



Common Sense Initiative

Mike DeWine, Governor
Jon Husted, Lt. Governor

Joseph Baker, Director

MEMORANDUM

TO: Michael Lynch, Ohio Department of Job and Family Services

FROM: Michael Bender, Business Advocate

DATE: May 19, 2023

RE: **CSI Review – Substitute Care Disruptions (OAC 5101:2-42-88)**

On behalf of Lt. Governor Jon Husted, and pursuant to the authority granted to the Common Sense Initiative (CSI) Office under Ohio Revised Code (ORC) section 107.54, the CSI Office has reviewed the abovementioned administrative rule package and associated Business Impact Analysis (BIA). This memo represents the CSI Office's comments to the Department as provided for in ORC 107.54.

Analysis

This rule package consists of one amended rule proposed by the Ohio Department of Job and Family Services (ODJFS) as part of the statutory five-year review process. This rule package was submitted to the CSI Office on May 5, 2023, and the public comment period was held open through May 12, 2023. Unless otherwise noted below, this recommendation reflects the version of the proposed rule filed with the CSI Office on May 5, 2023.

Ohio Administrative Code (OAC) 5101:2-42-88 sets forth requirements for public children services agencies (PCSAs) and private child placing agencies (PCPAs) when there is a disruption of a child's substitute care placement or when a child is absent without leave (AWOL). When there is a disruption of a child's substitute care placement, PCSAs and PCPAs must amend the case plan and follow certain procedures. When a child is AWOL from a substitute care placement, PCSAs and PCPAs are required to contact both law enforcement and the National Center for Missing and Exploited Children (NCMEC), in addition to updating the child's case record with certain information. The rule is amended to require PCSAs and PCPAs to submit a report with certain information to law enforcement and NCMEC and to maintain regular communication with both to aid in the safe recovery of the child.

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During early stakeholder outreach, ODJFS presented the rule to the Public Children Services Association of Ohio (PCSAO) on May 4, 2023, and to the Ohio Children's Alliance (OCA) on May 16, 2023. The rule also went through the ODJFS clearance process from May 3, 2023, through May 10, 2023. No feedback was provided by the OCA, but ODJFS did receive one clearance comment from the PCSAO pointing out that sometimes the information required to be provided by the PCSA or PCPA may not be available. ODJFS subsequently revised the rule to require that this information be submitted "where reasonably possible." During the CSI public comment period, ODJFS received one comment from Lucas County Children Services asserting that the rule as written would create barriers and challenges regarding reports to law enforcement and timing. ODJFS responded that the concerns raised provide valuable insight and would be shared with NCMEC as well as with federal and state partners. However, ODJFS added that the rule amendments are the result of a federal mandate found in Public Law 117-348, also known as the Trafficking Victims Prevention and Protection Reauthorization Act of 2022, which amends Title IV-E plan requirements.

The business community impacted by the rule includes PCSAs and PCPAs. The adverse impacts created by the rule include the time needed to amend a case plan, update a child's case record, and communicate with and submit a report to law enforcement and NCMEC. According to ODJFS, the quantified costs of the impacts will vary due to the number of children missing at any point in time and the length of time a child is missing. ODJFS states that the adverse impacts to business are justified to meet a federal mandate and establish a means of assuring the safety of children in substitute care, preventing human trafficking, and locating missing children.

Recommendations

Based on the information above, the CSI Office has no recommendations on this rule package.

Conclusion

The CSI Office concludes that ODJFS should proceed in filing the proposed rule with the Joint Committee on Agency Rule Review.