

**Ohio Department of Job and Family Services  
Office of Families and Children**

**Policy and Practice Guidance Document #010  
House Bill 110 Policy and Practice Updates  
July 19, 2021**

Amended Substitute House Bill 110 of the 134<sup>th</sup> General Assembly (HB 110) was signed by Governor Mike DeWine on June 30, 2021, and includes statutory changes that will be effective on September 30, 2021, with the exception of certain provisions that otherwise identify a specified later effective date.

This Policy and Practice Guidance Document provides an overview of the statutory changes included in HB 110 that will have impact upon Ohio Administrative Code (OAC) rules to be amended or developed, or practice changes not associated with rule changes. If rules are unable to be effective by the statutory effective date, a Procedure Letter will be issued until the rule effective date. Additional PPGDs regarding specific topics areas may be provided.

**SUMMARY OF CHANGES**

**Family Service Plan for In Home Services**

Change to Ohio Revised Code section 2151.412, effective September 30, 2021, removes the requirement for a Public Children Services Agency (PCSA) to prepare and maintain a family service plan when providing in-home services for a family under an alternative response case.

**Rule-** There are no rule changes planned, as the necessary language changes are already included in rule and SACWIS.

**Concurrent Permanency Planning**

Changes to Ohio Revised Code section 2151.412 provide that until January 1, 2023, a PCSA or Private Child Placing Agency (PCPA) may include a supplemental permanency plan for a case plan of a child in temporary custody, but that on or after January 1, 2023, the PCSA or PCSA will be required to include a concurrent permanency plan in case plans for children in temporary custody.

**Rule-** ODJFS is required to adopt rules to implement these new requirements for concurrent permanency planning. The following rules will be amended, to become effective no later than January 1, 2023, to include the requirement of a concurrent permanency plan for a child in temporary custody to be provided concurrently with efforts toward family reunification:

- 5101:2-38-05 PCSA Case Plan for Children in Custody or Under Protective Supervision.
- 5101:2-38-07 PCPA Case Plan for Children in Custody or Under Court-Ordered Protective Supervision.

### **Kinship Search and Engagement Efforts**

Changes to Ohio Revised Code sections 2151.4115 through 2151.4122, effective September 30, 2021, require that a PCSA or PCPA must conduct ongoing intensive search efforts, including the use of search technology, to identify and engage an appropriate and willing kinship caregiver for a child in temporary custody or Planned Permanent Living Arrangement (PPLA). Once a relative or kin is identified through the intensive search process, the PCSA or PCPA is required to notify the identified relative or kin. The notification is to include language that failing to respond may impact the future ability to provide support, care, and placement of the removed child into their home. In addition, a court may excuse a PCSA or PCPA from considering a child's family member as a permanent placement option for the child if the family member has failed to show interest within six months of receiving notice of the child's placement in the temporary care of the PCSA or PCPA, or may determine that a child's current caregiver is to be considered as having a kinship relationship with the child upon 12 months of consecutive placement upon certain findings.

Changes to Ohio Revised Code section 2151.416, effective September 30, 2021, require a PCSA or PCPA to include a summary of their ongoing intensive efforts to find an appropriate and willing kinship caregiver for a child, and the use of search technology, at each court hearing and as part of the semiannual administrative review of the child's family case plan, unless a court has determined such efforts unnecessary.

**Rule-** The following rule is currently in process of five-year review and is being amended to add the requirements for PCPAs and PCSAs to include a summary of their family search and engagement efforts and documentation as outlined in Ohio Revised Code section 2151.416. The amended rule was original filed on June 25, 2021, with an anticipated final filing date and effective date in September 2021.

- 5101:2-39-01 (Amend) Removal of a Child from the Child's Own Home

### **Resource Family Bill of Rights and Definitions**

New Ohio Revised Code sections 5103.02 and 5103.163, effective September 30, 2021, add new definitions of "resource caregiver and "resource family," in addition to a requirement for ODJFS to adopt rules to establish and enforce a resource family bill of rights. With the creation of the resource family bill of rights, we also added definitions for resource caregiver and resource family.

**Rule-** The following is a new rule that is in process of development and completed clearance on July 14, 2021, to be followed by the original filing and final filing processes in the months of August through October 2021. Two new definitions were also added to the definitions rule.

- 5101:2-42-20 Resource Family Bill of Rights
- 5101:2-1-01 Children Services Definition of Terms

### **Foster Youth Bill of Rights**

New Ohio Revised Code section 2151.316, effective September 30, 2021, requires ODJFS to adopt rules to establish and enforce a foster youth bill of rights, and provides that in the event of a conflict, the rights of an individual under a foster youth bill of rights shall preempt the rights of the resource caregiver or resource family under the resource family bill of rights.

**Rule-** The following rule is being amended and completed clearance on July 15, 2021, to be followed by the original filing and final filing processes in the months of August through October 2021.

- 5101:2-5-35 Foster Youth Bill of Rights

### **Background Checks for Institutions and Associations**

Change to Ohio Revised Code section 5103.0310, effective September 30, 2021, which add additional searches for foster care agencies and residential facilities into law that were already required pursuant to FCASPL 347. New clarifications include:

- Added subcontractors, interns and volunteers in the alleged perpetrator search requirements if the subcontractor, intern or volunteer is at a residential facility. If the subcontractor, intern or volunteer is not at a residential facility, the search only needs completed if they have access to children.
- Added subcontractors, interns and volunteers in the national sex offender registry search requirements if the subcontractor, intern or volunteer is at a residential facility. If the subcontractor, intern or volunteer is not at a residential facility, the search only needs completed if they have access to children.
- Ensures agencies complete a search for all current employees, subcontractors, interns and volunteers who have never had an alleged perpetrator search or a sex offender search if the subcontractor, intern or volunteer is at a residential facility. If the subcontractor, intern or volunteer is not at a residential facility, the search only needs completed if they have access to children.
- The language was changed from “request” to “obtain” by the agency for all the required searches.

**Rule-** The following rules are being amended and have completed clearance on July 15, 2021, to be followed by the original filing and final filing processes in the months of August through October 2021.

- 5101:2-5-09 Personnel and Prohibited Convictions for Employment
- 5101:2-5-15 Volunteers and College Interns

### **Caseworker In-service Training Waiver**

Change to Ohio Revised Code section 5153.124, requires ODJFS to adopt rules to establish circumstances under which a PCSA Executive Director may waive portions of in-service training requirements for caseworkers. These rules must be adopted no later than nine months after the effective date of HB 110 (September 30, 2021), which will be no later than June 30, 2022.

**Rule-** The following rule will be amended, to become effective by June 30, 2022, to address the circumstances for a PCSA executive director to waive portions of in-service training requirements for caseworkers:

- 5101:2-33-55 Education and In-Service Training Requirements for PCSA Caseworkers

### **Bridges**

Change to Ohio Revised Code section 2151.451, effective September 30, 2021, to expand which juvenile courts that may exercise jurisdiction over an emancipated young adult enrolled in the program to either county of residence or county of emancipation.

Change to Ohio Revised Code section 2151.452 eliminating the provision that an emancipated young adult loses programmatic eligibility if a ruling of Best Interest is not obtained timely.

Changes to Ohio Revised Code section 5101.1412 rephrasing the mandate for ODJFS, or its representative, to seek a Best Interest judicial determination to, “petition the court for and obtain a judicial determination,” rather than to “seek approval from the court”. It also explicitly associates petitioning and obtaining this determination with maintaining an emancipated young adult’s Title IV-E eligibility.

**Rule-** There are no rule changes needed.

### **Orders to Access Child to Interview or Examine**

New Ohio Revised Code section 2151.25, effective September 30, 2021, provides PCSAs with the ability to file a request for a court order for access to interview or examine a child that is suspected or at risk of abuse, neglect, or dependency whose parent, guardian, custodian, or caregiver denied reasonable access to the PCSA authorized to investigate the allegations. PCSAs may consider, in consultation with their legal counsel, whether any impact upon local policies and practice will result.

The PCSA may request a juvenile court to issue an order granting access to examine and interview the child or to conduct other activities necessary to determine the risk to the child. The following criteria must apply:

1. The PCSA receives a report of child abuse, neglect, or dependency and,
2. The child's parent, guardian, custodian, or caregiver denies reasonable access to the child or any other information necessary to determine if the child is, or at risk of becoming, an abused, neglected, or dependent child.

The request for access shall include an affidavit which must adhere to the following guidelines:

1. The PCSA must submit the request to the juvenile court of the county in which the child resides or the county in which the abuse, neglect, or dependency allegedly occurred;
2. The particular facts of the allegation(s) that may indicate the child is an abused, neglected, or dependent child;
3. The PCSA's efforts to gather additional information to assess safety and risk;
4. The PCSA's efforts to obtain consent from a parent, guardian, custodian, or caregiver to examine and interview the child or to complete the assessment/investigation;
5. The activities the PCSA deems necessary to determine the current risk to the child.
6. The affidavit shall not identify the referral source.

The court may issue an order requiring the parent, guardian, custodian, or caregiver to comply with the PCSA's assessment/investigation without a hearing if probable cause exists. These orders could include an interview and examination of the child and any other activities the court deems necessary to determine the current risk posed to the child. An order issued pursuant to this section is not a final, appealable order.

**Rule-** There are no rule changes needed.

### **Foster Caregiver Certification Extension**

New Ohio Revised Code Section 751.20, effective September 30, 2021, to allow for foster care applicants, who began pre-service training between 2019 and 2021 to extend their time to be initially certified until December 31, 2021, due to the pandemic. Additionally, HB 110 includes changes to Ohio Revised Code Section 751.20 to allow foster caregivers, who have not completed their recertification requirements during the pandemic to complete those requirements by December 31, 2021, unless otherwise specified.

**Rule-** There are no rule changes needed. However, FCASPL 373 was issued on July 16, 2021 to provide detailed information and guidance regarding the foster care certification extension options made available under HB 110.

### **Kinship Guardianship Assistance Program (KGAP)**

HB 110 included Ohio Revised Code changes to establish a Kinship Guardianship Assistance Program (KGAP) in Ohio by January 1, 2023. KGAP is a program that allows licensed kinship foster caregivers to become legal guardians of kin foster children after caring for them at least six months. The program then provides a subsidy and medical card to the child up to age 18 or until the guardianship terminates, whichever is sooner. The legislation provides a path forward for three KGAP programs in Ohio:

1. A federal program that must be approved via an amendment to Ohio's IV-E state plan
2. A state program to cover those children who are not IV-E eligible, and thus would not qualify for the federal program, and
3. An extended federal program that will allow kinship caregivers who take legal custody of a kin child who is 16 or 17 years old to continue to receive KGAP funds until the youth turns 21 years old.

**Rule-** New rules and forms will be developed to provide for implementation of Federal IV-E, State, and Extended KGAP. The following rule will be amended:

- 5101:2-40-04 (Amend) Kinship Permanency Incentive Program (KPIP)

### **Post Adoption Special Services Subsidy (PASSS)**

HB 110 included language transitioning the Post Adoption Special Services Subsidy (PASSS) program from the county to state level by July 1, 2022. This will provide consistency for adoptive families regardless of where they live, while also having the added benefit of removing this work from county agencies to be able to focus on other priorities. OFC is currently in the planning stages that will include involvement of the Ohio Kinship and Adoption Navigator (OhioKAN) program to ensure the communication to families regarding the program and the application process.

**Rule-** The following rules will be amended:

- 5101:2-44-13 Public Children Services agency (PCSA) Administration of the Post Adoption Special Services Subsidy (PASSS) Program
- 5101:2-44-13.1 Eligibility and Application Process for the Post Adoption Special Services Subsidy (PASSS) Program
- 5101:2-40-10 The Ohio Kinship and Adoption Navigator (OhioKAN) Program

### **Prevention Services under Title IV-E Juvenile Courts**

Change to Ohio Revised Code Section 2151.152, effective September 30, 2021, provides Title IV-E Juvenile Courts to be reimbursed for prevention services costs under the Family First Prevention Services Act (FFPSA) for children meeting the eligibility requirements. Additionally, this provision adds new eligibility language for a child “at imminent risk of removal from the home and is a sibling of a child in the temporary or permanent custody of the court.”

**Rule-** There are no rule changes planned, as the necessary language changes are already included in rule.

### **Notification of a Sibling of an Adopted Person**

Change to Ohio Revised Code Section 3107.11 and 3107.15, effective September 30, 2021, adds language to provide for the legal parents of an adopted person to be notified if a sibling of the adopted person has been placed in out-of-home care. The term “sibling” is further clarified to include a former biological sibling, former legal sibling, or any person who would have been considered a sibling if not for a termination or other disruption of parental rights.

**Rule-** There are no rule changes planned, as the necessary language changes are already included in rule.

### **Online Training for Foster Caregivers**

Change to Ohio Revised Code Section 5103.031 and 5103.0316, effective September 30, 2021, removing the language that “up to 20%” of a prospective foster caregiver’s preplacement training may be completed online. This results in the statute being silent as to the amount of pre-service training that may be completed online by a prospective foster caregiver, and allows ODJFS to adopt rules regarding the amount of preplacement and continuing training hours that may be completed online for prospective and existing foster caregivers.

**Rule-** There are no rule changes required as a result of this change, as 5101:2-5-33 already addresses online training hours for foster caregivers.

### **QUESTIONS**

If you have questions about any of the information in this PPGD regarding statutory changes in HB 110 and impact upon OAC rules to be amended or developed, and/or impact upon practice, please contact your Technical Assistance Specialist, Foster Care Licensing Specialist, or the OFC Help Desk at 1-866-886-3537 option 4 or [HELP-DESK-OCF@jfs.ohio.gov](mailto:HELP-DESK-OCF@jfs.ohio.gov).



## Family, Children, and Adult Services Procedure Letter No. 373

TO: Family, Children, and Adult Services Manual Holders

FROM: Matt Damschroder, Director

SUBJECT: **HB 110 Foster Caregiver Certification Extension**

### **BACKGROUND**

The Ohio Department of Job and Family Services (ODJFS) is issuing this Procedure Letter in accordance with the 2022-2023 Operating Budget, Amended Substitute House Bill 110 of the 134<sup>th</sup> General Assembly (HB 110), which was signed by Governor Mike DeWine on June 30, 2021. The provisions of HB 110 become effective on September 30, 2021 (unless specifically stated otherwise within the legislation), including the statutory change summarized below.

### **PURPOSE**

This Procedure Letter provides information and guidance to foster care agencies regarding the extension of foster caregiver certifications in accordance with statutory changes included in HB 110.

### **SUMMARY OF CHANGES**

HB 110 includes changes to Ohio Revised Code Section 751.20, effective September 30, 2021, to allow for foster care applicants, who began pre-service training between 2019 and 2021, to extend their time to be initially certified until December 31, 2021 due to the pandemic. Any items completed after January 2019, which are necessary for initial certification, may be used toward certification, with the exception of background checks and safety audits. Background checks and safety audits must be timely in accordance with rule 5101:2-5-20 at the time of initial certification.

Additionally, HB 110 includes changes to Ohio Revised Code Section 751.20 to allow foster caregivers, who have not completed their recertification requirements during the pandemic, to complete those requirements by December 31, 2021, unless otherwise specified. Below is a chart to assist in the understanding of the language in HB 110 as it relates to foster care certification extensions:



Study Type	Guidance
Initial Certification on or before 12/31/2018	Any homes that started pre-service training on or before 12/31/2018 are not covered by the HB110 extension.
Initial Certification on or after 01/01/2019	Any homes that started pre-service training on or after 01/01/2019, have until 12/31/2021 to complete certification and/or training requirements. The 18-month training timeframe in rule 5101:2-5-20 (K)(8) is re-instituted January 1, 2022.
Homes that expire from 04/02/2021-09/29/2021	Homes with certifications that expired between 04/02/2021 (when HB404 expired) and 09/29/2021 are not covered by the HB110 extension.
Homes that expire from 09/30/2021-12/31/2021 (Recertifications)	Homes with certifications set to expire from 09/30/2021 – 12/31/2021 have until 12/31/2021 to complete recertification requirements or must be closed 1/1/2022 and start again as an initial applicant.

**INSTRUCTIONS:**

The following chart indicates what materials should be deleted from the Family, Children and Adult Services Manual (FCASM) and what materials are to be inserted in the FCASM.

LOCATION	REMOVE AND FILE AS OBSOLETE	INSERT/REPLACEMENT
PROCEDURE LETTERS		FCASPL No. 373