Ohio Revised Code

Section 109.5721 Retained applicant fingerprint database.

Effective: September 29, 2017

Legislation: House Bill 49 - 132nd General Assembly

(A) As used in this section:

(1) "Employment" includes volunteer service.

(2) "Independent provider" has the same meaning as in section 5164.341 of the Revised Code.

(3) "Licensure" means the authorization, evidenced by a license, certificate, registration, permit, or other authority that is issued or conferred by a public office, to engage in a profession, occupation, or occupational activity, to be a foster caregiver, or to have control of and operate certain specific equipment, machinery, or premises over which a public office has jurisdiction.

(4) "Participating public office" means a public office that requires a fingerprint background check as a condition of employment with, licensure by, or approval for adoption by the public office and that elects to receive notice under division (D) of this section in accordance with rules adopted by the attorney general. "Participating public office" also means the department of medicaid if it elects to receive notices under division (D) of this section regarding independent providers.

(5) "Public office" has the same meaning as in section 117.01 of the Revised Code.

(6) "Participating private party" means any person or private entity that is allowed to request a criminal records check pursuant to division (A)(2) or (3) of section 109.572 of the Revised Code.

(B) Within six months after August 15, 2007, the superintendent of the bureau of criminal identification and investigation shall establish and maintain a database of fingerprints of individuals on whom the bureau has conducted criminal records checks for either of the following purposes:

(1) To determine the individual's eligibility for employment with, licensure by, or approval for adoption by a public office or participating private party;

(2) To determine whether an applicant for a medicaid provider agreement as an independent provider is ineligible for the medicaid provider agreement because of section 5164.341 of the Revised Code.

(C) The superintendent shall maintain the database separate and apart from other records maintained by the bureau. The database shall be known as the retained applicant fingerprint database.

(D) When the superintendent receives information that an individual whose name is in the retained applicant fingerprint database has been arrested for, convicted of, or pleaded guilty to any offense, the superintendent shall promptly notify the following of the individual's arrest, conviction, or guilty plea:

(1) Any participating public office or participating private party that employs, licensed, or approved the individual;

(2) The department of medicaid if the individual is an independent provider.

(E)(1) A participating public office or participating private party that receives a notification under division (D) of this section, and its employees and officers, shall use the information contained in the notification solely to determine the individual's continued eligibility for the following:

(a) Employment with the participating public office or participating private party;

(b) Licensure by the participating public office;

(c) Approval for adoption by the participating public office;

(d) A medicaid provider agreement as an independent provider.

(2) Except as provided in division (E) of section 5164.341 of the Revised Code, information contained in the notification is confidential and not a public record under section 149.43 of the Revised Code and a participating public office or participating private party, and its employees and officers, shall not disclose that information to any person for any purpose not specified in division

(E)(1) of this section.

(F) If an individual has submitted fingerprint impressions for employment with, licensure by, or approval for adoption by a participating public office or participating private party and seeks employment with, licensure by, or approval for adoption by another participating public office or participating private party, the other participating public office or participating private party shall reprint the individual. If an individual has been reprinted, the superintendent shall update that individual's information accordingly.

(G) The bureau of criminal identification and investigation and the participating public office or participating private party shall use information contained in the retained applicant fingerprint database and in the notice described in division (D) of this section only for the purpose of this section. This information is otherwise confidential and not a public record under section 149.43 of the Revised Code.

(H) The attorney general shall adopt rules in accordance with Chapter 119. of the Revised Code governing the operation and maintenance of the database. The rules shall provide for, but not be limited to, both of the following:

(1) The expungement or sealing of records of the following:

(a) Individuals who are deceased;

(b) Individuals who are no longer employed, granted licensure, or approved for adoption by the participating public office or participating private party that required submission of the individual's fingerprints;

(c) Individuals who are no longer independent providers.

(2) The terms under which a public office or participating private party may elect to receive notification under division (D) of this section, including payment of any reasonable fee that may be charged for the purpose.

(I) No public office or employee of a public office shall be considered negligent in a civil action solely because the public office did not elect to be a participating public office.

(J)(1) No person shall knowingly use information contained in or received from the retained applicant fingerprint database for purposes not authorized by this section.

(2) No person shall knowingly use information contained in or received from the retained applicant fingerprint database with the intent to harass or intimidate another person.

(3) Whoever violates division (J)(1) or (2) of this section is guilty of unlawful use of retained applicant fingerprint database records. A violation of division (J)(1) of this section is a misdemeanor of the fourth degree. A violation of division (J)(2) of this section is a misdemeanor of the first degree.