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Bill Analysis
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Reps. Ford, Barrett, Beatty, Bender, Boyd, Brading, Britton, Allen, Distel, Flannery, Gooding, Hartnett, Jacobsen, James, Jones, Krupinski, D. Miller, R. Miller, Metelsky, Mottley, Ogg, Perry, Pringle, Patton, Roberts, Sullivan, Sykes, Verich, Wilson, Vesper

BILL SUMMARY

CHILD FATALITY REVIEW

- Requires counties, either individually or with other counties, to establish child fatality review boards for the purpose of decreasing the incidence of preventable child deaths.
- Except while an investigation or prosecution is pending, requires individuals and entities that provided services to a child whose death is being reviewed to make any information requested by a child fatality review board, including confidential information, available to the board.
- Requires child fatality review boards to prepare and submit to the Ohio Department of Health (ODH) an annual report that includes information concerning each child death the board reviewed in the previous calendar year.
- Requires ODH and the Children's Trust Fund Board to prepare and publish an annual report organizing and setting forth the data in all the reports provided by child fatality review boards in their annual reports to ODH.
- Requires a local registrar of vital statistics to determine the county of residence of a child who dies in the local registrar's county and to send a copy of the death certificate to the local registrar of the county of the child's residence.

FINANCIAL REQUIREMENTS

- Establishes various financial rules and penalties for failure to comply with the rules applicable to public children services agencies (PCSAs), private child placing agencies (PCPAs), and private noncustodial agencies (PNAs).

FOSTER CARE

- Requires audits of a PCPA or PNA that seeks renewal of certification from the Ohio Department of Human Services (ODHS) to receive and care for children and place them in private homes that demonstrates the PCPA or PNA operate in a fiscally accountable manner.
- Establishes new requirements regarding, and makes clarifications concerning, the issuance, renewal, and revocation of foster home certifications, and requires ODHS to adopt rules and create forms applicable to the process.
- Requires home studies of foster caregivers seeking foster home certification and establishes other requirements concerning home studies for prospective adoptive parents and foster caregivers.
- Requires individuals who want to do home studies for purposes of foster home certification to meet the same requirements as those that apply to adoption assessors.
- Requires ODHS to develop a schedule of education programs needed in order to be an adoption assessor that include enough programs to provide all agencies equal access to the programs, and requires ODHS to distribute the schedule to all agencies.
- Establishes restrictions on boarders residing in foster homes.
- Makes changes and clarifications to the law governing criminal records checks of persons seeking to be a person responsible for a child's care in out-of-home care, an adoptive parent, or a foster caregiver possessing a certificate to operate a foster home.
- Subjects persons who reside with a prospective foster caregiver seeking a certificate to operate a foster home to criminal records checks to the same extent as the prospective foster caregiver.

- Requires a foster caregiver possessing a foster home certificate to notify the recommending agency that recommended the person for the certificate if the foster caregiver or any person residing with the foster caregiver has committed any offense or act that is the subject of a criminal records check and establishes a penalty for failure to give the notice.
- Establishes duties of a recommending agency that receives a notice that a foster caregiver possessing a foster home certificate has committed any offense or act that is the subject of a criminal records check and establishes a penalty for failure to give the notice.
- Requires the policy concerning parental involvement that must be adopted by the boards of education of each city, exempted village, local, and joint vocational school district apply to foster caregivers and their foster children.
- Includes foster caregivers in the definition of parents for purposes of the law governing education of handicapped children.
- Makes changes to the definitions of "institution" and "association," and "treatment foster home" and makes changes to the definition and use of the terms "foster home," "certified foster home," and "foster caregiver."

OTHER ITEMS

- Requires the statewide automated child welfare information system to collect, analyze, and report certain child welfare information.
- Permits PCSAs to employ legal counsel.
- Prohibits Medicaid payments for supervisory work if the provider did not perform the work or was not qualified to perform the work.
- Requires the notification to the alleged perpetrator of child abuse or neglect concerning the disposition of the investigation of the reported abuse or neglect to be in writing.

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CHILD FATALITY REVIEW

Child fatality review--Introduction

The bill establishes a procedure for reviewing child deaths occurring in each county of the state and special review boards to conduct those reviews.

Establishing child fatality review boards

(secs. 307.622, 307.623, and 307.624)

The bill requires the establishment of child fatality review boards. The purpose of the boards is to decrease the incidence of preventable child deaths by doing all of the following:

- (1) Promoting cooperation, collaboration, and communication between all groups, professions, agencies, or entities that serve families and children;
- (2) Maintaining a comprehensive database of all child deaths that occur in the county or counties served by the board to develop an understanding of the causes and incidence of those deaths;



(3) Recommending and developing plans for implementing local service and program changes and changes to the groups, professions, agencies, or entities that serve families and children that might prevent child deaths;

(4) Advising the Ohio Department of Health (ODH) of aggregate data, trends, and patterns concerning child deaths.

A county is to either establish its own county child fatality review board or join with at least one other county to establish a regional child fatality review board. To have its own county child fatality review board, a board of county commissioners must appoint a health commissioner of the board of health of a city or general health district that is entirely or partially located in the county to establish the review board. To establish a regional child fatality review board, the board of county commissioners of two or more counties have to adopt a joint resolution creating the review board to serve all participating counties. A majority of the members of each of the participating boards of county commissioners must vote for the resolution. The joint resolution is to appoint, for each county participating in the regional review board, one health commissioner from a board of health of a city or general health district located at least in part in each county. These health commissioners are to select one of their number as the health commissioner to establish the regional review board. Regional review boards are to be established in the same manner as provided for single county review boards.

The board of county commissioners of a county that has a body acting as a child fatality review board on the bill's effective date is required to appoint that body to function as the child fatality review board for that county in lieu of having a health commissioner establish the review board. That body is to have the same duties, obligations, and protections as a child fatality review board appointed by a health commissioner.

The health commissioner appointed to establish a child fatality review board is required by the bill to select the following six members to serve on the review board with the commissioner: (1) a county coroner, (2) the chief of police of a police department or the sheriff that serves the greatest population in the county or region, (3) the executive director of a public children services agency (PCSA), (4) a public health official, (5) the executive director of a board of alcohol, drug addiction, and mental health services (ADAMH board), and (6) a physician or osteopath specializing and currently practicing in pediatric or family medicine. A designee may serve on the review board for the coroner, chief of police or sheriff, PCSA director, public health official, or ADAMH board director. The majority of the members of a child fatality review board are permitted to invite additional members to serve on the board for a period of time the majority determines. Additional members have the same authority, duties, and

responsibilities as the six members the health commissioner appoints. Vacancies are to be filled in the same manner as the original appointment.

Convening child fatality review boards

(secs. 307.622, 307.625, and 307.626)

If a county has a single county child fatality review board, the board of county commissioners is required to designate either the health commissioner that establishes the review board or a representative of the commissioner to convene meetings and be the chairperson of the review board. If a county is participating in a regional child fatality review board, the group of health commissioners that select the health commissioner to establish the review board must designate that commissioner or a representative of the commissioner to convene meetings and act as chairperson. If a body existing on the bill's effective date is the child fatality review board, the county commissioners or an individual designated by the commissioners must convene the body.

If a regional child fatality review board serves a county with more than one health district, the board shall convene in that county. If more than one of the counties served by a regional board has more than one health district, the board is to convene in one of those counties as selected by the person convening the meeting. A review board must convene at least once a year to review, in accordance with the bill and rules adopted by ODH, the deaths of all children under age 18 who, at the time of death, were residents of the county or one of the counties the board serves. A review board may not conduct a review of a child's death while an investigation of the death or prosecution of a person for causing the death is pending unless the prosecuting attorney allows the review to be conducted. The law enforcement agency conducting the criminal investigation, on the conclusion of the investigation, and the prosecuting attorney prosecuting the case, on the conclusion of the prosecution, is required to notify the chairperson of the review board of the conclusion.

Providing a child fatality review board information

(secs. 307.628, 2151.421, and 4731.22)

Notwithstanding statutory provisions that provide for HIV tests and AIDS or AIDS-related condition diagnoses to be confidential or other statutory provisions, the following are required, on the request of a child fatality review board, to make any requested information available to the review board: an individual, PCSA, private child placing agency (PCPA), agency providing services specifically to individuals or families, law enforcement agency, or other public or private entity that provided services to a child whose death is being reviewed. For

purposes of the review, the review board is to have access to confidential information. Each member of the review board is required to preserve the confidentiality of the information. But, no person, entity, law enforcement agency, or prosecuting attorney is required to provide information regarding a child's death while an investigation or prosecution is pending unless the prosecuting attorney agrees to allow the review board to review the death.

The bill provides that a physician does not violate the prohibition against willfully betraying a professional confidence by providing information, documents, or reports to a child fatality review board.

Current law provides for PCSAs and municipal and county peace officers to accept reports of child abuse or neglect or suspected child abuse or neglect. A report is confidential except to the extent necessary for a PCSA to advise a person alleged to have inflicted abuse or neglect on a child of the disposition of the investigation into the report. The bill provides that, if a child dies for any reason at any time after a report is made alleging that the child was the victim of abuse or neglect, the PCSA or peace officer to which the report was made or referred is required, on the request of a child fatality review board, to make the report available to the review board of the county in which the child resided at the time of death.

Child fatality review boards to submit reports

(sec. 307.627)

The bill requires the person convening a child fatality review board to prepare and submit to ODH an annual report that includes information concerning each child death the board reviewed in the previous calendar year. The report is due by the first day of each April and must include (1) the cause of death, (2) factors contributing to death, (3) age, (4) sex, (5) race, (6) the geographic location of death, and (7) the year of death. The report also must specify the number of child deaths that have not been reviewed since the bill's effective date and may include recommendations for actions that might prevent other deaths, as well as any other information the review board determines should be included. The reports are public records for the purpose of Ohio's Open Records Law.

ODH and Children's Trust Fund Board to publish report

(sec. 3701.045)

On or before the 30th day of each September, ODH and the Children's Trust Fund Board are required by the bill to jointly prepare and publish a report organizing and setting forth the data in all the reports provided by child fatality

review boards in their annual reports to ODH for the previous calendar year. The report is also to include recommendations for changes to law and policy that might prevent future deaths. ODH and the Children's Trust Fund Board jointly have to provide a copy of their report to the Governor, Speaker and Minority Leader of the House of Representatives, President and Minority Leader of the Senate, and each child fatality review board.

Confidentiality of information and materials

(secs. 149.43 and 307.6210)

Information, documents, and reports presented to a child fatality review board, all statements made by review board members during meetings, and a review board's work products (other than the annual reports to ODH) are confidential and exempt from Ohio's Open Records Law. A review board and its members are to use the information, documents, reports, statements, and work products only in the exercise of the board's proper functions. The information, documents, reports, statements, and work products are not subject to subpoena or discovery in civil proceedings. In a criminal proceeding or proceeding in which a child is alleged to be an abused, neglected, or dependent child, a court, at the request of a prosecutor, is permitted to issue a subpoena to obtain, or order that discovery be permitted of, the information, documents, or reports if the prosecutor demonstrates they are necessary to the proceeding and are not available from another source. The bill states that this provision does not affect the privileges or immunities provided by statute or available at common law.

Persons are prohibited from permitting or encouraging the unauthorized dissemination of the confidential information described in the preceding paragraph. Whoever violates the prohibition is guilty of a misdemeanor of the second degree.

Civil immunity

(sec. 307.629)

An individual or public or private entity providing information, documents, or reports to a child fatality review board is immune from any civil liability for injury, death, or loss to person or property that otherwise might be incurred or imposed as a result of providing the information, documents, or reports. Each member of a review board is immune from civil liability for injury, death, or loss to person or property that might otherwise be incurred or imposed as a result of the member's participation on the review board.

ODH rules

(sec. 3701.045)

The bill requires ODH, in consultation with the Children's Trust Fund Board and child fatality review boards that exist on the bill's effective date, to adopt rules in accordance with the Administrative Procedure Act that establish a procedure for child fatality review boards to follow in conducting a review of the death of a child.¹ The rules must do all of the following:

(1) Establish the format for annual reports child fatality review boards must submit to ODH;

(2) Establish guidelines for a child fatality review board to follow in compiling statistics for annual reports so that the reports do not contain any information that would permit any person's identity to be ascertained from a report;

(3) Establish guidelines for a child fatality review board to follow in creating and maintaining a comprehensive database of child deaths, including provisions establishing uniform record-keeping procedures;

(4) Establish guidelines, materials, and training to help educate members of child fatality review boards about the purpose of the review process and the confidentiality of information presented to a review board and to make the members aware that the information is not a public record.

Exemption from open meetings law

(sec. 121.22)

Under the open meetings law, with certain exceptions, meetings of a public body are public meetings open to the public at all times. The bill provides that meetings of a child fatality review board are not subject to the open meetings law.

Duties of local registrar of vital statistics

(sec. 3705.071)

¹ No child fatality review boards will exist on the bill's effective date. It is only possible for bodies acting as review boards to exist on that date. A technical amendment is needed to address this problem.

The bill requires a local registrar of vital statistics, on receipt of a death certificate of a person under age 18, to determine the county in which the person resided at the time of death. If the county of residence was other than the county in which the person died, the registrar, after registering the certificate, must make a copy of the certificate and send it to the local registrar of vital statistics of the county in which the person resided at the time of death.

FINANCIAL REQUIREMENTS

Financial requirements governing PCSAs, PCPAs, and private noncustodial agencies

The bill establishes several new requirements governing the use and expenditure of funds by a public children services agency (PCSA), private child placing agency (PCPA), or private noncustodial agency (PNA).²

Financial rules and penalties for PCSAs, PCPAs, and PNAs

(secs. 5101.141, 5101.146, and 5101.147)

Current law provides that the Ohio Department of Human Services (ODHS) is the single state agency of Ohio to administer federal payments for foster care and adoption assistance pursuant to Title IV-E of the Social Security Act, and must adopt rules to implement that authority. ODHS is specifically required to adopt internal management rules governing financial and administrative requirements applicable to PCSAs.

The bill requires that the rules adopted by ODHS governing financial and administrative requirements applicable to PCSAs also be applicable to PCPAs and PNAs. ODHS, in adopting the rules regarding financial requirements, must establish all of the following:

- Procedures for monitoring cost reports to ensure that PCPAs and PNAs comply with federal and state laws governing cost reports, including procedures to ensure that Title IV-E foster care maintenance costs are reported accurately;

² A private noncustodial agency is an entity certified by the Ohio Department of Human Services that does not accept temporary or permanent legal custody of children, is privately operated in Ohio and does one or more of the following: (1) receives and cares for children for two or more consecutive weeks, (2) participates in placing children in family foster homes, or (3) provides adoption services in conjunction with a PCSA or PCPA.

- An accurate determination of costs that should have been reported to the United States Department of Health and Human Services and reimbursement of the Department for the federal share of any overstated costs;
- Procedures to ensure that county match funds are used in accordance with Title IV-E requirements;
- Procedures for analysis and comparison of financial statements submitted by PCSAs to cost reports submitted by PCPAs and PNAs and investigation and resolution of discrepancies between them;
- A single form for PCPAs and PNAs to report costs reimbursable under Title IV-E and Medicaid.

The bill requires ODHS to establish the following penalties for PCSA, PCPA, or PNA failure to comply with procedures ODHS establishes to ensure fiscal accountability:

(1) For initial failure, the development and implementation of a corrective action plan according to a specific schedule;

(2) For subsequent failures or failure to achieve the goals of a corrective action plan, either of the following:

(a) For PCSAs, withholding of Title IV-E funds until the implementation of a corrective action plan that has been approved by ODHS and the board of county commissioners of the PCSAs county;

(b) For PCPAs and PNAs, loss of the reimbursement rate for two years.

Effect of sanctions on foster children

(sec. 5101.148)

The bill provides that if ODHS sanctions a PCSA, PCPA, or PNA as described above, it must take every possible precaution to ensure that any foster children that have been placed by the sanctioned agency are not unnecessarily removed from the foster home in which they reside.

Recovery of funds

(sec. 5101.149)

The bill provides that unless another government entity has filed a legal action to recover the funds, ODHS must seek recovery of the public funds it determines have been inappropriately expended from the offending PCSA, PCPA, or PNA, any of its officers, or any of its employees involved in the inappropriate expenditure of funds, or from all of them.

Private spending rules

(secs. 5153.14 and 5153.164)

The bill provides that ODHS must adopt rules that require a PCSA to do all of the following:

(1) Monitor spending of PCPAs and PNAs with which the PCSA has entered into an agreement providing care for children in need of public care or protection;

(2) Monitor the percentage of payments to a PCPA or PNA that is used for direct services to foster children or foster caregivers and the percentage that is used for the administrative expenses of the PCPA or PNA;³

(3) Establish policies governing the personal use of assets acquired with public funds by PCSA, PCPA, or PNA officers or employees;

(4) Include in an agreement entered into with a PCPA or PNA described in (1) above a description of costs that are not allowable and examples of unallowable costs.

The rules must be adopted pursuant to Revised Code section 111.15.⁴

Loans to PCSA executive director

(sec. 5101.145)

Current law provides that each county must deposit all funds its PCSA receives from appropriations into a special fund in the county treasury known as the "children services fund." The money in the fund may be used only for the purposes of meeting the expenses of providing children services. The bill provides

³ *The bill uses the term "foster caregiver" instead of "foster parent" in all amendments to current law and provisions of new law (see "**Definition and use of term "foster caregiver"**").*

⁴ *This section provides for the adoption of rules without a public hearing.*

that money from the children services fund may not be used to provide a personal loan to the PCSA executive director or the chief executive officer of a PCPA or PNA. (See **COMMENT 1.**)

Audit on renewal of PCPA and PNA certification

(secs. 5103.03 and 5103.033)

Under current law, every two years ODHS must certify the fitness of PCPAs and PNAs to receive and care for children or place children in private homes. The bill requires that the first time a PCPA or PNA seeks renewal of its certification, it must provide ODHS, as a condition of renewal, evidence of an independent audit of its first year of certification. Thereafter, when a PCPA or PNA seeks renewal of its certificate, it must provide ODHS evidence of an independent audit for the two most recent previous years it is possible for an independent audit to have been conducted. For the PCPA or PNA to be eligible for renewal, the independent audits must demonstrate that the PCPA or PNA operated in a fiscally accountable manner in accordance with the laws and rules and any agreement it has with a PCSA.

FOSTER CARE

Issuance, renewal, and revocation of foster home certification

(secs. 2151.011, 2151.34, 2151.424, 2151.55, 2151.554, 2151.62, 5101.141, 5103.02, 5103.03, 5105.01 to 5105.18, 5119.22, 5123.77, 5126.356, 5139.39, and 5153.16)

Under current law, ODHS must certify the fitness of every institution and association that receives, or desires to receive and care for children, or places children in private homes. A foster home is an institution or association whose fitness must be determined. ODHS also has authority to renew as well as revoke certificates of foster homes. ODHS is given authority to delegate its inspection and approval duties concerning foster homes to PCSAs, PCPAs, and PNAs.

The bill generally maintains current law concerning issuance, renewal, and revocation of foster home certifications, but makes clarifications and other changes as described below.

Clarification concerning certification

The bill clarifies that no person may operate a foster home unless the person holds a valid certificate issued by ODHS pursuant to the bill. The bill also

clarifies that whoever operates a foster home without a certificate will be fined not less than \$5 nor more than \$500.

Prohibition against placing children in uncertified foster homes

The bill prohibits a PCSA, PCPA, or PNA from placing a child in a foster home that does not hold a valid certificate issued by ODHS. The bill also provides that placing a child in a foster home without a valid certificate will result in the following penalties until the implementation of a corrective action plan:

- With respect to a PCSA, withholding Title IV-E funds;
- With respect to a PCPA or PNA, loss of reimbursement under Title IV-E.

Issuance of certificate

The bill provides that a person who wants to operate a foster home must request that a recommending agency provide the person with an application form prescribed by ODHS (see "**Foster home forms**," below).⁵ On receipt of the application, the person must complete and return it to the recommending agency. On receipt of a completed application and to the extent required by rules ODHS must adopt under the bill (see "**Foster home rules**," below), a recommending agency must perform the duties required by those rules and make a recommendation regarding whether ODHS should issue a foster home certificate to the applicant. Except in cases of a recommendation for denial, the recommending agency must submit, in accordance with the rules required to be adopted by ODHS under the bill, the form on which the agency indicates its recommendation regarding whether ODHS should issue the certificate to the applicant and any additional information the department requires.

A recommending agency that decides to recommend that ODHS deny an application for a foster home certificate must notify the applicant using the form required to be adopted by ODHS to notify applicants that the recommending agency will recommend denial of the application. The agency must notify the applicant prior to submitting the application materials to ODHS. If the applicant provides the agency with written notice that the applicant is voluntarily withdrawing the application, the agency is not required to submit the application materials to ODHS.

⁵ The bill defines a "recommending agency" to mean a PCSA, PCPA, or PNA that recommends that ODHS take any of the following actions regarding a foster home: (1) issue a certificate, (2) deny a certificate, (3) renew a certificate, (4) deny renewal of a certificate, or (5) revoke a certificate.

On receipt of application materials from a recommending agency, ODHS must decide whether to issue the certificate to an applicant. ODHS must notify the recommending agency and applicant of its decision. If ODHS' decision is different from the agency's recommendation, ODHS must state in the notice the reason for the difference. ODHS must issue a foster home certificate to an applicant if the requirements for the certificate have been met. The certificate is valid for two years, unless earlier revoked.

Renewal of certificate

Before the expiration of its certificate, a foster caregiver seeking renewal of the certificate for the foster caregiver's foster home must notify the recommending agency in accordance with the rules required to be adopted by ODHS under the bill. On receipt of a foster caregiver's notice, a recommending agency must perform the duties required by the rules that must be adopted by ODHS pursuant to the bill and make a recommendation regarding whether ODHS should renew the certificate. Except in cases of a recommendation of nonrenewal, the agency must submit to ODHS, in accordance with the adopted rules, the form indicating the agency's recommendation regarding whether ODHS should renew the certificate and any other information ODHS requires.

A recommending agency that decides to recommend that ODHS not renew a foster home certificate must notify the foster caregiver using the form adopted by ODHS to notify foster caregivers that the recommending agency will recommend nonrenewal of the certification. The agency must notify the foster caregiver prior to submitting the materials regarding renewal to ODHS. If the foster caregiver provides the agency with written notice that the foster caregiver is voluntarily withdrawing from the recertification process, the agency is not required to submit the renewal materials to ODHS.

On receipt of renewal materials from a recommending agency, ODHS must decide whether to renew the certificate. ODHS must notify the recommending agency and foster caregiver of its decision. If ODHS' decision is different from the agency's recommendation, ODHS must state in the notice the reason for the difference. ODHS must renew a foster home certificate if the requirements for the certificate continue to be met. The certificate is valid for two years, unless earlier revoked.

Revocation of certificate

ODHS, acting on its own or on the recommendation of a recommending agency, may revoke a foster home certificate on determining that the requirements for the certificate are no longer being met or if a reason for revocation exists as specified in the rules required to be adopted by ODHS under the bill. An applicant

aggrieved by ODHS' denial of, refusal to renew, or revocation of a foster home certificate may appeal in accordance with the Administrative Procedure Act (R.C. Chapter 119.).

Foster home boarder restrictions

(sec. 5105.22)

The bill provides that a boarder may not reside in a foster home, except under certain conditions.⁶ Those conditions are as follows:

(1) The boarder is age 65 or older and satisfies the requirements of the rules ODHS is required to adopt under the bill (see "**Foster home rules**," below) regarding adults who reside in foster homes;

(2) The foster caregiver does not require the boarder to perform any services with respect to a foster child residing in the foster home, including providing child-care services for the foster child;

(3) The boarder does not share a sleeping room with the child;

(4) A recommending agency, court, or other private or government entity provides the boarder the following for each foster child the agency, court, or entity has placed or is to place in the foster home:

(a) A written report describing the foster child's social history;

(b) A written report describing any acts committed by the foster child that resulted in the foster child being adjudicated a delinquent child and the disposition made by the court, unless the records pertaining to the acts have been sealed according to current law;

(c) A written report describing any other violent act committed by the foster child of which the agency, court, or entity is aware;

(d) The substantial and material conclusions and recommendations of any psychiatric or psychological examination conducted on the foster child or, if there is no information available from such an examination, the substantial and material conclusions and recommendations of an examination to detect mental and emotional disorders conducted by an independent social worker, social worker,

⁶ *The bill defines "boarder" to mean an adult who is provided room and board or both at a foster home for consideration and is not related by blood or marriage to, or is not a former foster child of, the foster caregiver.*

professional clinical counselor, or professional counselor licensed under law. The agency, court, or entity is not permitted to provide any part of a psychological, psychiatric, or mental and emotional disorder examination to the boarder other than the substantial and material conclusions and recommendations.

(5) A boarder receives the information described in (4) above for each foster child prior to the date the boarder begins residing in the foster home. The boarder must receive the information for each foster child placed in the foster home after the boarder begins residing there prior to the date the foster child begins to reside there.

Foster home forms

(sec. 5105.40)

ODHS is required by the bill to prescribe the following forms and make them available to recommending agencies:

- (1) An application form for a foster home certificate;
- (2) A form on which a recommending agency indicates its recommendation regarding whether ODHS should issue a foster home certificate;
- (3) A form a recommending agency is to use to notify an applicant that the recommending agency will recommend that ODHS deny the application for a foster home certificate;
- (4) A form on which a recommending agency indicates its recommendation regarding whether ODHS should renew a foster home certificate;
- (5) A form a recommending agency is to use to notify a foster caregiver that the recommending agency will recommend that ODHS not renew the foster home certificate.

Foster home rules

(sec. 5105.41)

The bill requires ODHS to adopt rules in accordance with the Administrative Procedure Act as necessary for efficient administration of the bill's provisions addressing foster home certification. The rules must specify at least the following:

- (1) Standards for a foster home certificate, including requirements adults residing in foster homes must satisfy;

(2) The duties a recommending agency must perform regarding making a determination of whether to recommend that ODHS issue a foster home certificate to an applicant and the extent to which a recommending agency must perform the duties. The duties must include having an assessor who meets the requirements of the adoption law governing assessors conduct a home study of the applicant;

(3) The manner in which a recommending agency is to submit to ODHS materials regarding an applicant for a foster home certificate and the substance of the materials;

(4) The manner in which a foster caregiver is to notify a recommending agency that the foster caregiver wants to renew a foster home certificate;

(5) The duties a recommending agency must perform regarding making a determination of whether to recommend that ODHS renew a foster home certificate;

(6) The manner in which a recommending agency is to submit to ODHS materials regarding a renewal of a foster home certificate and the substance of the materials;

(7) Reasons a foster home certificate may be revoked.

Home studies

(secs. 5101.1410 and 5101.1411)

Under current law, a home study must be conducted with respect to every person wanting to adopt a minor to determine whether the person is suitable. The bill requires that ODHS rules adopted under current law regarding home studies of prospective adoptive parents and required to be adopted under the bill regarding prospective foster caregivers must provide for an assessor to conduct a home study of a prospective foster caregiver in a manner that satisfies the requirement of Ohio's adoption law governing home studies of prospective adoptive parents so that the foster caregiver does not have to undergo a second home study if the foster caregiver seeks to adopt the foster caregiver's foster child. The bill also requires ODHS to provide training to assessors conducting home studies of prospective adoptive parents or foster caregivers so that assessors are able to comply with the requirements of the home studies.

Requirements to be a home study assessor

(sec. 3107.012)

Current law imposes requirements that an individual must meet in order to be an adoption assessor. Adoption assessors perform various duties in connection with the process of adoption, including the home study of the prospective adoptive parent. The qualifications to be an adoption assessor are as follows:

(1) The individual must be in the employ of, appointed by, or under contract with a court, PCSA, PCPA, or PNA;

(2) The individual must be a professional counselor, social worker, or psychologist licensed under law; a student working to earn a post-secondary degree who conducts assessor's duties under the supervision of a professional counselor, social worker, or psychologist licensed under law; or a civil service employee engaging in social work without a license as permitted under law;

(3) The individual must complete education programs in accordance with rules adopted by ODHS.

Current law requires adoption assessors to meet only the educational requirements described in (3) above if the person was employed or appointed by, or under contract with, a court prior to September 18, 1996, to do adoption investigations of prospective adoptive parents.

The bill subjects an individual who wants to be an assessor for purposes of doing home studies of prospective foster caregivers seeking a foster home certificate as provided in the bill to all the requirements and exceptions applicable to adoption assessors.

Education programs for adoption home study assessors

(sec. 3107.014)

As described above, to be an adoption assessor an individual must meet certain requirements including completing educational programs required by rules adopted by ODHS. The educational programs must include courses on adoption placement practice, federal and state adoption assistance programs, and post adoption support services. The bill requires ODHS to develop a schedule of those education programs that include enough programs to provide all agencies equal access to the programs. ODHS must distribute the schedule to all agencies.

Criminal records check with respect to foster care

(secs. 109.572, 2151.86, and 3107.14)

Current law requires the appointing or hiring officer of an entity that employs persons to be responsible for a child's care in out-of-home care and the administrative director of any entity that designates a person as a prospective adoptive parent or foster caregiver to request criminal records checks of the persons employed to care for children or designated as prospective adoptive parents or foster caregivers.⁷ The officer or administrative director must request that the Superintendent of the Bureau of Criminal Identification and Investigation (BCII) conduct the criminal records check. The person to be checked must complete a criminal records check form and fingerprint impression sheet that the officer or administrative director must send to the Superintendent.

The Superintendent, on receipt of a request for a criminal records check, the records check form, and impression sheet, must determine whether the person being checked previously has been convicted of or pleaded guilty to certain offenses. Those offenses include, for example, the offenses of aggravated murder, murder, felonious assault, aggravated assault, assault, rape, sexual battery, gross sexual imposition, and sexual imposition, and offenses under the existing or former laws of Ohio, any other state, or the United States that are substantially equivalent to any of those offenses.⁸

Current law prohibits a person from being a person responsible for a child's care in out-of-home care or an adoptive parent or foster caregiver if the person does not provide a completed criminal records check form or fingerprint impression sheet. In addition, a person cannot care for children in out-of-home care or be an adoptive parent or foster caregiver if a criminal records check indicates the person committed one of the offenses checked for by the Superintendent, unless the person meets rehabilitation standards established by ODHS. If a person meets the requirements of the standards, the person may care for children in out-of-home care or be an adoptive parent or foster caregiver.

⁷ A "person responsible for a child's care in out-of-home care" includes, for example a foster caregiver; any administrator, employee, or agent of a detention facility, child day-care center, or group home; or any other person who performs similar functions with respect to, or has a similar relationship with children. A person responsible for a child's care in out-of-home care does not include a prospective employee of the Department of Youth Services or a person responsible for a child's care in a hospital or medical clinic other than a children's hospital.

⁸ See Revised Code §§ 109.572 and 2151.86 for the complete list of offenses.

The bill changes the law in the following ways:

Criminal records check prior to requesting issuance of foster home certificate

The bill requires a recommending agency regarding the issuance of a foster home certificate, instead of the administrative director of an entity that designates a person as a prospective foster caregiver, to make the request for the criminal records check of the prospective foster caregiver and to do so before the recommending agency submits a recommendation on whether ODHS should issue a foster home certificate to the prospective foster caregiver.

Additional offenses included in the criminal records check of a prospective foster caregiver

The bill requires, in addition to determining whether a prospective foster caregiver has been convicted of or pleaded guilty to any of the offenses listed under the current criminal records check law, some of which are described above, that the Superintendent of BCII determine whether the prospective foster caregiver has been convicted of or pleaded guilty to the offense of arson or aggravated arson.

Criminal records check of persons residing with a prospective foster caregiver

The bill requires that a recommending agency request, in addition to a criminal records check of a prospective foster caregiver, that a criminal records check be conducted of all other persons who reside with the prospective foster caregiver, before the recommending agency submits a recommendation on whether a foster home certificate should be issued by ODHS to the prospective foster caregiver. The criminal records check conducted by the Superintendent of BCII must address all offenses that the check of a prospective foster caregiver addresses. In addition, the criminal records check of the person residing with the prospective foster caregiver must determine whether the person has been adjudicated to be a delinquent child for committing an act that if committed by an adult would have been the offense of aggravated murder, murder, felonious assault, aggravated assault, assault, rape, sexual battery, gross sexual imposition, sexual imposition, aggravated arson, or arson, or an offense under the existing or former laws of Ohio, any other state, or the United States that are substantially equivalent to any of those offenses.

No issuance of foster home certificate

The bill provides that ODHS is not permitted to issue a foster home certificate to a prospective foster caregiver to operate a foster home if either of the following apply:

(1) The prospective foster caregiver or any other person who resides with the prospective foster caregiver failed to provide a completed criminal records check form and fingerprint impression sheet;

(2) ODHS is notified that the foster caregiver or person residing with the foster caregiver has a prior conviction or guilty plea to an offense specified in statute or the person residing with the prospective foster caregiver has been adjudicated a delinquent child as described above, unless the foster caregiver or person residing with the foster caregiver meets the rehabilitation standards established by ODHS rules.

Application of rehabilitation standards to persons residing with a prospective foster caregiver

The bill provides that the rehabilitation standards adopted by ODHS apply to a person residing with the prospective foster caregiver who has been convicted or plead guilty to an offense specified in statute.

Clarifications

The bill makes the following clarifications to the law governing criminal records checks of a person who may be employed as a person responsible for a child's care in out-of-home care, a prospective adoptive parent, or a prospective foster caregiver:

(1) The criminal records check law applies whenever an appointing or hiring officer of an entity *appoints*, as well as employs, any person to be a person responsible for a child's care in out-of-home care;

(2) The appointing or hiring officer of an entity that appoints or employs any person to be responsible for a child's care in out-of-home care must request the criminal records check of the person when the person is *under final consideration for appointment* or employment;

(3) The rights and duties under the criminal records check law concerning prospective adoptive parents applies to administrative directors of agencies, or attorneys, who arrange adoptions, instead of just the administrative director of any entity designating a person as a prospective adoptive parent;

(4) The criminal records check law must be complied with before a court issues a final decree of adoption or interlocutory order of adoption making a person an adoptive parent or before ODHS issues a foster home certificate to a prospective foster caregiver, instead of before considering a person as an adoptive parent or foster caregiver.

Offenses committed by foster caregiver possessing a foster home certificate or by a person residing with the foster caregiver

(secs. 5105.24, 5105.25, 5105.26, and 5105.99)

The bill prohibits foster caregivers from failing to notify the recommending agency that recommended the foster caregiver for certification if the foster caregiver or any person residing with the foster caregiver has pleaded guilty to committing or has been convicted of committing any criminal offense, or the person residing with the foster caregiver has been adjudicated a delinquent child for committing certain acts, covered by a criminal records check (see "**Criminal records checks with respect to foster care**," above). A foster caregiver who fails to make the notice is guilty of a minor misdemeanor.

On receipt of the notice, the recommending agency must do all of the following:

(1) Review the foster caregiver's foster home certificate. After review, the agency may recommend that ODHS revoke the certificate if a reason exists as specified in the rules adopted by ODHS.

(2) Review the placement in the foster home of any child of whom the agency has temporary, legal, or permanent custody. After review, the agency may, consistent with any juvenile court order, remove the child from the foster home in which the child is residing and place the child in another certified foster home.

(3) If the agency does not have temporary, legal, or permanent custody of a foster child residing in the foster home, notify the entity that has custody that it has received the notice about a conviction or plea of the foster caregiver or person residing with the foster caregiver or the juvenile delinquency adjudication of the person residing with the foster caregiver.

(4) Assess the foster caregiver's need for training because of the conviction, plea, or adjudication and provide any necessary training.

On receipt of a notice about a conviction, plea, or adjudication, an entity with temporary, legal, or permanent custody of a child who is the subject of the notice shall review the child's placement in the home. After review, the entity

may, consistent with any juvenile court order, remove the child from the foster home and place the child in another certified foster home.

Policy on parental involvement

(sec. 3313.472)

Under current law, the board of education of each city, exempted village, local, and joint vocational school district must adopt a policy on parental involvement in the schools of the district. The policy must be designed to build consistent and effective communication between parents of students enrolled in the district and the teachers and administrators assigned to the schools their children attend. The policy must provide the opportunity for parents to be actively involved in their children's education and to be informed of other issues related to their children's education including, for example, the importance of parental involvement to the educational success of their children. The bill makes the policy applicable to foster caregivers and their foster children to the same extent as parents and their children.

Education of handicapped children

(sec. 3323.01)

Current law provides for the appropriate public education of handicapped children in the state. The Revised Code requires that standards and procedures be in place to identify, locate, evaluate, and place handicapped children in appropriate educational programs. Involvement of the parents of the handicapped children is provided for in the law. "Parent" is defined according to the law as either parent; the parent who is the residential parent and legal custodian, in the case of separated or divorced parents; or the child's guardian or custodian, except when determining the child's school district of residence, with respect to county boards of mental retardation and developmental disabilities special education programs, and with respect to tuition of private children's homes for special education. The bill includes foster caregivers in the definition of "parent" to the same extent as a child's guardian or custodian.

Definition of "institution" and "association"

(secs. 5103.02 and 5103.03)

Under current law, "institution" and "association" for purposes of certain provisions of the law including, for example, those addressing ODHS certification of institutions and associations for children, means the following:

(1) Any incorporated or unincorporated organization, society, association, or agency, public or private, that receives or cares for children for two or more consecutive weeks;

(2) Any individual who for hire, gain, or reward, receives or cares for children for two or more consecutive weeks, unless the individual is related to them by blood or marriage;

(3) Any individual not in the regular employ of a court, or of an institution or association certified by ODHS, who in any manner becomes a party to placing children in foster homes, unless the individual is related to such children by blood or marriage or is appointed guardian of such children.

Current law excludes from the definition (1) certain entities licensed, regulated, approved, or operated under the direction of, or otherwise certified by the Department of Education, a local board of education, Department of Youth Services, Department of Mental Health, or Department of Mental Retardation and Developmental Disabilities, and (2) an individual who provides care for only a single-family group, placed there by their parents or other relative having custody.

The bill excludes additional organizations from the definition of institution and association: facilities under Department of Youth Services control; District detention homes for children; child day-care centers; and foster homes. (See **COMMENT 2.**)

Definition and use of term "foster home"

(secs. 2151.011, 3313.64, 5101.14, 5103.02, 5105.01, 5119.22, 5139.39, and 5153.01)

Current law provides definitions of "family foster home" and "foster home." Because of the way both terms are defined, there is confusion in the law concerning the application and usage of the definitions and, more importantly, how the homes are regulated. The bill eliminates the term "family foster home" and subsumes its key elements into a new definition of "foster home." The bill also replaces "family foster home" and a "foster care facility certified by ODHS," with the term "foster home" in the Revised Code.

Under the bill, "foster home" is defined as a private residence in which children are received apart from their parents, guardian, or legal custodian by an individual, other than an individual related to the children by blood or marriage, who is reimbursed for providing the children nonsecure care, supervision, or training 24 hours a day. The bill includes treatment foster homes and family foster

homes as types of foster homes (see "*Definition of "treatment foster home"*").⁹ "Foster home" does not include (1) a private residence of an individual who cares for a child while the parents, guardian, or legal custodian of the child are temporarily away or (2) a private residence of an individual who cares for only a single-family group, placed there by their parents or other relative having custody.

Definition and use of term "certified foster home"

(secs. 2151.011, 2151.312, 2151.331, 2151.34, 2151.353, 5101.141, 5105.01, 5123.77, 5153.01, 5153.16, and 5153.161)

Current law defines a "certified family foster home" as a family foster home operated by a person with a foster home certificate issued under current Revised Code provisions governing certification of fitness of institutions and associations by ODHS. The bill changes the term from certified family foster home to "certified foster home." The bill defines the new term as a foster home certified under the new procedure governing foster home certificates established by the bill. The term "certified family foster home" is replaced by "certified foster home" in the Revised Code.

Definition and use of term "foster caregiver"

(secs. 307.441, 2151.011, 2151.411, 2151.414, 3107.01, 3107.13, 5101.143, 5103.161, 5105.01, 5111.20, and 5153.131)

The bill creates the term "foster caregiver" and defines it as a person holding a valid foster home certificate issued by ODHS pursuant to the new procedure governing foster home certificates established by the bill. The bill replaces the term "foster parent" with "foster caregiver" in the Revised Code.

Definition of "treatment foster home"

(secs. 5103.02 and 5105.01)

Under current law, a "treatment foster home" is a family foster home that incorporates special psychological or medical treatment designed to care for the specific needs of the children received in the family foster home and that receives and cares for children who are emotionally or behaviorally disturbed, medically fragile requiring special medical treatment due to physical ailment or condition, mentally retarded, or developmentally disabled.

⁹ *The bill eliminates the term "family foster home." Its inclusion in the definition of foster home is an error requiring a technical amendment to correct.*

The bill replaces the current definition with a new definition of treatment foster home that means a foster home that incorporates special rehabilitative services designed to treat the specific needs of the children received in the foster home and that receives and cares for children who are emotionally or behaviorally disturbed, chemically dependent, medically fragile, mentally retarded, developmentally disabled, or who otherwise have exceptional or intensive needs.

OTHER ITEMS

Statewide automated child welfare information system

(sec. 5101.1412)

Am. Sub. H.B. 215 of the 122nd General Assembly (the budget bill for FY 1998-99) appropriated funds for the implementation of a statewide automated child welfare information system (SACWIS) to be used by each PCSA. The vendor ODHS contracts with to create the system was to be one able to have SACWIS operational in all 88 counties of the state by June 30, 1999. Am. Sub. H.B. 283 of the 123rd General Assembly (the budget bill for FY 2000-01) contained an appropriation for computer projects, including the continued development and implementation of SACWIS.

According to a representative of ODHS, SACWIS is not yet fully developed and implemented. When fully developed and implemented SACWIS will provide child welfare personnel detailed information about cases of individual children and child welfare in Ohio.

The bill requires that SACWIS collect, analyze, and report information concerning child welfare services provided to a child and the impact of those services on the child.

PCSA employment of counsel

(sec. 305.14)

Under current law, the prosecuting attorney is the legal adviser of a PCSA and has the duty to prosecute and defend all actions in which the PCSA is a party. A PCSA may employ legal counsel only if the court of common pleas, on application of the prosecuting attorney and board of county commissioners, authorizes it. The bill would permit a PCSA, without authorization of the common pleas court, to employ legal counsel to advise it or represent it or any of its members or employees with respect to both of the following:

- (1) Any public business matter coming before the PCSA;

(2) The prosecution or defense of any action or proceeding in which the PCSA in its official capacity, or a PCSA member or employee, in the member's or employee's official capacity, is a party or has an interest.

But, even if the authorization of the court of common pleas is not required, in any legal proceeding in which the prosecuting attorney is able to perform the prosecuting attorney's statutory duty without a conflict of interest, the bill requires the PCSA to have the prosecuting attorney's written consent before employing other counsel. If the prosecuting attorney is unable for any reason to represent the PCSA, the prosecuting attorney must notify the PCSA. The PCSA may then employ counsel for the proceeding without obtaining further permission from any authority.

Medicaid payment for supervisory work

(sec. 5111.025)

The bill provides that ODHS is not permitted to pay a provider for supervisory work if it determines that the provider did not perform the work or was not qualified to perform the work. Under current law, a "provider" is any person with an agreement to provide services under the Medicaid program.

Notification of disposition of child abuse or neglect investigation

(sec. 2151.421)

Under current law, a PCSA that investigates a report of child abuse or neglect is required to advise the alleged perpetrator of the abuse or neglect of the disposition of the report investigation. The bill requires that be done in writing.

COMMENT

1. The bill prohibits the loan of money in a county children services fund to a PCSA, PCPA, or PNA director. However current law, not proposed to be changed by the bill, permits money in a county children services fund to be used only for meeting the expenses of providing children services. If the money is used to make a personal loan to the county PCSA executive director, current law is violated. A person making the loan commits the offense of theft in office which is a third, fourth, or fifth degree felony depending on the amount involved.

2. The definition of "institution" and "association" applies to more provisions of law than those addressing their certification. The definition applies to Revised Code sections 5103.03 to 5103.19 governing various activities and requirements relating to institutions and associations. Section 5103.04, for

example, requires associations whose object embraces the care of abused, neglected, dependent, or delinquent children to submit articles of incorporation to ODHS prior to incorporating and to submit amendments to those articles to ODHS so that ODHS may make certain determinations about the articles or amendments that generally focus on the public good. The Secretary of State cannot issue a certificate of incorporation or record or issue a certification for the amendment until ODHS certifies it has examined the articles or amendments. The limitation of the definition by the bill will limit the applicability of the section.

HISTORY

ACTION	DATE	JOURNAL ENTRY
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