

**Rule Summary and Fiscal Analysis (Part A)****Department of Mental Health and Addiction Services**

Agency Name

Division

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**5122-35-11**

Rule Number

**NEW**

TYPE of rule filing

Rule Title/Tag Line

**Background investigations for employment.****RULE SUMMARY**

1. Is the rule being filed consistent with the requirements of the RC 119.032 review? **No**

2. Are you proposing this rule as a result of recent legislation? **No**

3. Statute prescribing the procedure in accordance with the agency is required to adopt the rule: **119.03**

4. Statute(s) authorizing agency to adopt the rule: **5119.34**

5. Statute(s) the rule, as filed, amplifies or implements: **5119.34**

6. State the reason(s) for proposing (i.e., why are you filing,) this rule:

The Ohio Department of Mental Health and Addiction Services (OhioMHAS) is proposing three new rules and amending seven others to incorporate new requirements for background investigations for employees, staff, and others who have contact with residents of OhioMHAS regulated residential facilities.

7. If the rule is an AMENDMENT, then summarize the changes and the content of the proposed rule; If the rule type is RESCISSION, NEW or NO CHANGE,

then summarize the content of the rule:

The rule states requirements for conducting criminal records checks and other background investigation of current and prospective operators, employees and volunteers with direct access to residents, denotes periods of exclusions for persons with certain criminal convictions using a tiered approach, and aligns with criminal background checks requirements of other state licensing agencies, including aging, jobs and family services and developmental disabilities, as well as other OhioMHAS licensed/certified residential facilities.

8. If the rule incorporates a text or other material by reference and the agency claims the incorporation by reference is exempt from compliance with sections 121.71 to 121.74 of the Revised Code because the text or other material is **generally available** to persons who reasonably can be expected to be affected by the rule, provide an explanation of how the text or other material is generally available to those persons:

*This response left blank because filer specified online that the rule does not incorporate a text or other material by reference.*

9. If the rule incorporates a text or other material by reference, and it was **infeasible** for the agency to file the text or other material electronically, provide an explanation of why filing the text or other material electronically was infeasible:

*This response left blank because filer specified online that the rule does not incorporate a text or other material by reference.*

10. If the rule is being **rescinded** and incorporates a text or other material by reference, and it was **infeasible** for the agency to file the text or other material, provide an explanation of why filing the text or other material was infeasible:

*Not Applicable.*

11. If **revising** or **refiling** this rule, identify changes made from the previously filed version of this rule; if none, please state so. If applicable, indicate each specific paragraph of the rule that has been modified:

Error in public hearing notice date is being corrected. Paragraph (D) was corrected to show the correct label for the offense of public indecency.

12. 119.032 Rule Review Date:

(If the rule is not exempt and you answered NO to question No. 1, provide the scheduled review date. If you answered YES to No. 1, the review date for this rule is the filing date.)

NOTE: If the rule is not exempt at the time of final filing, two dates are required: the current review date plus a date not to exceed 5 years from the effective date for Amended rules or a date not to exceed 5 years from the review date for No Change rules.

### **FISCAL ANALYSIS**

13. Estimate the total amount by which *this proposed rule* would **increase / decrease** either **revenues / expenditures** for the agency during the current biennium (in dollars): Explain the net impact of the proposed changes to the budget of your agency/department.

This will have no impact on revenues or expenditures.

0.0

There will be no impact on revenues or expenditures.

14. Identify the appropriation (by line item etc.) that authorizes each expenditure necessitated by the proposed rule:

Not applicable.

15. Provide a summary of the estimated cost of compliance with the rule to all directly affected persons. When appropriate, please include the source for your information/estimated costs, e.g. industry, CFR, internal/agency:

Background checks will be conducted with the BCII or FBI at a cost of approximately \$22 to \$25 per check depending on the fees charged by the third-party's conducting the checks. Each facility will have new administrative costs per employee to complete the required background checks. It is estimated that each background check will take twenty minutes and cost eight dollars in administrative overhead. Total costs for each facility will be determined by the number of employees and administrative efficiency that each facility can obtain in conducting the checks.

16. Does this rule have a fiscal effect on school districts, counties, townships, or municipal corporations? **No**

17. Does this rule deal with environmental protection or contain a component dealing with environmental protection as defined in R. C. 121.39? **No**

**S.B. 2 (129th General Assembly) Questions**

18. Has this rule been filed with the Common Sense Initiative Office pursuant to R.C. 121.82? **Yes**

19. Specific to this rule, answer the following:

A.) Does this rule require a license, permit, or any other prior authorization to engage in or operate a line of business? **Yes**

Operators must be licensed to engage in this business.

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**

If the operator does not comply with the terms of this rule, the Department may revoke the operators license and suspend the admission of residents to the facility.

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