

## **As Introduced**

**134th General Assembly**

**Regular Session**

**H. B. No. 179**

**2021-2022**

**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  
enacted to read as follows:

**Sec. 109.57.** (A) (1) The superintendent of the bureau of  
criminal identification and investigation shall procure from  
wherever procurable and file for record photographs, pictures,  
descriptions, fingerprints, measurements, and other information  
that may be pertinent of all persons who have been convicted of  
committing within this state a felony, any crime constituting a  
misdemeanor on the first offense and a felony on subsequent  
offenses, or any misdemeanor described in division (A) (1) (a),  
(A) (5) (a), or (A) (7) (a) of section 109.572 of the Revised Code,  
of all children under eighteen years of age who have been  
adjudicated delinquent children for committing within this state  
an act that would be a felony or an offense of violence if  
committed by an adult or who have been convicted of or pleaded  
guilty to committing within this state a felony or an offense of  
violence, and of all well-known and habitual criminals. The  
person in charge of any county, multiconty, municipal,  
municipal-county, or multiconty-municipal jail or workhouse,  
community-based correctional facility, halfway house,  
alternative residential facility, or state correctional  
institution and the person in charge of any state institution  
having custody of a person suspected of having committed a  
felony, any crime constituting a misdemeanor on the first  
offense and a felony on subsequent offenses, or any misdemeanor  
described in division (A) (1) (a), (A) (5) (a), or (A) (7) (a) of  
section 109.572 of the Revised Code or having custody of a child  
under eighteen years of age with respect to whom there is  
probable cause to believe that the child may have committed an  
act that would be a felony or an offense of violence if  
committed by an adult shall furnish such material to the

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

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

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, multiconty, municipal, municipal-county, or multiconty-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, multiconty, municipal, municipal-county, or multiconty-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 the Revised Code with respect to the registration of persons who are convicted of or plead guilty to a sexually oriented offense or a child-victim oriented offense and with respect to all other duties imposed on the bureau under that chapter.	143 144 145 146 147
(5) The bureau shall perform centralized recordkeeping functions for criminal history records and services in this state for purposes of the national crime prevention and privacy compact set forth in section 109.571 of the Revised Code and is the criminal history record repository as defined in that section for purposes of that compact. The superintendent or the superintendent's designee is the compact officer for purposes of that compact and shall carry out the responsibilities of the compact officer specified in that compact.	148 149 150 151 152 153 154 155 156
(6) The superintendent shall, upon request, assist a county coroner in the identification of a deceased person through the use of fingerprint impressions obtained pursuant to division (A) (1) of this section or collected pursuant to section 109.572 or 311.41 of the Revised Code.	157 158 159 160 161
(B) The superintendent shall prepare and furnish to every county, multiconty, municipal, municipal-county, or multiconty-municipal jail or workhouse, community-based correctional facility, halfway house, alternative residential facility, or state correctional institution and to every clerk of a court in this state specified in division (A) (2) of this section standard forms for reporting the information required under division (A) of this section. The standard forms that the superintendent prepares pursuant to this division may be in a tangible format, in an electronic format, or in both tangible	162 163 164 165 166 167 168 169 170 171

formats and electronic formats.	172
(C) (1) The superintendent may operate a center for electronic, automated, or other data processing for the storage and retrieval of information, data, and statistics pertaining to criminals and to children under eighteen years of age who are adjudicated delinquent children for committing an act that would be a felony or an offense of violence if committed by an adult, criminal activity, crime prevention, law enforcement, and criminal justice, and may establish and operate a statewide communications network to be known as the Ohio law enforcement gateway to gather and disseminate information, data, and statistics for the use of law enforcement agencies and for other uses specified in this division. The superintendent may gather, store, retrieve, and disseminate information, data, and statistics that pertain to children who are under eighteen years of age and that are gathered pursuant to sections 109.57 to 109.61 of the Revised Code together with information, data, and statistics that pertain to adults and that are gathered pursuant to those sections.	173 174 175 176 177 178 179 180 181 182 183 184 185 186 187 188 189 190
(2) The superintendent or the superintendent's designee shall gather information of the nature described in division (C) (1) of this section that pertains to the offense and delinquency history of a person who has been convicted of, pleaded guilty to, or been adjudicated a delinquent child for committing a sexually oriented offense or a child-victim oriented offense for inclusion in the state registry of sex offenders and child- victim offenders maintained pursuant to division (A) (1) of section 2950.13 of the Revised Code and in the internet database operated pursuant to division (A) (13) of that section and for possible inclusion in the internet database operated pursuant to division (A) (11) of that section.	191 192 193 194 195 196 197 198 199 200 201 202

- (3) In addition to any other authorized use of information, data, and statistics of the nature described in division (C)(1) of this section, the superintendent or the superintendent's designee may provide and exchange the information, data, and statistics pursuant to the national crime prevention and privacy compact as described in division (A)(5) of this section. 203  
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- (4) The Ohio law enforcement gateway shall contain the name, confidential address, and telephone number of program participants in the address confidentiality program established under sections 111.41 to 111.47 of the Revised Code. 210  
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- (5) The attorney general may adopt rules under Chapter 119. of the Revised Code establishing guidelines for the operation of and participation in the Ohio law enforcement gateway. The rules may include criteria for granting and restricting access to information gathered and disseminated through the Ohio law enforcement gateway. The attorney general shall adopt rules under Chapter 119. of the Revised Code that grant access to information in the gateway regarding an address confidentiality program participant under sections 111.41 to 111.47 of the Revised Code to only chiefs of police, village marshals, county sheriffs, county prosecuting attorneys, and a designee of each of these individuals. The attorney general shall permit the state medical board and board of nursing to access and view, but not alter, information gathered and disseminated through the Ohio law enforcement gateway. 214  
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- The attorney general may appoint a steering committee to advise the attorney general in the operation of the Ohio law enforcement gateway that is comprised of persons who are representatives of the criminal justice agencies in this state 229  
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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  
may provide for the release of information gathered pursuant to  
division (A) of this section that relates to the arrest of a  
person who is eighteen years of age or older when the person has  
not been convicted as a result of that arrest if any of the  
following applies:  
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- (a) The arrest was made outside of this state.  
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- (b) A criminal action resulting from the arrest is  
pending, and the superintendent confirms that the criminal  
action has not been resolved at the time the criminal records  
check is performed.  
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- (c) The bureau cannot reasonably determine whether a  
criminal action resulting from the arrest is pending, and not  
more than one year has elapsed since the date of the arrest.  
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- (4) A rule adopted under division (E)(1) of this section  
may provide for the release of information gathered pursuant to  
division (A) of this section that relates to an adjudication of  
a child as a delinquent child if not more than five years have  
elapsed since the date of the adjudication, the adjudication was  
for an act that would have been a felony if committed by an  
adult, the records of the adjudication have not been sealed or  
expunged pursuant to sections 2151.355 to 2151.358 of the  
Revised Code, and the request for information is made under  
division (F) of this section or under section 109.572 of the  
Revised Code. In the case of an adjudication for a violation of  
the terms of community control or supervised release, the five-  
year period shall be calculated from the date of the  
adjudication to which the community control or supervised  
release pertains.  
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(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.	321 322 323 324 325
(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, <del>3701.881</del> <ins>3722.11</ins> , 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,	326 327 328 329 330 331 332 333 334 335 336 337 338 339 340 341 342 343 344 345 346 347 348 349 350 351

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
<b>Sec. 109.572.</b> (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  
who is the subject of the request previously has been convicted  
of or pleaded guilty to any of the following:

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

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

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

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

fingerprint impressions obtained in the manner described in 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, 3701.8813722.11, 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, 2925.06, 2925.09, 2925.11, 2925.13, 2925.14, 2925.141, 2925.22, 2925.23, 2925.24, 2925.36, 2925.55, 2925.56, 2927.12, or 3716.11 of the Revised Code;	595 596 597 598
(b) Felonious sexual penetration in violation of former section 2907.12 of the Revised Code;	599 600
(c) A violation of section 2905.04 of the Revised Code as it existed prior to July 1, 1996;	601 602
(d) A violation of section 2923.01, 2923.02, or 2923.03 of the Revised Code when the underlying offense that is the object of the conspiracy, attempt, or complicity is one of the offenses listed in divisions (A) (3) (a) to (c) of this section;	603 604 605 606
(e) A violation of an existing or former municipal ordinance or law of this state, any other state, or the United States that is substantially equivalent to any of the offenses listed in divisions (A) (3) (a) to (d) of this section.	607 608 609 610
(4) On receipt of a request pursuant to section 2151.86 or 2151.904 of the Revised Code, a completed form prescribed pursuant to division (C)(1) of this section, and a set of fingerprint impressions obtained in the manner described in division (C)(2) of this section, the superintendent of the bureau of criminal identification and investigation shall conduct a criminal records check in the manner described in division (B) of this section to determine whether any information exists that indicates that the person who is the subject of the request previously has been convicted of or pleaded guilty to any of the following:	611 612 613 614 615 616 617 618 619 620 621
(a) A violation of section 959.13, 2903.01, 2903.02, 2903.03, 2903.04, 2903.11, 2903.12, 2903.13, 2903.15, 2903.16,	622 623

2903.21, 2903.211, 2903.22, 2903.34, 2905.01, 2905.02, 2905.05, 2907.02, 2907.03, 2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2909.02, 2909.03, 2909.22, 2909.23, 2909.24, 2911.01, 2911.02, 2911.11, 2911.12, 2913.49, 2917.01, 2917.02, 2919.12, 2919.22, 2919.24, 2919.25, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.04, 2925.05, 2925.06, 2927.12, or 3716.11 of the Revised Code, a violation of section 2905.04 of the Revised Code as it existed prior to July 1, 1996, a violation of section 2919.23 of the Revised Code that would have been a violation of section 2905.04 of the Revised Code as it existed prior to July 1, 1996, had the violation been committed prior to that date, a violation of section 2925.11 of the Revised Code that is not a minor drug possession offense, two or more OVI or OVUAC violations committed within the three years immediately preceding the submission of the application or petition that is the basis of the request, or felonious sexual penetration in violation of former section 2907.12 of the Revised Code;	624 625 626 627 628 629 630 631 632 633 634 635 636 637 638 639 640 641 642
(b) A violation of an existing or former law of this state, any other state, or the United States that is substantially equivalent to any of the offenses listed in division (A) (4) (a) of this section.	643 644 645 646
(5) Upon receipt of a request pursuant to section 5104.013 of the Revised Code, a completed form prescribed pursuant to division (C) (1) of this section, and a set of fingerprint impressions obtained in the manner described in division (C) (2) of this section, the superintendent of the bureau of criminal identification and investigation shall conduct a criminal records check in the manner described in division (B) of this section to determine whether any information exists that	647 648 649 650 651 652 653 654

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

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

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

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substantially equivalent to any of the offenses or violations described in division (A) (5) (a) of this section.	686 687
(6) Upon receipt of a request pursuant to section 5153.111 of the Revised Code, a completed form prescribed pursuant to division (C) (1) of this section, and a set of fingerprint impressions obtained in the manner described in division (C) (2) of this section, the superintendent of the bureau of criminal identification and investigation shall conduct a criminal records check in the manner described in division (B) of this section to determine whether any information exists that indicates that the person who is the subject of the request previously has been convicted of or pleaded guilty to any of the following:	688 689 690 691 692 693 694 695 696 697 698
(a) A violation of section 2903.01, 2903.02, 2903.03, 2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 2905.01, 2905.02, 2905.05, 2907.02, 2907.03, 2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2909.02, 2909.03, 2911.01, 2911.02, 2911.11, 2911.12, 2919.12, 2919.22, 2919.24, 2919.25, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.04, 2925.05, 2925.06, or 3716.11 of the Revised Code, felonious sexual penetration in violation of former section 2907.12 of the Revised Code, a violation of section 2905.04 of the Revised Code as it existed prior to July 1, 1996, a violation of section 2919.23 of the Revised Code that would have been a violation of section 2905.04 of the Revised Code as it existed prior to July 1, 1996, had the violation been committed prior to that date, or a violation of section 2925.11 of the Revised Code that is not a minor drug possession offense;	699 700 701 702 703 704 705 706 707 708 709 710 711 712 713 714
(b) A violation of an existing or former law of this	715

state, any other state, or the United States that is  
substantially equivalent to any of the offenses listed in  
division (A) (6) (a) of this section. 716  
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(7) On receipt of a request for a criminal records check  
from an individual pursuant to section 4749.03 or 4749.06 of the  
Revised Code, accompanied by a completed copy of the form  
prescribed in division (C)(1) of this section and a set of  
fingerprint impressions obtained in a manner described in  
division (C)(2) of this section, the superintendent of the  
bureau of criminal identification and investigation shall  
conduct a criminal records check in the manner described in  
division (B) of this section to determine whether any  
information exists indicating that the person who is the subject  
of the request has been convicted of or pleaded guilty to any  
criminal offense in this state or in any other state. If the  
individual indicates that a firearm will be carried in the  
course of business, the superintendent shall require information  
from the federal bureau of investigation as described in  
division (B)(2) of this section. Subject to division (F) of this  
section, the superintendent shall report the findings of the  
criminal records check and any information the federal bureau of  
investigation provides to the director of public safety. 719  
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(8) On receipt of a request pursuant to section 1321.37,  
1321.53, or 4763.05 of the Revised Code, a completed form  
prescribed pursuant to division (C)(1) of this section, and a  
set of fingerprint impressions obtained in the manner described  
in division (C)(2) of this section, the superintendent of the  
bureau of criminal identification and investigation shall  
conduct a criminal records check with respect to any person who  
has applied for a license, permit, or certification from the  
department of commerce or a division in the department. The 738  
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superintendent shall conduct the criminal records check in the  
manner described in division (B) of this section to determine  
whether any information exists that indicates that the person  
who is the subject of the request previously has been convicted  
of or pleaded guilty to any criminal offense in this state, any  
other state, or the United States. 747  
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(9) On receipt of a request for a criminal records check  
from the treasurer of state under section 113.041 of the Revised  
Code or from an individual under section 928.03, 4701.08,  
4715.101, 4717.061, 4725.121, 4725.501, 4729.071, 4729.53,  
4729.90, 4729.92, 4730.101, 4730.14, 4730.28, 4731.081, 4731.15,  
4731.171, 4731.222, 4731.281, 4731.531, 4732.091, 4734.202,  
4740.061, 4741.10, 4747.051, 4751.20, 4751.201, 4751.202,  
4751.21, 4753.061, 4755.70, 4757.101, 4759.061, 4760.032,  
4760.06, 4761.051, 4762.031, 4762.06, 4774.031, 4774.06,  
4776.021, 4778.04, 4778.07, 4779.091, or 4783.04 of the Revised  
Code, accompanied by a completed form prescribed under division  
(C) (1) of this section and a set of fingerprint impressions  
obtained in the manner described in division (C) (2) of this  
section, the superintendent of the bureau of criminal  
identification and investigation shall conduct a criminal  
records check in the manner described in division (B) of this  
section to determine whether any information exists that  
indicates that the person who is the subject of the request has  
been convicted of or pleaded guilty to any criminal offense in  
this state or any other state. Subject to division (F) of this  
section, the superintendent shall send the results of a check  
requested under section 113.041 of the Revised Code to the  
treasurer of state and shall send the results of a check  
requested under any of the other listed sections to the  
licensing board specified by the individual in the request. 773  
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(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  
division (C) (2) of this section, the superintendent of the  
bureau of criminal identification and investigation shall  
conduct a criminal records check with respect to any person for  
whom a criminal records check is required under that section.  
The superintendent shall conduct the criminal records check in  
the manner described in division (B) of this section to  
determine whether any information exists that indicates that the  
person who is the subject of the request previously has been  
convicted of or pleaded guilty to any of the following:

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

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

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

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

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

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

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

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  
the subject of the request has been convicted of or pleaded  
guilty to any criminal offense in any state or the United  
States.

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

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

(1) The superintendent shall review or cause to be  
reviewed any relevant information gathered and compiled by the  
bureau under division (A) of section 109.57 of the Revised Code  
that relates to the person who is the subject of the criminal  
records check, including, if the criminal records check was  
requested under section 113.041, 121.08, 124.74, 173.27, 173.38,  
173.381, 718.131, 928.03, 1121.23, 1315.141, 1321.37, 1321.53,  
1733.47, 1761.26, 2151.86, 3301.32, 3301.541, 3319.39,  
~~3701.8813722.11~~, 3712.09, 3721.121, 3772.07, 3796.12, 3796.13,  
4729.071, 4729.53, 4729.90, 4729.92, 4749.03, 4749.06, 4763.05,

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  
which is prohibited by federal law. 959  
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(5) The superintendent shall send the results of the  
criminal records check to the person to whom it is to be sent  
not later than the following number of days after the date the  
superintendent receives the request for the criminal records  
check, the completed form prescribed under division (C)(1) of  
this section, and the set of fingerprint impressions obtained in  
the manner described in division (C)(2) of this section: 961  
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(a) If the superintendent is required by division (A) of  
this section (other than division (A)(3) of this section) to  
conduct the criminal records check, thirty; 968  
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(b) If the superintendent is required by division (A)(3)  
of this section to conduct the criminal records check, sixty. 971  
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(C)(1) The superintendent shall prescribe a form to obtain  
the information necessary to conduct a criminal records check  
from any person for whom a criminal records check is to be  
conducted under this section. The form that the superintendent  
prescribes pursuant to this division may be in a tangible  
format, in an electronic format, or in both tangible and  
electronic formats. 973  
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(2) The superintendent shall prescribe standard impression  
sheets to obtain the fingerprint impressions of any person for  
whom a criminal records check is to be conducted under this  
section. Any person for whom a records check is to be conducted  
under this section shall obtain the fingerprint impressions at a  
county sheriff's office, municipal police department, or any  
other entity with the ability to make fingerprint impressions on  
the standard impression sheets prescribed by the superintendent. 980  
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The office, department, or entity may charge the person a  
reasonable fee for making the impressions. The standard  
impression sheets the superintendent prescribes pursuant to this  
division may be in a tangible format, in an electronic format,  
or in both tangible and electronic formats.

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

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

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

(E) When the superintendent receives a request for

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 as in section 2925.01 of the Revised Code.	1047 1048
(3) "OVI or OVUAC violation" means a violation of section 4511.19 of the Revised Code or a violation of an existing or former law of this state, any other state, or the United States that is substantially equivalent to section 4511.19 of the Revised Code.	1049 1050 1051 1052 1053
(4) "Registered private provider" means a nonpublic school or entity registered with the superintendent of public instruction under section 3310.41 of the Revised Code to participate in the autism scholarship program or section 3310.58 of the Revised Code to participate in the Jon Peterson special needs scholarship program.	1054 1055 1056 1057 1058 1059
<b>Sec. 173.38.</b> (A) As used in this section:	1060
(1) "Applicant" means a person who is under final consideration for employment with a responsible party in a full- time, part-time, or temporary direct-care position or is referred to a responsible party by an employment service for such a position. "Applicant" does not include a person being considered for a direct-care position as a volunteer.	1061 1062 1063 1064 1065 1066
(2) "Area agency on aging" has the same meaning as in section 173.14 of the Revised Code.	1067 1068
(3) "Chief administrator of a responsible party" includes a consumer when the consumer is a responsible party.	1069 1070
(4) "Community-based long-term care services" means community-based long-term care services, as defined in section 173.14 of the Revised Code, that are provided under a program the department of aging administers.	1071 1072 1073 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. "Employee" does not include a person who works in a direct-care position as a volunteer.	1090 1091 1092 1093 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 under final consideration for employment with the agency in a full-time, part-time, or temporary direct-care position or is referred to the agency by an employment service for such a position;	1103 1104 1105 1106 1107
(ii) A person who is an employee because the person is employed by the agency in a full-time, part-time, or temporary direct-care position or works in such a position due to being referred to the agency by an employment service.	1108 1109 1110 1111
(b) A PASSPORT administrative agency in the case of either of the following:	1112 1113
(i) A person who is an applicant because the person is under final consideration for employment with the agency in a full-time, part-time, or temporary direct-care position or is referred to the agency by an employment service for such a position;	1114 1115 1116 1117 1118
(ii) A person who is an employee because the person is employed by the agency in a full-time, part-time, or temporary direct-care position or works in such a position due to being referred to the agency by an employment service.	1119 1120 1121 1122
(c) A provider in the case of either of the following:	1123
(i) A person who is an applicant because the person is under final consideration for employment with the provider in a full-time, part-time, or temporary direct-care position or is referred to the provider by an employment service for such a position;	1124 1125 1126 1127 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 direct-care position or works in such a position due to being referred to the provider by an employment service.	1130 1131 1132
(d) A subcontractor in the case of either of the following:	1133 1134
(i) A person who is an applicant because the person is under final consideration for employment with the subcontractor in a full-time, part-time, or temporary direct-care position or is referred to the subcontractor by an employment service for such a position;	1135 1136 1137 1138 1139
(ii) A person who is an employee because the person is employed by the subcontractor in a full-time, part-time, or temporary direct-care position or works in such a position due to being referred to the subcontractor by an employment service.	1140 1141 1142 1143
(e) A consumer in the case of either of the following:	1144
(i) A person who is an applicant because the person is under final consideration for employment with the consumer in a full-time, part-time, or temporary direct-care position for which the consumer, as the employer of record, is to direct the person in the provision of community-based long-term care services the person is to provide the consumer or is referred to the consumer by an employment service for such a position;	1145 1146 1147 1148 1149 1150 1151
(ii) A person who is an employee because the person is employed by the consumer in a full-time, part-time, or temporary direct-care position for which the consumer, as the employer of record, directs the person in the provision of community-based long-term care services the person provides to the consumer or who works in such a position due to being referred to the consumer by an employment service.	1152 1153 1154 1155 1156 1157 1158

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

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

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

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

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

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

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

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 2950.13 of the Revised Code;	1245 1246
(5) The internet-based database of inmates established under section 5120.66 of the Revised Code;	1247 1248
(6) The state nurse aide registry established under section 3721.32 of the Revised Code;	1249 1250
(7) Any other database, if any, specified in rules adopted under this section.	1251 1252
(F) (1) As a condition of employing any applicant in a direct-care position, the chief administrator of a responsible party shall request that the superintendent of the bureau of criminal identification and investigation conduct a criminal records check of the applicant. If rules adopted under this section so require, the chief administrator of a responsible party shall request that the superintendent conduct a criminal records check of an employee at times specified in the rules as a condition of continuing to employ the employee in a direct- care position. However, the chief administrator is not required to request the criminal records check of the applicant or employee if division (G) of this section applies or the responsible party is prohibited by division (C)(1) of this section from employing the applicant or continuing to employ the employee in a direct-care position. If an applicant or employee for whom a criminal records check request is required by this section does not present proof of having been a resident of this state for the five-year period immediately prior to the date the criminal records check is requested or provide evidence that within that five-year period the superintendent has requested information about the applicant or employee from the federal bureau of investigation in a criminal records check, the chief	1253 1254 1255 1256 1257 1258 1259 1260 1261 1262 1263 1264 1265 1266 1267 1268 1269 1270 1271 1272 1273 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 party for the fee it pays to the bureau under this section.	1305 1306
(G) Divisions (D) to (F) of this section do not apply with regard to an applicant or employee if the applicant or employee is referred to a responsible party by an employment service that supplies full-time, part-time, or temporary staff for direct-care positions and both of the following apply:	1307 1308 1309 1310 1311
(1) The chief administrator of the responsible party receives from the employment service confirmation that a review of the databases listed in division (E) of this section was conducted of the applicant or employee.	1312 1313 1314 1315
(2) The chief administrator of the responsible party receives from the employment service, applicant, or employee a report of the results of a criminal records check of the applicant or employee that has been conducted by the superintendent within the one-year period immediately preceding the following:	1316 1317 1318 1319 1320 1321
(a) In the case of an applicant, the date of the applicant's referral by the employment service to the responsible party;	1322 1323 1324
(b) In the case of an employee, the date by which the responsible party would otherwise have to request a criminal records check of the employee under division (F) of this section.	1325 1326 1327 1328
(H) (1) A responsible party may employ conditionally an applicant for whom a criminal records check request is required by this section prior to obtaining the results of the criminal records check if the responsible party is not prohibited by	1329 1330 1331 1332

division (C) (1) of this section from employing the applicant in a direct-care position and either of the following applies:	1333 1334
(a) The chief administrator of the responsible party requests the criminal records check in accordance with division (F) of this section before conditionally employing the applicant.	1335 1336 1337 1338
(b) The applicant is referred to the responsible party by an employment service, the employment service or the applicant provides the chief administrator of the responsible party a letter that is on the letterhead of the employment service, the letter is dated and signed by a supervisor or another designated official of the employment service, and the letter states all of the following:	1339 1340 1341 1342 1343 1344 1345
(i) That the employment service has requested the superintendent to conduct a criminal records check regarding the applicant;	1346 1347 1348
(ii) That the requested criminal records check is to include a determination of whether the applicant has been convicted of, pleaded guilty to, or been found eligible for intervention in lieu of conviction for a disqualifying offense;	1349 1350 1351 1352
(iii) That the employment service has not received the results of the criminal records check as of the date set forth on the letter;	1353 1354 1355
(iv) That the employment service promptly will send a copy of the results of the criminal records check to the chief administrator of the responsible party when the employment service receives the results.	1356 1357 1358 1359
(2) If a responsible party employs an applicant conditionally pursuant to division (H) (1) (b) of this section,	1360 1361

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

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

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

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

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

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

(K) The director of aging shall adopt rules in accordance with Chapter 119. of the Revised Code to implement this section.	1449 1450
(1) The rules may do the following:	1451
(a) Require employees to undergo database reviews and criminal records checks under this section;	1452 1453
(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;	1454 1455 1456
(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.	1457 1458 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 this section;	1462 1463
(c) 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;	1464 1465 1466 1467
(d) If the rules specify other databases to be checked as part of the database reviews, the circumstances under which a responsible party is prohibited from employing an applicant or continuing to employ an employee who is found by a database review to be included in one or more of those databases;	1468 1469 1470 1471 1472
(e) Standards that an applicant or employee must meet for a responsible party to be permitted to employ the applicant or continue to employ the employee in a direct-care position if the	1473 1474 1475

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

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

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

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

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

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

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

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

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

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

(C) (1) The department of aging or its designee shall take	1503
the following actions when the circumstances specified in	1504
division (C) (2) of this section apply:	1505
(a) Refuse to issue a community-based long-term care	1506
services certificate to a self-employed provider;	1507
(b) Revoke a self-employed provider's community-based	1508
long-term care services certificate;	1509
(c) Refuse to award a community-based long-term care	1510
services contract or grant to a self-employed provider;	1511
(d) Terminate a self-employed provider's community-based	1512
long-term care services contract or grant awarded on or after	1513
September 15, 2014.	1514
(2) The following are the circumstances that require the	1515
department of aging or its designee to take action under	1516
division (C) (1) of this section:	1517
(a) A review of the databases listed in division (E) of	1518
this section reveals any of the following:	1519
(i) That the self-employed provider is included in one or	1520
more of the databases listed in divisions (E) (1) to (5) of this	1521
section;	1522
(ii) That there is in the state nurse aide registry	1523
established under section 3721.32 of the Revised Code a	1524
statement detailing findings by the director of health that the	1525
self-employed provider abused, neglected, or exploited a long-	1526
term care facility or residential care facility resident or	1527
misappropriated property of such a resident;	1528
(iii) That the self-employed provider is included in one	1529
or more of the databases, if any, specified in rules adopted	1530

under this section and the rules require the department or its  
designee to take action under division (C)(1) of this section if  
a self-employed provider is included in such a database. 1531  
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(b) After the self-employed provider is provided, pursuant  
to division (F)(2)(a) of this section, a copy of the form  
prescribed pursuant to division (C)(1) of section 109.572 of the  
Revised Code and the standard impression sheet prescribed  
pursuant to division (C)(2) of that section, the self-employed  
provider fails to complete the form or provide the self-employed  
provider's fingerprint impressions on the standard impression  
sheet. 1534  
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(c) Unless the self-employed provider meets standards  
specified in rules adopted under this section, the self-employed  
provider is found by a criminal records check required by this  
section to have been convicted of, pleaded guilty to, or been  
found eligible for intervention in lieu of conviction for a  
disqualifying offense. 1542  
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(D) The department of aging or its designee shall inform  
each self-employed provider of both of the following at the time  
of the self-employed provider's initial application for a  
community-based long-term care services certificate or initial  
bid for a community-based long-term care services contract or  
grant: 1548  
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(1) That a review of the databases listed in division (E)  
of this section will be conducted to determine whether the  
department or its designee is required by division (C) of this  
section to refuse to issue or award a community-based long-term  
care services certificate or community-based long-term care  
services contract or grant to the self-employed provider; 1554  
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(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 "Social Security Act," 42 U.S.C. 1320a-7 and 1320c-5;	1590 1591
(3) The registry of developmental disabilities employees established under section 5123.52 of the Revised Code;	1592 1593
(4) The internet-based sex offender and child-victim offender database established under division (A)(11) of section 2950.13 of the Revised Code;	1594 1595 1596
(5) The internet-based database of inmates established under section 5120.66 of the Revised Code;	1597 1598
(6) The state nurse aide registry established under section 3721.32 of the Revised Code;	1599 1600
(7) Any other database, if any, specified in rules adopted under this section.	1601 1602
(F) (1) 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 request that the superintendent of the bureau of criminal identification and investigation conduct a criminal records check of the self-employed provider. If rules adopted under this section so require, the department or its designee shall request that the superintendent conduct a criminal records check of a self-employed provider at times specified in 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. However, the department or its designee is not required to request the criminal records check of the self-employed provider if the department or its designee, because of circumstances	1603 1604 1605 1606 1607 1608 1609 1610 1611 1612 1613 1614 1615 1616 1617 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 sheet to the superintendent.	1650
(3) The department or its designee shall pay to the bureau of criminal identification and investigation the fee prescribed pursuant to division (C)(3) of section 109.572 of the Revised Code for each criminal records check of a self-employed provider the department or its designee requests under this section. The department or its designee may charge the self-employed provider a fee that does not exceed the amount the department or its designee pays to the bureau.	1652
(G) The report of any criminal records check of a self-employed provider conducted pursuant to a request made under this section is not a public record for the purposes of section 149.43 of the Revised Code and shall not be made available to any person other than the following:	1660
(1) The self-employed provider or the self-employed provider's representative;	1665
(2) The department of aging, the department's designee, or a representative of the department or its designee;	1667
(3) The medicaid director and the staff of the department of medicaid who are involved in the administration of the medicaid program if the self-employed provider is to provide, or provides, community-based long-term care services under a component of the medicaid program that the department of aging administers;	1669
(4) A court, hearing officer, or other necessary individual involved in a case dealing with any of the following:	1675

(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 1678 1679
(b) A revocation or termination of the self-employed provider's community-based long-term care services certificate or community-based long-term care services contract or grant;	1680 1681 1682
(c) A civil or criminal action regarding a program the department of aging administers.	1683 1684
(H) In a tort or other civil action for damages that is brought as the result of an injury, death, or loss to person or property caused by a self-employed provider, both of the following shall apply:	1685 1686 1687 1688
(1) If the department of aging or its designee, in good faith and reasonable reliance on the report of a criminal records check requested under this section, issued or awarded a community-based long-term care services certificate or community-based long-term care services contract or grant to the self-employed provider or did not revoke or terminate the self-employed provider's certificate or contract or grant, the department and its designee shall not be found negligent solely because of its reliance on the report, even if the information in the report is determined later to have been incomplete or inaccurate.	1689 1690 1691 1692 1693 1694 1695 1696 1697 1698 1699
(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 1701 1702 1703 1704 1705

rules adopted under this section, the department and its  
designee shall not be found negligent solely because the self-  
employed provider has been convicted of, pleaded guilty to, or  
been found eligible for intervention in lieu of conviction for a  
disqualifying offense.

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

(1) The rules may do the following:

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

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

(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.

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

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

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

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
<b>Sec. 1337.11.</b> 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  
the responsibility has not been assigned, the physician who has  
accepted that responsibility. 1763  
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(C) "Comfort care" means any of the following: 1766

(1) Nutrition when administered to diminish the pain or  
discomfort of a principal, but not to postpone death; 1767  
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(2) Hydration when administered to diminish the pain or  
discomfort of a principal, but not to postpone death; 1769  
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(3) Any other medical or nursing procedure, treatment,  
intervention, or other measure that is taken to diminish the  
pain or discomfort of a principal, but not to postpone death. 1771  
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(D) "Consulting physician" means a physician who, in  
conjunction with the attending physician of a principal, 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 sections  
1337.11 to 1337.17 of the Revised Code, to a reasonable degree  
of medical certainty and in accordance with reasonable medical  
standards. 1774  
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(E) "Declaration for mental health treatment" has the same  
meaning as in section 2135.01 of the Revised Code. 1782  
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(F) "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. 1784  
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(G) "Health care" means any care, treatment, service, or  
procedure to maintain, diagnose, or treat an individual's  
physical or mental condition or physical or mental health. 1787  
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(H) "Health care decision" means informed consent, refusal 1790

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

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

in the principal having no capacity to experience pain or	1845
suffering.	1846
(W) "Person" has the same meaning as in section 1.59 of	1847
the Revised Code and additionally includes political	1848
subdivisions and governmental agencies, boards, commissions,	1849
departments, institutions, offices, and other instrumentalities.	1850
(X) "Physician" means a person who is authorized under	1851
Chapter 4731. of the Revised Code to practice medicine and	1852
surgery or osteopathic medicine and surgery.	1853
(Y) "Political subdivision" and "state" have the same	1854
meanings as in section 2744.01 of the Revised Code.	1855
(Z) "Professional disciplinary action" means action taken	1856
by the board or other entity that regulates the professional	1857
conduct of health care personnel, including the state medical	1858
board and the board of nursing.	1859
(AA) "Regulated community mental health organization"	1860
means a residential facility as defined and licensed under	1861
section 5119.34 of the Revised Code or a community mental health	1862
services provider as defined in section 5122.01 of the Revised	1863
Code.	1864
(BB) "Terminal condition" means an irreversible,	1865
incurable, and untreatable condition caused by disease, illness,	1866
or injury from which, to a reasonable degree of medical	1867
certainty as determined in accordance with reasonable medical	1868
standards by a principal's attending physician and one other	1869
physician who has examined the principal, both of the following	1870
apply:	1871
(1) There can be no recovery.	1872

(2) Death is likely to occur within a relatively short time if life-sustaining treatment is not administered.	1873 1874
(CC) "Tort action" means a civil action for damages for injury, death, or loss to person or property, other than a civil action for damages for a breach of contract or another agreement between persons.	1875 1876 1877 1878
<b>Sec. 2133.01.</b> Unless the context otherwise requires, as used in sections 2133.01 to 2133.15 of the Revised Code:	1879 1880
(A) "Adult" means an individual who is eighteen years of age or older.	1881 1882
(B) "Attending physician" means the physician to whom a declarant or other patient, or the family of a declarant or other patient, has assigned primary responsibility for the treatment or care of the declarant or other patient, or, if the responsibility has not been assigned, the physician who has accepted that responsibility.	1883 1884 1885 1886 1887 1888
(C) "Comfort care" means any of the following:	1889
(1) Nutrition when administered to diminish the pain or discomfort of a declarant or other patient, but not to postpone the declarant's or other patient's death;	1890 1891 1892
(2) Hydration when administered to diminish the pain or discomfort of a declarant or other patient, but not to postpone the declarant's or other patient's death;	1893 1894 1895
(3) Any other medical or nursing procedure, treatment, intervention, or other measure that is taken to diminish the pain or discomfort of a declarant or other patient, but not to postpone the declarant's or other patient's death.	1896 1897 1898 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. 1901  
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(E) "Declarant" means any adult who has executed a declaration in accordance with section 2133.02 of the Revised Code. 1907  
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(F) "Declaration" means a written document executed in accordance with section 2133.02 of the Revised Code. 1910  
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(G) "Durable power of attorney for health care" means a document created pursuant to sections 1337.11 to 1337.17 of the Revised Code. 1912  
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(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. 1915  
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(I) "Health care facility" means any of the following: 1918

(1) A hospital; 1919

(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; 1920  
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(3) A nursing home or residential care facility, as defined in section 3721.01 of the Revised Code; 1924  
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(4) A home health agency and any residential facility where a person is receiving care under the direction of a home health agency; 1926  
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(5) An intermediate care facility for individuals with intellectual disabilities.	1929 1930
(J) "Health care personnel" means physicians, nurses, physician assistants, emergency medical technicians-basic, emergency medical technicians-intermediate, emergency medical technicians-paramedic, medical technicians, dietitians, other authorized persons acting under the direction of an attending physician, and administrators of health care facilities.	1931 1932 1933 1934 1935 1936
(K) "Home health agency" has the same meaning as in section <u>3701.881-3722.01</u> of the Revised Code.	1937 1938
(L) "Hospice care program" and "pediatric respite care program" have the same meanings as in section 3712.01 of the Revised Code.	1939 1940 1941
(M) "Hospital" has the same meanings as in sections 3701.01, 3727.01, and 5122.01 of the Revised Code.	1942 1943
(N) "Hydration" means fluids that are artificially or technologically administered.	1944 1945
(O) "Incompetent" has the same meaning as in section 2111.01 of the Revised Code.	1946 1947
(P) "Intermediate care facility for the individuals with intellectual disabilities" has the same meaning as in section 5124.01 of the Revised Code.	1948 1949 1950
(Q) "Life-sustaining treatment" means any medical procedure, treatment, intervention, or other measure that, when administered to a qualified patient or other patient, will serve principally to prolong the process of dying.	1951 1952 1953 1954
(R) "Nurse" means a person who is licensed to practice nursing as a registered nurse or to practice practical nursing	1955 1956

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

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

(T) "Nutrition" means sustenance that is artificially or  
technologically administered. 1961  
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(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  
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(1) Irreversible unawareness of one's being and  
environment. 1970  
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(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  
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(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  
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(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 conduct of health care personnel, including the state medical board and the board of nursing.	1985 1986 1987
(Z) "Qualified patient" means an adult who has executed a declaration and has been determined to be in a terminal condition or in a permanently unconscious state.	1988 1989 1990
(AA) "Terminal condition" means an irreversible, incurable, and untreatable condition caused by disease, illness, or injury from which, to a reasonable degree of medical certainty as determined in accordance with reasonable medical standards by a declarant's or other patient's attending physician and one other physician who has examined the declarant or other patient, both of the following apply:	1991 1992 1993 1994 1995 1996 1997
(1) There can be no recovery.	1998
(2) Death is likely to occur within a relatively short time if life-sustaining treatment is not administered.	1999 2000
(BB) "Tort action" means a civil action for damages for injury, death, or loss to person or property, other than a civil action for damages for breach of a contract or another agreement between persons.	2001 2002 2003 2004
<b>Sec. 2317.54.</b> No hospital, home health agency, ambulatory surgical facility, or provider of a hospice care program or pediatric respite care program shall be held liable for a physician's failure to obtain an informed consent from the physician's patient prior to a surgical or medical procedure or course of procedures, unless the physician is an employee of the hospital, home health agency, ambulatory surgical facility, or provider of a hospice care program or pediatric respite care program.	2005 2006 2007 2008 2009 2010 2011 2012 2013

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

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

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

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

circumstances, including either of the following:	2044
(1) The parent, whether the parent is an adult or a minor, of the parent's minor child;	2045 2046
(2) An adult whom the parent of the minor child has given written authorization to consent to a surgical or medical procedure or course of procedures for the parent's minor child.	2047 2048 2049
Any use of a consent form that fulfills the requirements stated in divisions (A), (B), and (C) of this section has no effect on the common law rights and liabilities, including the right of a physician to obtain the oral or implied consent of a patient to a medical procedure, that may exist as between physicians and patients on July 28, 1975.	2050 2051 2052 2053 2054 2055
As used in this section the term "hospital" has the same meaning as in section 2305.113 of the Revised Code; " <del>home health agency</del> " has the same meaning as in <del>section 3701.881 of the Revised Code</del> ; "ambulatory surgical facility" has the same meaning as in section 3702.30 of the Revised Code; and "hospice care program" and "pediatric respite care program" have the same meanings as in section 3712.01 of the Revised Code, and " <u>home health agency</u> " has the same meaning as in <u>section 3722.01 of the Revised Code</u> . The provisions of this division apply to hospitals, doctors of medicine, doctors of osteopathic medicine, and doctors of podiatric medicine.	2056 2057 2058 2059 2060 2061 2062 2063 2064 2065 2066
<b>Sec. 3701.362.</b> (A) Each of the health care facilities and providers identified in division (B) of this section shall do both of the following:	2067 2068 2069
(1) Establish a system for identifying patients or residents who could benefit from palliative care;	2070 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 following:	2074
(1) A hospital registered under section 3701.07 of the Revised Code;	2076
(2) An ambulatory surgical facility, as defined in section 3702.30 of the Revised Code;	2078
(3) A nursing home, residential care facility, county home, or district home, as defined in section 3721.01 of the Revised Code;	2080
(4) A veterans' home operated under Chapter 5907. of the Revised Code;	2083
(5) A hospice care program or pediatric respite care program, as defined in section 3712.01 of the Revised Code;	2085
(6) A home health agency, as defined in section <del>3701.881—3722.01</del> of the Revised Code.	2087
<b>Sec. 3701.916.</b> (A) As used in this section, "direct care" and "home health agency" have the same meanings as in section <del>3701.881—3722.01</del> of the Revised Code.	2089
(B) For the purpose of identifying jobs that are in demand in this state under section 6301.11 of the Revised Code, direct care provided by a home health agency shall be considered a targeted industry sector as identified by the governor's office of workforce transformation.	2092
(C) The director of job and family services shall review the criteria for any program that provides occupational training, adult education, or career pathway assistance through	2097
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a grant or other source of funding to determine whether an  
employee of a home health agency may participate in the program,  
and, to the extent possible, make any necessary changes to the  
criteria to allow a home health agency employee to participate  
in the program.

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

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

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

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

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

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

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

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

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

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<u>Any rules adopted by the director pursuant to section</u>	2159
<u>3721.04 of the Revised Code to implement the requirements</u>	2160
<u>described in division (B) (2) (a) of this section are not subject</u>	2161
<u>to the requirements of division (F) of section 121.95 of the</u>	2162
<u>Revised Code.</u>	2163
(b) <del>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.</del>	2164 2165 2166 2167
(e) <del>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.</del>	2168 2169 2170 2171 2172 2173 2174
(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 2176 2177 2178 2179 2180
(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 2182 2183 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 <del>rest home</del> <u>residential care facility</u>	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 <del>an adult</del>	2193
<del>care</del> <u>a residential</u> facility shall be considered as another	2194
group.	2195
(3) The home maintains, in addition to a nursing home or	2196
residential care facility, a separate and discrete part or unit	2197
that provides accommodations to individuals who do not require	2198
or receive skilled nursing care and do not receive personal care	2199
services from the home, in which case the individuals in the	2200
separate and discrete part or unit shall not be considered in	2201
determining the number of residents in the home if the separate	2202
and discrete part or unit is in compliance with the Ohio basic	2203
building code established by the board of building standards	2204
under Chapters 3781. and 3791. of the Revised Code and the home	2205
permits the director, on request, to inspect the separate and	2206
discrete part or unit and speak with the individuals residing	2207
there, if they consent, to determine whether the separate and	2208
discrete part or unit meets the requirements of this division.	2209
(E) (1) The director of health shall charge the following	2210
application fee and annual renewal licensing and inspection fee	2211
for each fifty persons or part thereof of a home's licensed	2212
capacity:	2213
(a) For state fiscal year 2010, two hundred twenty	2214
dollars;	2215
(b) For state fiscal year 2011, two hundred seventy	2216

dollars;	2217
(c) For each state fiscal year thereafter, three hundred	2218
twenty dollars.	2219
(2) All fees collected by the director for the issuance or	2220
renewal of licenses shall be deposited into the state treasury	2221
to the credit of the general operations fund created in section	2222
3701.83 of the Revised Code for use only in administering and	2223
enforcing this chapter and rules adopted under it.	2224
(F) (1) Except as otherwise provided in this section, the	2225
results of an inspection or investigation of a home that is	2226
conducted under this section, including any statement of	2227
deficiencies and all findings and deficiencies cited in the	2228
statement on the basis of the inspection or investigation, shall	2229
be used solely to determine the home's compliance with this	2230
chapter or another chapter of the Revised Code in any action or	2231
proceeding other than an action commenced under division (I) of	2232
section 3721.17 of the Revised Code. Those results of an	2233
inspection or investigation, that statement of deficiencies, and	2234
the findings and deficiencies cited in that statement shall not	2235
be used in either of the following:	2236
(a) Any court or in any action or proceeding that is	2237
pending in any court and are not admissible in evidence in any	2238
action or proceeding unless that action or proceeding is an	2239
appeal of an action by the department of health under this	2240
chapter or is an action by any department or agency of the state	2241
to enforce this chapter or another chapter of the Revised Code;	2242
(b) An advertisement, unless the advertisement includes	2243
all of the following:	2244
(i) The date the inspection or investigation was	2245

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

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

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

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

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

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

(2) Personal care services; 2336

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

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

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

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

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

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

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

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

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

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

<u>(iii) To the extent authorized by rules adopted under section 3722.10 of the Revised Code, is either certified by the department of aging under section 173.391 of the Revised Code to provide community-based long-term care services or is certified by the department of developmental disabilities under section 5123.161 of the Revised Code to provide supported living;</u>	2410 2411 2412 2413 2414 2415
<u>(iv) Otherwise meets medicare conditions of participation, even though not certified for participation in the medicare program.</u>	2416 2417 2418
<u>(b) Evidence that the applicant was providing direct care on or immediately prior to the effective date of this section, or if the applicant was not providing direct care immediately prior to the effective date of this section, a surety bond issued by a company licensed to do business in this state in the amount of fifty thousand dollars.</u>	2419 2420 2421 2422 2423 2424
<u>(c) An application fee in the amount of two hundred fifty dollars.</u>	2425 2426
<u>(2) An applicant applying on the basis of division (A) (1) (a) (iv) of this section shall provide documentation and comply with conditions as prescribed by rules adopted under section 3722.10 of the Revised Code.</u>	2427 2428 2429 2430
<u>(B) (1) Except as provided in division (B) (2) of this section, a home health agency or nonagency provider seeking to provide nonmedical home health services shall apply to the department of health for a nonmedical home health services license. Except as provided in division (B) (3) of this section, the application shall include all of the following:</u>	2431 2432 2433 2434 2435 2436
<u>(a) Fingerprint impressions of the primary owner of the home health agency or of the nonagency provider;</u>	2437 2438

<u>(b) Copies of any documents filed and recorded with the secretary of state;</u>	2439 2440
<u>(c) A notarized affidavit verifying the identity of the applicant;</u>	2441 2442
<u>(d) If the applicant is a home health agency, a copy of the agency's criminal records check policy;</u>	2443 2444
<u>(e) A statement identifying the days and hours of operation for the applicant;</u>	2445 2446
<u>(f) A description of the nonmedical home health services to be provided, and any policies and procedures related to those services, if applicable;</u>	2447 2448 2449
<u>(g) Identification of the applicant's primary place of business and a description of the geographic area to be served;</u>	2450 2451
<u>(h) Evidence that the applicant was providing direct care on or immediately prior to the effective date of this section, or if the applicant was not providing direct care immediately prior to the effective date of this section, a surety bond issued by a company licensed to do business in this state in the amount of twenty thousand dollars;</u>	2452 2453 2454 2455 2456 2457
<u>(i) An application fee in the amount of two hundred fifty dollars.</u>	2458 2459
<u>(2) A home health agency or nonagency provider that holds a skilled home health services license issued under division (A) of this section may provide nonmedical home health services without obtaining a nonmedical home health services license.</u>	2460 2461 2462 2463
<u>(3) To the extent authorized by rules adopted under section 3722.10 of the Revised Code, the director of health may waive receipt of one or more of the items identified in</u>	2464 2465 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. 3701.881 3722.11.</b> (A) As used in this section:	2551
<u>(1) "Applicant", "applicant"</u> means a person who is under	2552

final consideration for employment with a home health agency in a full-time, part-time, or temporary position that involves providing direct care to an individual or is referred to a home health agency by an employment service for such a position.	2553 2554 2555 2556
(2) "Community-based long-term care provider" means a provider as defined in section 173.39 of the Revised Code.	2557 2558
(3) "Community-based long-term care subcontractor" means a subcontractor as defined in section 173.38 of the Revised Code.	2559 2560
(4) "Criminal records check" has the same meaning as in section 109.572 of the Revised Code.	2561 2562
(5) "Direct care" means any of the following:	2563
(a) Any service identified in divisions (A)(8)(a) to (f) of this section that is provided in a patient's place of residence used as the patient's home;	2564 2565 2566
(b) Any activity that requires the person performing the activity to be routinely alone with a patient or to routinely have access to a patient's personal property or financial documents regarding a patient;	2567 2568 2569 2570
(c) For each home health agency individually, any other routine service or activity that the chief administrator of the home health agency designates as direct care.	2571 2572 2573
(6) "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.	2574 2575 2576
(7) "Employee" means a person employed by a home health agency in a full time, part time, or temporary position that involves providing direct care to an individual and a person who works in such a position due to being referred to a home health	2577 2578 2579 2580

agency by an employment service.	2581
(8) "Home health agency" means a person or government entity, other than a nursing home, residential care facility, hospice care program, or pediatric respite care program, that has the primary function of providing any of the following services to a patient at a place of residence used as the patient's home:	2582 2583 2584 2585 2586 2587
(a) Skilled nursing care;	2588
(b) Physical therapy;	2589
(c) Speech language pathology;	2590
(d) Occupational therapy;	2591
(e) Medical social services;	2592
(f) Home health aide services.	2593
(9) "Home health aide services" means any of the following services provided by an employee of a home health agency:	2594 2595
(a) Hands-on bathing or assistance with a tub bath or shower;	2596 2597
(b) Assistance with dressing, ambulation, and toileting;	2598
(c) Catheter care but not insertion;	2599
(d) Meal preparation and feeding.	2600
(10) "Hospice care program" and "pediatric respite care program" have the same meanings as in section 3712.01 of the Revised Code.	2601 2602 2603
(11) "Medical social services" means services provided by a social worker under the direction of a patient's attending physician.	2604 2605 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 continue to employ an employee in a position that involves providing direct care to an individual if any of the following apply:	2623 2624 2625 2626
(1) A review of the databases listed in division (D) of this section reveals any of the following:	2627 2628
(a) That the applicant or employee is included in one or more of the databases listed in divisions (D) (1) to (5) of this section;	2629 2630 2631
(b) That there is in the state nurse aide registry established under section 3721.32 of the Revised Code a	2632 2633

statement detailing findings by the director of health that the applicant or employee abused, neglected, or exploited a long-term care facility or residential care facility resident or misappropriated property of such a resident;	2634 2635 2636 2637
(c) That the applicant or employee is included in one or more of the databases, if any, specified in rules adopted under this section and the rules prohibit the home health agency from employing an applicant or continuing to employ an employee included in such a database in a position that involves providing direct care to an individual.	2638 2639 2640 2641 2642 2643
(2) After the applicant or employee is provided, pursuant to division (E)(2)(a) of this section, a copy of the form prescribed pursuant to division (C)(1) of section 109.572 of the Revised Code and the standard impression sheet prescribed pursuant to division (C)(2) of that section, the applicant or employee fails to complete the form or provide the applicant's or employee's fingerprint impressions on the standard impression sheet.	2644 2645 2646 2647 2648 2649 2650 2651
(3) Except as provided in rules adopted under this section, the applicant or employee is found by a criminal records check required by this section to have been convicted of, pleaded guilty to, or been found eligible for intervention in lieu of conviction for a disqualifying offense.	2652 2653 2654 2655 2656
(C) Except as provided by division (F) of this section, the chief administrator of a home health agency shall inform each applicant of both of the following at the time of the applicant's initial application for employment or referral to the home health agency by an employment service for a position that involves providing direct care to an individual:	2657 2658 2659 2660 2661 2662

(1) That a review of the databases listed in division (D) of this section will be conducted to determine whether the home health agency is prohibited by division (B) (1) of this section from employing the applicant in the position;	2663 2664 2665 2666
(2) That, unless the database review reveals that the applicant may not be employed in the position, a criminal records check of the applicant will be conducted and the applicant is required to provide a set of the applicant's fingerprint impressions as part of the criminal records check.	2667 2668 2669 2670 2671
(D) As a condition of employing any applicant in a position that involves providing direct care to an individual, the chief administrator of a home health agency shall conduct a database review of the applicant in accordance with rules adopted under this section. If rules adopted under this section so require, the chief administrator of a home health agency shall conduct a database review of an employee in accordance with the rules as a condition of continuing to employ the employee in a position that involves providing direct care to an individual. However, the chief administrator is not required to conduct a database review of an applicant or employee if division (F) of this section applies. A database review shall determine whether the applicant or employee is included in any of the following:	2672 2673 2674 2675 2676 2677 2678 2679 2680 2681 2682 2683 2684 2685
(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;	2686 2687 2688 2689 2690
(2) The list of excluded individuals and entities maintained by the office of inspector general in the United	2691 2692

States department of health and human services pursuant to the "Social Security Act," sections 1128 and 1156, 42 U.S.C. 1320a-7 and 1320c-5;	2693 2694 2695
(3) The registry of developmental disabilities employees established under section 5123.52 of the Revised Code;	2696 2697
(4) The internet-based sex offender and child-victim offender database established under division (A)(11) of section 2950.13 of the Revised Code;	2698 2699 2700
(5) The internet-based database of inmates established under section 5120.66 of the Revised Code;	2701 2702
(6) The state nurse aide registry established under section 3721.32 of the Revised Code;	2703 2704
(7) Any other database, if any, specified in rules adopted under this section.	2705 2706
(E) (1) As a condition of employing any applicant in a position that involves providing direct care to an individual, the chief administrator of a home health agency shall request the superintendent of the bureau of criminal identification and investigation to conduct a criminal records check of the applicant. If rules adopted under this section so require, the chief administrator of a home health agency shall request the superintendent to conduct a criminal records check of an employee at times specified in the rules as a condition of continuing to employ the employee in a position that involves providing direct care to an individual. However, the chief administrator is not required to request the criminal records check of the applicant or the employee if division (F) of this section applies or the home health agency is prohibited by division (B)(1) of this section from employing the applicant or	2707 2708 2709 2710 2711 2712 2713 2714 2715 2716 2717 2718 2719 2720 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 criminal identification and investigation the fee prescribed pursuant to division (C)(3) of section 109.572 of the Revised Code for each criminal records check the agency requests under this section. A home health agency may charge an applicant a fee not exceeding the amount the agency pays to the bureau under this section if both of the following apply:	2751 2752 2753 2754 2755 2756 2757
(a) The home health agency notifies the applicant at the time of initial application for employment of the amount of the fee and that, unless the fee is paid, the applicant will not be considered for employment.	2758 2759 2760 2761
(b) The medicaid program does not reimburse the home health agency for the fee it pays to the bureau under this section.	2762 2763 2764
(F) Divisions (C) to (E) of this section do not apply with regard to an applicant or employee if the applicant or employee is referred to a home health agency by an employment service that supplies full-time, part-time, or temporary staff for positions that involve providing direct care to an individual and both of the following apply:	2765 2766 2767 2768 2769 2770
(1) The chief administrator of the home health agency receives from the employment service confirmation that a review of the databases listed in division (D) of this section was conducted with regard to the applicant or employee.	2771 2772 2773 2774
(2) The chief administrator of the home health agency receives from the employment service, applicant, or employee a report of the results of a criminal records check of the applicant or employee that has been conducted by the superintendent within the one-year period immediately preceding	2775 2776 2777 2778 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 an employment service, the employment service makes the request for an applicant or employee the employment service refers to a home health agency that also is a community-based long-term care provider or community-based long-term care subcontractor.	2869 2870 2871 2872 2873
(7) The medicaid director and the staff of the department of medicaid who are involved in the administration of the medicaid program if either of the following apply:	2874 2875 2876
(a) In the case of a criminal records check requested by a home health agency, the home health agency also is a waiver agency;	2877 2878 2879
(b) In the case of a criminal records check requested by an employment service, the employment service makes the request for an applicant or employee the employment service refers to a home health agency that also is a waiver agency.	2880 2881 2882 2883
(8) Any court, hearing officer, or other necessary individual involved in a case dealing with any of the following:	2884 2885
(a) A denial of employment of the applicant or employee;	2886
(b) Employment or unemployment benefits of the applicant or employee;	2887 2888
(c) A civil or criminal action regarding the medicaid program.	2889 2890
(I) In a tort or other civil action for damages that is brought as the result of an injury, death, or loss to person or property caused by an applicant or employee who a home health agency employs in a position that involves providing direct care	2891 2892 2893 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
<u>Sec. 3722.99. Whoever violates section 3722.02 of the</u>	2943
<u>Revised Code is guilty of a misdemeanor of the second degree on</u>	2944
<u>a first offense; for each subsequent offense, the person is</u>	2945
<u>guilty of a misdemeanor of the first degree.</u>	2946
<u>Sec. 4715.36. As used in this section and sections</u>	2947
<u>4715.361 to 4715.374 of the Revised Code:</u>	2948
(A) "Accredited dental hygiene school" means a dental	2949
hygiene school accredited by the American dental association	2950

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

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

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

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

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

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

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

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

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

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

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

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

on behalf of the seller of goods or services and by or through any printed, audio, video, cinematic, telephonic, or electronic means.	3034 3035 3036
(b) In the case of a notification or advertisement other than by telephone, either of the following conditions is met:	3037 3038
(i) The notification or advertisement is followed by a telephone call from a telephone solicitor or salesperson.	3039 3040
(ii) The notification or advertisement invites a response by telephone, and, during the course of that response, a telephone solicitor or salesperson attempts to make or makes a sale of goods or services. As used in division (A) (2) (b) (ii) of this section, "invites a response by telephone" excludes the mere listing or inclusion of a telephone number in a notification or advertisement.	3041 3042 3043 3044 3045 3046 3047
(3) "Gift, award, or prize" means anything of value that is offered or purportedly offered, or given or purportedly given by chance, at no cost to the receiver and with no obligation to purchase goods or services. As used in this division, "chance" includes a situation in which a person is guaranteed to receive an item and, at the time of the offer or purported offer, the telephone solicitor does not identify the specific item that the person will receive.	3048 3049 3050 3051 3052 3053 3054 3055
(4) "Goods or services" means any real property or any tangible or intangible personal property, or services of any kind provided or offered to a person. "Goods or services" includes, but is not limited to, advertising; labor performed for the benefit of a person; personal property intended to be attached to or installed in any real property, regardless of whether it is so attached or installed; timeshare estates or	3056 3057 3058 3059 3060 3061 3062

licenses; and extended service contracts.	3063
(5) "Purchaser" means a person that is solicited to become or does become financially obligated as a result of a telephone solicitation.	3064 3065 3066
(6) "Salesperson" means an individual who is employed, appointed, or authorized by a telephone solicitor to make telephone solicitations but does not mean any of the following:	3067 3068 3069
(a) An individual who comes within one of the exemptions in division (B) of this section;	3070 3071
(b) An individual employed, appointed, or authorized by a person who comes within one of the exemptions in division (B) of this section;	3072 3073 3074
(c) An individual under a written contract with a person who comes within one of the exemptions in division (B) of this section, if liability for all transactions with purchasers is assumed by the person so exempted.	3075 3076 3077 3078
(7) "Telephone solicitation" means a communication to a person that meets both of the following criteria:	3079 3080
(a) The communication is initiated by or on behalf of a telephone solicitor or by a salesperson.	3081 3082
(b) The communication either represents a price or the quality or availability of goods or services or is used to induce the person to purchase goods or services, including, but not limited to, inducement through the offering of a gift, award, or prize.	3083 3084 3085 3086 3087
(8) "Telephone solicitor" means a person that engages in telephone solicitation directly or through one or more salespersons either from a location in this state, or from a	3088 3089 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  
license. As used in division (B)(4) of this section, "licensed  
securities, commodities, or investment broker, dealer,  
investment advisor, or associated person" means a person subject  
to licensure or registration as such by the securities and  
exchange commission; the National Association of Securities  
Dealers or other self-regulatory organization, as defined by 15  
U.S.C.A. 78c; by the division of securities under Chapter 1707.  
of the Revised Code; or by an official or agency of any other  
state of the United States.

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

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

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

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

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

(i) The class of securities is subject to section 12 of  
the "Securities Exchange Act of 1934," 15 U.S.C.A. 78l, and is  
registered or is exempt from registration under 15 U.S.C.A.  
78l(g)(2)(A), (B), (C), (E), (F), (G), or (H);

(ii) The class of securities is listed on the New York stock exchange, the American stock exchange, or the NASDAQ national market system;	3149 3150 3151
(iii) The class of securities is a reported security as defined in 17 C.F.R. 240.11Aa3-1(a)(4).	3152 3153
(b) An issuer, or its subsidiary, that formerly had a class of securities that met the criteria set forth in division (B)(6)(a) of this section if the issuer, or its subsidiary, has a net worth in excess of one hundred million dollars, files or its parent files with the securities and exchange commission an S.E.C. form 10-K, and has continued in substantially the same business since it had a class of securities that met the criteria in division (B)(6)(a) of this section. As used in division (B)(6)(b) of this section, "issuer" and "subsidiary" include the successor to an issuer or subsidiary.	3154 3155 3156 3157 3158 3159 3160 3161 3162 3163
(7) A person soliciting a transaction regulated by the commodity futures trading commission, if the person is registered or temporarily registered for that activity with the commission under 7 U.S.C.A. 1 et seq. and the registration or temporary registration has not expired or been suspended or revoked;	3164 3165 3166 3167 3168 3169
(8) A person soliciting the sale of any book, record, audio tape, compact disc, or video, if the person allows the purchaser to review the merchandise for at least seven days and provides a full refund within thirty days to a purchaser who returns the merchandise or if the person solicits the sale on behalf of a membership club operating in compliance with regulations adopted by the federal trade commission in 16 C.F.R. 425;	3170 3171 3172 3173 3174 3175 3176 3177

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

(a) The telephone solicitor has been operating	3207
continuously for at least three years under the same business	3208
name under which it solicits purchasers, and at least fifty-one	3209
per cent of its gross dollar volume of sales consists of repeat	3210
sales to existing customers to whom it has made sales under the	3211
same business name.	3212
(b) The purchaser business intends to resell the goods	3213
purchased.	3214
(c) The purchaser business intends to use the goods or	3215
services purchased in a recycling, reuse, manufacturing, or	3216
remanufacturing process.	3217
(d) The telephone solicitor is a publisher of a periodical	3218
or of magazines distributed as controlled circulation	3219
publications as defined in division (CC) of section 5739.01 of	3220
the Revised Code and is soliciting sales of advertising,	3221
subscriptions, reprints, lists, information databases,	3222
conference participation or sponsorships, trade shows or media	3223
products related to the periodical or magazine, or other	3224
publishing services provided by the controlled circulation	3225
publication.	3226
(13) A person that, not less often than once each year,	3227
publishes and delivers to potential purchasers a catalog that	3228
complies with both of the following:	3229
(a) It includes all of the following:	3230
(i) The business address of the seller;	3231
(ii) A written description or illustration of each good or	3232
service offered for sale;	3233
(iii) A clear and conspicuous disclosure of the sale price	3234

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

area no fewer than twenty days per month or offers for sale no fewer than ten distinct items of goods or services; and offers to the purchaser an unconditional right to return any good or service purchased within a period of at least seven days and to receive a full refund within thirty days after the purchaser returns the good or cancels the service;	3264 3265 3266 3267 3268 3269
(18) (a) A person that, for at least one year, has been operating a retail business under the same name as that used in connection with telephone solicitation and both of the following occur on a continuing basis:	3270 3271 3272 3273
(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.	3274 3275 3276
(ii) At least fifty-one per cent of the person's gross dollar volume of retail sales involves purchases of goods or services at the person's business premises.	3277 3278 3279
(b) An affiliate of a person that meets the requirements in division (B)(18)(a) of this section if the affiliate meets all of the following requirements:	3280 3281 3282
(i) The affiliate has operated a retail business for a period of less than one year;	3283 3284
(ii) The affiliate either displays goods and offers them for retail sale at the affiliate's business premises or offers services for sale and provides them at the affiliate's business premises;	3285 3286 3287 3288
(iii) At least fifty-one per cent of the affiliate's gross dollar volume of retail sales involves purchases of goods or services at the affiliate's business premises.	3289 3290 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:	3292 3293 3294 3295
(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;	3296 3297 3298
(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;	3299 3300 3301 3302 3303
(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.	3304 3305 3306 3307
(19) A person who performs telephone solicitation sales services on behalf of other persons and to whom one of the following applies:	3308 3309 3310
(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.	3311 3312 3313 3314 3315 3316
(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.	3317 3318 3319
(c) The person makes telephone solicitations on behalf of	3320

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

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

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

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

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

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

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

(a) The solicitation and sale are conducted in compliance with 16 C.F.R. part 453, as adopted by the federal trade commission, and with sections 1107.33 and 1345.21 to 1345.28 of the Revised Code;	3379 3380 3381 3382
(b) The person provides to the purchaser of any preneed funeral contract a notice that clearly and conspicuously sets forth the cancellation rights specified in division (G) of section 1107.33 of the Revised Code, and retains a copy of the notice signed by the purchaser.	3383 3384 3385 3386 3387
(24) A person, or affiliate thereof, licensed to sell or issue Ohio instruments designated as travelers checks pursuant to sections 1315.01 to 1315.18 of the Revised Code.	3388 3389 3390
(25) A person that solicits sales from its previous purchasers and meets all of the following requirements:	3391 3392
(a) The solicitation is made under the same business name that was previously used to sell goods or services to the purchaser;	3393 3394 3395
(b) The person has, for a period of not less than three years, operated a business under the same business name as that used in connection with telephone solicitation;	3396 3397 3398
(c) The person does not conduct a prize promotion or offer the sale of an investment opportunity;	3399 3400
(d) The person conducts all telephone solicitation activities according to sections 310.3, 310.4, and 310.5 of the telemarketing sales rules adopted by the federal trade commission in 16 C.F.R. part 310;	3401 3402 3403 3404
(e) Neither the person nor any of its principals has been convicted of, pleaded guilty to, or has entered a plea of no	3405 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 requirements of division (B) (26) (a), (b), or (c) of this section when offering for sale substantially the same goods and services as those that are offered by the institution that meets the requirements of division (B) (26) (a), (b), or (c) of this section.	3437 3438 3439 3440 3441 3442
(27) A person licensed by the department of health pursuant to section 3712.04 or 3712.041 of the Revised Code to provide a hospice care program or pediatric respite care program when conducting telephone solicitations within the scope of the person's license and according to sections 310.3, 310.4, and 310.5 of the telemarketing sales rules adopted by the federal trade commission in 16 C.F.R. part 310.	3443 3444 3445 3446 3447 3448 3449
<b>Sec. 4723.431.</b> (A) (1) An advanced practice registered nurse who is designated as a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner may practice only in accordance with a standard care arrangement entered into with each physician or podiatrist with whom the nurse collaborates. A copy of the standard care arrangement shall be retained on file by the nurse's employer. Prior approval of the standard care arrangement by the board of nursing is not required, but the board may periodically review it for compliance with this section.	3450 3451 3452 3453 3454 3455 3456 3457 3458 3459
A clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner may enter into a standard care arrangement with one or more collaborating physicians or podiatrists. If a collaborating physician or podiatrist enters into standard care arrangements with more than five nurses, the physician or podiatrist shall not collaborate at the same time	3460 3461 3462 3463 3464 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 practice of nursing as a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner, the nurse shall submit to the board the name and business address of each collaborating physician or podiatrist. Thereafter, the nurse shall notify the board of any additions or deletions to the nurse's collaborating physicians or podiatrists. Except as provided in division (D) of this section, the notice must be provided not later than thirty days after the change takes effect.	3468 3469 3470 3471 3472 3473 3474 3475 3476 3477
(2) All of the following conditions apply with respect to the practice of a collaborating physician or podiatrist with whom a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner may enter into a standard care arrangement:	3478 3479 3480 3481 3482
(a) The physician or podiatrist must be authorized to practice in this state.	3483 3484
(b) Except as provided in division (A) (2) (c) of this section, the physician or podiatrist must be practicing in a specialty that is the same as or similar to the nurse's nursing specialty.	3485 3486 3487 3488
(c) If the nurse is a clinical nurse specialist who is certified as a psychiatric-mental health CNS by the American nurses credentialing center or a certified nurse practitioner who is certified as a psychiatric-mental health NP by the American nurses credentialing center, the nurse may enter into a standard care arrangement with a physician but not a podiatrist	3489 3490 3491 3492 3493 3494

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

- (C) (1) A standard care arrangement entered into pursuant to this section may permit a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner to supervise services provided by a home health agency as defined in section ~~3701.881-3722.01~~ of the Revised Code. 3523  
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- (2) A standard care arrangement entered into pursuant to this section may permit a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner to admit a patient to a hospital in accordance with section 3727.06 of the Revised Code. 3528  
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- (D) (1) Except as provided in division (D) (2) of this section, if a physician or podiatrist terminates the collaboration between the physician or podiatrist and a certified nurse-midwife, certified nurse practitioner, or clinical nurse specialist before their standard care arrangement expires, all of the following apply: 3533  
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- (a) The physician or podiatrist must give the nurse written or electronic notice of the termination. 3539  
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- (b) Once the nurse receives the termination notice, the nurse must notify the board of nursing of the termination as soon as practicable by submitting to the board a copy of the physician's or podiatrist's termination notice. 3541  
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- (c) Notwithstanding the requirement of section 4723.43 of the Revised Code that the nurse practice in collaboration with a physician or podiatrist, the nurse may continue to practice under the existing standard care arrangement without a collaborating physician or podiatrist for not more than one hundred twenty days after submitting to the board a copy of the termination notice. 3545  
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(2) In the event that the collaboration between a physician or podiatrist and a certified nurse-midwife, certified nurse practitioner, or clinical nurse specialist terminates because of the physician's or podiatrist's death, the nurse must notify the board of the death as soon as practicable. The nurse may continue to practice under the existing standard care arrangement without a collaborating physician or podiatrist for not more than one hundred twenty days after notifying the board of the physician's or podiatrist's death. 3552  
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(E) Nothing in this section prohibits a hospital from hiring a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner as an employee and negotiating standard care arrangements on behalf of the employee as necessary to meet the requirements of this section. A standard care arrangement between the hospital's employee and the employee's collaborating physician is subject to approval by the medical staff and governing body of the hospital prior to implementation of the arrangement at the hospital. 3561  
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**Sec. 4729.43.** (A) As used in this section: 3570

(1) "Home health agency" has the same meaning as in section 3701.881-3722.01 of the Revised Code. 3571  
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(2) "Hospice care program" and "hospice patient" have the same meanings as in section 3712.01 of the Revised Code. 3573  
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(B) With regard to a dangerous drug that is indicated for the treatment of cancer or a cancer-related illness, must be administered intravenously or by subcutaneous injection, and cannot reasonably be self-administered by the patient to whom the drug is prescribed or by an individual assisting the patient with the self-administration, a pharmacist shall not dispense 3575  
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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 heath 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.	3609 3610 3611
<b>Sec. 5101.63.</b> (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.	3612 3613 3614 3615 3616 3617
(2) All of the following are subject to division (A) (1) of this section:	3618 3619
(a) An attorney admitted to the practice of law in this state;	3620 3621
(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;	3622 3623 3624
(c) An individual licensed under Chapter 4734. of the Revised Code as a chiropractor;	3625 3626
(d) An individual licensed under Chapter 4715. of the Revised Code as a dentist;	3627 3628
(e) An individual licensed under Chapter 4723. of the Revised Code as a registered nurse or licensed practical nurse;	3629 3630
(f) An individual licensed under Chapter 4732. of the Revised Code as a psychologist;	3631 3632
(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	3633 3634 3635 3636

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

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

(ee) A financial planner accredited by a national accreditation agency;	3691 3692
(ff) Any other individual who is a senior service provider, other than a representative of the office of the state long-term care ombudsman program as defined in section 173.14 of the Revised Code.	3693 3694 3695 3696
(B) Any person having reasonable cause to believe that an adult has suffered abuse, neglect, or exploitation may report, or cause a report to be made of such belief to the county department of job and family services.	3697 3698 3699 3700
This division applies to a representative of the office of the state long-term care ombudsman program only to the extent permitted by federal law.	3701 3702 3703
(C) The reports made under this section shall be made orally or in writing except that oral reports shall be followed by a written report if a written report is requested by the department. Written reports shall include:	3704 3705 3706 3707
(1) The name, address, and approximate age of the adult who is the subject of the report;	3708 3709
(2) The name and address of the individual responsible for the adult's care, if any individual is, and if the individual is known;	3710 3711 3712
(3) The nature and extent of the alleged abuse, neglect, or exploitation of the adult;	3713 3714
(4) The basis of the reporter's belief that the adult has been abused, neglected, or exploited.	3715 3716
(D) Any person with reasonable cause to believe that an adult is suffering abuse, neglect, or exploitation who makes a	3717 3718

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

maintaining a provider agreement;	3803
(2) Require that any medicaid provider require an owner or prospective owner, officer or prospective officer, or board member or prospective board member of the provider submit to a criminal records check as a condition of being an owner, officer, or board member of the provider;	3804 3805 3806 3807 3808
(3) Require that any medicaid provider do the following:	3809
(a) If so required by rules authorized by this section, determine pursuant to a database review conducted under division (F) (1) (a) of this section whether any employee or prospective employee of the provider is included in a database;	3810 3811 3812 3813
(b) Unless the provider is prohibited by division (D) (3) (b) of this section from employing the employee or prospective employee, require the employee or prospective employee to submit to a criminal records check as a condition of being an employee of the provider.	3814 3815 3816 3817 3818
(D) (1) The department or the department's designee shall deny or terminate a medicaid provider's provider agreement if the provider is a person subject to the criminal records check requirement and either of the following applies:	3819 3820 3821 3822
(a) The provider fails to obtain the criminal records check after being given the information specified in division (G) (1) of this section.	3823 3824 3825
(b) Except as provided in rules authorized by this section, the provider 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.	3826 3827 3828 3829 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 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. 3860  
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(E) (1) The department or the department's designee shall inform each medicaid provider whether the provider is subject to a criminal records check. For providers with valid provider agreements, the information shall be given at times designated in rules authorized by this section. For providers applying to be medicaid providers, the information shall be given at the time of initial application. When the information is given, the department or the department's designee shall specify the following: 3865  
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(a) Which of the provider's owners or prospective owners, officers or prospective officers, or board members or prospective board members are subject to a criminal records check; 3874  
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(b) Which of the provider's employees or prospective employees are subject to division (C) (3) of this section. 3878  
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(2) At times designated in rules authorized by this section, a medicaid provider that is a person subject to the criminal records check requirement shall do the following: 3880  
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(a) Inform each person specified under division (E) (1) (a) of this section that the person is required to submit to a criminal records check as a condition of being an owner, officer, or board member of the provider; 3883  
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(b) Inform each person specified under division (E) (1) (b) of this section that the person is subject to division (C) (3) of 3887  
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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 person for whom a criminal records check is required by this section prior to obtaining the results of the criminal records check if both of the following apply:	3949
(a) The provider is not prohibited by division (D) (3) (b) of this section from employing the person.	3950
(b) The person submits a request for the criminal records check not later than five business days after the person begins conditional employment.	3951
(2) Except as provided in division (I) of this section, a medicaid provider that employs a person conditionally under division (H) (1) of this section shall terminate the person's employment if either of the following apply:	3952
(a) The results of the criminal records check request are not obtained within the period ending sixty days after the date the request is made.	3953
(b) Regardless of when the results of the criminal records check are obtained, the results indicate that the person has been convicted of or has pleaded guilty to a disqualifying offense, unless circumstances specified in rules authorized by this section exist that permit the provider to employ the person and the provider chooses to employ the person.	3954
(I) As used in this division, "behavioral health services" means alcohol and drug addiction services, mental health services, or both.	3955
A medicaid provider of behavioral health services may choose to employ a person who the provider would be prohibited by division (D) (3) of this section from employing or would be required by division (H) (2) of this section to terminate the	3956
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person's employment if both of the following apply:	3978
(1) The person holds a valid health professional license issued under the Revised Code granting the person authority to provide behavioral health services, holds a valid peer recovery supporter certificate issued pursuant to rules adopted by the department of mental health and addiction services, or is in the process of obtaining such a license or certificate.	3979 3980 3981 3982 3983 3984
(2) The provider does not submit any medicaid claims for any services the person provides.	3985 3986
(J) The report of a criminal records check conducted pursuant to this section is not a public record for the purposes of section 149.43 of the Revised Code and shall not be made available to any person other than the following:	3987 3988 3989 3990
(1) The person who is the subject of the criminal records check or the person's representative;	3991 3992
(2) The medicaid director and the staff of the department who are involved in the administration of the medicaid program;	3993 3994
(3) The department's designee;	3995
(4) The medicaid provider who required the person who is the subject of the criminal records check to submit to the criminal records check;	3996 3997 3998
(5) An individual receiving or deciding whether to receive, from the subject of the criminal records check, home and community-based services available under the medicaid state plan;	3999 4000 4001 4002
(6) A court, hearing officer, or other necessary individual involved in a case dealing with any of the following:	4003 4004

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

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

in section 5164.341 of the Revised Code.	4061
(B) This section does not apply to any individual who is subject to a database review or criminal records check under section <del>3701.881</del> <ins>3722.11</ins> of the Revised Code. If a waiver agency also is a community-based long-term care provider or community-based long-term care subcontractor, the waiver agency may provide for any of its applicants and employees who are not subject to database reviews and criminal records checks under section 173.38 of the Revised Code to undergo database reviews and criminal records checks in accordance with that section rather than this section.	4062 4063 4064 4065 4066 4067 4068 4069 4070 4071
(C) No waiver agency shall employ an applicant or continue to employ an employee in a position that involves providing home and community-based services if any of the following apply:	4072 4073 4074
(1) A review of the databases listed in division (E) of this section reveals any of the following:	4075 4076
(a) That the applicant or employee is included in one or more of the databases listed in divisions (E)(1) to (5) of this section;	4077 4078 4079
(b) That there is in the state nurse aide registry established under section 3721.32 of the Revised Code a statement detailing findings by the director of health that the applicant or employee abused, neglected, or exploited a long-term care facility or residential care facility resident or misappropriated property of such a resident;	4080 4081 4082 4083 4084 4085
(c) That the applicant or employee is included in one or more of the databases, if any, specified in rules authorized by this section and the rules prohibit the waiver agency from employing an applicant or continuing to employ an employee	4086 4087 4088 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 under section 5120.66 of the Revised Code;	4149 4150
(6) The state nurse aide registry established under section 3721.32 of the Revised Code;	4151 4152
(7) Any other database, if any, specified in rules authorized by this section.	4153 4154
(F) (1) As a condition of employing any applicant in a position that involves providing home and community-based services, the chief administrator of a waiver agency shall require the applicant to request that the superintendent of the bureau of criminal identification and investigation conduct a criminal records check of the applicant. If rules authorized by this section so require, the chief administrator of a waiver agency shall require an employee to request that the superintendent conduct a criminal records check of the employee at times specified in the rules as a condition of continuing to employ the employee in a position that involves providing home and community-based services. However, a criminal records check is not required for an applicant or employee if the waiver agency is prohibited by division (C)(1) of this section from employing the applicant or continuing to employ the employee in a position that involves providing home and community-based services. If an applicant or employee for whom a criminal records check request is required by this section does not present proof of having been a resident of this state for the five-year period immediately prior to the date the criminal records check is requested or provide evidence that within that five-year period the superintendent has requested information about the applicant or employee from the federal bureau of	4155 4156 4157 4158 4159 4160 4161 4162 4163 4164 4165 4166 4167 4168 4169 4170 4171 4172 4173 4174 4175 4176 4177

investigation in a criminal records check, the chief administrator shall require the applicant or employee to request that the superintendent obtain information from the federal bureau of investigation as part of the criminal records check. 4178  
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Even if an applicant or employee for whom a criminal records check request is required by this section presents proof of having been a resident of this state for the five-year period, the chief administrator may require the applicant or employee to request that the superintendent include information from the federal bureau of investigation in the criminal records check. 4182  
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(2) The chief administrator shall provide the following to each applicant and employee for whom a criminal records check is required by this section: 4188  
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(a) Information about accessing, completing, and forwarding to the superintendent of the bureau of criminal identification and investigation the form prescribed pursuant to division (C)(1) of section 109.572 of the Revised Code and the standard impression sheet prescribed pursuant to division (C)(2) of that section; 4191  
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(b) Written notification that the applicant or employee is to instruct the superintendent to submit the completed report of the criminal records check directly to the chief administrator. 4197  
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(3) A waiver agency shall pay to the bureau of criminal identification and investigation the fee prescribed pursuant to division (C)(3) of section 109.572 of the Revised Code for any criminal records check required by this section. However, a waiver agency may require an applicant to pay to the bureau the fee for a criminal records check of the applicant. If the waiver agency pays the fee for an applicant, it may charge the applicant a fee not exceeding the amount the waiver agency pays 4200  
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to the bureau under this section if the waiver agency notifies  
the applicant at the time of initial application for employment  
of the amount of the fee and that, unless the fee is paid, the  
applicant will not be considered for employment. 4208  
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(G) (1) A waiver agency may employ conditionally an  
applicant for whom a criminal records check is required by this  
section prior to obtaining the results of the criminal records  
check if both of the following apply: 4212  
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(a) The waiver agency is not prohibited by division (C) (1)  
of this section from employing the applicant in a position that  
involves providing home and community-based services. 4216  
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(b) The chief administrator of the waiver agency requires  
the applicant to request a criminal records check regarding the  
applicant in accordance with division (F) (1) of this section not  
later than five business days after the applicant begins  
conditional employment. 4219  
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(2) A waiver agency that employs an applicant  
conditionally under division (G) (1) of this section shall  
terminate the applicant's employment if the results of the  
criminal records check, other than the results of any request  
for information from the federal bureau of investigation, are  
not obtained within the period ending sixty days after the date  
the request for the criminal records check is made. Regardless  
of when the results of the criminal records check are obtained,  
if the results indicate that the applicant has been convicted of  
or has pleaded guilty to a disqualifying offense, the waiver  
agency shall terminate the applicant's employment unless  
circumstances specified in rules authorized by this section  
exist that permit the waiver agency to employ the applicant and  
the waiver agency chooses to employ the applicant. 4224  
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(H) The report of any criminal records check conducted pursuant to a request made under this section is not a public record for the purposes of section 149.43 of the Revised Code and shall not be made available to any person other than the following:	4238 4239 4240 4241 4242
(1) The applicant or employee who is the subject of the criminal records check or the representative of the applicant or employee;	4243 4244 4245
(2) The chief administrator of the waiver agency that requires the applicant or employee to request the criminal records check or the administrator's representative;	4246 4247 4248
(3) The medicaid director and the staff of the department who are involved in the administration of the medicaid program;	4249 4250
(4) The director of aging or the director's designee if the waiver agency also is a community-based long-term care provider or community-based long-term care subcontractor;	4251 4252 4253
(5) An individual receiving or deciding whether to receive home and community-based services from the subject of the criminal records check;	4254 4255 4256
(6) A court, hearing officer, or other necessary individual involved in a case dealing with any of the following:	4257 4258
(a) A denial of employment of the applicant or employee;	4259
(b) Employment or unemployment benefits of the applicant or employee;	4260 4261
(c) A civil or criminal action regarding the medicaid program.	4262 4263
(I) The medicaid director shall adopt rules under section	4264

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

assembly to this section do not preclude the department of  
medicaid from taking action against a person for failure to  
comply with former division (H) of this section as that division  
existed on the day preceding January 1, 2013. 4292  
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**Section 2.** That existing sections 109.57, 109.572, 173.38,  
173.381, 1337.11, 2133.01, 2317.54, 3701.362, 3701.881,  
3701.916, 3721.02, 4715.36, 4719.01, 4723.431, 4729.43, 5101.63,  
5164.34, and 5164.342 of the Revised Code are hereby repealed. 4296  
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**Section 3.** The General Assembly, applying the principle  
stated in division (B) of section 1.52 of the Revised Code that  
amendments are to be harmonized if reasonably capable of  
simultaneous operation, finds that the following sections,  
presented in this act as composites of the sections as amended  
by the acts indicated, are the resulting versions of the  
sections in effect prior to the effective date of the sections  
as presented in this act: 4300  
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Section 109.572 of the Revised Code as amended by both  
H.B. 263 and S.B. 260 of the 133rd General Assembly. 4308  
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Section 2317.54 of the Revised Code as amended by both  
H.B. 49 of the 132nd General Assembly and H.B. 166 of the 133rd  
General Assembly. 4310  
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