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Bill Analysis
Legislative Service Commission

Sub. H.B. 661

123rd General Assembly

(As Reported by H. Children and Family Services)

Reps. Winkler, Allen, Barrett, Britton, Clancy, Hollister, Mottley, O'Brien, Patton, Robinson, Roman, Salerno, Sullivan, Van Vyven, Smith, Boyd

BILL SUMMARY

- Permits the Department of Rehabilitation and Correction to establish in one or more of the Department's institutions for women a prison nursery program under which eligible inmates and children born to them while in the custody of the Department reside together in the institution.
- Establishes eligibility criteria of inmates for participation in the prison nursery program.
- Establishes participation requirements for each inmate selected by the Department to participate in the prison nursery program.
- Establishes reasons for which an inmate's participation in the program may be terminated by the Department.
- Requires the managing officer in each institution in which the prison nursery program is established to create and maintain a prison nursery program fund to pay expenses associated with the program and an individual nursery account for each participating inmate to help pay for the support of the inmate and child under the program.
- Requires program participants to assign to the Department any rights they have to child or spousal support.

CONTENT AND OPERATION

Creation of the prison nursery program

(secs. 5120.65, 5120.656, and 5120.657)

The bill permits the Department of Rehabilitation and Correction to establish a prison nursery program in one or more of the Department's institutions for women. The program would allow eligible inmates and children born to them while in the custody of the Department to reside together in the institution. If the program is established, the Department is required to adopt rules under the Administrative Procedure Act that establish requirements necessary and appropriate to the establishment, implementation, and operation of the program. The Department must adopt the rules prior to implementing the program.

Under the bill, neither the program nor the Department, with respect to the program, is subject to any regulation, licensing, or oversight by the Ohio Department of Job and Family Services (ODJFS) unless both departments agree to voluntary regulation, licensing, or oversight by ODJFS.

Program eligibility

(sec. 5120.651)

An inmate is eligible to participate in the prison nursery program if she meets all of the following requirements:

- (1) The inmate is pregnant at the time she is delivered into the custody of the Department;
- (2) The inmate gives birth on or after the date the program is implemented;
- (3) The inmate is subject to a sentence of imprisonment of not more than 18 months;
- (4) The inmate and the child meet any other criteria established by the Department.

Duties of program participants

(sec. 5120.652)

Under the bill, each inmate selected by the Department to participate in the prison nursery program is required to do all of the following:

- (1) Agree in writing to do all of the following:

(a) Comply with any program, educational, counseling, and other requirements established by the Department;

(b) If eligible, have the child participate in the Medicaid program or a health insurance program;

(c) Accept the normal risks of child-rearing;

(d) Release the Department and its employees from liability for any injury, death, or loss to person or property resulting from participation in the program;

(e) Abide by any court decision regarding the allocation of parental rights and responsibilities with respect to the child.

(2) Assign to the Department any rights to child or spousal support from any other person, excluding support assigned by participants in the Ohio Works First program and medical support assigned by recipients of public assistance;¹

(3) Specify with whom the child is to be placed in the event the inmate's participation in the program is terminated for a reason other than the inmate's release from imprisonment.

¹ Under Revised Code section 5107.20, participation in Ohio Works First constitutes an assignment to ODJFS of any rights members of an assistance group have to support from any other person, excluding medical support. In accordance with federal statutes and regulations, ODJFS is to deposit support payments it receives into the state treasury to the credit of the Child Support Collections Fund or the Child Support Administrative Fund. Money credited to the funds is used to make Ohio Works First cash assistance payments.

Under section 5101.59, application for or acceptance of public assistance constitutes an automatic assignment of certain rights to ODJFS. "Public assistance" means Ohio Works First, Medicaid, and state disability assistance. A person who is a public assistance applicant, recipient, or participant must assign to ODJFS any rights to medical support available to the person or for other members of the assistance group under an order of a court or administrative agency, excluding Medicare benefits, and any rights to payments from any third party liable for the cost of medical care and services arising out of injury, disease, or disability of the person or other members of the assistance group.

Termination of program participation

(sec. 5120.653)

An inmate's participation in the prison nursery program may be terminated by the Department if any of the following occurs:

(1) The inmate fails to comply with the agreement entered into under the bill;

(2) The inmate's child becomes seriously ill, cannot meet medical criteria established by the Department, or otherwise cannot safely participate in the program;

(3) An action is brought to designate a person other than the inmate as the child's residential parent and legal custodian;²

(4) An action is brought to grant custody of the child to a person other than the inmate;

(5) An order is issued granting shared parenting of the child;³

(6) The child is adjudicated to be an abused, neglected, or dependent child under Ohio's Juvenile Code and an order is issued granting temporary, permanent, or legal custody of the child to a person, other than the inmate, or to a public children services agency or a private child placing agency;⁴

(7) The inmate is released from imprisonment.

² *The residential parent and legal custodian is the parent who has been allocated by a court order most of the parental rights and responsibilities for the care of the child pursuant to a divorce, dissolution, legal separation, annulment, or child custody proceeding.*

³ *A shared parenting order provides for both parents to act as a child's residential parent and legal custodian.*

⁴ *The definitions of "abused child," "neglected child," and "dependent child" may be found in Revised Code sections 2151.031, 2151.03, and 2151.04, respectively. Current law defines "public children services agency" as one of the following entities that has assumed the powers and duties of the children services function for the county: a children services board; a county department of job and family services; or a private or government entity designated by the board of county commissioners. "Private child placing agency" is any association certified to accept temporary, permanent, or legal custody of children and place the children for foster care or adoption.*

Prison nursery program fund

(secs. 5120.654 and 5120.655)

Under the bill, the managing officer of each institution in which the Department establishes a prison nursery program is required to create and maintain a prison nursery program fund to pay expenses associated with the prison nursery program. The bill also provides that the Department may receive money assigned or donated to establish and maintain the program. That money must be deposited in the appropriate prison nursery program fund.

Individual nursery accounts

(secs. 5120.654 and 5120.655)

Under the bill, the managing officer of each institution in which the Department establishes a prison nursery program is required to create and maintain an individual nursery account for each inmate participating in the program at the institution to help pay for the support provided to the inmate and child pursuant to the program.

The rights to support assigned by the inmate to the Department under the bill constitute an obligation of the person who is responsible for providing the support to the Department for the support provided the inmate and child under the program. The Division of Child Support in ODJFS is required to collect support payments made pursuant to the assignment and forward them to the Department. The bill also provides that the Department may receive money that is assigned or donated on behalf of, and public assistance provided to, a specific inmate or child participating in the program. All amounts received by the Department for a specific inmate or child must be placed in the individual nursery account created and maintained for the inmate and child for whom the money was received.

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	4-12-00	p. 1825
Reported, H. Children & Family Services	05-17-00	p. 1997

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