

5101:2-5-09.1

**Criminal records check required for certain prospective employees and certified foster caregivers.**

- (A) The appointing or hiring officer or administrative director of an agency shall request the bureau of criminal identification and investigation (BCII) conduct a criminal records check with respect to any person subject to a criminal records check and any person providing respite care for a specialized foster care program that is not a certified foster caregiver.
- (B) The appointing or hiring officer or administrative director of the agency shall inform each prospective employee at the time of initial application, that as a precondition to being approved for that position:
  - (1) The person is required to complete the BCII prescribed criminal records check form and provide a set of fingerprint impressions.
  - (2) A criminal records check is required to be conducted by BCII and, except as provided in paragraph (N) of rule 5101:2-5-09 of the Administrative Code, satisfactorily completed if the prospective employee comes under final consideration for appointment or employment.
- (C) The appointing or hiring officer or administrative director of the agency shall inform each person seeking certification as a foster caregiver, at the time of initial application, that as a precondition to being approved as a foster caregiver:
  - (1) The person is required to complete the BCII prescribed criminal records check form and provide a set of fingerprint impressions.
  - (2) A criminal records check shall be conducted by BCII and satisfactorily completed for any person seeking certification as a foster caregiver.
- (D) The appointing or hiring officer or administrative director of the agency shall provide each person listed in paragraph (A) of this rule with a copy of the BCII prescribed criminal records check form and a BCII standard impression sheet to obtain fingerprint impressions.
- (E) Before a recommending agency may submit a recommendation to the Ohio department of job and family services (ODJFS) on whether the department should issue a certificate to operate a foster home, the administrative director of the agency shall request that the superintendent of BCII conduct a criminal records check with respect to the prospective foster caregiver and all other persons eighteen years of age or older who reside with the foster caregiver.

- (F) Any person subject to a criminal records check who receives a copy of the BCII prescribed criminal records check form and a BCII standard impression sheet and who is requested by the agency to complete the form and provide a set of fingerprints impressions shall:
- (1) Complete the form or provide all the information necessary to complete the form.
  - (2) Provide the impression sheet with the impressions of the person's fingerprints.
  - (3) Submit the completed form and the impression sheet to the agency.
- (G) If a person seeking certification as a foster caregiver fails to provide the information necessary to complete the form or fails to provide fingerprint impressions or fails to provide fingerprint impressions for any adult household members, that person shall be denied certification as a foster caregiver pursuant to rule 5101:2-5-26 of the Administrative Code.
- (H) If a prospective employee seeking appointment or employment by an agency fails to provide the information necessary to complete the form or fails to provide fingerprint impressions, the prospective employee shall not be employed by the agency.
- (I) The agency shall obtain the completed form and fingerprint impression sheet from each person subject to a criminal records check and forward the form and fingerprint impression sheet to BCII at the time the agency requests a criminal records check.
- (J) The agency shall request that BCII obtain information from the "Federal Bureau of Investigation" (FBI) as a part of the criminal records check for any entity that appoints or employs any person responsible for a child's out-of-home care if either of the following are applicable:
- (1) The person does not present proof of residency in Ohio for the five-year period immediately prior to the date upon which the criminal records check is requested.
  - (2) The person does not provide evidence that within that five-year period, BCII has requested information about the person from the FBI in a criminal records check.

- (K) The agency may request that BCII include information from the FBI in the criminal records check if the appointed person or employee of an entity responsible for a child's out of home care presents proof of residency in Ohio for that five year period.
- (L) The agency shall request the conducting of a criminal records check:
- (1) For the foster care applicant and each adult who resides with the foster care applicant. The results shall be reviewed prior to the agency's recommendation for certification to ODJFS.
  - (2) For a certified foster caregiver and each adult who resides with the foster caregiver every four years within six months prior to the upcoming recertification of the caregiver.
- (M) The agency shall request that BCII include information from the FBI in the criminal records check for each foster care applicant and each person eighteen years of age residing in the applicant's household subject to a criminal records check.
- (N) The agency shall pay to BCII the fee prescribed pursuant to division (C)(3) of section 109.572 of the Revised Code for each criminal records check conducted.
- (O) The agency may charge a person subject to a criminal records check a fee for the costs incurred in obtaining a criminal records check. Pursuant to division (D) of section 2151.86 of the Revised Code, a fee charged by the agency shall not exceed the fee paid by the agency to BCII. If a fee is charged, the agency shall notify the person at the time of initial application of the amount of the fee and that, unless the fee is paid, the person will not be considered for employment or certification as a foster caregiver.
- (P) The report of any criminal records check conducted by BCII in accordance with section 109.572 of the Revised Code and pursuant to a request made by the agency is not a public record. The report shall be made available only to the following persons:
- (1) The person who is the subject of the criminal records check or the person's representative.
  - (2) The agency requesting the criminal records check or its representative.
  - (3) Any court, hearing officer, or other necessary individual involved in a case

dealing with the denial of employment, approval or certification to the person.

- (4) ODJFS employees when ODJFS determines the report is necessary for certification or monitoring purposes.
  - (5) A county department of job and family services.
  - (6) A public children services agency.
- (Q) Reports from BCII or any other local, state, or federal agency regarding a person's criminal record are valid for a period of one year from the date of the report.
- (R) The recommending agency shall evaluate whether the foster home should continue to be recommended for certification or be recommended for denial or revocation of certification when a person who is certified as a foster caregiver is convicted of any offense listed in paragraph (J) of rule 5101:2-7-02 of the Administrative Code.
- (1) The evaluation shall begin within five days of the agency's knowledge of the person's conviction, be completed within thirty days, and be documented in the foster home's record.
  - (2) At a minimum, the provisions of paragraph (S) of this rule shall be considered in the evaluation.
  - (3) This requirement shall also be applicable for any adult who resides with a foster caregiver upon conviction of any offense listed in paragraph (J) of rule 5101:2-7-02 of the Administrative Code.
- (S) The evaluation required by paragraph (R) of this rule shall include, at a minimum:
- (1) Whether there are children currently placed in the foster home and the impact of disruption on the children if moved.
  - (2) Whether rehabilitation of the individual had to be considered for initial certification.
  - (3) The length of time of certification prior to this conviction.
  - (4) The factors outlined in paragraphs (I)(1), (I)(2), (I)(3), (I)(4) and (I)(5) of rule 5101:2-7-02 of the Administrative Code.

(T) Upon receipt of notification of an adult who resides with a foster caregiver who has pleaded guilty to or been convicted of a foster caregiver disqualifying offense, the recommending agency shall assess the foster home for safety concerns and forward any recommendations to ODJFS for revocation if applicable. As used in this rule, "foster caregiver disqualifying offense" means any offense or violation listed or described in division (C)(1) of section 2151.86 of the Revised Code.

(U) Pursuant to division (H) of section 2151.86 of the Revised Code, an agency may request a waiver of the requirement that a criminal records check based on fingerprints be conducted for an adult resident of a prospective foster home or the home of a foster caregiver if the recommending agency documents to the department's satisfaction that the adult resident is physically unable to comply with the fingerprinting requirement and poses no danger to foster children or adoptive children who may be placed in the home. In such cases, the recommending or approving agency shall request that the bureau of criminal identification and investigation conduct a criminal records check using the person's name and social security number. All waiver requests shall be submitted to ODJFS pursuant to rule 5101:2-5-18 of the Administrative Code.

Effective: 10/01/2011

R.C. 119.032 review dates: 06/13/2011 and 09/01/2016

CERTIFIED ELECTRONICALLY

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Certification

09/06/2011

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Date

Promulgated Under: 119.03  
Statutory Authority: 2151.86  
Rule Amplifies: 109.572, 2151.86, 5153.11, 5153.111  
Prior Effective Dates: 9/18/96, 1/1/03, 8/14/08, 4/1/10