

## Rule Summary and Fiscal Analysis

### Part A - General Questions

**Rule Number:** 109:5-1-01  
**Rule Type:** Amendment  
**Rule Title/Tagline:** Procedure for requesting criminal records.  
**Agency Name:** Attorney General  
**Division:** Bureau of Criminal Identification and Investigation  
**Address:** 30 E. Broad St., 17th Floor Columbus OH 43215  
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#### I. Rule Summary

1. **Is this a five year rule review?** No
  - A. **What is the rule's five year review date?** 11/11/2020
2. **Is this rule the result of recent legislation?** No
3. **What statute is this rule being promulgated under?** 119.03
4. **What statute(s) grant rule writing authority?** 109.57(E)
5. **What statute(s) does the rule implement or amplify?** 109.57(E)
6. **What are the reasons for proposing the rule?**

Funding support for increased services.
7. **Summarize the rule's content, and if this is an amended rule, also summarize the rule's changes.**

This rule provides for the procedure for requesting criminal records. The amendment changes the fee for this service from \$22 to \$30.
8. **Does the rule incorporate material by reference?** No

9. **If the rule incorporates material by reference and the agency claims the material is exempt pursuant to R.C. 121.75, please explain the basis for the exemption and how an individual can find the referenced material.**

*Not Applicable*

10. **If revising or re-filing the rule, please indicate the changes made in the revised or re-filed version of the rule.**

3/1/2021 Additional outreach was performed and an additional public hearing has been scheduled for 3/15/2021 for further opportunities for interested parties to submit feedback.

11/10/2020 Additional outreach was performed and the proposed fee increase was reduced 40% from a \$13 increase to a \$8 increase

10/09/2020 Additional outreach was performed and the BIA and RSFA Parts A & B were further refined.

09/18/2020 Added BIA

## **II. Fiscal Analysis**

11. **Please estimate the increase / decrease in the agency's revenues or expenditures in the current biennium due to this rule.**

This will increase revenues.

7,040,000

The increase of \$8 per background check on 880,000 simple background checks processed during 2019, would raise this amount.

12. **What are the estimated costs of compliance for all persons and/or organizations directly affected by the rule?**

The cost of compliance will now be \$30, an increase of \$8 from the current cost.

13. **Does the rule increase local government costs? (If yes, you must complete an RSFA Part B). Yes**

14. **Does the rule regulate environmental protection? (If yes, you must complete an RSFA Part C). No**

15. **If the rule imposes a regulation fee, explain how the fee directly relates to your agency's cost in regulating the individual or business.**

The fee support BCI's operations.

### **III. Common Sense Initiative (CSI) Questions**

16. **Was this rule filed with the Common Sense Initiative Office?** No

17. **Does this rule have an adverse impact on business?** Yes

- 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 expected impact depends on the routine practices of each independent business. If a business pays the cost of an initial state background check for its preemployment candidates, their expense will increase by eight dollars times the number of checks they perform in a given time period.

- D. **Is it likely that the rule will directly reduce the revenue or increase the expenses of the lines of business of which it will apply or applies?** Yes

The expected impact depends on the routine practices of each independent business. If a business pays the cost of an initial state background check for its preemployment candidates, their expense will increase by eight dollars times the number of checks they perform in a given time period.

### **IV. Regulatory Restrictions (This section only applies to agencies indicated in R.C. 121.95 (A))**

18. **Are you adding a new or removing an existing regulatory restriction as defined in R.C. 121.95?** No

- A. **How many new regulatory restrictions do you propose adding?**

Not Applicable

**B. How many existing regulatory restrictions do you propose removing?**

Not Applicable

## Rule Summary and Fiscal Analysis

### Part B - Local Governments Questions

**1. Does the rule increase costs for:**

<b>A. Public School Districts</b>	Yes
<b>B. County Government</b>	Yes
<b>C. Township Government</b>	Yes
<b>D. City and Village Governments</b>	Yes

**2. Please estimate the total cost, in dollars, of compliance with the rule for the affected local government(s). If you cannot give a dollar cost, explain how the local government is financially impacted.**

Some local government entities may see an increase in costs due to the higher proposed fee. These effects can be mitigated by three factors: 1) public employers may require job applicants to pay for their own initial background check before extending an offer of employment, 2) individuals seeking employment or licensing pursuant to ORC 109.572 are only required to pay an \$8 fee if they previously had a check performed within one year, and 3) all law enforcement entities are exempt from the fee in connection with their preemployment investigations. If a local government does pay for these checks, and in the cases where the lower \$8 renewal fee or the exemption does not apply, they can expect their costs to increase by \$8 multiplied by the number of initial state background checks they request in a given time period.

**3. Is this rule the result of a federal government requirement? No**

**A. If yes, does this rule do more than the federal government requires?** *Not Applicable*

**B. If yes, what are the costs, in dollars, to the local government for the regulation that exceeds the federal government requirement?**

*Not Applicable*

**4. Please provide an estimated cost of compliance for the proposed rule if it has an impact on the following:**

**A. Personnel Costs**

\$0

**B. New Equipment or Other Capital Costs**

\$0

**C. Operating Costs**

Additional \$8 per background check

**D. Any Indirect Central Service Costs**

\$0

**E. Other Costs**

\$0

- 5. Please explain how the local government(s) will be able to pay for the increased costs associated with the rule.**

To the extent that a local government is paying for any of the costs related to an initial state background check, they have the option of passing some or all of the increase on to those seeking employment with the local government entity.

- 6. What will be the impact on economic development, if any, as the result of this rule?**

None anticipated. This is an adjustment to an existing fee.