



Am. Sub. H.B. 117
125th General Assembly
(As Passed by the General Assembly)

Reps. Widowfield, Husted, Hollister, McGregor, Kearns, Seitz, White, Gilb, Allen, Schmidt, Schneider, Brown, Perry, Cirelli, Reidelbach, Price, Hagan, Flowers, Otterman, Aslanides, Barrett, Beatty, Boccieri, Carano, Carmichael, Clancy, Collier, Daniels, DeBose, Distel, C. Evans, Hartnett, Harwood, Hoops, Hughes, Jerse, Jolivette, Key, Martin, Niehaus, T. Patton, Raussen, Reinhard, Schlichter, Setzer, Sferra, G. Smith, S. Smith, D. Stewart, J. Stewart, Strahorn, Taylor, Ujvagi, Wagner, Walcher, Widener, Williams, Wilson, Wolpert, Woodard, Yates

Sens. Wachtmann, Brady, DiDonato, Fedor, Robert Gardner, Prentiss, Roberts

Effective date: *

ACT SUMMARY

- Requires that a foster caregiver successfully complete at least 24 hours of preplacement training to be eligible for an initial family foster home certificate, rather than at least 12 hours before certification and at least 12 additional hours before children may be placed in the home.
- Requires that continuing training for foster caregivers be completed over the two-year certification period, rather than annually.
- Eliminates specification of courses that must be included in a continuing training program for foster caregivers; instead requires that the Ohio Department of Job and Family Services (ODJFS) adopt rules governing continuing training.

* *The Legislative Service Commission had not received formal notification of the effective date at the time this analysis was prepared. Additionally, the analysis may not reflect action taken by the Governor.*

- Eliminates the requirement that preplacement training for treatment foster home or medically fragile foster home certification include up to eight hours of special education surrogate parenting training.
- Requires that foster caregivers who operate specialized foster homes complete courses in the use of appropriate behavioral intervention techniques, such as de-escalation, self-defense, and physical restraints.
- Removes cardiopulmonary resuscitation and first aid as a required preplacement training subject, except for foster caregivers seeking certification for specialized foster homes.
- Requires ODJFS to establish in rules a time extension for certain persons on active duty with the United States armed forces or the Ohio organized militia to complete continuing training requirements.
- Creates new exceptions to the limit on the number of children in a foster home.
- Permits ODJFS to seek an order preventing an institution or association that holds a certificate from receiving additional children or an order removing children in certain circumstances.
- Requires specified persons who arrange an adoption to request that the Bureau of Criminal Identification and Investigation conduct a criminal records check of all adults residing with the prospective adoptive parent, and prohibits a probate court from issuing a final adoption decree or an order making the prospective adoptive parent the adoptive parent if any such adult has been convicted of or pleaded guilty to specified offenses.
- Permits ODJFS to have a criminal records check conducted based on a Social Security number rather than fingerprints for an adult resident of a prospective adoptive or foster home or the home of a foster caregiver if the adult is physically unable to comply with the fingerprinting requirement and poses no danger to foster children or adoptive children who may be placed in the home.
- Requires that a criminal records check under the bill also determine whether the person has been convicted of arson or aggravated arson, and generally precludes a person who is convicted of or pleads guilty to arson or aggravated arson from becoming responsible for a child's care in out-of-home care or becoming an adoptive parent.

- Expressly includes the operator of a foster home in the definition of "association" or "institution" for the purposes of the child placement law.
- Repeals a provision of Am. Sub. H.B. 95 of the 125th General Assembly requiring the Legislative Office of Education Oversight to conduct a review of partnership agreements between a Head Start provider and a provider of child care or day care services.

CONTENT AND OPERATION

Background

A foster caregiver who, for hire, gain, or reward, receives or cares for children for two or more consecutive weeks must obtain a certificate from the Ohio Department of Job and Family Services (ODJFS). For a foster caregiver to obtain a certificate, a public children services agency, private child placing agency, or private noncustodial agency must be satisfied that certification standards are being met.¹ With few exceptions, the standards are established by ODJFS rules. If the agency is satisfied, it must recommend that ODJFS issue the certificate. ODJFS has sole discretion regarding whether to issue the certificate. A certificate is valid for two years.

Training requirements for foster caregivers

Preplacement training

(R.C. 5103.031)

Under prior law, ODJFS was prohibited from issuing a certificate of compliance with the requirements of the statutes and rules covering the management of institutions and associations that care for children to a foster caregiver seeking to operate a family foster home unless the foster caregiver successfully completed at least 12 hours of preplacement training. The law prohibited the placement of children in a family foster home unless the foster caregiver completed at least 12 additional hours of preplacement training. A foster caregiver seeking to operate a specialized foster home had to successfully complete at least 36 hours of preplacement training.² Both types of foster

¹ In this analysis, "agency" refers to all three types of agencies.

² "Specialized foster home" means a medically fragile foster home or a treatment foster home. "Medically fragile foster home" means a foster home that provides specialized medical services designed to meet the needs of children with intensive health care needs who meet specified criteria.

caregivers had to complete the training through an ODJFS-approved preplacement training program operated by an agency.

The act prohibits ODJFS from issuing a certificate to a foster caregiver seeking to operate a family foster home unless the foster caregiver successfully completes at least 24 hours of preplacement training. The total number of training hours required before a child may be placed in a family foster home is unchanged.

Continuing training

(R.C. 5103.032(A) and 5103.033(B))

Prior law prohibited ODJFS from renewing a foster home certificate unless the foster caregiver successfully completed a certain amount of continuing training. A foster caregiver operating a family foster home had to complete at least 20 hours of training annually and foster caregiver operating a specialized foster home at least 30 hours annually. A foster caregiver who operated a foster home for the care of a child in the custody of a public children services agency or private child placing agency pursuant to a voluntary surrender agreement executed when the child was less than six months of age had to complete at least 12 hours of continuing training annually.

The act requires that continuing training be completed over a two-year period. A family foster home foster caregiver must complete at least 40 hours, a foster caregiver who operates a specialized foster home at least 60 hours, and a foster caregiver who operates a foster home for the care of a child in the custody of an agency pursuant to a voluntary surrender agreement executed when the child was less than six months of age at least 24 hours in each two-year period.

Waiver for good cause of failure to complete training

(R.C. 5103.032(B) and 5103.035(F))

The act permits an agency to waive at the beginning of a two-year certification period up to eight hours of the continuing training a family foster home foster caregiver is otherwise required to complete in that certification period if the foster caregiver (1) has held a certificate for a family foster home or specialized foster home for at least two years and has provided foster care for at least 90 days of the 12 months preceding the date the agency issues the waiver, (2)

"Treatment foster home" means a foster home that incorporates special rehabilitative services designed to treat the specific needs of the children received in the foster home and receives and cares for children who have exceptional needs. (R.C. 5103.02(D), (F), and (G).)

has not violated any requirements governing certification of foster homes during the 12 months preceding the date the agency issues the waiver, and (3) has complied in full with the needs assessment and continuing training plan for the preceding certification period. The act also permits an agency to waive up to eight hours of continuing training under the same circumstances for foster caregivers operating a specialized foster home.

Continuing training requirements--time extension

(R.C. 5103.032(D) and 5103.033(D))

The act requires ODJFS to adopt rules to give a foster caregiver additional time to complete continuing training if either of the following applies:

(1) The foster caregiver has served in active duty outside Ohio with a branch of the United States armed forces for more than 30 days in the preceding two-year period.

(2) The foster caregiver has served in active duty as a member of the Ohio organized militia³ for more than 30 days in the preceding two-year period, and that active duty relates to either an emergency in or outside of Ohio or military duty in or outside of Ohio.

Preplacement training programs

(R.C. 5103.039 and 5103.0311(A)(5))

The act requires that preplacement training include training in appropriate behavioral intervention techniques, such as de-escalation, self-defense, and physical restraint techniques, and the appropriate uses of those techniques.

The act also removes cardiopulmonary resuscitation and first aid as a required subject in preplacement training for foster caregivers generally, but retains it as a required preplacement training course for foster caregivers seeking certification for specialized foster homes.

³ *The Ohio organized militia consist of members of the following: (1) the Ohio national guard, including both the air national guard and the army national guard, (2) the Ohio naval militia, and (3) the Ohio military reserve (R.C. 5923.01(A) and (B)).*

Continuing training programs

(R.C. 5103.032(A), 5103.035(C), 5103.037, 5103.038, 5103.0310 (repealed), 5103.0311(B), 5103.0316, and 5153.60)

Agencies operate ODJFS-approved continuing training programs for foster caregivers seeking training. To obtain ODJFS approval of a continuing training program, every other year an agency must submit to ODJFS a proposal outlining the program. In the case of a proposal submitted by an agency operating a continuing training program at the time the proposal is submitted, ODJFS must be satisfied with the agency's operation of the program.

The act eliminates specification of courses that must be addressed in continuing training programs and requires instead that ODJFS adopt rules in accordance with the Administrative Procedure Act (R.C. Chapter 119.) establishing requirements governing continuing training programs for foster caregivers.

Exceptions to number of children permitted in foster homes

(R.C. 5103.0317)

Under continuing law, a foster home may not receive more than five children apart from their parents, guardian, or custodian, except in order to accommodate a sibling group or the remaining members of a sibling group. The act adds the following new exceptions to the five-child limit:

- (1) The additional child or children are related to the foster caregiver by blood or marriage;
- (2) The additional child or children are foster children who previously resided in the foster home;
- (3) The additional child or children are the children of a foster child who resides in the foster home.

Injunction

(R.C. 5103.03)

The act clarifies continuing law by providing that if an institution or association that cares for children is operating without a certificate, regardless of whether it is operating a facility, the Director may petition the court of common pleas in the county in which the institution or association is located for an order

enjoining its operation.⁴ In addition, the act permits the Director to petition the court for an order, and permits the court to issue an order, preventing an institution or association that holds a certificate from receiving additional children into its care or an order removing children from its care if both of the following are the case:

(1) ODJFS has evidence that the life, health, or safety of one or more children in the care of the institution or association is at imminent risk;

(2) ODJFS has issued a proposed adjudication order under the Administrative Procedure Act to deny renewal of or revoke the certificate of the institution or association.

Criminal records checks for persons responsible for out-of-home care

(R.C. 109.572 and 2151.86)

Continuing law requires criminal records checks for certain persons who work with children. A records check must be requested for (1) a person who is under final consideration to be responsible for a child's care in out-of-home care, (2) a prospective adoptive parent, and (3) a prospective foster caregiver and all adults who reside with the foster caregiver.⁵ The request must be made to the Superintendent of the Bureau of Criminal Identification and Investigation (BCII) for BCII to conduct the criminal records check. The Superintendent must determine whether the person being checked has been convicted of or pleaded guilty to certain offenses, including, for example, homicides, assaults, certain sex offenses, and certain theft offenses. With respect to a person who is a prospective

⁴ For purposes of the requirement that a certificate be obtained, an "institution" or "association" includes (1) any organization, society, association, or agency that receives or cares for children for two or more consecutive weeks, (2) any individual who, for hire, gain, or reward receives or cares for children for two or more consecutive weeks, unless the individual is related to the children by blood or marriage, and (3) an individual who in any manner becomes a party to the placing of children in foster homes, other than individuals employed by a court or by an institution or association that has been certified to receive and care for children, individuals related to the children by blood or marriage, or an individual appointed as guardian of the children (R.C. 5103.02(A)).

⁵ A "person responsible for a child's care in out-of-home care" includes, for example, a foster caregiver; any administrator, employee, or agent of a detention facility, child day-care center, or group home; or any person who performs similar functions with respect to, or has a similar relationship with, children. A person responsible for a child's care in out-of-home care does not include a prospective employee of the Department of Youth Services or a person responsible for a child's care in a hospital or medical clinic other than a children's hospital. (R.C. 2151.86(H)(4) and 2151.011(B)(32), not in the act.)

foster caregiver or an adult who resides with a prospective foster caregiver, the Superintendent must also determine whether the person has been convicted of or pleaded guilty to arson or aggravated arson or an existing or former law of Ohio, another state, or the United States that is substantially similar to arson or aggravated arson.

A person cannot care for children in out-of-home care or be an adoptive parent or foster caregiver if a criminal records check indicates the person, or, in the case of a foster caregiver, an adult who resides with the foster caregiver, committed one of the offenses checked for by the Superintendent, unless the person meets rehabilitation standards established by ODJFS.

The act requires that a criminal records check also be requested for all adults who reside with a prospective adoptive parent. The act also extends to all persons responsible for a child's care in out-of-home care and to prospective adoptive parents the existing requirement that the Superintendent of BCII determine whether the person has been convicted of or pleaded guilty to arson or aggravated arson or an existing or former law of Ohio, another state, or the United States that is substantially similar to arson or aggravated arson. A person found to have committed such an offense cannot become an adoptive parent or be employed as a person responsible for a child's out-of-home care unless the person meets the rehabilitation standards established by ODJFS.

Finally, the act permits ODJFS to waive the criminal records check requirement based on fingerprints for an adult resident of a prospective adoptive or foster home or the home of a foster caregiver if the recommending agency documents to ODJFS's satisfaction that the adult resident is physically unable to comply with the fingerprinting requirement and poses no danger to foster children or adoptive children who may be placed in the home. In these cases, the recommending or approving agency must request that BCII conduct a criminal records check using the person's name and social security number.

Definition of "association" and "institution"

(R.C. 5103.02(A))

Current law

The child placement law generally requires that ODJFS every two years pass on the fitness of every institution and association that receives, or desires to receive and care for children, or places children in private homes. The definition of "institution" or "association" includes any individual who, for hire, gain, or reward, receives or cares for children for two or more consecutive weeks, unless the individual is related to them by blood or marriage.

The act clarifies the child placement law by expressly including the operator of a foster home in the definition of "association" or "institution." Thus, under the act, "association" or "institution" includes any individual, *including the operator of a foster home*, who, for hire, gain, or reward, receives or cares for children for two or more consecutive weeks, unless the individual is related to the children by blood or marriage.

Legislative Office of Education Oversight study

(Section 3; Section 160 of Am. Sub. H.B. 95 of the 125th General Assembly)

The act repeals Section 160 of Am. Sub. H.B. 95 of the 125th General Assembly. That provision required the Legislative Office of Education Oversight (LOEO) to conduct a review of partnership agreements between Head Start providers and providers of child care or day care services.

Technical corrections

(R.C. 513.02(C), (D), and (G) and 5120.65)

The act makes technical corrections to the definitions for the child placement law and to a provision of law governing the Prison Nursery Program.

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	03-11-03	p. 218
Reported, H. Human Services & Aging	06-06-03	pp. 549-550
Passed House (98-0)	06-11-03	pp. 588-592
Reported, S. Health, Human Services & Aging	04-06-04	pp. 1710-1711
Passed Senate (33-0)	04-21-04	pp. 1749-1750
Concurrence (95-0)	05-04-04	pp. 1806-1807

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