



Ohio Administrative Code

Rule 5101:2-48-10 Restrictions concerning provision of adoption services.

Effective: April 1, 2021

(A) A public children services agency (PCSA), private child placing agency (PCPA), or private noncustodial agency (PNA) shall request that the bureau of criminal investigation (BCI) conduct a criminal records check on prospective adoptive parents and adult members of the prospective adoptive parent's household pursuant to the procedures set forth in section 2151.86 of the Revised Code.

(B) The PCSA, PCPA or PNA shall request that BCI include information from the federal bureau of investigation (FBI) in the criminal records check for each person subject to a criminal records check in accordance with division (A)(4) of section 109.572 of the Revised Code.

(C) A PCSA, PCPA or PNA shall not approve an adoptive placement if the results of the BCI criminal records check or the FBI check indicate that a prospective adoptive parent or, when applicable, any adult who resides with the prospective adoptive parent has been convicted of or pleaded guilty to any offense listed in appendix A to rule 5101:2-7-02 of the Administrative Code.

(D) Rehabilitative criteria for adoptive applicants and all other adult household members: unless specifically disqualified in appendix A to rule 5101:2-7-02 of the Administrative Code, no person who has been convicted of or pleaded guilty to an offense listed in appendix A to rule 5101:2-7-02 of the Administrative Code shall be considered for adoptive placement or be an adult resident of the prospective adoptive parent's household unless the PCSA, PCPA or PNA finds and documents that person has met all of the following conditions:

(1) The victim of the offense was not a person under the age of eighteen.

(2) The prospective adoptive parent's approval, or the person's residency in the prospective adoptive parent's household, will not jeopardize in any way the health, safety, or welfare of the children the PCSA, PCPA, or PNA serves. The following factors shall be considered in determining the person's approval as an adoptive parent or the person's residency in the adoptive parent's household:



- (a) The person's age at the time of the offense.
- (b) The nature and seriousness of the offense.
- (c) The circumstances under which the offense was committed.
- (d) The degree of participation of the person involved in the offense.
- (e) The time elapsed since the person was fully discharged from imprisonment or probation.
- (f) The likelihood that the circumstances leading to the offense will recur.
- (g) Whether the person is a repeat offender. "Repeat offender" means a person who has been convicted of or pleaded guilty to the commission of any of the offenses listed in appendix A to rule 5101:2-7-02 of the Administrative Code two or more times in separate criminal actions. Convictions or guilty pleas resulting from or connected with the same act, or resulting from offenses committed at the same time, shall be counted as one conviction or guilty plea.
- (h) The person's employment record.
- (i) The person's efforts at rehabilitation and the results of those efforts.
- (j) Whether any criminal proceedings are pending against the person.
- (k) Whether the person has been convicted of or pleaded guilty to a felony contained in the Revised Code that is not listed in appendix A to rule 5101:2-7-02 of the Administrative Code, if the felony bears a direct and substantial relationship to being an adoptive parent or adult member of the adoptive parent's household.
- (l) The victim of the offense was:
 - (i) A functionally impaired person as defined in section 2903.10 of the Revised Code.



(ii) A developmentally disabled person as defined in section 5123.01 of the Revised Code.

(iii) A person with a mental illness as defined in section 5122.01 of the Revised Code.

(iv) A person sixty years of age or older.

(m) Any other factors the PCSA, PCPA, or PNA considers relevant.

(E) It is the prospective adoptive parent's duty to provide written verification that the conditions specified in paragraph (D) of this rule are met. If the prospective adoptive parent fails to provide such proof or if the PCSA, PCPA, or PNA determines that the proof offered by the prospective adoptive parent is inconclusive, the prospective adoptive parent shall not be considered. Any doubt shall be resolved in favor of protecting the children the PCSA, PCPA, or PNA serves.

(F) All paragraphs of this rule are applicable to records of convictions that have been sealed pursuant to section 2953.32 of the Revised Code because the information contained in those sealed records bears a direct and substantial relationship to the care to be provided to any child who may be placed in the home.

(G) A conviction of, or a plea of guilty to, an offense listed in appendix A to rule 5101:2-7-02 of the Administrative Code shall not prevent a person's approval as an adoptive parent or being an adult household member of the home if the person has been granted an unconditional pardon for the offense pursuant to Chapter 2967. of the Revised Code or the conviction or guilty plea has been set aside pursuant to law. For purposes of this rule, "unconditional pardon" includes a conditional pardon with respect to which all conditions have been performed or have transpired.

(H) The report of any criminal records check conducted by BCI in accordance with section 109.572 of the Revised Code and pursuant to a request made by the PCSA, PCPA or PNA is not a public record for purposes of section 149.43 of the Revised Code. The report shall be made available only to the following persons:

(1) The person who is the subject of the criminal records check or his representative.



- (2) The PCSA, PCPA, or PNA requesting the criminal records check or its representative.

 - (3) The department of job and family services, a county department of job and family services or a public children services agency.

 - (4) Any court, hearing officer, or other necessary individual involved in a case dealing with the denial of a final decree of adoption or interlocutory order of adoption.
- (I) Foster parents who are being considered for adoption of a foster child residing in their home shall be assessed according to the standards contained in rule 5101:2-48-11 or 5101:2-48-11.1 of the Administrative Code, as applicable.