



January 29, 2021

Family, Children and Adult Services Manual Transmittal Letter No. 447

TO: Family, Children and Adult Services Manual Holders

FROM: Kimberly Henderson, Director

SUBJECT: Amendments to Chapter 5101:2-48 Adoption Rules

This letter transmits six amended rules, and one rule and two forms to be obsoleted as a result of the five-year review. These rules will be effective February 1, 2021.

OAC 5101:2-48-02 entitled **Putative Father Registry** provides guidance to putative fathers on registering. The rule also provides guidance on the process of requesting a search of the putative father registry for the purpose of adoption. The website addresses were updated. The form revision dates were removed throughout the rule.

OAC 5101:2-48-17 entitled **Assessor Visits and Contacts with Children in Adoptive Homes Prior to Finalization** provides guidance to assessors on the number of visits required prior to finalization and the information the assessor is required to obtain at those visits. In paragraph (E) the website address was updated. The form revision dates were removed throughout the rule.

OAC 5101:2-48-18 entitled **Postfinalization Services** provides guidance on agencies' responsibility to provide postfinalization services. In paragraph (D) a reference was made to Ohio Kinship and Adoption Navigator (OhioKAN) as a resource. The form revision dates were removed throughout the rule.

OAC 5101:2-48-20 entitled **Release of Identifying and Nonidentifying Information** provides guidance to assessors on their responsibility to inform birth parents about their right to approve and deny the release of identifying information. The rule also provides guidance to assessors about informing adoptive parents of information that may be requested by the adopted child. The form revision dates were removed throughout the rule.

OAC 5101:2-48-22 entitled **Adoptive Family Case Record** provides guidance to agencies on preparing and maintaining case records. The form revision dates were removed throughout the rule.

OAC 5101:2-48-23 entitled **Preservation of Adoptive Child Case Record** provides guidance to agencies on the requirements of maintaining an adoptive case record, specifically all the required forms and documentation. Language was updated to enhance clarity. The form revision dates were removed throughout the rule.

OAC 5101:2-48-25 entitled **Inter-country Adoption Data Collection** is being rescinded as the process of documentation has transitioned to the Statewide Automated Child Welfare Information System. Forms JFS 01670 and JFS 01670-I are to be obsoleted as the information is now captured in the SACWIS system.

JFS 01670 Inter-Country Adoption Data Collection will be obsoleted as the information is now captured in the SACWIS system.

JFS 01670-I Instructions for Completing JFS 01670 Inter-Country Adoption Data Collection will be obsoleted as the information is now captured in the SACWIS system.

INSTRUCTIONS:

The following chart indicates the materials that should be removed from the Family, Children and Adult Services Manual (FCASM) and the materials that should be added

LOCATION	REMOVE AND FILE AS OBSOLETE	INSERT/REPLACEMENT
Social Services	OAC 5101:2-48-02	OAC 5101:2-48-02
	OAC 5101:2-48-17	OAC 5101:2-48-17
	OAC 5101:2-48-18	OAC 5101:2-48-18
	OAC 5101:2-48-20	OAC 5101:2-48-20
	OAC 5101:2-48-22	OAC 5101:2-48-22
	OAC 5101:2-48-23	OAC 5101:2-48-23
	OAC 5101:2-48-25	
Forms	JFS 01670	
	JFS 01670-I	
Transmittal Letters		FCASMTL No. 447

5101:2-48-02

Putative father registry.

- (A) The Ohio putative father registry (OPFR), as defined in rule 5101:2-1-01 of the Administrative Code, is designed to:
- (1) Facilitate the registration of putative fathers who want to be notified in the event that their child may be placed for adoption.
 - (2) Facilitate interested parties' efforts to identify a putative father through submission of a request for a search to be conducted on the OPFR.
- (B) When a putative father contacts the public children services agency (PCSA) or private child placing agency (PCPA), the PCSA or PCPA shall provide the JFS 01694 "Ohio Putative Father Registry Registration for Fathers" ~~(rev. 3/2015)~~ and the JFS 01694I "Instructions for Completing JFS 01694" ~~(rev. 3/2015)~~ to the putative father or refer the putative father to the ODJFS putative father registry website, ~~<https://pfrpub.odjfs.state.oh.us/pfrweb/webforms/home.aspx>~~<https://pfr-pub.jfs.ohio.gov/>.
- (C) To register, a putative father shall register online or complete the JFS 01694 and submit it to the Ohio putative father registry at ODJFS.
- (D) The putative father may register prior to the birth of the child or within fifteen days following the birth of the child.
- (E) An attorney arranging an adoption, a mother, a PCSA, a PCPA, or a private noncustodial agency (PNA) may request a search of the OPFR by completing the JFS 01695 "Application for Search of Ohio Putative Father Registry" ~~(rev. 3/2015)~~ and submitting it to the Ohio putative father registry at ODJFS or by submitting the request online via the ODJFS putative father registry website, ~~<https://pfrpub.odjfs.state.oh.us/pfrweb/webforms/home.aspx>~~<https://pfr-pub.jfs.ohio.gov/>.
- (F) The PCSA or PCPA shall determine if there is a putative father by doing the following:
- (1) Work with the mother to identify the name of the child's father and determine if either parent is eligible for membership with an American Indian tribe.
 - (2) Contact the Ohio putative father registry to request a search be conducted on the OPFR to determine if the child's father is registered on the OPFR. A request for a search of the OPFR may be made at any time. A final search of the OPFR shall be made no sooner than sixteen days after the birth of the child.
- (G) Any party referenced in paragraph (E) of this rule may request the status of a final search if results have not been received within seven business days of the date the final request was submitted.

- (H) The agency or attorney is not required to search the OPFR for court proceedings on adoption of a child if:
- (1) The mother was married at the time the child was born or conceived.
 - (2) The parent placing the child previously adopted the child.
 - (3) Prior to the date the petition to adopt the child is filed, a man has been determined to have a parent and child relationship with the minor by:
 - (a) A court proceeding pursuant to sections 3111.01 to 3111.18 of the Revised Code.
 - (b) A court proceeding in another state.
 - (c) An administrative agency proceeding pursuant to sections 3111.38 to 3111.54 of the Revised Code.
 - (d) An administrative agency proceeding in another state.
 - (e) A signed acknowledgment pursuant to section 2151.232, 3111.25 or 3111.821 of the Revised Code.
 - (4) The PCSA or PCPA has permanent custody of the child pursuant to Chapter 2151. or division (B) of section 5103.15 of the Revised Code.
- (I) The agency or attorney arranging the adoption shall file the response received from the Ohio putative father registry's office with the court prior to the issuance of the final adoption decree or the interlocutory order of adoption.

Effective: 2/1/2021

Five Year Review (FYR) Dates: 10/26/2020 and 02/01/2026

CERTIFIED ELECTRONICALLY

Certification

01/13/2021

Date

Promulgated Under: 119.03

Statutory Authority: 3107.065, 5153.166

Rule Amplifies: 3107.061, 3107.0611, 3107.0612, 3107.0613,
3107.0614, 3107.062, 3107.064, 3107.067, 3107.068,
3107.069, 3107.07

Prior Effective Dates: 01/14/1983, 06/01/1985 (Emer.), 08/12/1985,
09/18/1996, 02/13/1998 (Emer.), 05/14/1998,
09/01/2003, 05/15/2009, 03/01/2011, 10/01/2014,
08/03/2015



Common Sense Initiative

Mike DeWine, Governor
Jon Husted, Lt. Governor

Carrie Kuruc, Director

Business Impact Analysis

Agency, Board, or Commission Name: Ohio Department of Job and Family Services

Rule Contact Name and Contact Information:

Michael Lynch Michael.Lynch@jfs.ohio.gov

Regulation/Package Title (a general description of the rules' substantive content):

Chapter 5101:2-48 Adoption rules

Rule Number(s): 5101:2-48-02, 5101:2-48-17, 5101:2-48-18, 5101:2-48-20,

5101:2-48-22, 5101:2-48-23, 5101:2-48-25

Date of Submission for CSI Review: _____

Public Comment Period End Date: _____

Rule Type/Number of Rules:

New/___ rules

No Change/___ rules (FYR? ___)

Amended/___6___ rules (FYR? ___yes___)

Rescinded/___1___ rules (FYR? yes___)

The Common Sense Initiative is established in R.C. 107.61 to eliminate excessive and duplicative rules and regulations that stand in the way of job creation. Under the Common Sense Initiative, agencies must balance the critical objectives of regulations that have an adverse impact on business with the costs of compliance by the regulated parties. Agencies should promote transparency, responsiveness, predictability, and flexibility while developing regulations that are fair and easy to follow. Agencies should prioritize compliance over punishment, and to that end, should utilize plain language in the development of regulations.

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Reason for Submission

1. **R.C. 106.03 and 106.031 require agencies, when reviewing a rule, to determine whether the rule has an adverse impact on businesses as defined by R.C. 107.52. If the agency determines that it does, it must complete a business impact analysis and submit the rule for CSI review.**

Which adverse impact(s) to businesses has the agency determined the rule(s) create?

The rule(s):

- a. ☒ **Requires a license, permit, or any other prior authorization to engage in or operate a line of business.**
- b. ☒ **Imposes a criminal penalty, a civil penalty, or another sanction, or creates a cause of action for failure to comply with its terms.**
- c. ☒ **Requires specific expenditures or the report of information as a condition of compliance.**
- d. ☐ **Is likely to directly reduce the revenue or increase the expenses of the lines of business to which it will apply or applies.**

Regulatory Intent

2. **Please briefly describe the draft regulation in plain language.**

Please include the key provisions of the regulation as well as any proposed amendments.

OAC rule 5101:2-48-02 entitled "Putative father registry," provides guidance to putative fathers on registering. The rule also provides guidance on the process of requesting a search of the putative father registry for the purpose of adoption. The website addresses were updated. The form revision dates were removed throughout the rule.

OAC rule 5101:2-48-17, entitled "Assessor visits and contacts with children in adoptive homes prior to finalization," provides guidance to assessors on the number of visits required prior to finalization and the information the assessor is required to obtain at those visits. In paragraph (E) the website address was updated. The form revision dates were removed throughout the rule.

OAC rule 5101:2-48-18, entitled "Postfinalization services," provides guidance on agencies' responsibility to provide postfinalization services. In paragraph (D) a reference was made to Ohio Kinship and Adoption Navigator (OhioKAN) as a resource. The form revision dates were removed throughout the rule.

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OAC rule 5101:2-48-20, entitled "Release of identifying and nonidentifying information," provides guidance to assessors on their responsibility to inform birth parents about their right to approve and deny the release of identifying information. The rule also provides guidance to assessors about informing adoptive parents of information that may be requested by the adopted child. The form revision dates were removed throughout the rule.

OAC rule 5101:2-48-22, entitled "Adoptive family case record," provides guidance to agencies on preparing and maintaining case records. The form revision dates were removed throughout the rule.

OAC rule 5101:2-48-23, entitled "Preservation of adoptive child case record," provides guidance to agencies on the requirements of maintaining an adoptive case record, specifically all the required forms and documentation. The form revision dates were removed throughout the rule.

OAC rule 5101:2-48-25, entitled "Inter-country adoption data collection," is being rescinded as the process of documentation has transitioned to the Statewide Automated Child Welfare Information System. Forms JFS 01670 and JFS 01670-I are to be obsoleted as the information is now captured in the SACWIS system.

3. Please list the Ohio statute(s) that authorize the agency, board or commission to adopt the rule(s) and the statute(s) that amplify that authority.

Rule Number	Statutory Authority
Rule 5101:2-48-02	ORC 3107.065, 5153.166
Rule 5101:2-48-17	ORC 3107.101, 3107.12, 5153.166
Rule 5101:2-48-18	ORC 5103.03, 5153.166
Rule 5101:2-48-20	ORC 3107.083, 5153.166
Rule 5101:2-48-22	ORC 5101.141, 5103.03, 5153.166
Rule 5101:2-48-23	ORC 5103.03, 5153.166
Rule 5101:2-48-25	ORC 5103.03, 5153.166

**4. Does the regulation implement a federal requirement? Is the proposed regulation being adopted or amended to enable the state to obtain or maintain approval to administer and enforce a federal law or to participate in a federal program?
*If yes, please briefly explain the source and substance of the federal requirement.***

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Rules 5101:2-48-02, 5101:2-48-17, 5101:2-48-18, 5101:2-48-20, 5101:2-48-22, 5101:2-48-23 and 5101:2-48-25 do not implement a federal regulation and are not being amended to enable the state to obtain or maintain approval to administer and enforce a federal law or to participate in a federal program.

5. If the regulation includes provisions not specifically required by the federal government, please explain the rationale for exceeding the federal requirement.

This is not applicable as the rules do not implement a requirement of Federal Law, nor do they exceed any Federal requirements.

6. What is the public purpose for this regulation (i.e., why does the Agency feel that there needs to be any regulation in this area at all)?

The rules, which are promulgated pursuant to the requirements of the Revised Code, establish regulations for the minimum standards to ensure the safety and well-being of children being placed in adoptive homes.

Rule 5101:2-48-02 protects the best interests of the child by ensuring that putative fathers have a process to become notified in the event their child is placed for adoption. Agencies are required to search the putative registry prior to finalizing an adoptive placement. If there is an appropriate match, the agency and putative father will be notified of the match. Once notified, the putative father has an opportunity to contact the courts regarding his rights, up to and including becoming the child's primary parent and caretaker.

Rule 5101:2-48-17 ensures the safety, stability, and well-being of a child in an adoptive placement by outlining the requirements for assessor visits to the home during the prefinalization timeframe. The rule mandates timeframes for visits, location of visits, individuals present during visits, and what topics are to be addressed during the visits. All of these requirements help to ensure the stability of the placement for the child.

Rule 5101:2-48-18 ensures the ongoing stability and preservation of the family by requiring the agency to outline in its policies the postfinalization services they offer families, as well as their process for referring families who are in need of programs or services the agency does not offer.

Rule 5101:2-48-20 ensures the well-being of all members of the adoption triad by outlining what identifying and non-identifying information is able to be shared with the adoptive parent and/or the adopted person as time goes on.

5101:2-48-22 provides guidance to agencies on preparing case records. The rule details the forms and documentation that are required to be part of the file.

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5101:2-48-23 provides guidance to agencies on maintaining adoptive case records during the adoption process and after finalization including all forms and legal documents.

5101:2-48-25 is being rescinded as the process of documentation has transitioned to the Statewide Automated Child Welfare Information System. Forms JFS 01670 and JFS 01670-I are to be obsoleted as the information is now captured in the SACWIS system.

7. How will the Agency measure the success of this regulation in terms of outputs and/or outcomes?

The success of these regulations will be measured against the criteria specific to the content in each rule in assuring the safe placement of children into adoptive homes.

8. Are any of the proposed rules contained in this rule package being submitted pursuant to R.C. 101.352, 101.353, 106.032, 121.93, or 121.931?

If yes, please specify the rule number(s), the specific R.C. section requiring this submission, and a detailed explanation.

No

Development of the Regulation

9. Please list the stakeholders included by the Agency in the development or initial review of the draft regulation.

If applicable, please include the date and medium by which the stakeholders were initially contacted.

There were no comments received on www.ohiorulereview.org during the public posting period and the PCSAO legislative committee provided no input. There were no public comments made on the rule package.

10. What input was provided by the stakeholders, and how did that input affect the draft regulation being proposed by the Agency?

There were no comments or input provided. These rules went the ODJFS clearance process on 7/24/20 through 8/7/20 and received no comments from stakeholders.

11. What scientific data was used to develop the rule or the measurable outcomes of the rule? How does this data support the regulation being proposed?

Not applicable

12. What alternative regulations (or specific provisions within the regulation) did the Agency consider, and why did it determine that these alternatives were not appropriate? If none, why didn't the Agency consider regulatory alternatives?

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There were no other alternatives considered for these rules as the rules are driven by statute.

13. Did the Agency specifically consider a performance-based regulation? Please explain.

Performance-based regulations define the required outcome, but don't dictate the process the regulated stakeholders must use to achieve compliance.

No. ODJFS did not consider a performance-based initiative, but rather followed statutory language prescribing that the department set minimum standards to ensure the safety and well-being of all children entering adoptive homes.

14. What measures did the Agency take to ensure that this regulation does not duplicate an existing Ohio regulation?

There are no duplications as the rules are specific to adoption agencies and no other rules address these specific issues. ODJFS legal staff reviewed the rules to ensure there is no duplicative regulation in the Administrative Code.

15. Please describe the Agency's plan for implementation of the regulation, including any measures to ensure that the regulation is applied consistently and predictably for the regulated community.

The rules do not prescribe anything that would not be applied consistently. ODJFS licensing specialists review the agencies to ensure the regulations are applied consistently and they offer technical assistance in areas of inconsistency.

Adverse Impact to Business

16. Provide a summary of the estimated cost of compliance with the rule. Specifically, please do the following:

- a. Identify the scope of the impacted business community; and
- b. Identify the nature of all adverse impact (e.g., fees, fines, employer time for compliance,); and
- c. Quantify the expected adverse impact from the regulation.
The adverse impact can be quantified in terms of dollars, hours to comply, or other factors; and may be estimated for the entire regulated population or for a "representative business." Please include the source for your information/estimated impact.

The rules of the Administrative Code in Chapters 5101:2-48 contain requirements for adoption agencies that include public and private agencies. Requirements must be met to obtain and/or maintain certification.

5101:2-48-02 – The timeframes involved in referring putative fathers to the putative father registry, as well as contacting the registry for a final search for a putative father at

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least 31 days after the child's birth. Given that the PFR is entirely electronic, requesting the final search would only take a matter of 5-10 minutes to enter in the appropriate data to submit to ODJFS. The rule includes the requirements for a final registry check prior to the issuance of the final decree of adoption. This response would become part of the finalization packet to be submitted to court for the adoption decree.

5101:2-48-17 – The timeframes involved in having assessors complete and document prefinalization visits with children in adoptive homes. This timeframe is also difficult to quantify as every child and every adoptive family have different dynamics, therefore the amount of time spent in the home during the prefinalization period, and the amount of time spent documenting the visits will differ from family to family. If a worker were to complete and document the minimum number of visits during the prefinalization period, the time may range from 18 hours to 36 hours, depending on travel time.

5101:2-48-18 – The timeframes involved in regard to agencies developing their policy, in addition to actually providing postfinalization services, or referring persons in need of such services to outside agencies. The time involved to carry out this requirement would vary from agency to agency, depending on which post-adoption services they do offer in comparison to simply referring families to other service providers. The time involved in creating the policy would be relative to the amount and complexity of their post adoption services and could range from 20 minutes to approximately 2 hours for agencies with in-depth programs and services to offer families in need of post adoption services.

5101:2-48-20 – The timeframes involved in informing birth parents and adoptive parents of their rights regarding the release of identifying and nonidentifying information, as well as the timeframes involved in redacting and releasing nonidentifying information when permissible. This would take approximately 30 minutes, in order to ensure that the birth mom completely understood the implications of her actions.

5101-2-48-22--The timeframes involved in ensuring that the adoption file contains all the required forms and documentation. The time involved to create and obtain these forms and documents would vary from agency to agency based on the availability of documents and the availability of people that must be interviewed in order to obtain information.

5101-2-48-23—The timeframes involved in ensuring the agency is preserving adoption records indefinitely. The timeframes involved to maintain a paper or electronic copy of an adoption file would vary depending on the method of preservation used by the agency. Due to the different methods of preservation the timeframes would vary from agency to

agency. Cost involved could include purchase and maintaining of an electronic record keeping system or the cost of files and space to maintain said records.

5101:2-48-25—The timeframes involved completing forms to document the dissolutions of inter-county adoptions. The process has moved to the Statewide Automated Child Welfare Information System which reduces steps in the process including ensuring the Ohio Department of Job and Family Services received the form within the 10-day time frame. This could be by postage mail, email, or facsimile.

17. Why did the Agency determine that the regulatory intent justifies the adverse impact to the regulated business community?

To ensure the safety and well-being of children placed in adoptive settings and the parental rights of putative fathers, the adverse impact of these regulations is justified.

Regulatory Flexibility

18. Does the regulation provide any exemptions or alternative means of compliance for small businesses? Please explain.

No, there is no alternative means of compliance.

19. How will the agency apply Ohio Revised Code section 119.14 (waiver of fines and penalties for paperwork violations and first-time offenders) into implementation of the regulation?

For rules 5101:2-48-02, 5101:2-48-17, 5101:2-48-18, 5101:2-48-20, 5101:2-48-22, 5101:2-48-23, and 5101:2-48-25, there are no fines or civil penalties for non-compliance other than the potential loss of adoption agency certification.

20. What resources are available to assist small businesses with compliance of the regulation?

ODJFS has regional offices with technical assistance specialists and licensing specialists that will be able to assist agencies in obtaining and maintaining compliance with these regulations and providing required supervision visits and postfinalization services. Policy developers are also available to give technical assistance regarding the requirements of these rules.

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Common Sense Initiative

Mike DeWine, Governor
Jon Husted, Lt. Governor

Carrie Kuruc, Director

MEMORANDUM

TO: Michael Lynch, Ohio Department of Job and Family Services

FROM: Jacob Ritzenthaler, Regulatory Policy Advocate

DATE: October 23, 2020

RE: **CSI Review – Adoption Rules (OAC 5101:2-48-02, 5101:2-48-17, 5101:2-48-18, 5101:2-48-20, 5101:2-48-22, 5101:2-48-23, and 5101:2-48-25)**

On behalf of Lt. Governor Jon Husted, 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 consists of six amended rules and one rescinded rule proposed by the Ohio Department of Job and Family Services (ODJFS). This rule package was submitted to the CSI Office on September 30, 2020, and the public comment period was held open through October 7, 2020. Unless otherwise noted below, this recommendation reflects the version of the proposed rules filed with the CSI Office on September 30, 2020.

Ohio Administrative Code (OAC) Chapter 5102:2-48 establishes requirements for adoption. OAC 5102:2-48-02 sets forth guidance for the putative father registry, which facilitates notifying putative fathers when a child is placed for adoption and identifying putative fathers by an interested party. The rule is amended to update forms and website information. OAC 5102:2-48-17 addresses visits and contacts conducted by an assessor prior to adoption finalization and is being amended to update a website found in the rule. OAC 5102:2-48-18 sets forth requirements for post-finalization services and is being amended to include the use of regional Ohio Kinship and Adoption Navigator services. OAC 5102:2-48-20, 5102:2-48-22, and 5102:2-48-23 concern the release of information and adoptive family case records. The rules are being amended to remove

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form revision dates from the rule language. OAC 5102:2-48-25 sets forth requirements for adoption-related data collection and is being proposed for rescission, as the methods for data collection have been transferred into the Statewide Automated Child Welfare Information System (SACWIS).

During early stakeholder outreach, ODJFS sent the proposed rules to industry stakeholders through a Department interested parties email list. ODJFS also submitted the rules for feedback during meetings of the Public Children Services Association of Ohio legislative committee. No comments were received during this time or during the CSI public comment period.

The business community impacted by these rules includes all public and private adoption agencies operating in Ohio. The adverse impacts created by the rules are primarily time and effort spent complying with the requirements of the rules. Some of the required actions, such as assessor finalization visits, can vary in time based on the length and number of visits to an adoptive family's residence. Other rule requirements may take only the amount of time necessary to gather and submit information. ODJFS notes in the BIA that the transition to widespread implementation of SACWIS can reduce the administrative burden for some businesses. ODJFS states that the rules are necessary to ensure the safety of children placed in adoptive homes, through efforts made during the finalization process and recordkeeping essential to home transitions.

Recommendations

Based on the information above, the CSI Office has no recommendations on this rule package.

Conclusion

The CSI Office concludes that the Ohio Department of Job and Family Services should proceed in filing the proposed rules with the Joint Committee on Agency Rule Review.



ACTION: Final

**Department of
Job and Family Services**

DATE: 01/13/2021 9:08 AM

Mike DeWine, Governor

Kimberly Hall, Director

TO: Jacob Ritzenthaler, Regulatory Policy Advocate
CC: Carrie Kuruc, Director of the Common Sense Initiative Office

FROM: Christine Dobrovich, Bureau Chief
Office of Families and Children

RE: CSI Review: OFC: Chapters 5101:2-48

OAC rule 5101:2-48-02 Putative Father Registry"

OAC rule 5101:2-48-17, "Assessor visits and contacts with children in adoptive homes prior to finalization"

OAC rule 5101:2-48-18, "Postfinalization services"

OAC rule 5101:2-48-20, "Release of identifying and nonidentifying information"

OAC rule 5101:2-48-22, "Adoptive family case record"

OAC rule 5101:2-48-23, "Preservation of adoptive child case record"

OAC rule 5101:2-48-25, "Inter-country adoption data collection"

DATE: October 26, 2020

Thank you for your recent review of the referenced OAC rules. Based upon your recommendation for no changes to the rule, the Office of Families and Children will proceed with the formal filing of this rule package with the Joint Committee on Agency Rule Review (JCARR).

30 East Broad Street
Columbus, OH 43215
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~~This institution is an equal opportunity provider and employer.~~

5101:2-48-17

Assessor visits and contacts with children in adoptive homes prior to finalization.

(A) Visits and contacts shall be conducted by an assessor within the public children services agency (PCSA) or private child placing agency (PCPA) that has full responsibility for case planning and case management of the child's case.

(1) If the assessor assigned to the child's case is unable to complete the visit, the assessor from the same agency who is completing the visit shall document in the child's case the reason someone other than the assigned assessor visited the child.

(2) The assessor assigned to the child's case shall complete the majority of the required monthly visits.

(B) The frequency of visits with the child and the adoptive parent(s) shall be as follows:

(1) At a minimum, one face-to-face visit with the child and adoptive parent(s) in the adoptive home shall be made during the first seven days of the adoptive placement, not including the date of placement.

(2) At a minimum, one face-to-face visit with the child and adoptive parent(s) in the adoptive home shall be made during the first thirty days of placement, not including the visit during the first seven days of placement.

(3) After the first thirty days, a minimum of one face-to-face visit with the child and adoptive parent(s) in the adoptive home shall be made monthly.

(4) If the circumstances of the case require more than one monthly visit, the additional visit(s) may be conducted by an assessor employed by an agency contracted by the PCSA or PCPA to provide services for the case.

(C) The frequency of visits with any other household member shall be as follows:

(1) At a minimum, one face-to-face visit in the home with any household member whose permanent residence is the adoptive home shall be made every sixty days.

(2) At a minimum, two face-to-face visits in the home prior to finalization with any household member whose permanent residence is the adoptive home although he or she may temporarily reside elsewhere. No less than sixty days between visits.

(D) During each visit, the assessor shall gather information on how the placement is progressing from the child, as appropriate to his or her ability to communicate, the

adoptive parent(s) and other household members, in applicable visits. All contacts and visits shall be documented in the child's case record and address the following:

- (1) The child's safety and well-being within the adoptive home. In assessing the child's safety and well-being, the assessor shall consider the following through observation and individualized interviews with each person obtained during the visit:
 - (a) The child's current behavior and emotional and social functioning in the adoptive home and any other settings.
 - (b) The child's adjustment to the placement.
 - (c) The child's feelings around loss, separation and the reasons for being adopted.
- (2) Any new information regarding the child, the adoptive parent(s) or the other household members, including, but not limited to:
 - (a) Changes in the marital status.
 - (b) Significant changes in the health status of a household member.
 - (c) Placement of additional children.
 - (d) Birth of a child.
 - (e) Death of a child or household member.
 - (f) A criminal charge, conviction or arrest of the child, adoptive parent(s) or any household member.
 - (g) Addition or removal of temporary or permanent household members.
 - (h) Family's relocation.
 - (i) Child's daily activities.
 - (j) A change in the adoptive parent(s) employment or any financial hardships.
 - (k) Any supportive services needs for the child or adoptive parent(s) to assure the child's safety and well-being.
- (E) For a child who is placed through the "Interstate Compact for the Placement of Children" into an approved adoptive home outside of Ohio,

the agency shall follow procedures pursuant to Chapter 5101:2-52 of the Administrative Code and the regulations of the interstate compact, located at ~~<http://icpc.aphsa.org/content/AAICPC/en/ICPCRegulations.html>~~ https://aphsa.org/AAICPC/AAICPC/ICPC_Regulations.aspx.

- (F) If the adoptive parent(s) or other household member(s) knowingly makes a false statement that results in the reassessment of an approved or updated homestudy, the assessor shall report incidents of falsification according to procedures pursuant to rule 5101:2-33-13 of the Administrative Code.
- (G) The assessor shall complete the JFS 01699 "ODJFS Prefinalization Adoption Assessment Report" ~~(rev. 12/2006)~~ prior to the issuance of a final decree of adoption or finalization of an interlocutory order of adoption. The report shall include the following information:
 - (1) Dates and location of contact with the adoptive parent(s), the child and all other household members according to this rule.
 - (2) Information regarding the child, adoptive parent(s) and all other household members' adjustment to the adoptive placement.
 - (3) Present and anticipated needs of the child, the adoptive parent(s) and all other household members for adoptive services, adoption subsidies assistance and medicaid.
 - (4) Physical, mental and developmental condition of the child.
 - (5) Biological family background of the child, including identifying information about the biological or other legal parent(s), if known.
 - (6) Reasons for the child's placement with the adoptive parent(s) and the circumstances under which the child was placed in the home of the adoptive parent(s).
 - (7) Adoptive parent(s) and all household members' attitudes toward the proposed adoption.
 - (8) If the child is an Indian child as defined in 25 U.S.C. 1903 (4) (1978), how the placement complies with the "Indian Child Welfare Act of 1978", 25 U.S.C. 1901 (11/8/78).
 - (9) Prefinalization services which have been requested, provided or agreed upon.

- (10) Prefinalization services planned, but not provided, and the reason the services were not provided.
 - (11) The child's psychological background, if known, including prior history of abuse and behavioral problems of the child.
- (H) The assessor shall file the JFS 01699 with the court where the adoption petition is pending no later than twenty days prior to the date scheduled for the final hearing on the adoption unless the court determines there is good cause for filing the report at a later date.
- (I) The assessor shall provide a copy of the JFS 01699 to the prospective adoptive parent(s) no later than twenty days prior to the date scheduled for the final hearing on the adoption. All identifying information about the biological or other legal parent(s) shall be deleted prior to providing a copy of this report to the prospective adoptive parent(s).
- (J) The agency having custody of the child shall maintain in the child's case record a copy of the JFS 01699 provided to the prospective adoptive parent(s), including the date the information was provided, and the prospective adoptive parent's written acknowledgment of receipt. The agency shall provide a copy of the acknowledgment of receipt to the prospective adoptive parent(s).
- (K) The adoptive family case record shall contain a copy of the JFS 01699 provided to the adoptive family and written acknowledgment of the family's receipt of the information.
- (L) Unless a court determines that it is in the best interest of the child and orders that an assessor conduct a prefinalization assessment, the JFS 01699 is not required if the prospective adoptive parent(s) is the child's stepparent.

Effective: 2/1/2021

Five Year Review (FYR) Dates: 10/26/2020 and 02/01/2026

CERTIFIED ELECTRONICALLY

Certification

01/13/2021

Date

Promulgated Under: 119.03
Statutory Authority: 3107.101, 3107.12, 5153.166
Rule Amplifies: 3107.101, 3107.12, 5153.16
Prior Effective Dates: 12/30/1966, 10/01/1986, 07/01/1990, 09/18/1996,
02/13/1998 (Emer.), 05/14/1998, 02/15/2002,
09/01/2003, 12/11/2006, 06/15/2009, 10/01/2014,
01/01/2016



Common Sense Initiative

Mike DeWine, Governor
Jon Husted, Lt. Governor

Carrie Kuruc, Director

Business Impact Analysis

Agency, Board, or Commission Name: Ohio Department of Job and Family Services

Rule Contact Name and Contact Information:

Michael Lynch Michael.Lynch@jfs.ohio.gov

Regulation/Package Title (a general description of the rules' substantive content):

Chapter 5101:2-48 Adoption rules

Rule Number(s): 5101:2-48-02, 5101:2-48-17, 5101:2-48-18, 5101:2-48-20,

5101:2-48-22, 5101:2-48-23, 5101:2-48-25

Date of Submission for CSI Review: _____

Public Comment Period End Date: _____

Rule Type/Number of Rules:

New/___ rules

No Change/___ rules (FYR? ___)

Amended/___6___ rules (FYR? _yes_)

Rescinded/___1___ rules (FYR? yes___)

The Common Sense Initiative is established in R.C. 107.61 to eliminate excessive and duplicative rules and regulations that stand in the way of job creation. Under the Common Sense Initiative, agencies must balance the critical objectives of regulations that have an adverse impact on business with the costs of compliance by the regulated parties. Agencies should promote transparency, responsiveness, predictability, and flexibility while developing regulations that are fair and easy to follow. Agencies should prioritize compliance over punishment, and to that end, should utilize plain language in the development of regulations.

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Reason for Submission

1. R.C. 106.03 and 106.031 require agencies, when reviewing a rule, to determine whether the rule has an adverse impact on businesses as defined by R.C. 107.52. If the agency determines that it does, it must complete a business impact analysis and submit the rule for CSI review.

Which adverse impact(s) to businesses has the agency determined the rule(s) create?

The rule(s):

- a. ☒ Requires a license, permit, or any other prior authorization to engage in or operate a line of business.
- b. ☒ Imposes a criminal penalty, a civil penalty, or another sanction, or creates a cause of action for failure to comply with its terms.
- c. ☒ Requires specific expenditures or the report of information as a condition of compliance.
- d. ☐ Is likely to directly reduce the revenue or increase the expenses of the lines of business to which it will apply or applies.

Regulatory Intent

2. Please briefly describe the draft regulation in plain language.

Please include the key provisions of the regulation as well as any proposed amendments.

OAC rule 5101:2-48-02 entitled "Putative father registry," provides guidance to putative fathers on registering. The rule also provides guidance on the process of requesting a search of the putative father registry for the purpose of adoption. The website addresses were updated. The form revision dates were removed throughout the rule.

OAC rule 5101:2-48-17, entitled "Assessor visits and contacts with children in adoptive homes prior to finalization," provides guidance to assessors on the number of visits required prior to finalization and the information the assessor is required to obtain at those visits. In paragraph (E) the website address was updated. The form revision dates were removed throughout the rule.

OAC rule 5101:2-48-18, entitled "Postfinalization services," provides guidance on agencies' responsibility to provide postfinalization services. In paragraph (D) a reference was made to Ohio Kinship and Adoption Navigator (OhioKAN) as a resource. The form revision dates were removed throughout the rule.

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OAC rule 5101:2-48-20, entitled "Release of identifying and nonidentifying information," provides guidance to assessors on their responsibility to inform birth parents about their right to approve and deny the release of identifying information. The rule also provides guidance to assessors about informing adoptive parents of information that may be requested by the adopted child. The form revision dates were removed throughout the rule.

OAC rule 5101:2-48-22, entitled "Adoptive family case record," provides guidance to agencies on preparing and maintaining case records. The form revision dates were removed throughout the rule.

OAC rule 5101:2-48-23, entitled "Preservation of adoptive child case record," provides guidance to agencies on the requirements of maintaining an adoptive case record, specifically all the required forms and documentation. The form revision dates were removed throughout the rule.

OAC rule 5101:2-48-25, entitled "Inter-country adoption data collection," is being rescinded as the process of documentation has transitioned to the Statewide Automated Child Welfare Information System. Forms JFS 01670 and JFS 01670-I are to be obsoleted as the information is now captured in the SACWIS system.

3. Please list the Ohio statute(s) that authorize the agency, board or commission to adopt the rule(s) and the statute(s) that amplify that authority.

Rule Number	Statutory Authority
Rule 5101:2-48-02	ORC 3107.065, 5153.166
Rule 5101:2-48-17	ORC 3107.101, 3107.12, 5153.166
Rule 5101:2-48-18	ORC 5103.03, 5153.166
Rule 5101:2-48-20	ORC 3107.083, 5153.166
Rule 5101:2-48-22	ORC 5101.141, 5103.03, 5153.166
Rule 5101:2-48-23	ORC 5103.03, 5153.166
Rule 5101:2-48-25	ORC 5103.03, 5153.166

**4. Does the regulation implement a federal requirement? Is the proposed regulation being adopted or amended to enable the state to obtain or maintain approval to administer and enforce a federal law or to participate in a federal program?
*If yes, please briefly explain the source and substance of the federal requirement.***

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Rules 5101:2-48-02, 5101:2-48-17, 5101:2-48-18, 5101:2-48-20, 5101:2-48-22, 5101:2-48-23 and 5101:2-48-25 do not implement a federal regulation and are not being amended to enable the state to obtain or maintain approval to administer and enforce a federal law or to participate in a federal program.

5. If the regulation includes provisions not specifically required by the federal government, please explain the rationale for exceeding the federal requirement.

This is not applicable as the rules do not implement a requirement of Federal Law, nor do they exceed any Federal requirements.

6. What is the public purpose for this regulation (i.e., why does the Agency feel that there needs to be any regulation in this area at all)?

The rules, which are promulgated pursuant to the requirements of the Revised Code, establish regulations for the minimum standards to ensure the safety and well-being of children being placed in adoptive homes.

Rule 5101:2-48-02 protects the best interests of the child by ensuring that putative fathers have a process to become notified in the event their child is placed for adoption. Agencies are required to search the putative registry prior to finalizing an adoptive placement. If there is an appropriate match, the agency and putative father will be notified of the match. Once notified, the putative father has an opportunity to contact the courts regarding his rights, up to and including becoming the child's primary parent and caretaker.

Rule 5101:2-48-17 ensures the safety, stability, and well-being of a child in an adoptive placement by outlining the requirements for assessor visits to the home during the prefinalization timeframe. The rule mandates timeframes for visits, location of visits, individuals present during visits, and what topics are to be addressed during the visits. All of these requirements help to ensure the stability of the placement for the child.

Rule 5101:2-48-18 ensures the ongoing stability and preservation of the family by requiring the agency to outline in its policies the postfinalization services they offer families, as well as their process for referring families who are in need of programs or services the agency does not offer.

Rule 5101:2-48-20 ensures the well-being of all members of the adoption triad by outlining what identifying and non-identifying information is able to be shared with the adoptive parent and/or the adopted person as time goes on.

5101:2-48-22 provides guidance to agencies on preparing case records. The rule details the forms and documentation that are required to be part of the file.

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5101:2-48-23 provides guidance to agencies on maintaining adoptive case records during the adoption process and after finalization including all forms and legal documents.

5101:2-48-25 is being rescinded as the process of documentation has transitioned to the Statewide Automated Child Welfare Information System. Forms JFS 01670 and JFS 01670-I are to be obsoleted as the information is now captured in the SACWIS system.

7. How will the Agency measure the success of this regulation in terms of outputs and/or outcomes?

The success of these regulations will be measured against the criteria specific to the content in each rule in assuring the safe placement of children into adoptive homes.

8. Are any of the proposed rules contained in this rule package being submitted pursuant to R.C. 101.352, 101.353, 106.032, 121.93, or 121.931?

If yes, please specify the rule number(s), the specific R.C. section requiring this submission, and a detailed explanation.

No

Development of the Regulation

9. Please list the stakeholders included by the Agency in the development or initial review of the draft regulation.

If applicable, please include the date and medium by which the stakeholders were initially contacted.

There were no comments received on www.ohiorulereview.org during the public posting period and the PCSAO legislative committee provided no input. There were no public comments made on the rule package.

10. What input was provided by the stakeholders, and how did that input affect the draft regulation being proposed by the Agency?

There were no comments or input provided. These rules went the ODJFS clearance process on 7/24/20 through 8/7/20 and received no comments from stakeholders.

11. What scientific data was used to develop the rule or the measurable outcomes of the rule? How does this data support the regulation being proposed?

Not applicable

12. What alternative regulations (or specific provisions within the regulation) did the Agency consider, and why did it determine that these alternatives were not appropriate? If none, why didn't the Agency consider regulatory alternatives?

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There were no other alternatives considered for these rules as the rules are driven by statute.

13. Did the Agency specifically consider a performance-based regulation? Please explain.

Performance-based regulations define the required outcome, but don't dictate the process the regulated stakeholders must use to achieve compliance.

No. ODJFS did not consider a performance-based initiative, but rather followed statutory language prescribing that the department set minimum standards to ensure the safety and well-being of all children entering adoptive homes.

14. What measures did the Agency take to ensure that this regulation does not duplicate an existing Ohio regulation?

There are no duplications as the rules are specific to adoption agencies and no other rules address these specific issues. ODJFS legal staff reviewed the rules to ensure there is no duplicative regulation in the Administrative Code.

15. Please describe the Agency's plan for implementation of the regulation, including any measures to ensure that the regulation is applied consistently and predictably for the regulated community.

The rules do not prescribe anything that would not be applied consistently. ODJFS licensing specialists review the agencies to ensure the regulations are applied consistently and they offer technical assistance in areas of inconsistency.

Adverse Impact to Business

16. Provide a summary of the estimated cost of compliance with the rule. Specifically, please do the following:

- a. Identify the scope of the impacted business community; and
- b. Identify the nature of all adverse impact (e.g., fees, fines, employer time for compliance,); and
- c. Quantify the expected adverse impact from the regulation.
The adverse impact can be quantified in terms of dollars, hours to comply, or other factors; and may be estimated for the entire regulated population or for a "representative business." Please include the source for your information/estimated impact.

The rules of the Administrative Code in Chapters 5101:2-48 contain requirements for adoption agencies that include public and private agencies. Requirements must be met to obtain and/or maintain certification.

5101:2-48-02 – The timeframes involved in referring putative fathers to the putative father registry, as well as contacting the registry for a final search for a putative father at

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least 31 days after the child's birth. Given that the PFR is entirely electronic, requesting the final search would only take a matter of 5-10 minutes to enter in the appropriate data to submit to ODJFS. The rule includes the requirements for a final registry check prior to the issuance of the final decree of adoption. This response would become part of the finalization packet to be submitted to court for the adoption decree.

5101:2-48-17 – The timeframes involved in having assessors complete and document prefinalization visits with children in adoptive homes. This timeframe is also difficult to quantify as every child and every adoptive family have different dynamics, therefore the amount of time spent in the home during the prefinalization period, and the amount of time spent documenting the visits will differ from family to family. If a worker were to complete and document the minimum number of visits during the prefinalization period, the time may range from 18 hours to 36 hours, depending on travel time.

5101:2-48-18 – The timeframes involved in regard to agencies developing their policy, in addition to actually providing postfinalization services, or referring persons in need of such services to outside agencies. The time involved to carry out this requirement would vary from agency to agency, depending on which post-adoption services they do offer in comparison to simply referring families to other service providers. The time involved in creating the policy would be relative to the amount and complexity of their post adoption services and could range from 20 minutes to approximately 2 hours for agencies with in-depth programs and services to offer families in need of post adoption services.

5101:2-48-20 – The timeframes involved in informing birth parents and adoptive parents of their rights regarding the release of identifying and nonidentifying information, as well as the timeframes involved in redacting and releasing nonidentifying information when permissible. This would take approximately 30 minutes, in order to ensure that the birth mom completely understood the implications of her actions.

5101-2-48-22--The timeframes involved in ensuring that the adoption file contains all the required forms and documentation. The time involved to create and obtain these forms and documents would vary from agency to agency based on the availability of documents and the availability of people that must be interviewed in order to obtain information.

5101-2-48-23—The timeframes involved in ensuring the agency is preserving adoption records indefinitely. The timeframes involved to maintain a paper or electronic copy of an adoption file would vary depending on the method of preservation used by the agency. Due to the different methods of preservation the timeframes would vary from agency to

agency. Cost involved could include purchase and maintaining of an electronic record keeping system or the cost of files and space to maintain said records.

5101:2-48-25—The timeframes involved completing forms to document the dissolutions of inter-county adoptions. The process has moved to the Statewide Automated Child Welfare Information System which reduces steps in the process including ensuring the Ohio Department of Job and Family Services received the form within the 10-day time frame. This could be by postage mail, email, or facsimile.

17. Why did the Agency determine that the regulatory intent justifies the adverse impact to the regulated business community?

To ensure the safety and well-being of children placed in adoptive settings and the parental rights of putative fathers, the adverse impact of these regulations is justified.

Regulatory Flexibility

18. Does the regulation provide any exemptions or alternative means of compliance for small businesses? Please explain.

No, there is no alternative means of compliance.

19. How will the agency apply Ohio Revised Code section 119.14 (waiver of fines and penalties for paperwork violations and first-time offenders) into implementation of the regulation?

For rules 5101:2-48-02, 5101:2-48-17, 5101:2-48-18, 5101:2-48-20, 5101:2-48-22, 5101:2-48-23, and 5101:2-48-25, there are no fines or civil penalties for non-compliance other than the potential loss of adoption agency certification.

20. What resources are available to assist small businesses with compliance of the regulation?

ODJFS has regional offices with technical assistance specialists and licensing specialists that will be able to assist agencies in obtaining and maintaining compliance with these regulations and providing required supervision visits and postfinalization services. Policy developers are also available to give technical assistance regarding the requirements of these rules.



Common Sense Initiative

Mike DeWine, Governor
Jon Husted, Lt. Governor

Carrie Kuruc, Director

MEMORANDUM

TO: Michael Lynch, Ohio Department of Job and Family Services

FROM: Jacob Ritzenthaler, Regulatory Policy Advocate

DATE: October 23, 2020

RE: **CSI Review – Adoption Rules (OAC 5101:2-48-02, 5101:2-48-17, 5101:2-48-18, 5101:2-48-20, 5101:2-48-22, 5101:2-48-23, and 5101:2-48-25)**

On behalf of Lt. Governor Jon Husted, 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 consists of six amended rules and one rescinded rule proposed by the Ohio Department of Job and Family Services (ODJFS). This rule package was submitted to the CSI Office on September 30, 2020, and the public comment period was held open through October 7, 2020. Unless otherwise noted below, this recommendation reflects the version of the proposed rules filed with the CSI Office on September 30, 2020.

Ohio Administrative Code (OAC) Chapter 5102:2-48 establishes requirements for adoption. OAC 5102:2-48-02 sets forth guidance for the putative father registry, which facilitates notifying putative fathers when a child is placed for adoption and identifying putative fathers by an interested party. The rule is amended to update forms and website information. OAC 5102:2-48-17 addresses visits and contacts conducted by an assessor prior to adoption finalization and is being amended to update a website found in the rule. OAC 5102:2-48-18 sets forth requirements for post-finalization services and is being amended to include the use of regional Ohio Kinship and Adoption Navigator services. OAC 5102:2-48-20, 5102:2-48-22, and 5102:2-48-23 concern the release of information and adoptive family case records. The rules are being amended to remove

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form revision dates from the rule language. OAC 5102:2-48-25 sets forth requirements for adoption-related data collection and is being proposed for rescission, as the methods for data collection have been transferred into the Statewide Automated Child Welfare Information System (SACWIS).

During early stakeholder outreach, ODJFS sent the proposed rules to industry stakeholders through a Department interested parties email list. ODJFS also submitted the rules for feedback during meetings of the Public Children Services Association of Ohio legislative committee. No comments were received during this time or during the CSI public comment period.

The business community impacted by these rules includes all public and private adoption agencies operating in Ohio. The adverse impacts created by the rules are primarily time and effort spent complying with the requirements of the rules. Some of the required actions, such as assessor finalization visits, can vary in time based on the length and number of visits to an adoptive family's residence. Other rule requirements may take only the amount of time necessary to gather and submit information. ODJFS notes in the BIA that the transition to widespread implementation of SACWIS can reduce the administrative burden for some businesses. ODJFS states that the rules are necessary to ensure the safety of children placed in adoptive homes, through efforts made during the finalization process and recordkeeping essential to home transitions.

Recommendations

Based on the information above, the CSI Office has no recommendations on this rule package.

Conclusion

The CSI Office concludes that the Ohio Department of Job and Family Services should proceed in filing the proposed rules with the Joint Committee on Agency Rule Review.



ACTION: Final

Department of
Job and Family Services

DATE: 01/13/2021 9:08 AM

Mike DeWine, Governor

Kimberly Hall, Director

TO: Jacob Ritzenthaler, Regulatory Policy Advocate
CC: Carrie Kuruc, Director of the Common Sense Initiative Office

FROM: Christine Dobrovich, Bureau Chief
Office of Families and Children

RE: CSI Review: OFC: Chapters 5101:2-48

OAC rule 5101:2-48-02 Putative Father Registry"

OAC rule 5101:2-48-17, "Assessor visits and contacts with children in adoptive homes prior to finalization"

OAC rule 5101:2-48-18, "Postfinalization services"

OAC rule 5101:2-48-20, "Release of identifying and nonidentifying information"

OAC rule 5101:2-48-22, "Adoptive family case record"

OAC rule 5101:2-48-23, "Preservation of adoptive child case record"

OAC rule 5101:2-48-25, "Inter-country adoption data collection"

DATE: October 26, 2020

Thank you for your recent review of the referenced OAC rules. Based upon your recommendation for no changes to the rule, the Office of Families and Children will proceed with the formal filing of this rule package with the Joint Committee on Agency Rule Review (JCARR).

30 East Broad Street
Columbus, OH 43215
jfs.ohio.gov

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5101:2-48-18

Postfinalization services.

- (A) For the purpose of this rule, "agency" means a public children services agency (PCSA), private child placing agency (PCPA) or private noncustodial agency (PNA) certified by ODJFS that places a child or assists in placing a child for adoption.
- (B) Each agency shall have a written policy on the type and extent of postfinalization adoption services that will be provided by the agency.
- (C) The agency shall make postfinalization adoption services available upon the request of the birth parent, the adoptive parent or the adoptee. The agency may provide these services either directly or by referral as described in paragraph (D) of this rule.
- (D) If the agency does not provide direct postfinalization adoption services, the agency shall:
 - (1) Refer each person who requests postfinalization adoption services to ~~an agency that provides such services~~ the regional Ohio kinship and adoption navigator (OhioKAN) agency, in addition to other local agencies providing the services the family needs.
 - (2) Upon written request of a parent, legal custodian, or guardian, provide consultation on adoption-related issues to professionals who are working with the family.
 - (3) Provide information regarding the procedures for releasing identifying information pursuant to rule 5101:2-48-20 of the Administrative Code.
- (E) If an adoptive parent, adoptee or birth parent contacts an agency for postfinalization adoption services and the agency determines that another agency made the adoptive placement, the agency may contact that agency for assistance in providing postfinalization services.
- (F) If an adoptive parent, adoptee or birth parent is unable to access postfinalization adoption services, the PCSA located in the county of residence of the adoptive family, adoptee or birth parent, respectively, is the agency ultimately responsible for the provision of, or referral to, appropriate postfinalization services.

Effective: 2/1/2021

Five Year Review (FYR) Dates: 10/26/2020 and 02/01/2026

CERTIFIED ELECTRONICALLY

Certification

01/13/2021

Date

Promulgated Under: 119.03

Statutory Authority: 5103.03, 5153.166

Rule Amplifies: 5103.03, 5153.16

Prior Effective Dates: 07/01/1990, 02/13/1998 (Emer.), 05/14/1998,
07/01/2003, 11/03/2008, 10/01/2014



Common Sense Initiative

Mike DeWine, Governor
Jon Husted, Lt. Governor

Carrie Kuruc, Director

Business Impact Analysis

Agency, Board, or Commission Name: Ohio Department of Job and Family Services

Rule Contact Name and Contact Information:

Michael Lynch Michael.Lynch@jfs.ohio.gov

Regulation/Package Title (a general description of the rules' substantive content):

Chapter 5101:2-48 Adoption rules

Rule Number(s): 5101:2-48-02, 5101:2-48-17, 5101:2-48-18, 5101:2-48-20,

5101:2-48-22, 5101:2-48-23, 5101:2-48-25

Date of Submission for CSI Review: _____

Public Comment Period End Date: _____

Rule Type/Number of Rules:

New/____ rules

No Change/____ rules (FYR? ____)

Amended/ 6 rules (FYR? yes)

Rescinded/ 1 rules (FYR? yes)

The Common Sense Initiative is established in R.C. 107.61 to eliminate excessive and duplicative rules and regulations that stand in the way of job creation. Under the Common Sense Initiative, agencies must balance the critical objectives of regulations that have an adverse impact on business with the costs of compliance by the regulated parties. Agencies should promote transparency, responsiveness, predictability, and flexibility while developing regulations that are fair and easy to follow. Agencies should prioritize compliance over punishment, and to that end, should utilize plain language in the development of regulations.

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Reason for Submission

1. **R.C. 106.03 and 106.031 require agencies, when reviewing a rule, to determine whether the rule has an adverse impact on businesses as defined by R.C. 107.52. If the agency determines that it does, it must complete a business impact analysis and submit the rule for CSI review.**

Which adverse impact(s) to businesses has the agency determined the rule(s) create?

The rule(s):

- a. ☒ **Requires a license, permit, or any other prior authorization to engage in or operate a line of business.**
- b. ☒ **Imposes a criminal penalty, a civil penalty, or another sanction, or creates a cause of action for failure to comply with its terms.**
- c. ☒ **Requires specific expenditures or the report of information as a condition of compliance.**
- d. ☐ **Is likely to directly reduce the revenue or increase the expenses of the lines of business to which it will apply or applies.**

Regulatory Intent

2. **Please briefly describe the draft regulation in plain language.**

Please include the key provisions of the regulation as well as any proposed amendments.

OAC rule 5101:2-48-02 entitled "Putative father registry," provides guidance to putative fathers on registering. The rule also provides guidance on the process of requesting a search of the putative father registry for the purpose of adoption. The website addresses were updated. The form revision dates were removed throughout the rule.

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OAC rule 5101:2-48-20, entitled "Release of identifying and nonidentifying information," provides guidance to assessors on their responsibility to inform birth parents about their right to approve and deny the release of identifying information. The rule also provides guidance to assessors about informing adoptive parents of information that may be requested by the adopted child. The form revision dates were removed throughout the rule.

OAC rule 5101:2-48-22, entitled "Adoptive family case record," provides guidance to agencies on preparing and maintaining case records. The form revision dates were removed throughout the rule.

OAC rule 5101:2-48-23, entitled "Preservation of adoptive child case record," provides guidance to agencies on the requirements of maintaining an adoptive case record, specifically all the required forms and documentation. The form revision dates were removed throughout the rule.

OAC rule 5101:2-48-25, entitled "Inter-country adoption data collection," is being rescinded as the process of documentation has transitioned to the Statewide Automated Child Welfare Information System. Forms JFS 01670 and JFS 01670-I are to be obsoleted as the information is now captured in the SACWIS system.

3. Please list the Ohio statute(s) that authorize the agency, board or commission to adopt the rule(s) and the statute(s) that amplify that authority.

Rule Number	Statutory Authority
Rule 5101:2-48-02	ORC 3107.065, 5153.166
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**4. Does the regulation implement a federal requirement? Is the proposed regulation being adopted or amended to enable the state to obtain or maintain approval to administer and enforce a federal law or to participate in a federal program?
*If yes, please briefly explain the source and substance of the federal requirement.***

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Rules 5101:2-48-02, 5101:2-48-17, 5101:2-48-18, 5101:2-48-20, 5101:2-48-22, 5101:2-48-23 and 5101:2-48-25 do not implement a federal regulation and are not being amended to enable the state to obtain or maintain approval to administer and enforce a federal law or to participate in a federal program.

5. If the regulation includes provisions not specifically required by the federal government, please explain the rationale for exceeding the federal requirement.

This is not applicable as the rules do not implement a requirement of Federal Law, nor do they exceed any Federal requirements.

6. What is the public purpose for this regulation (i.e., why does the Agency feel that there needs to be any regulation in this area at all)?

The rules, which are promulgated pursuant to the requirements of the Revised Code, establish regulations for the minimum standards to ensure the safety and well-being of children being placed in adoptive homes.

Rule 5101:2-48-02 protects the best interests of the child by ensuring that putative fathers have a process to become notified in the event their child is placed for adoption. Agencies are required to search the putative registry prior to finalizing an adoptive placement. If there is an appropriate match, the agency and putative father will be notified of the match. Once notified, the putative father has an opportunity to contact the courts regarding his rights, up to and including becoming the child's primary parent and caretaker.

Rule 5101:2-48-17 ensures the safety, stability, and well-being of a child in an adoptive placement by outlining the requirements for assessor visits to the home during the prefinalization timeframe. The rule mandates timeframes for visits, location of visits, individuals present during visits, and what topics are to be addressed during the visits. All of these requirements help to ensure the stability of the placement for the child.

Rule 5101:2-48-18 ensures the ongoing stability and preservation of the family by requiring the agency to outline in its policies the postfinalization services they offer families, as well as their process for referring families who are in need of programs or services the agency does not offer.

Rule 5101:2-48-20 ensures the well-being of all members of the adoption triad by outlining what identifying and non-identifying information is able to be shared with the adoptive parent and/or the adopted person as time goes on.

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5101:2-48-23 provides guidance to agencies on maintaining adoptive case records during the adoption process and after finalization including all forms and legal documents.

5101:2-48-25 is being rescinded as the process of documentation has transitioned to the Statewide Automated Child Welfare Information System. Forms JFS 01670 and JFS 01670-I are to be obsoleted as the information is now captured in the SACWIS system.

7. How will the Agency measure the success of this regulation in terms of outputs and/or outcomes?

The success of these regulations will be measured against the criteria specific to the content in each rule in assuring the safe placement of children into adoptive homes.

8. Are any of the proposed rules contained in this rule package being submitted pursuant to R.C. 101.352, 101.353, 106.032, 121.93, or 121.931?

If yes, please specify the rule number(s), the specific R.C. section requiring this submission, and a detailed explanation.

No

Development of the Regulation

9. Please list the stakeholders included by the Agency in the development or initial review of the draft regulation.

If applicable, please include the date and medium by which the stakeholders were initially contacted.

There were no comments received on www.ohiorulereview.org during the public posting period and the PCSAO legislative committee provided no input. There were no public comments made on the rule package.

10. What input was provided by the stakeholders, and how did that input affect the draft regulation being proposed by the Agency?

There were no comments or input provided. These rules went the ODJFS clearance process on 7/24/20 through 8/7/20 and received no comments from stakeholders.

11. What scientific data was used to develop the rule or the measurable outcomes of the rule? How does this data support the regulation being proposed?

Not applicable

12. What alternative regulations (or specific provisions within the regulation) did the Agency consider, and why did it determine that these alternatives were not appropriate? If none, why didn't the Agency consider regulatory alternatives?

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There were no other alternatives considered for these rules as the rules are driven by statute.

13. Did the Agency specifically consider a performance-based regulation? Please explain.

Performance-based regulations define the required outcome, but don't dictate the process the regulated stakeholders must use to achieve compliance.

No. ODJFS did not consider a performance-based initiative, but rather followed statutory language prescribing that the department set minimum standards to ensure the safety and well-being of all children entering adoptive homes.

14. What measures did the Agency take to ensure that this regulation does not duplicate an existing Ohio regulation?

There are no duplications as the rules are specific to adoption agencies and no other rules address these specific issues. ODJFS legal staff reviewed the rules to ensure there is no duplicative regulation in the Administrative Code.

15. Please describe the Agency's plan for implementation of the regulation, including any measures to ensure that the regulation is applied consistently and predictably for the regulated community.

The rules do not prescribe anything that would not be applied consistently. ODJFS licensing specialists review the agencies to ensure the regulations are applied consistently and they offer technical assistance in areas of inconsistency.

Adverse Impact to Business

16. Provide a summary of the estimated cost of compliance with the rule. Specifically, please do the following:

- a. Identify the scope of the impacted business community; and
- b. Identify the nature of all adverse impact (e.g., fees, fines, employer time for compliance,); and
- c. Quantify the expected adverse impact from the regulation.
The adverse impact can be quantified in terms of dollars, hours to comply, or other factors; and may be estimated for the entire regulated population or for a "representative business." Please include the source for your information/estimated impact.

The rules of the Administrative Code in Chapters 5101:2-48 contain requirements for adoption agencies that include public and private agencies. Requirements must be met to obtain and/or maintain certification.

5101:2-48-02 – The timeframes involved in referring putative fathers to the putative father registry, as well as contacting the registry for a final search for a putative father at

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least 31 days after the child's birth. Given that the PFR is entirely electronic, requesting the final search would only take a matter of 5-10 minutes to enter in the appropriate data to submit to ODJFS. The rule includes the requirements for a final registry check prior to the issuance of the final decree of adoption. This response would become part of the finalization packet to be submitted to court for the adoption decree.

5101:2-48-17 – The timeframes involved in having assessors complete and document prefinalization visits with children in adoptive homes. This timeframe is also difficult to quantify as every child and every adoptive family have different dynamics, therefore the amount of time spent in the home during the prefinalization period, and the amount of time spent documenting the visits will differ from family to family. If a worker were to complete and document the minimum number of visits during the prefinalization period, the time may range from 18 hours to 36 hours, depending on travel time.

5101:2-48-18 – The timeframes involved in regard to agencies developing their policy, in addition to actually providing postfinalization services, or referring persons in need of such services to outside agencies. The time involved to carry out this requirement would vary from agency to agency, depending on which post-adoption services they do offer in comparison to simply referring families to other service providers. The time involved in creating the policy would be relative to the amount and complexity of their post adoption services and could range from 20 minutes to approximately 2 hours for agencies with in-depth programs and services to offer families in need of post adoption services.

5101:2-48-20 – The timeframes involved in informing birth parents and adoptive parents of their rights regarding the release of identifying and nonidentifying information, as well as the timeframes involved in redacting and releasing nonidentifying information when permissible. This would take approximately 30 minutes, in order to ensure that the birth mom completely understood the implications of her actions.

5101-2-48-22--The timeframes involved in ensuring that the adoption file contains all the required forms and documentation. The time involved to create and obtain these forms and documents would vary from agency to agency based on the availability of documents and the availability of people that must be interviewed in order to obtain information.

5101-2-48-23—The timeframes involved in ensuring the agency is preserving adoption records indefinitely. The timeframes involved to maintain a paper or electronic copy of an adoption file would vary depending on the method of preservation used by the agency. Due to the different methods of preservation the timeframes would vary from agency to

agency. Cost involved could include purchase and maintaining of an electronic record keeping system or the cost of files and space to maintain said records.

5101:2-48-25—The timeframes involved completing forms to document the dissolutions of inter-county adoptions. The process has moved to the Statewide Automated Child Welfare Information System which reduces steps in the process including ensuring the Ohio Department of Job and Family Services received the form within the 10-day time frame. This could be by postage mail, email, or facsimile.

17. Why did the Agency determine that the regulatory intent justifies the adverse impact to the regulated business community?

To ensure the safety and well-being of children placed in adoptive settings and the parental rights of putative fathers, the adverse impact of these regulations is justified.

Regulatory Flexibility

18. Does the regulation provide any exemptions or alternative means of compliance for small businesses? Please explain.

No, there is no alternative means of compliance.

19. How will the agency apply Ohio Revised Code section 119.14 (waiver of fines and penalties for paperwork violations and first-time offenders) into implementation of the regulation?

For rules 5101:2-48-02, 5101:2-48-17, 5101:2-48-18, 5101:2-48-20, 5101:2-48-22, 5101:2-48-23, and 5101:2-48-25, there are no fines or civil penalties for non-compliance other than the potential loss of adoption agency certification.

20. What resources are available to assist small businesses with compliance of the regulation?

ODJFS has regional offices with technical assistance specialists and licensing specialists that will be able to assist agencies in obtaining and maintaining compliance with these regulations and providing required supervision visits and postfinalization services. Policy developers are also available to give technical assistance regarding the requirements of these rules.

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Common Sense Initiative

Mike DeWine, Governor
Jon Husted, Lt. Governor

Carrie Kuruc, Director

MEMORANDUM

TO: Michael Lynch, Ohio Department of Job and Family Services

FROM: Jacob Ritzenthaler, Regulatory Policy Advocate

DATE: October 23, 2020

RE: **CSI Review – Adoption Rules (OAC 5101:2-48-02, 5101:2-48-17, 5101:2-48-18, 5101:2-48-20, 5101:2-48-22, 5101:2-48-23, and 5101:2-48-25)**

On behalf of Lt. Governor Jon Husted, 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 consists of six amended rules and one rescinded rule proposed by the Ohio Department of Job and Family Services (ODJFS). This rule package was submitted to the CSI Office on September 30, 2020, and the public comment period was held open through October 7, 2020. Unless otherwise noted below, this recommendation reflects the version of the proposed rules filed with the CSI Office on September 30, 2020.

Ohio Administrative Code (OAC) Chapter 5102:2-48 establishes requirements for adoption. OAC 5102:2-48-02 sets forth guidance for the putative father registry, which facilitates notifying putative fathers when a child is placed for adoption and identifying putative fathers by an interested party. The rule is amended to update forms and website information. OAC 5102:2-48-17 addresses visits and contacts conducted by an assessor prior to adoption finalization and is being amended to update a website found in the rule. OAC 5102:2-48-18 sets forth requirements for post-finalization services and is being amended to include the use of regional Ohio Kinship and Adoption Navigator services. OAC 5102:2-48-20, 5102:2-48-22, and 5102:2-48-23 concern the release of information and adoptive family case records. The rules are being amended to remove

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form revision dates from the rule language. OAC 5102:2-48-25 sets forth requirements for adoption-related data collection and is being proposed for rescission, as the methods for data collection have been transferred into the Statewide Automated Child Welfare Information System (SACWIS).

During early stakeholder outreach, ODJFS sent the proposed rules to industry stakeholders through a Department interested parties email list. ODJFS also submitted the rules for feedback during meetings of the Public Children Services Association of Ohio legislative committee. No comments were received during this time or during the CSI public comment period.

The business community impacted by these rules includes all public and private adoption agencies operating in Ohio. The adverse impacts created by the rules are primarily time and effort spent complying with the requirements of the rules. Some of the required actions, such as assessor finalization visits, can vary in time based on the length and number of visits to an adoptive family's residence. Other rule requirements may take only the amount of time necessary to gather and submit information. ODJFS notes in the BIA that the transition to widespread implementation of SACWIS can reduce the administrative burden for some businesses. ODJFS states that the rules are necessary to ensure the safety of children placed in adoptive homes, through efforts made during the finalization process and recordkeeping essential to home transitions.

Recommendations

Based on the information above, the CSI Office has no recommendations on this rule package.

Conclusion

The CSI Office concludes that the Ohio Department of Job and Family Services should proceed in filing the proposed rules with the Joint Committee on Agency Rule Review.



ACTION: Final

Department of
Job and Family Services

DATE: 01/13/2021 9:08 AM

Mike DeWine, Governor

Kimberly Hall, Director

TO: Jacob Ritzenthaler, Regulatory Policy Advocate
CC: Carrie Kuruc, Director of the Common Sense Initiative Office

FROM: Christine Dobrovich, Bureau Chief
Office of Families and Children

RE: CSI Review: OFC: Chapters 5101:2-48

OAC rule 5101:2-48-02 Putative Father Registry"

OAC rule 5101:2-48-17, "Assessor visits and contacts with children in adoptive homes prior to finalization"

OAC rule 5101:2-48-18, "Postfinalization services"

OAC rule 5101:2-48-20, "Release of identifying and nonidentifying information"

OAC rule 5101:2-48-22, "Adoptive family case record"

OAC rule 5101:2-48-23, "Preservation of adoptive child case record"

OAC rule 5101:2-48-25, "Inter-country adoption data collection"

DATE: October 26, 2020

Thank you for your recent review of the referenced OAC rules. Based upon your recommendation for no changes to the rule, the Office of Families and Children will proceed with the formal filing of this rule package with the Joint Committee on Agency Rule Review (JCARR).

30 East Broad Street
Columbus, OH 43215
jfs.ohio.gov

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5101:2-48-20

Release of identifying and nonidentifying information.

(A) The assessor shall inform birth parents who enter into a voluntary surrender agreement that:

- (1) Birth parents will be required to complete the JFS 01693, "Ohio Law and Adoption Materials" ~~(rev. 5/2009)~~ which will indicate their decision regarding the release of identifying information to the adopted person or adoptive parent. The JFS 01693 shall be signed at least seventy-two hours prior to the time the consent to the adoption is executed.
- (2) Birth parents have the option, at any time or for as many times as they want, to reverse their decision regarding the release of identifying information by contacting the Ohio department of health (ODH) and requesting a copy of a denial of release form or a copy of an authorization of release form.
- (3) Unless the birth parents have signed the denial of release of information on the JFS 01693, identifying information can be released to:
 - (a) The adoptive parent when the adopted person is under eighteen years of age and the adoptive parent submits a request to ODH.
 - (b) The adopted person when the adopted person is at least eighteen years of age and the adopted person submits a request to ODH.

(B) The assessor shall inform the adoptive parent(s) that when:

- (1) The adopted person is under eighteen years of age, the adoptive parent can submit a request to ODH to request a copy of the contents of the adoption files which may include identifying information about the birth parents.
- (2) The adopted person is eighteen years of age or older, the adopted person can submit a request to ODH to request a copy of the contents of the adoption files which may include identifying information about the birth parents.
- (3) The adopted person is eighteen years of age or older, the adopted person can submit a request to ODH authorizing ODH to assist the adopted person's birth parents or birth siblings in finding the adopted person's name by adoption. The adopted person may alter this decision at any time or for as many times as the adopted person wants by submitting a request to ODH.

(C) The public children services agency (PCSA) or private child placing agency (PCPA) shall provide the birth parent with the address for ODH to obtain instructions regarding the filing of authorizations.

(D) Upon written request, the PCSA or PCPA shall provide the following nonidentifying information to the adopted person age eighteen or older, an adoptive parent of an adopted person under age eighteen or an adoptive relative of a deceased adopted person:

- (1) A birth parents' age at the time the birth parents' child was adopted.
- (2) The medical and genetic history of the birth parents.
- (3) The age, sex, and medical and genetic history of an adopted person's birth siblings and extended family members.
- (4) The heritage and ethnic background, educational level, general physical appearance, religion, occupation, and cause of death of the birth parents, birth siblings and extended family members.
- (5) Any information that may be included on the JFS 01616, "Social and Medical History" ~~(rev. 6/2009)~~.
- (6) Any information that is not deemed as identifying information as defined in rule 5101:2-1-01 of the Administrative Code.

(E) Subject to a determination made pursuant to division (E) of section 3107.66 of the Revised Code, the PCSA or PCPA shall provide, upon written request, the following nonidentifying information to the birth parent of an adopted person eighteen years of age or older, a birth sibling age eighteen or older or a birth family member of a deceased birth parent:

- (1) An adoptive parent's age at the time of adoption.
- (2) An adoptive sibling's age at the time of adoption.
- (3) The heritage, ethnic background, religion, educational level and occupation of the adoptive parent.
- (4) General information known about the well-being of the adoptee before and after the adoption.

Effective: 2/1/2021

Five Year Review (FYR) Dates: 10/26/2020 and 02/01/2026

CERTIFIED ELECTRONICALLY

Certification

01/13/2021

Date

Promulgated Under: 119.03

Statutory Authority: 3107.083, 5153.166

Rule Amplifies: 3107.083, 3107.09, 3107.40, 3107.41, 3107.46,
3107.47, 3107.60, 5153.16

Prior Effective Dates: 01/14/1983, 06/01/1985 (Emer.), 08/12/1985,
07/01/1990, 09/01/1994, 09/18/1996, 02/13/1998
(Emer.), 05/14/1998, 09/01/2003, 09/15/2008,
08/17/2009, 10/01/2014



Common Sense Initiative

Mike DeWine, Governor
Jon Husted, Lt. Governor

Carrie Kuruc, Director

Business Impact Analysis

Agency, Board, or Commission Name: Ohio Department of Job and Family Services

Rule Contact Name and Contact Information:

Michael Lynch Michael.Lynch@jfs.ohio.gov

Regulation/Package Title (a general description of the rules' substantive content):

Chapter 5101:2-48 Adoption rules

Rule Number(s): 5101:2-48-02, 5101:2-48-17, 5101:2-48-18, 5101:2-48-20,

5101:2-48-22, 5101:2-48-23, 5101:2-48-25

Date of Submission for CSI Review: _____

Public Comment Period End Date: _____

Rule Type/Number of Rules:

New/____ rules

No Change/____ rules (FYR? ____)

Amended/ __6__ rules (FYR? __yes__)

Rescinded/ __1__ rules (FYR? yes __)

The Common Sense Initiative is established in R.C. 107.61 to eliminate excessive and duplicative rules and regulations that stand in the way of job creation. Under the Common Sense Initiative, agencies must balance the critical objectives of regulations that have an adverse impact on business with the costs of compliance by the regulated parties. Agencies should promote transparency, responsiveness, predictability, and flexibility while developing regulations that are fair and easy to follow. Agencies should prioritize compliance over punishment, and to that end, should utilize plain language in the development of regulations.

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Reason for Submission

1. **R.C. 106.03 and 106.031 require agencies, when reviewing a rule, to determine whether the rule has an adverse impact on businesses as defined by R.C. 107.52. If the agency determines that it does, it must complete a business impact analysis and submit the rule for CSI review.**

Which adverse impact(s) to businesses has the agency determined the rule(s) create?

The rule(s):

- a. ☒ **Requires a license, permit, or any other prior authorization to engage in or operate a line of business.**
- b. ☒ **Imposes a criminal penalty, a civil penalty, or another sanction, or creates a cause of action for failure to comply with its terms.**
- c. ☒ **Requires specific expenditures or the report of information as a condition of compliance.**
- d. ☐ **Is likely to directly reduce the revenue or increase the expenses of the lines of business to which it will apply or applies.**

Regulatory Intent

2. **Please briefly describe the draft regulation in plain language.**

Please include the key provisions of the regulation as well as any proposed amendments.

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**4. Does the regulation implement a federal requirement? Is the proposed regulation being adopted or amended to enable the state to obtain or maintain approval to administer and enforce a federal law or to participate in a federal program?
*If yes, please briefly explain the source and substance of the federal requirement.***

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Rules 5101:2-48-02, 5101:2-48-17, 5101:2-48-18, 5101:2-48-20, 5101:2-48-22, 5101:2-48-23 and 5101:2-48-25 do not implement a federal regulation and are not being amended to enable the state to obtain or maintain approval to administer and enforce a federal law or to participate in a federal program.

5. If the regulation includes provisions not specifically required by the federal government, please explain the rationale for exceeding the federal requirement.

This is not applicable as the rules do not implement a requirement of Federal Law, nor do they exceed any Federal requirements.

6. What is the public purpose for this regulation (i.e., why does the Agency feel that there needs to be any regulation in this area at all)?

The rules, which are promulgated pursuant to the requirements of the Revised Code, establish regulations for the minimum standards to ensure the safety and well-being of children being placed in adoptive homes.

Rule 5101:2-48-02 protects the best interests of the child by ensuring that putative fathers have a process to become notified in the event their child is placed for adoption. Agencies are required to search the putative registry prior to finalizing an adoptive placement. If there is an appropriate match, the agency and putative father will be notified of the match. Once notified, the putative father has an opportunity to contact the courts regarding his rights, up to and including becoming the child's primary parent and caretaker.

Rule 5101:2-48-17 ensures the safety, stability, and well-being of a child in an adoptive placement by outlining the requirements for assessor visits to the home during the prefinalization timeframe. The rule mandates timeframes for visits, location of visits, individuals present during visits, and what topics are to be addressed during the visits. All of these requirements help to ensure the stability of the placement for the child.

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Rule 5101:2-48-20 ensures the well-being of all members of the adoption triad by outlining what identifying and non-identifying information is able to be shared with the adoptive parent and/or the adopted person as time goes on.

5101:2-48-22 provides guidance to agencies on preparing case records. The rule details the forms and documentation that are required to be part of the file.

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5101:2-48-23 provides guidance to agencies on maintaining adoptive case records during the adoption process and after finalization including all forms and legal documents.

5101:2-48-25 is being rescinded as the process of documentation has transitioned to the Statewide Automated Child Welfare Information System. Forms JFS 01670 and JFS 01670-I are to be obsoleted as the information is now captured in the SACWIS system.

7. How will the Agency measure the success of this regulation in terms of outputs and/or outcomes?

The success of these regulations will be measured against the criteria specific to the content in each rule in assuring the safe placement of children into adoptive homes.

8. Are any of the proposed rules contained in this rule package being submitted pursuant to R.C. 101.352, 101.353, 106.032, 121.93, or 121.931?

If yes, please specify the rule number(s), the specific R.C. section requiring this submission, and a detailed explanation.

No

Development of the Regulation

9. Please list the stakeholders included by the Agency in the development or initial review of the draft regulation.

If applicable, please include the date and medium by which the stakeholders were initially contacted.

There were no comments received on www.ohiorulereview.org during the public posting period and the PCSAO legislative committee provided no input. There were no public comments made on the rule package.

10. What input was provided by the stakeholders, and how did that input affect the draft regulation being proposed by the Agency?

There were no comments or input provided. These rules went the ODJFS clearance process on 7/24/20 through 8/7/20 and received no comments from stakeholders.

11. What scientific data was used to develop the rule or the measurable outcomes of the rule? How does this data support the regulation being proposed?

Not applicable

12. What alternative regulations (or specific provisions within the regulation) did the Agency consider, and why did it determine that these alternatives were not appropriate? If none, why didn't the Agency consider regulatory alternatives?

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There were no other alternatives considered for these rules as the rules are driven by statute.

13. Did the Agency specifically consider a performance-based regulation? Please explain.

Performance-based regulations define the required outcome, but don't dictate the process the regulated stakeholders must use to achieve compliance.

No. ODJFS did not consider a performance-based initiative, but rather followed statutory language prescribing that the department set minimum standards to ensure the safety and well-being of all children entering adoptive homes.

14. What measures did the Agency take to ensure that this regulation does not duplicate an existing Ohio regulation?

There are no duplications as the rules are specific to adoption agencies and no other rules address these specific issues. ODJFS legal staff reviewed the rules to ensure there is no duplicative regulation in the Administrative Code.

15. Please describe the Agency's plan for implementation of the regulation, including any measures to ensure that the regulation is applied consistently and predictably for the regulated community.

The rules do not prescribe anything that would not be applied consistently. ODJFS licensing specialists review the agencies to ensure the regulations are applied consistently and they offer technical assistance in areas of inconsistency.

Adverse Impact to Business

16. Provide a summary of the estimated cost of compliance with the rule. Specifically, please do the following:

- a. Identify the scope of the impacted business community; and
- b. Identify the nature of all adverse impact (e.g., fees, fines, employer time for compliance,); and
- c. Quantify the expected adverse impact from the regulation.
The adverse impact can be quantified in terms of dollars, hours to comply, or other factors; and may be estimated for the entire regulated population or for a "representative business." Please include the source for your information/estimated impact.

The rules of the Administrative Code in Chapters 5101:2-48 contain requirements for adoption agencies that include public and private agencies. Requirements must be met to obtain and/or maintain certification.

5101:2-48-02 – The timeframes involved in referring putative fathers to the putative father registry, as well as contacting the registry for a final search for a putative father at

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least 31 days after the child's birth. Given that the PFR is entirely electronic, requesting the final search would only take a matter of 5-10 minutes to enter in the appropriate data to submit to ODJFS. The rule includes the requirements for a final registry check prior to the issuance of the final decree of adoption. This response would become part of the finalization packet to be submitted to court for the adoption decree.

5101:2-48-17 – The timeframes involved in having assessors complete and document prefinalization visits with children in adoptive homes. This timeframe is also difficult to quantify as every child and every adoptive family have different dynamics, therefore the amount of time spent in the home during the prefinalization period, and the amount of time spent documenting the visits will differ from family to family. If a worker were to complete and document the minimum number of visits during the prefinalization period, the time may range from 18 hours to 36 hours, depending on travel time.

5101:2-48-18 – The timeframes involved in regard to agencies developing their policy, in addition to actually providing postfinalization services, or referring persons in need of such services to outside agencies. The time involved to carry out this requirement would vary from agency to agency, depending on which post-adoption services they do offer in comparison to simply referring families to other service providers. The time involved in creating the policy would be relative to the amount and complexity of their post adoption services and could range from 20 minutes to approximately 2 hours for agencies with in-depth programs and services to offer families in need of post adoption services.

5101:2-48-20 – The timeframes involved in informing birth parents and adoptive parents of their rights regarding the release of identifying and nonidentifying information, as well as the timeframes involved in redacting and releasing nonidentifying information when permissible. This would take approximately 30 minutes, in order to ensure that the birth mom completely understood the implications of her actions.

5101-2-48-22--The timeframes involved in ensuring that the adoption file contains all the required forms and documentation. The time involved to create and obtain these forms and documents would vary from agency to agency based on the availability of documents and the availability of people that must be interviewed in order to obtain information.

5101-2-48-23—The timeframes involved in ensuring the agency is preserving adoption records indefinitely. The timeframes involved to maintain a paper or electronic copy of an adoption file would vary depending on the method of preservation used by the agency. Due to the different methods of preservation the timeframes would vary from agency to

agency. Cost involved could include purchase and maintaining of an electronic record keeping system or the cost of files and space to maintain said records.

5101:2-48-25—The timeframes involved completing forms to document the dissolutions of inter-county adoptions. The process has moved to the Statewide Automated Child Welfare Information System which reduces steps in the process including ensuring the Ohio Department of Job and Family Services received the form within the 10-day time frame. This could be by postage mail, email, or facsimile.

17. Why did the Agency determine that the regulatory intent justifies the adverse impact to the regulated business community?

To ensure the safety and well-being of children placed in adoptive settings and the parental rights of putative fathers, the adverse impact of these regulations is justified.

Regulatory Flexibility

18. Does the regulation provide any exemptions or alternative means of compliance for small businesses? Please explain.

No, there is no alternative means of compliance.

19. How will the agency apply Ohio Revised Code section 119.14 (waiver of fines and penalties for paperwork violations and first-time offenders) into implementation of the regulation?

For rules 5101:2-48-02, 5101:2-48-17, 5101:2-48-18, 5101:2-48-20, 5101:2-48-22, 5101:2-48-23, and 5101:2-48-25, there are no fines or civil penalties for non-compliance other than the potential loss of adoption agency certification.

20. What resources are available to assist small businesses with compliance of the regulation?

ODJFS has regional offices with technical assistance specialists and licensing specialists that will be able to assist agencies in obtaining and maintaining compliance with these regulations and providing required supervision visits and postfinalization services. Policy developers are also available to give technical assistance regarding the requirements of these rules.



Common Sense Initiative

Mike DeWine, Governor
Jon Husted, Lt. Governor

Carrie Kuruc, Director

MEMORANDUM

TO: Michael Lynch, Ohio Department of Job and Family Services

FROM: Jacob Ritzenthaler, Regulatory Policy Advocate

DATE: October 23, 2020

RE: **CSI Review – Adoption Rules (OAC 5101:2-48-02, 5101:2-48-17, 5101:2-48-18, 5101:2-48-20, 5101:2-48-22, 5101:2-48-23, and 5101:2-48-25)**

On behalf of Lt. Governor Jon Husted, 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 consists of six amended rules and one rescinded rule proposed by the Ohio Department of Job and Family Services (ODJFS). This rule package was submitted to the CSI Office on September 30, 2020, and the public comment period was held open through October 7, 2020. Unless otherwise noted below, this recommendation reflects the version of the proposed rules filed with the CSI Office on September 30, 2020.

Ohio Administrative Code (OAC) Chapter 5102:2-48 establishes requirements for adoption. OAC 5102:2-48-02 sets forth guidance for the putative father registry, which facilitates notifying putative fathers when a child is placed for adoption and identifying putative fathers by an interested party. The rule is amended to update forms and website information. OAC 5102:2-48-17 addresses visits and contacts conducted by an assessor prior to adoption finalization and is being amended to update a website found in the rule. OAC 5102:2-48-18 sets forth requirements for post-finalization services and is being amended to include the use of regional Ohio Kinship and Adoption Navigator services. OAC 5102:2-48-20, 5102:2-48-22, and 5102:2-48-23 concern the release of information and adoptive family case records. The rules are being amended to remove

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form revision dates from the rule language. OAC 5102:2-48-25 sets forth requirements for adoption-related data collection and is being proposed for rescission, as the methods for data collection have been transferred into the Statewide Automated Child Welfare Information System (SACWIS).

During early stakeholder outreach, ODJFS sent the proposed rules to industry stakeholders through a Department interested parties email list. ODJFS also submitted the rules for feedback during meetings of the Public Children Services Association of Ohio legislative committee. No comments were received during this time or during the CSI public comment period.

The business community impacted by these rules includes all public and private adoption agencies operating in Ohio. The adverse impacts created by the rules are primarily time and effort spent complying with the requirements of the rules. Some of the required actions, such as assessor finalization visits, can vary in time based on the length and number of visits to an adoptive family's residence. Other rule requirements may take only the amount of time necessary to gather and submit information. ODJFS notes in the BIA that the transition to widespread implementation of SACWIS can reduce the administrative burden for some businesses. ODJFS states that the rules are necessary to ensure the safety of children placed in adoptive homes, through efforts made during the finalization process and recordkeeping essential to home transitions.

Recommendations

Based on the information above, the CSI Office has no recommendations on this rule package.

Conclusion

The CSI Office concludes that the Ohio Department of Job and Family Services should proceed in filing the proposed rules with the Joint Committee on Agency Rule Review.



ACTION: Final

Department of
Job and Family Services

DATE: 01/13/2021 9:08 AM

Mike DeWine, Governor

Kimberly Hall, Director

TO: Jacob Ritzenthaler, Regulatory Policy Advocate
CC: Carrie Kuruc, Director of the Common Sense Initiative Office

FROM: Christine Dobrovich, Bureau Chief
Office of Families and Children

RE: CSI Review: OFC: Chapters 5101:2-48

OAC rule 5101:2-48-02 Putative Father Registry"

OAC rule 5101:2-48-17, "Assessor visits and contacts with children in adoptive homes prior to finalization"

OAC rule 5101:2-48-18, "Postfinalization services"

OAC rule 5101:2-48-20, "Release of identifying and nonidentifying information"

OAC rule 5101:2-48-22, "Adoptive family case record"

OAC rule 5101:2-48-23, "Preservation of adoptive child case record"

OAC rule 5101:2-48-25, "Inter-country adoption data collection"

DATE: October 26, 2020

Thank you for your recent review of the referenced OAC rules. Based upon your recommendation for no changes to the rule, the Office of Families and Children will proceed with the formal filing of this rule package with the Joint Committee on Agency Rule Review (JCARR).

30 East Broad Street
Columbus, OH 43215
jfs.ohio.gov

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5101:2-48-22

Adoptive family case record.

- (A) The public children services agency (PCSA), private child placing agency (PCPA) or private noncustodial agency (PNA) shall prepare and maintain adoptive family case records at the time that a JFS 01691 "Application for Child Placement" ~~(rev. 6/2009)~~ is received.
- (B) Each adoptive family case record, as applicable to the involvement of the PCSA, PCPA or PNA, shall contain, but not be limited to:
- (1) The JFS 01691.
 - (2) Case notes and dictation concerning adoption services.
 - (3) A copy of the homestudy report, updated homestudy reports and all documents completed, identified in or collected pursuant to Chapter 5101:2-48 of the Administrative Code; as applicable.
 - (4) A copy of the JFS 01530, "Multiple Children/Large Family Assessment" ~~(rev. 12/2006)~~, if applicable.
 - (5) A copy of all documentation relating to falsification of an adoptive applicant or homestudy if any document submitted during the homestudy process has been determined to be falsified.
 - (6) A copy of the denial or approval notification sent to the applicant regarding the adoptive homestudy, updates, or amendments as required by Chapter 5101:2-48 of the Administrative Code.
 - (7) If applicable, a copy of the documentation explaining the circumstances of any delay in the commencement of the adoptive homestudy beyond the thirty day requirement in rule 5101:2-48-12 of the Administrative Code.
 - (8) If applicable, a copy of the documentation explaining the circumstances of any delay in the completion of the adoptive homestudy beyond the one hundred eighty day requirement in rule 5101:2-48-12 of the Administrative Code.
 - (9) A signed copy of the child study inventory prepared pursuant to rule 5101:2-48-21 of the Administrative Code.
 - (10) Documentation of information provided to the adoptive family pursuant to rule 5101:2-48-15 of the Administrative Code and the adoptive family's receipt of the information.
 - (11) A copy of the JFS 01654 "Adoptive Placement Agreement" ~~(rev. 2/2014)~~.

- (12) A copy of the child's case plan prepared pursuant to rule 5101:2-38-05 of the Administrative Code or rule 5101:2-38-07 of the Administrative Code, as appropriate.
- (13) A copy of the JFS 01699 "Prefinalization Adoption Assessment Report" ~~(rev. 12/2006)~~ prepared in accordance with rule 5101:2-48-17 of the Administrative Code.
- (14) Documentation regarding the activities surrounding the removal of the child from the adoptive placement, if applicable.
- (15) Documentation regarding any agency review.
- (16) Documentation constituting or referring to a complaint or grievance by the family, if applicable.
- (17) Documentation of verbal comments, verbatim, or a detailed description of any other indication made by a prospective adoptive family member living in the household or any other person living in the household, reflecting a negative perspective regarding the race, color or national origin of a child for whom the prospective adoptive family has expressed an interest in adopting. The documentation shall indicate whether those comments were made before or after completion of the cultural diversity training which is required for all prospective adoptive applicants, if applicable.
- (18) Documentation regarding any adoption subsidy application and/or agreement.
- (19) Documentation of education and training activities attended by the adoptive applicant/family.
- (20) A copy of the JFS 01689, "Documentation of the Placement Decision Making Process" ~~(rev. 7/2012)~~.
- (21) A copy of the JFS 01609 "Family Permanency Planning Data Summary" ~~(rev. 02/2005)~~.
- (22) A copy of the JFS 01688 "Individualized Child Assessment" ~~(rev. 4/2014)~~ and any report(s) submitted by the licensed professional associated with the JFS 01688, if applicable pursuant to rule 5101:2-48-13 of the Administrative Code.
- (23) A copy of the JFS 01690 "Documentation of the Pre-adoptive Staffing and Updates" ~~(rev. 2/2014)~~.

- (24) A copy of the notification letter to the local PCSA or documentation of the telephone call related to the initiation of an adoption homestudy, as well as any response received from the PCSA.
 - (25) A copy of the notification letter to the local PCSA related to the impending placement of an adoptive child.
- (C) The agency shall maintain case records in a consistent and organized manner such that required information set forth in this rule can be readily located. When the agency maintains any required information set forth in this rule in a location other than the case record, it shall be stated in the agency policy or noted in the case record where the information can be found.

Effective: 2/1/2021

Five Year Review (FYR) Dates: 10/26/2020 and 02/01/2026

CERTIFIED ELECTRONICALLY

Certification

01/13/2021

Date

Promulgated Under: 119.03
Statutory Authority: 5101.141, 5103.03, 5153.166
Rule Amplifies: 5101.141, 5103.03, 5153.16
Prior Effective Dates: 12/30/1966, 10/01/1986, 07/01/1990, 09/01/1994,
09/18/1996, 02/13/1998 (Emer.), 05/14/1998,
04/01/1999, 09/01/2003, 02/01/2005, 12/11/2006,
03/01/2010, 10/01/2015



Common Sense Initiative

Mike DeWine, Governor
Jon Husted, Lt. Governor

Carrie Kuruc, Director

Business Impact Analysis

Agency, Board, or Commission Name: Ohio Department of Job and Family Services

Rule Contact Name and Contact Information:

Michael Lynch Michael.Lynch@jfs.ohio.gov

Regulation/Package Title (a general description of the rules' substantive content):

Chapter 5101:2-48 Adoption rules

Rule Number(s): 5101:2-48-02, 5101:2-48-17, 5101:2-48-18, 5101:2-48-20,

5101:2-48-22, 5101:2-48-23, 5101:2-48-25

Date of Submission for CSI Review: _____

Public Comment Period End Date: _____

Rule Type/Number of Rules:

New/____ rules

No Change/____ rules (FYR? ____)

Amended/ __6__ rules (FYR? __yes__)

Rescinded/ __1__ rules (FYR? yes __)

The Common Sense Initiative is established in R.C. 107.61 to eliminate excessive and duplicative rules and regulations that stand in the way of job creation. Under the Common Sense Initiative, agencies must balance the critical objectives of regulations that have an adverse impact on business with the costs of compliance by the regulated parties. Agencies should promote transparency, responsiveness, predictability, and flexibility while developing regulations that are fair and easy to follow. Agencies should prioritize compliance over punishment, and to that end, should utilize plain language in the development of regulations.

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Reason for Submission

1. **R.C. 106.03 and 106.031 require agencies, when reviewing a rule, to determine whether the rule has an adverse impact on businesses as defined by R.C. 107.52. If the agency determines that it does, it must complete a business impact analysis and submit the rule for CSI review.**

Which adverse impact(s) to businesses has the agency determined the rule(s) create?

The rule(s):

- a. ☒ **Requires a license, permit, or any other prior authorization to engage in or operate a line of business.**
- b. ☒ **Imposes a criminal penalty, a civil penalty, or another sanction, or creates a cause of action for failure to comply with its terms.**
- c. ☒ **Requires specific expenditures or the report of information as a condition of compliance.**
- d. ☐ **Is likely to directly reduce the revenue or increase the expenses of the lines of business to which it will apply or applies.**

Regulatory Intent

2. **Please briefly describe the draft regulation in plain language.**

Please include the key provisions of the regulation as well as any proposed amendments.

OAC rule 5101:2-48-02 entitled "Putative father registry," provides guidance to putative fathers on registering. The rule also provides guidance on the process of requesting a search of the putative father registry for the purpose of adoption. The website addresses were updated. The form revision dates were removed throughout the rule.

OAC rule 5101:2-48-17, entitled "Assessor visits and contacts with children in adoptive homes prior to finalization," provides guidance to assessors on the number of visits required prior to finalization and the information the assessor is required to obtain at those visits. In paragraph (E) the website address was updated. The form revision dates were removed throughout the rule.

OAC rule 5101:2-48-18, entitled "Postfinalization services," provides guidance on agencies' responsibility to provide postfinalization services. In paragraph (D) a reference was made to Ohio Kinship and Adoption Navigator (OhioKAN) as a resource. The form revision dates were removed throughout the rule.

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OAC rule 5101:2-48-20, entitled "Release of identifying and nonidentifying information," provides guidance to assessors on their responsibility to inform birth parents about their right to approve and deny the release of identifying information. The rule also provides guidance to assessors about informing adoptive parents of information that may be requested by the adopted child. The form revision dates were removed throughout the rule.

OAC rule 5101:2-48-22, entitled "Adoptive family case record," provides guidance to agencies on preparing and maintaining case records. The form revision dates were removed throughout the rule.

OAC rule 5101:2-48-23, entitled "Preservation of adoptive child case record," provides guidance to agencies on the requirements of maintaining an adoptive case record, specifically all the required forms and documentation. The form revision dates were removed throughout the rule.

OAC rule 5101:2-48-25, entitled "Inter-country adoption data collection," is being rescinded as the process of documentation has transitioned to the Statewide Automated Child Welfare Information System. Forms JFS 01670 and JFS 01670-I are to be obsoleted as the information is now captured in the SACWIS system.

3. Please list the Ohio statute(s) that authorize the agency, board or commission to adopt the rule(s) and the statute(s) that amplify that authority.

Rule Number	Statutory Authority
Rule 5101:2-48-02	ORC 3107.065, 5153.166
Rule 5101:2-48-17	ORC 3107.101, 3107.12, 5153.166
Rule 5101:2-48-18	ORC 5103.03, 5153.166
Rule 5101:2-48-20	ORC 3107.083, 5153.166
Rule 5101:2-48-22	ORC 5101.141, 5103.03, 5153.166
Rule 5101:2-48-23	ORC 5103.03, 5153.166
Rule 5101:2-48-25	ORC 5103.03, 5153.166

**4. Does the regulation implement a federal requirement? Is the proposed regulation being adopted or amended to enable the state to obtain or maintain approval to administer and enforce a federal law or to participate in a federal program?
*If yes, please briefly explain the source and substance of the federal requirement.***

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Rules 5101:2-48-02, 5101:2-48-17, 5101:2-48-18, 5101:2-48-20, 5101:2-48-22, 5101:2-48-23 and 5101:2-48-25 do not implement a federal regulation and are not being amended to enable the state to obtain or maintain approval to administer and enforce a federal law or to participate in a federal program.

5. If the regulation includes provisions not specifically required by the federal government, please explain the rationale for exceeding the federal requirement.

This is not applicable as the rules do not implement a requirement of Federal Law, nor do they exceed any Federal requirements.

6. What is the public purpose for this regulation (i.e., why does the Agency feel that there needs to be any regulation in this area at all)?

The rules, which are promulgated pursuant to the requirements of the Revised Code, establish regulations for the minimum standards to ensure the safety and well-being of children being placed in adoptive homes.

Rule 5101:2-48-02 protects the best interests of the child by ensuring that putative fathers have a process to become notified in the event their child is placed for adoption. Agencies are required to search the putative registry prior to finalizing an adoptive placement. If there is an appropriate match, the agency and putative father will be notified of the match. Once notified, the putative father has an opportunity to contact the courts regarding his rights, up to and including becoming the child's primary parent and caretaker.

Rule 5101:2-48-17 ensures the safety, stability, and well-being of a child in an adoptive placement by outlining the requirements for assessor visits to the home during the prefinalization timeframe. The rule mandates timeframes for visits, location of visits, individuals present during visits, and what topics are to be addressed during the visits. All of these requirements help to ensure the stability of the placement for the child.

Rule 5101:2-48-18 ensures the ongoing stability and preservation of the family by requiring the agency to outline in its policies the postfinalization services they offer families, as well as their process for referring families who are in need of programs or services the agency does not offer.

Rule 5101:2-48-20 ensures the well-being of all members of the adoption triad by outlining what identifying and non-identifying information is able to be shared with the adoptive parent and/or the adopted person as time goes on.

5101:2-48-22 provides guidance to agencies on preparing case records. The rule details the forms and documentation that are required to be part of the file.

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The success of these regulations will be measured against the criteria specific to the content in each rule in assuring the safe placement of children into adoptive homes.

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If yes, please specify the rule number(s), the specific R.C. section requiring this submission, and a detailed explanation.

No

Development of the Regulation

9. Please list the stakeholders included by the Agency in the development or initial review of the draft regulation.

If applicable, please include the date and medium by which the stakeholders were initially contacted.

There were no comments received on www.ohiorulereview.org during the public posting period and the PCSAO legislative committee provided no input. There were no public comments made on the rule package.

10. What input was provided by the stakeholders, and how did that input affect the draft regulation being proposed by the Agency?

There were no comments or input provided. These rules went the ODJFS clearance process on 7/24/20 through 8/7/20 and received no comments from stakeholders.

11. What scientific data was used to develop the rule or the measurable outcomes of the rule? How does this data support the regulation being proposed?

Not applicable

12. What alternative regulations (or specific provisions within the regulation) did the Agency consider, and why did it determine that these alternatives were not appropriate? If none, why didn't the Agency consider regulatory alternatives?

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Performance-based regulations define the required outcome, but don't dictate the process the regulated stakeholders must use to achieve compliance.

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14. What measures did the Agency take to ensure that this regulation does not duplicate an existing Ohio regulation?

There are no duplications as the rules are specific to adoption agencies and no other rules address these specific issues. ODJFS legal staff reviewed the rules to ensure there is no duplicative regulation in the Administrative Code.

15. Please describe the Agency's plan for implementation of the regulation, including any measures to ensure that the regulation is applied consistently and predictably for the regulated community.

The rules do not prescribe anything that would not be applied consistently. ODJFS licensing specialists review the agencies to ensure the regulations are applied consistently and they offer technical assistance in areas of inconsistency.

Adverse Impact to Business

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- b. Identify the nature of all adverse impact (e.g., fees, fines, employer time for compliance,); and
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The adverse impact can be quantified in terms of dollars, hours to comply, or other factors; and may be estimated for the entire regulated population or for a "representative business." Please include the source for your information/estimated impact.

The rules of the Administrative Code in Chapters 5101:2-48 contain requirements for adoption agencies that include public and private agencies. Requirements must be met to obtain and/or maintain certification.

5101:2-48-02 – The timeframes involved in referring putative fathers to the putative father registry, as well as contacting the registry for a final search for a putative father at

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least 31 days after the child's birth. Given that the PFR is entirely electronic, requesting the final search would only take a matter of 5-10 minutes to enter in the appropriate data to submit to ODJFS. The rule includes the requirements for a final registry check prior to the issuance of the final decree of adoption. This response would become part of the finalization packet to be submitted to court for the adoption decree.

5101:2-48-17 – The timeframes involved in having assessors complete and document prefinalization visits with children in adoptive homes. This timeframe is also difficult to quantify as every child and every adoptive family have different dynamics, therefore the amount of time spent in the home during the prefinalization period, and the amount of time spent documenting the visits will differ from family to family. If a worker were to complete and document the minimum number of visits during the prefinalization period, the time may range from 18 hours to 36 hours, depending on travel time.

5101:2-48-18 – The timeframes involved in regard to agencies developing their policy, in addition to actually providing postfinalization services, or referring persons in need of such services to outside agencies. The time involved to carry out this requirement would vary from agency to agency, depending on which post-adoption services they do offer in comparison to simply referring families to other service providers. The time involved in creating the policy would be relative to the amount and complexity of their post adoption services and could range from 20 minutes to approximately 2 hours for agencies with in-depth programs and services to offer families in need of post adoption services.

5101:2-48-20 – The timeframes involved in informing birth parents and adoptive parents of their rights regarding the release of identifying and nonidentifying information, as well as the timeframes involved in redacting and releasing nonidentifying information when permissible. This would take approximately 30 minutes, in order to ensure that the birth mom completely understood the implications of her actions.

5101-2-48-22--The timeframes involved in ensuring that the adoption file contains all the required forms and documentation. The time involved to create and obtain these forms and documents would vary from agency to agency based on the availability of documents and the availability of people that must be interviewed in order to obtain information.

5101-2-48-23—The timeframes involved in ensuring the agency is preserving adoption records indefinitely. The timeframes involved to maintain a paper or electronic copy of an adoption file would vary depending on the method of preservation used by the agency. Due to the different methods of preservation the timeframes would vary from agency to

agency. Cost involved could include purchase and maintaining of an electronic record keeping system or the cost of files and space to maintain said records.

5101:2-48-25—The timeframes involved completing forms to document the dissolutions of inter-county adoptions. The process has moved to the Statewide Automated Child Welfare Information System which reduces steps in the process including ensuring the Ohio Department of Job and Family Services received the form within the 10-day time frame. This could be by postage mail, email, or facsimile.

17. Why did the Agency determine that the regulatory intent justifies the adverse impact to the regulated business community?

To ensure the safety and well-being of children placed in adoptive settings and the parental rights of putative fathers, the adverse impact of these regulations is justified.

Regulatory Flexibility

18. Does the regulation provide any exemptions or alternative means of compliance for small businesses? Please explain.

No, there is no alternative means of compliance.

19. How will the agency apply Ohio Revised Code section 119.14 (waiver of fines and penalties for paperwork violations and first-time offenders) into implementation of the regulation?

For rules 5101:2-48-02, 5101:2-48-17, 5101:2-48-18, 5101:2-48-20, 5101:2-48-22, 5101:2-48-23, and 5101:2-48-25, there are no fines or civil penalties for non-compliance other than the potential loss of adoption agency certification.

20. What resources are available to assist small businesses with compliance of the regulation?

ODJFS has regional offices with technical assistance specialists and licensing specialists that will be able to assist agencies in obtaining and maintaining compliance with these regulations and providing required supervision visits and postfinalization services. Policy developers are also available to give technical assistance regarding the requirements of these rules.

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Common Sense Initiative

Mike DeWine, Governor
Jon Husted, Lt. Governor

Carrie Kuruc, Director

MEMORANDUM

TO: Michael Lynch, Ohio Department of Job and Family Services

FROM: Jacob Ritzenthaler, Regulatory Policy Advocate

DATE: October 23, 2020

RE: **CSI Review – Adoption Rules (OAC 5101:2-48-02, 5101:2-48-17, 5101:2-48-18, 5101:2-48-20, 5101:2-48-22, 5101:2-48-23, and 5101:2-48-25)**

On behalf of Lt. Governor Jon Husted, 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 consists of six amended rules and one rescinded rule proposed by the Ohio Department of Job and Family Services (ODJFS). This rule package was submitted to the CSI Office on September 30, 2020, and the public comment period was held open through October 7, 2020. Unless otherwise noted below, this recommendation reflects the version of the proposed rules filed with the CSI Office on September 30, 2020.

Ohio Administrative Code (OAC) Chapter 5102:2-48 establishes requirements for adoption. OAC 5102:2-48-02 sets forth guidance for the putative father registry, which facilitates notifying putative fathers when a child is placed for adoption and identifying putative fathers by an interested party. The rule is amended to update forms and website information. OAC 5102:2-48-17 addresses visits and contacts conducted by an assessor prior to adoption finalization and is being amended to update a website found in the rule. OAC 5102:2-48-18 sets forth requirements for post-finalization services and is being amended to include the use of regional Ohio Kinship and Adoption Navigator services. OAC 5102:2-48-20, 5102:2-48-22, and 5102:2-48-23 concern the release of information and adoptive family case records. The rules are being amended to remove

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form revision dates from the rule language. OAC 5102:2-48-25 sets forth requirements for adoption-related data collection and is being proposed for rescission, as the methods for data collection have been transferred into the Statewide Automated Child Welfare Information System (SACWIS).

During early stakeholder outreach, ODJFS sent the proposed rules to industry stakeholders through a Department interested parties email list. ODJFS also submitted the rules for feedback during meetings of the Public Children Services Association of Ohio legislative committee. No comments were received during this time or during the CSI public comment period.

The business community impacted by these rules includes all public and private adoption agencies operating in Ohio. The adverse impacts created by the rules are primarily time and effort spent complying with the requirements of the rules. Some of the required actions, such as assessor finalization visits, can vary in time based on the length and number of visits to an adoptive family's residence. Other rule requirements may take only the amount of time necessary to gather and submit information. ODJFS notes in the BIA that the transition to widespread implementation of SACWIS can reduce the administrative burden for some businesses. ODJFS states that the rules are necessary to ensure the safety of children placed in adoptive homes, through efforts made during the finalization process and recordkeeping essential to home transitions.

Recommendations

Based on the information above, the CSI Office has no recommendations on this rule package.

Conclusion

The CSI Office concludes that the Ohio Department of Job and Family Services should proceed in filing the proposed rules with the Joint Committee on Agency Rule Review.



ACTION: Final

Department of
Job and Family Services

DATE: 01/13/2021 9:08 AM

Mike DeWine, Governor

Kimberly Hall, Director

TO: Jacob Ritzenthaler, Regulatory Policy Advocate
CC: Carrie Kuruc, Director of the Common Sense Initiative Office

FROM: Christine Dobrovich, Bureau Chief
Office of Families and Children

RE: CSI Review: OFC: Chapters 5101:2-48

OAC rule 5101:2-48-02 Putative Father Registry"

OAC rule 5101:2-48-17, "Assessor visits and contacts with children in adoptive homes prior to finalization"

OAC rule 5101:2-48-18, "Postfinalization services"

OAC rule 5101:2-48-20, "Release of identifying and nonidentifying information"

OAC rule 5101:2-48-22, "Adoptive family case record"

OAC rule 5101:2-48-23, "Preservation of adoptive child case record"

OAC rule 5101:2-48-25, "Inter-country adoption data collection"

DATE: October 26, 2020

Thank you for your recent review of the referenced OAC rules. Based upon your recommendation for no changes to the rule, the Office of Families and Children will proceed with the formal filing of this rule package with the Joint Committee on Agency Rule Review (JCARR).

30 East Broad Street
Columbus, OH 43215
jfs.ohio.gov

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5101:2-48-23

Preservation of adoptive child case record.

- (A) The public children services agency (PCSA) or private child placing agency (PCPA) which has placed a child for adoption and for whom the adoption has been finalized, shall permanently maintain an adoptive child case record.
- (B) An adoptive child case record shall contain all ~~papers and records~~ documentation pertaining to the adoption, including:
- (1) A copy of the petition to adopt filed in a probate court.
 - (2) A copy of the child's original birth certificate.
 - (3) The JFS 01616 "Social and Medical History" ~~(rev. 6/2009)~~ pursuant to rule 5101:2-48-03 of the Administrative Code.
 - (4) A copy of the JFS 01699 "Prefinalization Adoption Assessment Report" ~~(rev. 12/2006)~~ pursuant to rule 5101:2-48-17 of the Administrative Code, and a redacted copy of the JFS 01699 pursuant to section 3107.12 of the Revised Code.
 - (5) A copy of the final decree of adoption or the interlocutory order of adoption.
 - (6) A copy of the child's lifebook pursuant to rule 5101:2-42-67 of the Administrative Code.
 - (7) A copy of the JFS 01689 "Documentation of the Placement Decision Making Process" ~~(rev. 7/2012)~~ pursuant to rules 5101:2-48-13 and 5101:2-48-16 of the Administrative Code.
 - (8) The JFS 01688 "Individualized Child Assessment" ~~(rev. 4/2014)~~ and any reports(s) submitted by the licensed professional associated with the JFS 01688, if applicable pursuant to rule 5101:2-48-13 of the Administrative Code.
 - (9) A copy of the JFS 01610 "Child's Permanency Planning Data Summary" ~~(rev. 02/2005)~~ pursuant to rule 5101:2-48-16 of the Administrative Code.
 - (10) A copy of all medical or psychological evaluations, school records or other material documented.
 - (11) A copy of the JFS 01690 "Documentation of the Pre-adoptive Staffing and Updates" ~~(rev. 2/2014)~~.
- (C) The agency shall maintain case records in a consistent and organized manner such that the required information set forth in this rule can be readily located. If the agency

maintains any required information set forth in this rule in a location other than the case record, it shall be stated in the agency policy or noted in the case record where the information can be found.

- (D) Upon the issuance of a final decree of adoption by a probate court or the finalization of an interlocutory order of adoption, the PCSA or PCPA shall mark the adoptive child case record as confidential and permanently secure such record from release or inspection of any information, except under the following conditions:
 - (1) Consent is given by the probate court.
 - (2) The PCSA or PCPA needs to examine its own papers, books, and records pertaining to a placement or adoption for official administrative purposes, including examining the records to obtain non-identifying information.
- (E) ODJFS may examine its own papers, books and records pertaining to a placement or adoption of a child and ODJFS may inspect the papers, books and records of a PCSA or PCPA for official administrative, certification and eligibility determination purposes once the adoptive child case records have been secured after a final decree of adoption has been issued or an interlocutory order of adoption has been finalized.
- (F) If an agency has maintained any of the original documents outlined in paragraph (B) of this rule, the agency shall return the original documents to the PCSA or PCPA that had permanent custody of the child prior to finalization.
- (G) The PCSA, PCPA and PNA shall comply with requirements of section 3107.17 of the Revised Code and paragraph (D) of this rule regarding the release of information pertaining to the adoption.

Effective: 2/1/2021

Five Year Review (FYR) Dates: 10/26/2020 and 02/01/2026

CERTIFIED ELECTRONICALLY

Certification

01/13/2021

Date

Promulgated Under: 119.03

Statutory Authority: 5103.03, 5153.166

Rule Amplifies: 3107.17

Prior Effective Dates: 12/30/1966, 10/01/1986, 07/01/1990, 09/01/1994,
09/18/1996, 02/13/1998 (Emer.), 05/14/1998,
12/31/1998, 04/01/1999, 09/01/2003, 02/01/2005,
12/11/2006, 03/01/2010, 10/01/2015



Common Sense Initiative

Mike DeWine, Governor
Jon Husted, Lt. Governor

Carrie Kuruc, Director

Business Impact Analysis

Agency, Board, or Commission Name: Ohio Department of Job and Family Services

Rule Contact Name and Contact Information:

Michael Lynch Michael.Lynch@jfs.ohio.gov

Regulation/Package Title (a general description of the rules' substantive content):

Chapter 5101:2-48 Adoption rules

Rule Number(s): 5101:2-48-02, 5101:2-48-17, 5101:2-48-18, 5101:2-48-20,

5101:2-48-22, 5101:2-48-23, 5101:2-48-25

Date of Submission for CSI Review: _____

Public Comment Period End Date: _____

Rule Type/Number of Rules:

New/___ rules

No Change/___ rules (FYR? ___)

Amended/___6___ rules (FYR? ___yes___)

Rescinded/___1___ rules (FYR? yes___)

The Common Sense Initiative is established in R.C. 107.61 to eliminate excessive and duplicative rules and regulations that stand in the way of job creation. Under the Common Sense Initiative, agencies must balance the critical objectives of regulations that have an adverse impact on business with the costs of compliance by the regulated parties. Agencies should promote transparency, responsiveness, predictability, and flexibility while developing regulations that are fair and easy to follow. Agencies should prioritize compliance over punishment, and to that end, should utilize plain language in the development of regulations.

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Reason for Submission

1. **R.C. 106.03 and 106.031 require agencies, when reviewing a rule, to determine whether the rule has an adverse impact on businesses as defined by R.C. 107.52. If the agency determines that it does, it must complete a business impact analysis and submit the rule for CSI review.**

Which adverse impact(s) to businesses has the agency determined the rule(s) create?

The rule(s):

- a. ☒ **Requires a license, permit, or any other prior authorization to engage in or operate a line of business.**
- b. ☒ **Imposes a criminal penalty, a civil penalty, or another sanction, or creates a cause of action for failure to comply with its terms.**
- c. ☒ **Requires specific expenditures or the report of information as a condition of compliance.**
- d. ☐ **Is likely to directly reduce the revenue or increase the expenses of the lines of business to which it will apply or applies.**

Regulatory Intent

2. **Please briefly describe the draft regulation in plain language.**

Please include the key provisions of the regulation as well as any proposed amendments.

OAC rule 5101:2-48-02 entitled "Putative father registry," provides guidance to putative fathers on registering. The rule also provides guidance on the process of requesting a search of the putative father registry for the purpose of adoption. The website addresses were updated. The form revision dates were removed throughout the rule.

OAC rule 5101:2-48-17, entitled "Assessor visits and contacts with children in adoptive homes prior to finalization," provides guidance to assessors on the number of visits required prior to finalization and the information the assessor is required to obtain at those visits. In paragraph (E) the website address was updated. The form revision dates were removed throughout the rule.

OAC rule 5101:2-48-18, entitled "Postfinalization services," provides guidance on agencies' responsibility to provide postfinalization services. In paragraph (D) a reference was made to Ohio Kinship and Adoption Navigator (OhioKAN) as a resource. The form revision dates were removed throughout the rule.

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OAC rule 5101:2-48-20, entitled "Release of identifying and nonidentifying information," provides guidance to assessors on their responsibility to inform birth parents about their right to approve and deny the release of identifying information. The rule also provides guidance to assessors about informing adoptive parents of information that may be requested by the adopted child. The form revision dates were removed throughout the rule.

OAC rule 5101:2-48-22, entitled "Adoptive family case record," provides guidance to agencies on preparing and maintaining case records. The form revision dates were removed throughout the rule.

OAC rule 5101:2-48-23, entitled "Preservation of adoptive child case record," provides guidance to agencies on the requirements of maintaining an adoptive case record, specifically all the required forms and documentation. The form revision dates were removed throughout the rule.

OAC rule 5101:2-48-25, entitled "Inter-country adoption data collection," is being rescinded as the process of documentation has transitioned to the Statewide Automated Child Welfare Information System. Forms JFS 01670 and JFS 01670-I are to be obsoleted as the information is now captured in the SACWIS system.

3. Please list the Ohio statute(s) that authorize the agency, board or commission to adopt the rule(s) and the statute(s) that amplify that authority.

Rule Number	Statutory Authority
Rule 5101:2-48-02	ORC 3107.065, 5153.166
Rule 5101:2-48-17	ORC 3107.101, 3107.12, 5153.166
Rule 5101:2-48-18	ORC 5103.03, 5153.166
Rule 5101:2-48-20	ORC 3107.083, 5153.166
Rule 5101:2-48-22	ORC 5101.141, 5103.03, 5153.166
Rule 5101:2-48-23	ORC 5103.03, 5153.166
Rule 5101:2-48-25	ORC 5103.03, 5153.166

**4. Does the regulation implement a federal requirement? Is the proposed regulation being adopted or amended to enable the state to obtain or maintain approval to administer and enforce a federal law or to participate in a federal program?
*If yes, please briefly explain the source and substance of the federal requirement.***

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Rules 5101:2-48-02, 5101:2-48-17, 5101:2-48-18, 5101:2-48-20, 5101:2-48-22, 5101:2-48-23 and 5101:2-48-25 do not implement a federal regulation and are not being amended to enable the state to obtain or maintain approval to administer and enforce a federal law or to participate in a federal program.

5. If the regulation includes provisions not specifically required by the federal government, please explain the rationale for exceeding the federal requirement.

This is not applicable as the rules do not implement a requirement of Federal Law, nor do they exceed any Federal requirements.

6. What is the public purpose for this regulation (i.e., why does the Agency feel that there needs to be any regulation in this area at all)?

The rules, which are promulgated pursuant to the requirements of the Revised Code, establish regulations for the minimum standards to ensure the safety and well-being of children being placed in adoptive homes.

Rule 5101:2-48-02 protects the best interests of the child by ensuring that putative fathers have a process to become notified in the event their child is placed for adoption. Agencies are required to search the putative registry prior to finalizing an adoptive placement. If there is an appropriate match, the agency and putative father will be notified of the match. Once notified, the putative father has an opportunity to contact the courts regarding his rights, up to and including becoming the child's primary parent and caretaker.

Rule 5101:2-48-17 ensures the safety, stability, and well-being of a child in an adoptive placement by outlining the requirements for assessor visits to the home during the prefinalization timeframe. The rule mandates timeframes for visits, location of visits, individuals present during visits, and what topics are to be addressed during the visits. All of these requirements help to ensure the stability of the placement for the child.

Rule 5101:2-48-18 ensures the ongoing stability and preservation of the family by requiring the agency to outline in its policies the postfinalization services they offer families, as well as their process for referring families who are in need of programs or services the agency does not offer.

Rule 5101:2-48-20 ensures the well-being of all members of the adoption triad by outlining what identifying and non-identifying information is able to be shared with the adoptive parent and/or the adopted person as time goes on.

5101:2-48-22 provides guidance to agencies on preparing case records. The rule details the forms and documentation that are required to be part of the file.

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5101:2-48-23 provides guidance to agencies on maintaining adoptive case records during the adoption process and after finalization including all forms and legal documents.

5101:2-48-25 is being rescinded as the process of documentation has transitioned to the Statewide Automated Child Welfare Information System. Forms JFS 01670 and JFS 01670-I are to be obsoleted as the information is now captured in the SACWIS system.

7. How will the Agency measure the success of this regulation in terms of outputs and/or outcomes?

The success of these regulations will be measured against the criteria specific to the content in each rule in assuring the safe placement of children into adoptive homes.

8. Are any of the proposed rules contained in this rule package being submitted pursuant to R.C. 101.352, 101.353, 106.032, 121.93, or 121.931?

If yes, please specify the rule number(s), the specific R.C. section requiring this submission, and a detailed explanation.

No

Development of the Regulation

9. Please list the stakeholders included by the Agency in the development or initial review of the draft regulation.

If applicable, please include the date and medium by which the stakeholders were initially contacted.

There were no comments received on www.ohiorulereview.org during the public posting period and the PCSAO legislative committee provided no input. There were no public comments made on the rule package.

10. What input was provided by the stakeholders, and how did that input affect the draft regulation being proposed by the Agency?

There were no comments or input provided. These rules went the ODJFS clearance process on 7/24/20 through 8/7/20 and received no comments from stakeholders.

11. What scientific data was used to develop the rule or the measurable outcomes of the rule? How does this data support the regulation being proposed?

Not applicable

12. What alternative regulations (or specific provisions within the regulation) did the Agency consider, and why did it determine that these alternatives were not appropriate? If none, why didn't the Agency consider regulatory alternatives?

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There were no other alternatives considered for these rules as the rules are driven by statute.

13. Did the Agency specifically consider a performance-based regulation? Please explain.

Performance-based regulations define the required outcome, but don't dictate the process the regulated stakeholders must use to achieve compliance.

No. ODJFS did not consider a performance-based initiative, but rather followed statutory language prescribing that the department set minimum standards to ensure the safety and well-being of all children entering adoptive homes.

14. What measures did the Agency take to ensure that this regulation does not duplicate an existing Ohio regulation?

There are no duplications as the rules are specific to adoption agencies and no other rules address these specific issues. ODJFS legal staff reviewed the rules to ensure there is no duplicative regulation in the Administrative Code.

15. Please describe the Agency's plan for implementation of the regulation, including any measures to ensure that the regulation is applied consistently and predictably for the regulated community.

The rules do not prescribe anything that would not be applied consistently. ODJFS licensing specialists review the agencies to ensure the regulations are applied consistently and they offer technical assistance in areas of inconsistency.

Adverse Impact to Business

16. Provide a summary of the estimated cost of compliance with the rule. Specifically, please do the following:

- a. Identify the scope of the impacted business community; and
- b. Identify the nature of all adverse impact (e.g., fees, fines, employer time for compliance,); and
- c. Quantify the expected adverse impact from the regulation.
The adverse impact can be quantified in terms of dollars, hours to comply, or other factors; and may be estimated for the entire regulated population or for a "representative business." Please include the source for your information/estimated impact.

The rules of the Administrative Code in Chapters 5101:2-48 contain requirements for adoption agencies that include public and private agencies. Requirements must be met to obtain and/or maintain certification.

5101:2-48-02 – The timeframes involved in referring putative fathers to the putative father registry, as well as contacting the registry for a final search for a putative father at

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least 31 days after the child's birth. Given that the PFR is entirely electronic, requesting the final search would only take a matter of 5-10 minutes to enter in the appropriate data to submit to ODJFS. The rule includes the requirements for a final registry check prior to the issuance of the final decree of adoption. This response would become part of the finalization packet to be submitted to court for the adoption decree.

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ODJFS has regional offices with technical assistance specialists and licensing specialists that will be able to assist agencies in obtaining and maintaining compliance with these regulations and providing required supervision visits and postfinalization services. Policy developers are also available to give technical assistance regarding the requirements of these rules.

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Common Sense Initiative

Mike DeWine, Governor
Jon Husted, Lt. Governor

Carrie Kuruc, Director

MEMORANDUM

TO: Michael Lynch, Ohio Department of Job and Family Services

FROM: Jacob Ritzenthaler, Regulatory Policy Advocate

DATE: October 23, 2020

RE: **CSI Review – Adoption Rules (OAC 5101:2-48-02, 5101:2-48-17, 5101:2-48-18, 5101:2-48-20, 5101:2-48-22, 5101:2-48-23, and 5101:2-48-25)**

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This rule package consists of six amended rules and one rescinded rule proposed by the Ohio Department of Job and Family Services (ODJFS). This rule package was submitted to the CSI Office on September 30, 2020, and the public comment period was held open through October 7, 2020. Unless otherwise noted below, this recommendation reflects the version of the proposed rules filed with the CSI Office on September 30, 2020.

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form revision dates from the rule language. OAC 5102:2-48-25 sets forth requirements for adoption-related data collection and is being proposed for rescission, as the methods for data collection have been transferred into the Statewide Automated Child Welfare Information System (SACWIS).

During early stakeholder outreach, ODJFS sent the proposed rules to industry stakeholders through a Department interested parties email list. ODJFS also submitted the rules for feedback during meetings of the Public Children Services Association of Ohio legislative committee. No comments were received during this time or during the CSI public comment period.

The business community impacted by these rules includes all public and private adoption agencies operating in Ohio. The adverse impacts created by the rules are primarily time and effort spent complying with the requirements of the rules. Some of the required actions, such as assessor finalization visits, can vary in time based on the length and number of visits to an adoptive family's residence. Other rule requirements may take only the amount of time necessary to gather and submit information. ODJFS notes in the BIA that the transition to widespread implementation of SACWIS can reduce the administrative burden for some businesses. ODJFS states that the rules are necessary to ensure the safety of children placed in adoptive homes, through efforts made during the finalization process and recordkeeping essential to home transitions.

Recommendations

Based on the information above, the CSI Office has no recommendations on this rule package.

Conclusion

The CSI Office concludes that the Ohio Department of Job and Family Services should proceed in filing the proposed rules with the Joint Committee on Agency Rule Review.



ACTION: Final

Department of
Job and Family Services

DATE: 01/13/2021 9:08 AM

Mike DeWine, Governor

Kimberly Hall, Director

TO: Jacob Ritzenthaler, Regulatory Policy Advocate
CC: Carrie Kuruc, Director of the Common Sense Initiative Office

FROM: Christine Dobrovich, Bureau Chief
Office of Families and Children

RE: CSI Review: OFC: Chapters 5101:2-48

OAC rule 5101:2-48-02 Putative Father Registry"

OAC rule 5101:2-48-17, "Assessor visits and contacts with children in adoptive homes prior to finalization"

OAC rule 5101:2-48-18, "Postfinalization services"

OAC rule 5101:2-48-20, "Release of identifying and nonidentifying information"

OAC rule 5101:2-48-22, "Adoptive family case record"

OAC rule 5101:2-48-23, "Preservation of adoptive child case record"

OAC rule 5101:2-48-25, "Inter-country adoption data collection"

DATE: October 26, 2020

Thank you for your recent review of the referenced OAC rules. Based upon your recommendation for no changes to the rule, the Office of Families and Children will proceed with the formal filing of this rule package with the Joint Committee on Agency Rule Review (JCARR).

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TO BE RESCINDED

5101:2-48-25 **Inter-country adoption data collection.**

(A) The following definitions apply to this rule:

- (1) Inter-country adoption is a type of adoption in which an individual or couple becomes the legal and permanent parents of a child born in another country.
- (2) A "disruption" is the interruption of a placement for adoption during the post-placement period.
- (3) A "dissolution" is the termination of the adoptive parent's parental rights after the adoption is finalized.

(B) A public children services agency (PCSA) or private child placing agency (PCPA) shall complete a JFS 01670 "Inter-Country Adoption Data Collection" (rev. 1/2009) for each child who was adopted via inter-country and who entered foster care due to an adoptive placement disruption or an adoption dissolution.

(C) The PCSA or PCPA shall submit the JFS 01670 to the Ohio department of job and family services (ODJFS) within ten days after a disruption of a child's adoption or within ten days after the dissolution of an adoption.

(D) The PCSA or PCPA shall complete a JFS 01670 even if the child is already in foster care when the adoption dissolved.

(E) The PCSA or PCPA shall report a disruption even if the child's plan is reunification with the prospective adoptive parent and the child's stay in foster care is intended to be brief.

(F) The PCSA or PCPA shall not complete a JFS 01670 for a child who enters foster care after a finalized adoption if the adoptive parent's legal rights to the child remain intact.

Effective: 2/1/2021

Five Year Review (FYR) Dates: 10/26/2020

CERTIFIED ELECTRONICALLY

Certification

01/13/2021

Date

Promulgated Under: 119.03
Statutory Authority: 5103.03, 5153.166
Rule Amplifies: 5103.03, 5153.166
Prior Effective Dates: 01/11/2009, 09/01/2014



Common Sense Initiative

Mike DeWine, Governor
Jon Husted, Lt. Governor

Carrie Kuruc, Director

Business Impact Analysis

Agency, Board, or Commission Name: Ohio Department of Job and Family Services

Rule Contact Name and Contact Information:

Michael Lynch Michael.Lynch@jfs.ohio.gov

Regulation/Package Title (a general description of the rules' substantive content):

Chapter 5101:2-48 Adoption rules

Rule Number(s): 5101:2-48-02, 5101:2-48-17, 5101:2-48-18, 5101:2-48-20,

5101:2-48-22, 5101:2-48-23, 5101:2-48-25

Date of Submission for CSI Review: _____

Public Comment Period End Date: _____

Rule Type/Number of Rules:

New/___ rules

No Change/___ rules (FYR? ___)

Amended/___6___ rules (FYR? ___yes___)

Rescinded/___1___ rules (FYR? yes___)

The Common Sense Initiative is established in R.C. 107.61 to eliminate excessive and duplicative rules and regulations that stand in the way of job creation. Under the Common Sense Initiative, agencies must balance the critical objectives of regulations that have an adverse impact on business with the costs of compliance by the regulated parties. Agencies should promote transparency, responsiveness, predictability, and flexibility while developing regulations that are fair and easy to follow. Agencies should prioritize compliance over punishment, and to that end, should utilize plain language in the development of regulations.

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Reason for Submission

1. **R.C. 106.03 and 106.031 require agencies, when reviewing a rule, to determine whether the rule has an adverse impact on businesses as defined by R.C. 107.52. If the agency determines that it does, it must complete a business impact analysis and submit the rule for CSI review.**

Which adverse impact(s) to businesses has the agency determined the rule(s) create?

The rule(s):

- a. ☒ **Requires a license, permit, or any other prior authorization to engage in or operate a line of business.**
- b. ☒ **Imposes a criminal penalty, a civil penalty, or another sanction, or creates a cause of action for failure to comply with its terms.**
- c. ☒ **Requires specific expenditures or the report of information as a condition of compliance.**
- d. ☐ **Is likely to directly reduce the revenue or increase the expenses of the lines of business to which it will apply or applies.**

Regulatory Intent

2. **Please briefly describe the draft regulation in plain language.**

Please include the key provisions of the regulation as well as any proposed amendments.

OAC rule 5101:2-48-02 entitled "Putative father registry," provides guidance to putative fathers on registering. The rule also provides guidance on the process of requesting a search of the putative father registry for the purpose of adoption. The website addresses were updated. The form revision dates were removed throughout the rule.

OAC rule 5101:2-48-17, entitled "Assessor visits and contacts with children in adoptive homes prior to finalization," provides guidance to assessors on the number of visits required prior to finalization and the information the assessor is required to obtain at those visits. In paragraph (E) the website address was updated. The form revision dates were removed throughout the rule.

OAC rule 5101:2-48-18, entitled "Postfinalization services," provides guidance on agencies' responsibility to provide postfinalization services. In paragraph (D) a reference was made to Ohio Kinship and Adoption Navigator (OhioKAN) as a resource. The form revision dates were removed throughout the rule.

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OAC rule 5101:2-48-20, entitled "Release of identifying and nonidentifying information," provides guidance to assessors on their responsibility to inform birth parents about their right to approve and deny the release of identifying information. The rule also provides guidance to assessors about informing adoptive parents of information that may be requested by the adopted child. The form revision dates were removed throughout the rule.

OAC rule 5101:2-48-22, entitled "Adoptive family case record," provides guidance to agencies on preparing and maintaining case records. The form revision dates were removed throughout the rule.

OAC rule 5101:2-48-23, entitled "Preservation of adoptive child case record," provides guidance to agencies on the requirements of maintaining an adoptive case record, specifically all the required forms and documentation. The form revision dates were removed throughout the rule.

OAC rule 5101:2-48-25, entitled "Inter-country adoption data collection," is being rescinded as the process of documentation has transitioned to the Statewide Automated Child Welfare Information System. Forms JFS 01670 and JFS 01670-I are to be obsoleted as the information is now captured in the SACWIS system.

3. Please list the Ohio statute(s) that authorize the agency, board or commission to adopt the rule(s) and the statute(s) that amplify that authority.

Rule Number	Statutory Authority
Rule 5101:2-48-02	ORC 3107.065, 5153.166
Rule 5101:2-48-17	ORC 3107.101, 3107.12, 5153.166
Rule 5101:2-48-18	ORC 5103.03, 5153.166
Rule 5101:2-48-20	ORC 3107.083, 5153.166
Rule 5101:2-48-22	ORC 5101.141, 5103.03, 5153.166
Rule 5101:2-48-23	ORC 5103.03, 5153.166
Rule 5101:2-48-25	ORC 5103.03, 5153.166

**4. Does the regulation implement a federal requirement? Is the proposed regulation being adopted or amended to enable the state to obtain or maintain approval to administer and enforce a federal law or to participate in a federal program?
*If yes, please briefly explain the source and substance of the federal requirement.***

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Rules 5101:2-48-02, 5101:2-48-17, 5101:2-48-18, 5101:2-48-20, 5101:2-48-22, 5101:2-48-23 and 5101:2-48-25 do not implement a federal regulation and are not being amended to enable the state to obtain or maintain approval to administer and enforce a federal law or to participate in a federal program.

5. If the regulation includes provisions not specifically required by the federal government, please explain the rationale for exceeding the federal requirement.

This is not applicable as the rules do not implement a requirement of Federal Law, nor do they exceed any Federal requirements.

6. What is the public purpose for this regulation (i.e., why does the Agency feel that there needs to be any regulation in this area at all)?

The rules, which are promulgated pursuant to the requirements of the Revised Code, establish regulations for the minimum standards to ensure the safety and well-being of children being placed in adoptive homes.

Rule 5101:2-48-02 protects the best interests of the child by ensuring that putative fathers have a process to become notified in the event their child is placed for adoption. Agencies are required to search the putative registry prior to finalizing an adoptive placement. If there is an appropriate match, the agency and putative father will be notified of the match. Once notified, the putative father has an opportunity to contact the courts regarding his rights, up to and including becoming the child's primary parent and caretaker.

Rule 5101:2-48-17 ensures the safety, stability, and well-being of a child in an adoptive placement by outlining the requirements for assessor visits to the home during the prefinalization timeframe. The rule mandates timeframes for visits, location of visits, individuals present during visits, and what topics are to be addressed during the visits. All of these requirements help to ensure the stability of the placement for the child.

Rule 5101:2-48-18 ensures the ongoing stability and preservation of the family by requiring the agency to outline in its policies the postfinalization services they offer families, as well as their process for referring families who are in need of programs or services the agency does not offer.

Rule 5101:2-48-20 ensures the well-being of all members of the adoption triad by outlining what identifying and non-identifying information is able to be shared with the adoptive parent and/or the adopted person as time goes on.

5101:2-48-22 provides guidance to agencies on preparing case records. The rule details the forms and documentation that are required to be part of the file.

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5101:2-48-23 provides guidance to agencies on maintaining adoptive case records during the adoption process and after finalization including all forms and legal documents.

5101:2-48-25 is being rescinded as the process of documentation has transitioned to the Statewide Automated Child Welfare Information System. Forms JFS 01670 and JFS 01670-I are to be obsoleted as the information is now captured in the SACWIS system.

7. How will the Agency measure the success of this regulation in terms of outputs and/or outcomes?

The success of these regulations will be measured against the criteria specific to the content in each rule in assuring the safe placement of children into adoptive homes.

8. Are any of the proposed rules contained in this rule package being submitted pursuant to R.C. 101.352, 101.353, 106.032, 121.93, or 121.931?

If yes, please specify the rule number(s), the specific R.C. section requiring this submission, and a detailed explanation.

No

Development of the Regulation

9. Please list the stakeholders included by the Agency in the development or initial review of the draft regulation.

If applicable, please include the date and medium by which the stakeholders were initially contacted.

There were no comments received on www.ohiorulereview.org during the public posting period and the PCSAO legislative committee provided no input. There were no public comments made on the rule package.

10. What input was provided by the stakeholders, and how did that input affect the draft regulation being proposed by the Agency?

There were no comments or input provided. These rules went the ODJFS clearance process on 7/24/20 through 8/7/20 and received no comments from stakeholders.

11. What scientific data was used to develop the rule or the measurable outcomes of the rule? How does this data support the regulation being proposed?

Not applicable

12. What alternative regulations (or specific provisions within the regulation) did the Agency consider, and why did it determine that these alternatives were not appropriate? If none, why didn't the Agency consider regulatory alternatives?

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There were no other alternatives considered for these rules as the rules are driven by statute.

13. Did the Agency specifically consider a performance-based regulation? Please explain.

Performance-based regulations define the required outcome, but don't dictate the process the regulated stakeholders must use to achieve compliance.

No. ODJFS did not consider a performance-based initiative, but rather followed statutory language prescribing that the department set minimum standards to ensure the safety and well-being of all children entering adoptive homes.

14. What measures did the Agency take to ensure that this regulation does not duplicate an existing Ohio regulation?

There are no duplications as the rules are specific to adoption agencies and no other rules address these specific issues. ODJFS legal staff reviewed the rules to ensure there is no duplicative regulation in the Administrative Code.

15. Please describe the Agency's plan for implementation of the regulation, including any measures to ensure that the regulation is applied consistently and predictably for the regulated community.

The rules do not prescribe anything that would not be applied consistently. ODJFS licensing specialists review the agencies to ensure the regulations are applied consistently and they offer technical assistance in areas of inconsistency.

Adverse Impact to Business

16. Provide a summary of the estimated cost of compliance with the rule. Specifically, please do the following:

- a. Identify the scope of the impacted business community; and**
- b. Identify the nature of all adverse impact (e.g., fees, fines, employer time for compliance,); and**
- c. Quantify the expected adverse impact from the regulation.**
The adverse impact can be quantified in terms of dollars, hours to comply, or other factors; and may be estimated for the entire regulated population or for a "representative business." Please include the source for your information/estimated impact.

The rules of the Administrative Code in Chapters 5101:2-48 contain requirements for adoption agencies that include public and private agencies. Requirements must be met to obtain and/or maintain certification.

5101:2-48-02 – The timeframes involved in referring putative fathers to the putative father registry, as well as contacting the registry for a final search for a putative father at

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least 31 days after the child's birth. Given that the PFR is entirely electronic, requesting the final search would only take a matter of 5-10 minutes to enter in the appropriate data to submit to ODJFS. The rule includes the requirements for a final registry check prior to the issuance of the final decree of adoption. This response would become part of the finalization packet to be submitted to court for the adoption decree.

5101:2-48-17 – The timeframes involved in having assessors complete and document prefinalization visits with children in adoptive homes. This timeframe is also difficult to quantify as every child and every adoptive family have different dynamics, therefore the amount of time spent in the home during the prefinalization period, and the amount of time spent documenting the visits will differ from family to family. If a worker were to complete and document the minimum number of visits during the prefinalization period, the time may range from 18 hours to 36 hours, depending on travel time.

5101:2-48-18 – The timeframes involved in regard to agencies developing their policy, in addition to actually providing postfinalization services, or referring persons in need of such services to outside agencies. The time involved to carry out this requirement would vary from agency to agency, depending on which post-adoption services they do offer in comparison to simply referring families to other service providers. The time involved in creating the policy would be relative to the amount and complexity of their post adoption services and could range from 20 minutes to approximately 2 hours for agencies with in-depth programs and services to offer families in need of post adoption services.

5101:2-48-20 – The timeframes involved in informing birth parents and adoptive parents of their rights regarding the release of identifying and nonidentifying information, as well as the timeframes involved in redacting and releasing nonidentifying information when permissible. This would take approximately 30 minutes, in order to ensure that the birth mom completely understood the implications of her actions.

5101-2-48-22--The timeframes involved in ensuring that the adoption file contains all the required forms and documentation. The time involved to create and obtain these forms and documents would vary from agency to agency based on the availability of documents and the availability of people that must be interviewed in order to obtain information.

5101-2-48-23—The timeframes involved in ensuring the agency is preserving adoption records indefinitely. The timeframes involved to maintain a paper or electronic copy of an adoption file would vary depending on the method of preservation used by the agency. Due to the different methods of preservation the timeframes would vary from agency to

agency. Cost involved could include purchase and maintaining of an electronic record keeping system or the cost of files and space to maintain said records.

5101:2-48-25—The timeframes involved completing forms to document the dissolutions of inter-county adoptions. The process has moved to the Statewide Automated Child Welfare Information System which reduces steps in the process including ensuring the Ohio Department of Job and Family Services received the form within the 10-day time frame. This could be by postage mail, email, or facsimile.

17. Why did the Agency determine that the regulatory intent justifies the adverse impact to the regulated business community?

To ensure the safety and well-being of children placed in adoptive settings and the parental rights of putative fathers, the adverse impact of these regulations is justified.

Regulatory Flexibility

18. Does the regulation provide any exemptions or alternative means of compliance for small businesses? Please explain.

No, there is no alternative means of compliance.

19. How will the agency apply Ohio Revised Code section 119.14 (waiver of fines and penalties for paperwork violations and first-time offenders) into implementation of the regulation?

For rules 5101:2-48-02, 5101:2-48-17, 5101:2-48-18, 5101:2-48-20, 5101:2-48-22, 5101:2-48-23, and 5101:2-48-25, there are no fines or civil penalties for non-compliance other than the potential loss of adoption agency certification.

20. What resources are available to assist small businesses with compliance of the regulation?

ODJFS has regional offices with technical assistance specialists and licensing specialists that will be able to assist agencies in obtaining and maintaining compliance with these regulations and providing required supervision visits and postfinalization services. Policy developers are also available to give technical assistance regarding the requirements of these rules.



Common Sense Initiative

Mike DeWine, Governor
Jon Husted, Lt. Governor

Carrie Kuruc, Director

MEMORANDUM

TO: Michael Lynch, Ohio Department of Job and Family Services

FROM: Jacob Ritzenthaler, Regulatory Policy Advocate

DATE: October 23, 2020

RE: **CSI Review – Adoption Rules (OAC 5101:2-48-02, 5101:2-48-17, 5101:2-48-18, 5101:2-48-20, 5101:2-48-22, 5101:2-48-23, and 5101:2-48-25)**

On behalf of Lt. Governor Jon Husted, 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 consists of six amended rules and one rescinded rule proposed by the Ohio Department of Job and Family Services (ODJFS). This rule package was submitted to the CSI Office on September 30, 2020, and the public comment period was held open through October 7, 2020. Unless otherwise noted below, this recommendation reflects the version of the proposed rules filed with the CSI Office on September 30, 2020.

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The business community impacted by these rules includes all public and private adoption agencies operating in Ohio. The adverse impacts created by the rules are primarily time and effort spent complying with the requirements of the rules. Some of the required actions, such as assessor finalization visits, can vary in time based on the length and number of visits to an adoptive family's residence. Other rule requirements may take only the amount of time necessary to gather and submit information. ODJFS notes in the BIA that the transition to widespread implementation of SACWIS can reduce the administrative burden for some businesses. ODJFS states that the rules are necessary to ensure the safety of children placed in adoptive homes, through efforts made during the finalization process and recordkeeping essential to home transitions.

Recommendations

Based on the information above, the CSI Office has no recommendations on this rule package.

Conclusion

The CSI Office concludes that the Ohio Department of Job and Family Services should proceed in filing the proposed rules with the Joint Committee on Agency Rule Review.



ACTION: Final

Department of
Job and Family Services

DATE: 01/13/2021 9:08 AM

Mike DeWine, Governor

Kimberly Hall, Director

TO: Jacob Ritzenthaler, Regulatory Policy Advocate
CC: Carrie Kuruc, Director of the Common Sense Initiative Office

FROM: Christine Dobrovich, Bureau Chief
Office of Families and Children

RE: CSI Review: OFC: Chapters 5101:2-48

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DATE: October 26, 2020

Thank you for your recent review of the referenced OAC rules. Based upon your recommendation for no changes to the rule, the Office of Families and Children will proceed with the formal filing of this rule package with the Joint Committee on Agency Rule Review (JCARR).

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