

Background Screening for Employees and Volunteers

ATTACHMENT C

PURPOSE: This rule establishes standards for obtaining background screening for certain staff and volunteers in ATR credentialed Recovery Support programs.

(1) This rule applies to—

(A) Staff;

(B) Volunteers who are recruited as part of an agency's formal volunteer program but does not apply to volunteers who assist individuals as a friend would by providing assistance with shopping, transportation, recreation, etc.; and

(C) Members of the provider's household who have contact with residents or clients, except for minor children.

(2) Each staff and/or volunteer having contact with ATR consumers must have a background screening with the Family Care Safety Registry (FCSR). The Family Care Safety Registry, administered by the Missouri Department of Health and Senior Services, provides families and other employers with a method to obtain background screening information. The Registry, through various state agencies, offers several resources to screen child-care, elder-care and personal care workers and child-care and elder-care providers.

(A) The background check with the FCSR registry **shall be initiated prior to the employee or volunteer having contact with residents, clients, or patients.**

(3) Offenses under section 630.170, RSMo which disqualify a person from providing services (volunteer and paid staff) are as follows:

(A) A person shall be disqualified from holding any position in the agency if that person—

1. Has been convicted of, found guilty of, pled guilty or *nolo contendere* to any of the following crimes:

- A. Physical abuse or neglect of a patient, resident or client; or
- B. Furnishing unfit food to patients, residents or clients.

2. Is listed on the DMH disqualification registry; or

3. Is listed on the employee disqualification list of the Department of Health and Senior Services or Department of Social Services.

(B) A person who has been convicted of, found guilty to, pled guilty to or *nolo contendere* to any of the following crimes shall be disqualified from holding any position having contact with patients, residents or clients in the agency. The crimes listed below are not disqualifying unless they are felonies, except for failure to report abuse and neglect to the Department of Health and Senior Services, which is a Class A misdemeanor. The disqualifying crimes are:

- 1. First or second degree murder;
- 2. Voluntary manslaughter (includes assistance in self-murder);
- 3. Involuntary manslaughter;
- 4. First or second degree assault;
- 5. Assault while on school property;
- 6. Unlawful endangerment of another;
- 7. First or second degree assault of a law enforcement officer;
- 8. Tampering with a judicial officer;
- 9. Kidnapping;
- 10. Felonious restraint;
- 11. False imprisonment;
- 12. Interference with custody;
- 13. Parental kidnapping;
- 14. Child abduction;
- 15. Elder abuse in the first degree or the second degree;
- 16. Harassment;
- 17. Stalking;
- 18. Forcible rape;
- 19. First or second degree statutory rape;

20. Sexual assault;
21. Forcible sodomy;
22. First or second degree statutory sodomy;
23. First or second degree child molestation;
24. Deviate sexual assault;
25. First degree sexual misconduct;
26. Sexual abuse;
27. Endangering the welfare of a child;
28. Abuse of a child;
29. Robbery in the first degree or second degree;
30. Arson in the first or second degree;
31. First or second degree pharmacy robbery;
32. Incest;
33. Causing catastrophe;
34. First degree burglary;
35. Felony count of invasion of privacy;
36. Failure to report abuse and neglect to the Department of Social Services as required under subsection 3 of section 198.070, RSMo; or
37. Any equivalent felony offense.

(4) Any person disqualified from employment under this rule may request an exception from the DMH Exceptions Committee in accordance with 9 CSR 10-5.210 Exceptions Committee Procedures.

(A) The right to request an exception under this subsection shall not apply to persons who are disqualified due to being listed on the employee disqualification registry of the Department of Social Services or Department of Health and Senior Services, nor does it apply to persons who are disqualified due to any of the following crimes:

1. First or second degree murder;
2. First or second degree statutory rape;
3. Sexual assault;
4. Forcible sodomy;
5. First or second degree statutory sodomy;
6. First or second degree child molestation;
7. Deviate sexual assault;
8. Sexual misconduct involving a child;
9. First degree sexual misconduct;
10. Sexual abuse;
11. Incest;
12. Causing catastrophe;
13. Abuse of a child;
14. First degree pharmacy robbery; or
15. Forcible rape.

(5) For the purposes of this rule, a verdict of not guilty by reason of insanity (NGRI) is not per se disqualifying. A suspended imposition of sentence (SIS) or suspended execution of sentence (SES) is disqualifying.

(6) A provider shall not hire any person who has committed a disqualifying crime as identified in section (7) of this rule, unless the person has received an exception from the department. However, the provider retains the discretionary authority to deny employment to persons who—

- (A) Have committed crimes not identified as disqualifying;
- (B) Have received an exception from the Exceptions Committee; or
- (C) Have received a verdict of Not Guilty by Reason of Insanity.