Ohio Department of Aging

John Kasich, Governor
Bonnie Kantor-Burman, Director

AGENCY MEMORANDUM OF RESPONSE

To: Whitney Sullinger, Regulatory Policy Advocate, CSI Office

From: Tom Simmons, Policy Manager

Re: H.B.487: Criminal Records Checks

Date: October 16, 2012

Thank you for reviewing ODA's proposed new criminal records check rules.

Because the "CSI Office is not suggesting any changes to the rules" and "generally" found "the rule package satisfactorily meets the standards espoused by the CSI Office," ODA will now proceed with filing the above mentioned rule proposals with JCARR.

In doing so, ODA has made further improvements to the proposed new rules after the CSI Office's review of the rules that should have no impact upon the adverse impact that the rules may cause to Ohio businesses. The changes include:

- Correctly stating in the description of proposed new rule 173-9-07 of the Administrative Code in the business impact analysis that minor drug possession is an offense in Tier V (not Tier IV) of proposed new rule 173-9-07 of the Administrative Code.

- Revising the title of the table in proposed new rule 173-9-04 of the Administrative Code from "FREQUENCY OF CRIMINAL RECORDS CHECKS" TO "ON WHOM IS A CRIMINAL RECORDS CHECK REQUIRED?" The language in paragraph (B) of the same rule was also revised to replace "frequency" with the same. The table and this revision should eliminate confusion expressed by some commenters during the public-comment period on whether or not applicants for positions to only deliver meals *etc.* are required to undergo criminal records checks.

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- Transforming the last clause of paragraph (B)(3) of proposed new rule 173-9-04 of the Administrative Code into a sentence of its own. The paragraph has the same meaning, but now reads clearly.

- Revised the wording in paragraphs (B)(1) and (B)(2) of proposed new rule 173-9-05 of the Administrative Code so that it is clear that the maximum duration for conditional employment is 60 days and not 59 days.

- Revising, in proposed new rules 173-9-06 and 173-9-07 of the Administrative Code, the description of the crime associated with section 2907.23 of the Revised Code from "procuring" to "enticement or solicitation to patronize a prostitute; procurement of a prostitute for another."

- Revising, in proposed new rules 173-9-06 and 173-9-07 of the Administrative Code, the description of the crime associated with section 2907.24 of the Revised Code from "soliciting" to "soliciting, engaging in solicitation after a positive HIV test."

- Moving the conditional clause that begins with "if the state long-term care ombudsman designates..." from the beginning of paragraph (A)(1)(c) of proposed new rule 173-9-08 of the Administrative Code to the end of the same paragraph. This increases readability.

- Changing the language in paragraph (B)(1)(b) of proposed new rule 173-9-08 of the Administrative Code from that of retaining records in "personnel records" to retaining records in "personnel files."

- Repairing grammatical errors (*e.g.*, "plead" *vs.*, "pleaded") and typographical errors throughout the rule package.

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cc: Mark Hamlin, CSI Office
Carla Dowling-Fitzpatrick, Chief Legal Counsel, ODA