

- **Ohio Revised Code**
- » **[51] LI PUBLIC WELFARE**
- » **5111: MEDICAL ASSISTANCE PROGRAMS**

5111.034 Fingerprint impressions and criminal records check independent provider in department administered home and community-based waiver program.

(A) As used in this section:

(1) "Anniversary date" means the later of the effective date of the provider agreement relating to the independent provider or sixty days after September 26, 2003.

(2) "Criminal records check" has the same meaning as in section [.572](#) of the Revised Code.

(3) "Department" includes a designee of the department of job and family services.

(4) "Independent provider" means a person who is submitting an application for a provider agreement or who has a provider agreement as an independent provider in a department of job and family services administered home and community-based services program providing home and community-based waiver services to consumers with disabilities.

(5) "Home and community-based waiver services" has the same meaning as in section [.033](#) of the Revised Code.

(B)

(1) The department of job and family services shall inform each independent provider, at the time of initial application for a provider agreement that involves providing home and community-based waiver services to consumers with disabilities, that the independent provider is required to provide a set of fingerprint impressions and that a criminal records check is required to be conducted if the person is to become an independent provider in a department administered home and community-based waiver program.

(2) Beginning on September 26, 2003, the department shall inform each enrolled Medicaid independent provider on or before time of the anniversary date of the provider agreement that involves providing home and community-based waiver services to consumers with disabilities that the independent provider is required to provide a set of fingerprint impressions and that a criminal records check is required to be conducted.

(C)

(1) The department shall require the independent provider to complete a criminal records check prior to entering into a provider agreement with the independent provider and at least annually thereafter. If an independent provider for whom a criminal records check 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 of the bureau of criminal identification and investigation has requested information about the

independent provider from the federal bureau of investigation in a criminal records check, the department shall request that the independent provider obtain through the superintendent a criminal records request from the federal bureau of investigation as part of the criminal records check of the independent provider. Even if an independent provider 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 department may request that the independent provider obtain information through the superintendent from the federal bureau of investigation in the criminal records check.

(2) The department shall provide the following to each independent provider for whom a criminal records check request is required under division (C)(1) of this section:

(a) Information about accessing, completing, and forwarding to the superintendent of the bureau of criminal identification and investigation the form prescribed pursuant to division (C)(1) of section [.572](#) of the Revised Code and the standard fingerprint impression sheet prescribed pursuant to division (C)(2) of that section;

(b) Written notification that the independent provider is to instruct the superintendent to submit the completed report of the criminal records check directly to the department.

(3) An independent provider given information and notification under divisions (C)(2)(a) and (b) of this section who fails to access, complete, and forward to the superintendent the form or the standard fingerprint impression sheet, or who fails to instruct the superintendent to submit the completed report of the criminal records check directly to the department, shall not be approved as an independent provider.

(D) Except as provided in rules adopted by the department in accordance with division (G) of this section, the department shall not issue a new provider agreement to, and shall terminate an existing provider agreement of, an independent provider if the person has been convicted of, has pleaded guilty to, or has been found eligible for intervention in lieu of conviction for any of the following, regardless of the date of the conviction, the date of entry of the guilty plea, or the date the person was found eligible for intervention in lieu of conviction:

(1) A violation of section 959.13, [.01](#), [.02](#), [.03](#), [.04](#), [.041](#), [.11](#), [.12](#), [.13](#), 2903.15, [.16](#), [.21](#), 2903.211, [.22](#), [.34](#), [.01](#), [.02](#), [.05](#), [.11](#), [.12](#), [.02](#), [.03](#), [.04](#), [.05](#), [.06](#), [.07](#), [.08](#), [.09](#), [.21](#), [.22](#), 2907.23, [.24](#), [.25](#), [.31](#), [.32](#), [.321](#), [.322](#), [.323](#), 2909.02, [.03](#), [.04](#), [.05](#), [.22](#), [.23](#), [.24](#), [.01](#), [.02](#), [.11](#), [.12](#), [.13](#), [.02](#), [.03](#), [.04](#), 2913.05, [.11](#), [.21](#), [.31](#), 2913.32, [.40](#), 2913.41, [.42](#), [.43](#), 2913.44, [.441](#), [.45](#), [.46](#), [.47](#), [.48](#), [.49](#), [.51](#), 2917.01, [.02](#), [.03](#), [.11](#), 2917.31, [.12](#), [.22](#), 2919.23, [.24](#), [.25](#), 2921.03, [.11](#), [.13](#), 2921.34, [.35](#), [.36](#), 2923.01, [.02](#), 2923.03, [.12](#), [.13](#), [.161](#), [.32](#), [.02](#), [.03](#), [.04](#), [.05](#), [.06](#), [.11](#), [.13](#), [.14](#), [.22](#), [.23](#), 2927.12, or [.11](#) of the Revised Code, felonious sexual penetration in violation of former section [.12](#) of the Revised Code, a violation of section [.04](#) of the Revised Code as it existed prior to July 1, 1996, a violation of section [.23](#) of the Revised Code that would have been a violation of section [.04](#) of the Revised Code as it existed prior to July 1, 1996, had the violation been committed prior to that date;

(2) A violation of an existing or former municipal ordinance or law of this state, any other state, or the United States that is substantially equivalent to any of the offenses listed in division (D)(1) of this section.

(E) Each independent provider shall pay to the bureau of criminal identification and investigation the fee prescribed pursuant to division (C)(3) of section [.572](#) of the Revised Code for each criminal records check conducted pursuant to a request made under division (C) of this section.

(F) The report of any criminal records check conducted by the bureau of criminal identification and investigation in accordance with section [.572](#) of the Revised Code and pursuant to a request made under division (C) of this section is not a public record for the purposes of section [.43](#) of the Revised Code and shall not be made available to any person other than the following:

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

(2) An administrator at the department or the administrator's representative;

(3) A court, hearing officer, or other necessary individual involved in a case dealing with a denial or termination of a provider agreement related to the criminal records check.

(G) The department shall adopt rules in accordance with Chapter 119. of the Revised Code to implement this section. The rules shall specify circumstances under which the department may either issue a provider agreement to an independent provider or allow an independent provider to maintain an existing provider agreement when the independent provider has been convicted of, has pleaded guilty to, or has been found eligible for intervention in lieu of conviction for an offense listed or described in division (D)(1) or (2) of this section.

Amended by 128th General Assembly File No. 9, HB 1, § 101.01, eff. 10/16/2009.

Effective Date: 2007 HB119 09-29-2007