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Bill Analysis

Legislative Service Commission

H.B. 405*

124th General Assembly
(As Introduced)

Rep. Peterson

BILL SUMMARY

- ? Revises the eligibility requirements and disqualifications for serving on a county board of mental retardation and developmental disabilities (county MR/DD board).
- ? Requires that the appointing authority of a county MR/DD board member remove the member on receipt of written notice from any source that reasonably demonstrates that the member is ineligible to serve on the board and permits a resident of the county that the board serves or the Director of the Ohio Department of Mental Retardation and Developmental Disabilities (ODMR/DD) to bring mandamus proceedings against the appointing authority for failure to remove the member.
- ? Increases the number of consecutive terms a county MR/DD member may serve to three and the amount of time a member must wait to be re-appointed after serving three, full, consecutive terms to two years.
- ? Alters the tax equity payment for state fiscal years 2002 and 2003 by providing that (1) a county MR/DD board is eligible for the payment if its local tax capacity per adult services enrollee (rather than its hypothetical local revenue per enrollee) is less than the state average tax capacity per adult services enrollee (rather than the hypothetical statewide average revenue per enrollee) and (2) the amount of a tax equity payment is determined by multiplying the amount by which the state average tax capacity per adult services enrollee exceeds a county

* *This analysis was prepared before the bill's introduction appeared in the House Journal. Note that the list of co-sponsors and the legislative history may be incomplete.*

- MR/DD board's local tax capacity per adult services enrollee and the board's adult services enrollment.
- ? Eliminates the requirement that the ODMR/DD Director have the consent of a county MR/DD board to make a grant from the Community Mental Retardation and Developmental Disabilities Trust Fund to a service provider and permits the Director to make a grant to persons with MR/DD who are to receive the services.
 - ? Authorizes the ODMR/DD Director to make grants from the Community Mental Retardation and Developmental Disabilities Trust Fund based on allocations to county MR/DD boards.
 - ? Requires county MR/DD boards' three-calendar year plan regarding Medicaid-funded services to individuals with MR/DD have a fourth component that specifies the number of individuals to be provided, during the first year that the plan is in effect, ODMR/DD-administered home and community-based services pursuant to priority requirements for county MR/DD board waiting lists and the types of such services the individuals are to receive.
 - ? Requires that county MR/DD boards submit the last of the four components of their plans by July 1, 2002, rather than November 1, 2001.
 - ? Provides that a county MR/DD board has Medicaid local administrative authority automatically rather than on the condition that its plan be approved, but authorizes ODMR/DD to terminate all or part of the board's authority if its plan is disapproved.
 - ? Requires that the amount ODMR/DD assigns to a county MR/DD board of the nonfederal share of Medicaid expenditures for certain habilitation center services provided by a habilitation center with which ODMR/DD had a contract in fiscal year 2001 be no less than the amount ODMR/DD paid the center for each individual who received the services pursuant to the contract and, if the contract was for less than the entire fiscal year, no less than the amount ODMR/DD would have paid the center for each individual who received the services pursuant to the contract had the contract been for the entire fiscal year.
 - ? Revises the priority requirements for county MR/DD board waiting lists.

- ? Permits the Director of the Ohio Department of Job and Family Services, on the recommendation of the ODMR/DD Director, to seek a Medicaid waiver under which home and community-based services are provided in the form of family support services programs established by county MR/DD boards.
- ? Provides that adult services include community and supported employment services.
- ? Requires the entity responsible for the habilitation management included in adult day habilitation services and the program management included in residential services and supported living to monitor for unusual incidents and misappropriation of funds involving an individual under the care of staff providing the services.
- ? Requires that a county MR/DD board provide service and support administration to each individual at least age three who is eligible for and requests service and support administration and to each individual receiving ODMR/DD-administered home and community-based services and permits a board to provide, in accordance with the service coordination requirements of federal regulations governing the early intervention program for infants and toddlers with disabilities, service and support administration to an individual under age three eligible for early intervention services under the federal regulations.
- ? Requires that the individual or private entity responsible for supervising the work of investigative agents report to a county MR/DD board superintendent regarding the agents.
- ? Revises the conditions under which a county MR/DD board may enter into a direct services contract for family support or supported living services under which an individual, agency, or other entity will employ a professional or service employee who is also employed by the county MR/DD board.
- ? Declares an emergency.

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CONTENT AND OPERATION

Membership of county MR/DD boards

(secs. 5126.02, 5126.021, and 5126.022; Section 7)

Qualifications for membership

(sec. 5126.02)

Each county has a county board of mental retardation and developmental disabilities (county MR/DD board) consisting of seven members. Five members are appointed by the board of county commissioners. The other two are appointed by the county probate judge.

Current law requires that at least two of the members appointed by the county commissioners be relatives of persons receiving services provided by the county MR/DD board. Whenever possible, one of these must be a relative of a person receiving adult services and the other a relative of a person receiving services for pre-school or school-age children. The bill requires instead that these members be relatives of a person eligible for (but not necessarily receiving) the

adult services. Instead of being related to a person receiving services for pre-school or school-age children, a member may be related to a person eligible for early intervention services. Regarding the two members appointed by the county probate judge, current law requires that at least one be a relative of a person eligible for services in a public or private residential facility subject to regulation or licensure by the Director of Ohio Department of Mental Retardation and Developmental Disabilities (ODMR/DD). The bill requires instead that at least one be a relative of a person eligible for residential services or supported living. Whereas current law requires that these members appointed by the county commissioners or probate judge be a relative by blood or marriage, the bill provides that a member may be a spouse, parent, parent-in-law, sibling, sibling-in-law, child, child-in-law, grandparent, aunt, or uncle of the person eligible for the specified services.

Disqualifications

(secs. 5126.021 and 5126.022; Section 7)

Certain individuals are ineligible to serve as a county MR/DD board member. Among those ineligible under current law are elected public officials. The bill provides instead that an individual is ineligible to serve if elected or appointed to an elective government office. There are exceptions. Both current law and the bill permit precinct, ward, and district committee members, presidential electors, and delegates to a national convention to serve. The bill would additionally permit township trustees and township clerks to serve.

Current law provides that an employee of a county MR/DD board is ineligible to serve as a member of the board. The bill excludes an appointed official or employee of a government entity responsible for determining the eligibility of an individual with mental retardation or other developmental disability (MR/DD) for services or providing or overseeing the provision of services to such an individual or the county MR/DD board. This includes all of the following government entities that serve the county that the county MR/DD board serves: board of county commissioners, office of county treasurer, office of county auditor, office of county prosecuting attorney, county board of elections, public children services agency, county family and children first council, county department of job and family services, county board of alcohol, drug addiction, and mental health services, school district, and educational service center. It also includes the following state departments: ODMR/DD, Ohio Department of Job and Family Services (ODJFS), Department of Mental Health, Department of Alcohol and Drug Addiction Services, and Department of Education.

The bill makes an individual service plan participant ineligible to serve on a county MR/DD board. An individual service plan participant is a private or

government entity, including a school district or educational service center, that is a signatory to, or participant in the process of developing, an individual service plan for an individual with MR/DD. An immediate family member of an individual with MR/DD who is a signatory to, or participant in the process of developing, the individual service plan for the individual with MR/DD is excluded from the definition of individual service plan participant and may, unless otherwise disqualified, serve as a county MR/DD board member.

Current law disqualifies an immediate family member of a county MR/DD board member or board employee from serving on the board. The bill makes an immediate family member of any individual ineligible to serve on the county MR/DD board also ineligible to serve.

Current law provides that an individual may not serve on a county MR/DD board if the individual or a member of the individual's immediate family is a board member of a contract agency of that county board unless there is no conflict of interest. The bill defines contract agency as a private or government entity that provides services to an individual with MR/DD pursuant to a contract with a county MR/DD board. Current law also provides that no employee of an agency contracting with a county MR/DD board, or immediate family member of such an employee, may serve as a member or employee of the board.¹ The bill provides that the disqualification applies to an employee, or immediate family member of an employee, of a contract agency.

The bill includes an exception for current county MR/DD board members. An individual serving on a county MR/DD board on the bill's effective date who would otherwise be ineligible to serve on the board because of the bill is permitted to continue to serve on the board and be re-appointed to the board.

Current law requires a county MR/DD board to supply a board member who becomes ineligible to serve on the board, and the member's appointing authority, with written notice of the reason the member is ineligible. The appointing authority must afford the member an opportunity for a hearing and, on determining that the member is ineligible, remove the member and appoint another person to complete the term. The bill requires instead that the appointing authority remove a member on receipt of written notice from any source that reasonably demonstrates that the member is ineligible to serve on the board. A resident of the county that the board serves or the Director of ODMR/DD may bring mandamus proceedings in the Franklin County Court of Appeals or the court of appeals of the

¹ A county MR/DD board may adopt a resolution authorizing the board's employment of an immediate family member of an employee of an agency under contract with the board.

county that the board serves against the appointing authority for failure to remove the member.

Terms of membership

(sec. 5126.02)

Members are appointed to four-year terms. Current law provides that a member who has served during each of two consecutive terms may not be re-appointed for a subsequent term until one year after ceasing to be a member, except that a member who has served for six years or less within two consecutive terms may be re-appointed for a subsequent term. The bill increases the number of consecutive terms a member may serve to three and the amount of time a member must wait to be re-appointed after serving three, full, consecutive terms to two years. A member who has served for ten years or less within three consecutive terms may be re-appointed to a subsequent term.

Members' terms commence on the date of the stated annual organizational meeting. The bill provides that this is the stated annual organizational meeting in January.

Tax equity

(Section 4; ancillary sections: 5126.17 and 5126.18 and Sections 5 and 6)

Current law requires ODMR/DD to make a tax equity payment to a county MR/DD board if the board's hypothetical local revenue per enrollee is less than the hypothetical statewide average revenue per enrollee. A county MR/DD board's hypothetical local revenue per enrollee is the quotient obtained by dividing the board's local revenue factor by its average daily membership in the following services: early childhood services, special education for handicapped children in approved school age classes, adult services for persons at least age 16, and approved preschool services.² The hypothetical statewide average revenue per enrollee is the quotient obtained by dividing the sum of all county MR/DD board's local revenue factors by the total enrollment of all county MR/DD boards.

The amount of a county MR/DD board's tax equity payment is determined by multiplying (1) the amount by which the hypothetical statewide average

² A county MR/DD board's local revenue factor is the amount of funds available to the board from the local MR/DD tax levy divided by the lesser of the aggregate rate of tax authorized to be levied by the board of county commissioners pursuant to state law governing local MR/DD tax levies or the aggregate rate of such tax certified to the county auditor.

revenue per enrollee exceeds the board's hypothetical local revenue per enrollee and (2) the board's infant and adult enrollment. If the county MR/DD board's effective tax rate is less than one mill, that product is also multiplied by the quotient obtained by dividing the board's effective tax rate by one mill. The payment is reduced pro rata if the amount the General Assembly appropriates for all tax equity payments is less than the total amount needed. The payment is also subject to a cap; it may not exceed 30% of the payment ODMR/DD makes to the board for certified average daily membership in certain board programs. Additionally, ODMR/DD is permitted to reduce the portion of the payment that is for services to an individual enrolled in active treatment in habilitation center services by 50% or less.

The bill alters the tax equity payment for state fiscal years 2002 and 2003. A county MR/DD board is eligible for the payment if its local tax capacity per adult services enrollee (rather than its hypothetical local revenue per enrollee) is less than the state average tax capacity per adult services enrollee (rather than the hypothetical statewide average revenue per enrollee). A county MR/DD board's local tax capacity per adult services enrollee is one mill per dollar of taxable value multiplied by the quotient obtained by dividing the board's taxable value by the board's adult services enrollment.³ The state average tax capacity per adult services enrollee is one mill per dollar of taxable value multiplied by the quotient obtained by dividing the sum of all county MR/DD boards' taxable value by the sum of boards' adult services enrollment. A county MR/DD board's adult services enrollment is its average daily membership of individuals 22 or older in adult services, community employment services, and supported employment services, exclusive of individuals who are served solely through service and support administration or family support services.

The amount of a tax equity payment is determined by multiplying (1) the amount by which the state average tax capacity per adult services enrollee exceeds a county MR/DD board's local tax capacity per adult services enrollee and (2) the board's adult services enrollment. However, the total amount the Director of ODMR/DD may pay to all county MR/DD boards for state fiscal year 2002 may not exceed \$6,500,000. The cap for state fiscal year 2003 is \$13,000,000. The Director must make the 2002 payments no later than December 31, 2001, and the 2003 payments no later than August 31, 2002.

A county MR/DD board that receives a tax equity payment under the bill is required to use the payment solely to develop and implement Medicaid-funded

³ *Taxable value with respect to a county MR/DD board is the total taxable value of real and public utility property and tangible personal property in the county served by that board as shown on the county auditor's tax lists.*

habilitation center services, ODMR/DD-administered home and community-based services, and case management services so that the services are comparable to such services available in counties served by a county MR/DD board having a local tax capacity per adult services enrollee equal to or greater than the state average tax capacity per adult services enrollee. The county MR/DD board must also certify to the Director, for each year it receives a tax equity payment, that it will make a good faith effort to obtain revenues, including federal funds, for services to individuals included in its adult services enrollment.

Community Mental Retardation and Developmental Disabilities Trust Fund

(sec. 5126.19)

With money in the Community Mental Retardation and Developmental Disabilities Trust Fund, the ODMR/DD Director is permitted to grant temporary funding for certain purposes, including supported living, family support services, and behavioral or short-term interventions for persons with MR/DD that assist them in remaining in the community by preventing institutionalization. Current law authorizes the Director to grant the funding to a county MR/DD board or, with the consent of a county MR/DD board, individuals and private entities that provide the services for which the funding is granted. The bill eliminates the requirement that the Director have the consent of a county MR/DD board to grant the funding to a service provider and permits the Director to grant the funding to persons with MR/DD who are to receive the services. The bill also provides for the Director to make grants based on allocations to county MR/DD boards.

If the fund contains more than \$10 million on the first day of July, the Director must use \$1 million for payments to county MR/DD boards based on average daily membership in certain programs, \$1 million for the tax equity program, and \$2 million for supported living. Current law requires that the funds be distributed to a county MR/DD board for such purposes in an amount equal to the same percentage of the total amount distributed for the services the board received in the immediately preceding state fiscal year. The bill requires that the funds be allocated, rather than distributed, to the county MR/DD board in an amount equal to the same percentage of the total amount allocated, rather than distributed, to the board in the immediately preceding state fiscal year.

County MR/DD board three-year plan

(sec. 5126.054; ancillary section: 5111.872)

Each county MR/DD board is required to develop a three-calendar year plan regarding Medicaid-funded services to individuals with MR/DD. The

Medicaid-funded services are habilitation center services, case management services, and ODMR/DD-administered home and community-based services.⁴

Current law provides for the plan to have three components: an assessment component, a component regarding direct care staff, and a component that provides for the implementation of Medicaid-funded services for individuals who begin to receive the services on or after the date the plan is approved by ODMR/DD.

The bill provides for the plan to have a fourth component, called the preliminary implementation component. The component must specify the number of individuals to be provided, during the first year that the plan is in effect, ODMR/DD-administered home and community-based services pursuant to priority requirements for county MR/DD board waiting lists and the types of such services the individuals are to receive.

The bill requires that county MR/DD boards submit the preliminary implementation component to ODMR/DD not later than January 31, 2002. The bill also postpones the date by which county MR/DD boards must submit the component that provides for the implementation of Medicaid-funded services. A county MR/DD board must submit that component July 1, 2002, rather than November 1, 2001. In addition, the bill requires that that component include assurances adequate to ODMR/DD that the county MR/DD board will provide the types of home and community-based services specified in the preliminary implementation component to at least the number of individuals specified in that component.

In the direct care staff component, a county MR/DD board must provide for the recruitment, training, and retention of existing and new direct care staff necessary to implement services included in individualized service plans. Current law provides that the services include habilitation center services. The bill provides instead that the services include habilitation services. Habilitation is the process by which the staff of a facility or agency assists an individual with MR/DD in acquiring and maintaining those life skills that enable the individual to cope more effectively with the demands of the individual's own person and environment, and in raising the level of the individual's personal, physical, mental, social, and vocational efficiency. Habilitation includes programs of formal, structured education and training.

⁴ *Habilitation center services are services provided by ODMR/DD-certified habilitation centers. These services are also known as the community alternative funding system (CAFS). Case management services refer to such services that the State Medicaid plan requires be provided to individuals with MR/DD.*

Medicaid local administrative authority

(secs. 5123.046, 5126.055, and 5126.056; ancillary sections: 5126.035, 5126.046, 5126.054, 5123.049, 5123.0411, 5126.057, and 5705.44)

ODMR/DD is required by current law to review each three-calendar year county MR/DD board plan and, in consultation with the ODJFS and Office of Budget and Management (OBM), approve each plan that includes all the required information and conditions. The bill requires instead that ODMR/DD review each component and, in consultation with ODJFS and OBM, approve each component that includes all the required information and conditions. If ODMR/DD approves all four components, the plan is approved, otherwise, it is disapproved.

Current law provides that a county MR/DD board with an approved plan has Medicaid local administrative authority regarding Medicaid-funded services for individuals with MR/DD.⁵ The bill provides instead that a county MR/DD board has the Medicaid local administrative authority automatically. As under current law, however, a county MR/DD board's authority, or part of the authority, may be terminated under certain circumstances.

All or part of a county MR/DD board's Medicaid local administrative authority may be terminated if it fails to correct a deficiency in its implementation of the authority, or submit an acceptable plan of correction regarding its implementation, within a required amount of time. The bill specifies the following are additional circumstances under which the authority may be terminated:

- (1) Failure to submit all the components of its three-year plan to ODMR/DD within the required time;
- (2) ODMR/DD disapproval of the three-year plan;⁶
- (3) Failure to update and renew its three-year plan in accordance with a schedule ODMR/DD develops;

⁵ *A county MR/DD board with Medicaid local administrative authority is required to perform certain functions regarding Medicaid-funded services for individuals with MR/DD, including performing assessments and evaluations, monitoring the services, and, under certain circumstances, paying the nonfederal share for the services.*

⁶ *Current law provides that if a county MR/DD board fails to submit all of the plan's components within the required time or ODMR/DD disapproves the plan, ODMR/DD may withhold all or part of any funds ODMR/DD would otherwise allocate to the county MR/DD board. The bill provides for ODMR/DD to terminate all or part of the county MR/DD board's Medicaid local administrative authority instead.*

(4) Failure to implement its initial or renewed three-year plan approved by ODMR/DD.

One of the actions ODMR/DD may take if it terminates all or part of a county MR/DD board's Medicaid local administrative authority is to appoint an administrative receiver to administer the services for which the county MR/DD board's authority is terminated. To the extent necessary for ODMR/DD to appoint an administrative receiver, ODMR/DD is permitted to utilize certain individuals. Current law provides that this includes individuals who are not employed by or affiliated in any manner with a private or government entity that provides Medicaid-funded services to individuals with MR/DD pursuant to a contract with a county MR/DD board. Under the bill, ODMR/DD may utilize an individual employed by or affiliated with a government entity that provides such services pursuant to such a contract.

Assignment of nonfederal share of expenditures for habilitation center services

(sec. 5123.048)

ODMR/DD is required to assign to a county MR/DD board the nonfederal share of Medicaid expenditures for habilitation center services that a private habilitation center provides if (1) the individuals who receive the services also received the services from the center pursuant to a contract the center had with ODMR/DD in state fiscal year 2001, (2) the county MR/DD board determines that the individuals who receive the services are eligible for county MR/DD board services, and (3) the county MR/DD board contracts with the center to provide the services after the center's contract with ODMR/DD ends.

Current law provides that the amount ODMR/DD must assign to a county MR/DD board be adequate to ensure that the habilitation center services the individuals receive are comparable in scope to the services they received when the habilitation center was under contract with ODMR/DD. The amount assigned may not be less than the amount ODMR/DD paid the center for the individuals in fiscal year 2001. The bill provides that the amount assigned may not be less than the amount ODMR/DD paid the center for each individual who received the services pursuant to the contract ODMR/DD had with the center in fiscal year 2001. If the contract was for less than the entire fiscal year, the amount assigned may not be less than the amount ODMR/DD would have paid the center for each individual who received the services pursuant to the contract had the contract been for the entire fiscal year.

Service waiting list priorities

(sec. 5126.042)

If a county MR/DD board determines that available resources are not sufficient to meet the needs of all eligible individuals who request services available through the board, the board is required to establish waiting lists. The county MR/DD board is required, with an exception and certain limitations, to give certain categories of individuals priority on a waiting list in accordance with the board's ODMR/DD-approved, three-year plan.⁷ The bill requires that the county MR/DD board give priority to the individuals in accordance with the ODMR/DD-approved, assessment component of the plan.

One of the categories of individuals given priority are individuals eligible for ODMR/DD-administered home and community-based services who meet any of certain specified conditions. Current law provides that one of the conditions is that the individual be less than 22, not receive residential services or supported living, reside in his or her family's home, and have one or more specific service needs that are unusual in scope or intensity.⁸ The bill eliminates from this condition the prohibition that the individual not receive residential services or supported living and the requirement that the individual reside in his or her family's home. Another condition under current law is that the individual be at least 22 and have, as determined by the county MR/DD board, intensive needs for residential services on an in-home or out-of-home basis. The bill alters this condition by requiring the individual to have intensive needs for home and community-based services rather than residential services and adding a prohibition against the individual receiving residential services or supported living.

Under current law, an individual who satisfies the conditions for priority in the category discussed above is to receive priority for the services over any other individual on the waiting list other than an individual with an emergency status or given priority under a different category. This other category is for individuals

⁷ *The exception is that no individual may receive such priority over an individual placed on the waiting list on an emergency status.*

⁸ *The specific service needs are (1) severe behavior problems for which a behavior support plan is needed, (2) an emotional disorder for which anti-psychotic medication is needed, (3) a medical condition that leaves the individual dependent on life-support medical technology, (4) a condition affecting multiple body systems for which a combination of specialized medical, psychological, educational, or habilitation services are needed, and (5) a condition the county MR/DD board determines to be comparable in severity to any of the preceding conditions and places the individual at significant risk of institutionalization.*

eligible for ODMR/DD-administered home and community-based services who (1) are at least 22 and receive supported living or family support services or (2) reside in their own home or the home of their family, will continue to reside in that home after enrollment in the services, and receive adult services from the county MR/DD board. The bill eliminates the restriction that an individual in the first-discussed category of priority not receive priority over an individual in the second-discussed category. If two or more individuals on a waiting list for ODMR/DD-administered home and community-based services have priority for the services pursuant to the first-discussed or second-discussed priority category, a county MR/DD board is permitted to use, until December 31, 2003, criteria specified in ODMR/DD rules in determining the order in which the individuals will be offered the services. Otherwise, the county MR/DD board must offer the services to such individuals in the order they are placed on the waiting list. ODMR/DD is required to adopt the rules no later than November 15, 2001.⁹ The rules cease to have effect December 31, 2003.

The bill also alters a limitation on the first-discussed priority category. Whereas current law provides that no more than 200 individuals may receive priority during state fiscal years 2002 and 2003 pursuant to that category, the bill provides that no more than 400 individuals may receive such priority during the 2002 and 2003 biennium.

Family support provided as home and community-based services

(Section 3)

Current law authorizes the Director of ODJFS to apply to the United States Secretary of Health and Human Services for one or more Medicaid waivers under which home and community-based services are provided to individuals with MR/DD as an alternative to placement in an intermediate care facility for the mentally retarded (ICF/MR). ODJFS is required to enter into an interagency agreement with ODMR/DD with regard to any of the waivers the United States Secretary grants. Under the agreement, ODMR/DD is to administer the waivers.

The bill permits the Director of ODJFS, on the recommendation of the Director of ODMR/DD, to seek one or more such waivers, including a waiver under which home and community-based services are provided in the form of family support services programs established by county MR/DD boards.

⁹ *The rules must also specify conditions under which a county MR/DD board, when there is no individual with priority for the services pursuant to the first-discussed or second-discussed category available and appropriate for the services, may offer the services to an individual on a waiting list for the services but not given such priority.*

The Director of ODJFS is required to adopt rules establishing statewide fee schedules for ODMR/DD-administered home and community-based services. Current law requires that the Director adopt the rules not later than the effective date of the first of any ICF/MR-alternative home and community-based services waivers the United States Secretary grants. The bill provides that the Director is not required to adopt the rules by the effective date of the waiver under which home and community-based services are provided in the form of family support services programs.

Adult services

(sec. 5126.01)

One of the services available through a county MR/DD board is adult services. Adult services include adult day habilitation services, adult day care, prevocational services, sheltered employment, and educational experiences and training obtained through entities and activities that are not expressly intended for individuals with MR/DD. Current law provides that adult services do not include community or supported employment services.¹⁰ The bill provides that adult services do include community and supported employment services.

Administrative oversight duties included in certain management responsibilities

(sec. 5126.14)

The entity responsible for the habilitation management included in adult day habilitation services and the program management included in residential services and supported living is required to provide administrative oversight by taking certain actions. Current law provides that one of the actions is monitoring for major unusual incidents and causes of abuse, neglect, or exploitation involving an individual under the care of staff providing the services; taking immediate actions as necessary to maintain the health, safety, and welfare of the individual; and providing notice of major unusual incidents and suspected cases of abuse, neglect, or exploitation to the county MR/DD board's investigative agent. The bill requires that the action also include monitoring for unusual (in addition to major unusual) incidents and misappropriation of funds. The entity must provide notice

¹⁰ *Community and supported employment services are job training and other services related to employment outside a sheltered workshop. They include (1) job training resulting in the attainment of competitive work, supported work in a typical work environment, or self-employment, (2) supervised work experience through an employer paid to provide the supervised work experience, (3) ongoing work in a competitive work environment at a wage commensurate with workers without disabilities, and (4) ongoing supervision by an employer paid to provide the supervision.*

of unusual and major unusual incidents and suspected cases of abuse, neglect, exploitation, or misappropriation of funds to the county MR/DD board, rather than to the investigative agent.

Service and support administration

(sec. 5126.15)

Current law requires a county MR/DD board to provide service and support administration to each individual who is eligible for other services of the board. The bill requires instead that a county MR/DD board provide service and support administration to each individual at least age three who is eligible for and requests service and support administration and to each individual receiving ODMR/DD-administered home and community-based services. A county MR/DD board is permitted to provide, in accordance with the service coordination requirements of federal regulations governing the early intervention program for infants and toddlers with disabilities, service and support administration to an individual under age three eligible for early intervention services under the federal regulations.

Investigative agent

(sec. 5126.221)

Each county MR/DD board is required to employ at least one investigative agent or contract with a private or government entity for the services of an investigative agent. An investigative agent conducts investigations of reports of abuse, neglect, or major unusual incidents involving individuals with MR/DD when circumstances specified in ODMR/DD rules exist.

Current law requires an investigative agent to report directly to a county MR/DD board's superintendent. The bill requires instead that the individual or private entity responsible for supervising the work of investigative agents report to the superintendent regarding the agents.

Direct services contract

(sec. 5126.033)

A county MR/DD board may not enter into a direct services contract for family support or supported living services under which an individual, agency, or other entity will employ a professional or service employee who is also employed by the county MR/DD board unless a number of conditions are met.¹¹ Under

¹¹ A county MR/DD board employee is considered to be a professional employee if the employee holds a position for which either a bachelor's degree from an accredited

current law, one of the conditions is that the employee may not hold any administrative or supervisory position in the employ of the county MR/DD board, may not have held such a position during the period the contract was developed, and must agree not to take such a position while the contract is in effect. The bill provides instead that the employee may not be employed by the county MR/DD board during the period the contract is developed as an administrator or supervisor responsible for approving or supervising services to be provided under the contract and agree not to take such a position while the contract is in effect. The bill also establishes an additional condition. The employee must be in management level two or three according to ODMR/DD rules.

Miscellaneous corrections

(secs. 5126.036, 5126.05, 5126.055, 5126.06, and 5126.357)

The bill corrects cross reference and other errors in the provisions of Am. Sub. H.B. 94 of the 124th General Assembly regarding Medicaid-funded services for individuals with MR/DD.

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	---	---

H0405-I.124/jc

college or university or a license or certificate issued by a state occupational licensing board is a minimum requirement. A county MR/DD board employee is considered to be a service employee if the employee holds a position that may require evidence of registration but for which a bachelor's degree from an accredited college or university is not required.

