

Rule Summary and Fiscal Analysis (Part A)**Attorney General**

Agency Name

Bureau of Criminal Identification and Investigation

Division

Amber Aimar

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109:5-1-01

Rule Number

AMENDMENT

TYPE of rule filing

Rule Title/Tag Line

Procedure for requesting criminal records.**RULE SUMMARY**

1. Is the rule being filed consistent with the requirements of the RC 119.032 review? **Yes**

2. Are you proposing this rule as a result of recent legislation? **No**

3. Statute prescribing the procedure in accordance with the agency is required to adopt the rule: **119.03**

4. Statute(s) authorizing agency to adopt the rule: **R.C. 109.57(E)**

5. Statute(s) the rule, as filed, amplifies or implements: **R.C. 109.57(E)**

6. State the reason(s) for proposing (i.e., why are you filing,) this rule:

The revision to this rule will increase the authorized fee related to conducting BCI background checks.

7. If the rule is an AMENDMENT, then summarize the changes and the content of the proposed rule; If the rule type is RESCISSION, NEW or NO CHANGE,

then summarize the content of the rule:

Ohio Revised Code 109:5-1-01 authorizes BCI to charge a specified fee to conduct a state background check. This modification includes incremental increases in the authorized state fee over the next two fiscal years. The amendment maintains the current fee of twenty-two dollars (\$22.00) until June 30, 2013. On July 1, 2013, the fee will increase to twenty-five dollars (\$25.00) and remain the same through June 30, 2014, representing a \$3.00 increase per background check. On July 1, 2014, the fee will increase to and remain at twenty-eight dollars (\$28.00), representing a \$3.00 increase per background check conducted. The overall increase in the background check fee in this amendment is \$6.00, implemented in equal steps over two fiscal years.

8. If the rule incorporates a text or other material by reference and the agency claims the incorporation by reference is exempt from compliance with sections 121.71 to 121.74 of the Revised Code because the text or other material is **generally available** to persons who reasonably can be expected to be affected by the rule, provide an explanation of how the text or other material is generally available to those persons:

This response left blank because filer specified online that the rule does not incorporate a text or other material by reference.

9. If the rule incorporates a text or other material by reference, and it was **infeasible** for the agency to file the text or other material electronically, provide an explanation of why filing the text or other material electronically was infeasible:

This response left blank because filer specified online that the rule does not incorporate a text or other material by reference.

10. If the rule is being **rescinded** and incorporates a text or other material by reference, and it was **infeasible** for the agency to file the text or other material, provide an explanation of why filing the text or other material was infeasible:

Not Applicable.

11. If **revising** or **refiling** this rule, identify changes made from the previously filed version of this rule; if none, please state so. If applicable, indicate each specific paragraph of the rule that has been modified:

Our previously filed rule implemented the \$6.00 background check fee increase at

one time, immediately upon effective date of the rule change. This revised filing now delays any increase until July 1, 2013 and implements the subsequent fee increases incrementally over two years. The decision to amend the filing was based on input and work we have done with stakeholders, to allow for a gradual increase in the fee over time.

12. 119.032 Rule Review Date: **10/31/2012**

(If the rule is not exempt and you answered NO to question No. 1, provide the scheduled review date. If you answered YES to No. 1, the review date for this rule is the filing date.)

NOTE: If the rule is not exempt at the time of final filing, two dates are required: the current review date plus a date not to exceed 5 years from the effective date for Amended rules or a date not to exceed 5 years from the review date for No Change rules.

FISCAL ANALYSIS

13. Estimate the total amount by which *this proposed rule* would **increase/decrease** either **revenues/ expenditures** for the agency during the current biennium (in dollars): Explain the net impact of the proposed changes to the budget of your agency/department.

This will increase revenues.

4,100,000.00

Based on conducting 678,948 state background checks in the most recent fiscal year and assuming that this rate remains consistent in the future, the amendment to this rule will increase revenues by \$2,000,000 in the first year of the increase and by \$4,100,000 in the second year and all subsequent years of the fee increase.

14. Identify the appropriation (by line item etc.) that authorizes each expenditure necessitated by the proposed rule:

Not Applicable.

15. Provide a summary of the estimated cost of compliance with the rule to all directly affected persons. When appropriate, please include the source for your information/estimated costs, e.g. industry, CFR, internal/agency:

The increase represents a \$3 increase per BCI state background check in the first year of implementation (FY2014) and a subsequent \$3 increase per BCI state

background check in the second year of implementation (FY2015). This would apply to each request for a new record check.

16. Does this rule have a fiscal effect on school districts, counties, townships, or municipal corporations? **Yes**

You must complete Part B of the Rule Summary and Fiscal Analysis in order to comply with Am. Sub. S.B. 33 of the 120th General Assembly.

17. Does this rule deal with environmental protection or contain a component dealing with environmental protection as defined in R. C. 121.39? **No**

S.B. 2 (129th General Assembly) Questions

18. Has this rule been filed with the Common Sense Initiative Office pursuant to R.C. 121.82? **No**

19. Specific to this rule, answer the following:

A.) Does this rule require a license, permit, or any other prior authorization to engage in or operate a line of business? **No**

B.) Does this rule impose a criminal penalty, a civil penalty, or another sanction, or create a cause of action, for failure to comply with its terms? **No**

C.) Does this rule require specific expenditures or the report of information as a condition of compliance? **Yes**

The rule governs the fee for state background checks conducted by the Bureau of Criminal Investigation. However, pursuant to 121.81, rules promulgated by the Office of the Attorney General are not subject to review by the Common Sense Initiative Office.

Rule Summary and Fiscal Analysis (Part B)

1. Does the Proposed rule have a fiscal effect on any of the following?

(a) School Districts	(b) Counties	(c) Townships	(d) Municipal Corporations
Yes	Yes	Yes	Yes

2. Please provide an estimate in dollars of the cost of compliance with the proposed rule for school districts, counties, townships, or municipal corporations. If you are unable to provide an estimate in dollars, please provide a written explanation of why it is not possible to provide such an estimate.

If a school district or government entity chooses to pay or reimburse the cost incurred by the individual applying for employment and requesting the background check, the total dollar amount impact is an increase in cost of \$3 per background check conducted in fiscal year 2014 and a subsequent \$3 per background check conducted in or after fiscal year 2015. However, the school district or government entity is not required to pay the fee on behalf of the individual.

3. If the proposed rule is the result of a federal requirement, does the proposed rule exceed the scope and intent of the federal requirement? **No**

4. If the proposed rule exceeds the minimum necessary federal requirement, please provide an estimate of, and justification for, the excess costs that exceed the cost of the federal requirement. In particular, please provide an estimate of the excess costs that exceed the cost of the federal requirement for (a) school districts, (b) counties, (c) townships, and (d) municipal corporations.

Not Applicable.

5. Please provide a comprehensive cost estimate for the proposed rule that includes the procedure and method used for calculating the cost of compliance. This comprehensive cost estimate should identify all of the major cost categories including, but not limited to, (a) personnel costs, (b) new equipment or other capital costs, (c) operating costs, and (d) any indirect central service costs.

See answer to No. 2. If a school district or government entity chooses to pay or reimburse the cost incurred by the individual applying for employment and requesting the background check, the total dollar amount impact is an increase in

cost of \$3 per background check conducted in fiscal year 2014 and a subsequent \$3 per background check conducted in or after fiscal year 2015. However, the school district or government entity is not required to pay the fee on behalf of the individual.

(a) Personnel Costs

De minimus cost of labor to request the background check.

(b) New Equipment or Other Capital Costs

Not Applicable.

(c) Operating Costs

Not Applicable.

(d) Any Indirect Central Service Costs

Not Applicable.

(e) Other Costs

There is an increase in cost of \$3 per background check in FY2014 and a subsequent \$3 per background check in or after FY2015 if the school district or government entity chooses to pay or reimburse the cost incurred by the individual applying for employment and subject to the background check.

6. Please provide a written explanation of the agency's and the local government's ability to pay for the new requirements imposed by the proposed rule.

The school district or government entity is not required to pay or reimburse the individual applying for employment for the cost of the background check.

7. Please provide a statement on the proposed rule's impact on economic development.

The increase is minimal and is not likely to have an impact on economic development. It merely shifts a portion of the state's cost of operating the system to provide background checks to the individuals seeking the background checks.