



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):

SACWIS Access

Rule Number(s): 5101:2-33-70

Date of Submission for CSI Review: 5/2/22

Public Comment Period End Date: 5/9/22

Rule Type/Number of Rules:

New/___ rules

No Change/___ rules (FYR? ___)

Amended/ 1 rules (FYR? ___)

Rescinded/___ rules (FYR?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 5101:2-33-70 entitled Statewide Automated Child Welfare Information System (SACWIS) Access provides guidance to agencies on how to obtain access to Ohio SACWIS and details what information is to be entered into Ohio SACWIS. Additionally, the rule states who may be granted access to Ohio SACWIS, and the responsibility of those with access to maintain confidentiality of the information within Ohio SACWIS. Requirements were added for data entry into the residential treatment information system (RTIS) within Ohio SACWIS. Ohio START staff were also given permission to access Ohio SACWIS for the purpose of program implementation. The rule also prohibits employees or contractors from entering or viewing data when a conflict of interest exists. The rule also allows for a corrective action plan to be put in place if it is found that there has been a violation of the rule and the JFS 07078 "Code of Responsibility." Furthermore, language allowing the Ombudsman office to be granted access to Ohio SACWIS was added per House Bill 4 of the 134th General Assembly.

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- 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.**

Authorized By: 5101.134

Amplifies: 5101.13, 5101.131, 5101.132, 5101.133, 5101.899

- 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 any federal requirement.

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

N/A.

- 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 rule, which is promulgated pursuant to the requirements of section 5101.134 of the Revised Code, establish regulations for the minimum standards to the confidentiality of information with the Ohio Statewide Automated Child Welfare Information System (SACWIS).

Rule 5101:2-33-70 protects the best interest of children and families being served by ensuring that only individuals with a need have access to Ohio SACWIS which contains sensitive and confidential information. It provides guidance to agencies on who may be granted that access and details the consequences of not adhering to the JFS 07078 "Code of Responsibility."

- 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 in assuring the safekeeping of sensitive and confidential information.

- 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.**

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

This rule was posted on the <https://ohiorulereview.org/> website for preclearance. The rule was also discussed at the Public Children Services Agency of Ohio (PCSAO) Rule Committee meeting. Additionally, after the external comment period ODJFS reached out to PCSAO and Ohio's Children's Alliance (OCA) to obtain further information from their members.

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

During the public comment period, ODJFS received twelve comments. Additionally, there was feedback provided during a meeting with OCA that mirrored the comments received during the public comment period. Stakeholders shared that the visit documentation requirement was unclear and would create a duplication of work. After reaching out to Public Children Service Association of Ohio (PCSAO) and Ohio Children's Alliance (OCA) revisions were made to the rule to clarify the type of visits that needed to be documented.

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 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.

ODJFS did not consider a performance-based initiative, but rather followed statutory language prescribing that the department set minimum standards to ensure the safekeeping of sensitive and confidential information.

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

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There are no duplications as the rules are specific to Ohio SACWIS and no other rules address access and confidentiality specific issues for the system.

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.

Staff are required to sign the JFS 07078 "Code of Responsibility" and adhere to the requirements of the document. Furthermore, Foster Care Licensing Specialist and Technical Assistance Specialist will monitor agencies and review cases to assure implementation.

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.

A provider governed by the regulations of 5101:2-33-70 would possibly incur costs while obtaining access to the Ohio SACWIS system. Specifically, the time a staff member spent completing the form to request access which would be less than one hour at an average hourly rate of \$22.13. Agencies themselves are not charged to access Ohio SACWIS.

If a corrective action plan is required as a result of a violation of the user agreement or the JFS 07078 "Code of Responsibility," the agency may incur cost for training and educating staff on the requirements of the user agreement. The cost to come into alignment with a corrective action plan may be one to two hours at a cost of \$23.59/hour for a case worker supervisor to provide education and training on the proper use of Ohio SACWIS, depending on the case specifics and specific corrective action plan. There are over one hundred private child placing agencies (PCPAs) and private non-custodial agencies (PNAs) that may request to access Ohio SACWIS. Salary estimates included above are from the website www.salary.com.

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

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Guidance about who may access Ohio SACWIS and the use of information contained in the system is necessary for agency administrative functioning and is key to protecting personal information and provide for the proper administration of child protective services.

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 based on agency size. All users that are granted access must adhere to the rule. Agencies are assigned foster care licensing staff that complete reviews of their files.

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?

N/A

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 adhering to this rule. Policy developers are also available to give technical assistance regarding the requirements of this rule.