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123rd General Assembly

(As Reported by H. Children & Family Services)

Reps. Metzger, Ford, Harris, Tiberi, O'Brien, Winkler, Hartnett, Olman, Jerse, Hollister, DePiero, Terwilleger, Britton, Flannery, Calvert

BILL SUMMARY

CHILD FATALITIES

- 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 with respect to a child whose death is being reviewed to provide on the request of a child fatality review board, a summary sheet of information about the child drawn from the individuals' or entities' records to the board.
- Except while an investigation or prosecution is pending, permits individuals and entities with respect to a child whose death is being reviewed to provide, on the request of a child fatality review board, any additional information, documents, or reports available about the child, to the review board.
- Except while an investigation of prosecution is pending, requires a public children services agency (PCSA) or municipal or county peace officer to which a child abuse or neglect report was made or referred about a child who later died to provide, on the request of a child fatality review board, a summary of the report to the review board.
- Except while an investigation or prosecution is pending, permits the PCSA or peace officer to which a child abuse or neglect report was made or referred about the deceased child to provide, on the request of a child

fatality review board, the child abuse or neglect report to the review board about the child.

- Provides that all information, documents, or reports presented to a child death review board, all statements made by review board members during meetings, and all work products other than the annual report are confidential.
- 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 the executive director of a PCSA to release, except when a county prosecutor intends to prosecute or a judge described in the bill prohibits release, information about a deceased child whose death may have been caused by abuse, neglect, or criminal conduct.
- Requires a PCSA director, on receipt of a request for information about a deceased child who may have been the victim of abuse, neglect, or criminal conduct, to confer immediately with the county prosecutor to determine (1) whether the prosecutor intends to prosecute a person for causing the child's death and (2) what information the director may release.
- Permits a court to grant a PCSA's motion to prevent the release of information about a deceased child if the release would not be in the best interest of a sibling of the deceased child or another child residing in the household the deceased child resided in at the time of death.
- 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 PCSAs, private child placing agencies (PCPAs), and private noncustodial agencies (PNAs).

FOSTER CARE

- Requires home studies of foster caregivers seeking foster home certification and establishes other requirements concerning home studies for prospective 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 ODJFS 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 ODJFS to distribute the schedule to all agencies.
- 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 12 years old or older who reside with a prospective foster caregiver seeking a certificate to operate a foster home to criminal records checks.
- 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 definition and use of the terms "foster home," "family foster home," "certified foster home," "treatment foster home," and "foster caregiver."

- Requires ODJFS to review and adopt rules relating to contracts and visits by a PCSA or PCPA with children in the PCSA's or PCPA's custody and in foster care in Ohio.

OTHER CHILD WELFARE RELATED ITEMS

- Establishes the Ohio Child Welfare Training Program to provide training for PCSA caseworkers and supervisors.
- Establishes education prerequisites in order to be hired as a caseworker by a PCSA.
- Permits PCSAs to employ legal counsel in certain situations.
- 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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CONTENT AND OPERATION

CHILD FATALITIES

Child fatalities--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. The bill also provides for release of information held by a public children services agency (PCSAs) concerning a deceased child as well as procedures governing the release.

Establishing child fatality review boards

(secs. 307.621, 307.622, and 307.623)

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 in order 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 participating board 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 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.

The bill provides that a child fatality review board member will not receive any compensation for, and will not be paid for any expenses incurred pursuant to, fulfilling the member's duties on the board unless compensation for, or payment for expenses incurred pursuant to, those duties is received pursuant to a member's regular employment.

Convening child fatality review boards

(secs. 307.621, 307.624, and 307.625)

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. 307.627, 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 facility review board, to submit a summary sheet of information to the review board: an individual, PCSA, private child placing agency (PCPA), or 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.

With respect to a request made to a health care entity, the summary sheet is required to contain only information available and reasonably drawn from the child's medical record created by the health care entity. With respect to a request made to any other individual or entity, the summary is required to contain only information available and reasonably drawn from any record involving the child that the individual or entity develops in the normal course of business. On the request of the review board, an individual or entity may, at the individual or entity's discretion, make any additional information, documents, or reports available to the review board. 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 actual or suspected abuse or neglect of the child, 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 submit a summary sheet of information providing a summary of the report to the review board of the county in which the deceased child resided at the time of death. On the request of the review board, the agency or peace officer, at its discretion, may make the report available to the review board.

Child fatality review boards to submit reports

(sec. 307.626)

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, each child fatality review board, and each county or regional family and children first council.

Confidentiality of information and materials

(secs. 149.43 and 307.629)

Except for information concerning a deceased child that the bill permits a PCSA to disclose (see "**PCSAs releasing information concerning deceased children**," below), 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.

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

Civil immunity

(sec. 307.628)

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 acting as child fatality review boards 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. 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.

PCSA's releasing information concerning deceased children

(secs. 149.43, 5153.171, 5153.172, and 5153.173)

The bill requires the executive director of a PCSA to disclose (except in situations in which a county prosecutor intends to prosecute or a judge prohibits disclosure) certain information when requested about a deceased child under age 18 who was a resident of the county served by the PCSA at the time of death and whose death may have been caused by abuse, neglect, or other criminal conduct. Unless prohibited by the county prosecutor or judge, the PCSA director must release the following information notwithstanding any other state law pertaining to confidentiality:

(1) The child's name;

(2) A summary report of the chronology of abuse or neglect reports of which the child is the subject and the final disposition of the investigations of the reports or the status of investigations not completed;

(3) Services provided to or purchased for the child or to which the child was referred by a PCSA;

(4) Actions taken by a PCSA in response to a report of abuse or neglect of which the child was the subject.

On receipt of a request for the information, a PCSA director is required to confer immediately with the county prosecutor. If the prosecutor intends to prosecute a person for causing the child's death, the prosecutor must determine what, if any, of the information specified in the preceding paragraph that may be released and notify the PCSA director of the intent to prosecute and the determination of what information may be released. Except when the judge prohibits it, on receipt of the notice, the PCSA director is required to release the information the prosecutor determines may be released, but no other information. If the prosecutor does not intend to prosecute, the prosecutor is required to so notify the PCSA director. Except when the judge prohibits it, on receipt of that notice, the PCSA director is required to release the information specified in the preceding paragraph. The PCSA director is immune from civil or criminal liability for injury, death, or loss to person or property incurred or imposed as a result of providing information under the bill if the director acts in good faith.

A PCSA director is not permitted to disclose the information if a judge of the common pleas court of the county the deceased child resided in at the time of death determines, on motion of the PCSA, that disclosing the information would not be in the best interest of a sibling of the deceased child or another child residing in the household the child resided in at the time of death.

The bill prohibits a person from releasing the following pursuant to the request for disclosure of information under the bill concerning a deceased child: (1) the name of any person or entity that made a report or participated in making a report of child abuse or neglect of which the child was the subject, (2) the names of the parents or siblings of the child, (3) the contents of any psychological, psychiatric, therapeutic, clinical, or medical reports or evaluations regarding the child, (4) witness statements, (5) police or other investigative reports, and (6) any information other than information the bill specifies may be released.

The bill provides that records provided to and statements made by the PCSA director or county prosecutor pursuant to this provision of the bill, other than information the director releases, are not subject to Ohio's Public Records Law.

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 and meetings between a PCSA executive director and county prosecutor regarding the release of information about a deceased child are not subject to the open meetings law.

Duties of local registrar of vital statistics

(sec. 3705.071)

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 and no later than four weeks after receiving it, 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

Audits of PCSAs, PCPAs, and PNAs

(secs. 117.13 and 117.191)

The bill provides that when the Auditor of State audits a PCSA, PCPA, or private noncustodial agency (PNA), all of the following apply:¹

- On the request of the agency being audited, the auditing team must consult with a representative of a national nonprofit organization with expertise in child welfare issues and the cost of the consultation must be included in the cost of the audit;
- The audit must focus on fiscal accountability, not clinical decision making;

¹ 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 that 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.

- The Auditor must comply with generally accepted governmental auditing standards when conducting the audit.

Current law requires that the Auditor recover certain costs of auditing a public office from that public office. Thus, a PCSA must pay the costs of an audit. The costs of auditing a private entity, such as a PCPA or PNA that receives public money, must also be borne by the public office providing the money. The bill would require that the costs of an audit of a PCPA or PNA be charged to the PCPA or PNA. The costs would be charged in the same manner as costs of an audit of a public office.

Financial rules and penalties for PCSAs, PCPAs, and PNAs

(secs. 5101.141, 5101.145, and 5101.146)

Current law provides that the Ohio Department of Job and Family Services (ODJFS) 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.² ODJFS is specifically required to adopt internal management rules governing financial and administrative requirements applicable to PCSAs.

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

- (1) A single form for PCSAs, PCPAs, and PNAs to report costs reimbursable under Title IV-E and costs reimbursable under Medicaid;
- (2) Procedures to monitor cost reports submitted by PCSAs, PCPAs, and PNAs.

The bill requires ODJFS to establish the following penalties, which are to be enforced at ODJFS discretion, for PCSA, PCPA, or PNA failure to comply with procedures ODJFS establishes to ensure fiscal accountability:

- (1) For initial failure, ODJFS and the agency involved must jointly develop and implement a corrective action plan according to a specific schedule. If

² *The Ohio Department of Human Services becomes a part of ODJFS on July 1, 2000. In anticipation of that change, the bill and analysis refer to ODJFS instead of the Ohio Department of Human Services.*

requested by the agency involved, ODJFS must provide technical assistance to the agency to ensure the fiscal accountability procedures and goals of the plan are met.

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

(a) For PCSAs, ODJFS may do one of the following:

- impose a financial or administrative sanction or adverse audit issued by ODJFS against the PCSA;
- take over directly or contract with another entity to take over the functions of the PCSA;
- request the Attorney General to bring a mandamus action against the PCSA to obtain compliance.

(b) For PCPAs or PNAs, cancellation of any Title IV-E allowability rates for the agency involved or revocation, pursuant to the Administrative Procedure Act, of the agency's certificate issued by ODJFS.

Notifications for PCSA, PCPA, or PNA failure to meet fiscal accountability procedures

(sec. 5101.147)

If a PCSA fails to comply with the fiscal accountability procedures established under the bill, ODJFS is required to notify the board of county commissioners of the county served by the PCSA. If a PCPA or PNA fails to comply with the fiscal accountability procedures, ODJFS is required to notify the executive director of each PCSA that has entered into a contract for services with the PCPA or PNA.

Protecting foster children from effects of sanctions against PCSA, PCPA, or PNA

(sec. 5101.148)

If it sanctions a PCSA, PCPA, or PNA as provided in the bill, ODJFS must take every possible precaution to ensure that any foster children that have been placed by the agency under sanction are not necessarily removed from the certified foster homes in which they reside.

Loans from the county children services fund

(sec. 5101.149)

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 that money from the children services fund may not be used to provide a personal loan to any individual. (See **COMMENT.**)

Audit on renewal of PCPA and PNA certification

(sec. 5103.035)

Under current law, every two years ODJFS 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 ODJFS, 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 ODJFS 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

ODJFS duties concerning recommendations for issuance or renewal of foster home certificates

(sec. 5103.034)

Under current law, ODJFS 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. ODJFS also has authority to renew as well as revoke certificates of foster homes. ODJFS is given authority to delegate its inspection and approval duties concerning foster homes to PCSAs, PCPAs, and PNAs.

The bill provides that, on receipt of a recommendation from a PCSA, PCPA, or PNA regarding an application for, or renewal of, a family foster home or treatment foster home certification, ODJFS must decide whether to issue or renew

the certificate. ODJFS must notify the agency and the applicant or certificate holder of its decision. If ODJFS' decision is different from the recommendation of the agency, ODJFS must state in the notice the reason for the difference.

Home studies

(secs. 5103.036)

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 a PCSA, PCPA, or PNA to which the duty to inspect and approve a family foster home or treatment foster home has been delegated must provide for an assessor, qualified to be an adoption assessor, to conduct a home study of a prospective foster caregiver.

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 requires an individual who wants to be an assessor for purposes of doing home studies of prospective foster caregivers to meet 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 ODJFS. The educational programs must include courses on adoption placement practice, federal and state adoption assistance programs, and post adoption support services. The bill requires ODJFS to develop a schedule of those education programs that include enough programs to provide all agencies equal access to the programs. ODJFS 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.³ 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

³ 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.

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 foster care related terms,**" below).

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.⁴

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 ODJFS. 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.

The bill changes the law in the following ways:

Criminal records check prior to requesting issuance of foster home certificate

The bill requires the administrative director of 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 ODJFS should issue a foster home certificate to the prospective foster caregiver.⁵

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.

⁴ See Revised Code §§ 109.572 and 2151.86 for the complete list of offenses.

⁵ A recommending agency means a PCSA, PCPA, or PNA to which ODJFS has delegated a duty to inspect and approve foster homes.

Criminal records check of persons residing with a prospective foster caregiver

The bill requires that the administrative director of 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 12 years old or older who reside with the prospective foster caregiver, before the recommending agency submits a recommendation on whether a foster home certificate should be issued by ODJFS 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 a person who is at least 12 years old but less than 18 years old 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 ODJFS 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 12 years old or older who resides with the prospective foster caregiver failed to provide a completed criminal records check form and fingerprint impression sheet;

(2) ODJFS is notified that the foster caregiver or person 18 years old or older residing with the foster caregiver has a prior conviction or guilty plea to an offense specified in statute, unless the foster caregiver or person 18 years old or older residing with the foster caregiver meets the rehabilitation standards established by ODHS rules.

Discretion to deny certificate

The bill permits ODJFS to deny a foster home certificate on the grounds that a person at least 12 years old but less than 18 years old residing with the prospective foster caregiver has a prior conviction or guilty plea to an offense specified in statute or has been adjudicated a delinquent child as described above.

Application of rehabilitation standards to persons 18 years old or older residing with a prospective foster caregiver

The bill provides that the rehabilitation standards adopted by ODJFS apply to a person 18 years old or older 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 ODJFS issues a foster home certificate to a prospective foster caregiver, instead of before considering a person as an adoptive parent or foster caregiver.

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 and use of foster care related terms

(secs. 307.441, 2151.011, 2151.312, 2151.331, 2151.34, 2151.353, 2151.411, 2151.414, 2151.418, 2151.424, 2151.55, 2151.554, 2151.62, 2151.86, 2907.08, 3107.02, 3107.13, 3313.64, 5101.14, 5101.141, 5101.143, 5103.02, 5103.033, 5103.161, 5111.20, 5123.77, 5153.01, 5153.131, 5153.16, and 1553.161)

Foster homes, family foster homes, and treatment foster homes

Current law provides definitions of "family foster home," "treatment foster home," and "foster home." Because of the way the 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 confusion by applying the key elements of the definition of "family foster home" into a new definition of "foster home" and making clear that family foster homes and treatment foster homes are types of foster homes. The bill also generally 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 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. "Foster home" does not include care provided for a child in the home of a person other than the child's parent, guardian, or legal custodian while the parent, guardian, or legal custodian is temporarily away. The bill further defines a family foster home to mean a foster home that is not a treatment foster home. The bill generally retains the current law definition of treatment foster home.⁶

Certified foster home

A "certified family foster home" is a family foster home operated by a person with a foster home certificate issued under Revised Code provisions governing certification of fitness of institutions and associations by ODJFS. The bill changes the term from certified family foster home to "certified foster home." The term "certified family foster home" is replaced by "certified foster home" in the Revised Code.

Foster caregiver

The bill creates the term "foster caregiver" and defines it as a person holding a valid foster home certificate issued by ODJFS. The bill replaces the term "foster parent" with "foster caregiver" in the Revised Code.

ODJFS adopting and reviewing rules relating to visiting children in foster care in Ohio

(sec. 5103.037)

Under the Administrative Procedure Act, agencies are required to review their rules once each five-year period. The bill, notwithstanding the Administrative Procedure Act rule review provisions, requires ODJFS to review once every two years its rules governing visitation and contacts by a PCSA or PCPA with a child in the agency's custody and placed in foster care in Ohio. The bill also requires ODJFS to adopt rules in accordance with the Administrative Procedure Act rule review provisions to ensure compliance with ODJFS rules governing agency visits and contacts with a child in its custody.

⁶ A "treatment foster home" is a foster home that incorporates special psychological or medical treatment designed to care for the specific needs of the children received in the 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.

OTHER CHILD WELFARE RELATED ITEMS

Ohio child welfare training program

(secs. 5153.60, 5153.61, 5153.62, 5153.63, 5153.64, 5153.65, 5153.66, 5153.67, 5153.68, 5153.69, 5153.70, 5153.71, 5153.72, 5153.73, 5153.74, 5153.75, 5153.76, 5153.77, and 5153.78)

Creation of the program

The bill requires ODJFS to establish a statewide program that provides the training required by law for PCSA caseworkers and supervisors to complete. The program is to be called the Ohio Child Welfare Training Program (OCWTP).

Training coordinator

The OCWTP is to be developed, implemented, and managed by a training coordinator contracted with by ODJFS. Specifically, the entity contracted with to be the training coordinator must do all of the following as part of its duties under the contract:

1. Administer, coordinate, and evaluate all training program activities under the program;
2. Develop training curriculum, resources, and products;
3. Provide fiscal management and technical assistance to regional training centers (RTCs) established under the bill (see "RTCs," below);
4. Cooperate with RTCs to schedule training sessions, provide notices of training sessions, and provide training materials;
5. Employ and compensate training session instructors;
6. Create individual training needs assessment (ITNA) forms for use by PCSAs as required under the bill (see "Training needs," below);
7. Conduct any other activities necessary for the development, implementation, and management of the training program.

Selecting the training coordinator

Under the bill, ODJFS is required to develop and issue, before the beginning of each fiscal biennium, a request for proposals for the development, implementation, and management, as training coordinator, of the OCWTP during

the biennium. The bill requires the request for proposals to be developed in conjunction with certain individuals selected by the director of ODJFS. The bill also requires those selected individuals to review, before the beginning of each fiscal biennium, the responses to the request for proposals and recommend to ODJFS those entities that meet the requirements of the request. ODJFS must then contract with one of the entities recommended. The contract will be effective on the first day of the fiscal biennium for which it is entered into and terminate on the last day of that biennium.

The bill requires the director of ODJFS to select representatives from the following organizations to be the individuals to perform the consultation and recommendation duties described above: (1) RTCs, (2) PCSA staff, and (3) ODJFS staff.

Steering committee

The bill requires the director of ODJFS to establish the training program steering committee. The director shall appoint the following to serve on the committee: (1) employees of ODJFS, (2) employees of RTCs, (3) a representative of an organization that represents the interests of PCSAs, (4) a representative of the entity contracted with to serve as the training coordinator for the OCWTP, and (5) two employees of PCSAs.

All initial appointments must be made no later than 30 days after the effective date of the bill. The representative of an entity contracted with to serve as the training coordinator is required to serve on the committee until ODJFS contracts with a different entity to serve as the training coordinator. The entity under contract on the effective date of the bill to coordinate training for PCSA caseworkers and supervisors in Ohio is to be considered the entity that contracts with ODJFS to serve as the training coordinator under the OCWTP.

After the committee is appointed, the director of ODJFS must call the committee to meet for the purpose of adopting bylaws governing the operation of the committee. The bylaws must include provisions addressing the committee's governing structure, subcommittees, frequency of meetings, and amendment of the bylaws. The committee must adopt the bylaws by a majority vote of all the members and must adopt them no later than 180 days after the effective date of the bill. The bylaws must be adopted in accordance with Revised Code section 111.15.⁷

⁷ *This section provides for adoption of rules governing agency internal management rules, as well as other types of rules.*

The bill provides that the committee is not subject to the law requiring sunset of agencies four years after their creation.

RTCs

The bill requires that ODJFS, in consultation with the training program steering committee and prior to the beginning of the fiscal biennium that first follows the effective date of the bill, designate eight training regions in the state. ODJFS may change the training regions as needed. Each training region must contain only one RTC.

Prior to the beginning of the fiscal year that first follows the effective date of the bill, the PCSAs of Athens, Cuyahoga, Franklin, Greene, Guernsey, Hamilton, Lucas, and Summit counties must each establish and maintain an RTC. At any time after the beginning of that biennium and on the recommendation of the training program steering committee, ODJFS may direct a PCSA to establish and maintain an RTC to replace a center established in a county described above. The bill provides that there may be no more and no less than eight RTCs in existence at any time.

The executive director of each PCSA that is required to establish and maintain an RTC must appoint a manager to operate the RTC in accordance with the duties required under the bill. An RTC is required to do all of the following:

1. Secure facilities suitable for conducting training programs and sessions;
2. Provide administrative services and pay all administrative costs related to the conduct of training programs and sessions;
3. Maintain a database of the data contained in the ITNAs for each caseworker and supervisor employed by a PCSA located in the training region served by the RTC;
4. Assess training needs of caseworkers and supervisors employed by a PCSA located in the training region served by the RTC;
5. Cooperate with the training coordinator for the OCWTP in coordinating training programs and sessions at the RTC.

Training needs

Each supervisor employed by a PCSA that supervises the work of a caseworker employed by the PCSA must work with the caseworker to determine the caseworker's training needs in accordance with, and ensure the caseworker's compliance with the training requirements imposed by law. The executive director

of each PCSA must work with each supervisor employed by the PCSA to determine the supervisor's training needs in accordance with, and ensure the supervisor's compliance with the training requirements imposed by law. Once every two years, a supervisor shall complete for each of the supervisor's caseworkers, and an executive director shall complete for each supervisor in the director's agency, an ITNA form.

The executive director of each PCSA must collect and maintain the data from the ITNA forms completed every two years for each supervisor and caseworker employed by the PCSA. The director is required to compile and forward the data collected from the completed ITNA forms to the RTC located in the same training region as the PCSA.

OCWTP oversight and funding

The bill requires ODJFS to oversee the operation of the training coordinator contracted with to develop, implement, and maintain the OCWTP. The bill also requires the training program steering committee to monitor and evaluate the OCWTP to ensure that the program is a competency-based training system that satisfies the training requirements imposed by law for PCSA caseworkers and supervisors.

The bill also provides that, for purposes of funding the OCWTP, ODJFS must use the following as needed to adequately fund the OCWTP: (1) federal financial participation funds withheld by ODJFS for administrative and training costs incurred in the operation of foster care maintenance and adoption assistance programs, in an amount determined by ODJFS, (2) funds available under Title XX, Title IV-B, and Title IV-E for training costs, and (3) any other available state or federal funds.

Education prerequisites to be hired as a PCSA caseworker

(sec. 5153.112)

The bill provides that a PCSA may hire as caseworkers only persons who have obtained an undergraduate degree in social work, sociology, psychology, rehabilitation, child and family community services, health related studies, or other human services related studies. The hiring limitation applies only to persons hired on or after the effective date of the bill.

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 involving the PCSA as 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.

However, 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 consent before employing other counsel. If the prosecuting attorney is unable for any reason to represent the PCSA, the prosecuting attorney also must notify the PCSA. The PCSA may then employ counsel for the proceeding without obtaining further permission from any authority.

The bill would also require a PCSA that receives money from the county general revenue fund to obtain the permission of the board of county commissioners of the county served by the PCSA before employing counsel.

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

The bill prohibits the loan of money in a county children services fund to any individual. 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, 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.

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	09-21-99	p. 1222
Reported, H. Children and Family Services	02-10-00	p. 1588

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