

**MEMORANDUM**

TO: Michael Lynch, Ohio Department of Job and Family Services

FROM: Sydney King, Regulatory Policy Advocate

DATE: April 29, 2014

RE: **CSI Review – RAPBACK (OAC 5101:2-33-80)**

On behalf of Lt. Governor Mary Taylor, and pursuant to the authority granted to the Common Sense Initiative (CSI) Office under Ohio Revised Code (ORC) section 107.54, the CSI Office has reviewed the abovementioned administrative rule package and associated Business Impact Analysis (BIA). This memo represents the CSI Office's comments to the Agency as provided for in ORC 107.54.

Analysis

This rule package consists of one amended rule being proposed by the Ohio Department of Job and Family Services (ODJFS) pursuant to the five-year review requirement of ORC 119.032. The rule package was filed with the CSI Office on March 11, 2014 and the comment period for the rule closed on March 18, 2014. No comments were received during the public comment period. ODJFS submitted a revised BIA on April 9, 2014.

ODJFS regulates Private Noncustodial Agencies (PNAs), Public Children Services Agencies (PCSAs) and Private Child Placing Agencies (PCPAs) when performing substitute care services. A child is placed in substitute care when a natural birth family has been found to no longer be an appropriate caregiver to the child. The State of Ohio facilitates placement of the child in a setting where the child's mental, physical, and emotional health is given paramount consideration. Because of the seriousness of these actions and the importance of placing a child in a healthy substitute care setting, ODFJS highly regulates the agencies to protect the child's health and well-being.

The rule package provides requirements for the Retained Applicant Fingerprint Database Information Exchange (RAPBACK). This database allows for real-time notification from the Bureau of Criminal Investigation (BCI) to ODJFS and then the agency if a foster caregiver or any adult in the household commits a crime. Agencies are required to quickly reevaluate the household and ensure the health, safety, and welfare of the child is not in jeopardy. According to ODJFS, RAPBACK was enacted in 2008 through Senate Bill 163 of the 127th General Assembly. The bill resulted after a three-year-old boy died from being bound and locked in a closet for a weekend by his foster parents. His foster parents had previously been arrested for domestic violence. ODJFS states that “had the RAPBACK system been in place at that time, the outcomes may have been different.”

According to the revised BIA, the rule package was reviewed during the Midwest Child Welfare Implementation Center (MCWIC) meetings. Stakeholders included the Ohio Association of Child Caring Agencies, the Ohio Family Care Association, representatives from county agencies, and the Ohio Council of Behavioral Health and Family Services Providers. During the MCWIC meetings, stakeholders reviewed several rule packages by group. The groups were divided by subject matter and dedicated a significant amount of time to each rule package. Stakeholders provided input on potential revisions and amendments to the rules. ODJFS also provided a clearance comment period to allow for additional input. No comments were received during the CSI public comment period.

The revised BIA identifies foster care agencies as the impacted business community. ODJFS estimates the costs of the adverse impact would be associated with the administrative time needed to comply. Agencies are required to set up an e-mail account in order to receive notifications from ODJFS, submit information regarding any adult household member subject to a criminal records check, and reevaluate the safety of the household if any adult household member is arrested.

ODJFS states the rule is required by Ohio Revised Code 5101.32 but also necessary to ensure the safety and well-being of the child in substitute care. The real-time notifications allow the agency to assess the household quickly to determine if the child should be removed from the substitute care due to safety concerns.

After reviewing the proposed rule and the revised BIA, the CSI Office has determined that the rule package satisfactorily meets the standards espoused by the CSI Office, and the purpose of the rules is justified.

Recommendation

For the reasons explained above this office does not have any recommendations regarding this rule package.

Conclusion

Based on the above comments, the CSI Office concludes that the Department should proceed with the formal filing of this rule package with the Joint Committee on Agency Rule Review.

cc: Mark Hamlin, Lt. Governor's Office