

**As Introduced**

**134th General Assembly  
Regular Session  
2021-2022**

**H. B. No. 179**

**Representatives Ginter, Fraizer  
Cosponsor: Representative Young, T.**

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**A BILL**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

political subdivisions. 142

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

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

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

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

formats and electronic formats. 172

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

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

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

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

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

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



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

single request and only one fee shall be charged. 262

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

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

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

(3) A rule adopted under division (E)(1) of this section 292  
may provide for the release of information gathered pursuant to 293  
division (A) of this section that relates to the arrest of a 294  
person who is eighteen years of age or older when the person has 295  
not been convicted as a result of that arrest if any of the 296  
following applies: 297

(a) The arrest was made outside of this state. 298

(b) A criminal action resulting from the arrest is 299  
pending, and the superintendent confirms that the criminal 300  
action has not been resolved at the time the criminal records 301  
check is performed. 302

(c) The bureau cannot reasonably determine whether a 303  
criminal action resulting from the arrest is pending, and not 304  
more than one year has elapsed since the date of the arrest. 305

(4) A rule adopted under division (E)(1) of this section 306  
may provide for the release of information gathered pursuant to 307  
division (A) of this section that relates to an adjudication of 308  
a child as a delinquent child if not more than five years have 309  
elapsed since the date of the adjudication, the adjudication was 310  
for an act that would have been a felony if committed by an 311  
adult, the records of the adjudication have not been sealed or 312  
expunged pursuant to sections 2151.355 to 2151.358 of the 313  
Revised Code, and the request for information is made under 314  
division (F) of this section or under section 109.572 of the 315  
Revised Code. In the case of an adjudication for a violation of 316  
the terms of community control or supervised release, the five- 317  
year period shall be calculated from the date of the 318  
adjudication to which the community control or supervised 319  
release pertains. 320

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

(J) As used in this section: 483

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

following: 869

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

(E) When the superintendent receives a request for 1017

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

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

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

(G) As used in this section: 1042

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

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

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

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

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

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

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

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

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

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

following: 1102

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

considered for employment. 1304

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

(1) The rules may do the following: 1451

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

under this section and the rules require the department or its 1531  
designee to take action under division (C) (1) of this section if 1532  
a self-employed provider is included in such a database. 1533

(b) After the self-employed provider is provided, pursuant 1534  
to division (F) (2) (a) of this section, a copy of the form 1535  
prescribed pursuant to division (C) (1) of section 109.572 of the 1536  
Revised Code and the standard impression sheet prescribed 1537  
pursuant to division (C) (2) of that section, the self-employed 1538  
provider fails to complete the form or provide the self-employed 1539  
provider's fingerprint impressions on the standard impression 1540  
sheet. 1541

(c) Unless the self-employed provider meets standards 1542  
specified in rules adopted under this section, the self-employed 1543  
provider is found by a criminal records check required by this 1544  
section to have been convicted of, pleaded guilty to, or been 1545  
found eligible for intervention in lieu of conviction for a 1546  
disqualifying offense. 1547

(D) The department of aging or its designee shall inform 1548  
each self-employed provider of both of the following at the time 1549  
of the self-employed provider's initial application for a 1550  
community-based long-term care services certificate or initial 1551  
bid for a community-based long-term care services contract or 1552  
grant: 1553

(1) That a review of the databases listed in division (E) 1554  
of this section will be conducted to determine whether the 1555  
department or its designee is required by division (C) of this 1556  
section to refuse to issue or award a community-based long-term 1557  
care services certificate or community-based long-term care 1558  
services contract or grant to the self-employed provider; 1559

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) Obtain the completed form and standard impression 1648



sheet from the self-employed provider; 1649

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

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

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

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

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

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

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

(a) A refusal to issue or award a community-based long-term services certificate or community-based long-term care services contract or grant to the self-employed provider; 1677  
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(b) A revocation or termination of the self-employed provider's community-based long-term care services certificate or community-based long-term care services contract or grant; 1680  
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(c) A civil or criminal action regarding a program the department of aging administers. 1683  
1684

(H) In a tort or other civil action for damages that is brought as the result of an injury, death, or loss to person or property caused by a self-employed provider, both of the following shall apply: 1685  
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(1) If the department of aging or its designee, in good faith and reasonable reliance on the report of a criminal records check requested under this section, issued or awarded a community-based long-term care services certificate or community-based long-term care services contract or grant to the self-employed provider or did not revoke or terminate the self-employed provider's certificate or contract or grant, the department and its designee shall not be found negligent solely because of its reliance on the report, even if the information in the report is determined later to have been incomplete or inaccurate. 1689  
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(2) If the department or its designee in good faith issued or awarded a community-based long-term care services certificate or community-based long-term care services contract or grant to the self-employed provider or did not revoke or terminate the self-employed provider's certificate or contract or grant because the self-employed provider meets standards specified in 1700  
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rules adopted under this section, the department and its 1706  
designee shall not be found negligent solely because the self- 1707  
employed provider has been convicted of, pleaded guilty to, or 1708  
been found eligible for intervention in lieu of conviction for a 1709  
disqualifying offense. 1710

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

(1) The rules may do the following: 1713

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) There can be no recovery. 1872



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) A hospital;

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

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

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

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

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

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

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

(U) "Permanently unconscious state" means a state of permanent unconsciousness in a declarant or other patient that, to a reasonable degree of medical certainty as determined in accordance with reasonable medical standards by the declarant's or other patient's attending physician and one other physician who has examined the declarant or other patient, is characterized by both of the following: 1963  
1964  
1965  
1966  
1967  
1968  
1969

(1) Irreversible unawareness of one's being and environment. 1970  
1971

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

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

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

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

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

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

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

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

(1) There can be no recovery. 1998

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

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

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

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

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

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

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

circumstances, including either of the following: 2044

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

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

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

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

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

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

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

residents who could benefit from palliative care. 2073

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

Any rules adopted by the director pursuant to section 3721.04 of the Revised Code to implement the requirements described in division (B)(2)(a) of this section are not subject to the requirements of division (F) of section 121.95 of the Revised Code. 2159  
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~~(b) On request, submitted in a manner and form approved by the director, the director may review plans for a building that is to be used as a home for compliance with applicable state and local building and safety codes.~~ 2164  
2165  
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~~(e) The director may charge a fee for an expedited licensing inspection or a plan review that is adequate to cover the expense of expediting the inspection or reviewing the plans. The fee shall be deposited in the state treasury to the credit of the general operations fund created in section 3701.83 of the Revised Code and used solely for expediting inspections and reviewing plans.~~ 2168  
2169  
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(C) A single facility may be licensed both as a nursing home pursuant to this chapter and as a residential facility pursuant to section 5119.34 of the Revised Code if the director determines that the part or unit to be licensed as a nursing home can be maintained separate and discrete from the part or unit to be licensed as a residential facility. 2175  
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(D) In determining the number of residents in a home for the purpose of licensing, the director shall consider all the individuals for whom the home provides accommodations as one group unless one of the following is the case: 2181  
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2184

(1) The home is a home for the aging, in which case all the individuals in the part or unit licensed as a nursing home shall be considered as one group, and all the individuals in the 2185  
2186  
2187

part or unit licensed as a ~~rest home~~ residential care facility 2188  
shall be considered as another group. 2189

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

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

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

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

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

dollars; 2217

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

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

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

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

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

(i) The date the inspection or investigation was 2245

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

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

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



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

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

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

(2) Personal care services; 2336

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) Refuse to issue a license; 2514

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

- ~~(12) "Minor drug possession offense" has the same meaning as in section 2925.01 of the Revised Code.~~ 2607  
2608
- ~~(13) "Nursing home," "residential care facility," and "skilled nursing care" have the same meanings as in section 3721.01 of the Revised Code.~~ 2609  
2610  
2611
- ~~(14) "Occupational therapy" has the same meaning as in section 4755.04 of the Revised Code.~~ 2612  
2613
- ~~(15) "Physical therapy" has the same meaning as in section 4755.40 of the Revised Code.~~ 2614  
2615
- ~~(16) "Social worker" means a person licensed under Chapter 4757. of the Revised Code to practice as a social worker or independent social worker.~~ 2616  
2617  
2618
- ~~(17) "Speech language pathology" has the same meaning as in section 4753.01 of the Revised Code.~~ 2619  
2620
- ~~(18) "Waiver agency" has the same meaning as in section 5164.342 of the Revised Code.~~ 2621  
2622
- (B) No home health agency shall employ an applicant or 2623  
continue to employ an employee in a position that involves 2624  
providing direct care to an individual if any of the following 2625  
apply: 2626
- (1) A review of the databases listed in division (D) of 2627  
this section reveals any of the following: 2628
- (a) That the applicant or employee is included in one or 2629  
more of the databases listed in divisions (D) (1) to (5) of this 2630  
section; 2631
- (b) That there is in the state nurse aide registry 2632  
established under section 3721.32 of the Revised Code a 2633

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



the following: 2780

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) The rules may do the following: 2916

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

licenses; and extended service contracts. 3063

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(9) A supervised financial institution or its subsidiary. 3178  
As used in division (B) (9) of this section, "supervised 3179  
financial institution" means a bank, trust company, savings and 3180  
loan association, savings bank, credit union, industrial loan 3181  
company, consumer finance lender, commercial finance lender, or 3182  
institution described in section 2(c) (2) (F) of the "Bank Holding 3183  
Company Act of 1956," 12 U.S.C.A. 1841(c) (2) (F), as amended, 3184  
supervised by an official or agency of the United States, this 3185  
state, or any other state of the United States; or a licensee or 3186  
registrant under sections 1321.01 to 1321.19, 1321.51 to 3187  
1321.60, or 1321.71 to 1321.83, or Chapter 1322. of the Revised 3188  
Code. 3189

(10) (a) An insurance company, association, or other 3190  
organization that is licensed or authorized to conduct business 3191  
in this state by the superintendent of insurance pursuant to 3192  
Title XXXIX of the Revised Code or Chapter 1751. of the Revised 3193  
Code, when soliciting within the scope of its license or 3194  
authorization. 3195

(b) A licensed insurance broker, agent, or solicitor when 3196  
soliciting within the scope of the person's license. As used in 3197  
division (B) (10) (b) of this section, "licensed insurance broker, 3198  
agent, or solicitor" means any person licensed as an insurance 3199  
broker, agent, or solicitor by the superintendent of insurance 3200  
pursuant to Title XXXIX of the Revised Code. 3201

(11) A person soliciting the sale of services provided by 3202  
a cable television system operating under authority of a 3203  
governmental franchise or permit; 3204

(12) A person soliciting a business-to-business sale under 3205  
which any of the following conditions are met: 3206

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

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

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

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

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

(a) It includes all of the following: 3230

(i) The business address of the seller; 3231

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) The person makes telephone solicitations on behalf of

only exempt persons, the person and each exempt person on whose 3321  
behalf telephone solicitations are made have entered into a 3322  
written contract that specifies the manner in which the 3323  
telephone solicitations are to be conducted and that at a 3324  
minimum requires compliance with the telemarketing sales rule 3325  
adopted by the federal trade commission in 16 C.F.R. part 310, 3326  
and the person conducts the telephone solicitations in the 3327  
manner specified in the written contract. 3328

(d) The person performs telephone solicitation for 3329  
religious or political purposes, a charitable organization, a 3330  
fund-raising council, or a professional solicitor in compliance 3331  
with the registration and reporting requirements of Chapter 3332  
1716. of the Revised Code; and meets all of the following 3333  
requirements: 3334

(i) The person has operated under the same ownership, 3335  
control, and business name for at least five years, and the 3336  
person receives at least fifty-one per cent of its gross 3337  
revenues from written telephone solicitation contracts with 3338  
persons who come within the exemption in division (B) (2) of this 3339  
section; 3340

(ii) The person does not conduct a prize promotion or 3341  
offer the sale of an investment opportunity; 3342

(iii) The person conducts all telephone solicitation 3343  
activities according to sections 310.3, 310.4, and 310.5 of the 3344  
telemarketing sales rules adopted by the federal trade 3345  
commission in 16 C.F.R. part 310. 3346

(20) A person that is a licensed real estate salesperson 3347  
or broker under Chapter 4735. of the Revised Code when 3348  
soliciting within the scope of the person's license; 3349

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

to 173.523 of the Revised Code; 3436

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) The patient; 3584

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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| given to the provider under division (E) (1) of this section.             | 3776 |
| (ii) The provider is not prohibited by division (D) (3) (b)               | 3777 |
| of this section from employing the employee or prospective                | 3778 |
| employee.   | 3779 |
| (5) "Responsible entity" means the following:                             | 3780 |
| (a) With respect to a criminal records check required                     | 3781 |
| under this section for a medicaid provider, the department of             | 3782 |
| medicaid or the department's designee;                                    | 3783 |
| (b) With respect to a criminal records check required                     | 3784 |
| under this section for an owner or prospective owner, officer or          | 3785 |
| prospective officer, board member or prospective board member,            | 3786 |
| or employee or prospective employee of a medicaid provider, the           | 3787 |
| provider.   | 3788 |
| (B) This section does not apply to any of the following:                  | 3789 |
| (1) An individual who is subject to a criminal records                    | 3790 |
| check under section 3712.09, 3721.121, 5123.081, or 5123.169 of           | 3791 |
| the Revised Code;   | 3792 |
| (2) An individual who is subject to a database review or                  | 3793 |
| criminal records check under section 173.38, 173.381, <del>3701.881</del> | 3794 |
| <u>3722.11</u> , or 5164.342 of the Revised Code;                         | 3795 |
| (3) An individual who is an applicant or independent                      | 3796 |
| provider, both as defined in section 5164.341 of the Revised              | 3797 |
| Code.   | 3798 |
| (C) The department of medicaid may do any of the                          | 3799 |
| following:  | 3800 |
| (1) Require that any medicaid provider submit to a                        | 3801 |
| criminal records check as a condition of obtaining or                     | 3802 |

maintaining a provider agreement; 3803

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

this section. 3889

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(3) The department's designee; 3995

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

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

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

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

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

in section 5164.341 of the Revised Code. 4061

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



2950.13 of the Revised Code; 4148

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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