

Rule Summary and Fiscal Analysis (Part A)**Department of Job and Family Services**

Agency Name

Division of Social Services

Division

Michael Lynch

Contact

**OFC- 4200 E. 5th Ave., 2nd fl. J6-02 P.O. Box
183204 Columbus OH 43218-3204**

Agency Mailing Address (Plus Zip)

614-466-4605

Phone

614-752-8298

Fax

Michael.Lynch@jfs.ohio.gov

Email

5101:2-13-08

Rule Number

NEW

TYPE of rule filing

Rule Title/Tag Line

**Employees, child care staff members and substitute
responsibilities and qualifications for a licensed family child
care provider.****RULE SUMMARY**1. Is the rule being filed for five year review (FYR)? **No**2. Are you proposing this rule as a result of recent legislation? **No**3. Statute prescribing the procedure in accordance with the agency is required to adopt the rule: **119.03**4. Statute(s) authorizing agency to adopt the rule: **5104.017, 5104.018**5. Statute(s) the rule, as filed, amplifies or implements: **5104.017, 5104.018**

6. State the reason(s) for proposing (i.e., why are you filing,) this rule:

This rule is being adopted as a result of the five year review and to improve the clarity of the regulations and the organization of the chapter. It replaces rescinded rules 5101:2-13-35 and 5101:2-14-09.

7. If the rule is an AMENDMENT, then summarize the changes and the content of the proposed rule; If the rule type is RESCISSION, NEW or NO CHANGE,

then summarize the content of the rule:

This rule outlines the qualifications for all staff members and substitutes for a licensed family child care provider.

8. If the rule incorporates a text or other material by reference and the agency claims the incorporation by reference is exempt from compliance with sections 121.71 to 121.74 of the Revised Code because the text or other material is **generally available** to persons who reasonably can be expected to be affected by the rule, provide an explanation of how the text or other material is generally available to those persons:

This rule incorporates one or more references to the Ohio Revised Code. This question is not applicable to any incorporation by reference to the Ohio Revised Code because such reference is exempt from compliance with RC 121.71 to 121.74 pursuant to RC 121.76(A)(1).

This rule incorporates one or more references to another rule or rules of the Ohio Administrative Code. This question is not applicable to any incorporation by reference to another OAC rule because such reference is exempt from compliance with RC 121.71 to 121.74 pursuant to RC 121.76(A)(3).

This rule incorporates one or more dated references to an ODJFS form or forms. Each cited ODJFS form is dated and is generally available to persons affected by this rule via the inner-web at <http://innerapp.odjfs.state.oh.us/forms/inner.asp> or on the inter-net at <http://www.odjfs.state.oh.us/forms/inter.asp> in accordance with RC 121.75(E).

9. If the rule incorporates a text or other material by reference, and it was **infeasible** for the agency to file the text or other material electronically, provide an explanation of why filing the text or other material electronically was infeasible:

Not Applicable.

10. If the rule is being **rescinded** and incorporates a text or other material by reference, and it was **infeasible** for the agency to file the text or other material, provide an explanation of why filing the text or other material was infeasible:

Not Applicable.

11. If **revising** or **refiling** this rule, identify changes made from the previously filed version of this rule; if none, please state so. If applicable, indicate each

specific paragraph of the rule that has been modified:

Not Applicable.

12. Five Year Review (FYR) Date:

(If the rule is not exempt and you answered NO to question No. 1, provide the scheduled review date. If you answered YES to No. 1, the review date for this rule is the filing date.)

NOTE: If the rule is not exempt at the time of final filing, two dates are required: the current review date plus a date not to exceed 5 years from the effective date for Amended rules or a date not to exceed 5 years from the review date for No Change rules.

FISCAL ANALYSIS

13. Estimate the total amount by which *this proposed rule* would **increase / decrease** either **revenues / expenditures** for the agency during the current biennium (in dollars): Explain the net impact of the proposed changes to the budget of your agency/department.

This will have no impact on revenues or expenditures.

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The proposed rule will not have an impact on the agency's projected budget during the current biennium.

14. Identify the appropriation (by line item etc.) that authorizes each expenditure necessitated by the proposed rule:

Not Applicable.

15. Provide a summary of the estimated cost of compliance with the rule to all directly affected persons. When appropriate, please include the source for your information/estimated costs, e.g. industry, CFR, internal/agency:

There are no anticipated new costs of compliance as a result of this new rule.

16. Does this rule have a fiscal effect on school districts, counties, townships, or municipal corporations? **No**

17. Does this rule deal with environmental protection or contain a component

dealing with environmental protection as defined in R. C. 121.39? **No**

S.B. 2 (129th General Assembly) Questions

18. Has this rule been filed with the Common Sense Initiative Office pursuant to R.C. 121.82? **Yes**

19. Specific to this rule, answer the following:

A.) Does this rule require a license, permit, or any other prior authorization to engage in or operate a line of business? **Yes**

Type A home providers must be licensed because they serve seven or more children. Type B home providers must be licensed if they want to serve children who are publicly funded or they can voluntarily be regulated.

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? **Yes**

Failure to comply may result in revocation of a license.

C.) Does this rule require specific expenditures or the report of information as a condition of compliance? **Yes**

There may be costs associated with staff attending and completing the orientation training.

Ohio Department of Job and Family Services

STATEMENT OF NONCONVICTION FOR CHILD CARE

This statement must be signed annually by every: individual owner, administrator, licensed family child care provider, child care staff member, employee, all persons 18 years of age and older who reside in a family child care home, substitute, and certified in-home aide.

SECTION I:

| | | | |
|-------------------------------------|--|----------|------------------|
| Name <i>(please print or type)</i> | | | |
| <input type="checkbox"/> | I hereby attest that I have never been convicted of or pleaded guilty to crimes set forth in divisions (A)(4) or (A)(5) of section 109.572 of the Revised Code and that no child has been removed from his or her home due to abuse or neglect caused by myself pursuant to section 2151.353 of the Revised Code | | |
| <input type="checkbox"/> | I have been convicted of a crime included in divisions (A)(4) or (A)(5) of section 109.572 of the Revised Code. | | |
| <input type="checkbox"/> | I have had a child removed from my home as described in section 2151.353 of the Revised Code due to abuse or neglect that I caused. | | |
| Signature of Person Completing Form | | | Date |
| Street Address | | | |
| City | State | Zip Code | Telephone Number |

The licensee of a family child care home shall sign the following statement on his or her own form only: I hereby attest that no one who resides in my home and who is under eighteen years of age has been adjudicated a delinquent child for committing a violation of any offense listed in divisions (A)(8) or (A)(9) of section 109.572 of the Revised Code.

| | |
|-----------|------|
| Signature | Date |
|-----------|------|

Note: Anyone who withholds information from, or falsifies information on this statement is guilty of falsification, a misdemeanor of the first degree. If the offender is an owner of a center, a licensee of a family child care home, or an in-home aide, the conviction constitutes grounds for denial, revocation or refusal to renew a child care license application or child care license. If the offender is a child care staff member of a center or family child care home, or is a person eighteen years of age or older who resides in a family child care home or is a substitute, and if the owner or licensee had knowledge of, and acquiesced in the commission of the offense, the conviction constitutes grounds for denial, revocation or refusal to renew a child care license.

SECTION II: (required for new hires and new residents only)

| |
|-----------------------------------|
| Date BCI/FBI Requested |
| First Day of Employment/Residence |

Prohibitive Offenses found in division (A)(5) of section 109.572 of the Revised Code

Homicide

- R.C. 2903.01 - Aggravated murder
- R.C. 2903.02 - Murder
- R.C. 2903.03 - Voluntary manslaughter
- R.C. 2903.04 - Involuntary manslaughter

Assault

- R.C. 2903.11 - Felonious assault
- R.C. 2903.12 - Aggravated assault
- R.C. 2903.13 - Assault
- R.C. 2903.16 - Failing to provide for a functionally impaired person

Menacing

- R.C. 2903.15 - Permitting child abuse
- R.C. 2903.21 - Aggravated menacing
- R.C. 2903.211 - Menacing by stalking
- R.C. 2903.22 - Menacing

Patient abuse and neglect

- R.C. 2903.34 - Patient abuse, neglect

Kidnapping and related issues

- R.C. 2905.01 - Kidnapping
- R.C. 2905.02 - Abduction
- R.C. 2905.04 - Child stealing (as this law existed prior to July 1, 1996)
- R.C. 2905.05 - Criminal child enticement
- R.C. 2905.32 - Trafficking in persons

Sex offenses

- R.C. 2907.02 - Rape
- R.C. 2907.03 - Sexual battery
- R.C. 2907.04 - Corruption of a minor
- R.C. 2907.05 - Gross sexual imposition
- R.C. 2907.06 - Sexual imposition
- R.C. 2907.07 - Importuning
- R.C. 2907.08 - Voyeurism
- R.C. 2907.09 - Public indecency
- R.C. 2907.12 - Felonious sexual penetration (as this former section of law existed)
- R.C. 2907.19 - Commercial sexual exploitation of a minor
- R.C. 2907.21 - Compelling prostitution
- R.C. 2907.22 - Promoting prostitution
- R.C. 2907.23 - Procuring
- R.C. 2907.24 - Soliciting – after positive HIV test driver's license suspension
- R.C. 2907.25 - Prostitution
- R.C. 2907.31 - Disseminating matter harmful to juveniles
- R.C. 2907.32 - Pandering obscenity
- R.C. 2907.321 - Pandering obscenity involving a minor
- R.C. 2907.322 - Pandering sexually oriented matter involving a minor
- R.C. 2907.323 - Illegal use of a minor in nudity-oriented material or performance

Arson

- R.C. 2909.02 - Aggravated arson
- R.C. 2909.22 - Soliciting or providing support for act of terrorism
- R.C. 2909.23 - Making terroristic threat
- R.C. 2909.24 - Terrorism
- R.C. 2909.03 - Arson

Robbery and Burglary

- R.C. 2911.01 - Aggravated robbery
- R.C. 2911.02 - Robbery
- R.C. 2911.11 - Aggravated burglary
- R.C. 2911.12 - Burglary

Theft and Fraud

- R.C. 2913.02 - Theft; aggravated theft
- R.C. 2913.03 - Unauthorized use of a vehicle
- R.C. 2913.04 - Unauthorized use of property, computer, cable, or telecommunication property or service
- R.C. 2923.02 - Attempt
- R.C. 2913.041 - Possession or sale of unauthorized cable television device
- R.C. 2913.33 - Making or using slugs
- R.C. 2913.05 - Telecommunications fraud
- R.C. 2913.06 - Unlawful use of telecommunications
- R.C. 2913.11 - Passing bad checks

- R.C. 2913.21 - Misuse of credit cards
- R.C. 2913.31 - Forgery; identification card
- R.C. 2913.32 - Criminal simulation
- R.C. 2913.40 - Medicaid fraud
- R.C. 2913.41 - Prima facie evidence of purpose to defraud
- R.C. 2913.42 - Tampering with records
- R.C. 2913.43 - Securing writings by deception
- R.C. 2913.44 - Personating an officer
- R.C. 2913.441 - Law Enforcement emblem display
- R.C. 2913.45 - Defrauding creditors
- R.C. 2913.46 - Illegal use of food stamps or WIC program benefits
- R.C. 2913.47 - Insurance fraud
- R.C. 2913.48 - Worker's compensation fraud
- R.C. 2913.49 - Identity fraud

Offenses against the family

- R.C. 2919.12 - Unlawful abortion
- R.C. 2919.22 - Endangering children
- R.C. 2919.23 - Interference with custody
- R.C. 2919.24 - Contributing to unruliness or delinquency of a child
- R.C. 2919.25 - Domestic violence
- R.C. 2919.224 - Misrepresentation relating to provision of child care
- R.C. 2919.225 - Disclosure and notice regarding death or injury of child in facility

Offenses against justice and public administration

- R.C. 2921.11 - Perjury
- R.C. 2921.13 - Falsification
- R.C. 2921.14 - Making or causing false report of child abuse or Neglect

Weapons control

- R.C. 2923.12 - Carrying a concealed weapon
- R.C. 2923.13 - Having a weapon while under disability
- R.C. 2923.161 - Improperly discharging a firearm at or into a habitation or school
- R.C. 2923.01 - Conspiracy
- R.C. 2923.02 - Attempt, that relates to a crime specified in division 109.572 (A)(5)
- R.C. 2923.03 - Complicity, that relates to a crime specified in division 109.572 (A)(5)

Drug offenses

- R.C. 2925.02 - Corrupting another with drugs
- R.C. 2925.03 - Trafficking in drugs
- R.C. 2925.04 - Illegal manufacture of drugs or cultivation of marijuana
- R.C. 2925.05 - Funding of drug or marijuana trafficking
- R.C. 2925.06 - Illegal administration or distribution of anabolic steroids
- R.C. 2925.11 - Possession of drugs or marijuana that is not a minor drug possession offense in section R.C. 2925.01

Other

- R.C. 959.13 - Cruelty to animals
- R.C. 2151.421 - Reporting child abuse or neglect
- R.C. 2905.11 - Extortion
- R.C. 3716.11 - Placing harmful objects in food or confection
- R.C. 2909.04 - Disrupting public services
- R.C. 2909.05 - Vandalism
- R.C. 2917.01 - Inciting to violence
- R.C. 2917.02 - Aggravated riot
- R.C. 2917.03 - Riot
- R.C. 2917.31 - Inducing panic
- R.C. 2921.03 - Intimidation
- R.C. 2921.34 - Escape
- R.C. 2921.35 - Aiding escape or resistance to authority
- R.C. 2927.12 - Ethnic intimidation
- R.C. 4511.19 - Operating vehicle under the influence of alcohol or drugs-OVI. (A second violation within five years of the date of application for licensure or employment).

*Or an existing or former offense of any municipal corporation, this state, or any other state, or the United States that is substantially equivalent to any of these offenses.

Ohio Department of Job and Family Services

REQUEST FOR CHILD ABUSE AND NEGLECT REPORT INFORMATION FOR CHILD CARE

This request for child abuse and neglect information is being made by the county agency in accordance with Ohio Revised Code (ORC) section 5104.03 which requires a check of public children services agency (PCSA) records for any person who applies for licensure as a type B home provider, type B home provider child care staff member, substitute or other adults residing in the home.

| | | |
|--|--|------------------------|
| This request for information of child abuse and neglect is required by state law. Any information received will be evaluated by the county agency. <i>(please print)</i> | | |
| Full Name of Child Care Provider (last name, first name, middle name or initial) | Maiden Name, Previous Name or Alias (if applicable) | Date of Birth |
| Home Address of Provider | | Social Security Number |
| Signature of Provider | | Date of Signature |
| Full Name of Substitute (last name, first name, middle name or initial) | Maiden Name, Previous Name or Alias (if applicable) | Date of Birth |
| Home Address of Substitute | | Social Security Number |
| Signature of Substitute | | Date of Signature |
| Full Name of Child Care Staff Member (last name, first name, middle name or initial) | Maiden Name, Previous Name or Alias (if applicable) | Date of Birth |
| Home Address of Child Care Staff Member | | Social Security Number |
| Signature of Child Care Staff Member | | Date of Signature |

| OTHER ADULTS AND CHILDREN RESIDING IN THE HOME <i>(please print)</i> | | | | |
|---|---------------|------------------------|---------------------------|-------------------|
| Full Name | Date of Birth | Social Security Number | Signature (if applicable) | Date of Signature |
| | | | | |
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| IDENTIFICATION FROM THE COUNTY AGENCY REQUESTING INFORMATION <i>(please print)</i> | | |
|---|--------------------|-------------------|
| Name of County Agency Staff | County Agency Name | Date Sent to PCSA |
| Signature of County Agency Staff | | Telephone Number |
| Address of County Agency Staff (form will be returned to this address) | | Email Address |

| INFORMATION FROM PCSA REVIEWER <i>(please print)</i> | | |
|---|--------------------|----------------------------------|
| Name of PCSA Staff | County Agency Name | Date Received |
| Signature of PCSA Staff | Telephone Number | Date Sent to County Agency Staff |
| List of Documents Attached* | | |

*Documents attached are to include a summary of the chronology of substantiated and indicated child abuse and neglect reports contained in the registry and the PCSA that conducted the assessment/investigation of each report. If the applicant is not listed in the registry please provide a statement to that effect.