

## Rule Summary and Fiscal Analysis

### Part A - General Questions

**Rule Number:** 5101:2-5-09

**Rule Type:** Amendment

**Rule Title/Tagline:** Personnel and prohibited convictions for employment.

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

**Division:** Division of Social Services

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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, 5103.037
5. **What statute(s) does the rule implement or amplify?** 109.572, 2151.86, 5103.02, 5103.03, 5103.0310, 5103.037
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 background checks for staff and other agency personnel. New paragraphs (G), (H) and (P) were added to comply with new legislation requiring alleged perpetrator checks and more extensive criminal background checks for employees of agencies.

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).

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 inner-web at <http://innerapp.odjfs.state.oh.us/forms/inner.asp> or on the inter-net at <http://www.odjfs.state.oh.us/forms/inter.asp> in accordance with RC 121.75(B)(4).

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

*Not Applicable*

## **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 under the rule must complete background checks from various sources on current and new employees and agency officers. While the searches are free of cost to the public to conduct, the cost to the agency would be borne in the staff time taken to conduct and review the results of criminal background checks. Staff time required to request a background check would likely be minimal, but the time spent analyzing the results can vary greatly based on the employee's or officer's history.

**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.**

Not Applicable.

### **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 agency officers 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? Yes**

The rule would require agencies to conduct additional national sex offender searches. While the search is free, costs may be incurred by the agency in time spent searching, reviewing, and reporting the subsequent results.

**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