

*****Proposed New Rule - August 31, 2012*****

5123:2-2-02 Background investigations for employment.

(A) Purpose

The purpose of this rule is to establish standards for conducting background investigations on persons employed or seeking employment in Ohio's service delivery system for individuals with developmental disabilities.

(B) Definitions

- (1) "Agency provider" means a person, association, corporation, nonprofit organization, partnership, trust, or other group of persons that provides specialized services and employs, directly or through contract, one or more persons in a direct services position.
- (2) "Applicant" means any of the following:
 - (a) A person who is under final consideration for appointment to or employment with the department or a county board;
 - (b) A person who is being transferred to the department or a county board;
 - (c) An employee who is being recalled to or reemployed by the department or a county board after a layoff; or
 - (d) A person under final consideration for a direct services position with a provider or subcontractor.
- (3) "Candidate" means either of the following:
 - (a) The chief executive officer of an agency provider that applies under section 5123.161 or 5123.164 of the Revised Code for supported living certification; or
 - (b) A person who applies under section 5123.161 or 5123.164 of the Revised Code for supported living certification as an independent provider.
- (4) "County board" means a county board of developmental disabilities.
- (5) "Criminal records check" has the same meaning as in section 109.572 of the Revised Code.
- (6) "Department" means the Ohio department of developmental disabilities.
- (7) "Direct services position" means an employment position in which the employee has the opportunity to be alone with or exercises supervision or control over one or more individuals.
- (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.
- (9) "Employee" means a person appointed to or employed by the department or a county board or a person employed in a direct services position by a provider or subcontractor. "Employee" does not mean a person who provides only respite care to

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his or her family member under a family support services program established under section 5126.11 of the Revised Code.

- (10) "Independent provider" means a self-employed person who provides services for which he or she must be certified under rule 5123:2-2-01 of the Administrative Code and does not employ, either directly or through contract, anyone else to provide the services.
- (11) "Individual" means a person with a developmental disability.
- (12) "Minor drug possession offense" has the same meaning as in section 2925.01 of the Revised Code.
- (13) "Multiple disqualifying offenses" means two or more convictions or guilty pleas to disqualifying offenses. Convictions or guilty pleas resulting from or connected with the same act, or resulting from offenses committed at the same time, shall be counted as one conviction or guilty plea.
- (14) "Responsible entity" means:
 - (a) The department in the case of an applicant under final consideration for appointment to or employment with the department, being transferred to the department, or being recalled to or reemployed by the department after a layoff and in the case of a person appointed to or employed by the department;
 - (b) A county board in the case of an applicant under final consideration for appointment to or employment with the county board, being transferred to the county board, or being recalled to or reemployed by the county board after a layoff and in the case of a person appointed to or employed by the county board;
 - (c) A provider in the case of an applicant under final consideration for a direct services position with the provider and in the case of a person employed in a direct services position by the provider; or
 - (d) A subcontractor in the case of an applicant under final consideration for a direct services position with the subcontractor and in the case of a person employed in a direct services position by the subcontractor.
- (15) "Specialized services" mean any program or service designed and operated to serve primarily individuals with developmental disabilities, including a program or service provided by an entity licensed or certified by the department. If there is a question as to whether a provider or subcontractor is providing specialized services, the provider or subcontractor may request that the director of the department make a determination. The director's determination is final. Programs or services available to the general public are not specialized services.
- (16) "Subcontractor" means a person to which both of the following apply:
 - (a) The person has either of the following:
 - (i) A subcontract with a provider to provide specialized services included in the contract between the provider and the department or a county board; or
 - (ii) A subcontract with another subcontractor to provide specialized services included in a subcontract between the other subcontractor and a provider or

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other subcontractor.

(b) The person employs one or more persons in direct services positions.

(C) Requirements for responsible entities

(1) A responsible entity shall:

(a) Require an applicant to complete an employment application and provide the names and addresses of all present and former employers; and

(b) Attempt to obtain references from the applicant's present and former employers and maintain written evidence that reference checks were attempted and/or completed.

(2) A responsible entity shall check each of the following databases to determine if the applicant is included:

(a) The list of excluded persons and entities maintained by the office of inspector general in the United States department of health and human services pursuant to section 1128 of the Social Security Act, 94 Stat. 2619 (1980), 42 U.S.C. 1320a-7, as amended, and section 1156 of the Social Security Act, 96 Stat. 388 (1982), 42 U.S.C. 1320c-5, as amended (available at <http://exclusions.oig.hhs.gov/>);

(b) The abuser registry established pursuant to section 5123.52 of the Revised Code (available at https://its.prodapps.dodd.ohio.gov/abr_default.aspx);

(c) The nurse aide registry established under section 3721.32 of the Revised Code (available at https://odhgateway.odh.ohio.gov/nar/nar_registry_search.aspx) and there is a statement detailing findings by the director of the Ohio department of health that the applicant or employee neglected or abused a resident of a long-term care facility or residential care facility or misappropriated property of such a resident; and

(d) The sex offender and child-victim offender database established under division (A)(11) of section 2950.13 of the Revised Code (available at <http://www.icrimewatch.net/index.php?agencyid=55149&disc=>).

(3) A responsible entity shall not employ an applicant or continue to employ an employee if the applicant or employee is included in one or more of the databases described in paragraphs (C)(2)(a) to (C)(2)(d) of this rule.

(4) A responsible entity shall verify that an applicant has a valid motor vehicle operator's license and obtain a driving record prepared by the bureau of motor vehicles if the duties of the position for which the applicant has applied require the applicant to transport individuals or to operate the responsible entity's vehicles for any other purpose. A person having six or more points on his or her driving record is prohibited from transporting individuals.

(5) Prior to employing an applicant, a responsible entity shall require an applicant to:

(a) Submit a statement to the responsible entity with the applicant's signature attesting that he or she has not been convicted of or pleaded guilty to a disqualifying offense. An applicant or employee shall disclose to the responsible entity a

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conviction for any offense that has been sealed.

- (b) Sign an agreement under which the applicant agrees to notify the responsible entity within fourteen calendar days if, while employed by the responsible entity, the applicant is formally charged with, is convicted of, or pleads guilty to a disqualifying offense. The agreement shall provide that failure to make the notification may result in termination of the applicant's employment.
- (6) A responsible entity shall request the bureau of criminal identification and investigation to conduct a criminal records check of an applicant. If an applicant does not present proof that he or she has been a resident of Ohio for the five-year period immediately prior to the date upon which the criminal records check is requested, the responsible entity shall request that the bureau of criminal identification and investigation obtain information from the federal bureau of investigation as part of the criminal records check. If an applicant presents proof that he or she has been a resident of Ohio for the five-year period immediately prior to the date upon which the criminal records check is requested, the responsible entity may request that the bureau of criminal identification and investigation obtain information from the federal bureau of investigation as part of the criminal records check. For purposes of this paragraph, an applicant may provide proof of Ohio residency by presenting, with a notarized statement asserting that he or she has been a resident of Ohio for that five-year period, a valid driver's license, notification of registration as an elector, a copy of an officially filed federal or state tax form identifying the applicant's permanent residence, or any other document the responsible entity considers acceptable.
- (7) A responsible entity may conditionally employ an applicant pending receipt of information concerning the applicant's criminal records check from the bureau of criminal identification and investigation, the bureau of motor vehicles, or any other state or federal agency once the applicant submits to the responsible entity the statement required by paragraph (C)(5)(a) of this rule. The responsible entity shall terminate the applicant's employment if it is informed that the applicant has been convicted of or pleaded guilty to a disqualifying offense.
- (8) A responsible entity shall, at a frequency of no less than once every three years, request the bureau of criminal identification and investigation to conduct a criminal records check of each employee in a direct services position. If an employee does not present proof that he or she has been a resident of Ohio for the five-year period immediately prior to the date upon which the criminal records check is requested, the responsible entity shall request that the bureau of criminal identification and investigation obtain information from the federal bureau of investigation as part of the criminal records check. If an employee presents proof that he or she has been a resident of Ohio for the five-year period immediately prior to the date upon which the criminal records check is requested, the responsible entity may request that the bureau of criminal identification and investigation obtain information from the federal bureau of investigation as part of the criminal records check. For purposes of this paragraph, an employee may provide proof of Ohio residency by presenting, with a notarized statement asserting that he or she has been a resident of Ohio for that five-year period, a valid driver's license, notification of registration as an elector, a copy of an officially filed federal or state tax form identifying the employee's permanent residence, or any other document the responsible entity considers acceptable.

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(9) A responsible entity that was not, prior to the effective date of this rule, requesting the bureau of criminal identification and investigation to conduct a criminal records check of each employee in a direct services position at a frequency of no less than once every three years shall implement the requirements set forth in paragraph (C)(8) of this rule as follows:

(a) If the employee was hired before January 1, 2010, the responsible entity shall request a criminal records check of the employee no later than thirty days after the 2013 anniversary of the employee's date of hire and no later than thirty days after each anniversary date every three years after 2013.

(b) If the employee was hired on or after January 1, 2010, the responsible entity shall request a criminal records check of the employee no later than thirty days after the third anniversary of the employee's date of hire and no later than thirty days after each anniversary date every three years after the first three-year anniversary.

(D) Requirements for candidates

(1) A candidate shall request the bureau of criminal identification and investigation to conduct a criminal records check of the candidate. If a candidate does not present proof that he or she has been a resident of Ohio for the five-year period immediately prior to the date upon which the criminal records check is requested, the candidate shall request that the bureau of criminal identification and investigation obtain information from the federal bureau of investigation as part of the criminal records check. If a candidate presents proof that he or she has been a resident of Ohio for the five-year period immediately prior to the date upon which the criminal records check is requested, the department may require the candidate to request that the bureau of criminal identification and investigation obtain information from the federal bureau of investigation as part of the criminal records check. For purposes of this paragraph, a candidate may provide proof of Ohio residency by presenting, with a notarized statement asserting that he or she has been a resident of Ohio for that five-year period, a valid driver's license, notification of registration as an elector, a copy of an officially filed federal or state tax form identifying the candidate's permanent residence, or any other document the department considers acceptable.

(a) The candidate 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 requested.

(b) The candidate shall instruct the bureau of criminal identification and investigation to submit the completed report of the criminal records check directly to the department.

(2) A candidate who seeks supported living certification as an independent provider shall obtain and provide to the department his or her driving record prepared by the bureau of motor vehicles if the services the candidate will provide involve transporting individuals. The department may consider the candidate's driving record when determining whether to issue supported living certification. A person having six or more points on his or her driving record is prohibited from transporting individuals.

(3) A candidate shall submit a statement to the department with the candidate's signature attesting that he or she has not been convicted of or pleaded guilty to a disqualifying

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offense. A candidate shall disclose a conviction for any offense that has been sealed.

- (4) A candidate shall sign an agreement under which the candidate agrees to notify the department within fourteen calendar days if, while holding supported living certification, the candidate is formally charged with, is convicted of, or pleads guilty to a disqualifying offense. The agreement shall provide that failure to make the notification may result in denial, revocation, or suspension of the candidate's supported living certification.

(E) Disqualifying offenses

- (1) There are five tiers of disqualifying offenses with corresponding time periods that preclude an applicant from being employed or an employee from remaining employed by a responsible entity and preclude a candidate from receiving supported living certification issued by the department.

(a) Tier 1: permanent exclusion

No responsible entity shall employ an applicant or continue to employ an employee, nor shall the department issue supported living certification to a candidate, if the applicant, employee, or candidate has been convicted of or pleaded guilty to any of the following sections of the Revised Code:

- (i) 2903.01 (aggravated murder);
- (ii) 2903.02 (murder);
- (iii) 2903.03 (voluntary manslaughter);
- (iv) 2903.11 (felonious assault);
- (v) 2903.15 (permitting child abuse);
- (vi) 2903.16 (failing to provide for a functionally impaired person);
- (vii) 2903.34 (patient abuse and neglect);
- (viii) 2903.341 (patient endangerment);
- (ix) 2905.01 (kidnapping);
- (x) 2905.02 (abduction);
- (xi) 2905.32 (trafficking in persons);
- (xii) 2905.33 (unlawful conduct with respect to documents);
- (xiii) 2907.02 (rape);
- (xiv) 2907.03 (sexual battery);
- (xv) 2907.04 (unlawful sexual conduct with a minor, formerly corruption of a minor);
- (xvi) 2907.05 (gross sexual imposition);

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- (xvii) 2907.06 (sexual imposition);
- (xviii) 2907.07 (importuning);
- (xix) 2907.08 (voyeurism);
- (xx) Former 2907.12 (felonious sexual penetration);
- (xxi) 2907.31 (disseminating matter harmful to juveniles);
- (xxii) 2907.32 (pandering obscenity);
- (xxiii) 2907.321 (pandering obscenity involving a minor);
- (xxiv) 2907.322 (pandering sexually oriented matter involving a minor);
- (xxv) 2907.323 (illegal use of minor in nudity-oriented material or performance);
- (xxvi) 2909.22 (soliciting/providing support for act of terrorism);
- (xxvii) 2909.23 (making terrorist threat);
- (xxviii) 2909.24 (terrorism);
- (xxix) 2913.40 (medicaid fraud);
- (xxx) 2923.01 (conspiracy), 2923.02 (attempt), or 2923.03 (complicity) when the underlying offense is any of the offenses or violations described in paragraphs (E)(1)(a)(i) to (E)(1)(a)(xxix) of this rule;
- (xxxi) 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 paragraphs (E)(1)(a)(i) to (E)(1)(a)(xxx) of this rule; or
- (xxxii) A conviction related to fraud, theft, embezzlement, breach of fiduciary responsibility, or other financial misconduct involving a federal or state-funded program.

(b) Tier 2: ten-year exclusion

No responsible entity shall employ an applicant or continue to employ an employee, nor shall the department issue supported living certification to a candidate, for a period of ten years from the date the applicant, employee, or candidate was fully discharged from imprisonment, probation, and parole, if the applicant, employee, or candidate has been convicted of or pleaded guilty to any of the following sections of the Revised Code:

- (i) 2903.04 (involuntary manslaughter);
- (ii) 2903.041 (reckless homicide);
- (iii) 2905.04 (child stealing as it existed prior to July 1, 1996);
- (iv) 2905.05 (criminal child enticement);

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- (v) 2905.11 (extortion);
- (vi) 2907.21 (compelling prostitution);
- (vii) 2907.22 (promoting prostitution);
- (viii) 2907.23 (procuring);
- (ix) 2909.02 (aggravated arson);
- (x) 2909.03 (arson);
- (xi) 2911.01 (aggravated robbery);
- (xii) 2911.11 (aggravated burglary);
- (xiii) 2913.46 (illegal use of food stamps or women, infants, and children program benefits);
- (xiv) 2913.48 (workers' compensation fraud);
- (xv) 2913.49 (identity fraud);
- (xvi) 2917.02 (aggravated riot);
- (xvii) 2921.36 (illegal conveyance of weapons, drugs, or other prohibited items onto grounds of detention facility or institution);
- (xviii) 2923.12 (carrying concealed weapon);
- (xix) 2923.13 (having weapons while under disability);
- (xx) 2923.122 (illegal conveyance or possession of deadly weapon or dangerous ordnance);
- (xxi) 2923.123 (illegal conveyance of deadly weapon into courthouse);
- (xxii) 2923.161 (improperly discharging a firearm at or into a habitation or school);
- (xxiii) 2923.162 (discharge of firearm on or near prohibited premises);
- (xxiv) 2923.21 (improperly furnishing firearms to minor);
- (xxv) 2923.32 (engaging in pattern of corrupt activity);
- (xxvi) 2923.42 (participating in criminal gang);
- (xxvii) 2925.02 (corrupting another with drugs);
- (xxviii) 2925.03 (trafficking in drugs);
- (xxix) 2925.04 (illegal manufacture of drugs or cultivation of marijuana);
- (xxx) 2925.041 (illegal assembly);
- (xxxi) 3716.11 (placing harmful objects in food or confection);

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(xxxii) 2923.01 (conspiracy), 2923.02 (attempt), or 2923.03 (complicity) when the underlying offense is any of the offenses or violations described in paragraphs (E)(1)(b)(i) to (E)(1)(b)(xxxi) of this rule; or

(xxxiii) 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 paragraphs (E)(1)(b)(i) to (E)(1)(b)(xxxii) of this rule.

(c) Tier 3: seven-year exclusion

No responsible entity shall employ an applicant or continue to employ an employee, nor shall the department issue supported living certification to a candidate, for a period of seven years from the date the applicant, employee, or candidate was fully discharged from imprisonment, probation, and parole, if the applicant, employee, or candidate has been convicted of or pleaded guilty to any of the following sections of the Revised Code:

- (i) 959.13 (cruelty to animals);
- (ii) 959.131 (prohibitions concerning companion animals);
- (iii) 2903.12 (aggravated assault);
- (iv) 2903.21 (aggravated menacing);
- (v) 2903.211 (menacing by stalking);
- (vi) 2905.12 (coercion);
- (vii) 2909.04 (disrupting public services);
- (viii) 2911.02 (robbery);
- (ix) 2911.12 (burglary);
- (x) 2913.47 (insurance fraud);
- (xi) 2917.01 (inciting to violence);
- (xii) 2917.03 (riot);
- (xiii) 2917.31 (inducing panic);
- (xiv) 2919.22 (endangering children);
- (xv) 2919.25 (domestic violence);
- (xvi) 2921.03 (intimidation);
- (xvii) 2921.11 (perjury);
- (xviii) 2921.13 (falsification in theft offense to purchase firearm);
- (xix) 2921.34 (escape);

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- (xx) 2921.35 (aiding escape or resistance to lawful authority);
- (xxi) 2925.05 (funding of drug or marijuana trafficking);
- (xxii) 2925.06 (illegal administration or distribution of anabolic steroids);
- (xxiii) 2925.24 (tampering with drugs);
- (xxiv) 2927.12 (ethnic intimidation);
- (xxv) 2923.01 (conspiracy), 2923.02 (attempt), or 2923.03 (complicity) when the underlying offense is any of the offenses or violations described in paragraphs (E)(1)(c)(i) to (E)(1)(c)(xxv) of this rule; or
- (xxvi) 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 paragraphs (E)(1)(c)(i) to (E)(1)(c)(xxvi) of this rule.

(d) Tier 4: five-year exclusion

No responsible entity shall employ an applicant or continue to employ an employee, nor shall the department issue supported living certification to a candidate, for a period of five years from the date the applicant, employee, or candidate was fully discharged from imprisonment, probation, and parole, if the applicant, employee, or candidate has been convicted of or pleaded guilty to any of the following sections of the Revised Code:

- (i) 2903.13 (assault);
- (ii) 2903.22 (menacing);
- (iii) 2907.09 (public indecency);
- (iv) 2907.24 (soliciting after positive human immunodeficiency virus test);
- (v) 2907.25 (prostitution);
- (vi) 2907.33 (deception to obtain matter harmless to juveniles);
- (vii) 2911.13 (breaking and entering);
- (viii) 2913.02 (theft);
- (ix) 2913.03 (unauthorized use of a vehicle);
- (x) 2913.04 (unauthorized use of property, computer, cable, or telecommunication property);
- (xi) 2913.05 (telecommunications fraud);
- (xii) 2913.11 (passing bad checks);
- (xiii) 2913.21 (misuse of credit cards);
- (xiv) 2913.31 (forging identification cards);

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- (xv) 2913.32 (criminal simulation);
- (xvi) 2913.41 (defrauding a rental agency or hostelry);
- (xvii) 2913.42 (tampering with records);
- (xviii) 2913.43 (securing writings by deception);
- (xix) 2913.44 (personating an officer);
- (xx) 2913.441 (unlawful display of law enforcement emblem);
- (xxi) 2913.45 (defrauding creditors);
- (xxii) 2913.51 (receiving stolen property);
- (xxiii) 2919.12 (unlawful abortion);
- (xxiv) 2919.121 (unlawful abortion upon minor);
- (xxv) 2919.123 (unlawful distribution of an abortion-inducing drug);
- (xxvi) 2919.23 (interference with custody);
- (xxvii) 2919.24 (contributing to unruliness or delinquency of child);
- (xxviii) 2921.12 (tampering with evidence);
- (xxix) 2921.24 (disclosure of confidential information);
- (xxx) 2921.32 (obstructing justice);
- (xxxi) 2921.321 (assaulting/harassing police dog or horse/service animal);
- (xxxii) 2921.51 (impersonation of peace officer);
- (xxxiii) 2925.09 (unapproved drugs);
- (xxxiv) 2925.11 (possession of drugs);
- (xxxv) 2925.13 (permitting drug abuse);
- (xxxvi) 2925.22 (deception to obtain dangerous drugs);
- (xxxvii) 2925.23 (illegal processing of drug documents);
- (xxxviii) 2925.36 (tampering with drugs);
- (xxxix) 2925.55 (unlawful purchase of pseudoephedrine product);
- (xl) 2925.56 (unlawful sale of pseudoephedrine product);
- (xli) 2923.01 (conspiracy), 2923.02 (attempt), or 2923.03 (complicity) when the underlying offense is any of the offenses or violations described in paragraphs (E)(1)(d)(i) to (E)(1)(d)(xl) of this rule; or
- (xlii) A violation of an existing or former municipal ordinance or law of this state,

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any other state, or the United States that is substantially equivalent to any of the offenses or violations described in paragraphs (E)(1)(d)(i) to (E)(1)(d)(xli) of this rule.

(e) Tier 5: no exclusion

A responsible entity may employ an applicant or continue to employ an employee, and the department may issue supported living certification to a candidate, if the applicant, employee, or candidate has been convicted of or pleaded guilty to any of the following sections of the Revised Code:

- (i) 2921.21 (non-support/contributing to non-support of dependents);
- (ii) 2925.11 (drug possession that is minor drug possession offense);
- (iii) 2925.14 (drug paraphernalia); or
- (iv) 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 paragraphs (E)(1)(e)(i) to (E)(1)(e)(iii) of this rule.

(2) If an applicant, employee, or candidate has been convicted of or pleaded guilty to multiple disqualifying offenses listed in paragraphs (E)(1)(b)(i) to (E)(1)(b)(xxxiii) of this rule, and offenses listed in paragraphs (E)(1)(c)(i) to (E)(1)(c)(xxvi) of this rule, and paragraphs (E)(1)(d)(i) to (E)(1)(d)(xlii) of this rule, the applicant, employee, or candidate is subject to a fifteen-year exclusion period.

(3) If an applicant, employee, or candidate has been convicted of or pleaded guilty to multiple disqualifying offenses listed in paragraphs (E)(1)(c)(i) to (E)(1)(c)(xxvi) of this rule, and offenses listed in paragraphs (E)(1)(d)(i) to (E)(1)(d)(xlii) of this rule, the applicant, employee, or candidate is subject to a ten-year exclusion period.

(4) If an applicant, employee, or candidate has been convicted of or pleaded guilty to multiple disqualifying offenses listed in paragraphs (E)(1)(d)(i) to (E)(1)(d)(xlii) of this rule, the applicant, employee, or candidate is subject to a seven-year exclusion period.

(F) A conviction of or plea of guilty to a disqualifying offense listed or described in paragraph (E)(1) of this rule shall not preclude an applicant from being employed or an employee from remaining employed by a responsible entity or preclude a candidate from receiving supported living certification issued by the department under the following circumstances:

- (1) The applicant, employee, or candidate has been granted an unconditional pardon for the offense pursuant to Chapter 2967. of the Revised Code;
- (2) The applicant, employee, or candidate has been granted an unconditional pardon for the offense pursuant to an existing or former law of this state, any other state, or the United States, if the law is substantially equivalent to Chapter 2967. of the Revised Code;
- (3) The applicant's, employee's, or candidate's conviction or guilty plea has been set aside pursuant to law;

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- (4) The applicant, employee, or candidate has been granted a conditional pardon for the offense pursuant to Chapter 2967. of the Revised Code and the conditions under which the pardon was granted have been satisfied; or
 - (5) The applicant's, employee's, or candidate's conviction or guilty plea is not for an offense listed or described in paragraph (E)(1)(a) of this rule and the applicant, employee, or candidate has a certificate of qualification for employment pursuant to sections 2961.21 to 2961.24 of the Revised Code.
- (G) Any report obtained pursuant to this rule is not a public record for purposes of section 149.43 of the Revised Code and shall not be made available to any person other than:
- (1) The applicant, employee, or candidate who is the subject of the report or the applicant's, employee's, or candidate's representative;
 - (2) The responsible entity that requested the report or its representative;
 - (3) The department if a county board, provider, or subcontractor is the responsible entity that requested the report and the department requests the responsible entity to provide a copy of the report to the department;
 - (4) A county board if a provider or subcontractor is the responsible entity that requested the report and the county board requests the responsible entity to provide a copy of the report to the county board; or
 - (5) A court, hearing officer, or other necessary person involved in a case dealing with the denial of employment to the applicant or employee; the denial, suspension, or revocation of certification issued under section 5123.166 or 5123.45 of the Revised Code; or a civil or criminal action regarding the medicaid program or a program the department administers.
- (H) For purposes of this rule, reports from the bureau of criminal identification and investigation or any other state or federal agency regarding a person's criminal record and records supplied by the bureau of motor vehicles regarding a person's record of convictions for violations of motor vehicle laws are valid for a period of one year from the date of the report.

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