



Clyde L. Reese, III, Esq., Commissioner

Georgia Department of Human Services • Office of the General Counsel  
Two Peachtree Street, NW • Suite 29.210 • Atlanta, GA 30303-3142 • 404-657-9761 • 404-657-1123 (Fax)

## MEMORANDUM

**TO:** Robertiena Fletcher, Chair, Board of Human Services  
Distinguished Board Members  
Clyde L. Reese, III, Esq., Commissioner

**FROM:** Rachel L. King, General Counsel

**DATE:** April 29, 2013

**RE:** Public Hearing and Comments Received Pertaining to Proposed Rule 290-1-8, et. seq.

On February 20, 2013, the Board of Human Services (“the Board”) approved Proposed Rule 290-1-8, et. seq., authorizing the Division of Family and Children Services to obtain consumer reports for children in foster care, for initial release and public comment. A Public Hearing was held on March 13, 2013 at 10:30 a.m. Appropriate written notice of the public hearing was provided in accordance with the Georgia Administrative Procedure Act (“APA”). (O.C.G.A. § 50-13-4).

Statutory authority for the proposed rule and its promulgation is found at 42 U.S.C. § 675(5)(I), O.C.G.A. §49-5-42, O.C.G.A. § 49-5-43, and O.C.G.A. 50-13-1, et. seq. A written report to the Board which accurately summarizes the comment received from the public in response to the proposed rule is enclosed with this memorandum. Also enclosed, please find a copy of the public hearing record, the written comment received, and a copy of the proposed rule.

Thus far, the procedural requirements of the APA have been met in the promulgation of this proposed rule. At the Board meeting on May 15, 2013, the Proposed Rule will be presented for final adoption. At that time, the Board will be authorized to adopt, reject, or revise proposed rule. Staff from the Division of Family and Children Services and I will be present at the Board meeting to respond to questions or concerns you may have.

Cc: Ron Scroggy, Director, Division of Family and Children Services  
Vivian D. Egan, Associate General Counsel, Division of Family and Children Services

Enclosures

**Department of Human Services, Division of Family and Children Services' Report on  
Comment to Proposed Rule Authorizing Consumer Reports for Youth in Foster Care;  
Ga. Comp. R. & Regs. At Chapter 290-1-8**

On March 13, 2013 at 10:30 a.m., the Department of Human Services held a Public Hearing regarding the proposed adoption of the a rule permitting the Department to obtain a credit report for youth in foster care over the age of sixteen (16). (R. 290-1-8, et. seq.) There were no oral comments received at the hearing. One written comment was timely received from the Barton Child Law and Policy Center. The written comment was submitted in support of the rule and included a technical edit. A summary of the comment is below.

1. **Proposed Rule 290-1-8, General Comment:** The written comment notes that the practice of providing children in foster care with access to their credit reports "is in line with best practices for protecting these children from identity theft and ensuring their financial security." The comment also notes the rule is compliant with current federal law.

**Division Response:** The Division agrees with the commentator.

2. **Proposed Rule 290-1-8-.02(2):** The language of Rule 290-1-8-.02(2) is based upon 42 USCA § 675(5)(I), but has one crucial word missing in explaining the assistance that children may receive in interpreting their credit report. The parenthetical is missing the word "from" prior to the phrase "any court-appointed advocate for the child."

**Division Response:** The Division agrees with the commentator and notes the omission of the word "from" as a typographical omission to be included in a final adopted Rule.

**Division Recommendation**

In light of the comment provided, the Division recommends the Board proceed with the final adoption of the Proposed Rule authorizing consumer reports for children in foster care. The written comment, a copy of the hearing transcript, and a copy of the Proposed Rule are provided with this recommendation.



Nathan Deal, Governor

Clyde L. Reese, III, Esq., Commissioner

Georgia Department of Human Services • Office of the General Counsel  
Two Peachtree Street, NW • Suite 29.210 • Atlanta, GA 30303-3142 • 404-657-9761 • 404-657-1123 (Fax)

**TRANSCRIPT:**                    **Public Hearing Regarding Rule 290-1-8; Authorizing Consumer Reports for Children in Foster Care**

(Public Hearing held at the Department of Human Services, Board Room, 29<sup>th</sup> Floor, 2 Peachtree St., N.W., Atlanta, GA 30303).

March 13, 2013  
10:30 a.m.

Rachel King  
(DHS):

Good morning. My name is Rachel King. I am the General Counsel for the Department of Human Services and am serving as the Chair for this Public Hearing. Please let the record show the following:

- The Department is proposing the adoption of the Georgia Comprehensive Rules and Regulations at Chapter 290-1-8, which would authorize the Department to obtain credit reports for each child in the legal custody of the Department, who has attained sixteen (16) years of age, each year, until the child is discharged from the custody of the Department and to assist these youth in interpreting and resolving any inaccuracies
- A panel was convened to hear the oral comment regarding the proposed rule at public hearing for which proper notice was given. On the panel with me today are Shan Momin, Deputy General Counsel for the Department, Vivian Egan, who serves as the Senior Associate General Counsel for the Division of Family and Children Services, and Dianne Yearby, the Director of the Office of Provider management within the Division of Family and Children Services.
- To date, no written comment has been received regarding the proposed rule and as of the time right now, 10:32, March 13, 2013, there are no commentators who have previously scheduled time for oral comment, nor are there commentators present here today.
- As there are no commentators, I would like to thank the panel for their attendance and hereby adjourn the public hearing on the proposed rule at 10:32 March, 13, 2013.



**EMORY**  
**SCHOOL OF**  
**LAW**

**The Barton Child Law and Policy Center**

Emory University School of Law  
1301 Clifton Road  
Atlanta, GA 30322

Tel 404.727.6664  
Fax 404-727-7851  
childwelfare.net

**FAX COVER SHEET**

**TO:** Department of Human Services

**FAX #:** 404-657-1123

**FROM:** Kirsten Widner

**DATE:** March 22, 2013

**NUMBER OF PAGES, INCLUDING COVER SHEET:** 3

**MESSAGE:** Attached for your information and review is the Analysis of DHS Proposed Change of Rule 290-1-8 Authorizing Consumer Reports for Children in Foster Care.

**CONFIDENTIALITY NOTICE:** The information contained in this facsimile message is legally privileged and confidential information intended only for the use of the individual or entity named above. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution, or copy of this telecopy is strictly prohibited. If you have received this telecopy in error, please immediately notify us by telephone. Thank you.

## ANALYSIS OF DHS PROPOSED CHANGE OF RULE 290-1-8 AUTHORIZING CONSUMER REPORTS FOR CHILDREN IN FOSTER CARE

---

This document is submitted on behalf of the Barton Child Law & Policy Center, a program of Emory Law School dedicated to promoting and protecting the legal rights and interests of court-involved children in Georgia, in response to the proposed change of DHS Rule 290-1-8 authorizing consumer credit reports for children in foster care.

### SUMMARY

DHS Rule 290-1-8 is a new rule that brings DHS into compliance with federal law in 42 USC §675 (5)(I) and funding requirements of Title IV-E of the Social Security Act.

The Barton Child Law & Policy Center supports the Department's Rule, and its intention to bring Georgia policy in line with federal law. Providing children with access to their credit reports is in line with best practices for these children in transition who are uniquely at risk for identity theft.<sup>1</sup> Compliance with federal law regarding authorizing consumer reports for foster care youth also protects Georgia's ability to obtain continued federal funding for children in foster care.

### COMMENT

#### Access to credit reports is a best practice for children in foster care

Providing children in foster care with access to their credit reports is in line with best practices for protecting these children from identity theft and ensuring their financial security. The Fair and Accurate Credit Transactions Act was passed in 2003 to allow individuals free annual access to their credit reports. The purpose of the legislation was to "prevent identity theft, improve resolution of consumer disputes, improve accuracy of consumer records, [and] make improvements in the use of, and consumer access to, credit information."<sup>2</sup> While adults primarily use this service, some children may have credit reports, especially if they have applied for credit or if their identity has been stolen.<sup>3</sup> In the case of identity theft, which is a particular

---

<sup>1</sup> See Barton Child Law and Policy Center, Emory University School of Law, "Financial Security for Foster Children: Addressing the Problem of Identity Theft" (2011), *available at*: [http://bartoncenter.net/uploads/studentpapers/FinancialSecurity\\_PolicyPaper\\_2011.pdf](http://bartoncenter.net/uploads/studentpapers/FinancialSecurity_PolicyPaper_2011.pdf)

<sup>2</sup> Preamble, Fair and Accurate Credit Transactions Act of 2003, Pub. L. No. 108-109, 117 Stat. 1952, as cited in Barton Child Law and Policy Center, Emory University School of Law, "Financial Security for Foster Children: Addressing the Problem of Identity Theft" 37 (2011), *available at*:

[http://bartoncenter.net/uploads/studentpapers/FinancialSecurity\\_PolicyPaper\\_2011.pdf](http://bartoncenter.net/uploads/studentpapers/FinancialSecurity_PolicyPaper_2011.pdf)

<sup>3</sup> *Experian Public Education: Credit Advice*, EXPERIAN (July 2008), *available at* <http://www.experian.com/ask-experian/20080709-how-a-minor-may-have-a-credit-report.html>, as cited in Barton Child Law and Policy Center, Emory University School of Law, "Financial Security for Foster Children: Addressing the Problem of Identity Theft" 37 (2011), *available at*: [http://bartoncenter.net/uploads/studentpapers/FinancialSecurity\\_PolicyPaper\\_2011.pdf](http://bartoncenter.net/uploads/studentpapers/FinancialSecurity_PolicyPaper_2011.pdf).

risk for all children, but even more so for those in foster care,<sup>4</sup> the ability to address inaccuracies in a credit report is very important for ensuring their financial security. For more information about the financial risks that children in foster care face, and how access to credit reports may aid in ameliorating these risks, please reference the Barton Child Law and Policy Center policy paper from 2011 entitled, "Financial Security for Foster Children: Addressing the Problem of Identity Theft."<sup>5</sup>

#### Language of the rule

Rule 290-1-8, as drafted by DHS and currently open for comment, includes the two main areas of the federal law: that each child in foster care receive free, yearly, copies of his or her credit report from age 16 on, and that each child receive assistance in understanding the credit report and correcting inaccuracies.<sup>6</sup>

Rule 290-1-8.02 (2) is based on 42 USCA §675(5)(I), but has one crucial word missing in explaining the assistance that children may receive in interpreting their credit report. 290-1-8.02 states that the Department shall, "ensure that each child in foster care under the responsibility of the state and who has attained sixteen (16) years of age receives assistance (including, but not limited to, any court-appointed advocate for the child) in interpreting and resolving any inaccuracies in the report."<sup>7</sup> The parenthetical is missing the word "from" prior to the phrase "any court-appointed advocate for the child." Adding this word would bring this statement better in line with the federal law and clarify the language in the rule.

### **CONCLUSION**

Providing youth in foster care with access to their free credit reports, help in understanding the report and assistance to correct any inaccuracies, is important to help children in foster care attain financial security as they enter adulthood. The Barton Child Law and Policy Center is pleased to support this Rule.

---

<sup>4</sup> Barton Child Law and Policy Center, Emory University School of Law, "Financial Security for Foster Children: Addressing the Problem of Identity Theft" 17 (2011), *available at*:

[http://bartoncenter.net/uploads/studentpapers/FinancialSecurity\\_PolicyPaper\\_2011.pdf](http://bartoncenter.net/uploads/studentpapers/FinancialSecurity_PolicyPaper_2011.pdf)

<sup>5</sup> Policy paper *available at*:

[http://bartoncenter.net/uploads/studentpapers/FinancialSecurity\\_PolicyPaper\\_2011.pdf](http://bartoncenter.net/uploads/studentpapers/FinancialSecurity_PolicyPaper_2011.pdf)

<sup>6</sup> 42 U.S.C.A. §675(5)(I) (2013) ("each child in foster care under the responsibility of the State who has attained 16 years of age receives without cost a copy of any consumer report (as defined in section 1681a(d) of Title 15) pertaining to the child each year until the child is discharged from care, and receives assistance (including, when feasible, from any court-appointed advocate for the child) in interpreting and resolving any inaccuracies in the report.")

<sup>7</sup> DHS Rule 290-1-8.



Nathan Deal, Governor

Clyde L. Reese, III, Esq., Commissioner

Georgia Department of Human Services • Suite 29.250 • Two Peachtree Street, NW • Atlanta, Georgia 30303-3142 • Phone: 404-463-3390

## **RULES OF THE GEORGIA DEPARTMENT OF HUMAN SERVICES**

### **CHAPTER 290-1-8**

### **RULES AND REGULATIONS AUTHORIZING CONSUMER REPORTS FOR FOSTER CARE YOUTH**

#### **TABLE OF CONTENTS**

#### **290-1-8-.01 Legal Authority**

#### **290-1-8-.02 Consumer Reports (Credit Reports) To Be Obtained for Youth in Foster Care**

#### **290-1-8-.03 Authorization to Provide Information to Obtain Consumer Reports**

**290-1-8-.01 Legal Authority.** These rules are adopted and published pursuant to the Official Code of Georgia Annotated (O.C.G.A.) § 49-5-42 and § 49-5-43. Authority O.C.G.A. §§ 49-5-42 and 49-5-43.

#### **290-1-8-.02 Consumer Reports (Credit Reports) To Be Obtained for Youth in Foster Care**

- (1) In order to comply with Section 106(b) of the federal Child and Family Services Improvement and Innovation Act (P. L. 112-34), Section 475(5)(I) of Title IV-E of the Social Security Act, 42 U.S.C.A. Section 675(5)(I) and to meet the requirements for the receipt of federal funds under Title IV-E of the Social Security Act, the Department is authorized to obtain for each child in foster care under the responsibility of the state, who has attained sixteen (16) years of age, a copy of any consumer report (as defined in Section 603(d) of the Fair Credit Reporting Act, 15 USCS Section 1681a(d)), pertaining to the child each year until the child is discharged from the custody of the Department. The Department shall obtain such consumer reports as are required by the federal Department of Health and Human Services to receive federal funds under title IV-E of the Social Security Act. Each consumer report is to be provided without cost to the child.

- (2) Pursuant to its policies and procedures, the Department shall further ensure that each child in foster care under the responsibility of the state and who has attained sixteen (16) years of age receives assistance (including, but not limited to, from any court-appointed advocate for the child) in interpreting and resolving any inaccuracies in the report.

**290-1-8-.03 Authorization to Provide Information to Obtain Consumer Reports**

- (1) In order to prevent conflict with federal law and to prevent the loss of federal funds provided to the Department pursuant to Title IV-E of the Social Security Act, the Department is authorized to disclose such information from its child abuse and neglect records as is necessary to do the following:
- a. Obtain consumer reports for the purpose of complying with Section 290-1-8-.02 of this Chapter; and
  - b. Ensure that the child receives assistance in interpreting and resolving any inaccuracies in the report
- (2) In order to comply with the requirement of 290-1-8-.03(1) above, the Department may disclose such information to the following:
- a. Entities providing consumer reports under the Fair Credit Reporting Act, 15 USCS Section 1681a(d);
  - b. Creditors or other persons or entities who have provided inaccurate information to entities providing such consumer reports; and
  - c. Individuals assisting youth in the custody of the Department to correct inaccurate information from consumer reports.
- (3) Information disclosed by the Department in order to comply with this Rule will continue to remain protected and confidential in accordance with relevant state and federal laws. Further disclosure of such information by an entity referenced in 290-1-8-.03(2) above must be made pursuant to state and federal law.