

Rule Summary and Fiscal Analysis (Part A)**Department of Job and Family Services**

Agency Name

Division of Social Services

Division

Michael Lynch

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5101:2-42-04

Rule Number

AMENDMENT

TYPE of rule filing

Rule Title/Tag Line

Authority to assume and retain custody of a child.**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: **5103.03, 5153.166**

5. Statute(s) the rule, as filed, amplifies or implements: **2151.421, 5103.03, 5153.166**

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

Five year review.

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:

This rule provides authorization for a PCSA or PCPA to assume and retain custody of a child.

In paragraph (B)(3) the JFS 01666 "Permanent Surrender of Child" form was revised and the revision date of the form has changed.

Paragraph (E) was stricken and a new sub paragraph (D)(3) has been added reflecting a change in format to the rule. "Perform such duties for the deserted child as required for any child in the agency's custody" has been added.

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 rule incorporates one or more dated references to an ODJFS form or forms. Each cited ODJFS form is dated and is generally available to persons affected by this rule via the "Info Center" link on the ODJFS web site (<http://jfs.ohio.gov/>) in accordance with RC 121.75(E).

This rule incorporates one or more references to the Ohio Revised Code. This question is not applicable to any incorporation by reference to the Ohio Revised Code because such reference is exempt from compliance with RC 121.71 to 121.74 pursuant to RC 121.76(A)(1).

This rule incorporates one or more references to another rule or rules of the Ohio Administrative Code. This question is not applicable to any incorporation by reference to another OAC rule because such reference is exempt from compliance with RC 121.71 to 121.74 pursuant to RC 121.76(A)(3).

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:

Not applicable.

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:

Not Applicable.

12. 119.032 Rule Review Date: **4/30/2014**

(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 have no impact on revenues or expenditures.

0.00

No impact on current budget.

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:

No new costs.

16. Does this rule have a fiscal effect on school districts, counties, townships, or municipal corporations? **No**

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? **Yes**

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? **Yes**

The private child placing agency must be licensed by the Ohio Department of Job and Family services to obtain custody, provide services and placement of a child apart from his parents.

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? **Yes**

The sanction could result in a suspension or termination of the agency's license.

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

All records must be contained within the child's case plan.

Ohio Department of Job and Family Services
PERMANENT SURRENDER OF CHILD

I, _____ am _____ years old and am the Parent/Guardian of _____ <small style="display: flex; justify-content: space-between;">full namechild's name</small>			
born on _____ in _____, _____, _____ <small style="display: flex; justify-content: space-between;">date of birthcity of birthcounty of birthstate of birth</small>			
who currently lives at _____ sign this permanent surrender <small style="display: flex; justify-content: center;">parent's street address/city /state</small>			
as the child's <input type="checkbox"/> mother, <input type="checkbox"/> father, <input type="checkbox"/> putative father, <input type="checkbox"/> guardian, and hereby request _____ <small style="display: flex; justify-content: center;">agency name</small>			
to take permanent custody and control of the child. I am unable to care for said child for the following reasons: _____ _____			
The Assessor has provided the following counseling and discussed alternatives to the surrender: _____ _____			
Date on which this was provided: _____ Name of Assessor: _____			
I agree and understand that under Ohio law, signing this document means:			
<ol style="list-style-type: none"> 1. All my rights as a parent to the above named child will end. This includes, but is not limited to, all rights to visitation, communication, support, religious affiliation and the right to consent to the child's adoption. 2. The Agency shall have permanent custody of the child and shall have the right to place the child in any adoptive home or other substitute care settings it finds in the child's best interest (Ohio Revised Code Sections 3107.01 and 3107.06). 			
This permanent surrender was taken at _____ <input type="checkbox"/> AM <input type="checkbox"/> PM, on the _____ of _____, 20 _____ in <small style="display: flex; justify-content: space-between;">timedaymonthyear</small> the following location: _____			
I have read this permanent surrender or it was read to me before I signed it. I was given the opportunity to ask questions concerning this permanent surrender and those questions were fully answered to my satisfaction. I understand and agree to the terms of this permanent surrender of my child. I am signing this permanent surrender of my child voluntarily and at least 72 hours after the birth of the child.			
Witness	Date	Signature of Parent/Guardian	Date
By my signature below, I _____ by virtue of my authority as _____ of _____, <small style="display: flex; justify-content: space-between;">agency representative's nameagency representative's titleagency name</small>			
which is an agency duly authorized pursuant to Ohio Revised Code Sections 5103.03 and 5153.16, to accept permanent custody of children by surrender, hereby accept permanent custody of _____ from _____. <small style="display: flex; justify-content: space-between;">child's nameparent's name</small>			
Witness	Date	Signature of Authorized Agency Representative	Date
Under Ohio law, Ohio Revised Code Section 5103.15(B), approval of the juvenile court is required if this agreement is entered into by a public children service agency or is executed by a private child placing agency for a child six months of age or older.			
By my signature, below, I hereby approve the transfer of permanent custody of (child's name) _____ by the child's parent/guardian to the (agency name) _____			
I find that continuation in the home is contrary to the best interest of the child and that the placement is in the best interest of the child.			
Name of Court	Signature of Judge	Date	
This has been duly recorded on page number _____ of volume number _____ of the records of this court.			

Ohio Department of Job and Family Services
PERMANENT SURRENDER OF CHILD

Instructions for Completion of ODJFS FORM 01666

Enter all information as indicated on the form. These instructions are meant to assist you in gathering and entering the pertinent information to insure the proper execution of a permanent surrender.

Full name	Enter the full name of the parent/guardian who is making the permanent surrender.	Time	Enter the time the permanent surrender was signed by the parent/guardian.
Age	Enter the age of the parent/guardian who is making the permanent surrender.	Day	Enter the day the permanent surrender was signed by the parent/guardian.
Child's name	Enter the full name of the child being surrendered.	Month	Enter the month the permanent surrender was signed by the parent/guardian.
Date of birth	Enter the child's date of birth.	Year	Enter the year the permanent surrender was signed by the parent/guardian.
City of birth	Enter the city in which the child was born.	Location	Enter the location the permanent surrender was signed by the parent/guardian.
County of birth	Enter the county in which the child was born.	Signatures	Each parent/guardian who is a party to the surrender is required to sign and date the surrender document in the presence of a witness. The signature of the witness is required.
State of birth	Enter the state in which the child was born.	Agency representative name	Enter the name of the agency representative.
Parent's street address	Enter the address of the current residence of the parent/guardian.	Agency representative title	Enter the appropriate title of the agency representative.
City	Enter the city of residence of the parent/guardian.	Agency name	Enter the full name of the agency accepting the permanent surrender.
State	Enter the state of residence of the parent/guardian. (NOTE: Check the appropriate categories to identify the legal relationships of the parent/guardian to the child being surrendered.)	Child's name	Enter the full name of the child being surrendered.
Agency name	Enter the full name of the agency accepting the permanent surrender.	Parent's name	Enter the full name of the parent/guardian who is signing the permanent surrender.
	(NOTE: Enter the reasons for the permanent surrender. Be clear and concise.)	Signature	The agency representative signs the permanent surrender in the presence of a witness, who also signs the document. It is dated by both at the time of signatures.
	(NOTE: Identify counseling services, alternative placements discussed, and date(s) of the discussions(s) prior to the permanent surrender.)		

COURT APPROVAL OF THE "PERMANENT SURRENDER OF CHILD" FORM

All agreements for permanent surrender involving a public children services agency must be approved by the juvenile court. In addition, children who are six months of age or older, and who are surrendered to private child placing agencies, must be approved by the court. When private child placing agencies accept permanent surrender of a child less than six months of age, for the sole purpose of adoption, approval of the court is not required.

The agency must file a request with the court for approval of the "PERMANENT SURRENDER OF CHILD" form. When an agency requests approval of a permanent surrender, a case plan must accompany the request.

Distribution: One copy to Agency; One copy to Parent; One copy to Court