



H.B. 8

125th General Assembly
(As Introduced)

Rep. Fessler

BILL SUMMARY

- Requires the Ohio Department of Job and Family Services (ODJFS) to inspect and investigate any unlicensed child day-care provider suspected of being in violation of the requirement that the provider be licensed as a child day-care center or type A family day-care home.
- Specifies that the prohibition against operating a day-care center or type A home without a license applies and must be enforced, regardless of the manner in which the day-care provider represents itself to the public.
- Prohibits a person or government entity from interfering with an inspection or investigation being conducted by any state or local official performing duties to determine whether day-care licensing requirements are being violated.
- Specifies that a court may issue an order prohibiting a day-care provider from providing day-care in any capacity, including as a type B home, if the provider has been subject to two previous court orders to discontinue operating without a license.
- Clarifies that a licensed day-care provider must notify ODJFS when there is a change in the maximum number of children that may receive care (the licensed capacity) and that ODJFS must make a determination of whether the change in licensed capacity is appropriate.
- Requires ODJFS to modify its rules requiring a day-care center to check the references of an applicant for employment as an administrator by specifying procedures to be followed in obtaining a statement from the applicant as to whether the applicant has been the administrator of a day-

care center or type A home that ceased to operate because its license was revoked.

- Establishes that ODJFS may impose the following additional licensing sanctions: (1) a fine of \$100 to \$500 and (2) a requirement that all employees undergo at least two hours of training on the child day-care laws.
- Requires ODJFS to select the sanction to be imposed according to the severity of the violation, and permits ODJFS to take into consideration whether previous sanctions have been imposed for the same or other violations.
- Reorganizes the provisions of existing law that specify the authority of ODJFS to impose licensing sanctions.
- Requires ODJFS to maintain a toll-free telephone number for purposes of accepting complaints about child day-care providers, and requires ODJFS to offer consumer information on child day-care through the toll-free line.
- Requires each public children services agency to file with ODJFS a copy of the agency's "memorandum of understanding," which details the procedures to be used by officials who deal with cases of child abuse and neglect, and requires the agency to review the memorandum at least once every five years.

CONTENT AND OPERATION

Background

There are several different types of child day-care providers in Ohio, including child day-care centers, type A family day-care homes, and type B family day-care homes.

Child day-care centers

A child day-care center is any place in which child day-care is provided for 13 or more children at one time or a place that is not the permanent residence of the licensee or administrator in which child day-care is provided for seven to

twelve children at one time.¹ In general, no one may operate a child day-care center without obtaining a license from the Director of Job and Family Services. (R.C. §§ 5104.01(L) (*not in the bill*) and 5104.02.)

Type A family day-care home

A type A family day-care home is the permanent residence of the administrator in which child day-care or publicly funded child day-care is provided for seven to twelve children at one time or the permanent residence of the administrator in which child day-care is provided for four to twelve children at one time if four or more of the children cared for at one time are under two years of age. As is the care with child day-care centers, a person wishing to operate a type A home must obtain a license from the Director of Job and Family Services. (R.C. §§ 5104.01(QQ) (*not in the bill*) and 5104.02.)

Type B family day-care home

A type B family day-care home is the 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 of the children are under two years of age. A type B family day-care home is not required to be certified unless it participates in the publicly funded child day-care program administered by the Ohio Department of Job and Family Services (ODJFS). County departments of job and family services are responsible for the certification of type B homes that provide publicly funded child day-care. (R.C. §§ 5104.01(RR) (*not in the bill*), 5104.011(G), and 5104.11.)

¹ "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 (Ohio Revised Code section 5104.01(K) (*not in the bill*)).

"Publicly funded child day-care" means administering to the needs of infants, toddlers, preschool children, and school children under age 13 during any part of the 24-hour day by persons other than their caretaker parents for remuneration wholly or in part with federal or state funds, including Child Care Block Grant Act funds, distributed by the Department of Job and Family Services (R.C. 5104.01(JJ)--*not in the bill*).

"Administrator" means the person responsible for the daily operation of a center or type A home. The administrator and the owner may be the same person. (R.C. 5104.01(A) (*not in the bill*)).

The bill

Prohibition against operating a child day-care center or type A home without a license

(R.C. 5102.02)

With certain exceptions, under current law no person or government entity is permitted to operate, establish, manage, conduct, or maintain a child day-care center or type A home without a license issued by ODJFS.

The bill specifies that the prohibition against operating a day-care center or type A home without a license applies and must be enforced by ODJFS, regardless of the manner in which the day-care provider represents itself to the public. For example, a type B home that cares for more children than authorized is no longer a type B home; instead, it is operating as an unlicensed type A home, regardless of whether it continues to represent itself as a type B home.

Inspection and investigation of unlicensed child day-care providers

(R.C. 5104.04 and 5104.011(A)(10) and (F)(10))

Under current law, ODJFS must establish procedures for investigating, inspecting, and licensing child day-care centers and type A homes.

The bill requires ODJFS to establish procedures for investigating and inspecting providers of child day-care who are suspected of operating in violation of child day-care licensing requirements.

Current law requires the Director of Job and Family Services to adopt rules in accordance with the Administrative Procedure Act (R.C. Chapter 119.) governing the operation of child day-care centers, reflecting the various forms of child day-care and the needs of children receiving child day-care or publicly funded child day-care. Current law specifies certain rules that must be adopted by the Director.

The bill requires the Director to adopt rules pertaining to the procedures for conducting inspections and investigations of applicants, licensed centers, and child day-care providers allegedly operating without an appropriate license to operate as a child day-care center.

The bill also prohibits a person or government entity from interfering with an investigation or inspection being conducted by any state or local official engaged in performing duties to determine whether child day-care licensing requirements are being violated.

Under current law, if it determines that a center or type A home is operating without a license, ODJFS must give notice that the center or home is operating without a license to the Attorney General, the prosecuting attorney, of the county in which the center or home is located or the chief legal officer of the municipal corporation in which the center or home is located. On receipt of the notice, the designated legal officer must file a complaint in the court of common pleas requesting that the court grant an order enjoining the owner from operating the center or home. The court must grant the order on a showing that the respondent is operating a center or home without a license. Also, a fine of not less than \$100 and not more than \$500 must be imposed on anyone who operates a child day-care center or type A home in Ohio without a license.

The bill specifies that if a court of common pleas finds that a center or home is operating in violation of licensure requirements and the respondent has been subject to two or more previous orders enjoining the operation of a home or center, the court may issue an order prohibiting the day-care provider from providing day-care in any capacity, including as a type B home.

Current law requires ODJFS to prepare an annual report of its inspections of child day-care centers and homes. The report must include the number of inspections, the numbers and types of violations found, and the steps taken to address the violations. Copies of the report are to be filed with the Governor, the President and Minority Leader of the Senate, and the Speaker and Minority Leader of the House of Representatives on or before January 1.

The bill requires ODJFS to include in the report information on investigations it conducts of centers and homes.

Notification of change license capacity of center or home

(R.C. 5104.03)

Current law specifies that the license capacity of a center or home is the maximum number of children in each age category that may be cared for in the center or type A home at one time. The Director of ODFJS is permitted to amend a current or provisional license if the Director determines that there has been a change in license capacity for any age category of children cared for in the center or home.

The bill specifies that the license or provisional license holder is not permitted to provide child day-care to more than its maximum license capacity as indicated on the license or provisional license. The center or home is required to notify the Director when circumstances arise that require a change in the license capacity. Under the bill, the Director must amend the current license or

provisional license to reflect the change in license capacity if the Director determines that the center or home meets the necessary requirements to provide care under the new capacity.

Reference checks for child day-care center or type A home administrators

(R.C. 5104.011(A)(15))

Current law requires the Director of Job and Family Services to adopt certain rules governing the operation of child day-care centers, including rules governing the procedures to be used by licensees for checking the references of potential employees of centers and applicants for licenses to operate centers.

The bill adds that, for cases in which the licensee of the center is not the center's administrator, the rules must specify procedures to be followed in obtaining a statement from an applicant for employment as an administrator as to whether the applicant has been the administrator of a day-care center or type A home that ceased to operate because its license was revoked while the applicant was the administrator.

Licensing sanctions imposed by ODJFS

(R.C. 5104.03, 5104.04, and 5104.041)

Current law authorizes the Director of Job and Family Services to revoke or refuse to renew a license to operate a child day-care center or type A home. Current law also specifies ODJFS's duties when it determines that a licensed center or type A home is out of compliance with state requirements or ODJFS rules and when a licensee has knowingly made a false statement on a license application.

The bill reorganizes the provisions of existing law that specify ODJFS's authority to impose licensing sanctions. The bill also establishes the following additional sanctions if a licensee or applicant for a day-care center or type A home license is not in compliance with child day-care requirements and rules:

- A fine of \$100 to \$500;
- A requirement that all employees undergo at least two hours of training on child day-care laws.

The bill requires ODJFS to choose the sanction to be imposed according to the severity of the violation and allows the Department to take into consideration whether previous sanctions have been imposed for the same or other violations.

Toll-free telephone number to receive complaints

(R.C. 5104.03 and 5104.14)

Current law requires the Director of Job and Family Service to adopt rules that require the inclusion of a toll-free telephone number on each center's provisional license or license. The number is to be provided on the license to be used by any person who wants to report a suspected violation by the center of any state requirements.

The bill specifically requires ODJFS to maintain a toll-free telephone number for the purposes of receiving complaints regarding providers of child day-care. The Department is also required to use the toll-free line to provide consumer information on child day-care.

Requirements for filing memoranda of understanding

(R.C. 2151.421)

Current law requires each public children services agency to prepare a "memorandum of understanding" which is a document that sets forth the procedures to be used by officials who deal with cases of child abuse and neglect.² Existing law specifies the contents of the memorandum and the officials who are required to sign it.

The bill requires each public children services agency to file with ODJFS a copy of the agency's memorandum of understanding. The bill also requires the agency to review the memorandum at least once every five years, make any necessary revisions, and file the revised memorandum with the Department.

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	01-28-03	p. 75

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² A public children services agency is a county agency that provides services for children who are abused or neglected.

