

**MEMORANDUM**

TO: Trudy Rammon, Ohio Department of Job and Family Services

FROM: Jacob Ritzenthaler, Regulatory Policy Advocate

DATE: August 2, 2017

RE: **CSI Review – Background Check Rule Revisions for Family Child Care (OAC 5101:2-13-02, 5101:2-13-03, 5101:2-13-05 and 5101:2-13-07 through 5101:2-13-09)**

On behalf of Lt. Governor Mary Taylor, 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 Agency as provided for in ORC 107.54.

Analysis

This rule package contains six amended¹ rules and their appendices proposed by the Ohio Department of Job and Family Services (ODJFS). This rule package was submitted to the CSI Office on July 12, 2017 and the public comment period was held open through July 19, 2017.

The rules contained in this package establish licensing rules for providers of family child care programs and provide for minimum health and safety standards for licensees. Amendments are being made to the rules to update background check requirements required at the time of application to operate and work in a family child care program.

At the recommendation of the CSI Office, ODJFS reached out to stakeholders after the December

¹ OAC 5101:2-13-09 is being amended to the extent that the Legislative Service Commission requires the Department to rescind the rule and replace it with a new rule of the same rule number.

31, 2016 effective date of the licensing rules. ODJFS held two stakeholder meetings and used that feedback to draft the current proposed rules. During early stakeholder outreach, ODJFS received 10 comments. At the suggestion of several comments, ODJFS incorporated into the rule language changes that clarify the rules, including fixing errors, clarifying definitions, adding required information, and changing the timeframe for individuals ineligible due to past child abuse or neglect to 10 years. Four comments requested clarification on topics including the types of staff required to perform background checks, safety guidelines, and the types of information background checks require by law, which ODJFS responded to appropriately. Two comments suggested that counties should be made aware of the background check information required by ODJFS. ODJFS stated that counties would be sent a copy of the ODJFS 01176 forms which contain the requested information.

One comment was received during the CSI public comment period that requested clarification on the topic of background check deadlines for providers who had previously completed the requirements. ODJFS stated that if a previous provider had completed background checks with the Ohio Bureau of Criminal Investigations (BCI) and United States Federal Bureau of Investigations (FBI), the provider will not have to submit further checks until January 2018, at which point all current providers will need to have submitted forms to provide updated background checks pursuant to the amended rules.

The business communities impacted by these rules include 235 Type A and 3,202 Type B licensed family child care providers. The amendments to the rules establish an adverse cost in both time spent to request and perform background checks. The average cost for background checks through the Ohio Bureau of Criminal Investigation is \$32 and the average cost of United State Federal Bureau of Investigations background checks is \$34. The amendments were developed through meetings with stakeholders that were a requirement of a previously issued CSI recommendation. After reviewing the proposed rules and the BIA, the CSI Office has determined that the rules satisfactorily meet the standards espoused by the CSI Office, and the purpose of the rule package is justified.

Recommendations

For the reasons described above, the CSI Office has no recommendations on this rule package.

Conclusion

Based on its review of the proposed rule package, the CSI Office recommends the Ohio Department of Job and Family Services should proceed in filing the proposed rules with the Joint Committee on Agency Rule Review.