

## Rule Summary and Fiscal Analysis

### Part A - General Questions

**Rule Number:** 173-14-14

**Rule Type:** Amendment

**Rule Title/Tagline:** Staffing requirements, staff qualifications, and background checks.

**Agency Name:** Department of Aging

**Division:**

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#### I. Rule Summary

1. **Is this a five year rule review?** Yes
  - A. **What is the rule's five year review date?** 11/16/2023
2. **Is this rule the result of recent legislation?** Yes
  - A. **If so, what is the bill number, General Assembly and Sponsor?** SB 288 - 134 - Manning
3. **What statute is this rule being promulgated under?** 119.03
4. **What statute(s) grant rule writing authority?** 121.07, 173.01, 173.02, 173.16, 173.27; 42 U.S.C. 3025, 3058g; 45 C.F.R. 1321.11, 1324.11, 1324.13, 1324.15
5. **What statute(s) does the rule implement or amplify?** 109.572, 173.16, 173.27; 42 U.S.C. 3058g; 45 C.F.R. 1324.11
6. **Does the rule implement a federal law or rule in a manner that is more stringent or burdensome than the federal law or regulation requires?** No
  - A. **If so, what is the citation to the federal law or rule?** Not Applicable
7. **What are the reasons for proposing the rule?**

This rule exists to establish requirements for staffing, staff qualifications, and background checks.

**8. Summarize the rule's content, and if this is an amended rule, also summarize the rule's changes.**

This rule establishes requirements for staffing, staff qualifications, and background checks.

ODA proposes to amend this rule to achieve the following:

1. Remove the unnecessary use of the regulatory-restriction words "shall" and "require from this rule to comply with R.C. §121.951.

2. Update the description of disqualifying offenses to make it easier for responsible parties to search for disqualifying offenses in this rule that they may find on a criminal records report.

3. Remove the offense of illegal use or possession of marihuana [marijuana] drug paraphernalia under R.C. §2925.141 from the list of disqualifying offenses to comply with Senate Bill 288 (134th G.A.), which removed that offence from R.C. §109.572(A) (3).

4. Simplify the rule—to the degree possible—by consistently using words that correspond with "disqualifying offense" rather than also using "exclusionary" and "violation."

5. Make additional non-substantive improvements to this rule.

**9. Does the rule incorporate material by reference? Yes**

**10. If the rule incorporates material by reference and the agency claims the material is exempt pursuant to R.C. 121.75, please explain the basis for the exemption and how an individual can find the referenced material.**

This rule references online databases which the general public may readily access, free of charge, online.

**11. If revising or re-filing the rule, please indicate the changes made in the revised or re-filed version of the rule.**

*Not Applicable*

## II. Fiscal Analysis

- 12. Please estimate the increase / decrease in the agency's revenues or expenditures in the current biennium due to this rule.**

This will have no impact on revenues or expenditures.

\$0.00

Amending this rule will not affect the biennial budget that the Ohio General Assembly established for the ombudsman program in House Bill 33 (135th G.A.).

- 13. What are the estimated costs of compliance for all persons and/or organizations directly affected by the rule?**

This rule establishes qualifications for a person to become a certified ombudsman representative and requires a person who is under final consideration for hire as a certified ombudsman representative to undergo a background check (cf. R.C. §173.27). Otherwise, this rule regulates the ombudsman program itself.

- 14. Does the rule increase local government costs? (If yes, you must complete an RSFA Part B). No**
- 15. Does the rule regulate environmental protection? (If yes, you must complete an RSFA Part C). No**
- 16. If the rule imposes a regulation fee, explain how the fee directly relates to your agency's cost in regulating the individual or business.**

This rule restates the requirements for fees in R.C. §173.27.

## III. Common Sense Initiative (CSI) Questions

- 17. Was this rule filed with the Common Sense Initiative Office? No**
- 18. Does this rule have an adverse impact on business? No**
- A. Does this rule require a license, permit, or any other prior authorization to engage in or operate a line of business? No**
- B. Does this rule impose a criminal penalty, a civil penalty, or another sanction, or create a cause of action, for failure to comply with its terms? No**

- C. **Does this rule require specific expenditures or the report of information as a condition of compliance?** No

This rule does not regulate any Ohio business.

- D. **Is it likely that the rule will directly reduce the revenue or increase the expenses of the lines of business of which it will apply or applies?** No

**IV. Regulatory Restriction Requirements under S.B. 9. Note: This section only applies to agencies described in R.C. 121.95(A).**

19. **Are you adding a new or removing an existing regulatory restriction as defined in R.C. 121.95?** Yes

- A. **How many new regulatory restrictions do you propose adding to this rule?** 0

- B. **How many existing regulatory restrictions do you propose removing from this rule?** 12

1. (B)(1) The state or regional program SHALL only hire or accept a person who:

2. (B)(2) A regional program SHALL only hire a person to be an ombudsman specialist if...

3. (B)(3) A regional program SHALL only hire a person to be the ombudsman program director if the person meets both of the following requirements

4. (B)(4) Section 173.27 of the Revised Code and paragraph (C) of this rule REQUIRE meeting background-check requirements when hiring an applicant for, or retaining an employee in, a paid ombudsman position.

5. (C)(2)(c)(i): No responsible party SHALL hire an applicant or retain an employee if...

6. (C)(4) This paragraph does not REQUIRE employees who hold paid ombudsman positions to enter a conditional status when they undergo post-hire criminal records checks.

7. (C)(5)(a) Except as established in paragraph (C)(6) of this rule, no responsible party SHALL hire an applicant or retain an employee if...

8. (C)(5)(b) Except as established in paragraph (C)(6) of this rule, no responsible party SHALL hire an applicant or retain an employee if....

9. (C)(6)(a)(i) No responsible party SHALL hire an applicant or retain an employee if....

10. (C)(6)(a)(ii)(a) No responsible party SHALL hire an applicant or retain an employee for....

11. (C)(6)(a)(iii)(a) No responsible party SHALL hire an applicant or retain an employee for....

12. (C)(6)(a)(iv)(a) No responsible party SHALL hire an applicant or retain an employee for....

**C. If you are not removing existing regulatory restrictions from this rule, please list the rule number(s) from which you are removing restrictions.**

**D. Please justify the adoption of the new regulatory restriction(s).**

Not Applicable