

Rule Summary and Fiscal Analysis

Part A - General Questions

Rule Number: 173-9-07

Rule Type: Rescission

Rule Title/Tagline: Background checks for paid direct-care positions: hiring an applicant, or retaining an employee, who has a disqualifying offense on criminal record.

Agency Name: Department of Aging

Division:

Address: 30 E Broad St. 22nd Floor Columbus OH 43215-3414

Contact: Tom Simmons **Phone:** 614-202-7971

Email: tsimmons@age.ohio.gov

I. Rule Summary

1. Is this a five year rule review? Yes
 - A. What is the rule's five year review date? 7/20/2023
2. Is this rule the result of recent legislation? Yes
 - A. If so, what is the bill number, General Assembly and Sponsor? SB 288 - 134 - Manning
3. What statute is this rule being promulgated under? 119.03
4. What statute(s) grant rule writing authority? 121.07, 173.01, 173.02, 173.38, 173.391, 173.392; 42 U.S.C. 3025; 45 C.F.R. 1321.11
5. What statute(s) does the rule implement or amplify? 109.572, 173.38; 42 C.F.R. 460.68, 460.71
6. Does the rule implement a federal law or rule in a manner that is more stringent or burdensome than the federal law or regulation requires? No
 - A. If so, what is the citation to the federal law or rule? Not Applicable

7. What are the reasons for proposing the rule?

This rule exists to implement the requirement under R.C. §173.38 to establish occasions when a responsible party may hire an applicant or self-employed subcontractor, or retain an employee or self-employed subcontractor if that person has a disqualifying offense on their criminal record.

8. Summarize the rule's content, and if this is an amended rule, also summarize the rule's changes.

This rule implements the requirement under R.C. §173.38 to establish occasions when a responsible party may hire an applicant or self-employed subcontractor, or retain an employee or self-employed subcontractor if that person has a disqualifying offense on their criminal record. Interviews with human resources professionals working for responsible parties indicate that this may be the most useful rule in this chapter. This is supported by Google Analytics, which revealed that, for a 99-week period, the public accessed this rule on codes.ohio.gov more often (at 21.2 times per week), and for more time (at 3 minutes and 32 seconds per view), than any other rule in Chapter 173-9 of the Administrative Code. For more details, please review the business impact analysis (BIA) or the RSFA for the proposed new rule.

9. Does the rule incorporate material by reference? No**10. If the rule incorporates material by reference and the agency claims the material is exempt pursuant to R.C. 121.75, please explain the basis for the exemption and how an individual can find the referenced material.**

Not Applicable

11. 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**12. Please estimate the increase / decrease in the agency's revenues or expenditures in the current biennium due to this rule.**

This will have no impact on revenues or expenditures.

\$0.00

Rescinding this rule will have no impact upon the biennial budget that the Ohio General Assembly established for ODA in House Bill 33 (135th G.A.), especially because ODA is simultaneously proposing to adopt a similar new rule of the same number.

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

Please review ODA's responses to questions #15, #16, and #17 on the BIA.

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

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

16. If the rule imposes a regulation fee, explain how the fee directly relates to your agency's cost in regulating the individual or business.

Not Applicable

III. Common Sense Initiative (CSI) Questions

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

18. Does this rule have an adverse impact on business? No

A. Does this rule require a license, permit, or any other prior authorization to engage in or operate a line of business? No

Please review ODA's responses to questions #15, #16, and #17 on the BIA.

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

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

Please review ODA's responses to questions #15, #16, and #17 on the BIA.

D. Is it likely that the rule will directly reduce the revenue or increase the expenses of the lines of business of which it will apply or applies? No

IV. Regulatory Restriction Requirements under S.B. 9. Note: This section only applies to agencies described in R.C. 121.95(A).

19. Are you adding a new or removing an existing regulatory restriction as defined in R.C. 121.95? Yes

A. How many new regulatory restrictions do you propose adding to this rule? 0

B. How many existing regulatory restrictions do you propose removing from this rule? 4

(A)(1) No responsible party SHALL hire an applicant or retain an employee....

(A)(2)(a) No responsible party SHALL hire and applicant or retain an employee....

(A)(3)(a) No responsible party SHALL hire and applicant or retain an employee....

(A)(4)(a) No responsible party SHALL hire and applicant or retain an employee....

C. If you are not removing existing regulatory restrictions from this rule, please list the rule number(s) from which you are removing restrictions.

D. Please justify the adoption of the new regulatory restriction(s).

Not Applicable