



Ralph D. Clark

Bill Analysis
Legislative Service Commission

H.B. 146
123rd General Assembly
(As Introduced)

Reps. Williams, Taylor, Pringle

BILL SUMMARY

- Permits each public children services agency (PCSA) to contract with a law enforcement agency to have one or more law enforcement officers accompany PCSA employees and officers who conduct child abuse and neglect investigations and reasonably believe that their safety is in jeopardy.
- Makes an appropriation to fund services provided under these contracts.
- Requires the Ohio Department of Human Services to distribute the appropriated funds and establish rules governing distribution.
- Declares that the bill is not subject to referendum and will go into immediate effect.

CONTENT AND OPERATION

Background

Under Ohio law, all reports of child abuse and neglect must be investigated by the appropriate county public children services agency (PCSA). The PCSA must do the investigation in cooperation with a law enforcement agency and in accordance with the memorandum of understanding that governs the normal operating procedure for handling and coordinating investigations of child abuse and neglect reports in the county. The memorandum must be signed by the county officials who deal with child abuse and neglect, including various law enforcement officers in the county. The memorandum may address whether law enforcement officers accompany PCSA workers when conducting investigations.

The bill

Contract with law enforcement agencies

(sec. 5153.60)

The bill permits a PCSA to contract with a law enforcement agency to have one or more law enforcement officers accompany PCSA employees or officers who investigate reports of child abuse or neglect and reasonably believe in particular circumstances that their safety is in jeopardy. The contract is in addition to the investigation procedures established in the county memorandum of understanding.

Appropriation and distribution of funds to pay under contract

(sec. 5153.61; Section 2)

The bill appropriates \$10 million from the state general revenue fund for the next biennium (1999-2001), to be used by PCSAs to pay for contract law enforcement officer protection under the bill. The bill requires the Ohio Department of Human Services (ODHS) to distribute the funds to participating PCSAs and requires ODHS to adopt rules under the abbreviated rule-making procedure to govern the distribution.¹ The rules must take into account the total number of child abuse and neglect cases investigated in the county compared to the total number of cases investigated in the state during the most recent fiscal year.

Effective date of the bill

(Section 3)

The bill provides that it is not subject to the 90-day referendum period and will go into immediate effect if it becomes law. (See **COMMENT.**)

¹ *The abbreviated rule-making procedure is done under Revised Code section 111.15, rather than Chapter 119., the Administrative Procedure Act (APA). The abbreviated procedure differs from the APA in that it does not require the adopting agency to give public notice or hold hearings concerning the rules. Both rule-making methods, however, include a review by the General Assembly's Joint Committee on Agency Rule Review.*

COMMENT

Generally, laws enacted in Ohio are subject to the 90-day referendum period required by Article II, Section 1c of the Ohio Constitution before they become effective. Article II, Section 1d, creates an exception under which laws go into *immediate effect* if they provide for tax levies, appropriations for current expenses, or emergency laws. Historically, Article II, Section 1d was interpreted to put into immediate effect an entire bill containing an appropriation for current expenses, even if not all the bill's provisions depend on the appropriation for implementation. The Supreme Court changed that interpretation in *State, ex rel. Ohio AFL-CIO v. Voinovich* (1994), 69 Ohio St.3d 225. In that case, the Court determined that the presence of an appropriation for current expenses does not necessarily put the entire act into immediate effect as required by Article II, Section 1d. In response to the case, Revised Code section 1.471 was enacted providing guidelines to determine which provisions of a bill that contains an appropriation for current expenses go into immediate effect and which provisions are still subject to the 90-day referendum period. Under the guidelines, the General Assembly must make an express determination as to which provisions go into immediate effect. The statement in the bill declaring that all provisions of the bill go into immediate effect is the determination required under section 1.471.

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	02-08-99	p. 169

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