



Common Sense Initiative

Mike DeWine, Governor
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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):

Change of placement or visitation plan prior to journalization of case plan.

Rule Number(s): 5101:2-42-93

Date of Submission for CSI Review: 11/9/21

Public Comment Period End Date: 11/16/21

Rule Type/Number of Rules:

New/___ rules

No Change/___ rules (FYR? ___)

X Amended/_1___ rules (FYR? _N_)

Rescinded/___ rules (FYR? ___)

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):

- a. ☒ **Requires a license, permit, or any other prior authorization to engage in or operate a line of business.**
- b. ☒ **Imposes a criminal penalty, a civil penalty, or another sanction, or creates a cause of action for failure to comply with its terms.**
- c. ☐ **Requires specific expenditures or the report of information as a condition of compliance.**
- d. ☐ **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 5101:2-42-93, entitled "Change of placement or visitation plan prior to journalization of case plan" sets forth the requirements for when a child's placement or visitation plan has been specified by a court order, the Public Children Services Agency (PCSA) or Private Child Placing Agency (PCPA) is to file a motion with the court to modify such an order and receive court approval prior to effecting a change in the child's placement or visitation plan.

The rule was amended as suggested by the Common Sense Initiative Office to remove outdated language. Paragraph (E) was amended to remove the word mailing.

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.**

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Rule Number Statutory Authority
5101:2-42-93 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.

The rule does not implement a federal requirement.

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

The rule does not 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 purpose of the regulations in 5101:2-42-93 is to provide requirements for the Private Child Placing Agency (PCPA) to file a motion with the court to modify a placement order and receive court approval prior to effecting a change in the child's placement or visitation plan.

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

Agencies undergo compliance reviews once every two years as part of the recertification process which includes compliance with the requirements of this rule. Agencies also receive compliance reviews at approximately the one year mark of the two-year certification period.

- 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.

No stakeholder involvement has been received as this change was the result of a Common Sense Initiative Office suggestion.

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

Not applicable.

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?

There were no other alternatives considered for rule 5101:2-42-93 because the rule is 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.*

ODJFS did not consider a performance-based initiative in order to ensure the safety and well-being of children and families.

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

Rule 5101:2-42-93 is the only rule outlining the requirements around the change of placement or visitation plan prior to the journalization of the case plan.

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.

When the rule is final filed, a transmittal letter will be generated explaining the rule. ODJFS licensing specialists and technical assistance specialists review 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

The rules of the Administrative Code in Chapter 5101:2-42 contain requirements for children in temporary custody and placed into substitute care by public and private

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agencies. Requirements must be met to obtain and/or maintain certification for PCPAs. There are currently 23 certified private child placing agencies in Ohio.

b. Identify the nature of all adverse impact (e.g., fees, fines, employer time for compliance,); and

The adverse impact includes employer time for compliance. The requirements of the rule in this BIA must be met, non-compliance may result in revocation or loss of certification.

The adverse impact of the requirements set forth in rule 5101:2-42-93 include the time spent completing the documentation related to the notice of change in placement or visitation plan and/or written decisions of a review. The requirements of this rule are to be maintained by the agency in the child's case record.

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 expected adverse impact for rule 5101:2-42-93 could include filing motions in juvenile court, organizing documents, and providing notices to involved parties which are typically completed by a caseworker/social worker. The time spent could vary based on agency staffing, the availability of appropriate placements, and expectations of the court. The amount of time spent could range from several minutes to an hour. The anticipated cost to comply with this rule would depend on the wage for the specific worker. The current average wage for a social worker in the State of Ohio is \$22 per hour, according to Zip Recruiter. Therefore, the anticipated cost of compliance for an impacted agency to comply with this rule would range from \$5-\$22, depending on administrative and staffing variables.

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

The adverse impact of the rule is necessary to ensure the safety of children in substitute care.

Regulatory Flexibility

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

There are no exemptions and no alternative means of compliance for rule 5101:2-42-93.

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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?

There are no fines or civil penalties for non-compliance with rule 5101:2-42-93 other than the forfeiture of certification through denial or revocation.

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

ODJFS publishes all rules online as an e-manual. All public and private agencies have access to this publication, which is located at <http://emanuals.jfs.ohio.gov/>.

ODJFS has regional offices with licensing specialists that will be assigned to assist the agency in compliance with the requirements of rule 5101:2-42-93.