

**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 Child Care Centers (OAC 5101:2-12-02, 5101:2-12-03, 5101:2-12-05 and 5101:2-12-09)**

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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 four amended<sup>1</sup> 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 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 child care center.

During early stakeholder outreach, ODJFS presented the rules to stakeholders for input. Comments were received from 20 individuals. Twelve comments were concerned with the time requirements

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<sup>1</sup> OAC 5101:2-12-09 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.

for performing background checks. ODJFS responded to the comments by stating that the federal deadline for carrying out the request is 45 days and that it does not anticipate taking the entire time to complete requests. Eleven comments addressed the potential cost to programs participating in the federal Head Start program. ODJFS responded that the amendments to the rules adhere to federal requirements for child care and that concerns related to the Head Start program should be addressed to its administrators. Six comments showed concern for staff needing to tie their background clearance to a specific site, since many care providers work at multiple sites. ODJFS clarified that staff may list the various sites where they work through the Ohio Professional Registry and do not need to submit additional background checks. ODJFS responded to a comment by amending the rules to include language that clarifies Standards of Rehabilitation and including sealed felonies, as well as offering clarification on timelines, reporting and application submission.

These rules impact approximately 4,168 licensed child care centers in Ohio. The amendments to the rules establish an adverse cost in both time spent to request and the costs associated with performing 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.