

## Rule Summary and Fiscal Analysis

### Part A - General Questions

**Rule Number:** 5101:2-7-02

**Rule Type:** Amendment

**Rule Title/Tagline:** General requirements for foster caregivers and applicants.

**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?** 11/28/2023
2. **Is this rule the result of recent legislation?** Yes
  - A. **If so, what is the bill number, General Assembly and Sponsor?** HB 33 - 135  
- Edwards
3. **What statute is this rule being promulgated under?** 119.03
4. **What statute(s) grant rule writing authority?** 5103.03, 5103.0319, 5103.0327
5. **What statute(s) does the rule implement or amplify?** 5103.02, 5103.03, 5103.0319, 5103.0327
6. **Does the rule implement a federal law or rule in a manner that is more stringent or burdensome than the federal law or regulation requires?** No
  - A. **If so, what is the citation to the federal law or rule?** Not Applicable
7. **What are the reasons for proposing the rule?**

This rule is proposed for amendment to remove all background check requirements and placing them into rule 5101:2-5-09.1 to make it easier for agencies to locate and for the five year review. HB 33 added new prohibitive offenses for foster caregivers.

- 8. 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 all criteria a foster care applicant must meet to be certified. The rule was amended to remove all background check requirement language. Specifically, paragraphs J, K, L, M, O, P Q and R were removed. This language was moved to rule 5101:2-5-09.1. Appendix A was removed and moved to rule 5101:2-5-09.1. No other significant changes were made.

- 9. Does the rule incorporate material by reference? Yes**
- 10. 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 RC 121.71 to 121.74 pursuant to RC 121.75(A)(1)(d).

This rule incorporates one or more references to a form or a digital application into which data is entered. This question is not applicable to any incorporation by reference to forms or digital data applications because such reference is exempt from compliance with RC 121.75 to 121.74 pursuant to RC 121.75(B)(4).

- 11. 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**

- 12. 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

This will have no impact on revenues or expenditures.

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

No new costs.

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

15. **Does the rule regulate environmental protection? (If yes, you must complete an RSFA Part C). No**

16. **If the rule imposes a regulation fee, explain how the fee directly relates to your agency's cost in regulating the individual or business.**

No expected fiscal effects on current or future budgets.

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

17. **Was this rule filed with the Common Sense Initiative Office? No**

18. **Does this rule have an adverse impact on business? No**

A. **Does this rule require a license, permit, or any other prior authorization to engage in or operate a line of business? No**

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? No**

C. **Does this rule require specific expenditures or the report of information as a condition of compliance? No**

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 Restriction Requirements under S.B. 9. Note: This section only applies to agencies described in R.C. 121.95(A).**

**19. Are you adding a new or removing an existing regulatory restriction as defined in R.C. 121.95? Yes**

**A. How many new regulatory restrictions do you propose adding to this rule? 0**

**B. How many existing regulatory restrictions do you propose removing from this rule? 33**

5101:2-7-02 (A) A foster caregiver or applicant shall be at least eighteen years of age at the time of initial certification.

5101:2-7-02 (B) A foster caregiver or applicant shall have functional literacy to be able to read and write at the level necessary to participate effectively in the community in which they live. A foster caregiver or applicant is to be able to communicate with:

5101:2-7-02 (D) A foster caregiver or applicant shall have an income sufficient to meet the basic needs of the household and to make timely payment of shelter costs, utility bills, and other debts.

5101:2-7-02 To show the household has an income sufficient to meet the basic needs of the household and makes timely payment of shelter costs, utility bills, and other debts, a foster caregiver or applicant shall provide at a minimum:

5101:2-7-02 (c) Proof of income for the household for a two month period. The verification of income shall not be dated more than six months prior to the agency's recommendation for initial certification.

5101:2-7-02 (d) At least one utility bill for each utility necessary to maintain the household. The bill or bills shall not be dated more than six months prior to the agency's recommendation for initial certification.

5101:2-7-02 (E) A foster caregiver or applicant and all members of the foster caregiver's or applicant's household shall be free of any physical, emotional, or mental condition which would endanger a child or seriously impair the ability of the foster caregiver or applicant to care for a foster child.

5101:2-7-02 (F) An applicant shall have a physical exam and a JFS 01653 "Medical Statement for Foster Care/Adoptive Applicant and All Household Members" completed by a licensed physician, physician assistant, clinical nurse specialist, certified nurse practitioner, or certified nurse-midwife within one year prior to the agency's initial recommendation for certification.

5101:2-7-02 Any additional written documentation of the physical examination shall be completed by the individual who conducted the examination. All household members are to complete a JFS 01653.

5101:2-7-02 (K) Rehabilitative criteria for foster care applicants, foster caregivers and all other adult household members. Unless specifically disqualified in appendix A to this rule, no person who has been convicted of or pleaded guilty to an offense listed in appendix A to this rule shall be certified as a foster caregiver or be an adult resident of the foster caregiver's household unless the recommending agency finds and documents that person has met all of the following conditions:

5101:2-7-02 The following factors shall be considered in determining the person's certification as a foster caregiver or the person's residency in the foster caregiver's household.

5101:2-7-02 (L) The applicant or foster caregiver shall provide verification to the recommending agency that the conditions specified in paragraph (K) of this rule are met for that person and for all adult members of the household.

5101:2-7-02 If the applicant or foster caregiver fails to provide such proof or if the agency determines that the proof offered by the person is inconclusive or insufficient, the applicant shall be denied certification and a foster caregiver's certificate shall be recommended for denial or revocation pursuant to rule 5101:2-5-26 of the Administrative Code.

5101:2-7-02 (M) In accordance with rule 5101:2-5-09.1 of the Administrative Code, a criminal records check shall be requested:

5101:2-7-02 The results shall be reviewed prior to the agency's recommendation for certification to ODJFS.

5101:2-7-02 (N) Prior to certification or recertification, the foster care applicant or foster caregiver subject to a criminal records check shall notify the recommending agency of the revocation of any foster home license, certificate, or other similar authorization in another state occurring within the five years prior to the date of application to become a foster caregiver in this state.

5101:2-7-02 (1) The failure of a foster care applicant or foster caregiver to notify the recommending agency of any revocation of that type in another state that occurred within that five-year period shall be grounds for denial of the

person's foster home application or the revocation of the person's foster home certification, whichever is applicable.

5101:2-7-02 (2) If a person has had a revocation in another state within the five years prior to the date of the application, the Ohio department of job and family services (ODJFS) shall not issue a foster home certificate to a prospective foster caregiver.

5101:2-7-02 (Q) A conviction of, or plea of guilty to, an offense listed in appendix A to this rule shall not prevent a person's certification as a foster caregiver or being an adult household member of the home if the person has been granted an unconditional pardon for the offense pursuant to Chapter 2967. of the Revised Code or the conviction or guilty plea has been set aside pursuant to law. "Unconditional pardon" includes a conditional pardon with respect to which all conditions have been performed or transpired.

5101:2-7-02 (R) A foster care applicant shall notify the recommending agency in writing if a person at least twelve years of age, but less than eighteen years of age, residing with the foster care applicant has been convicted of or pleaded guilty to any of the offenses listed in appendix A to this rule, or has been adjudicated to be a delinquent child for committing an act that if committed by an adult would have constituted such a violation.

5101:2-7-02 (1) If a foster care applicant fails to notify the recommending agency, the recommending agency shall recommend denial of the foster home application to ODJFS.

5101:2-7-02 The agency shall review the provisions of paragraph (K) of this rule considering the age of the delinquent child involved and the age and sex of children that are or would be placed in the foster home.

5101:2-7-02 (S) A foster caregiver shall not operate a foster home as an adult boarding or rooming house.

5101:2-7-02 (T) A foster caregiver shall obtain written approval from the recommending agency prior to conducting any business, or allowing any business to operate, including public or private babysitting services, in a foster home.

5101:2-7-02 (U) A foster caregiver shall not provide or allow public or private babysitting services in a foster home when more than ten children, including

foster, natural or adoptive children are present and under the supervision of the foster caregiver at any one time.

5101:2-7-02 Any foster caregiver that is an approved or licensed type B family day care home provider shall follow the requirements for approval or licensure as a type B family day care home.

5101:2-7-02 (V) A foster caregiver or applicant shall not apply for licensure as a type A family day care home.

5101:2-7-02 (W) A specialized foster caregiver shall not apply for licensure as a type B family day care home.

5101:2-7-02 (X) A foster caregiver or applicant shall obtain an approved inspection by a state certified fire safety inspector or the state fire marshal's office certifying that the foster home is free from conditions hazardous to the safety of foster children.

5101:2-7-02 (Y) A foster caregiver or applicant shall complete all preplacement and continuing training as required by rule 5101:2-5-33 of the Administrative Code and any additional hours of training required by the recommending agency's written training plan.

5101:2-7-02 (Z) A foster caregiver or applicant shall comply with all agency policies or instructions including cooperating fully with the agency during the certification or recertification process.

5101:2-7-02 (AA) A foster caregiver shall not violate a child's rights as described in paragraph (A) of rule 5101:2-5-35 of the Administrative Code.

5101:2-7-02 (P)The provisions of paragraph (J) of this rule must be considered for any applicant or foster caregiver and any other person eighteen years of age or older who resides with the applicant or foster caregiver and who has been convicted of, or pleaded guilty to, one or more of the offenses listed in appendix A to this rule, even if the person's record has been sealed by a court pursuant to section 2953.32 of the Revised Code because the information contained in the sealed record bears a direct and substantial relationship to the care to be provided to any foster child who may be placed in the

home.

- C. If you are not removing existing regulatory restrictions from this rule, please list the rule number(s) from which you are removing restrictions.**
- D. Please justify the adoption of the new regulatory restriction(s).**

Not Applicable