

CSI - Ohio

The Common Sense Initiative

Business Impact Analysis

Agency Name: Ohio Department of Job and Family Services

Regulation/Package Title: OFC: Putative Father Registry

Rule Number(s): 5101:2-48-02

Date: 3/2/2015

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☐ Rescinded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 5101:2-48-02, entitled "Putative Father Registry" provides guidance to agencies regarding the Ohio Putative Father Registry, established to assist putative

77 SOUTH HIGH STREET | 30TH FLOOR | COLUMBUS, OHIO 43215-6117

CSIOhio@governor.ohio.gov

fathers in securing their parental rights in an adoption. This rule is being amended to reflect updates as a result of the passage of substitute Senate Bill 250, which will be effective March 23, 2015. The bill puts forth changes regarding the timeframes for putative fathers to register with the Ohio Putative Father Registry. In paragraph (B), the form name and effective date for the JFS 01694 were corrected, and the JFS 01694I was added. Paragraph (D) was revised to reflect the law change from thirty days to fifteen days after birth for the putative father to register. Paragraph (E) was revised to correctly mirror the language in the law, as well as update the effective date of the JFS 01695. Paragraph (F) was revised to reflect the change in law allowing a final search to be completed of the registry no sooner than sixteen days after the birth of the child. Paragraphs (G), (H), and (I) were revised to reflect the corrected language in paragraph (E).

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

Rule Number	Statutory Authority
-------------	---------------------

Rule 5101:2-48-02	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.

No.

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

This rule is being amended to reflect updates as a result of the passage of substitute Senate Bill 250, which will be effective March 23, 2015. The bill puts forth changes regarding the timeframes for putative fathers to register with the Ohio Putative Father Registry.

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 putative fathers the opportunity to be notified in the event that their child is placed for adoption, so that they may choose if they would like to give consent for the adoption, or file a paternity claim to parent their child. If this regulation were not in place, many fathers would have no knowledge of the adoption of their child, which would greatly impact their ability to intervene in a timely manner if they choose to.

77 SOUTH HIGH STREET | 30TH FLOOR | COLUMBUS, OHIO 43215-6117

CSIOhio@governor.ohio.gov

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, assuring the putative fathers are given the registration information, and assuring searches are submitted to ODJFS for completion according to the timeframes specified by law.

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.

This rule was posted on the Ohio rule review website from January 8, 2015 to January 22, 2015. The rule also went through the clearance process from February 10, 2015 to February 24, 2015.

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

No comments were received from the website or the clearance process.

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 clearance process were satisfied with rule language outcomes.

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 the processes and timelines for the putative father registry.

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 the putative father registry. These rules were reviewed by the PFOF Rule Review Board for duplication and approval a few years ago, 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. Regional teams have also been developed to offer technical assistance and improve consistency statewide. The Ohio Putative Father Registry also consists of one full time staff and that individual, as well as their supervisor, ensure that processes and timelines are adhered to in regards to the registry.

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 approximately 15 private agencies that work with birth parents and adoptive families in accepting permanent surrenders.

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 16 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.

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

To ensure compliance with state statute, as well as ensure that putative fathers have the opportunity to be notified in the event that a child they fathered is placed for adoption. Notification allows these fathers the opportunity to give consent to the adoption or to exert their parental rights and file a paternity claim if they so choose. Without the registry fathers would have their parental rights taken from them with no ability for them to be involved in their child's life.

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 creating a template inquiry letter and compiling the inquiry packet. The Ohio Putative Father Registry consists of dedicated staff who are able to answer any questions or concerns regarding this regulation. Policy developers are also available to give technical assistance regarding the requirements of this rule.