



Department of
Aging

John Kasich, Governor
Bonnie Kantor-Burman, Director

NOTICE

Revised May 5, 2011

Section 119.03 of the Revised Code requires ODA to conduct a public hearing to obtain comments concerning ODA's proposed amendment of a rule on **Criminal Records Checks**. ODA will conduct the hearing on **Monday, May 16, 2011** in Conference Room **10A** of the Department's offices at 50 W. Broad Street, **10th** floor; Columbus, OH 43215. The hearing will begin at **2:00PM** and will continue until all parties in attendance at that time have had an opportunity to provide comment.

~~In a related rule filing, ODA proposing to rescind Chapters 173-35 and 173-36 of the Administrative Code in accordance with H.B. No 153 (129th G.A.), because the legislation transfers the administration and regulation authority for the Residential State Supplement (RSS) Program and the related Adult Foster Home Program from ODA to the Ohio Department of Mental Health. As a result, ODA will also have no authority to require criminal records checks for those who provide direct care in adult foster homes (i.e., operators and caregivers). Therefore, ODA is proposing in this rule filing to remove the requirement in rule 173-9-01 of the Administrative Code for operators of adult foster homes to conduct criminal records checks on themselves and upon caregivers.~~

~~As written at the time of this filing, H.B. No 153 no longer funds ODA's administration of the Adult Foster Home Program after June 30, 2011. Because the rule filing process established under Section 119.03 of the Revised Code does not make it possible to amend this rule in fewer than 76 days (without an Executive Order), ODA is proceeding with filing this rule on April 14, 2011. If the General Assembly amends H.B. No 153 so that ODA's administration of the Adult Foster Home Program occurs on a date later than April 14, 2011, ODA may set the effective date for the amended date without any need to refile these rules.~~

~~At the same time as ODA amends this rule in regards to adult foster homes, ODA will also make it clear that consumer-directed personal care providers, as providers of direct care, are also subject to criminal records checks.~~

~~As H.B. No 153 nears passage (i.e., at end of June), if the transfer of the RSS and Adult Foster Home Programs seems imminent, ODA may refile this rule with the proposed amendment in the stricken language above, citing the precedent set by State ex rel. Ohio Roundtable v. Taft regarding the filing of proposed rules authorized by legislation that has not yet taken effect. ODA will not adopt the proposed amendment to the rule if it is not warranted by the final version of H.B. No 153.~~

Any person may direct comments or questions concerning ODA's rule proposal to the rules manager at rules@aging.oh.us.

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