



H.B. 575

123rd General Assembly
(As Introduced)

**Reps. Schuring, Womer Benjamin, Hollister, Tiberi, Roman, Stapleton,
Evans, Bender, Jerse**

BILL SUMMARY

- Permits the establishment, by a juvenile judge, of a county or regional child abuse and neglect assessment team to review, assess, and, in certain cases, assist investigations of child abuse and neglect reports.
- Establishes a child protection oversight committee in the Ohio Department of Human Services (ODHS) to govern how the assessment teams conduct their duties through the development and approval of assessment team protocols, to collect and report to certain state officials the data in the annual team reports, and to distribute appropriated funds.
- Requires the director of ODHS to appoint an administrative coordinator for the oversight committee to call meetings of the committee and to conduct all activities and take all actions necessary and appropriate to facilitate the oversight committee's performance of its duties.
- Requires each county and regional assessment team to develop team protocols based on guidelines or a model protocol established by the oversight committee to govern team operations.
- Requires each county or regional assessment team to make annual reports to the oversight committee that include data concerning child abuse and neglect reports reviewed, assessed, and investigated during the previous calendar year and recommendations regarding team operations and duties.
- Makes an appropriation to fund assessment teams, to pay compensation, expenses, and other costs of the oversight committee and its administrative coordinator, and to use any unexpended money appropriated to fund assessment teams and pay compensation, expenses, and other costs of the

oversight committee and its administrative coordinator to fund grants to counties for improving the counties' child abuse and neglect investigation programs.

- Permits the common pleas court of each county served by a county or regional assessment team to charge an additional fee in all civil and criminal cases and proceedings to be used to fund team operations and related activities.
- Requires each public children services agency (PCSA) to refer all child abuse and neglect reports to county or regional assessment teams serving the same county as the PCSA and requires investigations to be conducted in conjunction with the assessment team, if the team chooses to participate in the investigation.
- Provides that all provisions of the bill, if enacted by the General Assembly, will go into immediate effect on the date it is approved by the Governor in accordance with the Ohio Constitution.

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CONTENT AND OPERATION

Introduction--child abuse and neglect investigation

Ohio provides for the reporting and investigation of reports of child abuse and neglect. Under the law, all reports must be made to the appropriate public children services agency (PCSA), or to a municipal or county peace officer and then referred to the PCSA for investigation. The investigation must be made in cooperation with a law enforcement agency and in accordance with the memorandum of understanding that governs the conduct of child abuse and neglect investigations in the county served by the PCSA. On completion of the investigation, the PCSA must submit a report of its investigation, in writing, to the law enforcement agency and must make any recommendations to the county prosecuting attorney or city director of law necessary to protect the child who is the subject of the report. Reports and investigations may also lead to a juvenile court adjudication that a child is an abused, neglected, or dependent child. If such an adjudication is made, the child may be placed in the temporary custody of the PCSA as one of several possible dispositions that may be imposed to protect the child.

The bill permits the establishment of special child abuse and neglect assessment teams to review and assess, and in some instances, assist a PCSA in conducting child abuse and neglect investigations. The bill does not change any of the existing duties of PCSAs in conducting investigations. The bill also establishes a statewide oversight committee to govern how the new teams conduct their duties through the development and approval of team protocols, to collect and report to certain state officials data from the teams, and distribute appropriated funds. The bill provides an appropriation to fund the new teams and committee.

Child abuse and neglect assessment teams

Establishment

(secs. 2151.4217, 2151.4218, 2151.4219, and 2151.4220)

The bill permits the juvenile judge of a county to assemble a county child abuse and neglect assessment team or, in conjunction with the juvenile judge of one or more other counties, to assemble a regional child abuse and neglect

assessment team.¹ In the case of a regional assessment team, the judges must select a judge from their number to assemble the assessment team.

If a decision is made to assemble an assessment team, the juvenile judge with authority to assemble the team must do all of the following:

(1) Appoint the following persons to serve on the team: (a) a county prosecuting attorney or prosecuting attorney's designee, (b) a county sheriff or the sheriff's designee, (c) the chief of police that serves the greatest population in the county or region or a designee of the chief, (d) a physician, nurse, or emergency medical technician, and (e) the executive director of a PCSA.

(2) Appoint the following people to the team, if available: (a) a mental health professional, (b) a victim advocate, (c) the superintendent of the school district with the largest pupil attendance in the county or region served by the team, and (d) a substance abuse professional.

(3) Appoint other individuals as members to the team as necessary and appropriate for particular reviews, assessments, or investigations.

Appointment of a county prosecuting attorney or designee is for as long as the prosecuting attorney is in office. All other appointments listed in (1) and (2) above are for two years.

If a member listed in (1) ceases to serve on the team prior to the expiration of the member's term, the juvenile judge must appoint a replacement from the persons listed in (1) to serve the remainder of the term. If a member listed in (2) ceases to serve prior to the expiration of the member's term, the juvenile judge must appoint, if possible, a replacement from the persons listed in (2).

The juvenile judge may remove any member, other than the county prosecuting attorney or designee, from the team before the end of the member's term for any reason.

Members of an assessment team must serve without compensation, but may be reimbursed for expenses incurred. The juvenile judge that appointed the team must determine whether expenses of members are to be reimbursed in any specific case.

¹ *The bill defines "juvenile judge" as the judge of a court of common pleas with jurisdiction over juvenile cases or, in a county with two or more judges with jurisdiction over juvenile cases, the administrative judge of the division of the court with jurisdiction over juvenile cases.*

Assessment team duties

(secs. 2151.4221, 2151.4226, and 2151.4227)

Reviewing, assessing, and assisting investigations of abuse and neglect.

In accordance with its approved protocol (see "Protocols," below), the bill requires each assessment team to review and assess, and, if it elects to do so, to assist the PCSA that serves the same county with the investigation of child abuse and neglect reports that do one of the following: (1) allege serious physical harm to a child, (2) allege a child to be an abused child because the child is the victim of sexual activity as defined under the Ohio Criminal Code governing sex offenses, where such activity would constitute a sex offense, except that no person needs to be convicted of a sex offense in order for the child to be an abused child, (3) involve an alleged child victim who has died as the result of suspected abuse or neglect, or (4) involve circumstances in which there is reason to believe that a risk of harm exists for the person investigating the report.²

In accordance with its approved protocol, a team may review, assess, and assist investigation of child abuse and neglect reports other than those described in (1) to (4) above. If the team is reviewing, assessing, or assisting an investigation of a child abuse or neglect report, the members of the team are to have access to any information received through the report and investigation and are subject to the confidentiality requirements governing child abuse and neglect reports under current law.

² "Serious physical harm to persons" means any of the following: (a) any mental illness or condition of such gravity as would normally require hospitalization or prolonged psychiatric treatment, (b) any physical harm that carries a substantial risk of death, (c) any physical harm that involves some permanent incapacity, whether partial or total, or that involves some temporary, substantial incapacity, (d) any physical harm that involves some permanent disfigurement or that involves some temporary, serious disfigurement, or (e) any physical harm that involves acute pain of such duration as to result in substantial suffering or that involves any degree of prolonged or intractable pain. Revised Code § 2901.01.

"Sexual activity" means sexual conduct or sexual contact or both. "Sexual conduct" means vaginal intercourse between a male and a female; anal intercourse, fellatio, and cunnilingus between persons regardless of sex; and without privilege to do so, the insertion, however slight, of any part of the body or any instrument, apparatus, or other object into the vaginal or anal cavity of another. Penetration, however slight, is sufficient to complete vaginal or anal intercourse. "Sexual contact" means any touching of an erogenous zone of another, including without limitation, the thigh, genitals, buttock, pubic region, or, if the person is a female, a breast, for the purpose of sexually arousing or gratifying either person. R.C. § 2907.01.

An assessment team must do all of the following with respect to child abuse and neglect reports being reviewed, assessed, or investigated by it:

(1) Establish a coordinated system for interagency management of investigations and prosecutions;

(2) Minimize conflicts and duplication of effort among agencies with different philosophies and mandates, and maximize community resources by facilitating interagency and inter-professional collaboration;

(3) Provide initial case screening, assessment, and validation procedures in order to promptly either exonerate alleged perpetrators or proceed with appropriate civil or criminal actions;

(4) Review reports referred to the team pursuant to the team's approved protocol;

(5) Monitor the progress of each case referred to it pursuant to the team's approved protocol;

(6) Reduce additional trauma to the child who is the subject of a report and ensure procedural fairness to, and guarantee the due process rights of, the alleged perpetrator of the abuse or neglect;

(7) Facilitate the exchange of case information to promote fully informed decision making;

(8) Develop joint solutions for problems that hamper effective intervention on behalf of abused and neglected children in the community;

(9) Coordinate and assess county and regional services;

(10) Facilitate efficient and appropriate disposition of cases based on a report through the criminal justice system;

(11) Serve as a source of information, education, and referral for the community on issues surrounding abused and neglected children;

(12) Increase the accountability and level of skill of professionals who investigate, treat, and prosecute cases of child abuse and neglect through interdisciplinary training and education.

Annual reports to child protection oversight committee. The bill requires that, not later than March 30, of each year, each assessment team report the

following to the child protection oversight committee regarding the previous calendar year:

(1) The number of child abuse and neglect reports reviewed, assessed, and investigated by the team in each month;

(2) The number of child abuse and neglect reports reviewed, assessed, and investigated by the team each month that involve one of the following: (a) allege serious physical harm to a child, (b) allege a child to be an abused child because the child is the victim of sexual activity, (c) involve an alleged child victim who has died as the result of suspected abuse or neglect, or (d) involve circumstances in which there is reason to believe that a risk of harm exists for the person investigating the report;

(3) For cases involving an allegation that a child is an abused child because the child is the victim of sexual activity, the name of the sex offense likely committed by the alleged perpetrator of the abuse;

(4) The gender, race, and age of each child who is the subject of a report of child abuse or neglect reviewed, assessed, and investigated by the team;

(5) The age of the alleged perpetrator of the child abuse or neglect;

(6) The relationship of the alleged perpetrator to the child who is the subject of a report of child abuse or neglect reviewed, assessed, and investigated by the team;

(7) The number of children who are the subject of each report of child abuse or neglect reviewed, assessed, and investigated by the team;

(8) The time frame from initial interview to each of the following, if applicable: (a) referral to the team, (b) first court involvement, and (c) conclusion of the case;

(9) The location of all interviews made of the child who is the subject of child abuse or neglect reviewed, assessed, and investigated by the team;

(10) The number of reports of child abuse or neglect reviewed, assessed, and investigated by the team in which the following occurred: (a) a referral for mental health intervention was made, (b) a medical examination was required, (c) PCSA caseworkers, police departments, or prosecuting attorneys were assigned, (d) a referral was made to a grand jury, (e) an indictment was issued, (f) a criminal trial was held, (g) the offender pleaded guilty to original or reduced charges of an offense, and (h) a civil proceeding, including a juvenile proceeding was initiated;

(11) The results of all criminal trials;

(12) Training programs attended by team members related to team functions.

As part of the annual report, the team is also required to include recommendation regarding the following:

- Training needs;
- Services needed but not available;
- Investigative, administrative, and judicial handling of cases of child abuse and neglect, especially those involving a child who has suffered serious physical harm or a child who is an abused child as described in (2)(b) above;
- Innovative approaches or techniques that may improve the rate of successful prosecution of, or enhance the effectiveness of judicial or administrative action in, child abuse and neglect cases, especially those involving a child who has suffered serious physical harm or a child who is an abused child as described in (2)(b) above;
- Innovative approaches or techniques with respect to child abuse and neglect cases that ensure procedural fairness to the alleged perpetrator of the abuse;³
- Reform of laws, regulations, ordinances, and procedures to provide comprehensive protection for children from abuse and neglect, particularly abuse involving serious physical harm to a child or causing a child to be an abused child as described in (2)(b) above.

PCSA duties

(sec. 2151.421)

In a county that has an assessment team with an approved protocol, the bill requires the PCSA to refer all child abuse and neglect reports to the assessment team. In addition, the bill requires an investigation of a child abuse or neglect

³ *The bill should also refer to alleged perpetrators of neglect. A technical amendment is necessary to correct this drafting oversight. The bill also contains some other drafting errors that will require technical amendment.*

report to be conducted with the assistance of the team to which the report was referred if the team elects to assist in the investigation.

Child protection oversight committee

Establishment of committee

(secs. 2151.425, 2151. 426, 2151.427, and 2151.4216)

The bill creates in the Ohio Department of Human Services (ODHS) a child protection oversight committee to perform the duties established by the bill (see "**Collecting and maintaining data and annual report**," "**Protocols**," and "**Appropriation**," below).⁴ The committee is not subject to the automatic termination provisions of existing law. The committee is to consist of nine members, three appointed by the Governor, three appointed by the Attorney General, and three appointed by the Chief Justice of the Ohio Supreme Court. The appointments must be made no later than 30 days after the effective date of the bill.

Each of the original appointments made by the Governor, Attorney General, and Chief Justice are to be made in the following manner: one for two years; one for three years; and one for four years. Subsequent appointments must be made for two year terms. If a member ceases to serve on the committee prior to the expiration of the member's term, the official who appointed that member is to appoint a replacement to serve for the remainder of the term.

The committee itself may designate other persons to serve on the committee as necessary and appropriate. The nature and duration of the service shall be as specified by the committee.

Members of the committee are to serve without compensation but are to be reimbursed for necessary expenses incurred. ODHS must provide office space for the committee to conduct its duties and pay all administrative costs of the committee and necessary expenses incurred by the members. The expenses, administrative costs, and costs incurred to provide office space may be paid from any funds appropriated under the bill to fund county or regional child abuse and neglect assessment teams (see "**Appropriation**," below).

⁴ As of July 1, 2000, ODHS is renamed the Ohio Department of Job and Family Services (ODJFS). If the bill does not become effective before that date, it should be amended to change references in the bill from ODHS to ODJFS.

At its first meeting, the committee must establish a policy governing attendance at committee meetings, which may be amended from time to time. The committee is to appoint a chair of the committee at the first meeting. To transact official business, a quorum must be present. A majority vote of members present is necessary to take official action.

Administrative coordinator of the child protection oversight committee

(secs. 124.11, 2151.428, 2151.429, and 2151.4210)

The bill requires the director of ODHS to appoint a person to serve as the administrative coordinator for the child protection oversight committee. The coordinator may be neither in the classified civil service of the state nor a member of the committee. The coordinator is to serve at the pleasure of the director.

The director is required to pay the coordinator a salary, reimburse the coordinator for necessary expenses incurred in performing the duties required by the bill to be performed by the coordinator, provide office space for the coordinator, and pay all administrative costs of the coordinator. These amounts are to be paid from any funds appropriated under the bill to fund assessment teams.

The coordinator is required to call the committee to meet no later than 60 days after the bill's effective date and as often thereafter as the coordinator and committee determine is necessary to conduct the committee's duties. In no event may the coordinator fail to call the committee to meet at least once every six months. The coordinator must conduct all activities and take all actions necessary and appropriate to facilitate the committee's performance of its duties.

Collecting and maintaining data and annual report

(sec. 2151.4215)

The bill requires the committee to collect and maintain all data it receives from assessment teams pursuant to the annual reports the teams are required to make under the bill. No later than May 30, of each year, the committee must prepare and present a report to the Governor, Attorney General, Chief Justice of the Supreme Court, and ODHS that summarizes the information and recommendations received from each team and makes recommendations for training requirements for persons investigating reports of child abuse and neglect.

Protocols

Protocol development

(sec. 2151.4211, 2151.4212, and 2151.4222)

The bill requires each assessment team to develop a protocol the team must follow in reviewing, assessing, and assisting in investigations of child abuse reports referred to the team under the bill. Each team is required to submit its proposed protocol to the child protection oversight committee for approval. A team may adopt the model protocol established by the committee or it may establish its own protocol that complies with the protocol requirements established by the committee.

Protocol requirements. The bill provides that, not later than 180 days after the bill's effective date, the oversight committee must establish criteria with which a protocol developed by an assessment team must comply. To comply with the criteria, the protocol must do all of the following with respect to a child abuse or neglect report being reviewed, assessed, or investigated by the team:

- (1) Focus on the safety and level of risk to the child who is the subject of the report;
- (2) Include all the requirements of the memorandum of understanding required by current law to govern child abuse and neglect report investigations that has been adopted in a county governed by the protocol;
- (3) Set forth standards and procedures for the videotaping, storage, and use of videotaped interviews and testimony of the child who is the subject of the report;
- (4) Ensure effective interagency collaboration in the investigation and prosecution of the report and provide for sharing of information between agencies participating in the investigation and prosecution of the report;
- (5) Establish procedures for obtaining medical and mental health services for the children who are the subject of the report;
- (6) Require all persons involved in an investigation of the report to conform to the highest standards of professional conduct;
- (7) Ensure procedural fairness to, and guarantee due process rights of, the family members of the child who is the subject of the report and the alleged perpetrator, while limiting additional trauma to the alleged child victim;

(8) Establish a procedure for the team to amend the protocols;

(9) Establish procedures for referral of cases to the team;

(10) Establish a method for spending funds awarded to the team by the committee that includes provision for the expenditure of funds for training programs for team members;

(11) Focus on the review, assessment, and investigation of, and prosecutions based on, child abuse reports that do any of the following: (a) allege serious physical harm to a child, (b) allege a child to be an abused child because the child is the victim of sexual activity, (c) involve a child who has died as the result of suspected abuse or neglect, or (d) involve circumstances or environment factors that suggest or cause there to be a reason to believe that a risk of harm exists for the person investigating the report.

Model protocol. Not later than 180 days after the effective date of the bill, the oversight committee must develop a model protocol that assessment teams may adopt as their protocol. The model protocol must comply with all the protocol requirements described above. The committee must include the model protocol in the application package for funds appropriated under the bill to fund assessment teams.

Protocol approval

(sec. 2151.4223)

The bill provides that, no later than 60 days after a team submits its protocol for approval, the committee must approve or disapprove it. The committee is to approve a proposed protocol only if the protocol meets the protocol requirements established by the committee or is the model protocol. When the committee approves a protocol, it is required to send notice of the approval to the juvenile judge that assembled the team, Attorney General, Chief Justice of the Ohio Supreme Court, and the Governor.

If the committee disapproves a protocol, it must send notice of the disapproval to the juvenile judge that assembled the team and clearly identify in the notice the issues that need to be addressed for the committee to approve the protocol. A team whose protocol has been disapproved may request technical assistance in establishing a protocol that will be approved from any entity including ODHS and the committee.

No later than 90 days after receiving notice of the oversight committee's disapproval, the team must revise the protocol to address the issues not adequately

addressed and submit the revised protocol to the committee. The committee must disapprove the revised protocol unless it meets the protocol requirements established by the committee or is the model protocol. If a protocol is disapproved a second time, the juvenile judge that assembled the team that submitted the protocol may appeal the committee's decision pursuant to the appeals process established by rules adopted by the committee under the bill.

Protocol amendment

(sec. 2151.4225)

A team that amends its protocol after it has been approved must notify the committee in writing of the specific amendments. The team must certify in the notice that the changes are in compliance with the protocol requirements or the model protocol established by the committee. The notice must be signed by all members of the team. Once the notice has been received by the committee, the amended protocol is the team's approved protocol.

Rules governing protocols

(sec. 2151.4228)

The bill requires the committee to adopt, pursuant to the Administrative Procedure Act, rules establishing both of the following: an appeal procedure for a team whose proposed protocol has been disapproved a second time by the committee; and any additional procedures necessary and appropriate to implement the process for approval or disapproval of proposed protocols.

Appropriation

(Section 3)

The bill contains an appropriation from the state's general revenue fund for fiscal years 2000 and 2001 for the purpose of (1) funding the assessment teams as provided in the bill, (2) to pay the compensation, expenses, and costs as provided in the bill for the oversight committee and its administrative coordinator, and (3) to use any of the appropriated money not expended for (1) and (2) above to fund competitive grants to counties for improving the counties' child abuse and neglect investigation programs. A total of \$18,000,000--\$9,000,000 each for fiscal years 2000 and 2001--is appropriated.⁵ Expenditures from appropriations made in the bill are to be accounted for as though they were made pursuant to, and will be

⁵ *Fiscal year 2000 ends June 30, 2000. If the bill does not become effective before that date, the bill should be amended to remove the appropriation for fiscal year 2000.*

subject to all provisions applicable to appropriations made under, the budget bill (Am. Sub. H.B. 283).

Application package for funds

(sec. 2151.4214)

The bill provides that, no later than 180 days after its effective date, the committee must develop an application package for funds appropriated to fund assessment teams. The packet must clearly identify the requirements that a team protocol must address in order to obtain funds.

Request for funds

(sec. 2151.4224)

The bill requires an assessment team, at the time it submits its protocol for approval to the committee, to submit its request for funds to operate the team.

Distribution of funds

(sec. 2151.4123)

The committee is required by the bill to distribute to an assessment team the funds appropriated for the operation of those teams if the committee has approved the team's protocol as provided under the bill. The committee must determine the amount to be distributed to a team and distribute the funds to the team in accordance with the distribution methodology established by rules adopted by the committee pursuant to the bill. The committee is also required to renew amounts distributed to teams pursuant to rules adopted by the committee pursuant to the bill.

Rules

(sec. 2151.4228)

The bill requires the committee to adopt rules in accordance with the Administrative Procedure Act that do the following:

- (1) Establish a formula for distributing funds appropriated for assessment teams;
- (2) Establish a procedure for renewing funding for assessment teams that includes a requirement that teams submit annual requests for funding;

(3) Establish a grant program to distribute unused funds appropriated to fund assessment teams to counties that do not have teams serving them, to improve multidisciplinary investigations of child abuse and neglect reports, especially those involving a child who has suffered serious physical harm or a child who is an abused child because the child is the victim of sexual activity. The grant program may be based on recommendations received from annual reports made by the assessment teams.

Court fees

(sec. 2303.203)

The bill provides that if an assessment team is assembled, the court of common pleas of the county served by the team may charge, in addition to any fees and costs authorized under current law, a fee of not less than \$1 but not more than \$10 that is to be collected on the filing of each civil or criminal action or proceeding. The fee must be used for the following purposes: (1) reimbursement of expenses of team members incurred while conducting team duties, (2) payment of administrative costs of team meetings, (3) purchase of specialized services determined necessary for case investigation or prosecution, and (4) reimbursement, payment, or purchase of products or services as determined by the team and consistent with the approved team protocol. All the new fees collected must be paid to the county treasurer who must place them in a separate fund to be disbursed on the order of the court.

Effective date of bill

(Section 4)

The bill provides its provisions are not subject to the referendum. Therefore, under Ohio Constitution Article II, Section 1d and the Revised Code, all provisions of the bill will go into immediate effect when the bill becomes law. The bill, if enacted by the General Assembly, will become law the date it is approved by the Governor as provided in the Ohio Constitution.

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	2-10-2000	p. 1589

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