



## Ohio Revised Code

### Section 113.041 Employee criminal records check.

Effective: March 24, 2008

Legislation: House Bill 104 - 127th General Assembly

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(A) The treasurer of state may require an individual who applies for employment with, or is employed by, the treasurer of state's office to undergo a criminal records check conducted by the superintendent of the bureau of criminal identification and investigation in accordance with section 109.572 of the Revised Code. If, pursuant to this division, the treasurer of state requires an individual to undergo a criminal records check, the treasurer of state shall request the superintendent to conduct a criminal records check with respect to the individual in accordance with that section. In the request, the treasurer of state may request that the superintendent obtain information from the federal bureau of investigation about the individual who is the subject of the check. The treasurer of state also may request that the superintendent as part of the criminal records check request criminal history records of the individual from other states or the federal government pursuant to the national crime prevention and privacy compact set forth in section 109.571 of the Revised Code.

(B) The treasurer of state shall provide to each individual required pursuant to division (A) of this section to undergo a criminal records check a copy of the form prescribed pursuant to division (C)(1) of section 109.572 of the Revised Code and a standard impression sheet to obtain fingerprint impressions prescribed pursuant to division (C)(2) of section 109.572 of the Revised Code, obtain the completed form and impression sheet from the individual, and forward the completed form and impression sheet to the superintendent of the bureau of criminal identification and investigation at the time the criminal records check is requested. Any individual subject to a criminal records check pursuant to this section who receives pursuant to this division a copy of the form prescribed pursuant to division (C)(1) of section 109.572 of the Revised Code and a copy of an impression sheet prescribed pursuant to division (C)(2) of that section and who is requested to complete the form and provide a set of fingerprint impressions shall complete the form or provide all the information necessary to complete the form and shall provide the impression sheet with the impressions of the individual's fingerprints.

(C)(1) The treasurer of state may deny employment to or terminate the employment of an individual



who is the subject of a criminal records check conducted pursuant to a request made under division (A) of this section if either of the following applies:

(a) The individual fails to do any of the following:

(i) Complete the form prescribed pursuant to division (C)(1) of section 109.572 of the Revised Code;

(ii) Provide a set of the individual's fingerprint impressions on the standard impression sheet prescribed pursuant to division (C)(2) of section 109.572 of the Revised Code.

(b) The individual has been convicted of or pleaded guilty to any offense involving or relating to fraud, deceit, or theft.

(2) In determining whether to take any employment action, up to and including termination, with respect to an individual who is a current employee for the reason listed in division (C)(1)(b) of this section, the treasurer of state shall afford the current employee a due process review. In a review under this division, the treasurer of state shall consider all of the following factors:

(a) The current employee's age at the time of the offense;

(b) The nature and seriousness of the offense;

(c) The circumstances under which the offense was committed;

(d) The degree to which the current employee participated in the offense;

(e) The time elapsed since the current employee was fully discharged from imprisonment or probation for the offense, if the person was sentenced to imprisonment or placed on probation for it, or since the current employee was fully discharged from any other sanction or penalty imposed for the offense;

(f) The likelihood that the circumstances leading to the offense will recur;



- (g) Whether the current employee is a repeat offender;
  - (h) The current employee's employment record with the treasurer of state;
  - (i) The current employee's efforts at rehabilitation and the results of those efforts;
  - (j) Whether at the time of the review, any criminal proceedings are pending against the current employee;
  - (k) Whether the current employee has been convicted of or pleaded guilty to any felony or misdemeanor offense set forth in the Revised Code that is not listed in division (C)(1)(b) of this section and that bears a direct and substantial relationship to the duties and responsibilities of the position the current employee holds in the office of the treasurer of state;
  - (l) Any other extenuating circumstances relating to the current employee or the offense.
- (3) If the treasurer of state conducts a review under division (C)(2) of this section, the treasurer of state shall prepare a written report of the review and shall provide a copy of the written report to the current employee who is the subject of the review.
- (D) The treasurer of state shall pay to the bureau of criminal identification and investigation the fee prescribed pursuant to division (C)(3) of section 109.572 of the Revised Code for each criminal records check conducted in accordance with that section upon a request pursuant to division (A) of this section. The treasurer of state may charge the individual subject to the criminal records check a fee for the costs the treasurer of state incurs in obtaining the criminal records check. A fee charged under this division shall not exceed the amount of fees the treasurer of state pays for the criminal records check. If a fee is charged under this division, the treasurer of state shall notify the individual who is the subject of the criminal records check of the fee and that the individual is required to pay the fee.
- (E) The report of any criminal records check conducted by the bureau of criminal identification and investigation in accordance with section 109.572 of the Revised Code and pursuant to a request



made under division (A) of this section is not a public record for the purposes of section 149.43 of the Revised Code and shall not be made available to any person other than the individual who is the subject of the criminal records check or the individual's representative; the treasurer of state or the treasurer of state's representative; and any court, hearing officer, or other necessary individual involved in a case dealing with the denial or termination of employment.

(F) Nothing in this section precludes, or shall be construed as precluding, any of the following:

(1) Any public official other than the treasurer of state from conducting or having conducted a criminal records check of any individual, in any manner authorized under law;

(2) The treasurer of state from conducting or having conducted a criminal records check other than in accordance with this section, in any manner otherwise authorized under law.

(G) As used in this section:

(1) "Criminal records check" has the same meaning as in section 109.572 of the Revised Code.

(2) "Public official" has the same meaning as in section 2921.01 of the Revised Code.