

## Rule Summary and Fiscal Analysis

### Part A - General Questions

**Rule Number:** 173-9-08

**Rule Type:** New

**Rule Title/Tagline:** Background checks for paid direct-care positions: confidentiality and retention of records.

**Agency Name:** Department of Aging

**Division:**

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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?**
2. **Is this rule the result of recent legislation?** Yes
  - A. **If so, what is the bill number, General Assembly and Sponsor?** SB 9 - 134 - McColley, Roegner
3. **What statute is this rule being promulgated under?** 119.03
4. **What statute(s) grant rule writing authority?** 121.07, 173.01, 173.02, 173.38, 173.381, 173.391, 173.392; 42 U.S.C. 3025; 45 C.F.R. 1321.11
5. **What statute(s) does the rule implement or amplify?** 173.38, 173.381; 42 C.F.R. 460.68, 460.71
6. **Does the rule implement a federal law or rule in a manner that is more stringent or burdensome than the federal law or regulation requires?** No
  - A. **If so, what is the citation to the federal law or rule?** Not Applicable
7. **What are the reasons for proposing the rule?**

This proposed new rule will exist to establish records requirements.

**8. Summarize the rule's content, and if this is an amended rule, also summarize the rule's changes.**

This proposed new rule will establish records requirements. ODA proposes to rescind the current version of this rule and replace it with this proposed new rule to achieve the following:

1. Provide a helpful reference to the confidentiality requirements in R.C. §§ 173.38 and 173.381 rather than duplicating those requirements in this rule.
2. Provide helpful references to records retention requirements in federal rules and Chapters 173-3 and 173-39 of the Administrative Code rather than duplicate those requirements in this rule.
3. Replace the requirement for a responsible party to maintain a roster of applicants and employees to a requirement to maintain this roster only for applicants and employees who require obtaining criminal records from the FBI through BCII.
4. Reduce the use of unnecessary regulatory restrictions (e.g., "shall") in this rule to comply with R.C. §§ 106.03 and 121.951

**9. Does the rule incorporate material by reference? No**

**10. 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*

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

*Not Applicable*

## **II. Fiscal Analysis**

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

This will have no impact on revenues or expenditures.

\$0.00

Adopting this proposed new rule will have no effect upon the biennial budget that the Ohio General Assembly established for ODA in House Bill 33 (135th G.A.).

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

The cost of compliance to this proposed new rule is the cost of maintaining a roster for applicants and employees who require a criminal records from the FBI through BCII. This represents a reduction in the cost of compliance because the current rule requires responsible parties to maintain a roster for all applicants and employees. For more information, please review ODA's responses to questions #10 and #16 on the BIA.

Other state and federal rules to which this proposed new rule will refer establish requirements to records-retention periods, which has a cost of compliance. This proposed new rule will establish what to retain regarding background checks to comply with those requirements.

**14. Does the rule increase local government costs? (If yes, you must complete an RSFA Part B). No**

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

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

Not Applicable

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

**17. Was this rule filed with the Common Sense Initiative Office? Yes**

**18. 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**

Please review ODA's responses to questions #15, #16, and #17 on the BIA.

**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**

This proposed new rule requires each responsible party to maintain a roster for applicants and employees who require a criminal records from the FBI through BCII. This represents a reduction in adverse impact because the current rule requires each responsible party to maintain a roster for all applicants and employees. For more information, please review ODA's responses to questions #10 and #16 on the BIA.

Other state and federal rules to which this proposed new rule will refer establish requirements to records-retention periods, which have an adverse impact. This proposed new rule will establish what to retain regarding background checks to comply with those requirements. For more information on the adverse impact of this chapter, please review ODA's response to questions #15, #16, and #17 of the BIA.

- 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? No**

**IV. Regulatory Restriction Requirements under S.B. 9. Note: This section only applies to agencies described in R.C. 121.95(A).**

19. **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 to this rule?**

Not Applicable

- B. **How many existing regulatory restrictions do you propose removing from this rule?**

Not Applicable

- C. **If you are not removing existing regulatory restrictions from this rule, please list the rule number(s) from which you are removing restrictions.**

Not Applicable

**D. Please justify the adoption of the new regulatory restriction(s).**

Not Applicable