

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, pursuant to section 2151.86 of the Revised Code, request the bureau of criminal ~~identification and investigation~~ ~~(BCH)~~(BCI) 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 provide each person listed in paragraph (A) of this rule with a copy of the ~~BCH~~BCI prescribed criminal records check form and a ~~BCH~~BCI standard impression sheet to obtain fingerprint impressions. The standard impression sheets may be in a tangible format, in an electronic format, or in both tangible and electronic formats.
- (C) Any person subject to a criminal records check who receives a copy of the ~~BCH~~BCI prescribed criminal records check form and a ~~BCH~~BCI 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.
- (D) 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 ~~BCH~~BCI at the time the agency requests a criminal records check.
- (E) The agency shall pay to ~~BCH~~BCI the fee prescribed pursuant to division (C)(3) of section 109.572 of the Revised Code for each criminal records check conducted.
- (F) 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 ~~BCH~~BCI. 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.
- (G) 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 ~~BCHBCI~~ prescribed criminal records check form and provide a set of fingerprint impressions.
  - (2) A criminal records check is required to be conducted by ~~BCHBCI~~ and, except as provided in paragraph ~~(N)~~(O) of rule 5101:2-5-09 of the Administrative Code, satisfactorily completed if the prospective employee comes under final consideration for appointment or employment.
- (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 request that ~~BCHBCI~~ 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, BCH has requested information about the person from the FBI in a criminal records check.~~
- ~~(J) The agency may request that BCH 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.~~
- ~~(K)~~(J) 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, pursuant to section 2151.86 of the Revised Code, request that the superintendent of ~~BCHBCI~~ 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.
- ~~(L)~~(K) 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 ~~BCHBCI~~ prescribed criminal records check form and provide a set of fingerprint impressions.

(2) A criminal records check shall be conducted by ~~BCHBCI~~ and satisfactorily completed for any person seeking certification as a foster caregiver.

~~(M)~~(L) 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.

~~(N)~~(M) The agency shall request the conducting of a criminal records check pursuant to section 2151.86 of the Revised Code:

(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 prior to the upcoming recertification of the caregiver.

~~(O)~~(N) The agency shall request that ~~BCHBCI~~ 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.

~~(P)~~(O) 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) appendix A 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 ~~(Q)~~(P) 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) appendix A of~~ rule 5101:2-7-02 of the Administrative Code.

~~(Q)~~(P) The evaluation required by paragraph ~~(P)~~(O) 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)~~ paragraph (J) of rule 5101:2-7-02 of the Administrative Code.

(Q) The agency is to complete a review of the national sex offender registry at <https://www.nsopw.gov> (2019) for each of the following:

- (1) For the foster care applicant and each adult who resides with the foster care applicant. The results are to be reviewed prior to the agency's recommendation for certification to ODJFS. The application may be denied based solely on the results of the search.
  - (2) For a certified foster caregiver and each adult who resides with the foster caregiver the search is to be conducted prior to each recertification. The recertification may be denied based solely on the results of the search.
- (R) 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 in ~~paragraph (J) of rule 5101:2-7-02 of the Administrative Code~~ appendix A of rule 5101:2-7-02 to the Administrative Code.

Effective:

Five Year Review (FYR) Dates: 3/19/2020

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Certification

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Date

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