

Statement of Non Conviction for Residential Facilities

OAC 5122-30-31

SAMPLE FORM

This statement must be signed prior to the date of employment by every individual owner, manager, prospective operator, staff and non-resident occupant. This statement must be kept on file at the residential facility.			
Name (please print or type)			Date of Hire
Please check one of the following:			
<input type="checkbox"/>	I hereby attest that I have never been convicted of or pled guilty to any of the offenses listed or described in divisions (A)(3)(a) to (A)(3)(e) of section 109.572 of the Revised Code.		
<input type="checkbox"/>	I have been convicted of or pled guilty to an offenses listed or described in divisions (A)(3)(a) to (A)(3)(e) of section 109.572 of the Revised Code.		
Please read the statement below and check the box to verify agreement			
<input type="checkbox"/>	I agree to notify the facility within fourteen (14) calendar days if while employed by the facility I am formally charged with, convicted of, or plead guilty to a disqualifying offense. I understand that failure to notify the facility as required may result in the termination of my employment.		
Signature of Employee Completing the form			
Street Address			
City	State	Zip	Phone Number
<p>The owner/operator is required to sign and date below verifying that prior to employment the residential facility has submitted to the Ohio Bureau of Criminal and Investigation (BCII) a request to conduct a criminal background check of the applicant.</p> <p>A criminal records check as indicated below for the above named individual was submitted requested on (date) _____</p> <p><input type="checkbox"/> Ohio BCII Record Check <input type="checkbox"/> Federal Bureau of Investigation (FBI) Record Check</p> <p>If an applicant does not present proof that he or she has been a resident of Ohio for the five-year period immediately prior to the date upon which the criminal records check is requested, the residential facility shall request BCII or other reporting agency obtain information from the FBI as part of the criminal records check.</p>			
Owner/Manager/Operator Signature			Date
<input type="checkbox"/>	I have reviewed the requirements of OAC 5122-30-31 and determined that the individual owner, manager, prospective operator, staff or non-resident occupant meets the requirements.		
<input type="checkbox"/> <input type="checkbox"/> NA	I have attached documentation, as applicable, to verify how these requirements have been met. (this section required only if the employee has been convicted of or pled guilty to a prohibited offense)		
Owner/Manager/Operator Signature			Date

Disqualifying Offenses and Conditions

Tier 1: Permanent Exclusion

RC 2903.01 (aggravated murder)
RC 2903.02 (murder);
RC 2903.03 (voluntary manslaughter);
RC 2903.11 (felonious assault);
RC 2903.15 (permitting child abuse);
RC 2903.16 (failing to provide for a functionally impaired person);
RC 2903.34 (patient abuse and neglect);
RC 2903.341 (patient endangerment);
RC 2905.01 (kidnapping);
RC 2905.02 (abduction);
RC 2905.32 (human trafficking);
RC 2905.33 (unlawful conduct with respect to documents);
RC 2907.02 (rape);
RC 2907.03 (sexual battery);
RC 2907.04 (unlawful sexual conduct with a minor, formerly corruption of a minor);
RC 2907.05 (gross sexual imposition);
RC 2907.06 (sexual imposition);
RC 2907.07 (importuning);
RC 2907.08 (voyeurism);
RC 2907.12 (felonious sexual penetration);
RC 2907.31 (disseminating matter harmful to juveniles);
RC 2907.32 (pandering obscenity);

RC 2907.321 (pandering obscenity involving a minor);
RC 2907.322 (pandering sexually-oriented matter involving a minor);
RC 2907.323 (illegal use of minor in nudity-oriented material or performance);
RC 2909.22 (soliciting/providing support for act of terrorism);
RC 2909.23 (making terrorist threat);
RC 2909.24 (terrorism);
RC 2913.40 (medicaid fraud);
RC 2923.01 (conspiracy), 2923.02 (attempt), or 2923.03 (complicity) when the underlying offense is any of the offenses or violations described in paragraphs (D)(1)(a)(i) to (D)(1)(a)(xxix) of this rule;
A conviction related to fraud, theft, embezzlement, breach of fiduciary responsibility, or other financial misconduct involving a federal or state-funded program, excluding the disqualifying offenses set forth in section 2913.46 of the Revised Code (illegal use of supplemental nutrition assistance program or women, infants, and children program benefits); or
(xxxii) A violation of an existing or former municipal ordinance or law of this state, any other state, or the United States that is substantially equivalent to any of the offenses or violations described in paragraphs (D)(1)(a)(i) to (D)(1)(a)(xxxi) of this rule.
(b) No residential facility shall employ an applicant or continue

to employ an employee, if the applicant or employee has been convicted of an offense, where the victim of the offense was one of the following:

- (i) A person under eighteen years of age.
- (ii) A functionally impaired person as defined in section 2903.10 of the Revised Code.
- (iii) A mentally retarded person as defined in section 5123.01 of the Revised Code.
- (iv) A developmentally disabled person as defined in section 5123.01 of the Revised Code.
- (v) A person with a mental illness as defined in section 5122.01 of the Revised Code.
- (vi) A person sixty years of age or older.

Tier 2: 10 year exclusion.

RC 2903.04 (involuntary manslaughter);
RC 2903.041 (reckless homicide);
RC 2905.04 (child stealing) as it existed prior to July 1, 1996;
RC 2905.05 (criminal child enticement);
RC 2905.11 (extortion);
RC 2907.21 (compelling prostitution);
RC 2907.22 (promoting prostitution);
RC 2907.23 (enticement or solicitation to patronize a prostitute, procurement of a prostitute for another);
RC 2909.02 (aggravated arson);
RC 2909.03 (arson);

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RC 2911.01 (aggravated robbery);

RC 2911.11 (aggravated burglary);

RC 2913.46 (illegal use of supplemental nutrition assistance program or women, infants, and children program benefits);

RC 2913.48 (worker's compensation fraud);

RC 2913.49 (identity fraud);

RC 2917.02 (aggravated riot);

RC 2923.12 (carrying concealed weapon);

RC 2923.122 (illegal conveyance or possession of deadly weapon or dangerous ordnance in a school safety zone, illegal possession of an object indistinguishable from a firearm in a school safety zone);

RC 2923.123 (illegal conveyance, possession, or control of deadly weapon or dangerous ordnance into courthouse);

RC 2923.13 (having weapons while under disability);

RC 2923.161 (improperly discharging a firearm at or into a habitation or school);

RC 2923.162 (discharge of firearm on or near prohibited premises);

RC 2923.21 (improperly furnishing firearms to minor);

RC 2923.32 (engaging in pattern of corrupt activity);

RC 2923.42 (participating in criminal gang);

RC 2925.02 (corrupting another with drugs);

RC 2925.03 (trafficking in drugs);

RC 2925.04 (illegal manufacture of drugs or cultivation of marihuana);

RC 2925.041 (illegal assembly or possession of chemicals for the manufacture of drugs);

RC 3716.11 (placing harmful objects in food or confection);

RC 2923.01 (conspiracy), 2923.02 (attempt), or 2923.03 (complicity) when the underlying offense is any of the offenses or violations described in OAC 5122-33-28 (D)(1)(c)(i) to (D)(1)(c)(xxx) or (xxxii) A violation of an existing or former municipal ordinance or law of this state, any other state, or the United States that is substantially equivalent to any of the offenses or violations described in OAC 5122-33-28 (D)(1)(c)(i) to (D)(1)(c)(xxxi).

Tier 3: 7 year exclusion.

RC 959.13 (cruelty to animals);

RC 959.131 (prohibitions concerning companion animals);

RC 2903.12 (aggravated assault);

RC 2903.21 (aggravated menacing);

RC 2903.211 (menacing by stalking);

RC 2905.12 (coercion);

RC 2909.04 (disrupting public services);

RC 2911.02 (robbery);

RC 2911.12 (burglary);

RC 2913.47 (insurance fraud);

RC 2917.01 (inciting to violence);

RC 2917.03 (riot);

RC 2917.31 (inducing panic);

RC 2919.22 (endangering children);

RC 2919.25 (domestic violence);

RC 2921.03 (intimidation);

RC 2921.11 (perjury);

RC 2921.13 (falsification, falsification in theft offense, falsification to purchase firearm, or falsification to obtain a concealed handgun license);

RC 2921.34 (escape);

RC 2921.35 (aiding escape or resistance to lawful authority);

RC 2921.36 (illegal conveyance of weapons, drugs, or other prohibited items onto grounds of detention facility or institution);

RC 2925.05 (funding of drug or marihuana trafficking);

RC 2925.06 (illegal administration or distribution of anabolic steroids);

RC 2925.24 (tampering with drugs);

RC 2927.12 (ethnic intimidation);

RC 2923.01 (conspiracy), 2923.02 (attempt), or 2923.03 (complicity) when the underlying offense is any of the offenses or violations described in OAC 5122-33-28 (D)(1)(d)(i) to (D)(1)(d)(xxv) or

(xxvii) A violation of an existing or former municipal ordinance

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or law of this state, any other state, or the United States that is substantially equivalent to any of the offenses or violations described in OAC 5122-33-28 (D)(1)(d)(i) to (D)(1)(d)(xxvi)

Tier 4: 5 year exclusion

RC 2903.13 (assault);

RC 2903.22 (menacing);

RC 2907.09 (public indecency);

RC 2907.24 (soliciting after positive human immunodeficiency virus test);

RC 2907.25 (prostitution);

RC 2907.33 (deception to obtain matter harmful to juveniles);

RC 2911.13 (breaking and entering);

RC 2913.02 (theft);

RC 2913.03 (unauthorized use of a vehicle);

RC 2913.04 (unauthorized use of property, computer, cable, or telecommunication property);

RC 2913.05 (telecommunications fraud);

RC 2913.11 (passing bad checks);

RC 2913.21 (misuse of credit cards);

RC 2913.31 (forgery, forging identification cards);

RC 2913.32 (criminal simulation);

RC 2913.41 (defrauding a rental agency or hostelry);

RC 2913.42 (tampering with records);

RC 2913.43 (securing writings by deception);

RC 2913.44 (personating an officer);

RC 2913.441 (unlawful display of law enforcement emblem);

RC 2913.45 (defrauding creditors);

RC 2913.51 (receiving stolen property);

RC 2919.12 (unlawful abortion);

RC 2919.121 (unlawful abortion upon minor);

RC 2919.123 (unlawful distribution of an abortion-inducing drug);

RC 2919.23 (interference with custody);

RC 2919.24 (contributing to unruliness or delinquency of child);

RC 2921.12 (tampering with evidence);

RC 2921.21 (compounding a crime);

RC 2921.24 (disclosure of confidential information);

RC 2921.32 (obstructing justice);

RC 2921.321 (assaulting/harassing police dog or horse/service animal);

RC 2921.51 (impersonation of peace officer);

RC 2925.09 (illegal administration, dispensing, distribution, manufacture, possession, selling, or using any dangerous veterinary drug);

RC 2925.11 (drug possession other than a minor drug possession offense);

RC 2925.13 (permitting drug abuse);

RC 2925.22 (deception to obtain dangerous drugs);

RC 2925.23 (illegal processing of drug documents);

RC 2925.36 (illegal processing of drug samples);

RC 2925.55 (unlawful purchase of pseudoephedrine product);

RC 2925.56 (unlawful sale of pseudoephedrine product);

RC 2923.01 (conspiracy), 2923.02 (attempt), or 2923.03 (complicity) when the underlying offense is any of the offenses or violations described in OAC 5122-33-28 (D)(1)(e)(i) to (D)(1)(e)(xli) or a violation of an existing or former municipal ordinance or law of this state, any other state, or the United States that is substantially equivalent to any of the offenses or violations described in OAC 5122-33-28 (D)(1)(e)(i) to (D)(1)(e)(xlii).

Tier 5: No exclusion

A residential facility may employ an applicant or continue to employ an employee, if the applicant or employee has been convicted of or pleaded guilty to any of the following sections of the Revised code:

RC 2925.11 (drug possession that is minor drug possession offense);

RC 2925.14 (illegal use or possession of drug paraphernalia);

RC 2925.141 (illegal use or possession of marijuana drug paraphernalia); or

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A violation of an existing or former municipal ordinance or law of this state, any other state, or the United States that is substantially equivalent to any of the offenses or violations described in 5122-33-28 (D)(1)(f)(i) to (D)(1)(f)(iii).

Multiple Disqualifying Offenses

15 Year Exclusion

If an applicant or employee has been convicted of or pleaded guilty to the following multiple disqualifying offenses, the applicant or employee is subject to a fifteen-year exclusion period:
two or more disqualifying offenses listed in paragraph (D)(1)(c); or an offense listed in paragraph (D)(1)(c) and one or more offenses listed in paragraph (D)(1)(d) or paragraph (D)(1)(e).

10 Year Exclusion

If an applicant or employee has been convicted of or pleaded guilty to the following multiple disqualifying offenses, the applicant or employee is subject to a ten-year exclusion:
two or more disqualifying offenses listed in paragraph (D)(1)(d) or an offense listed in paragraph (D)(1)(d) and one or more offenses listed in paragraph (D)(1)(e).

7 Year Exclusion

If an applicant or employee has been convicted of, or pleaded guilty to, two or more disqualifying offenses listed in paragraph (D)(1)(e), the applicant or employee is subject to a seven-year exclusion

Additional Conditions

A conviction of or plea of guilty to a disqualifying offense shall not preclude an applicant from being employed or an employee from remaining employed by a responsible entity under the following circumstances:

- (1) The applicant or employee has been granted an unconditional pardon for the offense pursuant to Chapter 2967. of the Revised Code;
- (2) The applicant or employee has been granted an unconditional pardon for the offense pursuant to an existing or former law of this state, any other state, or the United States, if the law is substantially equivalent to Chapter 2967. of the Revised Code;
- (3) The applicant's or employee's conviction or guilty plea has been overturned pursuant to law;
- (4) The applicant or employee has been granted a conditional pardon for the offense pursuant to Chapter 2967. of the Revised Code and the conditions under which the pardon was granted have been satisfied;
- (5) The applicant's or employee's conviction or guilty plea is not for an offense listed or described in paragraph (D)(1)(a) of this rule and the applicant or employee has a certificate of qualification for employment issued by a court of common pleas with competent jurisdiction pursuant to section 2953.25 of the Revised Code; or
- (6) The applicant's or employee's conviction or guilty plea is not for an offense listed

or described in paragraph (D)(1)(a) of this rule and the applicant or employee has a certificate of achievement and employability in a home and community-based services-related field, issued by the Ohio department of rehabilitation and correction pursuant to section 2961.22 of the Revised Code.

(F) A residential facility may continue to employ a person who is excluded by paragraph (D)(1)(e) of this rule if the conviction for a tier four offense occurred prior to the March 30, 2014, the employee was hired prior to the effective date of this rule, and if the residential facility has considered the nature and seriousness of the offense and attests in writing to the character and fitness of the person based on the person's demonstrated work performance. The residential facility shall have made this determination by June 30, 2014 and shall maintain the written attestation in the employee's personnel record. The determination shall be subject to review by the department.