



September 29, 2023

**Family, Children and Adult Services Procedure Letter No. 412**

**TO:** Family, Children and Adult Services Manual Holders

**FROM:** Matt Damschroder, Director

**SUBJECT:** New/Changed practice requirements due to House Bill 33

**BACKGROUND**

The Ohio Department of Job and Family Services (ODJFS) is issuing this Procedure Letter in accordance with the 2024-2025 Operating Budget, Amended Substitute House Bill 33 of the 135<sup>th</sup> General Assembly (HB 33), which was signed by Governor Mike DeWine on July 4, 2023. The provisions of HB 33, including the statutory changes summarized below, become effective on October 3, 2023.

**PURPOSE**

This Procedure Letter provides information and guidance to Public Children Services Agencies (PCSAs), Private Child Placing Agencies (PCPAs) and Private Non-Custodial Agencies (PNAs) in accordance with statutory changes included in HB 33. Several Ohio Administrative Codes (OAC) will be amended or developed after the Ohio Revised Codes (ORC) effective date(s) due to five-year rule reviews and workgroups in process. These processes allow additional time to engage stakeholders in gathering feedback and suggestions to assist in revisions to OAC rules, child protection programming, and enhancements to Automated Systems.

**SUMMARY**

The following provides a detailed summarization of statutory changes, with applicable ORC sections. PCSAs, PCPAs and PNAs are responsible for adjusting practice in accordance with these new statutory requirements effective October 3, 2023.

- [Records of Adults Formerly Placed in Foster Care](#)
- [Abused Child Definition](#)
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- [Continuous Certification](#)
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- [Interstate Compact on Placement of Children](#)
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### Records of Adults Formerly Placed in Foster Care

ORC Section 5153.17 Maintenance of records.

- Requires a PCSA to allow an adult who was formerly placed in foster care to inspect records pertaining to the time in foster care upon request.
- Allows the PCSA's executive director or the director's designee to redact information that is specific to other individuals if that information does not directly pertain to the adult.

**Guidance:** Upon request by an adult formerly placed in foster care, the PCSA is recommended to consult with the agency's legal counsel to determine the process and inspection to records pertaining to the adult's time placed in foster care. The records may include medical, mental health, educational, legal, and a summary of reasons why the adult was placed in foster care.

When providing information to the adult formerly placed in foster care, it is important to consider the information being viewed may be traumatizing. It is recommended the adult have a trusted person or mental health counselor present to provide support.

The PCSA executive director or designee is to redact information specific to other individuals identified in the information provided. The PCSA is not to release the identities of the referent/reporter or any other individual who provided information during the course of an assessment/investigation. For additional confidentiality and dissemination requirements, refer to OAC rule [5101:2-33-21 Confidentiality and dissemination of child welfare information](#).

The PCSA may release any records pursuant to OAC rules [5101:2-38-08](#), [5101:2-42-19](#), [5101:2-42-66.2](#), and [5101:2-42-87](#) that would have been released to the adult's parent, guardian, custodian, pre-finalized adoptive parent or to the adult at the time they emancipated from care.

The PCSA is to document the request and details of the information provided to the adult in Ohio SACWIS by entering an Activity Log in the family case record.

**Next Steps:** [5101:2-33-21 Confidentiality and dissemination of child welfare information](#) will be revised to reflect the statutory requirements.

### Abused Child Definition

ORC Section 2151.031 Abused child defined.

- Expands the definition of "abused child" by adding a child who is the victim of disseminating, obtaining, or displaying materials or performances that are harmful to juveniles if the activity would constitute a criminal sexual offense.

- Definition includes “caretaker” to align with current child protective services practice in serving families in which an alleged perpetrator is a caretaker having routine responsibility for the care of a child and not the parent, guardian, or custodian.

**Guidance:** PCSAs are to receive and complete a screening decision of allegations of abuse if an alleged perpetrator is identified as a caretaker.

“Caretaker” is defined as a person with whom the child resides or the person responsible for the child’s daily care. This includes, but is not limited to, the parent, guardian, custodian, or an out-of-home care setting employee.

**Next Steps:** OAC rule [5101:2-1-01 Children services definitions of terms](#) will be updated to reflect the above changes to “Abused child.” Several terms and definitions in Chapter [5101:2-36 Screening and Investigation](#) are impacted and these rules will be amended as a part of the five year rule review process. In addition, the [Ohio Child Protective Services Screening Guidelines](#) will be updated to reflect the definition revisions.

### **Deserted Child**

ORC Sections:

2151.3515 Desertion of child definitions.

2151.3516 Delivery of child by parent to persons authorized to take possession of deserted child.

2151.3517 Persons authorized to take possession of deserted child.

- Adds “Peace officer support employee” as an individual authorized to take possession of a deserted child.

**Guidance:** “Peace officer support employee” is defined as an authorized person employed by a law enforcement agency who is acting under the direction of a peace officer.

PCSAs are to categorize a referral as a deserted child and conduct a deserted child assessment/investigation if a peace officer support employee takes possession of a child fewer than thirty-one days old and left voluntarily by the child’s parent with no intent of returning. For additional deserted child assessment/investigation requirements, refer to OAC rule [5101:2-36-06 PCSA requirements for a deserted child assessment/investigation](#).

**Next Steps:** OAC rule [5101:2-36-06 PCSA requirements for a deserted child assessment/investigation](#) will be revised to reflect the statutory requirements.

### **Electronic Reporting**

ORC Section 2151.421 Reporting child abuse or neglect.

- Allows an individual to make a report of child abuse or neglect to a public children services agency (PCSA) or peace officer electronically, in addition to the existing law options of making a report by telephone or in person.

**Guidance:** PCSAs can accept child abuse or neglect referrals via electronic means. For additional intake and screening procedures, refer to [5101:2-36-01 Intake and screening procedures for child abuse, neglect, dependency and family in need of service reports; and information and/or referral intakes](#).

**Next Steps:** OAC rule [5101:2-36-01 Intake and screening procedures for child abuse, neglect, dependency and family in need of service reports; and information and/or referral intakes](#) will be revised to include electronic reporting.

### **Alleged Perpetrator Notification, Appeal Process, and Expungement**

ORC Sections:

2151.421 Reporting child abuse or neglect.

5101.136 (New – not posted on Ohio Laws as of the publication of this PL)

5101.137 (New – not posted on Ohio Laws as of the publication of this PL)

- Requires a PCSA that investigated a report of child abuse or neglect to provide the alleged perpetrator written notification of the investigation’s disposition and of the person’s right to appeal the disposition. The notification period has been expanded to five business days after the determination of a disposition.
- Requires when a person requests ODJFS to conduct a search of whether that person’s name is in the alleged perpetrator registry in Ohio SACWIS, that ODJFS send a letter to the person indicating that a “match” exists if a search reveals a “substantiated” disposition.
- Establishes a stakeholder workgroup led by ODJFS to develop an expungement policy regarding dispositions of child abuse or neglect in Ohio’s SACWIS Alleged Perpetrator Registry by March 1, 2024.

**Guidance:** PCSAs are to utilize the alleged perpetrator notification letter currently accessible to generate within Ohio SACWIS. The notification is to be sent to the alleged perpetrator within five business days of the determination of the disposition.

To generate the alleged perpetrator disposition notification letter in Ohio SACWIS:

1. Click the **reports** link for the associated intake. The **Reports** screen appears.
2. From the **Generate Document** drop-down menu, **select Assessment/Investigation Disposition Letter – Alleged Perpetrator**.
3. Click **Select**. The Document Details screen displays.
4. Complete the details on the screen and click **Generate Report**.

**Next Steps:** ODJFS held listening sessions with various stakeholders in May and June 2023 to discuss current practice application and procedure on alleged perpetrator notification and processes in place for the report disposition appeal process. Feedback from these sessions will

be considered and incorporated into required OAC rule revisions in [Chapter 5101:2-36](#), practice application and guidance, and notification letter updates.

The alleged perpetrator disposition notification is being redesigned to improve readability to further understand the content and clarify the individual's rights to due process.

A workgroup comprised of internal and external stakeholders will inform policy development regarding expungement.

### Prevention Referrals

#### ORC Sections

5153.16 Duties of agency.

2151.421 Reporting child abuse or neglect.

2151.423 Disclosure of confidential information to protect children.

- Requires a PCSA to enter into a contract with an agency providing prevention services in an effort to prevent neglect or abuse, enhance a child's welfare, and to preserve the family unit intact.
- Permits an agency to refer a screened-out referral to an agency providing prevention services if a child is determined to be a candidate for prevention services to make efforts to prevent neglect or abuse, enhance a child's welfare, and to preserve the family unit intact.
- Requires a PCSA to disclose confidential information discovered during an investigation conducted pursuant to section 2151.421 or 2151.422 of the Revised Code to any agency providing prevention services to the child that needs the information to carry out its responsibilities to protect children from abuse or neglect.

**Guidance:** PCSAs are permitted to refer screened out intakes for prevention services when a local service is available and meets the identified need(s) of the family.

- The name and information of the original referent to the PCSA is not to be disclosed.
- Consideration should be given to each family's need and each prevention agency's availability and capacity.
- All prevention referrals for screened out intakes are to be documented in Ohio SACWIS in an Activity Log and linked to the applicable screened out intake. Documentation is to include the name of the agency the Intake was referred to and the date of the referral for prevention services.

**Relevant Prevention Services** are defined as services that address a family's need that may place the family at risk for child maltreatment, including, but not limited to:

- Information and referral services to locally available community supports and treatment (i.e., food banks, housing supports, transportation, pregnancy centers, etc.)
- Parent education and skill building
- Financial assistance and literacy
- Access to economic and concrete supports
- Family coaching and in-home services

- Basic life skills
- Mental health and substance misuse treatment
- Domestic and family violence intervention services
- Early childhood education and care services
- Multisystem youth supports and wraparound services
- Juvenile justice services
- Kinship services

**Next Steps:** OAC rules [5101:2-33-21 Confidentiality and dissemination of child welfare information](#) and [5101:2-36-01 Intake and screening procedures for child abuse, neglect, dependency and family in need of services reports; and information and/or referral intakes](#) will be revised to reflect the statutory changes.

### Continuous Certification

ORC Section 5103.03 Rules for adequate and competent management of institutions or associations.

- Removed language referring to “recertification” for both agencies and foster caregivers.
- Allows ODJFS to implement a continuous certification period for agencies and caregivers.

**Guidance:** Agencies are to continue to follow the current certification process in OAC rules. Ongoing modifications to rules and automated systems are underway to support the ORC changes. The incorporation of the ORC changes will occur in phases. ODJFS will continue to communicate changes in practice and application to assist in a smooth transition of certification activities.

**Next Steps:** OAC rules are in the process of being revised to address continuous certification. The major rules impacted are:

- [5101:2-5-02 Application for an agency to perform specific functions; amended applications](#)
- [5101:2-5-03 Certification of an agency to perform specific functions](#)
- [5101:2-5-04 Recertification of an agency to perform specific functions](#)
- [5101:2-5-20 Initial application and completion of the foster care homestudy](#)
- [5101:2-5-24 Foster home recertifications](#)
- [5101:2-48-05 Agency adoption policy and recruitment plan](#)
- [5101:2-48-06 Assessor roles and responsibilities for foster care and adoption](#)
- [5101:2-48-08 Adoption inquiry](#)
- [5101:2-48-09 Application process and preservice training](#)
- [5101:2-48-11 Approval of a foster home for adoptive placement](#)
- [5101:2-48-11.1 Foster caregiver adoption of a foster child or sibling group who has](#)

[resided with the caregiver for at least six consecutive months](#)

- [5101:2-48-12 Completion of the adoption homestudy](#)

### **Scholars Residential Center**

ORC section 5103.021 Scholars Residential Centers. (New – not posted on Ohio Laws as of the publication of this PL)

- Establishes and regulates Scholars Residential Center (SRC) as a new facility type that will not be required to meet all the QRTP requirements or treatment service requirements.
- Specifies SRCs are not permitted to receive Title IV-E funding or any associated Title IV funds related to child welfare.
- Limits youth placement to youth placed by their parent or legal custodian.

**Guidance:** Once rules are effective, agencies with a SRC function will be responsible for meeting revised rule requirements and submitting waivers in the future for any new requirement they are requesting exemption. No impact on PCSAs.

**Next Steps:** The following rules have been amended or created and are undergoing the rule promulgation process to address the requirements for Scholars Residential Centers including the certification requirements, allowable waivers, and exemption as a QRTP.

- [5101:2-5-03 Certification of an agency to perform specific functions](#)
- [5101:2-5-18 Waivers and variances](#)
- [5101:2-9-42 Qualified residential treatment program \(QRTP\)](#)
- New rule 5101:2-9-45 Scholars residential center: Permits the new facility type of Scholars residential center to provide academic support to non-IV-E youth in direct placement of their parent or legal guardian.

### **Interstate Compact on the placement of Children**

ORC Sections 5103.20 Interstate Compact on Placement of Children.

- Aligns code with current language of the proposed new ICPC that makes changes primarily to jurisdiction and placement requirements.

**Guidance:** These changes in the law will not go into effect until 35 states have ratified the revised ICPC. All current processes and requirements remain, no change to agency practices.

**Next Steps:** ODJFS will provide additional instructions once the revised ICPC is ratified and goes into effect.



### Criminal Records Checks

ORC Section 109.572 Criminal Records Check.

- Numerous prohibitive offenses were added to the criminal background record checks for resource and adoptive homes and agency staff.

**Guidance:** PCSAs, PCPAs and PNAs are to utilize the below chart in additional to the appropriate current disqualifying offenses appendix when reviewing convictions returned on an individual who is a foster and adoptive caregiver/applicant, household member, or an employee.

ORC	Offense	Misdemeanor	Felony
2151.421	Reporting child abuse	Review rehab criteria for caregiver/household member/employee	N/A
2903.32	Female genital mutilation	Non-rehabilitation offense – caregiver/employee cannot be approved	Non-rehabilitation offense – caregiver/employee cannot be approved
2919.10	Abortion related to finding of down syndrome	Non-rehabilitation offense – caregiver/employee cannot be approved	Non-rehabilitation offense – caregiver/employee cannot be approved
2919.121	Unlawful abortion upon minor	Non-rehabilitation offense – caregiver/employee cannot be approved	Non-rehabilitation offense – caregiver/employee cannot be approved
2919.123	Unlawful distribution of an abortion-inducing drug	Non-rehabilitation offense – caregiver/employee cannot be approved	Non-rehabilitation offense – caregiver/employee cannot be approved
2919.124	Unlawful performance of a drug-induced abortion	Non-rehabilitation offense – caregiver/employee cannot be approved	Non-rehabilitation offense – caregiver/employee cannot be approved
2919.13	Abortion manslaughter; failure to render medical care to an infant born alive	Non-rehabilitation offense – caregiver/employee cannot be approved	Non-rehabilitation offense – caregiver/employee cannot be approved
2919.15	Dismemberment abortion	Non-rehabilitation offense – caregiver/employee cannot be approved	Non-rehabilitation offense – caregiver/employee cannot be approved
2919.151	Partial birth feticide	Non-rehabilitation offense – caregiver/employee cannot be approved	Non-rehabilitation offense – caregiver/employee cannot be approved
2919.17	Terminating or attempting to terminate human pregnancy after viability	Non-rehabilitation offense – caregiver/employee cannot be approved	Non-rehabilitation offense – caregiver/employee cannot be approved
2919.193	Determination of detectable fetal heartbeat	Non-rehabilitation offense – caregiver/employee cannot be approved	Non-rehabilitation offense – caregiver/employee cannot be approved
2919.194	Procedure after detection of fetal heartbeat	Non-rehabilitation offense – caregiver/employee cannot be approved	Non-rehabilitation offense – caregiver/employee cannot be approved
2919.195	Performance of abortion after detection of fetal heartbeat	Non-rehabilitation offense – caregiver/employee cannot be approved	Non-rehabilitation offense – caregiver/employee cannot be approved
2919.201	Abortion after gestational age of 20 weeks	Non-rehabilitation offense – caregiver/employee cannot be approved	Non-rehabilitation offense – caregiver/employee cannot be approved



PCSA, PCPA, and PNA are to utilize **only** the conviction codes on the above chart along with the Appendix A of [5101:2-42-18 PCSA and PCPA approval of placements with relative and nonrelative substitute caregivers](#) when completing a kinship home assessment pursuant to OAC rule [5101:2-42-18](#). The rehabilitation criteria for the new and existing criminal convictions for kinship applicants and household members are found in OAC rule [5101:2-42-18](#).

**Next Steps:** The following OAC rules are/will be revised to reflect the statutory changes:

- [5101:2-5-09 Personnel and prohibited convictions for employment](#)
- [5101:2-5-09.1 Criminal records check required for certain prospective employees and certified foster caregivers](#)
- [5101:2-7-02 General requirements for foster caregivers and applicants](#)
- [5101:2-42-18 PCSA and PCPA approval of placements with relative and nonrelative substitute caregivers](#)
- [5101:2-48-05 Agency adoption policy and recruitment plan](#)
- [5101:2-48-09 Application process and preservice training](#)
- [5101:2-48-10 Restrictions concerning provision of adoption services](#)
- [5101:2-48-12 Completion of the adoption homestudy](#)

**INSTRUCTIONS**

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

LOCATION	REMOVE AND FILE AS OBSOLETE	INSERT/REPLACEMENT
PROCEDURE LETTERS		FCASPL 412