



Sub. H.B. 111

124th General Assembly
(As Reported by H. Criminal Justice)

Reps. Jerse, Salerno, D. Miller, DePiero, Ford, Patton, Distel, S. Smith, Hartnett, Allen, Flannery, Kearns, Krupinski, Redfern, Callender, Britton, Boccieri, Barrett, Latell, Sullivan, Womer Benjamin, Sulzer, Seitz

BILL SUMMARY

- Prohibits a child day-care provider from knowingly misrepresenting the provision of child day-care to specified persons if the misrepresentation substantially places at risk the health or safety of a child or children in the care of the child day-care facility.
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- Requires, at or before child day-care is initially provided, the owner, provider, or administrator of a child day-care facility and the director of a preschool program or school child program to disclose both of the following to a parent, guardian, custodian, or other person who is responsible for the care of a child and who is considering using the facility or program to provide child day-care to the child: (1) a child died while in the care of the provider, facility, or program or as a result of injuries suffered while under the care of the provider, facility, or program and (2) within the preceding ten years, a child suffered injuries while under the care of the provider, facility, or program that led to the child being hospitalized for more than 24 hours.
 - Prohibits an owner, provider, or administrator of a child day-care facility and a director of a preschool program or school child program from knowingly failing to make the disclosures described in the preceding dotpoint.
 - Provides that a person making a representation of the type subject to the prohibition described in the first dotpoint and a person required to make a disclosure of the type described in the second dotpoint may comply with the law by completely and accurately completing a child day-care

disclosure form that the bill prescribes and provides that leaving a portion of the disclosure form blank does not constitute a misrepresentation for the purposes of the offense of "misrepresentation by a child day-care provider" but may constitute the offense of "failure to disclose the death or serious injury of a child."

- Authorizes the owner, provider, or administrator of a child day-care facility or the director of a preschool program or school child program who completes the child day-care disclosure form and provides a copy of the form to the specified persons to retain a copy of the completed form and to require that the person receiving the form acknowledge that receipt on the copy retained by the owner, provider, administrator, or director.

CONTENT AND OPERATION

Misrepresentation by a child day-care provider

The bill prohibits a child day-care provider from knowingly misrepresenting the provision of child day-care to any of the following if the misrepresentation substantially places at risk the health or safety of a child or children in the care of the child day-care provider:

- (1) A parent, guardian, custodian, or other person responsible for the care of a child receiving child day-care from the provider;
- (2) A parent, guardian, custodian, or other person responsible for the care of a child considering the provider as a child day-care provider for the child;
- (3) A public official responsible for issuing the provider a license or certificate to provide child day-care;
- (4) A public official investigating or inquiring about the provision of child day-care by the provider;
- (5) A peace officer.

A person who violates this prohibition is guilty of misrepresentation by a child day-care provider, a misdemeanor of the first degree. (R.C. 2919.224.)

Failure to disclose the death or serious injury of a child

Under the bill, at or before child day-care is initially provided, the owner, provider, or administrator of a child day-care facility and the director of a preschool program or school child program must disclose both of the following to

a parent, guardian, custodian, or other person who is responsible for the care of a child and who is considering using the facility or program to provide child day-care to the child:

(1) A child died while in the care of the provider, facility, or program or as a result of injuries suffered while under the care of the provider, facility, or program.

(2) Within the preceding ten years, a child suffered injuries while under the care of the provider, facility, or program, and those injuries led to the child being hospitalized for more than 24 hours.

The bill prohibits an owner, provider, or administrator of a child day-care facility and a director of a preschool program or school child program from knowingly failing to make the disclosures required above. A person who violates this prohibition is guilty of failure to disclose the death or serious injury of a child, a misdemeanor of the fourth degree. (R.C. 2919.225.)

Child day-care disclosure form

A person making a representation of the type subject to the prohibition described in "**Misrepresentation by a child day-care provider**," above, and a person required to make a disclosure of the type described in "**Failure to disclose the death or serious injury of a child**," above, may comply with those provisions by completely and accurately completing a child day-care disclosure form that is in substantially the form described in the **COMMENT**. A person who completely and accurately completes a disclosure form that is substantially similar to the form described in the **COMMENT** complies with the requirements of those provisions. The bill specifies that leaving a portion of the disclosure form blank does not constitute a misrepresentation for the purposes of the offense of "misrepresentation by a child day-care provider" but may constitute the offense of "failure to disclose the death or serious injury of a child." The owner, provider, or administrator of a child day-care facility or the director of a preschool program or school child program who completes the disclosure form and provides a copy of the form to the persons described in those provisions may retain a copy of the completed form and require the person receiving the form to acknowledge that receipt on the copy retained by the owner, provider, administrator, or director. (R.C. 2919.226.)

Definitions

As used in the bill:

Child day-care provider

"Child day-care provider" means any of the following (R.C. 2919.223(C)):

- (1) An owner, provider, administrator, or employee of, or volunteer at, a child day-care facility;
- (2) An in-home aide;
- (3) A director or employee of, or volunteer at, a preschool program or school child program;
- (4) A person who represents that the person provides child day-care.

Misrepresent the provision of child day-care

To "misrepresent the provision of child day-care" means misrepresenting any of the following (R.C. 2919.223(D)):

- (1) The person or persons who will provide child day-care to the child;
- (2) The qualifications to provide child day-care of the child day-care provider, of a person employed by the provider, or of a person who provides child day-care as a volunteer;
- (3) The number of children to whom child day-care is provided at one time or the number of children receiving child day-care in a child day-care facility or school at one time;
- (4) The conditions or safety features of the day-care facility or school;
- (5) The area of the child day-care facility or school in which child day-care is provided;
- (6) Any other factor likely to be significant to a reasonable person in the selection of a child day-care provider.

Child day-care

"Child day-care" means administering to the needs of infants, toddlers, preschool children, and school children outside of school hours by persons other than their parents or guardians, custodians, or relatives by blood, marriage, or adoption for any part of the 24-hour day in a place or residence other than a child's own home (R.C. 2919.223(A) by reference to R.C. 5104.01(K)--not in the bill).

Child day-care center

"Child day-care center" means any place in which child day-care or publicly funded child day-care is provided for 13 or more children at one time or any place that is not the permanent residence of the licensee or administrator in which child day-care or publicly funded child day-care is provided for 7 to 12 children at one time. (R.C. 2919.223(A) by reference to R.C. 5104.01(L)--not in the bill.) "Child day-care center" does not include any of the following:

(1) A place located in and operated by a hospital in which the needs of children are administered to, if all the children whose needs are being administered to are monitored under the on-site supervision of a licensed physician or a licensed registered nurse, and the services are provided only for children who, in the opinion of the child's parent, guardian, or custodian, are exhibiting symptoms of a communicable disease or other illness or are injured;

(2) A child day camp;

(3) A place that provides child day-care, but not publicly funded child day-care, if all of the following apply: (a) an organized religious body provides the child day-care, (b) a parent, custodian, or guardian of at least one child receiving child day-care is on the premises and readily accessible at all times, (c) the child day-care is not provided for more than 30 days a year, and (d) the child day-care is provided only for preschool and school children.

Child day-care facility

"Child day-care facility" means a child day-care center, a type A family day-care home, a type B family day-care home, or a type C family day-care home (R.C. 2919.223(B)).

Custodian

"Custodian" means a person who has legal custody of a child or a public children services agency or private child placing agency that has permanent, temporary, or legal custody of a child (R.C. 2151.011(B)(11)--not in the bill).

In-home aide

"In-home aide" means a person certified by a county director of job and family services to provide publicly funded child day-care to a child in a child's own home pursuant to the Child Day Care Law and any rules adopted under it (R.C. 2919.223(A), by reference to R.C. 5104.01(X)--not in the bill).

Peace officer

"Peace officer" generally includes a sheriff; deputy sheriff; marshal; deputy marshal; member of the organized police department of any municipal corporation, including a member of the organized police department of a municipal corporation in an adjoining state serving in Ohio under a contract; member of a police force employed by a metropolitan housing authority; member of a police force employed by a regional transit authority; state university law enforcement officer; designated enforcement agent of the Department of Public Safety; employee of the Department of Natural Resources who is designated a natural resources law enforcement staff officer, a designated forest officer, a designated preserve officer, a designated wildlife officer, a designated park officer, or a designated state watercraft officer; a designated park district employee; a designated conservancy district employee; Ohio veterans' home police officer; special police officer employed by a port authority; police constable of any township; police officer of a township or joint township police district; the House Sergeant at Arms if the House Sergeant at Arms has arrest authority; and an assistant House Sergeant at Arms; and, for specified purpose the Superintendent and troopers of the State Highway Patrol (R.C. 2919.223(E) by reference to R.C. 2935.01(B)--not in the bill).

Preschool program

"Preschool program" means either of the following (R.C. 2919.223(F), by reference to R.C. 3301.52(A)--not in the bill):

(1) A child day-care program for preschool children that is operated by a school district board of education, an eligible nonpublic school, a head start grantee, or a head start delegate agency.

(2) A child day-care program for preschool children age three or older that is operated by a county MR/DD board.

School child program

"School child program" means a child day-care program for only school children that is operated by a school district board of education, county MR/DD board, or eligible nonpublic school (R.C. 2919.223(F), by reference to R.C. 3301.52(J)--not in the bill).

Type A family day-care home

"Type A family day-care home" means a permanent residence of the administrator in which child day-care or publicly funded child day-care is provided for 7 to 12 children at one time or a permanent residence of the

administrator in which child day-care is provided for 4 to 12 children at one time if four or more children at one time are under two years of age. "Type A family day-care home" does not include a residence in which the needs of children are administered to, if all of the children whose needs are being administered to are siblings of the same immediate family and the residence is the home of the siblings. "Type A family day-care home" does not include any child day camp. (R.C. 2919.223(A), by reference to R.C. 5104.01(QQ)--not in the bill.)

Type B family day-care home

"Type B family day-care home" means a permanent residence of the provider in which child day-care is provided for one to six children at one time and in which no more than three children are under two years of age at one time. "Type B family day-care home" does not include a residence in which the needs of children are administered to, if all of the children whose needs are being administered to are siblings of the same immediate family and the residence is the home of the siblings. "Type B family day-care home" does not include any child day camp. (R.C. 2919.223(A), by reference to R.C. 5104.01(RR)--not in the bill.)

Type C family day-care home

"Type C family day-care home" means a family day-care home authorized to provide child day-care by Sub. H.B. 62 of the 121st General Assembly, as amended by Am. Sub. S.B. 160 of the 121st General Assembly and Sub. H.B. 407 of the 123rd General Assembly (R.C. 2919.223(G)).

Sub. H.B. 62 of the 121st General Assembly required the Ohio Department of Human Services to establish a pilot project under which a person providing child day-care in Paulding County to one to nine children at one time may obtain certification as a type C family day-care home and be exempt from type A home licensing requirements. Am. Sub. S.B. 160 of the 121st General Assembly lengthened the pilot project and expanded it to six additional counties in Northwest Ohio: Defiance, Fulton, Henry, Putnam, Van Wert, and Williams. Sub. H.B. 407 of the 123rd General Assembly lengthened the pilot program again; it currently is to terminate March 28, 2003.

COMMENT

Below is an example of the child day-care disclosure form prescribed by the bill.

CHILD DAY-CARE DISCLOSURE FORM

Please Note: This form is provided only at initial enrollment. The information provided in this form is likely to change over time. It is the duty of the person responsible for the care of the child to monitor the status of child day-care services to ensure that those services remain satisfactory. If a question on this form is left unanswered, the child day-care provider makes no assertion regarding the question. Choosing appropriate child day-care for a child is a serious responsibility, and the person responsible for the care of the child is encouraged to make all appropriate inquiries. Also, in acknowledging receipt of this form, the person responsible for the care of the child acknowledges that in selecting the child day-care provider the person is not relying on any representations other than those provided in this form unless the child day-care provider has acknowledged the other representations in writing.

1. What are the names and qualifications to provide child day-care of: (a) the child day-care provider, (b) the employee who will provide child day-care to the applicant child, (c) the volunteer who will provide child day-care to the applicant child, and (d) any other employees or volunteers of the child day-care provider? (Attach additional sheets if necessary.)

2. What is the maximum number of children to whom you provide child day-care at one time? (If children are divided into groups or classes, please describe the maximum number of children in each group or class and indicate the group or class in which the applicant child will be placed.)



3. Where in the center, home, or school will you provide child day-care to the applicant child?

4. Has a child died while in the care of the child day-care provider? (Yes/No)

Description/explanation (attach additional sheets if necessary)

5. Has a child died as a result of injuries suffered while under the care of the child day-care provider? (Yes/No)

Description/explanation (attach additional sheets if necessary)

6. Within the preceding ten years, has a child suffered injuries while under the care of the child day-care provider that led to the child being hospitalized for more than 24 hours? (Yes/No)

Description/explanation (attach additional sheets if necessary)

Signature of person completing form

Date

Name of person completing form
(Typed or printed)

Title of person completing form
(Typed or printed)



Acknowledgement:

I hereby acknowledge that I have been given a copy of the preceding document and have read and understood its contents. I further acknowledge that I am not relying on any other representations in selecting the child day-care provider unless the child day-care provider has acknowledged the other representations in writing.

Person receiving the form

Date

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	02-20-01	p. 165
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