

Rule Summary and Fiscal Analysis

Part A - General Questions

Rule Number: 5101:2-53-04

Rule Type: New

Rule Title/Tagline: Indian Child Welfare Act (ICWA) notice requirements.

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?** No
 - A. **What is the rule's five year review date?**
2. **Is this rule the result of recent legislation?** No
3. **What statute is this rule being promulgated under?** 119.03
4. **What statute(s) grant rule writing authority?** 5153.166, 5103.03
5. **What statute(s) does the rule implement or amplify?** 5103.03, 5153.16
6. **What are the reasons for proposing the rule?**

To incorporate federal regulatory changes under 25 CFR 23 relating to the administration and implementation of the Indian Child Welfare Act.

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

OAC 5101:2-53-04, "Indian child welfare act (ICWA) notice requirements" is a new rule that outlines requirements for notifying an Indian child's parents or Indian custodian, the Indian child's Tribe, and the Bureau of Indian Affairs (BIA) regarding a child

custody proceeding involving the Indian child. Language that was removed from rule 5101:2-53-06 was placed into this rule.

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. 121.71 to 121.76, please explain the basis for the exemption and how an individual can find the referenced material.**

This rule incorporates one or more dated references to the U.S. Code. This question is not applicable to any dated incorporation by reference to the U.S. Code because such reference is exempt from compliance with RC 121.71 to 121.74 in accordance with RC 121.75(A).

This rule incorporates one or more dated references to a federal act or acts. This question is not applicable to any dated incorporation by reference to a federal act because such reference is exempt from compliance with RC 121.71 to 121.74 in accordance with RC 121.75(C).

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. **As a result of this proposed rule, please estimate the increase / decrease in revenues or expenditures affecting this agency, or the state generally, in the current biennium or future years. If the proposed rule is likely to have a different fiscal effect in future years, please describe the expected difference and operation.**

This will have no impact on revenues or expenditures.

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Not Applicable

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

Not Applicable

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

III. Common Sense Initiative (CSI) Questions

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

16. 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

Private child placing agencies are required to be certified by the State of Ohio.

- 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

There are no fines or civil penalties for non-compliance with this rule other than the forfeiture of certification through denial or revocation.

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

This rule requires the agency to provide written notification to an Indian child's tribe and the child's parents or the child's Indian custodian when the child is the subject of a child custody proceeding. Notice must be sent by registered or certified mail with return receipt requested and a copy of the notice must also be sent to the Bureau of Indian Affairs.