



## Common Sense Initiative

**Mike DeWine**, Governor  
**Jon Husted**, Lt. Governor

**Carrie Kuruc**, Director

### Business Impact Analysis

Agency, Board, or Commission Name: Ohio Department of Job and Family Services

Rule Contact Name and Contact Information:

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Regulation/Package Title (a general description of the rules' substantive content):

Chapter 5101:2-48 Adoption rules

Rule Number(s): 5101:2-48-02, 5101:2-48-17, 5101:2-48-18, 5101:2-48-20,

5101:2-48-22, 5101:2-48-23, 5101:2-48-25

Date of Submission for CSI Review: \_\_\_\_\_

Public Comment Period End Date: \_\_\_\_\_

**Rule Type/Number of Rules:**

New/\_\_\_ rules

No Change/\_\_\_ rules (FYR? \_\_\_)

Amended/ 6 rules (FYR? yes)

Rescinded/ 1 rules (FYR? yes)

The Common Sense Initiative is established in R.C. 107.61 to eliminate excessive and duplicative rules and regulations that stand in the way of job creation. Under the Common Sense Initiative, agencies must balance the critical objectives of regulations that have an adverse impact on business with the costs of compliance by the regulated parties. Agencies should promote transparency, responsiveness, predictability, and flexibility while developing regulations that are fair and easy to follow. Agencies should prioritize compliance over punishment, and to that end, should utilize plain language in the development of regulations.

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## **Reason for Submission**

- 1. R.C. 106.03 and 106.031 require agencies, when reviewing a rule, to determine whether the rule has an adverse impact on businesses as defined by R.C. 107.52. If the agency determines that it does, it must complete a business impact analysis and submit the rule for CSI review.**

**Which adverse impact(s) to businesses has the agency determined the rule(s) create?**

**The rule(s):**

- Requires a license, permit, or any other prior authorization to engage in or operate a line of business.**
- Imposes a criminal penalty, a civil penalty, or another sanction, or creates a cause of action for failure to comply with its terms.**
- Requires specific expenditures or the report of information as a condition of compliance.**
- Is likely to directly reduce the revenue or increase the expenses of the lines of business to which it will apply or applies.**

## **Regulatory Intent**

- 2. 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 putative fathers on registering. The rule also provides guidance on the process of requesting a search of the putative father registry for the purpose of adoption. The website addresses were updated. The form revision dates were removed throughout the rule.

OAC rule 5101:2-48-17, entitled "Assessor visits and contacts with children in adoptive homes prior to finalization," provides guidance to assessors on the number of visits required prior to finalization and the information the assessor is required to obtain at those visits. In paragraph (E) the website address was updated. The form revision dates were removed throughout the rule.

OAC rule 5101:2-48-18, entitled "Postfinalization services," provides guidance on agencies' responsibility to provide postfinalization services. In paragraph (D) a reference was made to Ohio Kinship and Adoption Navigator (OhioKAN) as a resource. The form revision dates were removed throughout the rule.

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OAC rule 5101:2-48-20, entitled "Release of identifying and nonidentifying information," provides guidance to assessors on their responsibility to inform birth parents about their right to approve and deny the release of identifying information. The rule also provides guidance to assessors about informing adoptive parents of information that may be requested by the adopted child. The form revision dates were removed throughout the rule.

OAC rule 5101:2-48-22, entitled "Adoptive family case record," provides guidance to agencies on preparing and maintaining case records. The form revision dates were removed throughout the rule.

OAC rule 5101:2-48-23, entitled "Preservation of adoptive child case record," provides guidance to agencies on the requirements of maintaining an adoptive case record, specifically all the required forms and documentation. The form revision dates were removed throughout the rule.

OAC rule 5101:2-48-25, entitled "Inter-country adoption data collection," is being rescinded as the process of documentation has transitioned to the Statewide Automated Child Welfare Information System. Forms JFS 01670 and JFS 01670-I are to be obsoleted as the information is now captured in the SACWIS system.

**3. Please list the Ohio statute(s) that authorize the agency, board or commission to adopt the rule(s) and the statute(s) that amplify that authority.**

Rule Number	Statutory Authority
Rule 5101:2-48-02	ORC 3107.065, 5153.166
Rule 5101:2-48-17	ORC 3107.101, 3107.12, 5153.166
Rule 5101:2-48-18	ORC 5103.03, 5153.166
Rule 5101:2-48-20	ORC 3107.083, 5153.166
Rule 5101:2-48-22	ORC 5101.141, 5103.03, 5153.166
Rule 5101:2-48-23	ORC 5103.03, 5153.166
Rule 5101:2-48-25	ORC 5103.03, 5153.166

**4. 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.**

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Rules 5101:2-48-02, 5101:2-48-17, 5101:2-48-18, 5101:2-48-20, 5101:2-48-22, 5101:2-48-23 and 5101-2-48-25 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.

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

This is not applicable as the rules do not implement a requirement of Federal Law, nor do they exceed any Federal requirements.

**6. 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 5101:2-48-17 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.

5101:2-48-22 provides guidance to agencies on preparing case records. The rule details the forms and documentation that are required to be part of the file.

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5101:2-48-23 provides guidance to agencies on maintaining adoptive case records during the adoption process and after finalization including all forms and legal documents.

5101:2-48-25 is being rescinded as the process of documentation has transitioned to the Statewide Automated Child Welfare Information System. Forms JFS 01670 and JFS 01670-I are to be obsoleted as the information is now captured in the SACWIS system.

**7. 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.

**8. Are any of the proposed rules contained in this rule package being submitted pursuant to R.C. 101.352, 101.353, 106.032, 121.93, or 121.931?**

*If yes, please specify the rule number(s), the specific R.C. section requiring this submission, and a detailed explanation.*

No

**Development of the Regulation**

**9. 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.*

There were no comments received on [www.ohiorulereview.org](http://www.ohiorulereview.org) during the public posting period and the PCSAO legislative committee provided no input. There were no public comments made on the rule package.

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

There were no comments or input provided. These rules went the ODJFS clearance process on 7/24/20 through 8/7/20 and received no comments from stakeholders.

**11. 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

**12. 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?**

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There were no other alternatives considered for these rules as the rules are driven by statute.

**13. 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.

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

There are no duplications as the rules are specific to adoption agencies and no other rules address these specific issues. ODJFS legal staff reviewed the rules to ensure there is no duplicative regulation in the Administrative Code.

**15. 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.**

The rules do not prescribe anything that would not be applied consistently. ODJFS licensing specialists review the agencies to ensure the regulations are applied consistently and they offer technical assistance in areas of inconsistency.

**Adverse Impact to Business**

**16. 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; and
- b. Identify the nature of all adverse impact (e.g., 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.

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

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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.

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 number of visits during the prefinalization period, the time may range from 18 hours to 36 hours, depending on travel time.

5101:2-48-18 – The timeframes involved in regard 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.

5101-2-48-22--The timeframes involved in ensuring that the adoption file contains all the required forms and documentation. The time involved to create and obtain these forms and documents would vary from agency to agency based on the availability of documents and the availability of people that must be interviewed in order to obtain information.

5101-2-48-23—The timeframes involved in ensuring the agency is preserving adoption records indefinitely. The timeframes involved to maintain a paper or electronic copy of an adoption file would vary depending on the method of preservation used by the agency. Due to the different methods of preservation the timeframes would vary from agency to

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agency. Cost involved could include purchase and maintaining of an electronic record keeping system or the cost of files and space to maintain said records.

5101:2-48-25—The timeframes involved completing forms to document the dissolutions of inter-county adoptions. The process has moved to the Statewide Automated Child Welfare Information System which reduces steps in the process including ensuring the Ohio Department of Job and Family Services received the form within the 10-day time frame. This could be by postage mail, email, or facsimile.

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

To ensure the safety and well-being of children placed in adoptive settings and the parental rights of putative fathers, the adverse impact of these regulations is justified.

**Regulatory Flexibility**

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

No, there is no alternative means of compliance.

**19. 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, 5101:2-48-17, 5101:2-48-18, 5101:2-48-20, 5101:2-48-22, 5101:2-48-23, and 5101:2-48-25, there are no fines or civil penalties for non-compliance other than the potential loss of adoption agency certification.

**20. 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 obtaining and maintaining compliance with these regulations and providing required supervision visits and postfinalization services. Policy developers are also available to give technical assistance regarding the requirements of these rules.