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125th General Assembly
(As Passed by the House)

Reps. Jerse, Redfern, Allen, Raga, Miller, Widowfield, S. Patton, Hartnett, Kearns, Seitz, Oelslager, D. Stewart, Hollister, Strahorn, Boccieri, Sykes, Perry, Olman, DePiero, Hagan Otterman, Raussen, Sferra, Price, Carano, Ujvagi, Koziura, Seaver, Domenick, Yates, G. Smith, Cirelli, Fessler, DeBose, Reidelbach, Barrett, Harwood, Schneider, Blasdel, Hoops, Taylor, White, Beatty, Book, Carmichael, Cates, Chandler, Collier, Daniels, Distel, Driehaus, C. Evans, D. Evans, Faber, Flowers, Gilb, Grendell, Hughes, Jolivette, Key, Kilbane, Mason, McGregor, Niehaus, T. Patton, Schaffer, Schmidt, Setzer, Skindell, S. Smith, Trakas, Wilson, Woodard

BILL SUMMARY

- Prohibits a child day-care provider from knowingly misrepresenting to specified persons, including users and prospective users of the provider's services, specified government officials, and peace officers, a factor or condition that relates to the provision of child day-care and substantially affects the health or safety of children in the provider's facility or receiving child day-care from the provider.

- Prohibits the owner, provider, or administrator of a type A or type B family day-care home from failing to make specified disclosures to prospective users of the home, regarding the death of or injuries suffered by a child in specified circumstances, before accepting the prospective user's child into that home.

- Prohibits the owner, provider, or administrator of a type A or type B family day-care home from failing to notify specified persons, including users of the home, specified government officials, and peace officers, if a currently enrolled child dies while under the care of the home or while receiving child day-care from the owner, provider, or administrator.

- Prohibits the owner, provider, or administrator of a type A or type B family day-care home from failing to notify users of the home if a

currently enrolled child is hospitalized for more than 24 hours because of injuries sustained while under the care of the home or while receiving care from the owner, provider, or administrator, and from failing to provide a second notice if the child dies as a result of those injuries.

- Prohibits a day-care center licensee from failing to make specified disclosures to prospective users of the center, regarding the death of a child or, if the prospective user requests the information, injuries suffered by a child in specified circumstances, before accepting the prospective user's child into that center.

- Prohibits a day-care center licensee from failing to notify specified persons, including users of the center, specified government officials, and peace officers, when a currently enrolled child dies while under the care of the center, while receiving child day-care from the owner, provider, or administrator, or as a result of injuries suffered while under the care of the center or while receiving child day-care from the owner, provider, or administrator.

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CONTENT AND OPERATION

Misrepresentation by a child day-care provider

The bill prohibits a child day-care provider[1] from knowingly misrepresenting any factor or condition that relates to the provision of child day-care[2] and that substantially affects the health or safety of any child in that provider's facility or receiving child day-care from that provider to any of the following (R.C. 2919.224(A)): (1) a parent, guardian, custodian, or other person responsible for the care of a child in the provider's facility or receiving child day-care from the provider, (2) a parent, guardian, custodian, or other person responsible for the care of a child who is 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, or (5) a peace officer.[3]

The bill specifies that, for purposes of this prohibition, "any factor or condition that relates to the provision of child day-care" includes, but is not limited to, the following (R.C. 2919.224(B)): (1) the person or persons who will provide child day-care to the child of the parent, guardian, custodian, or other

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[1] *"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" (see below);

(2) An in-home aide (see below);

(3) A person who represents that the person provides child day-care.

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

"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).

[2] *"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).*

[3] *"Peace officer" means a police officer, sheriff or deputy sheriff, highway patrol officer, or any of a number of other law enforcement officers specified in the Revised Code (R.C. 2919.223(E), by reference to R.C. 2935.01--not in the bill).*

person responsible for the care of the child, or to the children in general, (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, or (5) the area of the child day-care facility or school in which child day-care is provided.

A person who violates this prohibition is guilty of "misrepresentation by a child day-care provider," a misdemeanor of the first degree.

Failure of a day-care home to disclose death or serious injury

The bill enacts two separate provisions that prohibit an owner, provider, or administrator of a type A or type B family day-care home from failing to disclose to specified persons in certain circumstances a death or serious injury suffered by a child in the home or under the care of the owner, provider, or administrator.

Notice to prospective users of a day-care home

Subject to the exception described below, the bill prohibits the owner, provider, or administrator of a type A or type B family day-care home,[4] knowing that the event described below in (1) or (2) has occurred, from accepting a child into the home without first disclosing to the parent, guardian, custodian, or other person responsible for the care of that child any of the following that has occurred:

(1) A child died while under the care of the home or while receiving child day-care from the owner, provider, or administrator, or died as a result of injuries suffered while under the care of the home or while receiving child day-care from the owner, provider, or administrator.

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[4] *A type A family day-care home is the permanent residence of the administrator in which child day-care is provided for seven to 12 children at one time or for four to 12 children at one time if four or more of the children are under two years of age. (R.C. 2919.223(A), by reference to R.C. 5104.01--not in the bill.) 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 children are under two years of age at one time. (R.C. 2919.223(A), by reference to R.C. 5104.01(RR)--not in the bill.) Type A family day-care homes are subject to state licensure. Type B homes are not licensed, but to be eligible to provide publicly funded day-care a type B home must receive a certificate from the county department of human services.*

(2) Within the preceding ten years, a child suffered injuries while under the care of the home or while receiving child day-care from the owner, provider, or administrator and those injuries led to the child being hospitalized for more than 24 hours.

The bill states that this prohibition does not require more than one person to make disclosures to the same parent, guardian, custodian, or other person responsible for the care of a child regarding any single injury or death for which disclosure is required under the prohibition. (R.C. 2919.225(A) and (C).)

Notice at the time of a death or serious injury, to users of the home, peace officers, and government officials

Prohibition. The bill prohibits the owner, provider, or administrator of a type A or type B family day-care home from failing to provide notice in accordance with the provisions described below in "***Manner of giving the notice***" to the persons and entities specified below in "***Persons to be given the notice***," of any of the following that occurs:

(1) A child who is under the care of the home or is receiving child day-care from the owner, provider, or administrator dies while under the care of the home or while receiving child day-care from the owner, provider, or administrator or dies as a result of injuries suffered while under the care of the home or while receiving child day-care from the owner, provider, or administrator;

(2) A child who is under the care of the home or is receiving child day-care from the owner, provider, or administrator is hospitalized for more than 24 hours as a result of injuries suffered while under the care of the home or while receiving child day-care from the owner, provider, or administrator.

The bill provides that this prohibition does not require more than one person to give notices to the same parent, guardian, custodian, other person responsible for the care of the child, public children services agency, peace officer, or child fatality review board regarding any single injury or death for which disclosure is required under the prohibition (R.C. 2919.225(B)(1) and (C)).

Persons to be given the notice. The bill provides that an owner, provider, or administrator of a type A or type B family day-care home must provide the notices described above in "***Prohibition***" to each of the following (R.C. 2919.225(B)(2)):

(1) For each child who, at the time of the injury or death for which the notice is required, is receiving or is enrolled to receive child day-care at the home or from the owner, provider, or administrator, to the parent, guardian, custodian, or other person responsible for the care of the child;

(2) If the notice is required as the result of the death of a child, to the public children services agency of the county in which the home is located or the child day-care was given, a municipal or county peace officer in the county in which the child resides or in which the home is located or the child day-care was given, and the child fatality review board appointed under existing R.C. 307.621 (not in the bill) that serves the county in which the home is located or the child day-care was given.

Manner of giving the notice. The bill specifies that an owner, provider, or administrator of a type A or type B family day-care home must provide the notices required under the provisions described above in "***Prohibition***" and "***Persons to be given the notice***" not later than 48 hours after the child dies or, regarding a child who is hospitalized for more than 24 hours as a result of injuries suffered while under the care of the home, not later than 48 hours after the child suffers the injuries. If a child is hospitalized for more than 24 hours as a result of injuries so suffered, and the child subsequently dies as a result of those injuries, the owner, provider, or administrator must provide separate notices as described above under "***Prohibition***" and "***Persons to be given the notice***" regarding both the injuries and the death. All notices provided under those provisions must state that the death or injury occurred. (R.C. 2919.225(B)(3).)

Penalty

A person who violates either of the prohibitions described above under "***Notice to prospective users of a day-care home***" and "***Notice at the time of a death or serious injury, etc.***" is guilty of "failure of a type A or type B family day-care home to disclose the death or serious injury of a child," a misdemeanor of the fourth degree (R.C. 2919.225(E)).

Immunity

The bill provides that an owner, provider, or administrator is not subject to civil liability solely for making a required disclosure under the bill's provisions contained in R.C. 2919.225(D)).

Failure of a day-care center to disclose death or serious injury

Notice to prospective users of a child day-care center

The bill requires a child day-care center licensee[5] from accepting a child into that center[6] without first providing certain information to the parent, guardian,

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[5] *"Child day-care center licensee" means the owner of a child day-care center licensed under R.C. Chapter 5104. who is responsible for ensuring the center's compliance with the Chapter and rules adopted pursuant to it (R.C. 2919.223(B)).*

custodian, or other person responsible for the care of a child, if the information is requested. The licensee must provide information regarding: (1) the types of injuries to children, as reported pursuant to rules adopted by the Department of Job and Family Services,[7] that have occurred at the center on or after April 1, 2003, or the date that is two years before the date the information is requested, whichever date is more recent, and (2) the number of each type of injury to children that occurred during that period.

The bill also prohibits a child day-care center licensee from accepting a child into the center without first notifying the parent, guardian, custodian, or other person responsible for the care of a child who seeks to enroll the child in the child day-care center of the death, if either of the following have occurred within the 15 years preceding the date on which the enrollment is sought:

(1) a child died while under the care of the center or while receiving child day-care from the owner, provider, or administrator of the center;

(2) a child died as a result of injuries suffered while under the care of the center or while receiving child day-care from the owner, provider, or administrator.

The bill requires each day-care center licensee to keep a copy of any information provided pursuant to this provision at the center for three years after providing the information. (R.C. 2919.227(A).)

Notice at the time of a death, to users of the home, peace officers, and government officials

Prohibition. The bill prohibits a child day-care center licensee from failing to provide notice in accordance with the provisions described below in "***Manner of giving the notice***" to the persons and entities specified below in "***Persons to be given the notice***," if a child who is under the care of the center or is receiving child day-care from the owner, provider, or administrator of the center dies while under the care of the center or while receiving child day-care from the owner, provider, or administrator or dies as a result of injuries suffered while under the care of the

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[6] *A child day-care center is a 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 12 children at one time. (R.C. 2919.223(A), by reference to R.C. 5104.01--not in the bill.)*

[7] *The bill requires the Department to adopt rules prescribing a procedure for reporting injuries of children that occur at child day-care centers (R.C. 5104.011).*

center or while receiving child day-care from the owner, provider, or administrator (R.C. 2919.227(B)(1)).

Persons to be given the notice. The bill provides that a child day-care center licensee must provide the notices described above in "***Prohibition***" to all of the following (R.C. 2919.227(B)(2)):

(1) The parent, guardian, custodian, or other person responsible for the care of each child who, at the time of the death for which the notice is required, is receiving or is enrolled to receive child day-care from the center;

(2) The public children services agency of the county in which the center is located or the child day-care was given, a municipal or county peace officer in the county in which the child resides or in which the center is located or the child day-care was given, and the child fatality review board appointed under existing R.C. 307.621 (not in the bill) that serves the county in which the center is located or the child day-care was given.

Manner of giving the notice. The bill specifies that a child day-care center licensee must provide the notices required under the provisions described above in "***Prohibition***" and "***Persons to be given the notice***" not later than 48 hours after the child dies. The notice must state that the death occurred. (R.C. 2919.227(B)(3).)

Penalty

A person who violates either of the prohibitions described above under "***Notice to prospective users of a child day-care home***" and "***Notice at the time of a death, etc.***" is guilty of "failure of a child day-care center to disclose the death of a child," a misdemeanor of the fourth degree (R.C. 2919.227(C)).

Child day-care disclosure form

The bill provides that, if a child day-care provider (see footnote 1): (1) accurately answers the questions on a child day-care disclosure form that is in substantially the form set forth in the bill (see **COMMENT**), (2) presents the form to a parent, guardian, custodian, or other person responsible for the care of a child in the provider's facility or receiving child day-care from the provider or to a parent, guardian, custodian, or other person responsible for the care of a child who is considering the provider as a child day-care provider for the child, and (3) obtains the person's signature on the acknowledgement in the form, to the extent that the information set forth on the form is accurate, the provider who presents the form is not subject to prosecution under the bill's prohibition described above in "***Misrepresentation by a child day-care provider***" regarding the presentation of that information to that person. Also, an owner, provider, or administrator of a

type A or type B family day-care home who is required to make a disclosure of the type described above in "***Notice to prospective users of a day-care home***" may comply with those provisions by accurately answering the questions on a child day-care disclosure form that is in substantially the form described in bill (see **COMMENT**), providing a copy of the completed form to the parent, guardian, custodian, or other person responsible for the care of a child and to whom disclosure is to be made under that provision, and obtaining the signature of the person to whom it was presented on the acknowledgment. The use of the form set forth in the statute is discretionary. (R.C. 2919.226(A).)

If a child day-care provider accurately answers the questions on a disclosure form that is substantially similar to the form described in the bill, presents the form to a parent, guardian, custodian, or other person responsible for the care of a child who is in the provider's facility or receiving child day-care from the provider, or who is considering the provider as a child day-care provider for the child, and obtains the signature of the person to whom it was presented on the acknowledgment in the form, to the extent that the information set forth on the form is accurate, the form is sufficient for the purposes described in the preceding paragraph. An owner, provider, or administrator of a type A or type B family day-care home who accurately answers the questions on such a disclosure form, provides a copy of the completed form to the parent, guardian, custodian, or other person responsible for the care of a child and to whom disclosure is to be made under the provisions described above in "***Notice to prospective users of a day-care home***," and obtains the signature of the person to whom the form was presented on the acknowledgment in the form complies with the bill's requirements regarding that disclosure. The bill specifies that, if such an owner, provider, or administrator uses the disclosure form, leaving a portion of it 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 of a type A or type B family day-care home to disclose the death or serious injury of a child." An owner, provider, or administrator of a type A or type B family day-care home who completes the disclosure form and provides a copy of the form to the persons described in the sections containing those prohibitions may retain a copy of the completed form. (R.C. 2919.226(C).)

COMMENT

The bill specifies that, to be sufficient for the purposes describe in the bill, a child day-care disclosure form must be in substantially the following form (R.C. 2919.226(B)):

"CHILD DAY-CARE DISCLOSURE FORM

Please Note: This form contains information that is accurate only at the time the form is given to you. 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):

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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.):

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3. Where in the home will you provide child day-care to the applicant child?:

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

Description/explanation (attach additional sheets if necessary)

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

Description/explanation (attach additional sheets if necessary)

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6. Within the preceding ten years, has a child suffered injuries while under the care of, or receiving child day-care from, 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)

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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.

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Person receiving the form Date"

HISTORY

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Introduced	01-28-03	p.	75
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