

§9058-A. Grandfathered employees prior to biometric identifier reporting

1. Background check. Beginning October 1, 2024, an employer employing direct access workers shall use the Background Check Center to secure a background check and a background check report using biometric identifier data for each direct access worker.

[PL 2023, c. 241, §78 (NEW).]

2. Gradual implementation of grandfathered employee background checks with biometric identifier data. The department shall adopt rules under section 9065 describing a staged and orderly process based on the type of provider and the number of direct access workers employed that employers must follow to implement the background checks using biometric identifier data for grandfathered employees consistent with this chapter. The department may grant an employer a deadline extension for good cause shown, which may not be unreasonably withheld.

[PL 2023, c. 241, §78 (NEW).]

3. Background check deadline. A grandfathered employee may continue to work in direct access employment for up to 60 calendar days from the date the grandfathered employee's first biometric identifier background check is initiated in accordance with subsection 2 and if:

A. The grandfathered employee signs a consent to release information and agrees in writing to submit to the background check process; [PL 2023, c. 241, §78 (NEW).]

B. The grandfathered employee signs a statement declaring that a background check will not reveal any disqualifying offenses or that an offense that appears is inaccurate; [PL 2023, c. 241, §78 (NEW).]

C. The employer verifies and documents that the grandfathered employee has submitted the biometric identifier data and mandatory identity verification and employment eligibility documents required by rules adopted in accordance with section 9065; [PL 2023, c. 241, §78 (NEW).]

D. The employer initiates the background check by entering the individual into the Background Check Center database as a grandfathered employee; and [PL 2023, c. 241, §78 (NEW).]

E. The grandfathered employee is not identified in the Background Check Center database as a disqualified person. [PL 2023, c. 241, §78 (NEW).]

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4. Disqualified grandfathered employee. A grandfathered employee who receives a disqualifying background check report is subject to the provisions of subsection 3 and must be able to correct disqualifying offense information that appears in the background check report through the inaccurate records corrections process within 60 calendar days after the disqualifying report is issued. The grandfathered employee is subject to direct personal supervision during the conditional employment period as described in rules adopted pursuant to this chapter until a final background check report indicates that no disqualifying offenses appear in the updated records.

[PL 2023, c. 241, §78 (NEW).]

5. Termination; disqualified grandfathered employees. An employer shall terminate or remove from direct access employment any grandfathered employee who has not submitted the documents required in subsection 3, who refused to submit a biometric identifier or otherwise participate in the background check or who fails to receive a final nondisqualifying background check report in accordance with subsection 4.

[PL 2023, c. 241, §78 (NEW).]

SECTION HISTORY

PL 2023, c. 241, §78 (NEW).

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