

**As Reported by the Senate Health, Human Services and Aging
Committee**

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Representative Maag

**Cosponsors: Representatives Grossman, Murray, Fende, Antonio, Duffey,
Hackett, Sears, Beck, Blair, Blessing, Bubp, Carney, Celebrezze, Celeste,
Gardner, Garland, Hill, Johnson, Letson, Lundy, Mallory, Matheney,
Milkovich, O'Brien, Phillips, Ramos, Stautberg, Stebelton, Stinziano, Terhar,
Wachtmann, Winburn, Yuko Speaker Batchelder**

Senator Tavares

—

A B I L L

To amend sections 109.57, 1337.11, 2133.01, 2317.54, 1
3701.881, 3712.01, 3712.03, 3712.09, 3712.99, 2
3721.01, 3793.11, 3795.01, 3963.01, 4719.01, 3
4752.02, and 5119.22 and to enact sections 4
3712.031, 3712.041, 3712.051, 3712.061, and 5
4729.43 of the Revised Code to enact "Sarah's Law" 6
regarding licensure of pediatric respite care 7
programs; to establish standards for delivery of 8
certain cancer drugs; to modify the requirements 9
for licensure of methadone treatment programs; to 10
amend the version of section 109.57 of the Revised 11
Code that is scheduled to take effect on January 12
1, 2014, to continue amendments made by this act 13
to that section; and to declare an emergency. 14

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

Section 1. That sections 109.57, 1337.11, 2133.01, 2317.54, 15
3701.881, 3712.01, 3712.03, 3712.09, 3712.99, 3721.01, 3793.11, 16
3795.01, 3963.01, 4719.01, 4752.02, and 5119.22 be amended and 17
sections 3712.031, 3712.041, 3712.051, 3712.061, and 4729.43 of 18
the Revised Code be enacted to read as follows: 19

Sec. 109.57. (A)(1) The superintendent of the bureau of 20
criminal identification and investigation shall procure from 21
wherever procurable and file for record photographs, pictures, 22
descriptions, fingerprints, measurements, and other information 23
that may be pertinent of all persons who have been convicted of 24
committing within this state a felony, any crime constituting a 25
misdemeanor on the first offense and a felony on subsequent 26
offenses, or any misdemeanor described in division (A)(1)(a), 27
(A)(5)(a), or (A)(7)(a) of section 109.572 of the Revised Code, of 28
all children under eighteen years of age who have been adjudicated 29
delinquent children for committing within this state an act that 30
would be a felony or an offense of violence if committed by an 31
adult or who have been convicted of or pleaded guilty to 32
committing within this state a felony or an offense of violence, 33
and of all well-known and habitual criminals. The person in charge 34
of any county, multicounty, municipal, municipal-county, or 35
multicounty-municipal jail or workhouse, community-based 36
correctional facility, halfway house, alternative residential 37
facility, or state correctional institution and the person in 38
charge of any state institution having custody of a person 39
suspected of having committed a felony, any crime constituting a 40
misdemeanor on the first offense and a felony on subsequent 41
offenses, or any misdemeanor described in division (A)(1)(a), 42
(A)(5)(a), or (A)(7)(a) of section 109.572 of the Revised Code or 43
having custody of a child under eighteen years of age with respect 44
to whom there is probable cause to believe that the child may have 45

committed an act that would be a felony or an offense of violence 46
if committed by an adult shall furnish such material to the 47
superintendent of the bureau. Fingerprints, photographs, or other 48
descriptive information of a child who is under eighteen years of 49
age, has not been arrested or otherwise taken into custody for 50
committing an act that would be a felony or an offense of violence 51
who is not in any other category of child specified in this 52
division, if committed by an adult, has not been adjudicated a 53
delinquent child for committing an act that would be a felony or 54
an offense of violence if committed by an adult, has not been 55
convicted of or pleaded guilty to committing a felony or an 56
offense of violence, and is not a child with respect to whom there 57
is probable cause to believe that the child may have committed an 58
act that would be a felony or an offense of violence if committed 59
by an adult shall not be procured by the superintendent or 60
furnished by any person in charge of any county, multicounty, 61
municipal, municipal-county, or multicounty-municipal jail or 62
workhouse, community-based correctional facility, halfway house, 63
alternative residential facility, or state correctional 64
institution, except as authorized in section 2151.313 of the 65
Revised Code. 66

(2) Every clerk of a court of record in this state, other 67
than the supreme court or a court of appeals, shall send to the 68
superintendent of the bureau a weekly report containing a summary 69
of each case involving a felony, involving any crime constituting 70
a misdemeanor on the first offense and a felony on subsequent 71
offenses, involving a misdemeanor described in division (A)(1)(a), 72
(A)(5)(a), or (A)(7)(a) of section 109.572 of the Revised Code, or 73
involving an adjudication in a case in which a child under 74
eighteen years of age was alleged to be a delinquent child for 75
committing an act that would be a felony or an offense of violence 76
if committed by an adult. The clerk of the court of common pleas 77
shall include in the report and summary the clerk sends under this 78

division all information described in divisions (A)(2)(a) to (f) 79
of this section regarding a case before the court of appeals that 80
is served by that clerk. The summary shall be written on the 81
standard forms furnished by the superintendent pursuant to 82
division (B) of this section and shall include the following 83
information: 84

(a) The incident tracking number contained on the standard 85
forms furnished by the superintendent pursuant to division (B) of 86
this section; 87

(b) The style and number of the case; 88

(c) The date of arrest, offense, summons, or arraignment; 89

(d) The date that the person was convicted of or pleaded 90
guilty to the offense, adjudicated a delinquent child for 91
committing the act that would be a felony or an offense of 92
violence if committed by an adult, found not guilty of the 93
offense, or found not to be a delinquent child for committing an 94
act that would be a felony or an offense of violence if committed 95
by an adult, the date of an entry dismissing the charge, an entry 96
declaring a mistrial of the offense in which the person is 97
discharged, an entry finding that the person or child is not 98
competent to stand trial, or an entry of a nolle prosequi, or the 99
date of any other determination that constitutes final resolution 100
of the case; 101

(e) A statement of the original charge with the section of 102
the Revised Code that was alleged to be violated; 103

(f) If the person or child was convicted, pleaded guilty, or 104
was adjudicated a delinquent child, the sentence or terms of 105
probation imposed or any other disposition of the offender or the 106
delinquent child. 107

If the offense involved the disarming of a law enforcement 108
officer or an attempt to disarm a law enforcement officer, the 109

clerk shall clearly state that fact in the summary, and the 110
superintendent shall ensure that a clear statement of that fact is 111
placed in the bureau's records. 112

(3) The superintendent shall cooperate with and assist 113
sheriffs, chiefs of police, and other law enforcement officers in 114
the establishment of a complete system of criminal identification 115
and in obtaining fingerprints and other means of identification of 116
all persons arrested on a charge of a felony, any crime 117
constituting a misdemeanor on the first offense and a felony on 118
subsequent offenses, or a misdemeanor described in division 119
(A)(1)(a), (A)(5)(a), or (A)(7)(a) of section 109.572 of the 120
Revised Code and of all children under eighteen years of age 121
arrested or otherwise taken into custody for committing an act 122
that would be a felony or an offense of violence if committed by 123
an adult. The superintendent also shall file for record the 124
fingerprint impressions of all persons confined in a county, 125
multicounty, municipal, municipal-county, or multicounty-municipal 126
jail or workhouse, community-based correctional facility, halfway 127
house, alternative residential facility, or state correctional 128
institution for the violation of state laws and of all children 129
under eighteen years of age who are confined in a county, 130
multicounty, municipal, municipal-county, or multicounty-municipal 131
jail or workhouse, community-based correctional facility, halfway 132
house, alternative residential facility, or state correctional 133
institution or in any facility for delinquent children for 134
committing an act that would be a felony or an offense of violence 135
if committed by an adult, and any other information that the 136
superintendent may receive from law enforcement officials of the 137
state and its political subdivisions. 138

(4) The superintendent shall carry out Chapter 2950. of the 139
Revised Code with respect to the registration of persons who are 140
convicted of or plead guilty to a sexually oriented offense or a 141

child-victim oriented offense and with respect to all other duties 142
imposed on the bureau under that chapter. 143

(5) The bureau shall perform centralized recordkeeping 144
functions for criminal history records and services in this state 145
for purposes of the national crime prevention and privacy compact 146
set forth in section 109.571 of the Revised Code and is the 147
criminal history record repository as defined in that section for 148
purposes of that compact. The superintendent or the 149
superintendent's designee is the compact officer for purposes of 150
that compact and shall carry out the responsibilities of the 151
compact officer specified in that compact. 152

(B) The superintendent shall prepare and furnish to every 153
county, multicounty, municipal, municipal-county, or 154
multicounty-municipal jail or workhouse, community-based 155
correctional facility, halfway house, alternative residential 156
facility, or state correctional institution and to every clerk of 157
a court in this state specified in division (A)(2) of this section 158
standard forms for reporting the information required under 159
division (A) of this section. The standard forms that the 160
superintendent prepares pursuant to this division may be in a 161
tangible format, in an electronic format, or in both tangible 162
formats and electronic formats. 163

(C)(1) The superintendent may operate a center for 164
electronic, automated, or other data processing for the storage 165
and retrieval of information, data, and statistics pertaining to 166
criminals and to children under eighteen years of age who are 167
adjudicated delinquent children for committing an act that would 168
be a felony or an offense of violence if committed by an adult, 169
criminal activity, crime prevention, law enforcement, and criminal 170
justice, and may establish and operate a statewide communications 171
network to be known as the Ohio law enforcement gateway to gather 172
and disseminate information, data, and statistics for the use of 173

law enforcement agencies and for other uses specified in this 174
division. The superintendent may gather, store, retrieve, and 175
disseminate information, data, and statistics that pertain to 176
children who are under eighteen years of age and that are gathered 177
pursuant to sections 109.57 to 109.61 of the Revised Code together 178
with information, data, and statistics that pertain to adults and 179
that are gathered pursuant to those sections. 180

(2) The superintendent or the superintendent's designee shall 181
gather information of the nature described in division (C)(1) of 182
this section that pertains to the offense and delinquency history 183
of a person who has been convicted of, pleaded guilty to, or been 184
adjudicated a delinquent child for committing a sexually oriented 185
offense or a child-victim oriented offense for inclusion in the 186
state registry of sex offenders and child-victim offenders 187
maintained pursuant to division (A)(1) of section 2950.13 of the 188
Revised Code and in the internet database operated pursuant to 189
division (A)(13) of that section and for possible inclusion in the 190
internet database operated pursuant to division (A)(11) of that 191
section. 192

(3) In addition to any other authorized use of information, 193
data, and statistics of the nature described in division (C)(1) of 194
this section, the superintendent or the superintendent's designee 195
may provide and exchange the information, data, and statistics 196
pursuant to the national crime prevention and privacy compact as 197
described in division (A)(5) of this section. 198

(4) The attorney general may adopt rules under Chapter 119. 199
of the Revised Code establishing guidelines for the operation of 200
and participation in the Ohio law enforcement gateway. The rules 201
may include criteria for granting and restricting access to 202
information gathered and disseminated through the Ohio law 203
enforcement gateway. The attorney general shall permit the state 204
medical board and board of nursing to access and view, but not 205

alter, information gathered and disseminated through the Ohio law enforcement gateway. 206
207

The attorney general may appoint a steering committee to 208
advise the attorney general in the operation of the Ohio law 209
enforcement gateway that is comprised of persons who are 210
representatives of the criminal justice agencies in this state 211
that use the Ohio law enforcement gateway and is chaired by the 212
superintendent or the superintendent's designee. 213

(D)(1) The following are not public records under section 214
149.43 of the Revised Code: 215

(a) Information and materials furnished to the superintendent 216
pursuant to division (A) of this section; 217

(b) Information, data, and statistics gathered or 218
disseminated through the Ohio law enforcement gateway pursuant to 219
division (C)(1) of this section; 220

(c) Information and materials furnished to any board or 221
person under division (F) or (G) of this section. 222

(2) The superintendent or the superintendent's designee shall 223
gather and retain information so furnished under division (A) of 224
this section that pertains to the offense and delinquency history 225
of a person who has been convicted of, pleaded guilty to, or been 226
adjudicated a delinquent child for committing a sexually oriented 227
offense or a child-victim oriented offense for the purposes 228
described in division (C)(2) of this section. 229

(E)(1) The attorney general shall adopt rules, in accordance 230
with Chapter 119. of the Revised Code and subject to division 231
(E)(2) of this section, setting forth the procedure by which a 232
person may receive or release information gathered by the 233
superintendent pursuant to division (A) of this section. A 234
reasonable fee may be charged for this service. If a temporary 235
employment service submits a request for a determination of 236

whether a person the service plans to refer to an employment 237
position has been convicted of or pleaded guilty to an offense 238
listed or described in division (A)(1), (2), or (3) of section 239
109.572 of the Revised Code, the request shall be treated as a 240
single request and only one fee shall be charged. 241

(2) Except as otherwise provided in this division, a rule 242
adopted under division (E)(1) of this section may provide only for 243
the release of information gathered pursuant to division (A) of 244
this section that relates to the conviction of a person, or a 245
person's plea of guilty to, a criminal offense. The superintendent 246
shall not release, and the attorney general shall not adopt any 247
rule under division (E)(1) of this section that permits the 248
release of, any information gathered pursuant to division (A) of 249
this section that relates to an adjudication of a child as a 250
delinquent child, or that relates to a criminal conviction of a 251
person under eighteen years of age if the person's case was 252
transferred back to a juvenile court under division (B)(2) or (3) 253
of section 2152.121 of the Revised Code and the juvenile court 254
imposed a disposition or serious youthful offender disposition 255
upon the person under either division, unless either of the 256
following applies with respect to the adjudication or conviction: 257

(a) The adjudication or conviction was for a violation of 258
section 2903.01 or 2903.02 of the Revised Code. 259

(b) The adjudication or conviction was for a sexually 260
oriented offense, the juvenile court was required to classify the 261
child a juvenile offender registrant for that offense under 262
section 2152.82, 2152.83, or 2152.86 of the Revised Code, and that 263
classification has not been removed. 264

(F)(1) As used in division (F)(2) of this section, "head 265
start agency" means an entity in this state that has been approved 266
to be an agency for purposes of subchapter II of the "Community 267
Economic Development Act," 95 Stat. 489 (1981), 42 U.S.C.A. 9831, 268

as amended. 269

(2)(a) In addition to or in conjunction with any request that 270
is required to be made under section 109.572, 2151.86, 3301.32, 271
3301.541, division (C) of section 3310.58, or section 3319.39, 272
3319.391, 3327.10, 3701.881, 5104.012, 5104.013, 5123.081, or 273
5153.111 of the Revised Code or that is made under section 274
3314.41, 3319.392, 3326.25, or 3328.20 of the Revised Code, the 275
board of education of any school district; the director of 276
developmental disabilities; any county board of developmental 277
disabilities; any provider or subcontractor as defined in section 278
5123.081 of the Revised Code; the chief administrator of any 279
chartered nonpublic school; the chief administrator of a 280
registered private provider that is not also a chartered nonpublic 281
school; the chief administrator of any home health agency; the 282
chief administrator of or person operating any child day-care 283
center, type A family day-care home, or type B family day-care 284
home licensed or certified under Chapter 5104. of the Revised 285
Code; the administrator of any type C family day-care home 286
certified pursuant to Section 1 of Sub. H.B. 62 of the 121st 287
general assembly or Section 5 of Am. Sub. S.B. 160 of the 121st 288
general assembly; the chief administrator of any head start 289
agency; the executive director of a public children services 290
agency; a private company described in section 3314.41, 3319.392, 291
3326.25, or 3328.20 of the Revised Code; or an employer described 292
in division (J)(2) of section 3327.10 of the Revised Code may 293
request that the superintendent of the bureau investigate and 294
determine, with respect to any individual who has applied for 295
employment in any position after October 2, 1989, or any 296
individual wishing to apply for employment with a board of 297
education may request, with regard to the individual, whether the 298
bureau has any information gathered under division (A) of this 299
section that pertains to that individual. On receipt of the 300
request, subject to division (E)(2) of this section, the 301

superintendent shall determine whether that information exists 302
and, upon request of the person, board, or entity requesting 303
information, also shall request from the federal bureau of 304
investigation any criminal records it has pertaining to that 305
individual. The superintendent or the superintendent's designee 306
also may request criminal history records from other states or the 307
federal government pursuant to the national crime prevention and 308
privacy compact set forth in section 109.571 of the Revised Code. 309
Within thirty days of the date that the superintendent receives a 310
request, subject to division (E)(2) of this section, the 311
superintendent shall send to the board, entity, or person a report 312
of any information that the superintendent determines exists, 313
including information contained in records that have been sealed 314
under section 2953.32 of the Revised Code, and, within thirty days 315
of its receipt, subject to division (E)(2) of this section, shall 316
send the board, entity, or person a report of any information 317
received from the federal bureau of investigation, other than 318
information the dissemination of which is prohibited by federal 319
law. 320

(b) When a board of education or a registered private 321
provider is required to receive information under this section as 322
a prerequisite to employment of an individual pursuant to division 323
(C) of section 3310.58 or section 3319.39 of the Revised Code, it 324
may accept a certified copy of records that were issued by the 325
bureau of criminal identification and investigation and that are 326
presented by an individual applying for employment with the 327
district in lieu of requesting that information itself. In such a 328
case, the board shall accept the certified copy issued by the 329
bureau in order to make a photocopy of it for that individual's 330
employment application documents and shall return the certified 331
copy to the individual. In a case of that nature, a district or 332
provider only shall accept a certified copy of records of that 333
nature within one year after the date of their issuance by the 334

bureau. 335

(c) Notwithstanding division (F)(2)(a) of this section, in 336
the case of a request under section 3319.39, 3319.391, or 3327.10 337
of the Revised Code only for criminal records maintained by the 338
federal bureau of investigation, the superintendent shall not 339
determine whether any information gathered under division (A) of 340
this section exists on the person for whom the request is made. 341

(3) The state board of education may request, with respect to 342
any individual who has applied for employment after October 2, 343
1989, in any position with the state board or the department of 344
education, any information that a school district board of 345
education is authorized to request under division (F)(2) of this 346
section, and the superintendent of the bureau shall proceed as if 347
the request has been received from a school district board of 348
education under division (F)(2) of this section. 349

(4) When the superintendent of the bureau receives a request 350
for information under section 3319.291 of the Revised Code, the 351
superintendent shall proceed as if the request has been received 352
from a school district board of education and shall comply with 353
divisions (F)(2)(a) and (c) of this section. 354

(5) When a recipient of a classroom reading improvement grant 355
paid under section 3301.86 of the Revised Code requests, with 356
respect to any individual who applies to participate in providing 357
any program or service funded in whole or in part by the grant, 358
the information that a school district board of education is 359
authorized to request under division (F)(2)(a) of this section, 360
the superintendent of the bureau shall proceed as if the request 361
has been received from a school district board of education under 362
division (F)(2)(a) of this section. 363

(G) In addition to or in conjunction with any request that is 364
required to be made under section 3701.881, 3712.09, or 3721.121 365

of the Revised Code with respect to an individual who has applied 366
for employment in a position that involves providing direct care 367
to an older adult or adult resident, the chief administrator of a 368
home health agency, hospice care program, home licensed under 369
Chapter 3721. of the Revised Code, or adult day-care program 370
operated pursuant to rules adopted under section 3721.04 of the 371
Revised Code may request that the superintendent of the bureau 372
investigate and determine, with respect to any individual who has 373
applied after January 27, 1997, for employment in a position that 374
does not involve providing direct care to an older adult or adult 375
resident, whether the bureau has any information gathered under 376
division (A) of this section that pertains to that individual. 377

In addition to or in conjunction with any request that is 378
required to be made under section 173.27 of the Revised Code with 379
respect to an individual who has applied for employment in a 380
position that involves providing ombudsperson services to 381
residents of long-term care facilities or recipients of 382
community-based long-term care services, the state long-term care 383
ombudsperson, ombudsperson's designee, or director of health may 384
request that the superintendent investigate and determine, with 385
respect to any individual who has applied for employment in a 386
position that does not involve providing such ombudsperson 387
services, whether the bureau has any information gathered under 388
division (A) of this section that pertains to that applicant. 389

In addition to or in conjunction with any request that is 390
required to be made under section 173.394 of the Revised Code with 391
respect to an individual who has applied for employment in a 392
position that involves providing direct care to an individual, the 393
chief administrator of a community-based long-term care agency may 394
request that the superintendent investigate and determine, with 395
respect to any individual who has applied for employment in a 396
position that does not involve providing direct care, whether the 397

bureau has any information gathered under division (A) of this 398
section that pertains to that applicant. 399

In addition to or in conjunction with any request that is 400
required to be made under section 3712.09 of the Revised Code with 401
respect to an individual who has applied for employment in a 402
position that involves providing direct care to a pediatric 403
respite care patient, the chief administrator of a pediatric 404
respite care program may request that the superintendent of the 405
bureau investigate and determine, with respect to any individual 406
who has applied for employment in a position that does not involve 407
providing direct care to a pediatric respite care patient, whether 408
the bureau has any information gathered under division (A) of this 409
section that pertains to that individual. 410

On receipt of a request under this division, the 411
superintendent shall determine whether that information exists 412
and, on request of the individual requesting information, shall 413
also request from the federal bureau of investigation any criminal 414
records it has pertaining to the applicant. The superintendent or 415
the superintendent's designee also may request criminal history 416
records from other states or the federal government pursuant to 417
the national crime prevention and privacy compact set forth in 418
section 109.571 of the Revised Code. Within thirty days of the 419
date a request is received, subject to division (E)(2) of this 420
section, the superintendent shall send to the requester a report 421
of any information determined to exist, including information 422
contained in records that have been sealed under section 2953.32 423
of the Revised Code, and, within thirty days of its receipt, shall 424
send the requester a report of any information received from the 425
federal bureau of investigation, other than information the 426
dissemination of which is prohibited by federal law. 427

(H) Information obtained by a government entity or person 428
under this section is confidential and shall not be released or 429

disseminated.	430
(I) The superintendent may charge a reasonable fee for	431
providing information or criminal records under division (F)(2) or	432
(G) of this section.	433
(J) As used in this section:	434
(1) <u>"Pediatric respite care program" and "pediatric respite</u>	435
<u>care patient" have the same meanings as in section 3712.01 of the</u>	436
<u>Revised Code.</u>	437
(2) "Sexually oriented offense" and "child-victim oriented	438
offense" have the same meanings as in section 2950.01 of the	439
Revised Code.	440
(2) (3) "Registered private provider" means a nonpublic school	441
or entity registered with the superintendent of public instruction	442
under section 3310.41 of the Revised Code to participate in the	443
autism scholarship program or section 3310.58 of the Revised Code	444
to participate in the Jon Peterson special needs scholarship	445
program.	446
Sec. 1337.11. As used in sections 1337.11 to 1337.17 of the	447
Revised Code:	448
(A) "Adult" means a person who is eighteen years of age or	449
older.	450
(B) "Attending physician" means the physician to whom a	451
principal or the family of a principal has assigned primary	452
responsibility for the treatment or care of the principal or, if	453
the responsibility has not been assigned, the physician who has	454
accepted that responsibility.	455
(C) "Comfort care" means any of the following:	456
(1) Nutrition when administered to diminish the pain or	457
discomfort of a principal, but not to postpone death;	458

(2) Hydration when administered to diminish the pain or discomfort of a principal, but not to postpone death;	459 460
(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.	461 462 463
(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.	464 465 466 467 468 469 470 471
(E) "Declaration for mental health treatment" has the same meaning as in section 2135.01 of the Revised Code.	472 473
(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.	474 475 476
(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.	477 478 479
(H) "Health care decision" means informed consent, refusal to give informed consent, or withdrawal of informed consent to health care.	480 481 482
(I) "Health care facility" means any of the following:	483
(1) A hospital;	484
(2) A hospice care program, <u>pediatric respite care program</u> , or other institution that specializes in comfort care of patients in a terminal condition or in a permanently unconscious state;	485 486 487
(3) A nursing home;	488

(4) A home health agency;	489
(5) An intermediate care facility for the mentally retarded;	490
(6) A regulated community mental health organization.	491
(J) "Health care personnel" means physicians, nurses,	492
physician assistants, emergency medical technicians-basic,	493
emergency medical technicians-intermediate, emergency medical	494
technicians-paramedic, medical technicians, dietitians, other	495
authorized persons acting under the direction of an attending	496
physician, and administrators of health care facilities.	497
(K) "Home health agency" has the same meaning as in section	498
3701.881 of the Revised Code.	499
(L) "Hospice care program" has and " <u>pediatric respite care</u>	500
<u>program</u> " <u>have</u> the same meaning <u>meanings</u> as in section 3712.01 of	501
the Revised Code.	502
(M) "Hospital" has the same meanings as in sections 3701.01,	503
3727.01, and 5122.01 of the Revised Code.	504
(N) "Hydration" means fluids that are artificially or	505
technologically administered.	506
(O) "Incompetent" has the same meaning as in section 2111.01	507
of the Revised Code.	508
(P) "Intermediate care facility for the mentally retarded"	509
has the same meaning as in section 5111.20 of the Revised Code.	510
(Q) "Life-sustaining treatment" means any medical procedure,	511
treatment, intervention, or other measure that, when administered	512
to a principal, will serve principally to prolong the process of	513
dying.	514
(R) "Medical claim" has the same meaning as in section	515
2305.113 of the Revised Code.	516
(S) "Mental health treatment" has the same meaning as in	517

section 2135.01 of the Revised Code.	518
(T) "Nursing home" has the same meaning as in section 3721.01 of the Revised Code.	519 520
(U) "Nutrition" means sustenance that is artificially or technologically administered.	521 522
(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:	523 524 525 526 527 528
(1) Irreversible unawareness of one's being and environment.	529
(2) Total loss of cerebral cortical functioning, resulting in the principal having no capacity to experience pain or suffering.	530 531
(W) "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.	532 533 534 535
(X) "Physician" means a person who is authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery.	536 537 538
(Y) "Political subdivision" and "state" have the same meanings as in section 2744.01 of the Revised Code.	539 540
(Z) "Professional disciplinary action" means action taken 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.	541 542 543 544
(AA) "Regulated community mental health organization" means a residential facility as defined and licensed under section 5119.22 of the Revised Code or a community mental health agency as defined	545 546 547

in section 5122.01 of the Revised Code. 548

(BB) "Terminal condition" means an irreversible, incurable, 549
and untreatable condition caused by disease, illness, or injury 550
from which, to a reasonable degree of medical certainty as 551
determined in accordance with reasonable medical standards by a 552
principal's attending physician and one other physician who has 553
examined the principal, both of the following apply: 554

(1) There can be no recovery. 555

(2) Death is likely to occur within a relatively short time 556
if life-sustaining treatment is not administered. 557

(CC) "Tort action" means a civil action for damages for 558
injury, death, or loss to person or property, other than a civil 559
action for damages for a breach of contract or another agreement 560
between persons. 561

Sec. 2133.01. Unless the context otherwise requires, as used 562
in sections 2133.01 to 2133.15 of the Revised Code: 563

(A) "Adult" means an individual who is eighteen years of age 564
or older. 565

(B) "Attending physician" means the physician to whom a 566
declarant or other patient, or the family of a declarant or other 567
patient, has assigned primary responsibility for the treatment or 568
care of the declarant or other patient, or, if the responsibility 569
has not been assigned, the physician who has accepted that 570
responsibility. 571

(C) "Comfort care" means any of the following: 572

(1) Nutrition when administered to diminish the pain or 573
discomfort of a declarant or other patient, but not to postpone 574
the declarant's or other patient's death; 575

(2) Hydration when administered to diminish the pain or 576

discomfort of a declarant or other patient, but not to postpone 577
the declarant's or other patient's death; 578

(3) Any other medical or nursing procedure, treatment, 579
intervention, or other measure that is taken to diminish the pain 580
or discomfort of a declarant or other patient, but not to postpone 581
the declarant's or other patient's death. 582

(D) "Consulting physician" means a physician who, in 583
conjunction with the attending physician of a declarant or other 584
patient, makes one or more determinations that are required to be 585
made by the attending physician, or to be made by the attending 586
physician and one other physician, by an applicable provision of 587
this chapter, to a reasonable degree of medical certainty and in 588
accordance with reasonable medical standards. 589

(E) "Declarant" means any adult who has executed a 590
declaration in accordance with section 2133.02 of the Revised 591
Code. 592

(F) "Declaration" means a written document executed in 593
accordance with section 2133.02 of the Revised Code. 594

(G) "Durable power of attorney for health care" means a 595
document created pursuant to sections 1337.11 to 1337.17 of the 596
Revised Code. 597

(H) "Guardian" means a person appointed by a probate court 598
pursuant to Chapter 2111. of the Revised Code to have the care and 599
management of the person of an incompetent. 600

(I) "Health care facility" means any of the following: 601

(1) A hospital; 602

(2) A hospice care program, pediatric respite care program, 603
or other institution that specializes in comfort care of patients 604
in a terminal condition or in a permanently unconscious state; 605

(3) A nursing home or residential care facility, as defined 606

in section 3721.01 of the Revised Code; 607

(4) A home health agency and any residential facility where a 608
person is receiving care under the direction of a home health 609
agency; 610

(5) An intermediate care facility for the mentally retarded. 611

(J) "Health care personnel" means physicians, nurses, 612
physician assistants, emergency medical technicians-basic, 613
emergency medical technicians-intermediate, emergency medical 614
technicians-paramedic, medical technicians, dietitians, other 615
authorized persons acting under the direction of an attending 616
physician, and administrators of health care facilities. 617

(K) "Home health agency" has the same meaning as in section 618
3701.881 of the Revised Code. 619

(L) "Hospice care program" ~~has~~ and "pediatric respite care 620
program" have the same ~~meaning~~ meanings as in section 3712.01 of 621
the Revised Code. 622

(M) "Hospital" has the same meanings as in sections 3701.01, 623
3727.01, and 5122.01 of the Revised Code. 624

(N) "Hydration" means fluids that are artificially or 625
technologically administered. 626

(O) "Incompetent" has the same meaning as in section 2111.01 627
of the Revised Code. 628

(P) "Intermediate care facility for the mentally retarded" 629
has the same meaning as in section 5111.20 of the Revised Code. 630

(Q) "Life-sustaining treatment" means any medical procedure, 631
treatment, intervention, or other measure that, when administered 632
to a qualified patient or other patient, will serve principally to 633
prolong the process of dying. 634

(R) "Nurse" means a person who is licensed to practice 635
nursing as a registered nurse or to practice practical nursing as 636

a licensed practical nurse pursuant to Chapter 4723. of the 637
Revised Code. 638

(S) "Nursing home" has the same meaning as in section 3721.01 639
of the Revised Code. 640

(T) "Nutrition" means sustenance that is artificially or 641
technologically administered. 642

(U) "Permanently unconscious state" means a state of 643
permanent unconsciousness in a declarant or other patient that, to 644
a reasonable degree of medical certainty as determined in 645
accordance with reasonable medical standards by the declarant's or 646
other patient's attending physician and one other physician who 647
has examined the declarant or other patient, is characterized by 648
both of the following: 649

(1) Irreversible unawareness of one's being and environment. 650

(2) Total loss of cerebral cortical functioning, resulting in 651
the declarant or other patient having no capacity to experience 652
pain or suffering. 653

(V) "Person" has the same meaning as in section 1.59 of the 654
Revised Code and additionally includes political subdivisions and 655
governmental agencies, boards, commissions, departments, 656
institutions, offices, and other instrumentalities. 657

(W) "Physician" means a person who is authorized under 658
Chapter 4731. of the Revised Code to practice medicine and surgery 659
or osteopathic medicine and surgery. 660

(X) "Political subdivision" and "state" have the same 661
meanings as in section 2744.01 of the Revised Code. 662

(Y) "Professional disciplinary action" means action taken by 663
the board or other entity that regulates the professional conduct 664
of health care personnel, including the state medical board and 665
the board of nursing. 666

(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.

(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:

(1) There can be no recovery.

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

(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.

Sec. 2317.54. 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.

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 697
consent was not acting in good faith, or that the execution of the 698
consent was induced by fraudulent misrepresentation of material 699
facts, or that the person executing the consent was not able to 700
communicate effectively in spoken and written English or any other 701
language in which the consent is written. Except as herein 702
provided, no evidence shall be admissible to impeach, modify, or 703
limit the authorization for performance of the procedure or 704
procedures set forth in such written consent. 705

(A) The consent sets forth in general terms the nature and 706
purpose of the procedure or procedures, and what the procedures 707
are expected to accomplish, together with the reasonably known 708
risks, and, except in emergency situations, sets forth the names 709
of the physicians who shall perform the intended surgical 710
procedures. 711

(B) The person making the consent acknowledges that such 712
disclosure of information has been made and that all questions 713
asked about the procedure or procedures have been answered in a 714
satisfactory manner. 715

(C) The consent is signed by the patient for whom the 716
procedure is to be performed, or, if the patient for any reason 717
including, but not limited to, competence, minority, or the fact 718
that, at the latest time that the consent is needed, the patient 719
is under the influence of alcohol, hallucinogens, or drugs, lacks 720
legal capacity to consent, by a person who has legal authority to 721
consent on behalf of such patient in such circumstances, including 722
either of the following: 723

(1) The parent, whether the parent is an adult or a minor, of 724
the parent's minor child; 725

(2) An adult whom the parent of the minor child has given 726
written authorization to consent to a surgical or medical 727

procedure or course of procedures for the parent's minor child. 728

Any use of a consent form that fulfills the requirements 729
stated in divisions (A), (B), and (C) of this section has no 730
effect on the common law rights and liabilities, including the 731
right of a physician to obtain the oral or implied consent of a 732
patient to a medical procedure, that may exist as between 733
physicians and patients on July 28, 1975. 734

As used in this section the term "hospital" has the same 735
meaning as in section 2305.113 of the Revised Code; "home health 736
agency" has the same meaning as in section 5101.61 of the Revised 737
Code; "ambulatory surgical facility" has the meaning as in 738
division (A) of section 3702.30 of the Revised Code; and "hospice 739
care program" ~~has~~ and "pediatric respite care program" have the 740
same ~~meaning~~ meanings as in section 3712.01 of the Revised Code. 741
The provisions of this division apply to hospitals, doctors of 742
medicine, doctors of osteopathic medicine, and doctors of 743
podiatric medicine. 744

Sec. 3701.881. (A) As used in this section: 745

(1) "Applicant" means a person who is under final 746
consideration for employment with a home health agency in a 747
full-time, part-time, or temporary position that involves 748
providing direct care to an individual or is referred to a home 749
health agency by an employment service for such a position. 750

(2) "Community-based long-term care agency" has the same 751
meaning as in section 173.39 of the Revised Code. 752

(3) "Criminal records check" has the same meaning as in 753
section 109.572 of the Revised Code. 754

(4) "Direct care" means any of the following: 755

(a) Any service identified in divisions (A)(7)(a) to (f) of 756
this section that is provided in a patient's place of residence 757

used as the patient's home;	758
(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;	759 760 761 762
(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.	763 764 765
(5) "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.	766 767 768
(6) "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 agency by an employment service.	769 770 771 772 773
(7) "Home health agency" means a person or government entity, other than a nursing home, residential care facility, or hospice care program, <u>or pediatric respite care program</u> , 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:	774 775 776 777 778
(a) Skilled nursing care;	779
(b) Physical therapy;	780
(c) Speech-language pathology;	781
(d) Occupational therapy;	782
(e) Medical social services;	783
(f) Home health aide services.	784
(8) "Home health aide services" means any of the following services provided by an employee of a home health agency:	785 786

(a) Hands-on bathing or assistance with a tub bath or shower;	787
(b) Assistance with dressing, ambulation, and toileting;	788
(c) Catheter care but not insertion;	789
(d) Meal preparation and feeding.	790
(9) "Hospice care program" has and " <u>pediatric respite care</u>	791
<u>program</u> " have the same meaning <u>meanings</u> as in section 3712.01 of	792
the Revised Code.	793
(10) "Medical social services" means services provided by a	794
social worker under the direction of a patient's attending	795
physician.	796
(11) "Minor drug possession offense" has the same meaning as	797
in section 2925.01 of the Revised Code.	798
(12) "Nursing home," "residential care facility," and	799
"skilled nursing care" have the same meanings as in section	800
3721.01 of the Revised Code.	801
(13) "Occupational therapy" has the same meaning as in	802
section 4755.04 of the Revised Code.	803
(14) "Physical therapy" has the same meaning as in section	804
4755.40 of the Revised Code.	805
(15) "Social worker" means a person licensed under Chapter	806
4757. of the Revised Code to practice as a social worker or	807
independent social worker.	808
(16) "Speech-language pathology" has the same meaning as in	809
section 4753.01 of the Revised Code.	810
(17) "Waiver agency" has the same meaning as in section	811
5111.033 of the Revised Code.	812
(B) No home health agency shall employ an applicant or	813
continue to employ an employee in a position that involves	814
providing direct care to an individual if any of the following	815

apply: 816

(1) A review of the databases listed in division (D) of this 817
section reveals any of the following: 818

(a) That the applicant or employee is included in one or more 819
of the databases listed in divisions (D)(1) to (5) of this 820
section; 821

(b) That there is in the state nurse aide registry 822
established under section 3721.32 of the Revised Code a statement 823
detailing findings by the director of health that the applicant or 824
employee neglected or abused a long-term care facility or 825
residential care facility resident or misappropriated property of 826
such a resident; 827

(c) That the applicant or employee is included in one or more 828
of the databases, if any, specified in rules adopted under this 829
section and the rules prohibit the home health agency from 830
employing an applicant or continuing to employ an employee 831
included in such a database in a position that involves providing 832
direct care to an individual. 833

(2) After the applicant or employee is provided, pursuant to 834
division (E)(2)(a) of this section, a copy of the form prescribed 835
pursuant to division (C)(1) of section 109.572 of the Revised Code 836
and the standard impression sheet prescribed pursuant to division 837
(C)(2) of that section, the applicant or employee fails to 838
complete the form or provide the applicant's or employee's 839
fingerprint impressions on the standard impression sheet. 840

(3) Except as provided in rules adopted under this section, 841
the applicant or employee is found by a criminal records check 842
required by this section to have been convicted of, pleaded guilty 843
to, or been found eligible for intervention in lieu of conviction 844
for a disqualifying offense. 845

(C) Except as provided by division (F) of this section, the 846

chief administrator of a home health agency shall inform each 847
applicant of both of the following at the time of the applicant's 848
initial application for employment or referral to the home health 849
agency by an employment service for a position that involves 850
providing direct care to an individual: 851

(1) That a review of the databases listed in division (D) of 852
this section will be conducted to determine whether the home 853
health agency is prohibited by division (B)(1) of this section 854
from employing the applicant in the position; 855

(2) That, unless the database review reveals that the 856
applicant may not be employed in the position, a criminal records 857
check of the applicant will be conducted and the applicant is 858
required to provide a set of the applicant's fingerprint 859
impressions as part of the criminal records check. 860

(D) As a condition of employing any applicant in a position 861
that involves providing direct care to an individual, the chief 862
administrator of a home health agency shall conduct a database 863
review of the applicant in accordance with rules adopted under 864
this section. If rules adopted under this section so require, the 865
chief administrator of a home health agency shall conduct a 866
database review of an employee in accordance with the rules as a 867
condition of continuing to employ the employee in a position that 868
involves providing direct care to an individual. However, the 869
chief administrator is not required to conduct a database review 870
of an applicant or employee if division (F) of this section 871
applies. A database review shall determine whether the applicant 872
or employee is included in any of the following: 873

(1) The excluded parties list system maintained by the United 874
States general services administration pursuant to subpart 9.4 of 875
the federal acquisition regulation; 876

(2) The list of excluded individuals and entities maintained 877

by the office of inspector general in the United States department 878
of health and human services pursuant to section 1128 of the 879
"Social Security Act," 94 Stat. 2619 (1980), 42 U.S.C. 1320a-7, as 880
amended, and section 1156 of the "Social Security Act," 96 Stat. 881
388 (1982), 42 U.S.C. 1320c-5, as amended; 882

(3) The registry of MR/DD employees established under section 883
5123.52 of the Revised Code; 884

(4) The internet-based sex offender and child-victim offender 885
database established under division (A)(11) of section 2950.13 of 886
the Revised Code; 887

(5) The internet-based database of inmates established under 888
section 5120.66 of the Revised Code; 889

(6) The state nurse aide registry established under section 890
3721.32 of the Revised Code; 891

(7) Any other database, if any, specified in rules adopted 892
under this section. 893

(E)(1) As a condition of employing any applicant in a 894
position that involves providing direct care to an individual, the 895
chief administrator of a home health agency shall request the 896
superintendent of the bureau of criminal identification and 897
investigation to conduct a criminal records check of the 898
applicant. If rules adopted under this section so require, the 899
chief administrator of a home health agency shall request the 900
superintendent to conduct a criminal records check of an employee 901
at times specified in the rules as a condition of continuing to 902
employ the employee in a position that involves providing direct 903
care to an individual. However, the chief administrator is not 904
required to request the criminal records check of the applicant or 905
the employee if division (F) of this section applies or the home 906
health agency is prohibited by division (B)(1) of this section 907
from employing the applicant or continuing to employ the employee 908

in a position that involves providing direct care to an 909
individual. If an applicant or employee for whom a criminal 910
records check request is required by this section does not present 911
proof of having been a resident of this state for the five-year 912
period immediately prior to the date upon which the criminal 913
records check is requested or does not provide evidence that 914
within that five-year period the superintendent has requested 915
information about the applicant from the federal bureau of 916
investigation in a criminal records check, the chief administrator 917
shall request that the superintendent obtain information from the 918
federal bureau of investigation as a part of the criminal records 919
check. Even if an applicant or employee for whom a criminal 920
records check request is required by this section presents proof 921
that the applicant or employee has been a resident of this state 922
for that five-year period, the chief administrator may request 923
that the superintendent include information from the federal 924
bureau of investigation in the criminal records check. 925

(2) The chief administrator shall do all of the following: 926

(a) Provide to each applicant and employee for whom a 927
criminal records check request is required by this section a copy 928
of the form prescribed pursuant to division (C)(1) of section 929
109.572 of the Revised Code and a standard impression sheet 930
prescribed pursuant to division (C)(2) of that section; 931

(b) Obtain the completed form and standard impression sheet 932
from each applicant and employee; 933

(c) Forward the completed form and standard impression sheet 934
to the superintendent at the time the chief administrator requests 935
the criminal records check. 936

(3) A home health agency shall pay to the bureau of criminal 937
identification and investigation the fee prescribed pursuant to 938
division (C)(3) of section 109.572 of the Revised Code for each 939

criminal records check the agency requests under this section. A 940
home health agency may charge an applicant a fee not exceeding the 941
amount the agency pays to the bureau under this section if both of 942
the following apply: 943

(a) The home health agency notifies the applicant at the time 944
of initial application for employment of the amount of the fee and 945
that, unless the fee is paid, the applicant will not be considered 946
for employment. 947

(b) The medicaid program established under Chapter 5111. of 948
the Revised Code does not reimburse the home health agency for the 949
fee it pays to the bureau under this section. 950

(F) Divisions (C) to (E) of this section do not apply with 951
regard to an applicant or employee if the applicant or employee is 952
referred to a home health agency by an employment service that 953
supplies full-time, part-time, or temporary staff for positions 954
that involve providing direct care to an individual and both of 955
the following apply: 956

(1) The chief administrator of the home health agency 957
receives from the employment service confirmation that a review of 958
the databases listed in division (D) of this section was conducted 959
with regard to the applicant or employee. 960

(2) The chief administrator of the home health agency 961
receives from the employment service, applicant, or employee a 962
report of the results of a criminal records check of the applicant 963
or employee that has been conducted by the superintendent within 964
the one-year period immediately preceding the following: 965

(a) In the case of an applicant, the date of the applicant's 966
referral by the employment service to the home health agency; 967

(b) In the case of an employee, the date by which the home 968
health agency would otherwise have to request a criminal records 969
check of the employee under division (E) of this section. 970

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

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

(b) The applicant is referred to the home health agency by an employment service, the employment service or the applicant provides the chief administrator of the agency 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:

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

(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;

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

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

(2) If a home health agency employs an applicant 1002
conditionally pursuant to division (G)(1)(b) of this section, the 1003
employment service, on its receipt of the results of the criminal 1004
records check, promptly shall send a copy of the results to the 1005
chief administrator of the agency. 1006

(3) A home health agency that employs an applicant 1007
conditionally pursuant to division (G)(1)(a) or (b) of this 1008
section shall terminate the applicant's employment if the results 1009
of the criminal records check, other than the results of any 1010
request for information from the federal bureau of investigation, 1011
are not obtained within the period ending sixty days after the 1012
date the request for the criminal records check is made. 1013
Regardless of when the results of the criminal records check are 1014
obtained, if the results indicate that the applicant has been 1015
convicted of, pleaded guilty to, or been found eligible for 1016
intervention in lieu of conviction for a disqualifying offense, 1017
the home health agency shall terminate the applicant's employment 1018
unless circumstances specified in rules adopted under this section 1019
that permit the agency to employ the applicant exist and the 1020
agency chooses to employ the applicant. Termination of employment 1021
under this division shall be considered just cause for discharge 1022
for purposes of division (D)(2) of section 4141.29 of the Revised 1023
Code if the applicant makes any attempt to deceive the home health 1024
agency about the applicant's criminal record. 1025

(H) The report of any criminal records check conducted by the 1026
bureau of criminal identification and investigation in accordance 1027
with section 109.572 of the Revised Code and pursuant to a request 1028
made under this section is not a public record for the purposes of 1029
section 149.43 of the Revised Code and shall not be made available 1030
to any person other than the following: 1031

(1) The applicant or employee who is the subject of the 1032
criminal records check or the applicant's or employee's 1033

representative;	1034
(2) The home health agency requesting the criminal records check or its representative;	1035 1036
(3) The administrator of any other facility, agency, or program that provides direct care to individuals that is owned or operated by the same entity that owns or operates the home health agency that requested the criminal records check;	1037 1038 1039 1040
(4) The employment service that requested the criminal records check;	1041 1042
(5) The director of health and the staff of the department of health who monitor a home health agency's compliance with this section;	1043 1044 1045
(6) The director of aging or the director's designee if either of the following apply:	1046 1047
(a) In the case of a criminal records check requested by a home health agency, the home health agency also is a community-based long-term care agency;	1048 1049 1050
(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 agency.	1051 1052 1053 1054 1055
(7) The director of job and family services and the staff of the department of job and family services who are involved in the administration of the medicaid program if either of the following apply:	1056 1057 1058 1059
(a) In the case of a criminal records check requested by a home health agency, the home health agency also is a waiver agency;	1060 1061 1062
(b) In the case of a criminal records check requested by an	1063

employment service, the employment service makes the request for 1064
an applicant or employee the employment service refers to a home 1065
health agency that also is a waiver agency. 1066

(8) Any court, hearing officer, or other necessary individual 1067
involved in a case dealing with any of the following: 1068

(a) A denial of employment of the applicant or employee; 1069

(b) Employment or unemployment benefits of the applicant or 1070
employee; 1071

(c) A civil or criminal action regarding the medicaid 1072
program. 1073

(I) In a tort or other civil action for damages that is 1074
brought as the result of an injury, death, or loss to person or 1075
property caused by an applicant or employee who a home health 1076
agency employs in a position that involves providing direct care 1077
to an individual, all of the following shall apply: 1078

(1) If the home health agency employed the applicant or 1079
employee in good faith and reasonable reliance on the report of a 1080
criminal records check requested under this section, the agency 1081
shall not be found negligent solely because of its reliance on the 1082
report, even if the information in the report is determined later 1083
to have been incomplete or inaccurate. 1084

(2) If the home health agency employed the applicant in good 1085
faith on a conditional basis pursuant to division (G) of this 1086
section, the agency shall not be found negligent solely because it 1087
employed the applicant prior to receiving the report of a criminal 1088
records check requested under this section. 1089

(3) If the home health agency in good faith employed the 1090
applicant or employee according to the personal character 1091
standards established in rules adopted under this section, the 1092
agency shall not be found negligent solely because the applicant 1093

or employee had been convicted of, pleaded guilty to, or been 1094
found eligible for intervention in lieu of conviction for a 1095
disqualifying offense. 1096

(J) The director of health shall adopt rules in accordance 1097
with Chapter 119. of the Revised Code to implement this section. 1098

(1) The rules may do the following: 1099

(a) Require employees to undergo database reviews and 1100
criminal records checks under this section; 1101

(b) If the rules require employees to undergo database 1102
reviews and criminal records checks under this section, exempt one 1103
or more classes of employees from the requirements; 1104

(c) For the purpose of division (D)(7) of this section, 1105
specify other databases that are to be checked as part of a 1106
database review conducted under this section. 1107

(2) The rules shall specify all of the following: 1108

(a) The procedures for conducting database reviews under this 1109
section; 1110

(b) If the rules require employees to undergo database 1111
reviews and criminal records checks under this section, the times 1112
at which the database reviews and criminal records checks are to 1113
be conducted; 1114

(c) If the rules specify other databases to be checked as 1115
part of the database reviews, the circumstances under which a home 1116
health agency is prohibited from employing an applicant or 1117
continuing to employ an employee who is found by a database review 1118
to be included in one or more of those databases; 1119

(d) Circumstances under which a home health agency may employ 1120
an applicant or employee who is found by a criminal records check 1121
required by this section to have been convicted of, pleaded guilty 1122
to, or been found eligible for intervention in lieu of conviction 1123

for a disqualifying offense but meets personal character 1124
standards. 1125

Sec. 3712.01. As used in this chapter: 1126

(A) "Hospice care program" means a coordinated program of 1127
home, outpatient, and inpatient care and services that is operated 1128
by a person or public agency and that provides the following care 1129
and services to hospice patients, including services as indicated 1130
below to hospice patients' families, through a medically directed 1131
interdisciplinary team, under interdisciplinary plans of care 1132
established pursuant to section 3712.06 of the Revised Code, in 1133
order to meet the physical, psychological, social, spiritual, and 1134
other special needs that are experienced during the final stages 1135
of illness, dying, and bereavement: 1136

(1) Nursing care by or under the supervision of a registered 1137
nurse; 1138

(2) Physical, occupational, or speech or language therapy, 1139
unless waived by the department of health pursuant to rules 1140
adopted under division (A) of section 3712.03 of the Revised Code; 1141

(3) Medical social services by a social worker under the 1142
direction of a physician; 1143

(4) Services of a home health aide; 1144

(5) Medical supplies, including drugs and biologicals, and 1145
the use of medical appliances; 1146

(6) Physician's services; 1147

(7) Short-term inpatient care, including both palliative and 1148
respite care and procedures; 1149

(8) Counseling for hospice patients and hospice patients' 1150
families; 1151

(9) Services of volunteers under the direction of the 1152

provider of the hospice care program; 1153

(10) Bereavement services for hospice patients' families. 1154

"Hospice care program" does not include a pediatric respite 1155
care program. 1156

(B) "Hospice patient" means a patient, other than a pediatric 1157
respite care patient, who has been diagnosed as terminally ill, 1158
has an anticipated life expectancy of six months or less, and has 1159
voluntarily requested and is receiving care from a person or 1160
public agency licensed under this chapter to provide a hospice 1161
care program. 1162

(C) "Hospice patient's family" means a hospice patient's 1163
immediate family members, including a spouse, brother, sister, 1164
child, or parent, and any other relative or individual who has 1165
significant personal ties to the patient and who is designated as 1166
a member of the patient's family by mutual agreement of the 1167
patient, the relative or individual, and the patient's 1168
interdisciplinary team. 1169

(D) "Interdisciplinary team" means a working unit composed of 1170
professional and lay persons that includes at least a physician, a 1171
registered nurse, a social worker, a member of the clergy or a 1172
counselor, and a volunteer. 1173

(E) "Palliative care" means treatment for a patient with a 1174
serious or life-threatening illness directed at controlling pain, 1175
relieving other symptoms, and enhancing the quality of life of the 1176
patient and the patient's family rather than treatment for the 1177
purpose of cure. Nothing in this section shall be interpreted to 1178
mean that palliative care can be provided only as a component of a 1179
hospice care program or pediatric respite care program. 1180

(F) "Physician" means a person authorized under Chapter 4731. 1181
of the Revised Code to practice medicine and surgery or 1182
osteopathic medicine and surgery. 1183

(G) "Attending physician" means the physician identified by 1184
the hospice patient ~~or the, pediatric respite care patient,~~ 1185
hospice patient's family, or pediatric respite care patient's 1186
family as having primary responsibility for the ~~hospice patient's~~ 1187
medical care of the hospice patient or pediatric respite care 1188
patient. 1189

(H) "Registered nurse" means a person registered under 1190
Chapter 4723. of the Revised Code to practice professional 1191
nursing. 1192

(I) "Social worker" means a person licensed under Chapter 1193
4757. of the Revised Code to practice as a social worker or 1194
independent social worker. 1195

(J) "Pediatric respite care program" means a program operated 1196
by a person or public agency that provides inpatient respite care 1197
and related services, including all of the following services, 1198
only to pediatric respite care patients and, as indicated below, 1199
pediatric respite care patients' families, in order to meet the 1200
physical, psychological, social, spiritual, and other special 1201
needs that are experienced during or leading up to the final 1202
stages of illness, dying, and bereavement: 1203

(1) Short-term inpatient care, including both palliative and 1204
respite care and procedures; 1205

(2) Nursing care by or under the supervision of a registered 1206
nurse; 1207

(3) Physician's services; 1208

(4) Medical social services by a social worker under the 1209
direction of a physician; 1210

(5) Medical supplies, including drugs and biologicals, and 1211
the use of medical appliances; 1212

(6) Counseling for pediatric respite care patients and 1213

<u>pediatric respite care patients' families;</u>	1214
<u>(7) Bereavement services for respite care patients' families.</u>	1215
<u>"Pediatric respite care program" does not include a hospice care program.</u>	1216
<u>(K) "Pediatric respite care patient" means a patient, other than a hospice patient, who is less than twenty-seven years of age and to whom all of the following conditions apply:</u>	1218
<u>(1) The patient has been diagnosed with a disease or condition that is life-threatening and is expected to shorten the life expectancy that would have applied to the patient absent the patient's diagnosis, regardless of whether the patient is terminally ill.</u>	1221
<u>(2) The diagnosis described in division (K)(1) of this section occurred while the patient was less than eighteen years of age.</u>	1226
<u>(3) The patient has voluntarily requested and is receiving care from a person or public agency licensed under this chapter to provide a pediatric respite care program.</u>	1229
<u>(L) "Pediatric respite care patient's family" means a pediatric respite care patient's family members, including a spouse, brother, sister, child, or parent, and any other relative or individual who has significant personal ties to the patient and who is designated as a member of the patient's family by mutual agreement of the patient, the relative or individual, and the patient's interdisciplinary team.</u>	1232
Sec. 3712.03. (A) In accordance with Chapter 119. of the Revised Code, the director of health shall adopt, and may amend and rescind, rules:	1239
(1) Providing for the licensing of persons or public agencies providing hospice care programs within this state by the	1242

department of health and for the suspension and revocation of	1244
licenses;	1245
(2) Establishing a license fee and license renewal fee <u>for</u>	1246
<u>hospice care programs</u> , neither of which shall, except as provided	1247
in division (B) of this section, exceed six hundred dollars. The	1248
fees shall cover the three-year period during which an existing	1249
license is valid as provided in division (B) of section 3712.04 of	1250
the Revised Code.	1251
(3) Establishing an inspection fee <u>for hospice care programs</u>	1252
not to exceed, except as provided in division (B) of this section,	1253
one thousand seven hundred fifty dollars;	1254
(4) Establishing requirements for hospice care program	1255
facilities and services;	1256
(5) Providing for a waiver of the requirement for the	1257
provision of physical, occupational, or speech or language therapy	1258
contained in division (A)(2) of section 3712.01 of the Revised	1259
Code when the requirement would create a hardship because such	1260
therapy is not readily available in the geographic area served by	1261
the provider of a hospice care program;	1262
(6) Providing for the granting of licenses to provide hospice	1263
care programs to persons and public agencies that are accredited	1264
or certified to provide such programs by an entity whose standards	1265
for accreditation or certification equal or exceed those provided	1266
for licensure under this chapter and rules adopted under it;	1267
(7) Establishing interpretive guidelines for each rule	1268
<u>adopted under this section.</u>	1269
(B) Subject to the approval of the controlling board, the	1270
director may establish fees in excess of the maximum amounts	1271
specified in this section, provided that the fees do not exceed	1272
those amounts by greater than fifty per cent.	1273

(C) The department of health shall:	1274
(1) Grant, suspend, and revoke licenses for hospice care programs in accordance with this chapter and rules adopted under it;	1275 1276 1277
(2) Make such inspections as are necessary to determine whether hospice care program facilities and services meet the requirements of this chapter and rules adopted under it; and	1278 1279 1280
(3) Implement and enforce <u>provisions of this chapter and rules adopted under it as such provisions apply to hospice care programs.</u>	1281 1282 1283
<u>Sec. 3712.031. (A) In accordance with Chapter 119. of the Revised Code, the director of health shall adopt, and may amend and rescind, rules:</u>	1284 1285 1286
<u>(1) Providing for the licensing of persons or public agencies providing pediatric respite care programs within this state by the department of health and for the suspension and revocation of licenses;</u>	1287 1288 1289 1290
<u>(2) Establishing a license fee and license renewal fee for pediatric respite care programs, neither of which shall, except as provided in division (B) of this section, exceed six hundred dollars. The fees shall cover the three-year period during which an existing license is valid as provided in division (B) of section 3712.041 of the Revised Code.</u>	1291 1292 1293 1294 1295 1296
<u>(3) Establishing an inspection fee not to exceed, except as provided in division (B) of this section, one thousand seven hundred fifty dollars;</u>	1297 1298 1299
<u>(4) Establishing requirements for pediatric respite care program facilities and services;</u>	1300 1301
<u>(5) Providing for the granting of licenses to provide pediatric respite care programs to persons and public agencies</u>	1302 1303

that are accredited or certified to provide such programs by an 1304
entity whose standards for accreditation or certification equal or 1305
exceed those provided for licensure under this chapter and rules 1306
adopted under it; 1307

(6) Establishing interpretive guidelines for each rule 1308
adopted under this section. 1309

(B) Subject to the approval of the controlling board, the 1310
director of health may establish fees in excess of the maximum 1311
amounts specified in this section, provided that the fees do not 1312
exceed those amounts by greater than fifty per cent. 1313

(C) The department of health shall: 1314

(1) Grant, suspend, and revoke licenses for pediatric respite 1315
care programs in accordance with this chapter and rules adopted 1316
under it; 1317

(2) Make such inspections as are necessary to determine 1318
whether pediatric respite care program facilities and services 1319
meet the requirements of this chapter and rules adopted under it; 1320
and 1321

(3) Implement and enforce provisions of this chapter and 1322
rules adopted under it as such provisions apply to pediatric 1323
respite care programs. 1324

Sec. 3712.041. (A) Every person or public agency that 1325
proposes to provide a pediatric respite care program shall apply 1326
to the department of health for a license. Application shall be 1327
made on forms prescribed and provided by the department, shall 1328
include such information as the department requires, and shall be 1329
accompanied by the license fee established by rules adopted by the 1330
director of health under division (A) of section 3712.031 of the 1331
Revised Code. 1332

The department shall grant a license to the applicant if the 1333

applicant is in compliance with this chapter and rules adopted 1334
under it. 1335

(B) A license granted under this section shall be valid for 1336
three years. Application for renewal of a license shall be made at 1337
least ninety days before the expiration of the license in the same 1338
manner as for an initial license. The department shall renew the 1339
license if the applicant meets the requirements of this chapter 1340
and rules adopted under it. 1341

(C) Subject to Chapter 119. of the Revised Code, the 1342
department may suspend or revoke a license if the licensee made 1343
any material misrepresentation in the application for the license 1344
or no longer meets the requirements of this chapter or rules 1345
adopted under it. 1346

Sec. 3712.051. (A) As used in this division, "person" does 1347
not include a member of an interdisciplinary team, as defined in 1348
section 3712.01 of the Revised Code, or any individual who is 1349
employed by a person or public agency licensed under section 1350
3712.041 of the Revised Code. 1351

Except as provided in division (B) of this section, no person 1352
or public agency, other than a person or public agency licensed 1353
pursuant to section 3712.041 of the Revised Code, shall hold 1354
itself out as providing a pediatric respite care program, or 1355
provide a pediatric respite care program, or use the term 1356
"pediatric respite care program" or any term containing "pediatric 1357
respite care" to describe or refer to a health program, facility, 1358
or agency. 1359

(B) Division (A) of this section does not apply to any of the 1360
following: 1361

(1) A hospital; 1362

(2) A nursing home or residential care facility, as those 1363

<u>terms are defined in section 3721.01 of the Revised Code;</u>	1364
<u>(3) A home health agency, if it provides services under contract with a person or public agency providing a pediatric respite care program licensed under section 3712.041 of the Revised Code;</u>	1365 1366 1367 1368
<u>(4) A regional, state, or national nonprofit organization whose members are providers of pediatric respite care programs, individuals interested in pediatric respite care programs, or both, as long as the organization does not provide or represent that it provides pediatric respite care programs;</u>	1369 1370 1371 1372 1373
<u>(5) A person or government entity certified under section 5123.161 of the Revised Code as a supported living provider;</u>	1374 1375
<u>(6) A residential facility licensed under section 5123.19 of the Revised Code;</u>	1376 1377
<u>(7) A respite care home certified under section 5126.05 of the Revised Code;</u>	1378 1379
<u>(8) A person providing respite care under a family support services program established under section 5126.11 of the Revised Code;</u>	1380 1381 1382
<u>(9) A person or government entity providing respite care under a medicaid waiver component that the department of developmental disabilities administers pursuant to section 5111.871 of the Revised Code.</u>	1383 1384 1385 1386
<u>(C) The department of health shall petition the court of common pleas of any county in which a person or public agency, without a license granted under section 3712.041 of the Revised Code, is holding itself out as providing a pediatric respite care program, is providing a pediatric respite care program, or is representing a health program, facility, or agency as a pediatric respite care program, for an order enjoining that person or public</u>	1387 1388 1389 1390 1391 1392 1393

agency from conducting those activities without a license. The 1394
court has jurisdiction to grant injunctive relief upon a showing 1395
that the respondent named in the petition is conducting those 1396
activities without a license. 1397

Any person or public agency may request the department to 1398
petition the court for injunctive relief under this division, and 1399
the department shall do so if it determines that the person or 1400
public agency named in the request is violating division (A) of 1401
this section. 1402

Sec. 3712.061. (A) Any person or public agency licensed under 1403
section 3712.041 of the Revised Code to provide a pediatric 1404
respite care program shall do all of the following: 1405

(1) Provide a planned and continuous pediatric respite care 1406
program, the medical components of which shall be under the 1407
direction of a physician; 1408

(2) Ensure that care is available twenty-four hours a day and 1409
seven days a week; 1410

(3) Establish an interdisciplinary plan of care for each 1411
pediatric respite care patient and the patient's family that: 1412

(a) Is coordinated by one designated individual who shall 1413
ensure that all components of the plan of care are addressed and 1414
implemented; 1415

(b) Addresses maintenance of patient-family participation in 1416
decision making; and 1417

(c) Is reviewed by the patient's attending physician and by 1418
the patient's interdisciplinary team immediately prior to or on 1419
admission to each session of respite care. 1420

(4) Have an interdisciplinary team or teams that provide or 1421
supervise the provision of pediatric respite care program services 1422
and establish the policies governing the provision of the 1423

<u>services;</u>	1424
<u>(5) Maintain central clinical records on all pediatric</u>	1425
<u>respite care patients under its care.</u>	1426
<u>(B) A provider of a pediatric respite care program may</u>	1427
<u>arrange for another person or public agency to furnish a component</u>	1428
<u>or components of the pediatric respite care program pursuant to a</u>	1429
<u>written contract. When a provider of a pediatric respite care</u>	1430
<u>program arranges for a home health agency to furnish a component</u>	1431
<u>or components of the pediatric respite care program to its</u>	1432
<u>patient, the care shall be provided by a home health agency</u>	1433
<u>pursuant to a written contract under which:</u>	1434
<u>(1) The provider of a pediatric respite care program</u>	1435
<u>furnishes to the contractor a copy of the pediatric respite care</u>	1436
<u>patient's interdisciplinary plan of care that is established under</u>	1437
<u>division (A)(3) of this section and specifies the care that is to</u>	1438
<u>be furnished by the contractor;</u>	1439
<u>(2) The regimen described in the established plan of care is</u>	1440
<u>continued while the pediatric respite care patient receives care</u>	1441
<u>from the contractor, subject to the patient's needs, and with</u>	1442
<u>approval of the coordinator of the interdisciplinary team</u>	1443
<u>designated pursuant to division (A)(3)(a) of this section;</u>	1444
<u>(3) All care, treatment, and services furnished by the</u>	1445
<u>contractor are entered into the pediatric respite care patient's</u>	1446
<u>medical record;</u>	1447
<u>(4) The designated coordinator of the interdisciplinary team</u>	1448
<u>ensures conformance with the established plan of care; and</u>	1449
<u>(5) A copy of the contractor's medical record and discharge</u>	1450
<u>summary is retained as part of the pediatric respite care</u>	1451
<u>patient's medical record.</u>	1452
Sec. 3712.09. (A) As used in this section:	1453

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

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

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

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

(2) A person required by division (B)(1) of this section to

request a criminal records check shall do both of the following: 1486

(a) Provide to each applicant for whom a criminal records 1487
check request is required under that division a copy of the form 1488
prescribed pursuant to division (C)(1) of section 109.572 of the 1489
Revised Code and a standard fingerprint impression sheet 1490
prescribed pursuant to division (C)(2) of that section, and obtain 1491
the completed form and impression sheet from the applicant; 1492

(b) Forward the completed form and impression sheet to the 1493
superintendent of the bureau of criminal identification and 1494
investigation. 1495

(3) An applicant provided the form and fingerprint impression 1496
sheet under division (B)(2)(a) of this section who fails to 1497
complete the form or provide fingerprint impressions shall not be 1498
employed in any position for which a criminal records check is 1499
required by this section. 1500

(C)(1) Except as provided in rules adopted by the director of 1501
health in accordance with division (F) of this section and subject 1502
to division (C)(2) of this section, no hospice care program or 1503
pediatric respite care program shall employ a person in a position 1504
that involves providing direct care to an older adult or pediatric 1505
respite care patient if the person has been convicted of or 1506
pleaded guilty to any of the following: 1507

(a) A violation of section 2903.01, 2903.02, 2903.03, 1508
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 1509
2905.01, 2905.02, 2905.11, 2905.12, 2907.02, 2907.03, 2907.05, 1510
2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 2907.25, 2907.31, 1511
2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 1512
2911.12, 2911.13, 2913.02, 2913.03, 2913.04, 2913.11, 2913.21, 1513
2913.31, 2913.40, 2913.43, 2913.47, 2913.51, 2919.25, 2921.36, 1514
2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.11, 2925.13, 1515
2925.22, 2925.23, or 3716.11 of the Revised Code. 1516

(b) A violation of an existing or former law of this state, 1517
any other state, or the United States that is substantially 1518
equivalent to any of the offenses listed in division (C)(1)(a) of 1519
this section. 1520

(2)(a) A hospice care program or pediatric respite care 1521
program may employ conditionally an applicant for whom a criminal 1522
records check request is required under division (B) of this 1523
section prior to obtaining the results of a criminal records check 1524
regarding the individual, provided that the program shall request 1525
a criminal records check regarding the individual in accordance 1526
with division (B)(1) of this section not later than five business 1527
days after the individual begins conditional employment. In the 1528
circumstances described in division (I)(2) of this section, a 1529
hospice care program or pediatric respite care program may employ 1530
conditionally an applicant who has been referred to the hospice 1531
care program or pediatric respite care program by an employment 1532
service that supplies full-time, part-time, or temporary staff for 1533
positions involving the direct care of older adults or pediatric 1534
respite care patients and for whom, pursuant to that division, a 1535
criminal records check is not required under division (B) of this 1536
section. 1537

(b) A hospice care program or pediatric respite care program 1538
that employs an individual conditionally under authority of 1539
division (C)(2)(a) of this section shall terminate the 1540
individual's employment if the results of the criminal records 1541
check requested under division (B) of this section or described in 1542
division (I)(2) of this section, other than the results of any 1543
request for information from the federal bureau of investigation, 1544
are not obtained within the period ending thirty days after the 1545
date the request is made. Regardless of when the results of the 1546
criminal records check are obtained, if the results indicate that 1547
the individual has been convicted of or pleaded guilty to any of 1548

the offenses listed or described in division (C)(1) of this 1549
section, the program shall terminate the individual's employment 1550
unless the program chooses to employ the individual pursuant to 1551
division (F) of this section. Termination of employment under this 1552
division shall be considered just cause for discharge for purposes 1553
of division (D)(2) of section 4141.29 of the Revised Code if the 1554
individual makes any attempt to deceive the program about the 1555
individual's criminal record. 1556

(D)(1) Each hospice care program or pediatric respite care 1557
program shall pay to the bureau of criminal identification and 1558
investigation the fee prescribed pursuant to division (C)(3) of 1559
section 109.572 of the Revised Code for each criminal records 1560
check conducted pursuant to a request made under division (B) of 1561
this section. 1562

(2) A hospice care program or pediatric respite care program 1563
may charge an applicant a fee not exceeding the amount the program 1564
pays under division (D)(1) of this section. A program may collect 1565
a fee only if both of the following apply: 1566

(a) The program notifies the person at the time of initial 1567
application for employment of the amount of the fee and that, 1568
unless the fee is paid, the person will not be considered for 1569
employment; 1570

(b) The medical assistance program established under Chapter 1571
5111. of the Revised Code does not reimburse the program the fee 1572
it pays under division (D)(1) of this section. 1573

(E) The report of a criminal records check conducted pursuant 1574
to a request made under this section is not a public record for 1575
the purposes of section 149.43 of the Revised Code and shall not 1576
be made available to any person other than the following: 1577

(1) The individual who is the subject of the criminal records 1578
check or the individual's representative; 1579

(2) The chief administrator of the program requesting the 1580
criminal records check or the administrator's representative; 1581

(3) The administrator of any other facility, agency, or 1582
program that provides direct care to older adults or pediatric 1583
respite care patients that is owned or operated by the same entity 1584
that owns or operates the hospice care program or pediatric 1585
respite care program; 1586

(4) A court, hearing officer, or other necessary individual 1587
involved in a case dealing with a denial of employment of the 1588
applicant or dealing with employment or unemployment benefits of 1589
the applicant; 1590

(5) Any person to whom the report is provided pursuant to, 1591
and in accordance with, division (I)(1) or (2) of this section. 1592

(F) The director of health shall adopt rules in accordance 1593
with Chapter 119. of the Revised Code to implement this section. 1594
The rules shall specify circumstances under which a hospice care 1595
program or pediatric respite care program may employ a person who 1596
has been convicted of or pleaded guilty to an offense listed or 1597
described in division (C)(1) of this section but meets personal 1598
character standards set by the director. 1599

(G) The chief administrator of a hospice care program or 1600
pediatric respite care program shall inform each individual, at 1601
the time of initial application for a position that involves 1602
providing direct care to an older adult or pediatric respite care 1603
patient, that the individual is required to provide a set of 1604
fingerprint impressions and that a criminal records check is 1605
required to be conducted if the individual comes under final 1606
consideration for employment. 1607

(H) In a tort or other civil action for damages that is 1608
brought as the result of an injury, death, or loss to person or 1609
property caused by an individual who a hospice care program or 1610

pediatric respite care program employs in a position that involves 1611
providing direct care to older adults or pediatric respite care 1612
patients, all of the following shall apply: 1613

(1) If the program employed the individual in good faith and 1614
reasonable reliance on the report of a criminal records check 1615
requested under this section, the program shall not be found 1616
negligent solely because of its reliance on the report, even if 1617
the information in the report is determined later to have been 1618
incomplete or inaccurate; 1619

(2) If the program employed the individual in good faith on a 1620
conditional basis pursuant to division (C)(2) of this section, the 1621
program shall not be found negligent solely because it employed 1622
the individual prior to receiving the report of a criminal records 1623
check requested under this section; 1624

(3) If the program in good faith employed the individual 1625
according to the personal character standards established in rules 1626
adopted under division (F) of this section, the program shall not 1627
be found negligent solely because the individual prior to being 1628
employed had been convicted of or pleaded guilty to an offense 1629
listed or described in division (C)(1) of this section. 1630

(I)(1) The chief administrator of a hospice care program or 1631
pediatric respite care program is not required to request that the 1632
superintendent of the bureau of criminal identification and 1633
investigation conduct a criminal records check of an applicant if 1634
the applicant has been referred to the program by an employment 1635
service that supplies full-time, part-time, or temporary staff for 1636
positions involving the direct care of older adults or pediatric 1637
respite care patients and both of the following apply: 1638

(a) The chief administrator receives from the employment 1639
service or the applicant a report of the results of a criminal 1640
records check regarding the applicant that has been conducted by 1641

the superintendent within the one-year period immediately 1642
preceding the applicant's referral; 1643

(b) The report of the criminal records check demonstrates 1644
that the person has not been convicted of or pleaded guilty to an 1645
offense listed or described in division (C)(1) of this section, or 1646
the report demonstrates that the person has been convicted of or 1647
pleaded guilty to one or more of those offenses, but the hospice 1648
care program or pediatric respite care program chooses to employ 1649
the individual pursuant to division (F) of this section. 1650

(2) The chief administrator of a hospice care program or 1651
pediatric respite care program is not required to request that the 1652
superintendent of the bureau of criminal identification and 1653
investigation conduct a criminal records check of an applicant and 1654
may employ the applicant conditionally as described in this 1655
division, if the applicant has been referred to the program by an 1656
employment service that supplies full-time, part-time, or 1657
temporary staff for positions involving the direct care of older 1658
adults or pediatric respite care patients and if the chief 1659
administrator receives from the employment service or the 1660
applicant a letter from the employment service that is on the 1661
letterhead of the employment service, dated, and signed by a 1662
supervisor or another designated official of the employment 1663
service and that states that the employment service has requested 1664
the superintendent to conduct a criminal records check regarding 1665
the applicant, that the requested criminal records check will 1666
include a determination of whether the applicant has been 1667
convicted of or pleaded guilty to any offense listed or described 1668
in division (C)(1) of this section, that, as of the date set forth 1669
on the letter, the employment service had not received the results 1670
of the criminal records check, and that, when the employment 1671
service receives the results of the criminal records check, it 1672
promptly will send a copy of the results to the hospice care 1673

program or pediatric respite care program. If a hospice care 1674
program or pediatric respite care program employs an applicant 1675
conditionally in accordance with this division, the employment 1676
service, upon its receipt of the results of the criminal records 1677
check, promptly shall send a copy of the results to the hospice 1678
care program or pediatric respite care program, and division 1679
(C)(2)(b) of this section applies regarding the conditional 1680
employment. 1681

Sec. 3712.99. Any person who violates division (A) of section 1682
3712.05 or division (A) of section 3712.051 of the Revised Code is 1683
guilty of a misdemeanor of the second degree on a first offense; 1684
on each subsequent offense the person is guilty of a misdemeanor 1685
of the first degree. 1686

Sec. 3721.01. (A) As used in sections 3721.01 to 3721.09 and 1687
3721.99 of the Revised Code: 1688

(1)(a) "Home" means an institution, residence, or facility 1689
that provides, for a period of more than twenty-four hours, 1690
whether for a consideration or not, accommodations to three or 1691
more unrelated individuals who are dependent upon the services of 1692
others, including a nursing home, residential care facility, home 1693
for the aging, and a veterans' home operated under Chapter 5907. 1694
of the Revised Code. 1695

(b) "Home" also means both of the following: 1696

(i) Any facility that a person, as defined in section 3702.51 1697
of the Revised Code, proposes for certification as a skilled 1698
nursing facility or nursing facility under Title XVIII or XIX of 1699
the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, 1700
as amended, and for which a certificate of need, other than a 1701
certificate to recategorize hospital beds as described in section 1702
3702.521 of the Revised Code or division (R)(7)(d) of the version 1703

of section 3702.51 of the Revised Code in effect immediately prior 1704
to April 20, 1995, has been granted to the person under sections 1705
3702.51 to 3702.62 of the Revised Code after August 5, 1989; 1706

(ii) A county home or district home that is or has been 1707
licensed as a residential care facility. 1708

(c) "Home" does not mean any of the following: 1709

(i) Except as provided in division (A)(1)(b) of this section, 1710
a public hospital or hospital as defined in section 3701.01 or 1711
5122.01 of the Revised Code; 1712

(ii) A residential facility as defined in section 5119.22 of 1713
the Revised Code; 1714

(iii) A residential facility as defined in section 5123.19 of 1715
the Revised Code; 1716

(iv) An alcohol or drug addiction program as defined in 1717
section 3793.01 of the Revised Code; 1718

(v) A facility licensed to provide methadone treatment under 1719
section 3793.11 of the Revised Code; 1720

(vi) A facility providing services under contract with the 1721
department of developmental disabilities under section 5123.18 of 1722
the Revised Code; 1723

(vii) A facility operated by a hospice care program licensed 1724
under section 3712.04 of the Revised Code that is used exclusively 1725
for care of hospice patients; 1726

(viii) A facility operated by a pediatric respite care 1727
program licensed under section 3712.041 of the Revised Code that 1728
is used exclusively for care of pediatric respite care patients; 1729

(ix) A facility, infirmary, or other entity that is operated 1730
by a religious order, provides care exclusively to members of 1731
religious orders who take vows of celibacy and live by virtue of 1732
their vows within the orders as if related, and does not 1733

participate in the medicare program established under Title XVIII 1734
of the "Social Security Act" or the medical assistance program 1735
established under Chapter 5111. of the Revised Code and Title XIX 1736
of the "Social Security Act," if on January 1, 1994, the facility, 1737
infirmary, or entity was providing care exclusively to members of 1738
the religious order; 1739

~~(ix)~~(x) A county home or district home that has never been 1740
licensed as a residential care facility. 1741

(2) "Unrelated individual" means one who is not related to 1742
the owner or operator of a home or to the spouse of the owner or 1743
operator as a parent, grandparent, child, grandchild, brother, 1744
sister, niece, nephew, aunt, uncle, or as the child of an aunt or 1745
uncle. 1746

(3) "Mental impairment" does not mean mental illness as 1747
defined in section 5122.01 of the Revised Code or mental 1748
retardation as defined in section 5123.01 of the Revised Code. 1749

(4) "Skilled nursing care" means procedures that require 1750
technical skills and knowledge beyond those the untrained person 1751
possesses and that are commonly employed in providing for the 1752
physical, mental, and emotional needs of the ill or otherwise 1753
incapacitated. "Skilled nursing care" includes, but is not limited 1754
to, the following: 1755

(a) Irrigations, catheterizations, application of dressings, 1756
and supervision of special diets; 1757

(b) Objective observation of changes in the patient's 1758
condition as a means of analyzing and determining the nursing care 1759
required and the need for further medical diagnosis and treatment; 1760

(c) Special procedures contributing to rehabilitation; 1761

(d) Administration of medication by any method ordered by a 1762
physician, such as hypodermically, rectally, or orally, including 1763

observation of the patient after receipt of the medication; 1764

(e) Carrying out other treatments prescribed by the physician 1765
that involve a similar level of complexity and skill in 1766
administration. 1767

(5)(a) "Personal care services" means services including, but 1768
not limited to, the following: 1769

(i) Assisting residents with activities of daily living; 1770

(ii) Assisting residents with self-administration of 1771
medication, in accordance with rules adopted under section 3721.04 1772
of the Revised Code; 1773

(iii) Preparing special diets, other than complex therapeutic 1774
diets, for residents pursuant to the instructions of a physician 1775
or a licensed dietitian, in accordance with rules adopted under 1776
section 3721.04 of the Revised Code. 1777

(b) "Personal care services" does not include "skilled 1778
nursing care" as defined in division (A)(4) of this section. A 1779
facility need not provide more than one of the services listed in 1780
division (A)(5)(a) of this section to be considered to be 1781
providing personal care services. 1782

(6) "Nursing home" means a home used for the reception and 1783
care of individuals who by reason of illness or physical or mental 1784
impairment require skilled nursing care and of individuals who 1785
require personal care services but not skilled nursing care. A 1786
nursing home is licensed to provide personal care services and 1787
skilled nursing care. 1788

(7) "Residential care facility" means a home that provides 1789
either of the following: 1790

(a) Accommodations for seventeen or more unrelated 1791
individuals and supervision and personal care services for three 1792
or more of those individuals who are dependent on the services of 1793

others by reason of age or physical or mental impairment; 1794

(b) Accommodations for three or more unrelated individuals, 1795
supervision and personal care services for at least three of those 1796
individuals who are dependent on the services of others by reason 1797
of age or physical or mental impairment, and, to at least one of 1798
those individuals, any of the skilled nursing care authorized by 1799
section 3721.011 of the Revised Code. 1800

(8) "Home for the aging" means a home that provides services 1801
as a residential care facility and a nursing home, except that the 1802
home provides its services only to individuals who are dependent 1803
on the services of others by reason of both age and physical or 1804
mental impairment. 1805

The part or unit of a home for the aging that provides 1806
services only as a residential care facility is licensed as a 1807
residential care facility. The part or unit that may provide 1808
skilled nursing care beyond the extent authorized by section 1809
3721.011 of the Revised Code is licensed as a nursing home. 1810

(9) "County home" and "district home" mean a county home or 1811
district home operated under Chapter 5155. of the Revised Code. 1812

(B) The director of health may further classify homes. For 1813
the purposes of this chapter, any residence, institution, hotel, 1814
congregate housing project, or similar facility that meets the 1815
definition of a home under this section is such a home regardless 1816
of how the facility holds itself out to the public. 1817

(C) For purposes of this chapter, personal care services or 1818
skilled nursing care shall be considered to be provided by a 1819
facility if they are provided by a person employed by or 1820
associated with the facility or by another person pursuant to an 1821
agreement to which neither the resident who receives the services 1822
nor the resident's sponsor is a party. 1823

(D) Nothing in division (A)(4) of this section shall be 1824

construed to permit skilled nursing care to be imposed on an 1825
individual who does not require skilled nursing care. 1826

Nothing in division (A)(5) of this section shall be construed 1827
to permit personal care services to be imposed on an individual 1828
who is capable of performing the activity in question without 1829
assistance. 1830

(E) Division (A)(1)(c)~~(viii)~~(ix) of this section does not 1831
prohibit a facility, infirmary, or other entity described in that 1832
division from seeking licensure under sections 3721.01 to 3721.09 1833
of the Revised Code or certification under Title XVIII or XIX of 1834
the "Social Security Act." However, such a facility, infirmary, or 1835
entity that applies for licensure or certification must meet the 1836
requirements of those sections or titles and the rules adopted 1837
under them and obtain a certificate of need from the director of 1838
health under section 3702.52 of the Revised Code. 1839

(F) Nothing in this chapter, or rules adopted pursuant to it, 1840
shall be construed as authorizing the supervision, regulation, or 1841
control of the spiritual care or treatment of residents or 1842
patients in any home who rely upon treatment by prayer or 1843
spiritual means in accordance with the creed or tenets of any 1844
recognized church or religious denomination. 1845

Sec. 3793.11. (A) No alcohol and drug addiction program shall 1846
employ methadone treatment or prescribe, dispense, or administer 1847
methadone unless the program is licensed under this section. No 1848
alcohol and drug addiction program licensed under this section 1849
shall maintain methadone treatment in a manner inconsistent with 1850
this section and the rules adopted under it. 1851

(B) An alcohol and drug addiction program may apply to the 1852
department of alcohol and drug addiction services for a license to 1853
maintain methadone treatment. The department shall review all 1854
applications received. 1855

(C) The department may issue a license to maintain methadone treatment to an alcohol and drug addiction program only if all of the following apply:

(1) The program is operated by a private, nonprofit organization or by a government entity;

(2) For at least two years immediately preceding the date of application, the program has been fully certified under section 3793.06 of the Revised Code;

(3) The program has not been denied a license to maintain methadone treatment or had its license withdrawn or revoked within the five-year period immediately preceding the date of application;

(4) It affirmatively appears to the department that the program is adequately staffed and equipped to maintain methadone treatment;

(5) It affirmatively appears to the department that the program will ~~conduct~~ maintain methadone treatment in strict compliance with section 3719.61 of the Revised Code, all other laws relating to drug abuse, and the rules adopted by the department;

(6) Except as provided in division (D) of this section, there is no public or private school, licensed child day-care center, or other child-serving agency within a radius of five hundred feet of the location where the program is to maintain methadone treatment.

(D) The department may waive the requirement of division (C)(6) of this section if it receives, from each public or private school, licensed child day-care center, or other child-serving agency that is within the applicable radius of the location where the program is to maintain methadone treatment, a letter of support for the location. The department shall determine whether a letter of support is satisfactory for purposes of waiving the

requirement. 1887

~~(D)~~(E) A license to maintain methadone treatment shall expire 1888
one year from the date of issuance. Licenses may be renewed. 1889

~~(E)~~(F) The department shall establish procedures and adopt 1890
rules for licensing, inspection, and supervision of alcohol and 1891
drug addiction programs that maintain methadone treatment. The 1892
rules shall establish standards for the control, storage, 1893
furnishing, use, and dispensing of methadone, prescribe minimum 1894
standards for the operation of the methadone treatment component 1895
of the program, and comply with federal laws and regulations. 1896

All rules adopted under this division shall be adopted in 1897
accordance with Chapter 119. of the Revised Code. All actions 1898
taken by the department regarding the licensing of programs to 1899
maintain methadone treatment shall be conducted in accordance with 1900
Chapter 119. of the Revised Code, except as provided in division 1901
~~(K)~~(L) of this section. 1902

~~(F)~~(G) The department of alcohol and drug addiction services 1903
shall inspect all alcohol and drug addiction programs licensed to 1904
maintain methadone treatment. Inspections shall be conducted at 1905
least annually and may be conducted more frequently. No person or 1906
government entity shall interfere with a state or local government 1907
official acting on behalf of the department while conducting an 1908
inspection. 1909

~~(G)~~(H) An alcohol and drug addiction program shall not 1910
administer or dispense methadone in a tablet, powder, or 1911
intravenous form. Methadone shall be administered or dispensed 1912
only in a liquid form intended for ingestion. A program shall not 1913
administer or dispense methadone to an individual for pain or 1914
other medical reasons. 1915

~~(H)~~(I)(I) As used in this division, "program sponsor" means a 1916
person who assumes responsibility for the operation and employees 1917

of the methadone treatment component of an alcohol and drug 1918
addiction program. 1919

~~(2)~~ An alcohol and drug addiction program shall not employ an 1920
individual who receives methadone treatment from that program. A 1921
program shall not permit an individual to act as a program 1922
sponsor, medical director, or director of the program if the 1923
individual is receiving methadone treatment from any alcohol and 1924
drug addiction program. 1925

~~(I)~~(J) The department may issue orders to assure compliance 1926
with section 3719.61 of the Revised Code, all other laws relating 1927
to drug abuse, and the rules adopted under this section. Subject 1928
to section 3793.13 of the Revised Code, the department may hold 1929
hearings, require the production of relevant matter, compel 1930
testimony, issue subpoenas, and make adjudications. Upon failure 1931
of a person without lawful excuse to obey a subpoena or to produce 1932
relevant matter, the department may apply to a court of common 1933
pleas for an order compelling compliance. 1934

~~(J)~~(K) The department may refuse to issue, or may withdraw or 1935
revoke, a license to maintain methadone treatment. A license may 1936
be refused if an alcohol and drug addiction program does not meet 1937
the requirements of division (C) of this section. A license may be 1938
withdrawn at any time the department determines that the program 1939
no longer meets the requirements for receiving the license. A 1940
license may be revoked in accordance with division ~~(K)~~(L) of this 1941
section. 1942

~~(K)~~ In the case of a license issued prior to the effective 1943
date of this amendment, the department shall not consider the 1944
requirement of division (C)(6) of this section in determining 1945
whether to renew, withdraw, or revoke the license. 1946

(L) If the department of alcohol and drug addiction services 1947
finds reasonable cause to believe that an alcohol and drug 1948

addiction program licensed under this section is in violation of 1949
any provision of section 3719.61 of the Revised Code, or of any 1950
other state or federal law or rule relating to drug abuse, the 1951
department may issue an order immediately revoking the license, 1952
subject to division ~~(L)~~(M) of this section. The department shall 1953
set a date not more than fifteen days later than the date of the 1954
order of revocation for a hearing on the continuation or 1955
cancellation of the revocation. For good cause, the department may 1956
continue the hearing on application of any interested party. In 1957
conducting hearings, the department has all the authority and 1958
power set forth in division ~~(I)~~(J) of this section. Following the 1959
hearing, the department shall either confirm or cancel the 1960
revocation. The hearing shall be conducted in accordance with 1961
Chapter 119. of the Revised Code, except that the program shall 1962
not be permitted to maintain methadone treatment pending the 1963
hearing or pending any appeal from an adjudication made as a 1964
result of the hearing. Notwithstanding any provision of Chapter 1965
119. of the Revised Code to the contrary, a court shall not stay 1966
or suspend any order of revocation issued by the director under 1967
this division pending judicial appeal. 1968

~~(L)~~(M) The department shall not revoke a license to maintain 1969
methadone treatment unless all clients receiving methadone 1970
treatment from the alcohol and drug addiction program are provided 1971
adequate substitute treatment. For purposes of this division, the 1972
department may transfer the clients to other programs licensed to 1973
maintain methadone treatment or replace any or all of the 1974
administrators and staff of the program with representatives of 1975
the department who shall continue on a provisional basis the 1976
methadone treatment component of the program. 1977

~~(M)~~(N) Each time the department receives an application from 1978
an alcohol and drug addiction program for a license to maintain 1979
methadone treatment, issues or refuses to issue a license, or 1980

withdraws or revokes a license, the department shall notify the 1981
board of alcohol, drug addiction, and mental health services of 1982
each alcohol, drug addiction, and mental health service district 1983
in which the program is operated. 1984

~~(N)~~(O) Whenever it appears to the department from files, upon 1985
complaint, or otherwise, that an alcohol and drug addiction 1986
program has engaged in any practice declared to be illegal or 1987
prohibited by section 3719.61 of the Revised Code, or any other 1988
state or federal laws or regulations relating to drug abuse, or 1989
when the department believes it to be in the best interest of the 1990
public and necessary for the protection of the citizens of the 1991
state, the department may request criminal proceedings by laying 1992
before the prosecuting attorney of the proper county any evidence 1993
of criminality which may come to its knowledge. 1994

~~(O)~~(P) The department shall maintain a current list of 1995
alcohol and drug addiction programs licensed by the department 1996
under ~~division (C)~~ of this section and shall provide a copy of the 1997
current list to a judge of a court of common pleas who requests a 1998
copy for the use of the judge under division (H) of section 1999
2925.03 of the Revised Code. The list of licensed alcohol and drug 2000
addiction programs shall identify each licensed program by its 2001
name, its address, and the county in which it is located. 2002

Sec. 3795.01. As used in sections 3795.01, 3795.02, and 2003
3795.03 of the Revised Code: 2004

(A) "Assist suicide" or "assisting suicide" means knowingly 2005
doing either of the following, with the purpose of helping another 2006
person to commit or attempt suicide: 2007

(1) Providing the physical means by which the person commits 2008
or attempts to commit suicide; 2009

(2) Participating in a physical act by which the person 2010

commits or attempts to commit suicide.	2011
(B) "Certified nurse practitioner," "certified nurse-midwife," and "clinical nurse specialist" have the same meanings as in section 4723.01 of the Revised Code.	2012 2013 2014
(C) "CPR" has the same meaning as in section 2133.21 of the Revised Code.	2015 2016
(D) "Health care" means any care, treatment, service, or procedure to maintain, diagnose, or treat a person's physical or mental condition.	2017 2018 2019
(E) "Health care decision" means informed consent, refusal to give informed consent, or withdrawal of informed consent to health care.	2020 2021 2022
(F) "Health care facility" means any of the following:	2023
(1) A hospital;	2024
(2) A hospice care program <u>or pediatric respite care program</u> as defined in section 3712.01 of the Revised Code;	2025 2026
(3) A nursing home;	2027
(4) A home health agency;	2028
(5) An intermediate care facility for the mentally retarded.	2029
(G) "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.	2030 2031 2032 2033 2034 2035
(H) "Physician" means a person who is authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery.	2036 2037 2038

Sec. 3963.01. As used in this chapter:	2039
(A) "Affiliate" means any person or entity that has ownership or control of a contracting entity, is owned or controlled by a contracting entity, or is under common ownership or control with a contracting entity.	2040 2041 2042 2043
(B) "Basic health care services" has the same meaning as in division (A) of section 1751.01 of the Revised Code, except that it does not include any services listed in that division that are provided by a pharmacist or nursing home.	2044 2045 2046 2047
(C) "Contracting entity" means any person that has a primary business purpose of contracting with participating providers for the delivery of health care services.	2048 2049 2050
(D) "Credentialing" means the process of assessing and validating the qualifications of a provider applying to be approved by a contracting entity to provide basic health care services, specialty health care services, or supplemental health care services to enrollees.	2051 2052 2053 2054 2055
(E) "Edit" means adjusting one or more procedure codes billed by a participating provider on a claim for payment or a practice that results in any of the following:	2056 2057 2058
(1) Payment for some, but not all of the procedure codes originally billed by a participating provider;	2059 2060
(2) Payment for a different procedure code than the procedure code originally billed by a participating provider;	2061 2062
(3) A reduced payment as a result of services provided to an enrollee that are claimed under more than one procedure code on the same service date.	2063 2064 2065
(F) "Electronic claims transport" means to accept and digitize claims or to accept claims already digitized, to place those claims into a format that complies with the electronic	2066 2067 2068

transaction standards issued by the United States department of 2069
health and human services pursuant to the "Health Insurance 2070
Portability and Accountability Act of 1996," 110 Stat. 1955, 42 2071
U.S.C. 1320d, et seq., as those electronic standards are 2072
applicable to the parties and as those electronic standards are 2073
updated from time to time, and to electronically transmit those 2074
claims to the appropriate contracting entity, payer, or 2075
third-party administrator. 2076

(G) "Enrollee" means any person eligible for health care 2077
benefits under a health benefit plan, including an eligible 2078
recipient of medicaid under Chapter 5111. of the Revised Code, and 2079
includes all of the following terms: 2080

(1) "Enrollee" and "subscriber" as defined by section 1751.01 2081
of the Revised Code; 2082

(2) "Member" as defined by section 1739.01 of the Revised 2083
Code; 2084

(3) "Insured" and "plan member" pursuant to Chapter 3923. of 2085
the Revised Code; 2086

(4) "Beneficiary" as defined by section 3901.38 of the 2087
Revised Code. 2088

(H) "Health care contract" means a contract entered into, 2089
materially amended, or renewed between a contracting entity and a 2090
participating provider for the delivery of basic health care 2091
services, specialty health care services, or supplemental health 2092
care services to enrollees. 2093

(I) "Health care services" means basic health care services, 2094
specialty health care services, and supplemental health care 2095
services. 2096

(J) "Material amendment" means an amendment to a health care 2097
contract that decreases the participating provider's payment or 2098

compensation, changes the administrative procedures in a way that 2099
may reasonably be expected to significantly increase the 2100
provider's administrative expenses, or adds a new product. A 2101
material amendment does not include any of the following: 2102

(1) A decrease in payment or compensation resulting solely 2103
from a change in a published fee schedule upon which the payment 2104
or compensation is based and the date of applicability is clearly 2105
identified in the contract; 2106

(2) A decrease in payment or compensation that was 2107
anticipated under the terms of the contract, if the amount and 2108
date of applicability of the decrease is clearly identified in the 2109
contract; 2110

(3) An administrative change that may significantly increase 2111
the provider's administrative expense, the specific applicability 2112
of which is clearly identified in the contract; 2113

(4) Changes to an existing prior authorization, 2114
precertification, notification, or referral program that do not 2115
substantially increase the provider's administrative expense; 2116

(5) Changes to an edit program or to specific edits if the 2117
participating provider is provided notice of the changes pursuant 2118
to division (A)(1) of section 3963.04 of the Revised Code and the 2119
notice includes information sufficient for the provider to 2120
determine the effect of the change; 2121

(6) Changes to a health care contract described in division 2122
(B) of section 3963.04 of the Revised Code. 2123

(K) "Participating provider" means a provider that has a 2124
health care contract with a contracting entity and is entitled to 2125
reimbursement for health care services rendered to an enrollee 2126
under the health care contract. 2127

(L) "Payer" means any person that assumes the financial risk 2128

for the payment of claims under a health care contract or the 2129
reimbursement for health care services provided to enrollees by 2130
participating providers pursuant to a health care contract. 2131

(M) "Primary enrollee" means a person who is responsible for 2132
making payments for participation in a health care plan or an 2133
enrollee whose employment or other status is the basis of 2134
eligibility for enrollment in a health care plan. 2135

(N) "Procedure codes" includes the American medical 2136
association's current procedural terminology code, the American 2137
dental association's current dental terminology, and the centers 2138
for medicare and medicaid services health care common procedure 2139
coding system. 2140

(O) "Product" means one of the following types of categories 2141
of coverage for which a participating provider may be obligated to 2142
provide health care services pursuant to a health care contract: 2143

(1) A health maintenance organization or other product 2144
provided by a health insuring corporation; 2145

(2) A preferred provider organization; 2146

(3) Medicare; 2147

(4) Medicaid; 2148

(5) Workers' compensation. 2149

(P) "Provider" means a physician, podiatrist, dentist, 2150
chiropractor, optometrist, psychologist, physician assistant, 2151
advanced practice nurse, occupational therapist, massage 2152
therapist, physical therapist, professional counselor, 2153
professional clinical counselor, hearing aid dealer, orthotist, 2154
prosthetist, home health agency, hospice care program, pediatric 2155
respite care program, or hospital, or a provider organization or 2156
physician-hospital organization that is acting exclusively as an 2157
administrator on behalf of a provider to facilitate the provider's 2158

participation in health care contracts. "Provider" does not mean a 2159
pharmacist, pharmacy, nursing home, or a provider organization or 2160
physician-hospital organization that leases the provider 2161
organization's or physician-hospital organization's network to a 2162
third party or contracts directly with employers or health and 2163
welfare funds. 2164

(Q) "Specialty health care services" has the same meaning as 2165
in section 1751.01 of the Revised Code, except that it does not 2166
include any services listed in division (B) of section 1751.01 of 2167
the Revised Code that are provided by a pharmacist or a nursing 2168
home. 2169

(R) "Supplemental health care services" has the same meaning 2170
as in division (B) of section 1751.01 of the Revised Code, except 2171
that it does not include any services listed in that division that 2172
are provided by a pharmacist or nursing home. 2173

Sec. 4719.01. (A) As used in sections 4719.01 to 4719.18 of 2174
the Revised Code: 2175

(1) "Affiliate" means a business entity that is owned by, 2176
operated by, controlled by, or under common control with another 2177
business entity. 2178

(2) "Communication" means a written or oral notification or 2179
advertisement that meets both of the following criteria, as 2180
applicable: 2181

(a) The notification or advertisement is transmitted by or on 2182
behalf of the seller of goods or services and by or through any 2183
printed, audio, video, cinematic, telephonic, or electronic means. 2184

(b) In the case of a notification or advertisement other than 2185
by telephone, either of the following conditions is met: 2186

(i) The notification or advertisement is followed by a 2187
telephone call from a telephone solicitor or salesperson. 2188

(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.

(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.

(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 licenses; and extended service contracts.

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

(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:

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

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

(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.

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

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

(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.

(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 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. 781, and is registered or is exempt from registration under 15 U.S.C.A. 781(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;

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

(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.

(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 2313
under 7 U.S.C.A. 1 et. seq. and the registration or temporary 2314
registration has not expired or been suspended or revoked; 2315

(8) A person soliciting the sale of any book, record, audio 2316
tape, compact disc, or video, if the person allows the purchaser 2317
to review the merchandise for at least seven days and provides a 2318
full refund within thirty days to a purchaser who returns the 2319
merchandise or if the person solicits the sale on behalf of a 2320
membership club operating in compliance with regulations adopted 2321
by the federal trade commission in 16 C.F.R. 425; 2322

(9) A supervised financial institution or its subsidiary. As 2323
used in division (B)(9) of this section, "supervised financial 2324
institution" means a bank, trust company, savings and loan 2325
association, savings bank, credit union, industrial loan company, 2326
consumer finance lender, commercial finance lender, or institution 2327
described in section 2(c)(2)(F) of the "Bank Holding Company Act 2328
of 1956," 12 U.S.C.A. 1841(c)(2)(F), as amended, supervised by an 2329
official or agency of the United States, this state, or any other 2330
state of the United States; or a licensee or registrant under 2331
sections 1321.01 to 1321.19, 1321.51 to 1321.60, or 1321.71 to 2332
1321.83 of the Revised Code. 2333

(10)(a) An insurance company, association, or other 2334
organization that is licensed or authorized to conduct business in 2335
this state by the superintendent of insurance pursuant to Title 2336
XXXIX of the Revised Code or Chapter 1751. of the Revised Code, 2337
when soliciting within the scope of its license or authorization. 2338

(b) A licensed insurance broker, agent, or solicitor when 2339
soliciting within the scope of the person's license. As used in 2340
division (B)(10)(b) of this section, "licensed insurance broker, 2341
agent, or solicitor" means any person licensed as an insurance 2342
broker, agent, or solicitor by the superintendent of insurance 2343
pursuant to Title XXXIX of the Revised Code. 2344

(11) A person soliciting the sale of services provided by a	2345
cable television system operating under authority of a	2346
governmental franchise or permit;	2347
(12) A person soliciting a business-to-business sale under	2348
which any of the following conditions are met:	2349
(a) The telephone solicitor has been operating continuously	2350
for at least three years under the same business name under which	2351
it solicits purchasers, and at least fifty-one per cent of its	2352
gross dollar volume of sales consists of repeat sales to existing	2353
customers to whom it has made sales under the same business name.	2354
(b) The purchaser business intends to resell the goods	2355
purchased.	2356
(c) The purchaser business intends to use the goods or	2357
services purchased in a recycling, reuse, manufacturing, or	2358
remanufacturing process.	2359
(d) The telephone solicitor is a publisher of a periodical or	2360
of magazines distributed as controlled circulation publications as	2361
defined in division (CC) of section 5739.01 of the Revised Code	2362
and is soliciting sales of advertising, subscriptions, reprints,	2363
lists, information databases, conference participation or	2364
sponsorships, trade shows or media products related to the	2365
periodical or magazine, or other publishing services provided by	2366
the controlled circulation publication.	2367
(13) A person that, not less often than once each year,	2368
publishes and delivers to potential purchasers a catalog that	2369
complies with both of the following:	2370
(a) It includes all of the following:	2371
(i) The business address of the seller;	2372
(ii) A written description or illustration of each good or	2373
service offered for sale;	2374

(iii) A clear and conspicuous disclosure of the sale price of each good or service; shipping, handling, and other charges; and return policy;	2375 2376 2377
(b) One of the following applies:	2378
(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;	2379 2380 2381 2382
(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.	2383 2384 2385 2386 2387 2388 2389 2390 2391 2392 2393
(14) A political subdivision or instrumentality of the United States, this state, or any state of the United States;	2394 2395
(15) A college or university or any other public or private institution of higher education in this state;	2396 2397
(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;	2398 2399 2400 2401 2402
(17) A person that solicits sales through a television program or advertisement that is presented in the same market area no fewer than twenty days per month or offers for sale no fewer	2403 2404 2405

than ten distinct items of goods or services; and offers to the 2406
purchaser an unconditional right to return any good or service 2407
purchased within a period of at least seven days and to receive a 2408
full refund within thirty days after the purchaser returns the 2409
good or cancels the service; 2410

(18)(a) A person that, for at least one year, has been 2411
operating a retail business under the same name as that used in 2412
connection with telephone solicitation and both of the following 2413
occur on a continuing basis: 2414

(i) The person either displays goods and offers them for 2415
retail sale at the person's business premises or offers services 2416
for sale and provides them at the person's business premises. 2417

(ii) At least fifty-one per cent of the person's gross dollar 2418
volume of retail sales involves purchases of goods or services at 2419
the person's business premises. 2420

(b) An affiliate of a person that meets the requirements in 2421
division (B)(18)(a) of this section if the affiliate meets all of 2422
the following requirements: 2423

(i) The affiliate has operated a retail business for a period 2424
of less than one year; 2425

(ii) The affiliate either displays goods and offers them for 2426
retail sale at the affiliate's business premises or offers 2427
services for sale and provides them at the affiliate's business 2428
premises; 2429

(iii) At least fifty-one per cent of the affiliate's gross 2430
dollar volume of retail sales involves purchases of goods or 2431
services at the affiliate's business premises. 2432

(c) A person that, for a period of less than one year, has 2433
been operating a retail business in this state under the same name 2434
as that used in connection with telephone solicitation, as long as 2435

all of the following requirements are met:	2436
(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;	2437 2438 2439
(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;	2440 2441 2442 2443 2444
(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.	2445 2446 2447 2448
(19) A person who performs telephone solicitation sales services on behalf of other persons and to whom one of the following applies:	2449 2450 2451
(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.	2452 2453 2454 2455 2456
(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.	2457 2458 2459
(c) The person makes telephone solicitations on behalf of 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	2460 2461 2462 2463 2464 2465 2466

conducts the telephone solicitations in the manner specified in 2467
the written contract. 2468

(d) The person performs telephone solicitation for religious 2469
or political purposes, a charitable organization, a fund-raising 2470
council, or a professional solicitor in compliance with the 2471
registration and reporting requirements of Chapter 1716. of the 2472
Revised Code; and meets all of the following requirements: 2473

(i) The person has operated under the same ownership, 2474
control, and business name for at least five years, and the person 2475
receives at least fifty-one per cent of its gross revenues from 2476
written telephone solicitation contracts with persons who come 2477
within the exemption in division (B)(2) of this section; 2478

(ii) The person does not conduct a prize promotion or offer 2479
the sale of an investment opportunity; 2480

(iii) The person conducts all telephone solicitation 2481
activities according to sections 310.3, 310.4, and 310.5 of the 2482
telemarketing sales rules adopted by the federal trade commission 2483
in 16 C.F.R. part 310. 2484

(20) A person that is a licensed real estate salesperson or 2485
broker under Chapter 4735. of the Revised Code when soliciting 2486
within the scope of the person's license; 2487

(21)(a) Either of the following: 2488

(i) A publisher that solicits the sale of the publisher's 2489
periodical or magazine of general, paid circulation, or a person 2490
that solicits a sale of that nature on behalf of a publisher under 2491
a written agreement directly between the publisher and the person. 2492

(ii) A publisher that solicits the sale of the publisher's 2493
periodical or magazine of general, paid circulation, or a person 2494
that solicits a sale of that nature as authorized by a publisher 2495
under a written agreement directly with a publisher's 2496

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.

(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.

(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.

(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:

(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;

(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.

(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.

(25) A person that solicits sales from its previous

purchasers and meets all of the following requirements:	2528
(a) The solicitation is made under the same business name	2529
that was previously used to sell goods or services to the	2530
purchaser;	2531
(b) The person has, for a period of not less than three	2532
years, operated a business under the same business name as that	2533
used in connection with telephone solicitation;	2534
(c) The person does not conduct a prize promotion or offer	2535
the sale of an investment opportunity;	2536
(d) The person conducts all telephone solicitation activities	2537
according to sections 310.3, 310.4, and 310.5 of the telemarketing	2538
sales rules adopted by the federal trade commission in 16 C.F.R.	2539
part 310;	2540
(e) Neither the person nor any of its principals has been	2541
convicted of, pleaded guilty to, or has entered a plea of no	2542
contest for a felony or a theft offense as defined in sections	2543
2901.02 and 2913.01 of the Revised Code or similar law of another	2544
state or of the United States;	2545
(f) Neither the person nor any of its principals has had	2546
entered against them an injunction or a final judgment or order,	2547
including an agreed judgment or order, an assurance of voluntary	2548
compliance, or any similar instrument, in any civil or	2549
administrative action involving engaging in a pattern of corrupt	2550
practices, fraud, theft, embezzlement, fraudulent conversion, or	2551
misappropriation of property; the use of any untrue, deceptive, or	2552
misleading representation; or the use of any unfair, unlawful,	2553
deceptive, or unconscionable trade act or practice.	2554
(26) An institution defined as a home health agency in	2555
section 3701.881 of the Revised Code, that conducts all telephone	2556
solicitation activities according to sections 310.3, 310.4, and	2557
310.5 of the telemarketing sales rules adopted by the federal	2558

trade commission in 16 C.F.R. part 310, and engages in telephone 2559
solicitation only within the scope of the institution's 2560
certification, accreditation, contract with the department of 2561
aging, or status as a home health agency; and that meets one of 2562
the following requirements: 2563

(a) The institution is certified as a provider of home health 2564
services under Title XVIII of the Social Security Act, 49 Stat. 2565
620, 42 U.S.C. 301, as amended; 2566

(b) The institution is accredited by either the joint 2567
commission on accreditation of health care organizations or the 2568
community health accreditation program; 2569

(c) The institution is providing passport services under the 2570
direction of the Ohio department of aging under section 173.40 of 2571
the Revised Code; 2572

(d) An affiliate of an institution that meets the 2573
requirements of division (B)(26)(a), (b), or (c) of this section 2574
when offering for sale substantially the same goods and services 2575
as those that are offered by the institution that meets the 2576
requirements of division (B)(26)(a), (b), or (c) of this section. 2577

(27) A person licensed ~~to provide a hospice care program~~ by 2578
the department of health pursuant to section 3712.04 or 3712.041 2579
of the Revised Code to provide a hospice care program or pediatric 2580
respite care program when conducting telephone solicitations 2581
within the scope of the person's license and according to sections 2582
310.3, 310.4, and 310.5 of the telemarketing sales rules adopted 2583
by the federal trade commission in 16 C.F.R. part 310. 2584

Sec. 4729.43. (A) As used in this section: 2585

(1) "Home health agency" has the same meaning as in section 2586
3701.881 of the Revised Code. 2587

(2) "Hospice care program" and "hospice patient" have the 2588

same meanings as in section 3712.01 of the Revised Code. 2589

(3) "Non-self-injectable cancer drug" means a dangerous drug 2590
indicated for the treatment of cancer or a cancer-related illness 2591
that must be administered intravenously or by subcutaneous 2592
injection that an individual cannot reasonably self-administer. 2593

(B) A pharmacist or pharmacy intern shall not dispense a 2594
non-self-injectable cancer drug by delivering the drug directly to 2595
any of the following or causing the drug to be delivered directly 2596
to any of the following: 2597

(1) The patient; 2598

(2) The patient's representative, which may include the 2599
patient's guardian or a family member or friend of the patient; 2600

(3) The patient's private residence unless any of the 2601
following is the case: 2602

(a) The patient's private residence is a nursing home, 2603
residential care facility, rehabilitation facility, or similar 2604
institutional facility or health care facility. 2605

(b) If the patient is an adult and a hospice patient or 2606
client of a home health agency, the patient, the licensed health 2607
professional authorized to prescribe drugs who prescribed the drug 2608
to the patient, or an employee or agent of the prescriber has 2609
notified the pharmacist or pharmacy intern that the patient is a 2610
hospice patient or client of a home health agency and an employee 2611
or agent of the hospice care program or home health agency will be 2612
administering the drug to the patient. 2613

(c) If the patient is a minor and a hospice patient or client 2614
of a home health agency, either of the following has notified the 2615
pharmacist or pharmacy intern that the patient is a client of a 2616
home health agency and an employee or agent of the hospice care 2617
program or home health agency will be administering the drug to 2618

<u>the patient:</u>	2619
<u>(i) The licensed health professional authorized to prescribe</u>	2620
<u>drugs who prescribed the drug to the patient or an employee or</u>	2621
<u>agent of the prescriber;</u>	2622
<u>(ii) The parent, guardian, or other person who has care or</u>	2623
<u>charge of the patient and is authorized to consent to medical</u>	2624
<u>treatment on behalf of the patient.</u>	2625
Sec. 4752.02. (A) Except as provided in division (B) of this	2626
section, no person shall provide home medical equipment services	2627
or claim to the public to be a home medical equipment services	2628
provider unless either of the following is the case:	2629
(1) The person holds a valid license issued under this	2630
chapter;	2631
(2) The person holds a valid certificate of registration	2632
issued under this chapter.	2633
(B) Division (A) of this section does not apply to any of the	2634
following:	2635
(1) A health care practitioner, as defined in section 4769.01	2636
of the Revised Code, who does not sell or rent home medical	2637
equipment;	2638
(2) A hospital that provides home medical equipment services	2639
only as an integral part of patient care and does not provide the	2640
services through a separate entity that has its own medicare or	2641
medicaid provider number;	2642
(3) A manufacturer or wholesale distributor of home medical	2643
equipment that does not sell directly to the public;	2644
(4) A hospice care program <u>or pediatric respite care program,</u>	2645
as defined by section 3712.01 of the Revised Code, that does not	2646
sell or rent home medical equipment;	2647

(5) A home, as defined by section 3721.01 of the Revised Code;	2648 2649
(6) A home health agency that is certified under Title XVIII of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1395, as a provider of home health services and does not sell or rent home medical equipment;	2650 2651 2652 2653
(7) An individual who holds a current, valid license issued under Chapter 4741. of the Revised Code to practice veterinary medicine;	2654 2655 2656
(8) An individual who holds a current, valid license issued under Chapter 4779. of the Revised Code to practice orthotics, prosthetics, or pedorthics;	2657 2658 2659
(9) A pharmacy licensed under Chapter 4729. of the Revised Code that either does not sell or rent home medical equipment or receives total payments of less than ten thousand dollars per year from selling or renting home medical equipment;	2660 2661 2662 2663
(10) A home dialysis equipment provider regulated by federal law.	2664 2665
Sec. 5119.22. (A) As used in this section and section 5119.221 of the Revised Code:	2666 2667
(1) "Accommodations" means housing, daily meal preparation, laundry, housekeeping, arranging for transportation, social and recreational activities, maintenance, security, and other services that do not constitute personal care services or skilled nursing care.	2668 2669 2670 2671 2672
(2) "ADAMHS board" means a board of alcohol, drug addiction, and mental health services.	2673 2674
(3) "Adult" means a person who is eighteen years of age or older, other than a person described in division (A)(4) of this section who is between eighteen and twenty-one years of age.	2675 2676 2677

(4) "Child" means a person who is under eighteen years of age 2678
or a person with a mental disability who is under twenty-one years 2679
of age. 2680

(5) "Community mental health agency" means a community mental 2681
health agency as defined in division (H) of section 5122.01 of the 2682
Revised Code. 2683

(6) "Community mental health services" means any of the 2684
services listed in section 340.09 of the Revised Code. 2685

(7) "Operator" means the person that is responsible for the 2686
administration and management of a residential facility. 2687

(8) "Personal care services" means services including, but 2688
not limited to, the following: 2689

(a) Assisting residents with activities of daily living; 2690

(b) Assisting residents with self-administration of 2691
medication in accordance with rules adopted under this section; 2692

(c) Preparing special diets, other than complex therapeutic 2693
diets, for residents pursuant to the instructions of a physician 2694
or a licensed dietitian, in accordance with rules adopted under 2695
this section. 2696

"Personal care services" does not include "skilled nursing 2697
care" as defined in section 3721.01 of the Revised Code. A 2698
facility need not provide more than one of the services listed in 2699
division (A)(8) of this section to be considered to be providing 2700
personal care services. 2701

(9) "Residential facility" means a publicly or privately 2702
operated home or facility that provides one of the following: 2703

(a) Accommodations, supervision, personal care services, and 2704
community mental health services for one or more of the following 2705
unrelated persons who are referred by or are receiving community 2706
mental health services from a community mental health agency, 2707

hospital, or practitioner:	2708
(i) Adults with mental illness;	2709
(ii) Persons of any age with severe mental disabilities;	2710
(iii) Children with serious emotional disturbances or in need of mental health services.	2711 2712
(b) Accommodations and personal care services for only one or two unrelated adults; accommodations, supervision, and personal care services for three to sixteen unrelated adults; or accommodations, supervision, and personal care services for one or two of the following unrelated persons:	2713 2714 2715 2716 2717
(i) Persons of any age with mental illness who are referred by or are receiving community mental health services from a community mental health agency, hospital, or practitioner;	2718 2719 2720
(ii) Persons of any age with severe mental disabilities who are referred by or are receiving community mental health services from a community mental health agency, hospital, or practitioner.	2721 2722 2723
(c) Room and board for five or more of the following unrelated persons:	2724 2725
(i) Adults with mental illness who are referred by or are receiving community mental health services from a community mental health agency, hospital, or practitioner;	2726 2727 2728
(ii) Adults with severe mental disabilities who are referred by or are receiving community mental health services from a community mental health agency, hospital, or practitioner.	2729 2730 2731
(10) "Residential facility" does not include any of the following:	2732 2733
(a) A hospital subject to licensure under section 5119.20 of the Revised Code;	2734 2735
(b) A residential facility licensed under section 5123.19 of	2736

the Revised Code or otherwise regulated by the department of developmental disabilities;	2737 2738
(c) An institution or association subject to certification under section 5103.03 of the Revised Code;	2739 2740
(d) A facility operated by a hospice care program licensed under section 3712.04 of the Revised Code that is used exclusively for care of hospice patients;	2741 2742 2743
(e) <u>A facility operated by a pediatric respite care program licensed under section 3712.041 of the Revised Code that is used exclusively for care of pediatric respite care patients;</u>	2744 2745 2746
(f) A nursing home, residential care facility, or home for the aging as defined in section 3721.02 of the Revised Code;	2747 2748
(f) (g) An alcohol or drug addiction program as defined in section 3793.01 of the Revised Code;	2749 2750
(g) (h) A facility licensed to provide methadone treatment under section 3793.11 of the Revised Code;	2751 2752
(h) (i) Any facility that receives funding for operating costs from the department of development under any program established to provide emergency shelter housing or transitional housing for the homeless;	2753 2754 2755 2756
(i) (j) A terminal care facility for the homeless that has entered into an agreement with a hospice care program under section 3712.07 of the Revised Code;	2757 2758 2759
(j) (k) A facility approved by the veterans administration under section 104(a) of the "Veterans Health Care Amendments of 1983," 97 Stat. 993, 38 U.S.C. 630, as amended, and used exclusively for the placement and care of veterans.	2760 2761 2762 2763
(11) "Room and board" means the provision of sleeping and living space, meals or meal preparation, laundry services, housekeeping services, or any combination thereof.	2764 2765 2766

(12) "Supervision" means any of the following:	2767
(a) Observing a resident to ensure the resident's health, safety, and welfare while the resident engages in activities of daily living or other activities;	2768 2769 2770
(b) Reminding a resident to perform or complete an activity, such as reminding a resident to engage in personal hygiene or other self-care activities;	2771 2772 2773
(c) Assisting a resident in making or keeping an appointment.	2774
(13) "Unrelated" means that a resident is not related to the owner or operator of a residential facility or to the owner's or operator's spouse as a parent, grandparent, child, stepchild, grandchild, brother, sister, niece, nephew, aunt, or uncle, or as the child of an aunt or uncle.	2775 2776 2777 2778 2779
(B) Nothing in division (A)(9) of this section shall be construed to permit personal care services to be imposed on a resident who is capable of performing the activity in question without assistance.	2780 2781 2782 2783
(C) Except in the case of a residential facility described in division (A)(9)(a) of this section, members of the staff of a residential facility shall not administer medication to the facility's residents, but may do any of the following:	2784 2785 2786 2787
(1) Remind a resident when to take medication and watch to ensure that the resident follows the directions on the container;	2788 2789
(2) Assist a resident in the self-administration of medication by taking the medication from the locked area where it is stored, in accordance with rules adopted pursuant to this section, and handing it to the resident. If the resident is physically unable to open the container, a staff member may open the container for the resident.	2790 2791 2792 2793 2794 2795
(3) Assist a physically impaired but mentally alert resident,	2796

such as a resident with arthritis, cerebral palsy, or Parkinson's 2797
disease, in removing oral or topical medication from containers 2798
and in consuming or applying the medication, upon request by or 2799
with the consent of the resident. If a resident is physically 2800
unable to place a dose of medicine to the resident's mouth without 2801
spilling it, a staff member may place the dose in a container and 2802
place the container to the mouth of the resident. 2803

(D)(1) Except as provided in division (D)(2) of this section, 2804
a person operating or seeking to operate a residential facility 2805
shall apply for licensure of the facility to the department of 2806
mental health. The application shall be submitted by the operator. 2807
When applying for the license, the applicant shall pay to the 2808
department the application fee specified in rules adopted under 2809
division (L) of this section. The fee is nonrefundable. 2810

The department shall send a copy of an application to the 2811
ADAMHS board serving the county in which the person operates or 2812
seeks to operate the facility. The ADAMHS board shall review the 2813
application and provide to the department any information about 2814
the applicant or the facility that the board would like the 2815
department to consider in reviewing the application. 2816

(2) A person may not apply for a license to operate a 2817
residential facility if the person is or has been the owner, 2818
operator, or manager of a residential facility for which a license 2819
to operate was revoked or for which renewal of a license was 2820
refused for any reason other than nonpayment of the license 2821
renewal fee, unless both of the following conditions are met: 2822

(a) A period of not less than two years has elapsed since the 2823
date the director of mental health issued the order revoking or 2824
refusing to renew the facility's license. 2825

(b) The director's revocation or refusal to renew the license 2826
was not based on an act or omission at the facility that violated 2827

a resident's right to be free from abuse, neglect, or 2828
exploitation. 2829

(E)(1) Any person may operate a residential facility 2830
providing accommodations and personal care services for one to 2831
five unrelated persons and licensed as a residential facility that 2832
meets the criteria specified in division (A)(9)(b) of this section 2833
as a permitted use in any residential district or zone, including 2834
any single-family residential district or zone of any political 2835
subdivision. Such facilities may be required to comply with area, 2836
height, yard, and architectural compatibility requirements that 2837
are uniformly imposed upon all single-family residences within the 2838
district or zone. 2839

(2) Any person may operate a residential facility providing 2840
accommodations and personal care services for six to sixteen 2841
persons and licensed as a residential facility that meets the 2842
criteria specified in division (A)(9)(b) of this section as a 2843
permitted use in any multiple-family residential district or zone 2844
of any political subdivision, except that a political subdivision 2845
that has enacted a zoning ordinance or resolution establishing 2846
planned-unit development districts as defined in section 519.021 2847
of the Revised Code may exclude such facilities from such 2848
districts, and a political subdivision that has enacted a zoning 2849
ordinance or resolution may regulate such facilities in 2850
multiple-family residential districts or zones as a conditionally 2851
permitted use or special exception, in either case, under 2852
reasonable and specific standards and conditions set out in the 2853
zoning ordinance or resolution to: 2854

(a) Require the architectural design and site layout of the 2855
home and the location, nature, and height of any walls, screens, 2856
and fences to be compatible with adjoining land uses and the 2857
residential character of the neighborhood; 2858

(b) Require compliance with yard, parking, and sign 2859

regulation. 2860

(3) Divisions (E)(1) and (2) of this section do not affect 2861
any right of a political subdivision to permit a person to operate 2862
a residential facility licensed under this section in a 2863
single-family residential district or zone under conditions 2864
established by the political subdivision. 2865

(4)(a) Notwithstanding divisions (E)(1) and (2) of this 2866
section and except as provided in division (E)(4)(b) of this 2867
section, a political subdivision that has enacted a zoning 2868
ordinance or resolution may limit the excessive concentration of 2869
licensed residential facilities that meet the criteria specified 2870
in division (A)(9)(b) of this section. 2871

(b) Division (E)(4)(a) of this section does not authorize a 2872
political subdivision to prevent or limit the continued existence 2873
and operation of residential facilities existing and operating on 2874
~~the effective date of this section~~ September 10, 2012, and that 2875
meet the criteria specified in division (A)(9)(b) of this section. 2876
A political subdivision may consider the existence of such 2877
facilities for the purpose of limiting the excessive concentration 2878
of such facilities that meet the criteria specified in division 2879
(A)(9)(b) of this section that are not existing and operating on 2880
~~the effective date of this section~~ September 10, 2012. 2881

(F)(1) The department of mental health shall inspect and 2882
license the operation of residential facilities. The department 2883
shall consider the past record of the facility and the applicant 2884
or licensee in arriving at its licensure decision. 2885

The department may issue full, probationary, and interim 2886
licenses. A full license shall expire two years after the date of 2887
issuance, a probationary license shall expire in a shorter period 2888
of time as specified in rules adopted by the director of mental 2889
health under division (L) of this section, and an interim license 2890

shall expire ninety days after the date of issuance. A license may
be renewed in accordance with rules adopted by the director under
division (L) of this section. The renewal application shall be
submitted by the operator. When applying for renewal of a license,
the applicant shall pay to the department the renewal fee
specified in rules adopted under division (L) of this section. The
fee is nonrefundable.

(2) The department may issue an order suspending the
admission of residents to the facility or refuse to issue or renew
and may revoke a license if it finds the facility is not in
compliance with rules adopted by the director pursuant to division
(L) of this section or if any facility operated by the applicant
or licensee has been cited for repeated violations of statutes or
rules during the period of previous licenses. Proceedings
initiated to deny applications for full or probationary licenses
or to revoke such licenses are governed by Chapter 119. of the
Revised Code.

(G) The department may issue an interim license to operate a
residential facility if both of the following conditions are met:

(1) The department determines that the closing of or the need
to remove residents from another residential facility has created
an emergency situation requiring immediate removal of residents
and an insufficient number of licensed beds are available.

(2) The residential facility applying for an interim license
meets standards established for interim licenses in rules adopted
by the director under division (L) of this section.

An interim license shall be valid for ninety days and may be
renewed by the director no more than twice. Proceedings initiated
to deny applications for or to revoke interim licenses under this
division are not subject to Chapter 119. of the Revised Code.

(H)(1) The department of mental health may conduct an

inspection of a residential facility as follows:	2922
(a) Prior to issuance of a license for the facility;	2923
(b) Prior to renewal of the license;	2924
(c) To determine whether the facility has completed a plan of correction required pursuant to division (H)(2) of this section and corrected deficiencies to the satisfaction of the department and in compliance with this section and rules adopted pursuant to it;	2925 2926 2927 2928 2929
(d) Upon complaint by any individual or agency;	2930
(e) At any time the director considers an inspection to be necessary in order to determine whether the facility is in compliance with this section and rules adopted pursuant to this section.	2931 2932 2933 2934
(2) In conducting inspections the department may conduct an on-site examination and evaluation of the residential facility and its personnel, activities, and services. The department shall have access to examine and copy all records, accounts, and any other documents relating to the operation of the residential facility, including records pertaining to residents, and shall have access to the facility in order to conduct interviews with the operator, staff, and residents. Following each inspection and review, the department shall complete a report listing any deficiencies, and including, when appropriate, a time table within which the operator shall correct the deficiencies. The department may require the operator to submit a plan of correction describing how the deficiencies will be corrected.	2935 2936 2937 2938 2939 2940 2941 2942 2943 2944 2945 2946 2947
(I) No person shall do any of the following:	2948
(1) Operate a residential facility unless the facility holds a valid license;	2949 2950
(2) Violate any of the conditions of licensure after having	2951

been granted a license;	2952
(3) Interfere with a state or local official's inspection or investigation of a residential facility;	2953 2954
(4) Violate any of the provisions of this section or any rules adopted pursuant to this section.	2955 2956
(J) The following may enter a residential facility at any time:	2957 2958
(1) Employees designated by the director of mental health;	2959
(2) Employees of an ADAMHS board under either of the following circumstances:	2960 2961
(a) When a resident of the facility is receiving services from a community mental health agency under contract with that ADAMHS board or another ADAMHS board;	2962 2963 2964
(b) When authorized by section 340.05 of the Revised Code.	2965
(3) Employees of a community mental health agency under either of the following circumstances:	2966 2967
(a) When the agency has a client residing in the facility;	2968
(b) When the agency is acting as an agent of an ADAMHS board other than the board with which it is under contract.	2969 2970
(4) Representatives of the state long-term care ombudsperson program when the facility provides accommodations, supervision, and personal care services for three to sixteen unrelated adults or to one or two unrelated adults who are recipients under the residential state supplement program.	2971 2972 2973 2974 2975
The persons specified in division (J) of this section shall be afforded access to examine and copy all records, accounts, and any other documents relating to the operation of the residential facility, including records pertaining to residents.	2976 2977 2978 2979
(K) Employees of the department of mental health may enter,	2980

for the purpose of investigation, any institution, residence, 2981
facility, or other structure which has been reported to the 2982
department as, or that the department has reasonable cause to 2983
believe is, operating as a residential facility without a valid 2984
license. 2985

(L) The director shall adopt and may amend and rescind rules 2986
pursuant to Chapter 119. of the Revised Code governing the 2987
licensing and operation of residential facilities. The rules shall 2988
establish all of the following: 2989

(1) Minimum standards for the health, safety, adequacy, and 2990
cultural competency of treatment of and services for persons in 2991
residential facilities; 2992

(2) Procedures for the issuance, renewal, or revocation of 2993
the licenses of residential facilities; 2994

(3) Procedures for conducting criminal records checks for 2995
prospective operators, staff, and other individuals who, if 2996
employed by a residential facility, would have unsupervised access 2997
to facility residents; 2998

(4) The fee to be paid when applying for a new residential 2999
facility license or renewing the license; 3000

(5) Procedures for the operator of a residential facility to 3001
follow when notifying the ADAMHS board serving the county in which 3002
the facility is located when the facility is serving residents 3003
with mental illness or severe mental disability, including the 3004
circumstances under which the operator is required to make such a 3005
notification; 3006

(6) Procedures for the issuance and termination of orders of 3007
suspension of admission of residents to a residential facility; 3008

(7) Measures to be taken by residential facilities relative 3009
to residents' medication; 3010

(8) Requirements relating to preparation of special diets;	3011
(9) The maximum number of residents who may be served in a residential facility;	3012 3013
(10) The rights of residents of residential facilities and procedures to protect such rights;	3014 3015
(11) Procedures for obtaining an affiliation agreement approved by the board between a residential facility and a community mental health agency;	3016 3017 3018
(12) Standards and procedures under which the director may waive the requirements of any of the rules adopted.	3019 3020
(M)(1) The department may withhold the source of any complaint reported as a violation of this section when the department determines that disclosure could be detrimental to the department's purposes or could jeopardize the investigation. The department may disclose the source of any complaint if the complainant agrees in writing to such disclosure and shall disclose the source upon order by a court of competent jurisdiction.	3021 3022 3023 3024 3025 3026 3027 3028
(2) Any person who makes a complaint under division (M)(1) of this section, or any person who participates in an administrative or judicial proceeding resulting from such a complaint, is immune from civil liability and is not subject to criminal prosecution, other than for perjury, unless the person has acted in bad faith or with malicious purpose.	3029 3030 3031 3032 3033 3034
(N)(1) The director of mental health may petition the court of common pleas of the county in which a residential facility is located for an order enjoining any person from operating a residential facility without a license or from operating a licensed facility when, in the director's judgment, there is a present danger to the health or safety of any of the occupants of the facility. The court shall have jurisdiction to grant such	3035 3036 3037 3038 3039 3040 3041

injunctive relief upon a showing that the respondent named in the petition is operating a facility without a license or there is a present danger to the health or safety of any residents of the facility.

(2) When the court grants injunctive relief in the case of a facility operating without a license, the court shall issue, at a minimum, an order enjoining the facility from admitting new residents to the facility and an order requiring the facility to assist with the safe and orderly relocation of the facility's residents.

(3) If injunctive relief is granted against a facility for operating without a license and the facility continues to operate without a license, the director shall refer the case to the attorney general for further action.

(O) The director may fine a person for violating division (I) of this section. The fine shall be five hundred dollars for a first offense; for each subsequent offense, the fine shall be one thousand dollars. The director's actions in imposing a fine shall be taken in accordance with Chapter 119. of the Revised Code.

Section 2. That existing sections 109.57, 1337.11, 2133.01, 2317.54, 3701.881, 3712.01, 3712.03, 3712.09, 3712.99, 3721.01, 3793.11, 3795.01, 3963.01, 4719.01, 4752.02, and 5119.22 of the Revised Code are hereby repealed.

Section 3. The amendment of sections 109.57, 1337.11, 2133.01, 2317.54, 3701.881, 3712.01, 3712.03, 3712.09, 3712.99, 3721.01, 3795.01, 3963.01, 4719.01, 4752.02, and 5119.22 and the enactment of sections 3712.031, 3712.041, 3712.051, 3712.061, and 4729.43 of the Revised Code take effect ninety days after the effective date of this section.

Section 4. In the case of an application pending on the 3071
effective date of this section for a license to maintain methadone 3072
treatment, the requirement of division (C)(6) of section 3793.11 3073
of the Revised Code, as amended by this act, shall be applied by 3074
the Department of Alcohol and Drug Addiction Services in 3075
determining whether to issue the license. The Department may waive 3076
the requirement pursuant to division (D) of section 3793.11 of the 3077
Revised Code, as amended by this act. 3078

Section 5. That the version of section 109.57 of the Revised 3079
Code that is scheduled to take effect January 1, 2014, be amended 3080
to read as follows: 3081

Sec. 109.57. (A)(1) The superintendent of the bureau of 3082
criminal identification and investigation shall procure from 3083
wherever procurable and file for record photographs, pictures, 3084
descriptions, fingerprints, measurements, and other information 3085
that may be pertinent of all persons who have been convicted of 3086
committing within this state a felony, any crime constituting a 3087
misdemeanor on the first offense and a felony on subsequent 3088
offenses, or any misdemeanor described in division (A)(1)(a), 3089
(A)(5)(a), or (A)(7)(a) of section 109.572 of the Revised Code, of 3090
all children under eighteen years of age who have been adjudicated 3091
delinquent children for committing within this state an act that 3092
would be a felony or an offense of violence if committed by an 3093
adult or who have been convicted of or pleaded guilty to 3094
committing within this state a felony or an offense of violence, 3095
and of all well-known and habitual criminals. The person in charge 3096
of any county, multicounty, municipal, municipal-county, or 3097
multicounty-municipal jail or workhouse, community-based 3098
correctional facility, halfway house, alternative residential 3099
facility, or state correctional institution and the person in 3100

charge of any state institution having custody of a person 3101
suspected of having committed a felony, any crime constituting a 3102
misdemeanor on the first offense and a felony on subsequent 3103
offenses, or any misdemeanor described in division (A)(1)(a), 3104
(A)(5)(a), or (A)(7)(a) of section 109.572 of the Revised Code or 3105
having custody of a child under eighteen years of age with respect 3106
to whom there is probable cause to believe that the child may have 3107
committed an act that would be a felony or an offense of violence 3108
if committed by an adult shall furnish such material to the 3109
superintendent of the bureau. Fingerprints, photographs, or other 3110
descriptive information of a child who is under eighteen years of 3111
age, has not been arrested or otherwise taken into custody for 3112
committing an act that would be a felony or an offense of violence 3113
who is not in any other category of child specified in this 3114
division, if committed by an adult, has not been adjudicated a 3115
delinquent child for committing an act that would be a felony or 3116
an offense of violence if committed by an adult, has not been 3117
convicted of or pleaded guilty to committing a felony or an 3118
offense of violence, and is not a child with respect to whom there 3119
is probable cause to believe that the child may have committed an 3120
act that would be a felony or an offense of violence if committed 3121
by an adult shall not be procured by the superintendent or 3122
furnished by any person in charge of any county, multicounty, 3123
municipal, municipal-county, or multicounty-municipal jail or 3124
workhouse, community-based correctional facility, halfway house, 3125
alternative residential facility, or state correctional 3126
institution, except as authorized in section 2151.313 of the 3127
Revised Code. 3128

(2) Every clerk of a court of record in this state, other 3129
than the supreme court or a court of appeals, shall send to the 3130
superintendent of the bureau a weekly report containing a summary 3131
of each case involving a felony, involving any crime constituting 3132
a misdemeanor on the first offense and a felony on subsequent 3133

offenses, involving a misdemeanor described in division (A)(1)(a), 3134
(A)(5)(a), or (A)(7)(a) of section 109.572 of the Revised Code, or 3135
involving an adjudication in a case in which a child under 3136
eighteen years of age was alleged to be a delinquent child for 3137
committing an act that would be a felony or an offense of violence 3138
if committed by an adult. The clerk of the court of common pleas 3139
shall include in the report and summary the clerk sends under this 3140
division all information described in divisions (A)(2)(a) to (f) 3141
of this section regarding a case before the court of appeals that 3142
is served by that clerk. The summary shall be written on the 3143
standard forms furnished by the superintendent pursuant to 3144
division (B) of this section and shall include the following 3145
information: 3146

(a) The incident tracking number contained on the standard 3147
forms furnished by the superintendent pursuant to division (B) of 3148
this section; 3149

(b) The style and number of the case; 3150

(c) The date of arrest, offense, summons, or arraignment; 3151

(d) The date that the person was convicted of or pleaded 3152
guilty to the offense, adjudicated a delinquent child for 3153
committing the act that would be a felony or an offense of 3154
violence if committed by an adult, found not guilty of the 3155
offense, or found not to be a delinquent child for committing an 3156
act that would be a felony or an offense of violence if committed 3157
by an adult, the date of an entry dismissing the charge, an entry 3158
declaring a mistrial of the offense in which the person is 3159
discharged, an entry finding that the person or child is not 3160
competent to stand trial, or an entry of a nolle prosequi, or the 3161
date of any other determination that constitutes final resolution 3162
of the case; 3163

(e) A statement of the original charge with the section of 3164

the Revised Code that was alleged to be violated; 3165

(f) If the person or child was convicted, pleaded guilty, or 3166
was adjudicated a delinquent child, the sentence or terms of 3167
probation imposed or any other disposition of the offender or the 3168
delinquent child. 3169

If the offense involved the disarming of a law enforcement 3170
officer or an attempt to disarm a law enforcement officer, the 3171
clerk shall clearly state that fact in the summary, and the 3172
superintendent shall ensure that a clear statement of that fact is 3173
placed in the bureau's records. 3174

(3) The superintendent shall cooperate with and assist 3175
sheriffs, chiefs of police, and other law enforcement officers in 3176
the establishment of a complete system of criminal identification 3177
and in obtaining fingerprints and other means of identification of 3178
all persons arrested on a charge of a felony, any crime 3179
constituting a misdemeanor on the first offense and a felony on 3180
subsequent offenses, or a misdemeanor described in division 3181
(A)(1)(a), (A)(5)(a), or (A)(7)(a) of section 109.572 of the 3182
Revised Code and of all children under eighteen years of age 3183
arrested or otherwise taken into custody for committing an act 3184
that would be a felony or an offense of violence if committed by 3185
an adult. The superintendent also shall file for record the 3186
fingerprint impressions of all persons confined in a county, 3187
multicounty, municipal, municipal-county, or multicounty-municipal 3188
jail or workhouse, community-based correctional facility, halfway 3189
house, alternative residential facility, or state correctional 3190
institution for the violation of state laws and of all children 3191
under eighteen years of age who are confined in a county, 3192
multicounty, municipal, municipal-county, or multicounty-municipal 3193
jail or workhouse, community-based correctional facility, halfway 3194
house, alternative residential facility, or state correctional 3195
institution or in any facility for delinquent children for 3196

committing an act that would be a felony or an offense of violence 3197
if committed by an adult, and any other information that the 3198
superintendent may receive from law enforcement officials of the 3199
state and its political subdivisions. 3200

(4) The superintendent shall carry out Chapter 2950. of the 3201
Revised Code with respect to the registration of persons who are 3202
convicted of or plead guilty to a sexually oriented offense or a 3203
child-victim oriented offense and with respect to all other duties 3204
imposed on the bureau under that chapter. 3205

(5) The bureau shall perform centralized recordkeeping 3206
functions for criminal history records and services in this state 3207
for purposes of the national crime prevention and privacy compact 3208
set forth in section 109.571 of the Revised Code and is the 3209
criminal history record repository as defined in that section for 3210
purposes of that compact. The superintendent or the 3211
superintendent's designee is the compact officer for purposes of 3212
that compact and shall carry out the responsibilities of the 3213
compact officer specified in that compact. 3214

(B) The superintendent shall prepare and furnish to every 3215
county, multicounty, municipal, municipal-county, or 3216
multicounty-municipal jail or workhouse, community-based 3217
correctional facility, halfway house, alternative residential 3218
facility, or state correctional institution and to every clerk of 3219
a court in this state specified in division (A)(2) of this section 3220
standard forms for reporting the information required under 3221
division (A) of this section. The standard forms that the 3222
superintendent prepares pursuant to this division may be in a 3223
tangible format, in an electronic format, or in both tangible 3224
formats and electronic formats. 3225

(C)(1) The superintendent may operate a center for 3226
electronic, automated, or other data processing for the storage 3227
and retrieval of information, data, and statistics pertaining to 3228

criminals and to children under eighteen years of age who are 3229
adjudicated delinquent children for committing an act that would 3230
be a felony or an offense of violence if committed by an adult, 3231
criminal activity, crime prevention, law enforcement, and criminal 3232
justice, and may establish and operate a statewide communications 3233
network to be known as the Ohio law enforcement gateway to gather 3234
and disseminate information, data, and statistics for the use of 3235
law enforcement agencies and for other uses specified in this 3236
division. The superintendent may gather, store, retrieve, and 3237
disseminate information, data, and statistics that pertain to 3238
children who are under eighteen years of age and that are gathered 3239
pursuant to sections 109.57 to 109.61 of the Revised Code together 3240
with information, data, and statistics that pertain to adults and 3241
that are gathered pursuant to those sections. 3242

(2) The superintendent or the superintendent's designee shall 3243
gather information of the nature described in division (C)(1) of 3244
this section that pertains to the offense and delinquency history 3245
of a person who has been convicted of, pleaded guilty to, or been 3246
adjudicated a delinquent child for committing a sexually oriented 3247
offense or a child-victim oriented offense for inclusion in the 3248
state registry of sex offenders and child-victim offenders 3249
maintained pursuant to division (A)(1) of section 2950.13 of the 3250
Revised Code and in the internet database operated pursuant to 3251
division (A)(13) of that section and for possible inclusion in the 3252
internet database operated pursuant to division (A)(11) of that 3253
section. 3254

(3) In addition to any other authorized use of information, 3255
data, and statistics of the nature described in division (C)(1) of 3256
this section, the superintendent or the superintendent's designee 3257
may provide and exchange the information, data, and statistics 3258
pursuant to the national crime prevention and privacy compact as 3259
described in division (A)(5) of this section. 3260

(4) The attorney general may adopt rules under Chapter 119. 3261
of the Revised Code establishing guidelines for the operation of 3262
and participation in the Ohio law enforcement gateway. The rules 3263
may include criteria for granting and restricting access to 3264
information gathered and disseminated through the Ohio law 3265
enforcement gateway. The attorney general shall permit the state 3266
medical board and board of nursing to access and view, but not 3267
alter, information gathered and disseminated through the Ohio law 3268
enforcement gateway. 3269

The attorney general may appoint a steering committee to 3270
advise the attorney general in the operation of the Ohio law 3271
enforcement gateway that is comprised of persons who are 3272
representatives of the criminal justice agencies in this state 3273
that use the Ohio law enforcement gateway and is chaired by the 3274
superintendent or the superintendent's designee. 3275

(D)(1) The following are not public records under section 3276
149.43 of the Revised Code: 3277

(a) Information and materials furnished to the superintendent 3278
pursuant to division (A) of this section; 3279

(b) Information, data, and statistics gathered or 3280
disseminated through the Ohio law enforcement gateway pursuant to 3281
division (C)(1) of this section; 3282

(c) Information and materials furnished to any board or 3283
person under division (F) or (G) of this section. 3284

(2) The superintendent or the superintendent's designee shall 3285
gather and retain information so furnished under division (A) of 3286
this section that pertains to the offense and delinquency history 3287
of a person who has been convicted of, pleaded guilty to, or been 3288
adjudicated a delinquent child for committing a sexually oriented 3289
offense or a child-victim oriented offense for the purposes 3290
described in division (C)(2) of this section. 3291

(E)(1) The attorney general shall adopt rules, in accordance 3292
with Chapter 119. of the Revised Code and subject to division 3293
(E)(2) of this section, setting forth the procedure by which a 3294
person may receive or release information gathered by the 3295
superintendent pursuant to division (A) of this section. A 3296
reasonable fee may be charged for this service. If a temporary 3297
employment service submits a request for a determination of 3298
whether a person the service plans to refer to an employment 3299
position has been convicted of or pleaded guilty to an offense 3300
listed or described in division (A)(1), (2), or (3) of section 3301
109.572 of the Revised Code, the request shall be treated as a 3302
single request and only one fee shall be charged. 3303

(2) Except as otherwise provided in this division, a rule 3304
adopted under division (E)(1) of this section may provide only for 3305
the release of information gathered pursuant to division (A) of 3306
this section that relates to the conviction of a person, or a 3307
person's plea of guilty to, a criminal offense. The superintendent 3308
shall not release, and the attorney general shall not adopt any 3309
rule under division (E)(1) of this section that permits the 3310
release of, any information gathered pursuant to division (A) of 3311
this section that relates to an adjudication of a child as a 3312
delinquent child, or that relates to a criminal conviction of a 3313
person under eighteen years of age if the person's case was 3314
transferred back to a juvenile court under division (B)(2) or (3) 3315
of section 2152.121 of the Revised Code and the juvenile court 3316
imposed a disposition or serious youthful offender disposition 3317
upon the person under either division, unless either of the 3318
following applies with respect to the adjudication or conviction: 3319

(a) The adjudication or conviction was for a violation of 3320
section 2903.01 or 2903.02 of the Revised Code. 3321

(b) The adjudication or conviction was for a sexually 3322
oriented offense, the juvenile court was required to classify the 3323

child a juvenile offender registrant for that offense under 3324
section 2152.82, 2152.83, or 2152.86 of the Revised Code, and that 3325
classification has not been removed. 3326

(F)(1) As used in division (F)(2) of this section, "head 3327
start agency" means an entity in this state that has been approved 3328
to be an agency for purposes of subchapter II of the "Community 3329
Economic Development Act," 95 Stat. 489 (1981), 42 U.S.C.A. 9831, 3330
as amended. 3331

(2)(a) In addition to or in conjunction with any request that 3332
is required to be made under section 109.572, 2151.86, 3301.32, 3333
3301.541, division (C) of section 3310.58, or section 3319.39, 3334
3319.391, 3327.10, 3701.881, 5104.012, 5104.013, 5123.081, or 3335
5153.111 of the Revised Code or that is made under section 3336
3314.41, 3319.392, 3326.25, or 3328.20 of the Revised Code, the 3337
board of education of any school district; the director of 3338
developmental disabilities; any county board of developmental 3339
disabilities; any provider or subcontractor as defined in section 3340
5123.081 of the Revised Code; the chief administrator of any 3341
chartered nonpublic school; the chief administrator of a 3342
registered private provider that is not also a chartered nonpublic 3343
school; the chief administrator of any home health agency; the 3344
chief administrator of or person operating any child day-care 3345
center, type A family day-care home, or type B family day-care 3346
home licensed under Chapter 5104. of the Revised Code; the chief 3347
administrator of any head start agency; the executive director of 3348
a public children services agency; a private company described in 3349
section 3314.41, 3319.392, 3326.25, or 3328.20 of the Revised 3350
Code; or an employer described in division (J)(2) of section 3351
3327.10 of the Revised Code may request that the superintendent of 3352
the bureau investigate and determine, with respect to any 3353
individual who has applied for employment in any position after 3354
October 2, 1989, or any individual wishing to apply for employment 3355

with a board of education may request, with regard to the 3356
individual, whether the bureau has any information gathered under 3357
division (A) of this section that pertains to that individual. On 3358
receipt of the request, subject to division (E)(2) of this 3359
section, the superintendent shall determine whether that 3360
information exists and, upon request of the person, board, or 3361
entity requesting information, also shall request from the federal 3362
bureau of investigation any criminal records it has pertaining to 3363
that individual. The superintendent or the superintendent's 3364
designee also may request criminal history records from other 3365
states or the federal government pursuant to the national crime 3366
prevention and privacy compact set forth in section 109.571 of the 3367
Revised Code. Within thirty days of the date that the 3368
superintendent receives a request, subject to division (E)(2) of 3369
this section, the superintendent shall send to the board, entity, 3370
or person a report of any information that the superintendent 3371
determines exists, including information contained in records that 3372
have been sealed under section 2953.32 of the Revised Code, and, 3373
within thirty days of its receipt, subject to division (E)(2) of 3374
this section, shall send the board, entity, or person a report of 3375
any information received from the federal bureau of investigation, 3376
other than information the dissemination of which is prohibited by 3377
federal law. 3378

(b) When a board of education or a registered private 3379
provider is required to receive information under this section as 3380
a prerequisite to employment of an individual pursuant to division 3381
(C) of section 3310.58 or section 3319.39 of the Revised Code, it 3382
may accept a certified copy of records that were issued by the 3383
bureau of criminal identification and investigation and that are 3384
presented by an individual applying for employment with the 3385
district in lieu of requesting that information itself. In such a 3386
case, the board shall accept the certified copy issued by the 3387
bureau in order to make a photocopy of it for that individual's 3388

employment application documents and shall return the certified 3389
copy to the individual. In a case of that nature, a district or 3390
provider only shall accept a certified copy of records of that 3391
nature within one year after the date of their issuance by the 3392
bureau. 3393

(c) Notwithstanding division (F)(2)(a) of this section, in 3394
the case of a request under section 3319.39, 3319.391, or 3327.10 3395
of the Revised Code only for criminal records maintained by the 3396
federal bureau of investigation, the superintendent shall not 3397
determine whether any information gathered under division (A) of 3398
this section exists on the person for whom the request is made. 3399

(3) The state board of education may request, with respect to 3400
any individual who has applied for employment after October 2, 3401
1989, in any position with the state board or the department of 3402
education, any information that a school district board of 3403
education is authorized to request under division (F)(2) of this 3404
section, and the superintendent of the bureau shall proceed as if 3405
the request has been received from a school district board of 3406
education under division (F)(2) of this section. 3407

(4) When the superintendent of the bureau receives a request 3408
for information under section 3319.291 of the Revised Code, the 3409
superintendent shall proceed as if the request has been received 3410
from a school district board of education and shall comply with 3411
divisions (F)(2)(a) and (c) of this section. 3412

(5) When a recipient of a classroom reading improvement grant 3413
paid under section 3301.86 of the Revised Code requests, with 3414
respect to any individual who applies to participate in providing 3415
any program or service funded in whole or in part by the grant, 3416
the information that a school district board of education is 3417
authorized to request under division (F)(2)(a) of this section, 3418
the superintendent of the bureau shall proceed as if the request 3419
has been received from a school district board of education under 3420

division (F)(2)(a) of this section. 3421

(G) In addition to or in conjunction with any request that is 3422
required to be made under section 3701.881, 3712.09, or 3721.121 3423
of the Revised Code with respect to an individual who has applied 3424
for employment in a position that involves providing direct care 3425
to an older adult or adult resident, the chief administrator of a 3426
home health agency, hospice care program, home licensed under 3427
Chapter 3721. of the Revised Code, or adult day-care program 3428
operated pursuant to rules adopted under section 3721.04 of the 3429
Revised Code may request that the superintendent of the bureau 3430
investigate and determine, with respect to any individual who has 3431
applied after January 27, 1997, for employment in a position that 3432
does not involve providing direct care to an older adult or adult 3433
resident, whether the bureau has any information gathered under 3434
division (A) of this section that pertains to that individual. 3435

In addition to or in conjunction with any request that is 3436
required to be made under section 173.27 of the Revised Code with 3437
respect to an individual who has applied for employment in a 3438
position that involves providing ombudsperson services to 3439
residents of long-term care facilities or recipients of 3440
community-based long-term care services, the state long-term care 3441
ombudsperson, ombudsperson's designee, or director of health may 3442
request that the superintendent investigate and determine, with 3443
respect to any individual who has applied for employment in a 3444
position that does not involve providing such ombudsperson 3445
services, whether the bureau has any information gathered under 3446
division (A) of this section that pertains to that applicant. 3447

In addition to or in conjunction with any request that is 3448
required to be made under section 173.394 of the Revised Code with 3449
respect to an individual who has applied for employment in a 3450
position that involves providing direct care to an individual, the 3451
chief administrator of a community-based long-term care agency may 3452

request that the superintendent investigate and determine, with 3453
respect to any individual who has applied for employment in a 3454
position that does not involve providing direct care, whether the 3455
bureau has any information gathered under division (A) of this 3456
section that pertains to that applicant. 3457

In addition to or in conjunction with any request that is 3458
required to be made under section 3712.09 of the Revised Code with 3459
respect to an individual who has applied for employment in a 3460
position that involves providing direct care to a pediatric 3461
respite care patient, the chief administrator of a pediatric 3462
respite care program may request that the superintendent of the 3463
bureau investigate and determine, with respect to any individual 3464
who has applied for employment in a position that does not involve 3465
providing direct care to a pediatric respite care patient, whether 3466
the bureau has any information gathered under division (A) of this 3467
section that pertains to that individual. 3468

On receipt of a request under this division, the 3469
superintendent shall determine whether that information exists 3470
and, on request of the individual requesting information, shall 3471
also request from the federal bureau of investigation any criminal 3472
records it has pertaining to the applicant. The superintendent or 3473
the superintendent's designee also may request criminal history 3474
records from other states or the federal government pursuant to 3475
the national crime prevention and privacy compact set forth in 3476
section 109.571 of the Revised Code. Within thirty days of the 3477
date a request is received, subject to division (E)(2) of this 3478
section, the superintendent shall send to the requester a report 3479
of any information determined to exist, including information 3480
contained in records that have been sealed under section 2953.32 3481
of the Revised Code, and, within thirty days of its receipt, shall 3482
send the requester a report of any information received from the 3483
federal bureau of investigation, other than information the 3484

dissemination of which is prohibited by federal law. 3485

(H) Information obtained by a government entity or person 3486
under this section is confidential and shall not be released or 3487
disseminated. 3488

(I) The superintendent may charge a reasonable fee for 3489
providing information or criminal records under division (F)(2) or 3490
(G) of this section. 3491

(J) As used in this section: 3492

(1) "Pediatric respite care program" and "pediatric care 3493
patient" have the same meanings as in section 3712.01 of the 3494
Revised Code. 3495

(2) "Sexually oriented offense" and "child-victim oriented 3496
offense" have the same meanings as in section 2950.01 of the 3497
Revised Code. 3498

~~(2)~~(3) "Registered private provider" means a nonpublic school 3499
or entity registered with the superintendent of public instruction 3500
under section 3310.41 of the Revised Code to participate in the 3501
autism scholarship program or section 3310.58 of the Revised Code 3502
to participate in the Jon Peterson special needs scholarship 3503
program. 3504

Section 6. That the existing version of section 109.57 of the 3505
Revised Code that is scheduled to take effect January 1, 2014, is 3506
hereby repealed. 3507

Section 6A. Sections 5 and 6 of this act take effect January 3508
1, 2014. 3509

Section 7. The provisions of this act regarding the licensure 3510
of pediatric respite care programs, as provided in the amendment 3511
and enactment of sections 3712.01, 3712.03, 3712.031, 3712.041, 3512

3712.051, 3712.061 3712.09, and 3712.99 of the Revised Code, shall 3513
be known as "Sarah's Law." 3514

Section 8. Section 109.57 of the Revised Code appears for 3515
purposes of its amendment by this act having been harmonized to 3516
include amendments of earlier acts having effective dates that are 3517
earlier and later than the effective date of the amendments by 3518
this act. This act neither delays nor accelerates those other 3519
effective dates, and the earlier amendments take effect according 3520
to the acts in which they appear. 3521

Section 9. Section 109.57 of the Revised Code is presented in 3522
this act as a composite of the section as amended by both Am. Sub. 3523
H.B. 487 and Am. Sub. S.B. 337 of the 129th General Assembly. The 3524
version of section 109.57 of the Revised Code that takes effect on 3525
January 1, 2014, is presented in this act as a composite of the 3526
section as amended by Am. Sub. H.B. 487, Am. Sub. S.B. 316, and 3527
Am. Sub. S.B. 337, all of the 129th General Assembly. The General 3528
Assembly, applying the principle stated in division (B) of section 3529
1.52 of the Revised Code that amendments are to be harmonized if 3530
reasonably capable of simultaneous operation, finds that the 3531
composites are the resulting versions of the sections in effect 3532
prior to the effective date of the sections as presented in this 3533
act. 3534

Section 10. This act is hereby declared to be an emergency 3535
measure necessary for the immediate preservation of the public 3536
peace, health, and safety. The reason for such necessity is that 3537
immediate action is necessary to provide for the special needs of 3538
children and to create a safe environment for Ohio's youth. 3539
Therefore, this act shall go into immediate effect. 3540