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 CCN7495 Ricketts 1/14

Rule Number(s): 5101:2-48-02, 5101:2-48-03, 5101:2-48-06, 5101:2-48-09, 5101:2-48-10, 5101:2-48-11, 5101:2-48-17, 5101:2-48-18, 5101:2-48-20, 5101:2-48-21.

Date: 6/20/2014

Rule Type:

- ☐ New
- X Amended
- X 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- Rescinded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.

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OAC rule 5101:2-48-02, entitled "Putative father registry" provides guidance regarding the procedures of registering with the Putative Father Registry and completing a check of the registry. Paragraph (A) was removed because it is duplicative and also found in rule 5101:2-1-01. Paragraphs (C)(G)(L) and (N) were removed because they outlined the responsibilities of ODJFS. New paragraphs (B)(C) and (E) were updated to add the registry website as a source of information and also a venue to register or request a search electronically. The link for the Putative Father Registry was also corrected. All other changes were made as a result of the Partners for Ohio Families (PFOF) rule review for clarity and ease of the reader.

OAC rule 5101:2-48-03, entitled "Requirement of "Social and Medical History" provides guidance to agencies regarding the requirement to obtain historical information from birth families prior to the adoption of a child. The only change to this rule was to update the revision date of the JFS 01616 “Social and Medical History” form.

OAC rule 5101:2-48-06, entitled "Assessor roles and responsibilities for foster care and adoption" provides guidance to agencies, attorneys, and courts that employ or contract with assessors to provide specific foster care and adoption services. The rule was largely amended to add in courts that contract with assessors for adoption purposes and to clarify that those workers completing certain foster care services must also be assessors. Other changes were made for clarity as a result of the PFOF rule review.

OAC rule 5101:2-48-09, entitled "Application process and preservice training" gives agencies guidance regarding the process and training required for persons seeking adoption approval. Paragraphs (A) and (B) were updated for clarification purposes. Paragraph (F) was updated to better align with foster care requirements. Paragraph (H) was removed as it was unnecessary due to the requirement in (G). The new paragraph (I) was updated because it listed a requirement that ODJFS is responsible for. The new paragraph (N) was updated to align adoption and foster care training requirements. Foster care training rule revisions will be forthcoming. All other changes were the result of discussion and review of the PFOF rule review process.

OAC rule 5101:2-48-10, entitled "Restrictions concerning provision of adoption services" provides guidance to agencies regarding the criminal records check requirement for adoption approval. No substantive changes were made to this rule.

OAC rule 5101:2-48-11, entitled "Approval of a foster home for adoptive placement" provides guidance to agencies for persons wanting to add adoption approval to an existing foster care certification. All changes made to this rule were for the clarification and ease of the reader, as a result of the PFOF rule review process.

OAC rule 5101:2-48-17, entitled "Assessor visits and contacts with children in adoptive homes prior to finalization" provides guidance to agencies regarding prefinalization visits

with adoptive families. Paragraph E was updated to refer all adoptive placements outside Ohio to the Interstate Compact for the Placement of Children (ICPC) rules located in Chapter 5101:2-52 of the Administrative Code. All other changes made to this rule were for the clarification and ease of the reader, as a result of the PFOF rule review process.

OAC rule 5101:2-48-18, entitled "Postfinalization services" gives agencies guidance regarding their policies on the postfinalization adoption services they will provide, and what procedures to follow in the event they do not provide a service that is requested or needed by an adoptive family. A clarification was made to paragraph (A) regarding the definition of agency for the purpose of this specific rule.

OAC rule 5101:2-48-20, entitled "Release of identifying and nonidentifying information" provides guidance to agencies regarding the information that is able to be shared with adopted children and adoptive parents at different times. The changes made to this rule were for clarification purposes.

OAC rule 5101:2-48-21, entitled "Child study inventory" provides guidance to agencies regarding the collective information about the child to be adopted. The only changes made to this rule were to update the revision date of the JFS 01616 "Social and Medical History" form and correct the Revised Code chapter that applies to social workers and counselors.

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

Rule Number	Statutory Authority
Rule 5101:2-48-02	ORC 3107.065, 5153.16
Rule 5101:2-48-03	ORC 3107.09, 3107.17, 5103.03
Rule 5101:2-48-06	ORC 3107.014, 3107.015, 5103.03
Rule 5101:2-48-09	ORC 2151.86, 3107.033, 5103.03
Rule 5101:2-48-10	ORC 2151.86, 5153.16
Rule 5101:2-48-11	ORC 3107.032, 3107.033, 5153.166
Rule 5101:2-48-17	ORC 3107.12, 5153.166
Rule 5101:2-48-18	ORC 5103.03, 5153.16
Rule 5101:2-48-20	ORC 3107.083, 5153.166
Rule 5101:2-48-21	ORC 2152.72, 3107.017, 5153.16

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.

Rules 5101:2-48-02, 5101:2-48-03, 5101:2-48-06, 5101:2-48-17, 5101:2-48-18, 5101:2-48-20, 5101:2-48-21 do not implement a federal regulation and are not being amended to enable the state to obtain or maintain approval to administer and enforce a federal law or to participate in a federal program. Rules 5101:2-48-09, 5101:2-48-10, and 5101:2-48-11 enforce the Adam Walsh Child Protection and Safety Act of 2006, which requires criminal record checks and child abuse registry checks must be completed for prospective foster and adoptive parents.

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

The other sections of rules 5101:2-48-09, 5101:2-48-10, 5101:2-48-11 are not written as a requirement of Federal Law, nor do they exceed any 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)?**

The rules, which are promulgated pursuant to the requirements of the Revised Code, establish regulations for the minimum standards to ensure the safety and well-being of children being placed in adoptive homes.

> Rule 5101:2-48-02 protects the best interests of the child by ensuring that putative fathers have a process to become notified in the event their child is placed for adoption. Agencies are required to search the putative registry prior to finalizing an adoptive placement. If there is an appropriate match, the agency and putative father will be notified of the match. Once notified, the putative father has an opportunity to contact the courts regarding his rights, up to and including becoming the child's primary parent and caretaker.
>
> Rule 5101:2-48-03 ensures the well-being of adopted children by requiring that all available social and medical information be recorded for the child, the biological parents, and their ancestors. This assures there is sufficient information available to place the child in an appropriate adoptive home, allows the adoptive family to make an informed decision about accepting placement of the child, and allows appropriate decisions to be made regarding subsidies and future services for the family.

Rule 5101:2-48-06 ensures that children are safe and well cared for by requiring the assessors that work with foster and adoptive applicants and parents to meet minimum educational and training requirements.

Rule 5101:2-48-09 ensures the safety and well-being of children by outlining application requirements to establish minimum standards for those interested in adoption. The rule also prescribes preservice training requirements for applicants interested in adoption, to ensure they have the knowledge and skills to determine if adoption is the appropriate choice for their family.

Rule 5101:2-48-10 ensures the safety and well-being of children placed in adoptive homes by establishing minimum criteria for criminal background checks for all adults in the home.

Rule 5101:2-48-11 ensures the well-being of children who may become available for adoption as it prescribes the requirements and process for adding adoption approval to an existing foster care homestudy.

Rule 5101:2-48-17 ensures the safety, stability, and well-being of a child in an adoptive placement by outlining the requirements for assessor visits to the home during the prefinalization timeframe. The rule mandates timeframes for visits, location of visits, individuals present during visits, and what topics are to be addressed during the visits. All of these requirements help to ensure the stability of the placement for the child.

Rule 5101:2-48-18 ensures the ongoing stability and preservation of the family by requiring the agency to outline in its policies the postfinalization services they offer families, as well as their process for referring families who are in need of programs or services the agency does not offer.

Rule 5101:2-48-20 ensures the well-being of all members of the adoption triad by outlining what identifying and non-identifying information is able to be shared with the adoptive parent and/or the adopted person as time goes on.

5101:2-48-21 ensures the well-being of the adoptive child and the adoptive parents by ensuring that the adoptive parents are given thorough, adequate, and accurate information about the child in order to make an informed decision about any potential match. The rule also offers protection for the agency in that it requires the adoptive parents to document that they read and understand the information provided.

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 each rule in assuring the safe placement of children into adoptive homes.

Development of the Regulation

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.

The rules were presented to several interest groups including Ohio Association of Child Caring Agencies (OACCA), the Ohio Family Care Association, 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. The rules also went through the clearance process in January 2014.

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

The rules were reviewed and updated with involvement from OACCA, OFCA, the interested parties' involvement and language was developed that was agreeable to all. There were 6 comments received during the clearance process. Five of the comments requested clarification to the rules. Three of those comments were internal, and resulted in changes to rules 5101:2-48-02 and 5101:2-48-09. 5101:2-48-02 previously had the incorrect link for the putative father registry. This was corrected. 5101:2-48-09 was revised in paragraph (F)(2) to mirror foster care language. Paragraph (P) was revised to remove ‘sex’ from the list, as gender was also listed. Two external comments were received regarding rules 5101:2-48-09 and 5101:2-48-11. 5101:2-48-09(M) was revised to specify that the decision to continue the homestudy process past 180 days shall be documented on the JFS 01673 homestudy. 5101:2-48-11(D) was revised to specify that the assessor shall refer to specific paragraphs in rule 5101:2-48-12 when approving or denying a homestudy. The remaining comment requested an exception to the visitation requirements listed in rule 5101:2-48-17. The developer provided explanation to the individual that the exception could not be given because the visits are mandated by the Ohio Revised Code.

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 these rules as all parties involved in the PFOF and clearance process were satisfied with rule language outcomes and because the rules are driven by 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 the safety and well-being of all children entering adoptive homes.

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

There is no duplication as the rules are specific to adoption agencies 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:

5101:2-48-02 – The timeframes involved in referring putative fathers to the putative father registry, as well as contacting the registry for a final search for a putative father at least 31 days after the child's birth. Given that the PFR is entirely electronic, requesting the final search would only take a matter of 5-10 minutes to enter in the appropriate data to submit to ODJFS. The rule includes the requirements for a final registry check prior to the issuance of the final decree of adoption. This response would become part of the finalization packet to be submitted to court for the adoption decree. The approximate cost for submitting the finalization packet to court would range from $100- $200 depending on which county the adoption is finalizing in. This requirement is derived from ORC 3107.062, 3107.063, and 3107.064.

5101:2-48-03 – The timeframes involved in obtaining and recording social and medical information regarding the birth parent and their ancestors. The amount of time and cost to carry out this requirement would vary greatly depending on the amount of information known by the birth parent and the complexities of any medical or social history to be recorded. The information to be recorded on the JFS 01616 comes from interviews with birth parents and other close friends or family who may have information. The time could be between one hour and six hours, depending on how much the family would like to share with the assessor. This requirement is derived from ORC 3107.09 and 3107.091.

5101:2-48-06 – The timeframes involved in ensuring that assessors have obtained the appropriate licensure and/or employment qualifications. Training classes are offered free of charge at the regional training centers throughout the state. The training centers typically offer both Tier I and Tier II one time each per year per region. The training centers are required to canvas the counties periodically for training needs and have the ability to add additional training sessions if they are needed. In addition, timeframes are also involved regarding having assessor staff who shall complete required training courses within the required timeframes on an ongoing basis. The time needed to complete these requirements would depend on how many assessors are on staff at the agency, and where they are in their training cycle. This requirement is derived from ORC 3107.014.

5101:2-48-09 – The timeframes involved in obtaining the required information and documentation to initiate an adoption homestudy and the cost involved with ensuring adoptive applicants complete preservice training requirements. The costs and timeframes involved would

vary depending on the number of applicants in preservice classes, as well as the number of staff employed at each agency that will be assisting in completing homestudies. Preservice typically takes anywhere from 4-8 weeks to complete, depending on the training schedule. The average homestudy takes 3-6 months to complete, depending on how pro-active applicant families are in submitting the required documentation and completing training classes.

5101:2-48-10 – The timeframes and cost involved with agencies adhering to federal and state statutes with regard to criminal background checks to be completed by those seeking adoption homestudy approval. Agencies have reported an estimated cost of $80 to complete both BCII and FBI simultaneously. Additional costs would need to be factored in regarding how many staff are assisting with capturing fingerprints, and how many applicants must be fingerprinted.

5101:2-48-11 – The timeframes involved in compiling and reviewing information from the foster parent file and the applicants to add adoption homestudy approval to a foster care homestudy. The amount of time and cost to carry out this requirement would be dependent on several factors, such as caseload, length of time the adoption applicants have been foster parents, the size of the foster care file, etc. The average length of time to add adoption to an existing foster home certificate could range from one to three months.

5101:2-48-17 – The timeframes involved in having assessors complete and document prefinalization visits with children in adoptive homes. This timeframe is also difficult to quantify as every child and every adoptive family have different dynamics, therefore the amount of time spent in the home during the prefinalization period, and the amount of time spent documenting the visits will differ from family to family. If a worker were to complete and document the minimum amount of visits during the prefinalization period, the time may range from 18 hours to 36 hours, depending on travel time. Other costs involved would be the court costs for filing the necessary documents. The approximate cost for submitting the finalization packet to court for filing would range from $100- $200 depending on which county the adoption is finalizing in. This requirement is derived from ORC 3107.12.

5101:2-48-18 – The timeframes involved in regards to agencies developing their policy, in addition to actually providing postfinalization services, or referring persons in need of such services to outside agencies. The time involved to carry out this requirement would vary from agency to agency, depending on which post-adoption services they do offer in comparison to simply referring families to other service providers. The time involved in creating the policy would be relative to the amount and complexity of their post adoption services, and could range from 20 minutes to approximately 2 hours for agencies with in-depth programs and services to offer families in need of post adoption services.

5101:2-48-20 – The timeframes involved in informing birth parents and adoptive parents of their rights regarding the release of identifying and nonidentifying information, as well as the

timeframes involved in redacting and releasing nonidentifying information when permissible. This would take approximately 30 minutes, in order to ensure that the birth mom completely understood the implications of her actions.

5101:2-48-21 – The timeframes involved in obtaining the needed information for developing and updating a child study inventory. This requirement is also difficult to quantify as every child has different experiences they have gone through, therefore every child study inventory is different. Timeframes would depend on the age, background, and information known about each child in the agency's permanent custody. The time could vary greatly, and may range from 3 hours to 40 hours, depending on the child's situation.

The adverse impact would only be regulated to time spent adhering to rule regulations and documenting or reporting the information necessary for rule compliance.

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

To ensure the safety of children in adoptive placements, the adverse impact of these rules is necessary. The requirements set forth in the rules provide safety nets for children in adoption by:

- Protecting the rights of putative fathers
- Ensuring that adopted children receive complete and accurate social and medical information about their ancestors
- Ensuring that assessors who work with children, birth parents, and applicants are adequately trained in adoption and child welfare practice.
- Ensuring that applicants are trained adequately to decide if adoption is appropriate for their family, and give strategies for how to handle some of the anticipated challenges that adoption brings.
- Ensuring that applicants have completed BCII and FBI checks, and do not have prohibited offenses that may endanger children placed in the home.
- Ensuring that children are seen at least monthly in their adoptive homes and their adjustment and well-being are monitored prior to finalization.
- Completing an accurate and complete child study inventory will help ensure that the best possible adoption match is made and that the child will adjust and do well in the home.

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 rules 5101:2-48-02, 5101:2-48-03, 5101:2-48-06, 5101:2-48-17, 5101:2-48-18, 5101:2-48-20, 5101:2-48-21 there are no fines or civil penalties for non-compliance other than the potential loss of adoption homestudy approval.

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 adoption homestudies and providing required supervision visits and postfinalization services. Policy developers are also available to give technical assistance regarding the requirements of these rules.