

Rule Summary and Fiscal Analysis

Part A - General Questions

Rule Number: 5101:2-36-03

Rule Type: Amendment

Rule Title/Tagline: PCSA requirements for intra-familial child abuse and/or neglect assessment/investigations.

Agency Name: Department of Job and Family Services

Division: Division of Social Services

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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?** 5/31/2024
2. **Is this rule the result of recent legislation?** No
3. **What statute is this rule being promulgated under?** 119.03
4. **What statute(s) grant rule writing authority?** 5153.166, 2151.421
5. **What statute(s) does the rule implement or amplify?** 5153.16, 2151.421
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?**

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

OAC rule 5101:2-36-03 entitled PCSA requirements for intra-familial child abuse and/or neglect assessment/investigations outlines the requirements and process when conducting an assessment/investigation and the alleged perpetrator is a member of the family, known to the family/child, or involved in the regular care of the alleged child victim.

The following outlines the changes made to the rule:

- Changed all system references to Ohio's comprehensive child welfare information system (CCWIS) to align with the federally recognized case management information system to support child welfare program needs.
- Added language to notify mandated reporters and law enforcement of information related to screening per statutory requirements.
- Updated face-to-face contact timeframes to align throughout the rules.
- Added five-day attempts suspension when the parent, guardian, or custodian is refusing contact and the PCSA files a complaint in juvenile court.
- Timeframes to complete the report disposition and arrive at a final case decision was changed from forty-five to sixty days.
- Allow for contact with an infant or non-verbal child to be made virtually or by phone with direct medical staff when the child is hospitalized and not scheduled for discharge within 72 hours of the screening decision.
- Timeframes to notify alleged perpetrators, parents/guardians/custodians, and alleged child victim(s)/child subject of report(s) was changed from two to five days.
- Clarified how alleged perpetrator notifications are to include the PCSA's appeal process.
- The assessment/investigation outcome notification to all involved parties on the Plan of Safe Care/ Family Care Plan is now limited to only those parties with a current release of information signed by the infant's parent, guardian, or custodian.

- 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 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 121.75(A)(1)(d).

This rule also 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 121.75(A)(1)(a).

This rule incorporates one or more references to a form or a digital application into which data is entered. This question is not applicable to any incorporation by reference to forms or digital data applications because such reference is exempt from compliance with RC 121.75 to 121.74 pursuant to RC 121.75 (B) (4).

- 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

Not Applicable

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

No new costs.

- 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.**

Not Applicable

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
- 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? 41

5101:2-36-03 (A) A public children services agency (PCSA) shall conduct an intra-familial child abuse and/or neglect assessment/investigation in response to a child abuse and/or neglect report if one or more of the following applies:

5101:2-36-03 (B) An intra-familial assessment/investigation shall involve a third party if a principal named in the report poses a conflict of interest for the PCSA pursuant to rule 5101:2-36-08 of the Administrative Code

5101:2-36-03 (D) The PCSA shall initiate the screened in child abuse and/or neglect report in accordance with the following:

5101:2-36-03 (D) (3) If face-to-face contact with the alleged child victim was not attempted within the twenty-four hour time frame, an attempt of face-to-face contact with the alleged child victim shall be made within seventy-

two hours from the time the report was screened in to assess child safety and interview the alleged child victim.

5101:2-36-03 (E) The PCSA shall document in the case record the date, time, and with whom the assessment/investigation was initiated.

5101:2-36-03 (F) The PCSA shall complete the JFS 01401 "Comprehensive Assessment Planning Model - I.S., Safety Assessment" (rev. 2/2006) pursuant to rule 5101:2-37-01 of the Administrative Code.

5101:2-36-03 (F) (1) The PCSA shall attempt face-to-face contact with the alleged child victim and a parent, guardian, custodian, or caregiver within the first four working days from the date the report was screened in as an abuse or neglect report.

5101:2-36-03 (F) (2) If the PCSA's attempt to complete face-to-face contact pursuant to paragraph (F)(1) of this rule is unsuccessful, the PCSA shall attempt at least one additional face-to-face contact within the first four working days from the date the referral was screened in as a report.

5101:2-36-03 (G) If the attempted face-to-face contacts with the alleged child victim, as specified in paragraphs (D) and (F) of this rule are unsuccessful, the PCSA shall, at a minimum, continue making attempts for face-to-face contact at least every five working days until the child is seen or until the PCSA is required to make a report disposition pursuant to paragraph (V) or (W) of this rule.

5101:2-36-03 (H) The PCSA shall not interview the alleged child victim or his or her siblings without parental consent, unless one of the following exigent circumstances exists:

5101:2-36-03 (J) The specific facts necessitating that investigative interviews of a child be conducted without parental consent must be documented in the case record.

5101:2-36-03 (K) If a child is interviewed without parental consent, then the same day, the PCSA shall attempt a face-to-face contact or complete a telephone contact with the child's parent, guardian, or custodian to inform

them that an interview of the child occurred and provide the specific facts necessitating the child be contacted without parental consent.

5101:2-36-03 (L) If the attempt to contact the child's custodian pursuant to paragraph (K) of this rule is unsuccessful, the PCSA shall continue to attempt to complete face-to-face contact with the child's parent, guardian or custodian once every five working days until contact is made with the child's parent, guardian, or custodian, or until the PCSA is required to make a case disposition pursuant to paragraphs (V) and (W) of this rule.

5101:2-36-03 (M) The PCSA shall conduct and document face-to-face interviews with each child residing within the home of the alleged child victim. If possible each child should be interviewed separately and apart from the alleged perpetrator. The purpose of the interviews is to:

5101:2-36-03 (O) The PCSA shall conduct and document face-to-face interviews with the alleged perpetrator and all adults residing in the home of the alleged child victim, unless law enforcement or the county prosecutor will interview the alleged perpetrator pursuant to the procedures delineated in the county child abuse and neglect memorandum of understanding, in order to:

5101:2-36-03 (P) The PCSA shall advise the alleged perpetrator of the allegations made against him or her at the time of the initial contact with the person. The initial contact between the PCSA and the alleged perpetrator of the report includes the first face-to-face or telephone contact, whichever occurs first, if information is gathered as part of the assessment/investigation process.

5101:2-36-03 (Q) The PCSA shall conduct and document face-to-face or telephone interviews with any person identified as a possible source of information during the assessment/investigation to obtain relevant information regarding the safety of and risk to the child.

5101:2-36-03 (Q) The PCSA shall exercise discretion in the selection of collateral sources to protect the family's right to privacy.

5101:2-36-03 (R) The PCSA shall take any other actions necessary to assess safety and risk to the child. These actions may include, but are not limited to:

5101:2-36-03 (S) For all reports involving an infant identified as affected by legal or illegal substance abuse or withdrawal symptoms resulting from

prenatal or postnatal substance exposure pursuant to rule 5101:2-1-01 of the Administrative Code the PCSA shall:

5101:2-36-03 (T) At any time the PCSA determines a child to be in immediate danger of serious harm, the PCSA shall follow procedures outlined in rule 5101:2-37-02 of the Administrative Code.

5101:2-36-03 (U) If the PCSA determines supportive services are necessary, the supportive services shall be made available to the child, his or her parent, guardian, or custodian during all of the following pursuant to procedures established in rule 5101:2-40-02 of the Administrative Code:

5101:2-36-03 (V) The PCSA shall complete the report disposition and arrive at a final case decision by completing the JFS 01400 "Comprehensive Assessment Planning Model - I.S., Family Assessment" (rev. 7/2006) no later than forty-five days from the date the PCSA screened in the referral as a child abuse and/or neglect report. The PCSA may extend the time frame by a maximum of fifteen days if information needed to determine the report disposition and final case decision cannot be obtained within forty-five days and the reasons are documented in the case record pursuant to rule 5101:2-36-11 of the Administrative Code.

5101:2-36-03 (W) If the child abuse and/or neglect report involves a principal of the report who is currently receiving ongoing protective services from the PCSA, the PCSA shall complete the report disposition by completing the JFS 01402 "Comprehensive Assessment Planning Model - I.S., Ongoing Case Assessment/Investigation" (rev. 7/2006).

5101:2-36-03 (W) (1) The JFS 01402 shall be completed no later than forty-five days from the date the PCSA screened in the referral as a child abuse and/or neglect report.

5101:2-36-03 (X) If the child abuse and/or neglect report involves a principal of the report who is currently receiving ongoing protective services from the PCSA, the PCSA shall complete the report disposition by completing the JFS 01402 "Comprehensive Assessment Planning Model - I.S., Ongoing Case Assessment/Investigation" (rev. 7/2006).

5101:2-36-03 (Y) The PCSA shall request assistance from the county prosecutor, the PCSA's legal counsel, and/or the court if refused access to the alleged child victim or any records necessary to conduct the assessment/investigation.

5101:2-36-03 (Z) The PCSA shall have an interpreter present for all interviews if the PCSA has determined that a principal of the report has a language or any other impairment that causes a barrier in communication, including but not limited to a principal of the report who is deaf or hearing impaired, limited English proficiency or is developmentally delayed.

5101:2-36-03 (AA) Within two working days of completion of the assessment/investigation, the PCSA shall do all of the following as applicable:

5101:2-36-03 (AA) (5) Notify all participants involved in the plan of safe care of the final case decision. The final decision includes whether the case will be transferred for ongoing PCSA services, closed and referral made to community services, or closed. The following plan of safe care participants shall be notified:

5101:2-36-03 (BB) If two or more Ohio PCSAs are involved in an assessment/investigation the lead county shall be determined by the following criteria:

5101:2-36-03 (CC) If a report of child abuse and neglect involves a child who is living in a shelter for victims of domestic violence or a homeless shelter, the PCSA that received the report shall do one of the following:

5101:2-36-03 (CC) (1) Determine if the child was brought to the shelter pursuant to an agreement with a shelter in another county. If a determination is made that there was an agreement in place, the PCSA from the county from which the child was brought shall lead the assessment/investigation and provide the required supportive services or petition the court for custody of the child, if necessary.

5101:2-36-03 (CC) (2) Lead the assessment/investigation if a determination is made that the child was not brought to the shelter under an agreement with a shelter in another county. If two or more PCSAs are involved, all PCSAs shall be responsible for following procedures outlined in this rule.

5101:2-36-03 (DD) If requested by the lead PCSA, either verbally or in writing, the non-lead PCSA located in a non-contiguous county shall conduct interviews of any principals of the report and collateral sources presently located within its jurisdiction to provide the lead agency with the information necessary to complete the JFS 01401, JFS 01400, and/or JFS 01402 within the time frames outlined in this rule.

5101:2-36-03 (DD) All PCSAs involved shall document the request in the case record.

5101:2-36-03 (EE) The PCSA shall follow procedures set forth in rule 5101:2-36-07 of the Administrative Code if the report involves alleged withholding of medically indicated treatment from a disabled infant with life-threatening conditions.

5101:2-36-03 (FF) If any information gathering activity cannot be completed, justification and the written approval of the director or the designee shall be filed in the case record in accordance with rule 5101:2-36-11 of the Administrative Code.

5101:2-36-03 (FF) The assessment/investigation documentation and any materials obtained as a result of the assessment/investigation shall be maintained in the case record.

5101:2-36-03 (G) If the attempted face-to-face contacts with the alleged child victim, as specified in paragraphs (D) and (F) of this rule are unsuccessful, the PCSA shall, at a minimum, continue making attempts for face-to-face contact at least every five working days until the child is seen or until the PCSA is required to make a report disposition pursuant to paragraph (V) or (W) of this rule.

(J) The specific facts necessitating that investigative interviews of a child be conducted without parental consent must be documented in the case record.

- 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