

OREGON DEPARTMENT OF EDUCATION EARLY LEARNING DIVISION

DIVISION 61

CHILD CARE DIVISION

Central Background Registry

414-061-0050

History to be Considered

(1) Office of Child Care (OCC) has determined that serious felonies and misdemeanors involving violence or unauthorized sexual conduct, especially with children or otherwise vulnerable persons, is fundamentally inconsistent with any responsibility for care of children. Conviction of crimes listed in Category I of this rule shall disqualify a subject individual from being enrolled in the Central Background Registry, unless the subject individual provides sufficient evidence of suitability as described in section (6) of this rule.

(a) The crimes in Category I include:

(A) 162.165 Escape I;

(B) 162.185 Supplying Contraband;

(C) 163.095 Aggravated Murder;

(D) 163.115 Murder;

(E) 163.118 Manslaughter I;

(F) 163.125 Manslaughter II;

(G) 163.145 Criminally Negligent Homicide;

(H) 163.165 Assault III;

(I) 163.175 Assault II;

(J) 163.185 Assault I;

(K) 163.200 Criminal Mistreatment II;

(L) 163.205 Criminal Mistreatment I;

(M) 163.225 Kidnapping II;

(N) 163.235 Kidnapping I;

(P) 163.275 Coercion;

(Q) 163.355 Rape III;
(R) 163.365 Rape II;
(S) 163.375 Rape I;
(T) 163.385 Sodomy III;
(U) 163.395 Sodomy II;
(V) 163.405 Sodomy I;
(W) 163.408 Unlawful Sexual Penetration II;
(X) 163.411 Unlawful Sexual Penetration I;
(Y) 163.415 Sexual Abuse III;
(Z) 163.425 Sexual Abuse II;
(AA) 163.427 Sexual Abuse I;
(BB) 163.435 Contributing to Sexual Delinquency of Minor;
(CC) 163.445 Sexual Misconduct;
(DD) 163.515 Bigamy;
(EE) 163.525 Incest;
(FF) 163.535 Abandonment of a Child;
(GG) 163.545 Child Neglect II;
(HH) 163.547 Child Neglect I;
(II) 163.555 Criminal Nonsupport;
(JJ) 163.575 Endangering the Welfare of a Minor;
(KK) 163.670 Using Child in Display of Sexually Explicit Conduct;
(LL) 163.684 Encouraging Child Sexual Abuse I;
(MM) 163.685 Encouraging Child Sexual Abuse II;
(NN) 163.686 Encouraging Child Sexual Abuse III;
(OO) 163.688 Possession of Materials Depicting Sexually Explicit Conduct of a Child I;
(PP) 163.689 Possession of Materials Depicting Sexually Explicit Conduct of a Child II;
(QQ) 163.693 Failure to Report Child Pornography;

(RR) 163.732 Stalking;

(SS) 164.075 Theft by Extortion;

(TT) 164.225 Burglary I;

(UU) 164.325 Arson I;

(VV) 164.395 Robbery III;

(WW) 164.405 Robbery II;

(XX) 164.415 Robbery I;

(YY) 166.085 Abuse of Corpse II;

(ZZ) 166.087 Abuse of Corpse I;

(AAA) 166.155 Intimidation II;

(BBB) 166.165 Intimidation I;

(CCC) 166.220 Unlawful Use of a Weapon;

(DDD) 166.270 Possession of Weapons by Certain Felons;

(EEE) 166.272 Unlawful Possession of Machine Guns, Certain Short Barreled Firearms and Firearms Silencers;

(FFF) 166.275 Possession of Weapons by Inmates of institutions;

(GGG) 166.382 Possession of Destructive Device;

(HHH) 166.384 Unlawful Manufacture of Destructive Device;

(III) 166.429 Firearms Used in Felony;

(JJJ) 166.660 Unlawful Paramilitary Activity;

(KKK) 166.720 Racketeering Activity;

(LLL) 167.012 Promoting Prostitution;

(MMM) 167.017 Compelling Prostitution;

(NNN) 167.062 Sadomasochistic Abuse or Sexual Conduct in Live Show;

(OOO) 167.065 Furnishing Obscene Materials to Minors;

(PPP) 167.070 Sending Obscene Materials to Minors;

(QQQ) 167.075 Exhibiting an Obscene Performance to a Minor;

(RRR) 167.080 Displaying Obscene Materials to Minors;

(SSS) 167.087 Disseminating Obscene Material;

(TTT) 167.090 Publicly Displaying Nudity or Sex for Advertising Purposes;

(UUU) 167.212 Tampering with Drug Records;

(VVV) 167.262 Adult Using Minor in Commission of Controlled Substance Offense; or

(WWW) 181.599 Failure to Report as Sex Offender.

(b) OCC will consider the following crimes if they were committed 15 years or less prior to the date the subject individual signed the Consent for Criminal Records Check and Request for Enrollment in the Central Background Registry: Assault III; Bigamy; Burglary I; Coercion; Contributing to Sexual Delinquency of Minor; Criminal Mistreatment II; Criminal Nonsupport; Kidnapping II; Possession of Weapons by Certain Felons; Racketeering Activity; Rape III; Robbery II; Robbery III; Sexual Misconduct; Stalking; Supplying Contraband; and Unlawful Use of a Weapon.

(c) OCC will consider the following crimes if they were committed 20 years or less prior to the date the subject individual signed the Consent for Criminal Records Check and Request for Enrollment in the Central Background Registry: Abuse of a Corpse I; Abuse of a Corpse II; Adult Using Minor in Commission of Controlled Substance Offense; Arson I; Assault I; Assault II; Compelling Prostitution; Criminal Mistreatment I; Criminally Negligent Homicide; Disseminating Obscene Material; Escape I; Failure to Report Child Pornography; Failure to Report as Sex Offender; Firearms Used in Felony; Incest; Intimidation I; Intimidation II; Kidnapping I; Manslaughter I; Manslaughter II; Possession of Destructive Device; Possession of Weapons by Inmates of Institutions; Promoting Prostitution; Publicly Displaying Nudity or Sex for Advertising Purposes; Robbery I; Sadomasochistic Abuse or Sexual Conduct in Live Show; Tampering with Drug Records; Theft by Extortion; Unlawful Manufacture of Destructive Device; Unlawful Paramilitary Activity; and Unlawful Possession of Machine Guns, Certain Short Barreled Firearms and Firearms Silencers.

(d) OCC will consider the following crimes regardless of the length of time since they were committed: Abandonment of a Child; Aggravated Murder; Child Neglect I; Child Neglect II; Displaying Obscene Materials to Minors; Encouraging Child Sexual Abuse I; Encouraging Child Sexual Abuse II; Encouraging Child Sexual Abuse III; Endangering the Welfare of a Minor; Exhibiting an Obscene Performance to a Minor; Furnishing Obscene Materials to Minors; Murder; Possession of Materials Depicting Sexually Explicit Conduct of a Child I; Possession of Materials Depicting Sexually Explicit Conduct of a Child II; Rape I; Rape II; Sending Obscene Materials to Minors; Sexual Abuse I; Sexual Abuse II; Sexual Abuse III; Unlawful Sexual Penetration I; Unlawful Sexual Penetration II; Sodomy I; Sodomy II; Sodomy III; and Using Child in Display of Sexually Explicit Conduct.

(e) These rules also apply to:

(A) A conviction of a crime in another jurisdiction which is the substantial equivalent of a crime listed in Category I;

(B) An adjudication by a juvenile court that a youth has committed an act that is the substantial equivalent of a crime listed in Category I; and

(C) Any attempts or solicitations to commit any Felony or Misdemeanor crime listed in Category I.

(f) Evaluations of crimes shall be based on Oregon laws in effect at the time of conviction, regardless of the jurisdiction in which the conviction occurred.

(2) CCD has further determined that felonies and misdemeanors involving theft, fraud, or deception, crimes against the state and public justice, and major traffic violations may substantially jeopardize the safety of children and are inconsistent with any position of unsupervised contact with children or otherwise vulnerable

persons. If any subject individual was convicted of a crime listed in Category II of this rule, CCD will seek to obtain and review information on all intervening circumstances and other background information related to criminal activity, subject to section (6) of this rule. Based on this information, the Division will make a decision whether or not to enroll the subject individual in the Central Background Registry.

(a) The crimes in Category II include:

(A) 162.025 Bribe Receiving;

(B) 162.065 Perjury;

(C) 162.155 Escape II;

(D) 162.205 Failure to Appear I;

(E) 162.235 Obstructing Governmental or Judicial Administration;

(F) 162.265 Bribing a Witness;

(G) 162.275 Bribe Receiving by a Witness;

(H) 162.285 Tampering with a Witness;

(I) 162.305 Tampering with Public Records;

(J) 162.325 Hindering Prosecution;

(K) 162.405 Official Misconduct II;

(L) 162.415 Official Misconduct I;

(M) 163.160 Assault IV;

(N) 163.190 Menacing;

(O) 163.195 Recklessly Endangering Another Person;

(P) 163.208 Assault on a Public Safety Officer;

(Q) 163.465 Public Indecency;

(R) 163.700 Invasion of Personal Privacy;

(S) 164.055 Theft I;

(T) 164.057 Aggravated Theft I;

(U) 164.215 Burglary II;

(V) 164.315 Arson II;

(W) 164.365 Criminal Mischief I;

(X) 165.013 Forgery I;

(Y) 165.022 Criminal Possession of a Forged Instrument I;

(Z) 165.032 Criminal Possession of a Forgery Device;

(AA) 165.055 Fraudulent Use of a Credit Card (over \$750);

(BB) 165.070 Possessing Fraudulent Communications Device;

(CC) 165.074 Unlawful Factoring of Credit Card Transaction;

(DD) 165.085 Sports Bribery;

(EE) 165.090 Sports Bribe Receiving;

(FF) 166.015 Riot;

(GG) 166.065 Harassment;

(HH) 166.090 Telephone Harassment;

(II) 166.190 Pointing Firearm at Another;

(JJ) 166.240 Carrying of Concealed Weapons;

(KK) 166.250 Unlawful Possession of Firearms;

(LL) 167.007 Prostitution;

(MM) 167.222 Frequenting a Place Where Controlled Substances are Used;

(NN) 167.320 Animal Abuse I;

(OO) 167.322 Aggravated Animal Abuse I;

(PP) 167.330 Animal Neglect I;

(QQ) 411.630 Unlawfully Obtaining Public Assistance;

(RR) 411.675 Submitting Wrongful Claim or Payment Prohibited;

(SS) 411.840 Unlawfully Obtaining or Disposing of Food Stamp Benefits;

(TT) 471.410 Providing Liquor to Person under 21 or to Intoxicated Person;

(UU) 475.992 Prohibited Acts Generally; Penalties; Affirmative Defense for Certain Peyote Uses (controlled substance offenses);

(VV) 475.993 Prohibited Acts for Registrants; Penalties;

(WW) 475.994 Prohibited Acts Involving Records and Fraud; Penalties;

(XX) 475.995 Penalties for Distribution to Minors;

(YY) 475.996 Crime Category Classification for Violation of ORS 475.992; Proof of Commercial Drug Offense;

(ZZ) 475.999 Penalty for Manufacture or Delivery of Controlled Substance within 1,000 feet of School;

(AAA) 811.140 Reckless Driving;

(BBB) 811.182 Criminal Driving while Suspended or Revoked;

(CCC) 811.540 Fleeing or Attempting to Elude Police Officer;

(DDD) 811.700 Failure to Perform Duties of Driver When Property Damaged (hit and run, property);

(EEE) 811.705 Failure to Perform Duties of Driver to Injured Persons (hit and run, injury); or

(FFF) 813.010 Driving Under the Influence of Intoxicants.

(b) OCC will consider the following crimes if they were committed 5 years or less prior to the date the subject individual signed the Consent for Criminal Records Check and Request for Enrollment in the Central Background Registry: Bribe Receiving; Bribe Receiving by a Witness; Bribing a Witness; Criminal Driving while Suspended or Revoked; Criminal Possession of a Forged Instrument I; Criminal Possession of Forgery Device; Failure to Appear I; Forgery I; Fraudulent use of a Credit Card (over \$750); Hindering Prosecution; Failure to Perform Duties of Driver to Injured Persons (hit and run, injury); Failure to Perform Duties of Driver When Property Damaged (hit and run, property); Obstructing Governmental or Judicial Administration; Criminal Driving while Suspended or Revoked; Official Misconduct I; Official Misconduct II; Perjury; Possessing Fraudulent Communications Device; Reckless Driving; Sports Bribe Receiving; Sports Bribery; Submitting Wrongful Claim or Payment Prohibited; Tampering with a Witness; Tampering with Public Records; Unlawful Factoring of Credit Card Transaction; Unlawfully Obtaining or Disposing of Food Stamp Benefits; Unlawfully Obtaining Public Assistance.

(c) OCC will consider the following crimes if they were committed 7 years or less prior to the date the subject individual signed the Consent for Criminal Records Check and Request for Enrollment in the Central Background Registry: Aggravated Animal Abuse I; Animal Abuse I; Animal Neglect I; Assault IV; Carrying of Concealed Weapons; Criminal Mischief I; Driving under the Influence of Intoxicants; Fleeing or Attempting to Elude Police Officer; Harassment; Menacing; Recklessly Endangering Another Person; Telephone Harassment; Theft I; and Unlawful Possession of Firearms.

(d) OCC will consider the following crimes if they were committed 10 years or less prior to the date the subject individual signed the Consent for Criminal Records Check and Request for Enrollment in the Central Background Registry: Aggravated Theft I; Arson II; Assault on a Public Safety Officer; Burglary II; Escape II; Invasion of Personal Privacy; Pointing Firearm at Another; Providing Liquor to Person Under 21 or to Intoxicated Person; Public Indecency; and Riot.

(e) OCC will consider the following crimes if they were committed 15 years or less prior to the date the subject individual signed the Consent for Criminal Records Check and Request for Enrollment in the Central Background Registry: Crime Category Classification for Violation of ORS 475.992/Proof of Commercial Drug Offense; Frequenting a Place Where Controlled Substances are Used; Prohibited Acts for Registrants; penalties; [(C)] Prohibited Acts Generally; Penalties; Affirmative Defense for Certain Peyote Uses (controlled substance offenses); [(D)] Prohibited Acts involving Records and Frauds; Penalties; and [(E)] Prostitution.

(f) OCC will consider the following crimes if they were committed 20 years or less prior to the date the subject individual signed the Consent for Criminal Records Check and Request for Enrollment in the Central Background Registry: Penalties for Distribution to Minors; and Penalty for Manufacture or Delivery of Controlled Substance within 1,000 feet of School.

(g) These rules also apply to:

(A) A conviction of a crime in another jurisdiction which is the substantial equivalent of a crime listed in Category II;

(B) An adjudication by a juvenile court that a youth has committed an act that is the substantial equivalent of a crime listed in Category II; and

(C) Any attempts or solicitations to commit any Felony or Misdemeanor crime listed in Category II.

(h) Evaluations of crimes shall be based on Oregon laws in effect at the time of conviction, regardless of the jurisdiction in which the conviction occurred.

(3) OCC has determined that a negative history involving a vulnerable population may substantially jeopardize the safety of children and are inconsistent with any position of unsupervised contact with children or otherwise vulnerable persons. If any subject individual has a child protective services history or a negative history involving other populations, OCC will seek to obtain and review information related to the history, subject to section (6) of this rule. Based on this information, OCC will make a decision whether or not to enroll or remove the subject individual in or from the Central Background Registry.

(a) OCC has determined that firearm prohibition orders or guilt by the exception of insanity, may substantially jeopardize the safety of children and are inconsistent with any position of unsupervised contact with children or otherwise vulnerable persons. If any subject individual has an active firearm prohibition order, OCC will seek to obtain and review information related to the case, subject to section (6) of this rule. Based on this information, OCC will make a decision whether or not to enroll or remove the subject individual in or from the Central Background Registry.

(b) If OCC determines a subject individual who has demonstrated behavior that may have a detrimental effect on a child or indicates behavior that may jeopardize the safety of a child, OCC will make a decision whether or not to enroll or remove the subject individual in or from the Central Background Registry.

(c) If OCC determines a subject individual is a registered sex offender in Oregon or any other jurisdiction, OCC will make a decision whether or not to enroll or remove the subject individual in or from the Central Background Registry.

(4) If OCC determines that additional information is needed to assess a person's suitability to be enrolled or remain enrolled in the Central Background Registry, the subject individual shall provide the requested information within the required timeframes. The additional information may include, but is not limited to, an evaluation or assessment by a physician, counselor or other qualified person, documents to determine positive identification of the subject individual, and court documents.

(5) If a subject individual is in a diversion program or similar agreement for any Category I or Category II crime, the subject individual must provide written documentation of compliance with the terms of diversion or similar agreement. Based on all information obtained, OCC will make a decision whether or not to enroll or remove the subject individual in or from the Central Background Registry.

(6) Factors to be considered in determining suitability, based on information available to CCD and information provided by the subject individual, include:

(a) Types and number of incidences;

(b) Passage of time since the incident occurred;

(c) Circumstances surrounding the incident;

(d) Intervening circumstances since the occurrence of the incident; and

(e) Relationship of the facts under subsections (a) through (d) of this section to the individual's suitability to work with children.

(7) OCC will not bar from enrollment in the Central Background Registry any subject individual because of the existence or contents of a juvenile record that has been expunged by the court.

[ED. NOTE: Table referenced are available from the agency.]

Stat. Auth.: ORS 329A.030

Stats. Implemented: ORS 329A.030

Hist.: CCD 1-1998, f. 9-30-98, cert. ef. 10-1-98; CCD 2-2003, f. 12-5-03 cert. ef. 12-7-03; CCD 3-2004, f. 7-30-04 cert. ef. 8-1-04; CCD 1-2009(Temp), f. 12-30-09, cert. ef. 1-1-10 thru 6-30-10; CCD 1-2010, f. 6-29-10, cert. ef. 7-1-10