

# CSI - Ohio

The Common Sense Initiative

## Business Impact Analysis

Agency Name: Ohio Department of Job and Family Services

Regulation/Package Title: OFC:FYR Chapters 48 CEN7495 Ricketts 1/14

Rule Number(s): 5101:2-48-25

Date: 3/14/2014

**Rule Type:**

☐ New

☒ Amended

☒ 5-Year Review

☐ Rescinded

The Common Sense Initiative was established by Executive Order 2011-01K and placed within the Office of the Lieutenant Governor. Under the CSI Initiative, agencies should balance the critical objectives of all regulations with the costs of compliance by the regulated parties. Agencies should promote transparency, consistency, predictability, and flexibility in regulatory activities. Agencies should prioritize compliance over punishment, and to that end, should utilize plain language in the development of regulations.

### **Regulatory Intent**

1. Please briefly describe the draft regulation in plain language.

Please include the key provisions of the regulation as well as any proposed amendments.

OAC rule 5101:2-48-25, entitled "Inter-country adoption data collection" provides guidance regarding reporting disruptions and dissolutions of inter-country adoptions. Paragraphs (B) through (F) were revised to remove the reporting requirement for private noncustodial agencies,

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as the responsibility for reporting the information lies with the agency placing the child in foster care.

**2. Please list the Ohio statute authorizing the Agency to adopt this regulation.**

Rule Number	Statutory Authority
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Rule 5101:2-48-25	ORC 5103.03, 5153.166
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**3. Does the regulation implement a federal requirement? Is the proposed regulation being adopted or amended to enable the state to obtain or maintain approval to administer and enforce a federal law or to participate in a federal program?  
If yes, please briefly explain the source and substance of the federal requirement.**

Rule 5101:2-48-25 implements a federal regulation that requires data collection for foreign adoption disruptions. The requirement is located in section 104 of the Intercountry Adoption Act of 2000.

**4. If the regulation includes provisions not specifically required by the federal government, please explain the rationale for exceeding the federal requirement.**

This rule does not exceed federal requirements.

**5. What is the public purpose for this regulation (i.e., why does the Agency feel that there needs to be any regulation in this area at all)?**

This rule allows important data to be collected regarding the disruption of foreign adoptions. This information is required to be reported to the federal government, where it is assessed by the State Department to help guide policy and practice to establish safeguards to ensure that inter-country adoptions occur with the best interests of the child in mind and to further ensure for the safety and wellbeing of the child.

**6. How will the Agency measure the success of this regulation in terms of outputs and/or outcomes?**

The success of these regulations will be measured against the criteria specific to the content in the rule in assuring data is collected from all appropriate sources, and to safeguard children adopted into the United States from other countries.

**Development of the Regulation**

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**7. Please list the stakeholders included by the Agency in the development or initial review of the draft regulation.**

**If applicable, please include the date and medium by which the stakeholders were initially contacted.**

This rule was presented to several interest groups including the Ohio Association of Child Caring Agencies (OACCA), the Ohio Family Care Association (OFC), representatives from county agencies and the Ohio Council of Behavioral Health and Family Services Providers. These interest groups were part of the Partners for Ohio Families (PFOF) meetings that the Office of Families and Children (OFC) conducted during 2011-2012. The meetings were held in person and also allowed for online input toward rule suggestions and changes. The group discussed and came to conclusions on each rule related to child welfare. This rule also went through the clearance process on February 6, 2014 to February 20, 2014.

**8. What input was provided by the stakeholders, and how did that input affect the draft regulation being proposed by the Agency?**

The rule was reviewed and updated with involvement from OACCA, OFCA, and the interested parties' involvement and language was developed that was agreeable to all. There was one comment received suggesting the form that captures the required data be made available in SACWIS. This comment was forwarded to the SACWIS area for consideration of future enhancements.

**9. What scientific data was used to develop the rule or the measurable outcomes of the rule? How does this data support the regulation being proposed?**

Not applicable.

**10. What alternative regulations (or specific provisions within the regulation) did the Agency consider, and why did it determine that these alternatives were not appropriate? If none, why didn't the Agency consider regulatory alternatives?**

There were no other alternatives considered for this rule as all parties involved in the PFOF and clearance process were satisfied with rule language outcomes and because this rule is driven by a federal statute.

**11. Did the Agency specifically consider a performance-based regulation? Please explain. *Performance-based regulations define the required outcome, but don't dictate the process the regulated stakeholders must use to achieve compliance.***

No. ODJFS did not consider a performance based initiative, but rather followed statutory language prescribing that the department set minimum standards to ensure appropriate data is collected for all foreign born children who come back into the care and custody of an agency.

**12. What measures did the Agency take to ensure that this regulation does not duplicate an existing Ohio regulation?**

There is no duplication as this rule is specific to agencies that take custody and no other rules address these specific issues. These rules were reviewed by the PFOF Rule Review Board for duplication and approval, as well as the legal staff at ODJFS prior to the clearance process to ensure they do not duplicate any existing Ohio regulations.

**13. Please describe the Agency's plan for implementation of the regulation, including any measures to ensure that the regulation is applied consistently and predictably for the regulated community.**

ODJFS licensing specialists and technical assistance specialists monitor agencies to ensure the regulations are applied consistently. PFOF regional teams have also been developed to offer technical assistance and improve consistency statewide.

**Adverse Impact to Business**

**14. Provide a summary of the estimated cost of compliance with the rule. Specifically, please do the following:**

- a. Identify the scope of the impacted business community;**
- b. Identify the nature of the adverse impact (e.g., license fees, fines, employer time for compliance); and**
- c. Quantify the expected adverse impact from the regulation.**  
**The adverse impact can be quantified in terms of dollars, hours to comply, or other factors; and may be estimated for the entire regulated population or for a “representative business.” Please include the source for your information/estimated impact.**

The rules of the Administrative Code in Chapters 5101:2-48 contain requirements for adoption agencies that include public and private agencies. Requirements must be met to obtain and/or maintain certification.

The adverse impact on the business community involves 58 private child placing agencies:

5101:2-48-25 – The cost would involve the timeframes it would take for agencies to complete the JFS 01670 form to submit the data. The estimated time to complete one form would be approximately ten minutes. The number of times an agency would be required to complete the form is difficult to quantify as there is no way to determine how many foreign born adoption disruptions take place in each agency every year. Most agencies would not have any disruptions,

but some of the larger agencies in urban areas may have a few each year. In FY 2011 the number reported for the entire country was 76 inter-country adoption disruptions or dissolutions.

**15. Why did the Agency determine that the regulatory intent justifies the adverse impact to the regulated business community?**

To ensure that appropriate data is being collected for the number of foreign born adoptions that disrupt requiring children to come into care at each agency.

**Regulatory Flexibility**

**16. Does the regulation provide any exemptions or alternative means of compliance for small businesses? Please explain.**

No, there is no alternative means of compliance.

**17. How will the agency apply Ohio Revised Code section 119.14 (waiver of fines and penalties for paperwork violations and first-time offenders) into implementation of the regulation?**

For this rule there are no fines or civil penalties for non-compliance.

**18. What resources are available to assist small businesses with compliance of the regulation?**

ODJFS has regional offices with technical assistance specialists and licensing specialists that will be able to assist agencies in completing the required forms. Policy developers are also available to give technical assistance regarding the requirement of this rule.