



Denial and Revocation of Foster Home Certificates and Applications for Criminal Activities of Adult Residents of Foster Homes

Updated: November 1, 2011

- A. Per section (H) of OAC 5101:2-7-02, a foster caregiver or applicant and all other persons eighteen years of age or older who reside with the foster caregiver or applicant shall not have been convicted of or pleaded guilty in adult court (whether in Ohio or elsewhere) to any of the offenses listed in paragraph (J) of the rule, **unless** they qualify for and meet the rehabilitation standard (see (B) below).
1. The list of 'prohibited offenses' in paragraph J includes: murder, menacing, stalking, assault, sex offenses, drug offenses, burglary, robbery, prostitution, and other serious offenses. This rule only applies to convictions in adult court – not delinquency adjudications in juvenile court. Since youth under the age of 18 are sometimes convicted of serious offenses in adult court, this rule could apply to adults in the home who were convicted or pleaded of guilty to offenses in adult court *while they were minors*.
- B. Paragraph (I) establishes a rehabilitation standard for foster caregivers, applicants, and adult household members who were convicted of or pleaded guilty to offenses listed in paragraph (J). This standard is intended to apply to individuals other than foster youth, even though some foster youth are age 18 and were convicted or pleaded guilty to the offenses listed in paragraph (I).
- C. Overview of the paragraph (I) rehabilitation standard is provided below. The recommending agency must find and document that the person has met all of the following conditions, where applicable:
- (I)(1): If the person was convicted of a misdemeanor, at least three years has passed from the date the person was discharged from jail or probation, and the conviction was "sealed" by a court.
 - If the person is under 21 and is in PCSA/PCPA custody, the recommending agency may determine that he/she need not meet the 3 and 10 year time period requirements of paragraphs (I)(1) and (I)(2).
 - (I)(2): If the person's offense is a felony, at least 10 years has passed since the person was discharged from jail or probation.
 - (I)(3): If the person is under 21 and is in PCSA/PCPA custody, the recommending agency determines that he/she need not meet the 3 and 10 year time period requirements.

(I)(4): The victim of the person's offense is not one of the following: under age 18, functionally impaired, MR/DD, mentally ill, age 60 or older.

(I)(5): The person's certification as a foster caregiver or the person's residency in the home will not jeopardize the health, safety or welfare of the children the agency serves. It is up to the private agency to determine this, though the rule does offer criteria for the private agency to base its decision on.

- D. Per federal law and paragraph (K), a foster home shall not be certified if the caregiver, applicant, or adult household member has a felony conviction for spousal abuse, rape, sexual assault, homicide, or the equivalent offenses listed in the Ohio Revised Code.
1. Note that "spousal abuse" is not a criminal offense in Ohio, but it is defined by ODJFS as OAC 5101:2-1-01 (230) as violence between two caretakers regardless of marital status, and reflects the presence of domestic violence. "Domestic violence" is not a criminal offense but is defined in law and in the same OAC rule (72) as attempting to cause or causing bodily injury to a family or household member, or placing a family or household member by threat of force in fear of imminent physical harm.
 2. Private agencies must document and interpret, when necessary, whether one of your foster parents, applicants, or adult household members possesses a felony conviction of spousal abuse. Don't expect ODJFS to do this for you.
- E. Per paragraph (L), the applicant or foster caregiver shall provide verification to the recommending agency that the conditions specified in paragraph (I) of the rule are met for that person and for all adult members of the household. If the applicant or foster caregiver fails to provide such proof or if the agency determines that the proof offered by the person is inconclusive or insufficient, the applicant shall be denied certification and a foster caregiver's certificate shall be recommended for denial or revocation.
- F. A foster home certificate or application **may** be recommended for denial by a private agency, or unilaterally denied by ODJFS, if any of the circumstances listed in OAC 5101:2-5-28 (A) occur. These include:
1. A foster caregiver or applicant, any adult resident of a foster home, or any minor resident of a foster home age 12-17, residing with the foster caregiver has been convicted of, pleaded guilty to (in adult court), or been adjudicated delinquent (in juvenile court) for commission of any offense listed in paragraphs (J) and (R) of OAC 5101:2-7-02.
 - i. These offenses include: murder, menacing, stalking, assault, sex offenses, drug offenses, burglary, robbery, prostitution, and other serious offenses.