



Sub. H.B. 176

123rd General Assembly
(As Passed by the General Assembly)

Reps. Winkler, Barrett, Bateman, Bender, Jones, Krebs, Logan, D. Miller, Opfer, Schuck, Schuler, Terwilleger, Van Vyven, Vesper, Willamowski, Haines, Clancy, O'Brien, Britton, Carey, Perz, Distel, Wilson, Hollister

Sens. Kearns, Drake, Carnes, Prentiss, Gardner

Effective date: *

ACT SUMMARY

- Provides that a child day-care provider that is located in a state bordering Ohio and licensed, certified, or otherwise approved by that state to provide child day-care may provide publicly funded child day-care to an individual who resides in an Ohio county bordering the state in which the provider is located.
- Requires the Day-Care Advisory Council to address the provision of publicly funded child day-care by border state providers in its annual report on the regulation of child day-care and to provide the report, in addition to the Director of Human Services and public, to the Governor, Speaker and Minority Leader of the House of Representatives, and President and Minority Leader of the Senate.
- Requires that a court determine whether reasonable efforts were made to reunify a child with the child's family whenever the court removes or continues the removal of a child from home.
- Clarifies that the requirement to determine that reasonable efforts at reunification are not required because a parent from whom the child was removed has had parental rights terminated with respect to another child applies only if the prior termination of parental rights was involuntary.

* *The Legislative Service Commission had not received formal notification of the effective date at the time this analysis was prepared.*

- Requires that a public children services agency or private child placing agency file a motion requesting permanent custody of a child if the child has been in temporary custody of the agency for at least 12 months of a consecutive 22-month period.
- Removes a change in circumstances of a child's parents as a basis for modification or termination of an order granting legal custody.
- Eliminates the requirements that the Department of Human Services be notified when a petition for adoption is filed and that the Department be served with a copy of a final decree of adoption.

CONTENT AND OPERATION

Border state child day-care providers

(secs. 5104.01, 5104.31, 5104.32, 5104.35, and 5104.36; technical change: sec. 5104.38)

Under former law, publicly funded child day-care could be provided only by a provider licensed, certified, or approved by the Ohio Department of Human Services (ODHS), a county department of human services (CDHS), or the Ohio Department of Education.¹ The act provides that a child day-care provider located in a state bordering Ohio and licensed, certified, or otherwise approved by that state to provide child day-care may provide publicly funded child day-care to an individual who resides in an Ohio county bordering the state in which the provider is located.

Prior law required each contract between a CDHS and provider of publicly funded child day-care to specify that the provider was to continue to be licensed, approved, or certified pursuant to Ohio law and comply with all standards and other requirements in Ohio law and regulations governing child day-care for maintaining the provider's license, approval, or certification. The act requires a CDHS's contract with a border state provider to specify that the provider is to continue to be licensed, certified, or otherwise approved by the state in which the

¹ *"Publicly funded child day-care" is defined as administering to the needs of infants, toddlers, preschool children, and school children up to age 13 during any part of the 24-hour day by persons other than their caretaker parents for remuneration wholly or in part with federal or state funds distributed by ODHS, including funds received under the federal Child Care and Development Block Grant Act.*

provider is located and comply with all standards and other requirements established by that state for maintaining the provider's license, certificate, or approval. All other requirements concerning Ohio child day-care providers providing publicly funded child day-care apply to border state providers providing publicly funded child day-care.

Day-Care Advisory Council

(sec. 5104.08)

The Day-Care Advisory Council is required by continuing law to make an annual report to the Director of ODHS concerning the licensing, certification, and regulation of day-care. The act requires that the report also address the provision of publicly funded child day-care by border state providers. In addition to the Director, the act requires the Council to provide the report to the Governor, Speaker and Minority Leader of the House of Representatives, and President and Minority Leader of the Senate. The act continues the requirement of current law that copies of the report be made available to members of the public on request.

Reasonable efforts

(secs. 2151.31, 2151.314, 2151.33, and 2151.419)

Under continuing law, a public children services agency (PCSA) is required to make reasonable efforts to prevent the removal of an alleged or adjudicated abused, neglected, or dependent child from the child's home, eliminate the continued removal of the child from home, or make it possible for the child to return home safely, unless a court has determined that reasonable efforts are not required. Whenever it holds an adjudicatory or dispositional hearing at which it removes or continues the removal of a child from home, a court must determine whether a PCSA or private child placing agency (PCPA) has made the reasonable efforts, unless it determines that they are not required.² The act requires, in addition, that a court make that determination whenever the court removes or continues a child's removal from home prior to adjudication and disposition. This includes a hearing to determine whether there is probable cause to issue an ex parte emergency order authorizing taking a child into custody, a hearing to determine whether detention or shelter care is required for a child, and a hearing to determine whether to grant a temporary dispositional order or temporary custody order for a child prior to the final disposition of the case. Prior to March 18, 1999, the

² *The adjudicatory hearing is the hearing in which the court determines whether the child is an abused, neglected, or dependent child.*

Revised Code required courts to make a reasonable efforts determination at these earlier hearings. The act restores this requirement. In addition, the act restores a court's authority to determine that reasonable efforts were made when a PCSA or PCPA removes a child from home during an emergency in which the child could not safely remain home, even if the PCSA or PCPA did not make reasonable efforts during the emergency to prevent the child's removal.

Effect of prior termination of parental rights on reasonable efforts requirement with respect to another child

(secs. 2151.414 and 2151.419)

One situation in which a court is required to determine that reasonable efforts are not required occurs when the parent from whom the child was removed has had parental rights terminated with respect to a sibling of the child pursuant to a dispositional order in an abuse, neglect, or dependency proceeding or pursuant to a motion for permanent custody filed by a PCSA or PCPA. The court's determination that reasonable efforts are not required triggers the filing of a complaint for permanent custody by a PCSA or PCPA and serves as a basis for termination of parental rights.³ The act clarifies that the prior termination of parental rights must have been involuntary.

Requirement to request permanent custody

(secs. 2151.413 and 2151.414)

If a child has been in temporary custody for 12 or more months of a consecutive 22-month period as the result of a dispositional order issued after the child was adjudicated abused, neglected, or dependent, prior law required the PCSA or PCPA with custody to file a motion requesting permanent custody.⁴ The act instead requires the PCSA or PCPA with custody to file a motion requesting permanent custody *whenever* a child has been in temporary custody for 12 or more months of a consecutive 22-month period regardless of whether or not it is as the result of a dispositional order. The act calculates the date of entry into temporary

³ "Permanent custody" means a legal status that vests in the PCSA or PCPA all parental rights, duties, and obligations, including the right to consent to adoption, and divests the natural parents or adoptive parents of all parental rights, privileges, and obligations, including all residual rights and obligations.

⁴ "Temporary custody" means legal custody of a child who is removed from home that may be terminated at any time at the discretion of the court, or, if granted in an agreement, by the person who made the agreement.

custody at the earlier of the date the child is adjudicated or 60 days after the child's removal from home.

Legal custody

(sec. 2151.42)

A juvenile court that adjudicates a child to be abused, neglected, or dependent may issue a number of dispositional orders concerning the child, including awarding legal custody of the child to either parent or any person who requests it prior to the dispositional hearing.⁵ Under prior law, a court could not modify or terminate an order granting legal custody unless it found, based on facts that arose since the order was issued or that were unknown to the court at the time, that a change occurred in the circumstances of the child, the child's parents, or the person with legal custody, and that modification or termination of the order was necessary to serve the best interest of the child. The Revised Code also provided that if legal custody was granted at a dispositional hearing and was governed by Ohio law governing custody disputes between parents, the court was required to comply with that law. The act removes references to the Revised Code provision governing custody disputes between parents, and removes a change in circumstances of the child's parents as a basis for modification or termination of legal custody (except in the case of a parent who is the child's legal custodian).

Planned permanent living arrangement

(sec. 2151.415)

The act makes a technical change to reflect that the term "long term foster care" was recently changed to "planned permanent living arrangement."

Notification regarding adoption

(secs. 3107.07, 3107.11, and 3107.19)

Continuing law requires that certain persons and government entities be notified that a petition for adoption has been filed and of the time and place scheduled for the hearing on the petition. The act removes the Department of

⁵ "Legal custody" refers to a legal status that vests in the custodian the right to have physician care and control of the child and to determine where and with whom the child is to live and the right and duty to protect, train, and discipline the child and to provide the child with food, shelter, education, and medical care, all subject to any residual parental rights, privileges, and responsibilities.

Human Services from those that must be notified. The Revised Code also required that the court send a copy of an adoption decree that has become final to the Department. The act eliminates this requirement.

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	02-16-99	p. 198
Reported, H. Children & Family Services	03-24-99	p. 363
Passed House (98-0)	04-14-99	pp. 408-409
Reported, S. Health, Human Services & Aging	06-15-99	p. 596
Passed Senate (33-0)	06-15-99	pp. 601-602

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