

Rule Summary and Fiscal Analysis

Part A - General Questions

Rule Number: 173-9-03

Rule Type: Amendment

Rule Title/Tagline: Background checks for paid direct-care positions: reviewing databases (except for the self-employed).

Agency Name: Department of Aging

Division:

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I. Rule Summary

1. Is this a five year rule review? Yes
 - A. What is the rule's five year review date? 1/10/2018
2. Is this rule the result of recent legislation? No
3. What statute is this rule being promulgated under? 119.03
4. What statute(s) grant rule writing authority? 173.01, 173.02, 173.38, 173.391, 173.392; 42 U.S.C. 3025(a)(1)(C); 45 C.F.R. 1321.11
5. What statute(s) does the rule implement or amplify? 173.38; 42 C.F.R. 460.68(a), 460.71(b)(1), 460.71(b)(2)
6. What are the reasons for proposing the rule?

The rule implements the database reviews authorized by ORC§173.38.
7. Summarize the rule's content, and if this is an amended rule, also summarize the rule's changes.

This rule require responsible parties to conduct database reviews on applicants and employees in direct-care positions and requires doing so before requesting criminal records on those applicants and employees.

The Ohio Department of Rehabilitation and Corrections recently changed the URL for its offender-search database. Therefore, in this rule ODA proposes to replace "<http://www.drc.ohio.gov/OffenderSearch/Search.aspx>" with "<https://appgateway.drc.ohio.gov/OffenderSearch>."

The HHS Office of Inspector General changed the URL for its exclusionary database. Therefore, in this rule, ODA proposes to replace "<http://exclusins.oig.hs.gov>" with "<https://exclusions.oig.hhs.gov/>."

Above the table entitled, "DATABASES TO REVIEW," ODA proposes to insert the following: "In the table below, ODA listed the web address (URL) on which each database was accessible to the public at the time of this rule's adoption. If a URL listed in the table becomes obsolete, please consult with the government entity publishing the database for an updated URL."

Below the table entitled, "DATABASES TO REVIEW," ODA proposes to add language from ORC §§ 173.27, 173.38, and 173.381 identifying the laws creating each of the 6 databases.

8. **Does the rule incorporate material by reference? Yes**
9. **If the rule incorporates material by reference and the agency claims the material is exempt pursuant to R.C. 121.71 to 121.76, please explain the basis for the exemption and how an individual can find the referenced material.**

The rule requires responsible parties to review databases they may not otherwise be required to check if ODA had not required doing so in the rule. The databases are all available for use by the general public free of charge. ODA added the URLs for each database in the rule to make the database easy to find.
10. **If revising or re-filing the rule, please indicate the changes made in the revised or re-filed version of the rule.**

Not Applicable

II. Fiscal Analysis

11. **As a result of this proposed rule, please estimate the increase / decrease in revenues or expenditures affecting this agency, or the state generally, in the current biennium**

or future years. If the proposed rule is likely to have a different fiscal effect in future years, please describe the expected difference and operation.

This will have no impact on revenues or expenditures.

\$0.00

ODA estimates the proposed amendments to this rule will not affect the biennial budget the Ohio General Assembly established for ODA.

12. What are the estimated costs of compliance for all persons and/or organizations directly affected by the rule?

The databases are free to review and prevent responsible parties from paying for criminal records checks when applicants are first disqualified by 1 or more of the databases. ODA's proposed updating of URLs will not affect the cost of compliance, but may save responsible parties from looking for the new URLs when old ones are listed.

13. Does the rule increase local government costs? (If yes, you must complete an RSFA Part B). No

14. Does the rule regulate environmental protection? (If yes, you must complete an RSFA Part C). No

III. Common Sense Initiative (CSI) Questions

15. Was this rule filed with the Common Sense Initiative Office? Yes

16. Does this rule have an adverse impact on business? Yes

A. Does this rule require a license, permit, or any other prior authorization to engage in or operate a line of business? Yes

This rule requires responsible parties to check 6 free-to-use databases to determine if an applicant is disqualified from being hired into a direct-care position, or if an employee is disqualified from being retained in a direct-care position before the responsible party spends money conducting a criminal records check.

B. Does this rule impose a criminal penalty, a civil penalty, or another sanction, or create a cause of action, for failure to comply with its terms? No

See RSFA for 173-9-10 (New).

- C. Does this rule require specific expenditures or the report of information as a condition of compliance? No**

For records requirements, please see 173-9-08, which is not part of this rule package.