

3701-13-01 Definitions.

As used in this chapter:

- (A) "Applicant" means a person who is under final consideration for employment with a direct care provider (DCP) in a full-time, part-time, or temporary position that involves providing direct care to an older adult. "Applicant" does not include a person who provides direct care as a volunteer without receiving or expecting to receive any form of remuneration other than reimbursement for actual expenses.
- (B) "BCII" means the bureau of criminal identification and investigation.
- (C) "Chief administrator" means the individual in charge of the daily operation of the DCP or any employee of the DCP whom the chief administrator has designated as his representative pursuant to paragraph (B) of rule 3701-13-03 of the Administrative Code.
- (D) "Criminal records check" means any criminal records check conducted by the superintendent of BCII in accordance with division (B) of section 109.572 of the Revised Code.
- (E) "Department" means the department of health.
- (F) "Direct care" means the provision of a service to an older adult or group of older adults that involves one or more of the following:
 - (1) Coordination of, direct supervision of, or provision of personal care, nursing, or health related services;
 - (2) Routine contact, such as face-to-face, hands-on physical assistance, verbal cuing, reminding, standing by or monitoring of activities;
 - (3) Activity that requires the person to be routinely alone with older adults or to routinely have access to older adults' personal property or financial documents;
 - (4) Any routine service or activity designated as direct care by the chief administrator; and
 - (5) In the case of a hospice care program, any service provided in an older adult's place of residence.
- (G) "Direct care provider" or "DCP" means:
 - (1) An "adult day-care program" operated by and on the same site as a nursing home, residential care facility, home for the aging, or the Ohio veterans' home;
 - (2) A county home or district home operated under Chapter 5155. of the Revised Code;
 - (3) A "hospice care program" defined under section 3712.01 of the Revised Code;
 - (4) A hospital unit certified as a nursing facility or skilled nursing facility under Title XVIII or XIX of the "Social Security Act," 49 STAT. 620 (1935), 42 U.S.C.A. 301 as amended (1981); and

- (5) A nursing home, residential care facility, or home for the aging as defined in section 3721.01 of the Revised Code and the Ohio veterans' homes.
- (H) "Director" means the director of health or any division, bureau, agency, official or employee of the department to which the director has delegated his authority or duties.
- (I) "FBI" means the federal bureau of investigation.
- (J) "Offense of violence" means any of the following:
- (1) A violation of section 2903.01 (aggravated murder), 2903.02 (murder), 2903.03 (voluntary manslaughter), 2903.04 (involuntary manslaughter), 2903.11 (felonious assault), 2903.12 (aggravated assault), 2903.13 (assault), 2903.21 (aggravated menacing), 2905.01 (kidnapping), 2905.02 (abduction), 2905.11 (extortion), 2907.02 (rape), 2907.03 (sexual battery), 2907.05 (gross sexual imposition), 2911.01 (aggravated robbery), 2911.02 (robbery), 2911.11 (aggravated burglary), 2911.12 (burglary), 2919.25 (domestic violence), 2923.161 (improperly discharging firearm at or into habitation or school) or former section 2907.12 (felonious sexual penetration) of the Revised Code;
 - (2) A violation of an existing or former law of this or any other state or the United States, substantially equivalent to any section or division or offense listed in paragraph (J)(1) of this rule;
 - (3) An offense, listed or described in rule 3701-13-05 of the Administrative Code or an offense under an existing or former law of this or any other state or the United States that is substantially equivalent to any of those offenses, committed purposely or knowingly, and involving physical harm to persons or a risk of serious physical harm to persons.
- (K) "Older adult" means a person age sixty or older.
- (L) "PASSPORT agency" means a public or private entity that provides home and community-based services to older adults through the PASSPORT program created under section 173.40 of the Revised Code.
- (M) "Repeat theft related offender" means a person who has been convicted of or pleaded guilty to the commission of any of the theft related offenses, listed or described in paragraph (R) of this rule, in two or more separate criminal actions. Convictions or guilty pleas resulting from or connected with the same act, or resulting from offenses committed at the same time, shall be counted as one conviction or guilty plea.
- (N) "Repeat violent offender" means a person who has been convicted of or pleaded guilty to the commission of any of the offenses of violence, listed or described in paragraph (J) of this rule, in two or more separate criminal actions. Convictions or guilty pleas resulting from or connected with the same act, or resulting from offenses committed at the same time, shall be counted as one conviction or guilty plea.
- (O) "Sexually oriented offense" means any of the following offenses:
- (1) Regardless of the age of the victim of the offense, a violation of section 2907.02 (rape), 2907.03 (sexual battery), or 2907.05 (gross sexual imposition) of the

Revised Code, or former 2907.12 (felonious sexual penetration) of the Revised Code;

- (2) Any of the following offenses involving a minor in the circumstances specified:
 - (a) A violation of section 2905.01 (kidnapping) or 2905.02 (abduction) of the Revised Code when the victim is under eighteen years of age;
 - (b) A violation of division (A)(1) or (A)(3) of section 2907.321 (pandering obscenity involving a minor) or 2907.322 (pandering sexually oriented matter involving a minor) of the Revised Code;
 - (c) A violation of division (A)(1) or (A)(2) of section 2907.323 (illegal use of a minor in nudity-oriented material or performance) of the Revised Code;
 - (3) Regardless of the age of the victim of the offense, a violation of section 2903.01 (aggravated murder), 2903.02 (murder), 2903.11 (felonious assault), or 2905.01 (kidnapping) of the Revised Code, or of division (A) of section 2903.04 (involuntary manslaughter) of the Revised Code with a purpose to gratify the sexual needs or desires of the offender;
 - (4) A sexually violent offense as defined in paragraph (P) of this rule;
 - (5) A violation of any former law of this state that was substantially equivalent to any offense listed in paragraphs (O)(1) to (O)(4) of this rule;
 - (6) A violation of an existing or former law of another state or the United States, or a violation under the law applicable in a military court, that is or was substantially equivalent to any offense listed in paragraphs (O)(1) to (O)(5) of this rule;
- (P) "Sexually violent offense" means a violent sex offense, or a designated homicide, assault, or kidnapping offense for which the offender also was convicted of or pleaded guilty to a sexual motivation specification.
- (1) "Designated homicide, assault, or kidnapping offense" means a violation of section 2903.01 (aggravated murder), 2903.02 (murder), 2903.11 (felonious assault), or 2905.01 (kidnapping) of the Revised Code or a violation of division (A) of section 2903.04 (involuntary manslaughter) of the Revised Code;
 - (2) "Sexual motivation" means a purpose to gratify the sexual needs or desires of the offender.
 - (3) "Sexual motivation specification" means a specification, as described in section 2941.147 of the Revised Code, that charges that a person charged with a designated homicide assault or kidnapping offense committed the offense with a sexual motivation.
 - (4) "Violent sex offense" means any of the following:
 - (a) A violation of section 2907.02 (rape), 2907.03 (sexual battery), or division (A)(4) of section 2907.05 (gross sexual imposition when victim is under thirteen years of age) of the Revised Code or felonious sexual penetration in violation of former section 2907.12 of the Revised Code;

(b) A felony violation of a former law of this state that is substantially equivalent to a violation listed in paragraph (P)(4)(a) of this rule.

(Q) "Superintendent" means superintendent of BCII.

(R) "Theft related offense" means a violation of any of the following sections of the Revised Code: 2911.01 (aggravated robbery), 2911.02 (robbery), 2911.11 (aggravated burglary), 2911.12 (burglary), 2911.13 (breaking and entering), 2913.02 (theft, aggravated theft), 2913.03 (unauthorized use of a vehicle), 2913.04 (unauthorized use of property - computer, cable, or telecommunication property), 2913.11 (passing bad checks), 2913.21 (misuse of credit cards), 2913.31 (forging identification cards or selling or distributing forged identification cards), 2913.40 (medicaid fraud), 2913.43 (securing writings by deception), 2913.47 (insurance fraud), or 2913.51 (receiving stolen property).

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