

**Michigan Office of Administrative Hearings and Rules**  
**Administrative Rules Division (ARD)**

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**REQUEST FOR RULEMAKING (RFR)**

**1. Department:**

Health and Human Services

**2. Bureau:**

Childrens Services Agency

**3. Promulgation type:**

MCL 24.244 (1)

**4. Title of proposed rule set:**

Child Caring Institutions

**5. Rule numbers or rule set range of numbers:**

R 400.4101 - 400.4666

**6. Estimated time frame:**

3 months

**Name of person filling out RFR:**

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**7. Describe the general purpose of these rules, including any problems the changes are intended to address.**

The Child Caring Institutions (CCI) rules provide the requirements for licensee applicants and staff to care for children, either as court wards or DHHS wards or private institutionalization. A rule change is required to address a federal requirement, specifically 42 USC 671a(20)(D), which requires Michigan to enforce fingerprinting of CCI staff as part of its state plan for funding.

**8. Please cite the specific promulgation authority for the rules (i.e. department director, commission, board, etc.).**

Department Director

**A. Please list all applicable statutory references (MCLs, Executive Orders, etc.).**

By authority conferred on the Director of the Department of Health and Human Services by sections 2 of 1973 PA 116, and Executive Reorganization No. 2015-01, MCL 722.112 and 400.227.

**B. Are the rules mandated by any applicable constitutional or statutory provision? If so, please explain.**

The rules are not mandated by any applicable constitutional or statutory provision.

**9. Please describe the extent to which the rules conflict with or duplicate similar rules, compliance requirements, or other standards adopted at the state, regional, or federal level.**

The rules do not conflict with, duplicate, or exceed similar regulations, compliance requirements, or other standards adopted at the state, regional, or federal level. The rules are required under federal law, specifically 42 USC 671a(20)(D).

**10. Is the subject matter of the rules currently contained in any guideline, handbook, manual, instructional bulletin, form with instructions, or operational memoranda?**

There is a technical assistance handbook that compliments the rule set in explaining the expectations of each rule.

**11. Are the rules listed on the department's annual regulatory plan as rules to be processed for the current year?**

Yes

**12. Will the proposed rules be promulgated under Section 44 of the Administrative Procedures Act, 1969 PA 306, MCL 24.244, or under the full rulemaking process?**

MCL 24.244 (1)

**A. Explain why the rules are being promulgated under 24.244.**

In 2018, Congress passed the Family First Preservation Services Act (FFPSA) as part of the Bipartisan Budget Act of 2018, PL 115-123, 132 Stat 170. Sec 50745 of the FFPSA amended the state plan requirements under 42 USC 671(a)(20)(B) and (D) to provide:

In order for a State to be eligible for payments under this part, it shall have a plan approved by the Secretary which—

\* \* \*

(B) provides that the State shall—

(i) check any child abuse and neglect registry maintained by the State for information on any prospective foster or adoptive parent and on any other adult living in the home of such a prospective parent, and request any other State in which any such prospective parent or other adult has resided in the preceding 5 years, to enable the State to check any child abuse and neglect registry maintained by such other State for such information, before the prospective foster or adoptive parent may be finally approved for placement of a child, regardless of whether foster care maintenance payments or adoption assistance payments are to be made on behalf of the child under the State plan under this part;

(ii) comply with any request described in clause (i) that is received from another State; and

(iii) have in place safeguards to prevent the unauthorized disclosure of information in any child abuse and neglect registry maintained by the State, and to prevent any such information obtained pursuant to this subparagraph from being used for a purpose other than the conducting of background checks in foster or adoptive placement cases;

\* \* \*

(D) provides procedures for any child-care institution, including a group home, residential treatment center, shelter, or other congregate care setting, to conduct criminal records checks, including fingerprint-based checks of national crime information databases (as defined in section 534(f)(3)(A) of title 28), and checks described in subparagraph (B) of this paragraph, on any adult working in a child-care institution, including a group home, residential treatment center, shelter, or other congregate care setting, unless the State reports to the Secretary the alternative criminal records checks and child abuse registry checks the State conducts on any adult working in a child-care institution, including a group home, residential treatment center, shelter, or other congregate care setting, and why the checks specified in this subparagraph are not appropriate for the State[.] (Emphasis added.)

The attached rule draft incorporates the federal requirement for both fingerprinting and child abuse and neglect registry checks; both intra-and interstate. Further, to coincide with the amendments, definitions have been amended to include “child care institution staff member” and “criminal records check”. The rules are required to be updated by January 1, 2020 for Michigan to remain in compliance with its state plan.