

## Rule Summary and Fiscal Analysis

### Part A - General Questions

**Rule Number:** 5101:2-5-09.1

**Rule Type:** Amendment

**Rule Title/Tagline:** Criminal records check required for certain prospective employees and certified foster caregivers.

**Agency Name:** Department of Job and Family Services

**Division:** Division of Social Services

**Address:** OFC- 4200 E. 5th Ave., 2nd fl. L2-01 P.O. Box 183204 Columbus OH 43218-3204

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#### **I. Rule Summary**

1. **Is this a five year rule review?** Yes
  - A. **What is the rule's five year review date?** 3/19/2020
2. **Is this rule the result of recent legislation?** Yes
  - A. **If so, what is the bill number, General Assembly and Sponsor?** HB 166 - 133  
- Rep. Oelslager
3. **What statute is this rule being promulgated under?** 119.03
4. **What statute(s) grant rule writing authority?** 2151.86, 5103.03, 5103.0310
5. **What statute(s) does the rule implement or amplify?** 109.572, 2151.86 , 5103.0310, 5153.11, 5153.111
6. **What are the reasons for proposing the rule?**

This rule is proposed for amendment due to the five year review, the Family First Prevention Services Act and as a result of the passage of HB 166 of the 133rd General Assembly.

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

This rule provides guidance to agencies on the process for the evaluation of criminal background checks for foster caregivers and agency staff members. Paragraphs (I) and (J) were amended to reference Appendix A for a list of prohibitive crimes. A new paragraph (Q) was added to require a search of the national sex offender registry for potential foster caregivers.

- 8. Does the rule incorporate material by reference? Yes**
- 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.**

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 ORC 121.71 to 121.74 pursuant to ORC 121.75(A)(1)(d).

This rule incorporates one or more references to the Ohio Revised Code. This question is not applicable to any incorporation by reference to the ORC because such reference is exempt from compliance with ORC 121.71 to 121.74 pursuant to ORC 121.75 (A) (1)(a).

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

4/30/2020 Paragraph (Q)(2) was revised to update and clarify language concerning conducting a national sex offender registry search for certified foster caregivers.

04/23/2020 Paragraph (O)(3) was revised to strike the word "paragraph." No other changes were made.

## **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 have no impact on revenues or expenditures.

0.00

No expected fiscal effects on current or future budgets.

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

Agencies governed under this rule must request criminal background checks for agency employees through BCI and the FBI, which currently charge a fee for the completion of the check, as well as conduct a search on online sex offender databases for an employee, which requires no fee. Additionally, the agency may need to assist in the collection of finger prints for processing by BCI and the FBI. After the completion of the check, the agency would then be required to review the results and take appropriate action.

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

**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.**

While the rule references a fee associated with performing a BCI and FBI background check, those fees are established and collected by those entities and not ODJFS

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

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

**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? Yes**

Certification and re-certification of an agency by the Ohio Department of Job and Family Services is contingent, in part, upon compliance with this rule.

**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**

Lack of compliance can result in revocation of an agency's certification or denial of re-certification.

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

Agencies must conduct and review criminal background checks for employees and foster parents in order to comply with this rule.

- 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 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