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: November 21, 2023

RE: **CSI Review – Five Year Rule Review Substitute Care and Licensing (OAC 5101:2-5-40, 5101:2-9-02, 5101:2-42-65, and 5101:2-42-66.1)**

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 four amended rules 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 November 8, 2023, and the public comment period was held open through November 15, 2023. Unless otherwise noted below, this recommendation reflects the version of the proposed rules filed with the CSI Office on November 8, 2023.

Ohio Administrative Code (OAC) 5101:2-5-40 provides for the preplacement and continuing training programs operated by private child placing agencies (PCPAs) and private noncustodial agencies (PNAs) for prospective and certified foster caregivers. The rule is amended to update language, update the rule title, and require training plans to be submitted only if they are new or changed rather than every two years. The rule is also amended to allow a regional training center of the Ohio Child Welfare Training Program to condition enrollment in a training program only on the availability of space in the program. OAC 5101:2-9-02 establishes staffing requirements for residential facilities to ensure that children in care are properly supervised. The rule is amended to update language, add a

citation, require a background check to be requested for each person over eighteen years old that resides with staff members in the facility, and reduce the amount of training that a new staff member is required to have before being able to be left with residents unsupervised. OAC 5101:2-42-65 specifies requirements for public children services agencies (PCSAs) and PCPAs with respect to caseworker visits and contacts with both children in substitute care and the substitute caregivers. The rule is amended to update language and remove the requirement for weekly visits with caregivers for children in special, exceptional, or intensive needs placement. OAC 5101:2-42-66.1 requires PCSAs and PCPAs to coordinate comprehensive health care for each child in their care or custody who enters substitute care or has a placement change. The rule is amended to update language and remove the requirement to ensure a medical screening is completed when a child changes placement or is placed into foster care directly from a medical setting.

During early stakeholder outreach, the rules went through the ODJFS public clearance process from September 1, 2023, through September 15, 2023. No comments were provided by stakeholders. However, ODJFS incorporated recommendations from county partners that it had received over the previous years, particularly during the COVID-19 pandemic, to reduce organizational red tape, improve efficiency, and assist agencies in the provision of service to children in out-of-home care without compromising child safety. No comments were received during the CSI public comment period.

The business community impacted by the rules includes foster care agencies, of which eighty-eight are public and over one hundred are private. The adverse impacts created by the rules include the costs associated with submitting training proposals, supervising children in care, visiting children and caregivers, and coordinating health care for children. ODJFS notes that, according to ZipRecruiter, the average wage for a social worker is $22.00 per hour. Additionally, ODJFS emphasizes that the actual costs would vary based upon the size and staffing of each agency, which affect the time needed for compliance with the rules. Furthermore, ODJFS points out that the revisions to the rules reduce the regulatory burden to business by eliminating the requirement to submit a training plan every two years, reducing training hours for staff members to work unsupervised with youth, eliminating weekly caseworker contacts with caregivers, and eliminating medical screenings for children placed into foster care directly from a hospital or changing placement. ODJFS states that the adverse impacts to business are justified to ensure the safety of children in substitute care.

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 rules with the Joint Committee on Agency Rule Review.