

5101:2-42-18

PCSA and PCPA approval of placements with relative and nonrelative substitute caregivers.

- (A) A public children services agency (PCSA) or private child placing agency (PCPA) having custody of a child, or upon interstate request by a state with jurisdiction, may approve placement with the following substitute caregivers in accordance with rule 5101:2-42-05 of the Administrative Code if the placement is determined to be in the child's best interest and the substitute caregivers are not certified through the Ohio department of job and family services:
- (1) A relative by blood, adoption, or marriage who, in accordance with sections 5103.02 and 5103.03 of the Revised Code, is exempt from certification and who is being considered as a substitute caregiver; or
 - (2) A nonrelative who has a relationship with the child and/or family and who, in accordance with section 5153.161 of the Revised Code, is ~~approved by the court~~ a qualified non-relative.
- (B) Prior to placing the child with the relative or nonrelative substitute caregiver, the PCSA or PCPA shall adhere to the following procedures and document its actions in approving the placement setting:
- (1) Collect identifying information (first name, last name, maiden name, aliases, social security number, address, telephone number, place of employment) on the prospective caregiver and all household members.
 - (2) Require all adults in the home to identify prior PCSA or children services agency (CSA) involvement.
 - (3) Assure that a search of the statewide automated child welfare information system (SACWIS) has been completed for the prospective caregiver and adult household members pursuant to rule 5101:2-33-21 of the Administrative Code.
 - (a) If the agency has the ability to access SACWIS pursuant to rule 5101:2-33-70 of the Administrative Code and section 5101.132 of the Revised Code, the agency shall complete an alleged perpetrator search of abuse and neglect report history through SACWIS for the prospective caregiver and each adult who resides in the home.
 - (b) If the agency does not have the ability to access SACWIS, the agency shall request a search of SACWIS from the Ohio department of job and family services (ODJFS) for the prospective caregiver and each adult who resides in the home and shall secure the necessary releases of information and initiate requests for information when applicable.

(4) When involvement with a CSA in another state is indicated or suspected, the PCSA or PCPA shall ~~secure the necessary releases of information and initiate requests for information from the other CSAs~~ request a check of the child abuse and neglect registry from the other state.

(5) When the home of the relative or nonrelative substitute caregiver is a licensed foster home or approved adoptive home, the PCSA or PCPA is to notify the recommending agency of the intent to place the kinship child in the home. The PCSA or PCPA should consider placing the child as a foster care placement if appropriate.

~~(5)~~(6) Assess the safety of the home by checking on all of the following:

- (a) Cleanliness of the home.
- (b) Absence of hazardous conditions inside and outside.
- (c) Storing of poisonous and otherwise dangerous or combustible materials.
- (d) Proper heating, lighting and ventilation.
- (e) Condition of plumbing and toilet facilities.
- (f) Installation of a working smoke alarm on each level of occupancy of the home.
- (g) Safe storing of weapons, including firearms and ammunitions, in inoperative condition and in a secured and locked area.
- (h) Adequacy of each child's bedding and appropriateness to his or her needs.
- (i) Availability of a working telephone within the home or reasonable access to a working telephone for emergency situations.

~~(6)~~(7) Provide the prospective caregiver with known information regarding educational, medical, prescription and nonprescription medications, child care, and special needs of the child including information on how to access support services to meet the needs of the child.

~~(7)~~(8) Provide the prospective caregiver with the following information:

- (a) Information about the kinship support program (KSP), including eligibility requirements and details about payments and payment timeframes, in accordance with rule 5101:2-42-18.2 of the Administrative Code.

- ~~(a)~~(b) How to apply for Ohio works first (OWF) child-only financial assistance and medicaid coverage.
 - (c) The caregiver's right to apply for certification as a foster caregiver.
 - ~~(b)~~(d) How to apply for certification as a foster caregiver.
 - ~~(e)~~(e) The requirements for foster caregiver certification and adoption approval and how those requirements differ from the requirements for approval as a relative or nonrelative substitute caregiver.
 - ~~(d)~~(f) The difference in payment between ~~an~~ OWF child-only payments, KSP payments, and the foster care per diem.
 - ~~(e)~~(g) The difference (if any) in the eligibility for supportive services.
 - (h) The caregiver's right to be heard during hearings involving the child(ren) if the placement is approved.
- ~~(8)~~(9) Assess the prospective caregiver's ability and willingness to provide care and supervision of the child and to provide a safe and appropriate placement for the child.
- ~~(9)~~(10) Submit fingerprints for the prospective relative or nonrelative caregiver and all adults residing within the home according to the requirements of the bureau of criminal investigation (BCI). The agency shall request that BCI include information from the federal bureau of investigation (FBI) in the criminal records check. The required criminal records check must be completed prior to an agency approving the prospective relative or nonrelative placement.
- (11) Complete a review of the national sex offender registry at <https://www.nsopw.gov> (2019) for the prospective relative or nonrelative caregiver and all adults residing within the home.
- ~~(10)~~(12) Require the prospective caregiver to submit written notification if a person at least twelve years of age but less than eighteen years of age residing within the home of the prospective caregiver has been convicted of or plead guilty to any offenses described in section 5103.0319 of the Revised Code, or has been adjudicated to be a delinquent child for committing an act that if committed by an adult would have constituted such a violation.
- (C) If a child must be removed from his or her home immediately in accordance with rules 5101:2-39-01 and 5101:2-39-03 of the Administrative Code, the PCSA or PCPA may place the child with the prospective relative or nonrelative substitute caregiver,

if there are no known safety concerns, and initiate the assessments required by paragraph (B) of this rule no later than the next business day.

- (1) The PCSA or PCPA shall complete all activities required by paragraph (B) of this rule no later than five business days from the date the child was placed.
 - (2) The PCSA or PCPA shall make a final decision to approve or not approve the placement of the child no later than five business days from the date the agency receives the BCI and FBI background check results and/or alleged perpetrator background check results.
 - (3) The PCSA or PCPA shall provide the relative or nonrelative caregiver with written notification of the decision to approve or not approve the placement within three business days of the date the final decision to approve or not approve the placement was made.
- (D) The PCSA or PCPA shall complete the JFS 01447 "Assessment of Relative or Nonrelative Substitute Caregiver" ~~_(rev. 5/2017). When the home assessment for relative or nonrelative substitute caregivers has been incorporated into SACWIS, the~~ The PCSA or PCPA shall use the SACWIS application to complete home assessments.
- (E) The PCSA or PCPA may deny the placement if the relative or nonrelative had his or her parental rights involuntarily terminated.
- ~~(F) The PCSA or PCPA shall not approve the placement if the relative or nonrelative or other adult residing within the home has a felony conviction for spousal abuse, rape, sexual assault, or homicide, or a violation of an existing or former law of this state, any other state, or the United States that is substantially equivalent to any of these offenses. The provisions of paragraph (G) of this rule do not apply to these offenses.~~
- ~~(G)~~(E) The PCSA or PCPA shall not approve the placement if the relative or nonrelative or other adults residing within the home have been convicted of or pleaded guilty to any offense listed in ~~paragraph (H)~~ appendix A of this rule unless the agency finds and documents that person has met all of the following conditions: person's residency in the relative or nonrelative caregiver's household will not jeopardize in any way the health, safety or welfare of the children the agency serves. The following factors shall be considered in determining the person's approval as a relative or nonrelative caregiver or the person's residency in the relative or nonrelative caregiver's household:
- (1) The person's age at the time of the offense.
 - (2) The nature and seriousness of the offense.

- (3) The victim of the offense was any of the following:
- (a) A person under the age of eighteen.
 - (b) A functionally impaired person as defined in section 2903.10 of the Revised Code.
 - (c) A person with an intellectual disability as defined in section 5123.01 of the Revised Code.
 - (d) A developmentally disabled person as defined in section 5123.01 of the Revised Code.
 - (e) A person with a mental illness as defined in section 5122.01 of the Revised Code.
 - (f) A person sixty years of age or older.
- (4) The circumstances under which the offense was committed.
- (5) The degree of participation of the person involved in the offense.
- (6) The time elapsed since the person was fully discharged from imprisonment or probation.
- (7) The likelihood that the circumstance leading to the offense will recur.
- (8) The likelihood that the circumstance leading to the offense will recur.
- (9) The person's employment record.
- (10) The person's efforts at rehabilitation and the results of those efforts.
- (11) Whether any criminal proceedings are pending against the person.
- (12) Whether the person has been convicted of or pleaded guilty to a felony contained in the Revised Code that is not listed in paragraph (H) of this rule, if the felony bears a direct and substantial relationship to being a relative or nonrelative caregiver or adult member of the caregiver's household.
- (13) Any other factors the agency considers relevant.
- ~~(1) Where the offense was a misdemeanor, or would have been a misdemeanor if conviction had occurred under the current criminal code, at least one year has elapsed from the date the person was fully discharged from any imprisonment~~

~~or probation arising from the conviction. A person who has had his record of misdemeanor conviction sealed by a court pursuant to section 2953.32 of the Revised Code shall be considered to have met this condition.~~

~~(2) Where the offense was a felony, at least five years have elapsed since the person was fully discharged from imprisonment or probation.~~

~~(3) The person's approval as a relative or nonrelative caregiver or the person's residency in the relative or nonrelative caregiver's household will not jeopardize in any way the health, safety or welfare of the children the agency serves. The following factors shall be considered in determining the person's approval as a relative or nonrelative caregiver or the person's residency in the relative or nonrelative caregiver's household:~~

~~(a) The person's age at the time of the offense.~~

~~(b) The nature and seriousness of the offense.~~

~~(c) The victim of the offense was any of the following:~~

~~(i) A person under the age of eighteen.~~

~~(ii) A functionally impaired person as defined in section 2903.10 of the Revised Code.~~

~~(iii) A person with an intellectual disability as defined in section 5123.01 of the Revised Code.~~

~~(iv) A developmentally disabled person as defined in section 5123.01 of the Revised Code.~~

~~(v) A person with a mental illness as defined in section 5122.01 of the Revised Code.~~

~~(vi) A person sixty years of age or older.~~

~~(d) The circumstances under which the offense was committed.~~

~~(e) The degree of participation of the person involved in the offense.~~

~~(f) The time elapsed since the person was fully discharged from imprisonment or probation.~~

~~(g) The likelihood that the circumstance leading to the offense will recur.~~

- ~~(h) Whether the person is a repeat offender.~~
- ~~(i) The person's employment record.~~
- ~~(j) The person's efforts at rehabilitation and the results of those efforts.~~
- ~~(k) Whether any criminal proceedings are pending against the person.~~
- ~~(l) Whether the person has been convicted of or pleaded guilty to a felony contained in the Revised Code that is not listed in paragraph (H) of this rule, if the felony bears a direct and substantial relationship to being a relative or nonrelative caregiver or adult member of the caregiver's household.~~
- ~~(m) Any other factors the agency considers relevant.~~

(G) The PCSA, PCPA, and kinship caregiver or potential kinship caregiver are to refer to appendix A of this rule to determine the rehabilitative status of a crime.

~~(H) Except as provided in paragraph (G) of this rule, a relative or nonrelative caregiver or other adult residing in the home shall not have been convicted of or pleaded guilty to, any of the following offenses:~~

- ~~(1) A violation of section 959.13, 2903.01, 2903.02, 2903.03, 2903.04, 2903.11, 2903.12, 2903.13, 2903.15, 2903.16, 2903.21, 2903.211, 2903.22, 2903.34, 2905.01, 2905.02, 2905.05, 2907.02, 2907.03, 2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 2907.25, 2907.31, 2907.32, 2907.321 (2907.32.1), 2907.322 (2907.32.2), 2907.323 (2907.32.3), 2909.02, 2909.03, 2909.22, 2909.23, 2909.24, 2911.01, 2911.02, 2911.11, 2911.12, 2919.12, 2913.49, 2917.01, 2917.02, 2919.22, 2919.24, 2919.25, 2923.12, 2923.13, 2923.161 (2923.16.1), 2925.02, 2925.03, 2925.04, 2925.05, 2925.06, 2927.12, or 3716.11 of the Revised Code;~~
- ~~(2) A violation of section 2905.04 of the Revised Code as it existed prior to July 1, 1996;~~
- ~~(3) A violation of section 2919.23 of the Revised Code that would have been a violation of section 2905.04 of the Revised Code as it existed prior to July 1, 1996, had the violation been committed prior to that date;~~
- ~~(4) A violation of section 2925.11 of the Revised Code that is not a minor drug possession offense as defined in section 2925.01 of the Revised Code;~~

~~(5) Two or more violations of section 4511.19 of the Revised Code or the equivalent violation from any other state committed within the three years immediately preceding the start date of the home assessment;~~

~~(6) Felonious sexual penetration in violation of former section 2907.12 of the Revised Code as listed in appendix A to this rule; or~~

~~(7) A violation of an existing or former law of this state, any other state, or the United States that is substantially equivalent to any of the offenses listed in paragraphs (H)(1) to (H)(6) of this rule.~~

~~(H)~~(H) The PCSA or PCPA shall complete the requirements of paragraph (B) of this rule and make a decision to approve or not approve the child's placement with the relative or nonrelative caregiver within thirty calendar days from the date the assessment was initiated. If the BCI or FBI background check results and/or alleged perpetrator background check results have not been received by the PCSA or PCPA within thirty calendar days from the date the assessment was initiated, the PCSA or PCPA shall make a final decision to approve or not approve the placement of the child no later than five business days from the date the agency receives the BCI and FBI background check results and/or alleged perpetrator background check results.

~~(I)~~(I) The PCSA or PCPA shall provide the relative or nonrelative caregiver with written notification of the decision to approve or not approve the placement within three business days of the date the final decision to approve or not approve the placement was made.

~~(J)~~(J) If the PCSA or PCPA disapproves of a court ordered placement of a child, it shall notify the court in writing of its findings and recommend a suitable substitute care placement. The PCSA or PCPA shall continue to notify the court in writing of its findings and recommended substitute care placement at least every six months.

~~(K)~~(K) The PCSA or PCPA shall maintain documentation, in the case record, of all assessments and findings required by this rule that are used in approving or disapproving the placement.

~~(L)~~(L) Annually, based on the date of the original approval, the PCSA or PCPA shall complete a home assessment to assure that the placement continues to meet the requirements of this rule for approval of the placement.

(1) If there are multiple children placed by one agency in the home, the agency may complete one annual assessment based on the date of the original placement approval, but shall consider the appropriateness of each placement on a child specific basis.

- (2) If there are any new adults in the home, the PCSA or PCPA shall conduct background checks on the new adult(s) pursuant to ~~paragraphs (B)(1) to (B)(4) and (B)(9)~~ paragraph (B) of this rule.
- (3) If the relative or nonrelative caregiver(s) ~~have~~ has moved to a new address, the PCSA or PCPA shall ensure that the home meets the requirements listed in paragraph ~~(B)(5)~~ (B) of this rule.
- ~~(N)~~ (M) Once a child has been placed with a relative or nonrelative substitute caregiver and is not in need of a new placement, the PCSA or PCPA may continue to complete additional home assessments on other relative or nonrelative substitute caregivers. The PCSA or PCPA may extend the timeframe for completing these additional assessments by a maximum of thirty days past the requirements listed in paragraph (I) of this rule.
- ~~(O)~~ (N) Nothing in this rule removes the PCSA's responsibility for conducting parent assessments when a child reunifies with the parent from which the child was removed or when a child is being placed with a non-custodial or non-residential parent in accordance with rules 5101:2-37-01, 5101:2-37-02, and 5101:2-37-04 of the Administrative Code.

Effective:

Five Year Review (FYR) Dates: 3/18/2021

Certification

Date

Promulgated Under: 119.03
Statutory Authority: 5103.03, 5153.166
Rule Amplifies: 2151.86, 5103.03, 5153.16
Prior Effective Dates: 09/28/1987 (Emer.), 12/27/1987, 01/01/1989,
11/03/2003, 12/19/2008, 06/15/2009, 06/01/2011,
05/04/2014, 07/01/2017