet under division (B)(2)(a) of this section who fails to complete the form or provide fingerprint impressions shall not be employed in any position for which a criminal records check is required by this section.

(C)(1) Except as provided in rules adopted by the public health council in accordance with division (F) of this section, no hospice care program shall employ a person in a position that involves providing direct care to an older adult if the person has been convicted of or pleaded guilty to any of the following:

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

(b) An existing or former law of this state, any other state, or the United States that is substantially equivalent to any of the offenses ~~or violations described~~ listed in division (C)(1)(a) of this section.

(2) A hospice care program may employ an applicant conditionally prior to obtaining the results of a criminal records check regarding the individual. The program shall ~~initiate the process of obtaining request~~ a criminal records check in accordance with division (B)(1) of this section not later than five business days after the individual begins conditional employment. The program shall terminate the individual's employment if the results of the criminal records check, other than the results of any request for information from the federal bureau of investigation, are not obtained within the period ending sixty days after the date the request is made. ~~If~~ Regardless of when the results of the criminal records check are obtained, if the results indicate that the individual has been convicted of or pleaded guilty to any of the offenses ~~specified~~ listed or described in division (C)(1) of this section, the program shall terminate the individual's employment unless the program chooses to employ the individual pursuant to division (F) of this section. Termination of employment under this division shall be considered just cause for discharge for purposes of division (D)(2) of section 4141.29 of the Revised Code if the individual ~~has~~ makes any attempt to deceive the program about the individual's criminal record.

(D)(1) Each hospice care program shall pay to the bureau of criminal identification and investigation the fee prescribed pursuant to division (C)(3) of section 109.572 of the Revised Code for each criminal records check conducted pursuant to this section.

(2) A hospice care program may charge an applicant a fee not exceeding the amount the program pays under division (D)(1) of this section. A

program may collect a fee only if both of the following apply:

(a) The program notifies the person at the time of initial application for employment of the amount of the fee and that, unless the fee is paid, the person will not be considered for employment;

(b) The medical assistance program established under Chapter 5111. of the Revised Code does not reimburse the program the fee it pays under division (D)(1) of this section.

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

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

(2) The chief administrator of the program requesting the criminal records check or the administrator's representative;

(3) The administrator of any other facility, agency, or program that provides direct care to older adults that is owned or operated by the same entity that owns or operates the hospice care program;

(4) A court, hearing officer, or other necessary individual involved in a case dealing with a denial of employment of the applicant.

(F) The public health council shall adopt rules in accordance with Chapter 119. of the Revised Code to implement this section. The rules shall specify circumstances under which a hospice care program may ~~hire~~ employ a person who has been convicted of or pleaded guilty to an offense listed or described in division (C)(1) of this section but meets personal character standards set by the council.

(G) The chief administrator of a hospice care program shall inform each individual, at the time of initial application for a position that involves providing direct care to an older adult, that the individual is required to provide a set of fingerprint impressions and that a criminal records check is required to be conducted if the individual comes under final consideration for employment.

(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 an individual who a hospice care program employs in a position that involves providing direct care to older adults, the following shall apply:

(1) If the program employed the individual in good faith and reasonable reliance on the report of a criminal records check requested under this section, the program 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;

(2) If the program employed the individual in good faith on a conditional basis pursuant to division (C)(2) of this section, the program shall not be found negligent solely because it employed the individual prior to receiving the report of a criminal records check requested under this section;

(3) If the program in good faith employed the individual according to the personal character standards established in rules adopted under division (F) of this section, the program shall not be found negligent solely because the individual prior to being employed had been convicted of or pleaded guilty to an offense listed or described in division (C)(1) of this section.

(I) The chief administrator is not required to request that the superintendent of the bureau of criminal identification and investigation conduct a criminal records check of an applicant if the applicant has been referred to the hospice care program by an employment service that supplies full-time, part-time, or temporary staff for positions involving the direct care of older adults and both of the following apply:

(1) The chief administrator receives from the employment service or the applicant a report of the results of a criminal records check regarding the applicant that has been conducted by the superintendent within the one-year period immediately preceding the applicant's referral;

(2) The report of the criminal records check demonstrates that the person has not been convicted of or pleaded guilty to an offense listed or described in division (C)(1) of this section.

Sec. 3721.121. (A) As used in this section:

(1) "Adult day-care program" means a program operated pursuant to rules adopted by the public health council under section 3721.04 of the Revised Code and provided by and on the same site as homes licensed under this chapter.

(2) "Applicant" means a person who is under final consideration for employment with a home or adult day-care program in a full-time, part-time, or temporary position that involves providing direct care to an older adult. "Applicant" does not include a person who provides direct care as a volunteer without receiving or expecting to receive any form of remuneration other than reimbursement for actual expenses.

(3) "Criminal records check" and "older adult" have the same meanings as in section 109.572 of the Revised Code.

(4) "Home" means a home as defined in section 3721.10 of the Revised Code.

(B)(1) Except as provided in division (I) of this section, the chief

administrator of a home or adult day-care program shall request that the superintendent of the bureau of criminal identification and investigation conduct a criminal records check with respect to each applicant. If the applicant does not present proof of having been a resident of this state for the five-year period immediately prior to the date the criminal records check is requested or provide evidence that within that five-year period the superintendent has requested information about the applicant from the federal bureau of investigation in a criminal records check, the chief administrator shall request that the superintendent obtain information from the federal bureau of investigation as part of the criminal records check of the applicant. Even if the applicant presents proof of having been a resident of this state for the five-year period, the chief administrator may request that the superintendent include information from the federal bureau of investigation in the criminal records check.

(2) A person required by division (B)(1) of this section to request a criminal records check shall do both of the following:

(a) Provide to each applicant a copy of the form prescribed pursuant to division (C)(1) of section 109.572 of the Revised Code and a standard fingerprint impression sheet prescribed pursuant to division (C)(2) of that section, and obtain the completed form and impression sheet from the applicant;

(b) Forward the completed form and impression sheet to the superintendent of the bureau of criminal identification and investigation.

(3) An applicant provided the form and fingerprint impression sheet under division (B)(2)(a) of this section who fails to complete the form or provide fingerprint impressions shall not be employed in any position for which a criminal records check is required by this section.

(C)(1) Except as provided in rules adopted by the director of health in accordance with division (F) of this section, no home or adult day-care program shall employ a person in a position that involves providing direct care to an older adult if the person has been convicted of or pleaded guilty to any of the following:

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

(b) An existing or former law of this state, any other state, or the United States that is substantially equivalent to any of the offenses ~~or violations described~~ listed in division (C)(1)(a) of this section.

(2) A home or an adult day-care program may employ an applicant conditionally prior to obtaining the results of a criminal records check regarding the individual. The home or program shall ~~initiate the process of obtaining request~~ a criminal records check in accordance with division (B)(1) of this section not later than five business days after the individual begins conditional employment. The home or program shall terminate the individual's employment if the results of the criminal records check, other than the results of any request for information from the federal bureau of investigation, are not obtained within the period ending sixty days after the date the request is made. ~~If~~ Regardless of when the results of the criminal records check are obtained, if the results indicate that the individual has been convicted of or pleaded guilty to any of the offenses ~~specified~~ listed or described in division (C)(1) of this section, the home or program shall terminate the individual's employment unless the home or program chooses to employ the individual pursuant to division (F) of this section. Termination of employment under this division shall be considered just cause for discharge for purposes of division (D)(2) of section 4141.29 of the Revised Code if the individual ~~has~~ makes any attempt to deceive the home or program about the individual's criminal record.

(D)(1) Each home or adult day-care program shall pay to the bureau of criminal identification and investigation the fee prescribed pursuant to division (C)(3) of section 109.572 of the Revised Code for each criminal records check conducted pursuant to this section.

(2) A home or adult day-care program may charge an applicant a fee not exceeding the amount the home or program pays under division (D)(1) of this section. A home or program may collect a fee only if both of the following apply:

(a) The home or program notifies the person at the time of initial application for employment of the amount of the fee and that, unless the fee is paid, the person will not be considered for employment;

(b) The medical assistance program established under Chapter 5111. of the Revised Code does not reimburse the home or program the fee it pays under division (D)(1) of this section.

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

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

(2) The chief administrator of the home or program requesting the criminal records check or the administrator's representative;

(3) The administrator of any other facility, agency, or program that provides direct care to older adults that is owned or operated by the same entity that owns or operates the home or program;

(4) A court, hearing officer, or other necessary individual involved in a case dealing with a denial of employment of the applicant.

(F) In accordance with section 3721.11 of the Revised Code, the director of health shall adopt rules to implement this section. The rules shall specify circumstances under which a home or adult day-care program may ~~hire~~ employ a person who has been convicted of or pleaded guilty to an offense listed or described in division (C)(1) of this section but meets personal character standards set by the director.

(G) The chief administrator of a home or adult day-care program shall inform each individual, at the time of initial application for a position that involves providing direct care to an older adult, that the individual is required to provide a set of fingerprint impressions and that a criminal records check is required to be conducted if the individual comes under final consideration for employment.

(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 an individual who a home or adult day-care program employs in a position that involves providing direct care to older adults, the following shall apply:

(1) If the home or program employed the individual in good faith and reasonable reliance on the report of a criminal records check requested under this section, the home or program 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;

(2) If the home or program employed the individual in good faith on a conditional basis pursuant to division (C)(2) of this section, the home or program shall not be found negligent solely because it employed the individual prior to receiving the report of a criminal records check requested under this section;

(3) If the home or program in good faith employed the individual according to the personal character standards established in rules adopted under division (F) of this section, the home or program shall not be found negligent solely because the individual prior to being employed had been convicted of or pleaded guilty to an offense listed or described in division

(C)(1) of this section.

(I) The chief administrator is not required to request that the superintendent of the bureau of criminal identification and investigation conduct a criminal records check of an applicant if the applicant has been referred to the home or adult day-care program by an employment service that supplies full-time, part-time, or temporary staff for positions involving the direct care of older adults and both of the following apply:

(1) The chief administrator receives from the employment service or the applicant a report of the results of a criminal records check regarding the applicant that has been conducted by the superintendent within the one-year period immediately preceding the applicant's referral;

(2) The report of the criminal records check demonstrates that the person has not been convicted of or pleaded guilty to an offense listed or described in division (C)(1) of this section.

Sec. 3722.151. (A) As used in this section:

(1) "Adult care facility" has the same meaning as in section 3722.01 of the Revised Code.

(2) "Applicant" means a person who is under final consideration for employment with an adult care facility in a full-time, part-time, or temporary position that involves providing direct care to an older adult. "Applicant" does not include a person who provides direct care as a volunteer without receiving or expecting to receive any form of remuneration other than reimbursement for actual expenses.

(3) "Criminal records check" and "older adult" have the same meanings as in section 109.572 of the Revised Code.

(B)(1) Except as provided in division (I) of this section, the chief administrator of an adult care facility shall request that the superintendent of the bureau of criminal identification and investigation conduct a criminal records check with respect to each applicant. If the applicant does not present proof of having been a resident of this state for the five-year period immediately prior to the date the criminal records check is requested or provide evidence that within that five-year period the superintendent has requested information about the applicant from the federal bureau of investigation in a criminal records check, the chief administrator shall request that the superintendent obtain information from the federal bureau of investigation as part of the criminal records check of the applicant. Even if the applicant presents proof of having been a resident of this state for the five-year period, the chief administrator may request that the superintendent include information from the federal bureau of investigation in the criminal records check.

(2) A person required by division (B)(1) of this section to request a criminal records check shall do both of the following:

(a) Provide to each applicant a copy of the form prescribed pursuant to division (C)(1) of section 109.572 of the Revised Code and a standard fingerprint impression sheet prescribed pursuant to division (C)(2) of that section, and obtain the completed form and impression sheet from the applicant;

(b) Forward the completed form and impression sheet to the superintendent of the bureau of criminal identification and investigation.

(3) An applicant provided the form and fingerprint impression sheet under division (B)(2)(a) of this section who fails to complete the form or provide fingerprint impressions shall not be employed in any position for which a criminal records check is required by this section.

(C)(1) Except as provided in rules adopted by the public health council in accordance with division (F) of this section, no adult care facility shall employ a person in a position that involves providing direct care to an older adult if the person has been convicted of or pleaded guilty to any of the following:

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

(b) An existing or former law of this state, any other state, or the United States that is substantially equivalent to any of the offenses ~~or violations described~~ listed in division (C)(1)(a) of this section.

(2) An adult care facility may employ an applicant conditionally prior to obtaining the results of a criminal records check regarding the individual. The facility shall ~~initiate the process of obtaining request~~ request a criminal records check in accordance with division (B)(1) of this section not later than five business days after the individual begins conditional employment. The facility shall terminate the individual's employment if the results of the criminal records check, other than the results of any request for information from the federal bureau of investigation, are not obtained within the period ending sixty days after the date the request is made. If Regardless of when the results of the criminal records check are obtained, if the results indicate that the individual has been convicted of or pleaded guilty to any of the

offenses ~~specified~~ listed or described in division (C)(1) of this section, the facility shall terminate the individual's employment unless the facility chooses to employ the individual pursuant to division (F) of this section. Termination of employment under this division shall be considered just cause for discharge for purposes of division (D)(2) of section 4141.29 of the Revised Code if the individual ~~lies~~ makes any attempt to deceive the facility about the individual's criminal record.

(D)(1) Each adult care facility shall pay to the bureau of criminal identification and investigation the fee prescribed pursuant to division (C)(3) of section 109.572 of the Revised Code for each criminal records check conducted pursuant to this section.

(2) An adult care facility may charge an applicant a fee not exceeding the amount the facility pays under division (D)(1) of this section. A facility may collect a fee only if it notifies the person at the time of initial application for employment of the amount of the fee and that, unless the fee is paid, the person will not be considered for employment.

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

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

(2) The chief administrator of the facility requesting the criminal records check or the administrator's representative;

(3) The administrator of any other facility, agency, or program that provides direct care to older adults that is owned or operated by the same entity that owns or operates the adult care facility;

(4) A court, hearing officer, or other necessary individual involved in a case dealing with a denial of employment of the applicant.

(F) The public health council shall adopt rules in accordance with Chapter 119. of the Revised Code to implement this section. The rules shall specify circumstances under which an adult care facility may ~~hire~~ employ a person who has been convicted of or pleaded guilty to an offense listed or described in division (C)(1) of this section but meets personal character standards set by the council.

(G) The chief administrator of an adult care facility shall inform each individual, at the time of initial application for a position that involves providing direct care to an older adult, that the individual is required to provide a set of fingerprint impressions and that a criminal records check is required to be conducted if the individual comes under final consideration

for employment.

(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 an individual who an adult care facility employs in a position that involves providing direct care to older adults, the following shall apply:

(1) If the facility employed the individual in good faith and reasonable reliance on the report of a criminal records check requested under this section, the facility 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;

(2) If the facility employed the individual in good faith on a conditional basis pursuant to division (C)(2) of this section, the facility shall not be found negligent solely because it employed the individual prior to receiving the report of a criminal records check requested under this section;

(3) If the facility in good faith employed the individual according to the personal character standards established in rules adopted under division (F) of this section, the facility shall not be found negligent solely because the individual prior to being employed had been convicted of or pleaded guilty to an offense listed or described in division (C)(1) of this section.

(I) The chief administrator is not required to request that the superintendent of the bureau of criminal identification and investigation conduct a criminal records check of an applicant if the applicant has been referred to the adult care facility by an employment service that supplies full-time, part-time, or temporary staff for positions involving the direct care of older adults and both of the following apply:

(1) The chief administrator receives from the employment service or the applicant a report of the results of a criminal records check regarding the applicant that has been conducted by the superintendent within the one-year period immediately preceding the applicant's referral;

(2) The report of the criminal records check demonstrates that the person has not been convicted of or pleaded guilty to an offense listed or described in division (C)(1) of this section.

Sec. 4753.08. The board of speech-language pathology and audiology shall waive the examination and educational requirements for any applicant who:

(A) On September 26, 1975, has at least a bachelor's degree with a major in speech-language pathology or audiology from an accredited college or university, or who has been employed as a speech-language pathologist or audiologist for at least nine months at any time within the three years prior to September 26, 1975, if an application providing bona fide proof of

such degree or employment is filed with the board within one year after September 26, 1975, and is accompanied by the application fee as prescribed in division (A) of section 4753.11 of the Revised Code;

(B) Presents proof of current certification or licensure in good standing in the area in which licensure is sought in a state which has standards at least equal to those for licensure in this state;

(C) Presents proof of a current certificate of clinical competence in speech-language pathology or audiology that is in good standing and received from the American speech-language-hearing association in the area in which licensure is sought;

(D) On January 1, 2001, holds a current certificate, except a temporary certificate, if the certificate is in good standing, pursuant to section 3319.222 Of the Revised Code, in the area in which licensure is sought and if an application providing bona fide proof of the certificate is filed with the board on or after January 1, 2001, but before January 1, 2002. Notwithstanding division (A) of section 4753.11 of the Revised Code, the board shall not charge a licensure fee for a license issued by waiver to the holder of such a certificate. As used in this division, "certificate" means a certificate issued by the Ohio department of education to an applicant pursuant to section 3319.222 Of the Revised Code to serve as a school speech and hearing therapist, a school speech-language pathologist, a school audiologist, or any equivalent position for which a certificate is issued by the Ohio department of education.

(E) On January 1, 2001, is employed as a speech-language pathologist or audiologist by any agency of this state, if an application providing bona fide proof of the employment in the area in which licensure is sought is filed with the board on or after January 1, 2001, but before January 1, 2002. Notwithstanding division (A) of section 4753.11 of the Revised Code, the board shall not charge a licensure fee for a license issued by waiver to a person so employed.

This is an interim section effective until January 1, 2002.

Sec. 4753.12. Nothing in this chapter shall be construed to:

(A) Prohibit a person other than an individual from engaging in the business of speech-language pathology or audiology without licensure if it employs a licensed individual in the direct practice of speech-language pathology and audiology. Such entity shall file a statement with the board, on a form approved by the board for this purpose, swearing that it submits itself to the rules of the board and the provisions of this chapter which the board determines applicable.

(B) Prevent or restrict the practice of speech and hearing therapy or the

use of the official title of such practice by a person who holds a valid and current license or certificate as a ~~speech-and-hearing-therapist school~~ speech-language pathologist or school audiologist issued by the state board of education under section 3319.22, 3319.222, or 3319.223 Of the Revised Code, to prevent or restrict the establishment of standards and courses of study pursuant to Chapter 3319. of the Revised Code, to prevent or restrict the licensure of teachers pursuant to Chapter 3319. of the Revised Code, or prevent any person assigned by or under the control of the superintendent of or board of a city, local, or exempted village school district or of an educational service center from identification screening of speech or hearing impairments of pupils enrolled in the district or educational service center, provided such persons are performing activities within the scope of their employment and do not offer to render speech-language pathology or audiology services to the general public outside of the institutions or organizations in which they are employed.

(C) Prevent or restrict the practice of a person employed as a speech-language pathologist or audiologist by any agency of the state or the federal government.

(D) Restrict the activities and services of a student or intern in speech-language pathology or audiology from pursuing a course of study leading to a degree in these areas at a college or university accredited by a recognized regional or national accrediting body or in one of its cooperating clinical training facilities, if these activities and services are supervised by a person licensed in the area of study or certified by the American speech-language-hearing association in the area of study and if the student is designated by a title such as "speech-language pathology intern," "audiology intern," "trainee," or other such title clearly indicating the training status.

(E) Prevent a person from performing speech-language pathology or audiology services when performing these services in pursuit of the required supervised professional experience as prescribed in section 4753.06 of the Revised Code and that person has been issued a conditional license pursuant to section 4753.071 of the Revised Code.

(F) Restrict a speech-language pathologist or audiologist who holds the certification of the American speech-language-hearing association, or who is licensed as a speech-language pathologist or audiologist in another state and who has made application to the board for a license in this state, from practicing speech-language pathology or audiology without a valid license pending the disposition of the application.

(G) Restrict a person not a resident of this state from offering speech-language pathology or audiology services in this state if such

services are performed for not more than one period of thirty consecutive calendar days in any year, if the person is licensed in the state of the person's residence or certified by the American speech-language-hearing association and files a statement as prescribed by the board in advance of providing these services. Such person shall be subject to the rules of the board and the provisions of this chapter.

(H) Restrict a person licensed under Chapter 4747. of the Revised Code from engaging in the duties as defined in that chapter related to measuring, testing, and counseling for the purpose of identifying or modifying hearing conditions in connection with the fitting, dispensing, or servicing of a hearing aid, or affect the authority of hearing aid dealers to deal in hearing aids or advertise the practice of dealing in hearing aids in accordance with Chapter 4747. of the Revised Code.

(I) Restrict a physician from engaging in the practice of medicine and surgery or osteopathic medicine and surgery or prevent any individual from carrying out any properly delegated responsibilities within the normal practice of medicine and surgery or osteopathic medicine and surgery.

(J) Restrict a person registered or licensed under Chapter 4723. of the Revised Code from performing those acts and utilizing those procedures that are within the scope of the practice of professional or practical nursing as defined in Chapter 4723. of the Revised Code and the ethics of the nursing profession, provided such a person does not ~~hold self out~~ claim to the public ~~as to be~~ a speech-language pathologist or audiologist.

(K) Restrict an individual licensed as an audiologist under this chapter from fitting, selling, or dispensing hearing aids.

(L) Authorize the practice of medicine and surgery or entitle a person licensed pursuant to this chapter to engage in the practice of medicine or surgery or any of its branches.

(M) Restrict a person licensed pursuant to Chapter 4755. of the Revised Code from performing those acts and utilizing those procedures that are within the scope of the practice of occupational therapy or occupational therapy assistant as defined in Chapter 4755. of the Revised Code, provided the person does not ~~hold oneself out~~ claim to the public ~~as to be~~ a speech-language pathologist or audiologist.

This is an interim section effective until January 1, 2002.

SECTION 2. That existing sections 109.572, 173.41, 3301.0711, 3701.881, 3712.09, 3721.121, 3722.151, 4753.08, and 4753.12 of the Revised Code are hereby repealed.

SECTION 3. Section 3319.223 of the Revised Code is hereby repealed, effective January 1, 2002.

SECTION 4. The Legislative Office of Education Oversight shall conduct a study of the shortage of speech-language pathologists, audiologists, occupational therapists, and physical therapists available to treat students in schools. The contents of the study and the methodology to be used in conducting the study shall be determined by the Office. The Office shall consult with the Department of Education, the Ohio Board of Regents, the Board of Speech-Language Pathology and Audiology, and the appropriate sections of the Ohio Occupational Therapy, Physical Therapy, and Athletic Trainers Board. Not later than December 31, 1998, the Office shall submit to the Governor, Speaker of the House of Representatives, MINORITY LEADER OF THE HOUSE OF REPRESENTATIVES, President of the Senate, AND MINORITY LEADER OF THE SENATE a report of its findings and recommendations.

SECTION 5. The Ohio Board of Regents shall survey all state universities listed in section 3345.011 of the Revised Code, and all private colleges and universities issued a certificate of authorization under Chapter 1713. of the Revised Code, to (A) determine their current capacity to educate and train speech-language pathologists, audiologists, occupational therapists, and physical therapists and (B) develop strategies for increasing that capacity to meet the state's need for school speech-language pathologists, audiologists, occupational therapists, and physical therapists. Not later than December 31, 1998, the Board shall submit to the Governor, the Speaker of the House of Representatives, and the President of the Senate a report of its findings and recommendations.

SECTION 6. The amendment of sections 4753.08 and 4753.12 of the Revised Code by this act is not intended to supersede the earlier amendment of those sections by Am. Sub. S.B. 230 of the 121st General Assembly that takes effect January 1, 2002.

SECTION 7. Sections 109.572 and 3701.881 of the Revised Code are presented in this act as composites of those sections as amended by Am.

Sub. H.B. 445, Am. Sub. H.B. 269, and Am. Sub. S.B. 160 of the 121st General Assembly, with the new language of none of the acts shown in capital letters. This is in recognition of the principle stated in division (B) of section 1.52 of the Revised Code that such amendments are to be harmonized where not substantively irreconcilable and constitutes a legislative finding that such is the resulting version in effect prior to the effective date of this act.

SECTION 8. The amendments made by this act to sections 109.572, 173.41, 3701.881, 3712.09, 3721.121, and 3722.151 of the Revised Code do not supersede Section 3 of Am. Sub. S.B. 160 of the 121st General Assembly, which provides that those sections as amended and enacted by Am. Sub. S.B. 160 apply only to persons who apply for employment on or after January 27, 1997, the effective date of Am. Sub. S.B. 160 of the 121st General Assembly.

SECTION 9. This section applies only to school districts that were unable to meet the requirements of sections 3313.48, 3313.481, and 3317.01 of the Revised Code respecting the number of days schools must be open for instruction because of a fire in the district that rendered one or more buildings unfit for use. Notwithstanding sections 3313.48, 3313.481, and 3317.01 of the Revised Code, a school district described in this section shall be deemed to have complied with the requirements of those sections if it increases the length of the school day by one hour each day for the number of days equal to the number of days that the district was closed in excess of the number permitted by sections 3313.48, 3313.481, and 3317.01 of the Revised Code multiplied by the number of hours required by the Department of Education in the state minimum standards for the school day.

SECTION 10. This act is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, and safety. The reasons for such necessity are that the current supply of licensed speech-language pathologists and audiologists is inadequate to meet the needs of the state's school children; nonpublic school students with disabilities who would be exempt from proficiency tests if attending public schools currently are not exempt from taking proficiency tests in the 1997-1998 academic year; and certain individuals are being denied employment in positions that involve providing direct care to older adults because information from the Federal Bureau of Investigation at times is not available before the end of the 60-day period during which an individual may be employed conditionally prior to obtaining the results of a criminal records check. Therefore, this act shall go into immediate effect.

Speaker _____ *of the House of Representatives.*

President _____ *of the Senate.*

Passed _____, 20____

Approved _____, 20____

Am. Sub. S. B. No. 96

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Governor.

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

Director, Legislative Service Commission.

Filed in the office of the Secretary of State at Columbus, Ohio, on the
____ day of _____, A. D. 20____.

Secretary of State.

File No. _____ Effective Date _____