

Rule Summary and Fiscal Analysis

Part A - General Questions

Rule Number: 5101:2-5-09.1

Rule Type: Amendment

Rule Title/Tagline: Background checks for college interns, subcontractors, volunteers, employees, board presidents, officers, administrators and foster caregivers.

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?** No
 - A. **What is the rule's five year review date?** 4/1/2029
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?** 2151.86, 5103.03, 5103.0310, 5103.037, 5103.18
5. **What statute(s) does the rule implement or amplify?** 109.572, 2151.86 , 5103.0310, 5153.11, 5153.111
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 is being proposed for amendment to correct appendices A and B. Also there were changes made in the rule referencing the correct appendices.

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

This rule provides guidance on conducting criminal checks for foster caregivers, agency employees and other related individuals. Minor changes were made in the rule to reference the correct appendices and also correct paragraph references. No substantive changes were made in the rule language. The following ORC conviction Codes were updated in appendices A and B: ORC 2919.25 (Domestic Violence), agencies are to only consider a felony conviction as a non-rehabilitative offense if the victim was a spouse. Other misdemeanor and felony convictions of domestic violence are to be evaluated using the rehabilitative criteria in Appendices C and D of OAC 5101:2-5-09.1. Sections in which either a felony or misdemeanor level offense does not exist have been marked N/A as rehabilitative criteria do not apply. The offense of ORC 2903.15 Permitting Child Abuse was revised to allow for rehabilitation for both misdemeanor and felony offenses. Regarding the following offenses, agencies are to only consider a felony conviction as a non-rehabilitative offense. Misdemeanor convictions are to be evaluated using the rehabilitative criteria in Appendices C and D of OAC 5101:2-5-09.1.

- o ORC 2903.06 (Aggravated Vehicular Homicide)
- o ORC 2905.05 (Criminal Child Enticement)
- o ORC 2907.04 (Unlawful Sexual Conduct with a Minor)
- o ORC 2907.31 (Disseminating Matter Harmful to Juveniles)
- o ORC 2919.22 (Endangering Children)

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 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 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).

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

No expected fiscal effects on current or future budgets.

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? Yes**

18. **Does this rule have an adverse impact on business? Yes**

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

Certification and recertification of an agency by the Ohio Department of Job and Family Services is contingent, in part, upon compliance with this rule.

- 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**

Lack of compliance can result in revocation of an agency's certification or denial of re-certification.

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

Agencies must conduct and review criminal background checks and other background checks for foster caregivers, employees, subcontractors, interns and volunteers in order to comply with this rule.

- 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? No**

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

Not Applicable

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

Not Applicable

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

Not Applicable

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

Not Applicable