

173-9-06

Background checks: paid direct-care positions: Disqualifying disqualifying offenses.

(A) Except as ~~set forth~~ established in rule 173-9-07 or 173-9-07.1 of the Administrative Code, no responsible party shall hire an applicant, retain an employee, certify a self-employed provider, fail to revoke a self-employed person's certification, enter into ~~a provider~~ an AAA-provider agreement (agreement) with a self-employed provider, or fail to terminate ~~a self-employed provider's provider~~ that agreement, if the applicant, employee, or self-employed provider was convicted of, or pleaded guilty to, a violation of any of the following sections of the Revised Code:

- (1) 959.13 (cruelty to animals);
- (2) 959.131 (prohibitions concerning companion animals);
- (3) 2903.01 (aggravated murder);
- (4) 2903.02 (murder);
- (5) 2903.03 (voluntary manslaughter);
- (6) 2903.04 (involuntary manslaughter);
- (7) 2903.041 (reckless homicide);
- (8) 2903.11 (felonious assault);
- (9) 2903.12 (aggravated assault);
- (10) 2903.13 (assault);
- (11) 2903.15 (permitting child abuse);
- (12) 2903.16 (failing to provide for a functionally-impaired person);
- (13) 2903.21 (aggravated menacing);
- (14) 2903.211 (menacing by stalking);
- (15) 2903.22 (menacing);

- (16) 2903.34 (patient abuse and neglect);
- (17) 2903.341 (patient endangerment);
- (18) 2905.01 (kidnapping);
- (19) 2905.02 (abduction);
- (20) 2905.04 (child stealing, as it existed before July 1, 1996);
- (21) 2905.05 (criminal child enticement);
- (22) 2905.11 (extortion);
- (23) 2905.12 (coercion);
- (24) 2905.32 (trafficking in persons);
- (25) 2905.33 (unlawful conduct with respect to documents);
- (26) 2907.02 (rape);
- (27) 2907.03 (sexually battery);
- (28) 2907.04 (unlawful sexual conduct with a minor, formerly corruption of a minor);
- (29) 2907.05 (gross sexual imposition);
- (30) 2907.06 (sexual imposition);
- (31) 2907.07 (importuning);
- (32) 2907.08 (voyeurism);
- (33) 2907.09 (public indecency);
- (34) 2907.12 (felonious sexual penetration, as it existed before July 1, 1996);

- (35) 2907.21 (compelling prostitution);
- (36) 2907.22 (promoting prostitution);
- (37) 2907.23 (enticement or solicitation to patronize a prostitute; procurement of a prostitute for another);
- (38) 2907.24 (soliciting, engaging in solicitation after a positive HIV test);
- (39) 2907.25 (prostitution);
- (40) 2907.31 (disseminating matter harmful to juveniles);
- (41) 2907.32 (pandering obscenity);
- (42) 2907.321 (pandering obscenity involving a minor);
- (43) 2907.322 (pandering sexually-oriented matter involving a minor);
- (44) 2907.323 (illegal use of a minor in nudity-oriented material or performance);
- (45) 2907.33 (deception to obtain matter harmless to juveniles);
- (46) 2909.02 (aggravated arson);
- (47) 2909.03 (arson);
- (48) 2909.04 (disrupting public services);
- (49) 2909.22 (soliciting or providing support for act of terrorism);
- (50) 2909.23 (making terroristic threat);
- (51) 2909.24 (terrorism);
- (52) 2911.01 (aggravated robbery);
- (53) 2911.02 (robbery);

- (54) 2911.11 (aggravated burglary);
- (55) 2911.12 (burglary);
- (56) 2911.13 (breaking and entering);
- (57) 2913.02 (theft);
- (58) 2913.03 (unauthorized use of a vehicle);
- (59) 2913.04 (unauthorized use of computer, cable, or telecommunication property);
- (60) 2913.05 (telecommunications fraud);
- (61) 2913.11 (passing bad checks);
- (62) 2913.21 (misuse of credit cards);
- (63) 2913.31 (forgery, forging identification cards);
- (64) 2913.32 (criminal simulation);
- (65) 2913.40 (medicaid fraud);
- (66) 2913.41 (defrauding a rental agency or hostelry);
- (67) 2913.42 (tampering with records);
- (68) 2913.43 (securing writings by deception);
- (69) 2913.44 (personating an officer);
- (70) 2913.441 (unlawful display of law enforcement emblem);
- (71) 2913.45 (defrauding creditors);
- (72) 2913.46 (illegal use of SNAP or WIC program benefits);

- (73) 2913.47 (insurance fraud);
- (74) 2913.48 (workers' compensation fraud);
- (75) 2913.49 (identify fraud);
- (76) 2913.51 (receiving stolen property);
- (77) 2917.01 (inciting to violence);
- (78) 2917.02 (aggravated riot);
- (79) 2917.03 (riot);
- (80) 2917.31 (inducing panic);
- (81) 2919.12 (unlawful abortion);
- (82) 2919.121 (unlawful abortion upon minor);
- (83) 2919.123 (unlawful distribution of an abortion-inducing drug);
- (84) 2919.22 (endangering children);
- (85) 2919.23 (interference with custody);
- (86) 2919.24 (contributing to unruliness or delinquency of child);
- (87) 2919.25 (domestic violence);
- (88) 2921.03 (intimidation);
- (89) 2921.11 (perjury);
- (90) 2921.12 (tampering with evidence);
- (91) 2921.13 (falsification, falsification in a theft offense, falsification to purchase a firearm, or falsification to obtain a concealed handgun license);

- (92) 2921.21 (compounding a crime);
- (93) 2921.24 (disclosure of confidential information);
- (94) 2921.32 (obstructing justice);
- (95) 2921.321 (assaulting or harassing a police dog, horse, or service animal);
- (96) 2921.34 (escape);
- (97) 2921.35 (aiding escape or resistance to lawful authority);
- (98) 2921.36 (illegal conveyance of weapons, drugs or other prohibited items onto grounds of detention facility or institution);
- (99) 2921.51 (impersonation of peace officer);
- (100) 2923.01 (conspiracy, related to another disqualifying offense);
- (101) 2923.02 (attempt to commit an offense, related to another disqualifying offense);
- (102) 2923.03 (complicity, related to another disqualifying offense);
- (103) 2923.12 (carrying concealed weapons);
- (104) 2923.122 (illegal conveyance or possession of deadly weapon or dangerous ordnance in a school safety zone, illegal possession of an object indistinguishable from a firearm in a school safety zone);
- (105) 2923.123 (illegal conveyance, possession, or control of deadly weapon or ordnance into a courthouse);
- (106) 2923.13 (having weapons while under disability);
- (107) 2923.161 (improperly discharging a firearm at or into a habitation or school);
- (108) 2923.162 (discharge of firearm on or near prohibited premises);

- (109) 2923.21 (improperly furnishing firearms to minor);
- (110) 2923.32 (engaging in a pattern of corrupt activity);
- (111) 2923.42 (participating in criminal gang);
- (112) 2925.02 (corrupting another with drugs);
- (113) 2925.03 (trafficking in drugs);
- (114) 2925.04 (illegal manufacture of drugs or cultivation of marijuana);
- (115) 2925.041 (illegal assembly or possession of chemicals for the manufacture of drugs);
- (116) 2925.05 (funding of drug or marijuana trafficking);
- (117) 2925.06 (illegal administration or distribution of anabolic steroids);
- (118) 2925.09 (illegal administration, dispensing, distribution, manufacture, possession, selling, or using of any dangerous veterinary drug);
- (119) 2925.11 (possession of drugs);
- (120) 2925.13 (permitting drug abuse);
- (121) 2925.14 (illegal use, possession, dealing, selling, or advertising of drug paraphernalia);
- (122) 2925.141 (illegal use or possession of marihuana drug paraphernalia);
- (123) 2925.22 (deception to obtain dangerous drugs);
- (124) 2925.23 (illegal processing of drug documents);
- (125) 2925.24 (tampering with drugs);
- (126) 2925.36 (dispensing drug samples);

- (127) 2925.55 (unlawful purchase of a pseudoephedrine product, underage purchase of a pseudoephedrine product, using false information to purchase a pseudoephedrine product, improper purchase of a pseudoephedrine product);
 - (128) 2925.56 (unlawfully selling a pseudoephedrine product; unlawfully selling a pseudoephedrine product to a minor; improper sale of a pseudoephedrine product);
 - (129) 2927.12 (ethnic intimidation); or,
 - (130) 3716.11 (placing harmful objects in food or confection).
- (B) Except as ~~set forth~~ established in rule 173-9-07 or 173-9-07.1 of the Administrative Code, no responsible party shall hire an applicant, retain an employee, certify a self-employed provider, fail to revoke a self-employed provider's certification, enter into ~~a provider~~ an agreement with a self-employed provider, or fail to terminate ~~a provider~~ that agreement ~~with a self-employed provider~~, if the applicant, employee, or self-employed provider was convicted of 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 or violations described in paragraph (A) of this rule.

Effective: 08/01/2017
Five Year Review (FYR) Dates: 05/04/2017 and 08/01/2022

CERTIFIED ELECTRONICALLY

Certification

07/11/2017

Date

Promulgated Under: 119.03
Statutory Authority: 173.01, 173.02, 173.38, 173.391, 173.392; Sections 305(a)(1)(C) of the Older Americans Act of 1965, 79 Stat. 210, 42 U.S.C. 3001, as amended by the Older Americans Act Reauthorization Act of 2016; 45 C.F.R. 1321.11 (October, 2016 edition).
Rule Amplifies: 109.572, 173.38; 42 C.F.R. 460.68(a), 460.71(b)(1), 460.71(b)(2) (November 15, 2016).
Prior Effective Dates: 173-41-01: 03/04/1997 (Emer.), 07/31/1997, 04/17/2003, 01/01/2008. 173-9-01: 02/15/2009, 08/11/2011. 173-9-06: 01/01/2013, 04/04/2014, 02/01/2015.