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Bill Analysis
Legislative Service Commission

S.B. 66

125th General Assembly
(As Introduced)

Sens. Schuring, Stivers, Jacobson, Dann, Fedor, Miller, Brady

BILL SUMMARY

- Authorizes counties to establish children's advocacy centers, through execution of a memorandum of understanding by specified county officials and entities, to receive, investigate, and provide victim services to children who are the subjects of reports of alleged severe physical abuse or alleged sexual abuse.
- Provides that the entities that establish a children's advocacy center must assemble a children's advocacy center's multidisciplinary team, and requires the multidisciplinary team to receive reports of alleged severe physical abuse of children and alleged sexual abuse of children referred by a public children services agency, investigate and provide victim services for each case considered by the team, review new and pending cases of severe physical abuse of a child and sexual abuse of a child it receives from public children services agencies, provide a report of each case it receives to the Central Registry maintained by the Department of Job and Family Services, and provide a report of its investigations to the law enforcement agency with jurisdiction over the case.
- Modifies certain provisions in the existing law that pertain to mandatory and discretionary reporting of child abuse or neglect to reflect the establishment under the bill's provisions of children's advocacy centers and to link certain rules and procedures under the existing provisions to the centers.

CONTENT AND OPERATION

Children's advocacy centers

Establishment of a children's advocacy center

The bill authorizes any county, or any group of contiguous counties, to establish a children's advocacy center to serve the county or counties. It specifies that a children's advocacy center may be established to serve a single county by execution of a memorandum of understanding regarding their participation in the operation of the center by the following entities in the county to be served by the center: (1) the public children services agency, (2) representatives of county and municipal law enforcement agencies serving the county that investigate "severe physical abuse of children" (see "Definitions," below) and "sexual abuse of children" (see "Definitions," below), (3) the county prosecuting attorney or a city attorney who prosecutes severe physical abuse of children and sexual abuse of children in the area to be served by the center, and (4) any other entity considered appropriate by all the other entities executing the memorandum. It specifies that a center may be established to serve two or more contiguous counties if a memorandum of understanding regarding their participation in the operation of the center is executed by the entities described in clauses (1) to (4) of the preceding sentence in each county to be served by the center.

Each entity that participates in the execution of a memorandum of understanding as described in the preceding paragraph must cooperate in all of the following: (1) developing a multidisciplinary team pursuant to R.C. 2151.427 (see below) to investigate reports of alleged severe physical abuse of a child and reports of alleged sexual abuse of a child, (2) participating in the operation of the center in compliance with standards for full membership established by the National Children's Alliance, and (3) employing the center's staff.

The bill specifies that a children's advocacy center must operate in accordance with R.C. 2151.427 and 2151.428 (see below) and the standards for full membership established by the National Children's Alliance and register annually with the Attorney General. (R.C. 2151.426.)

Children's advocacy center's multidisciplinary team

Establishment of multidisciplinary team. The bill provides that the entities that participate in a memorandum of understanding executed as described above to establish a children's advocacy center must assemble the children's advocacy center's multidisciplinary team. The multidisciplinary team for a single county center must consist of the following members who serve the county: (1) a law enforcement officer, (2) the executive director of the public children services

agency or a designee of the executive director, (3) a county prosecuting attorney or prosecuting attorney's designee, (4) a mental health professional, (5) a medical health professional, (6) a victim advocate, (7) a center staff member, and (8) any other person considered appropriate by all the entities that executed the memorandum. If the center serves two or more contiguous counties, the multidisciplinary team must consist of the members described in clauses (1) to (8) of the preceding sentence from each county to be served by the center. (R.C. 2151.427(A) and (B).)

General duties of multidisciplinary team. The bill requires that a children's advocacy center's multidisciplinary team must do all of the following (R.C. 2151.427(C)): (1) receive reports of alleged severe physical abuse of children and alleged sexual abuse of children referred by a public children services agency under R.C. 2151.421 (see "**Reports of child abuse and neglect,**" below), (2) investigate and provide victim services for each case considered by the team, (3) review new and pending cases of severe physical abuse of a child and sexual abuse of a child it receives from public children services agencies, and (4) provide a report of each case it receives to the Central Registry maintained by the Department of Job and Family Services pursuant to R.C. 2151.421 (see "**Reports of child abuse and neglect,**" below).

Investigations by multidisciplinary team, and report. The bill requires a children's advocacy center's multidisciplinary team, with the assistance of "the agency," to investigate within 24 hours each report referred to it by a public children services agency to determine the circumstances surrounding the injuries or abuse, the cause of the injuries or abuse, and the person or persons responsible. The investigation must be made in cooperation with each member of the multidisciplinary team and in accordance with the memorandum of understanding executed as described above to establish the children's advocacy center. A failure to make the investigation in accordance with the memorandum is not grounds for, and cannot result in, the dismissal of any charges or complaint arising from the report or the suppression of any evidence obtained as a result of the report and does not give, and cannot be construed as giving, any rights or grounds for appeal or post-conviction relief to any person. The multidisciplinary team must submit a written report of its investigation to the law enforcement agency with jurisdiction over the case. (R.C. 2151.428(A) and (B).)

Continuation of legal obligations and responsibilities of public officials and agencies

The bill specifies that none of its provisions contained in R.C. 2151.421, 2151.425, 2151.426, 2151.427, or 2151.428 and pertaining to the operation of a children's advocacy center relieve any public official or agency from any legal obligation or responsibility. (R.C. 2151.428(C).)

Definitions

The bill defines the following terms for purposes of its provisions described above (R.C. 2151.425):

(1) "Children's advocacy center" means a center operated by participating entities within a county or two or more contiguous counties to receive, investigate, and provide victim services to children who are the subjects of reports of alleged severe physical abuse and alleged sexual abuse.

(2) "Severe physical abuse of a child" means any of the following committed against a person under 18 years of age or a mentally retarded, developmentally disabled, or physically impaired person under 21 years of age (see **COMMENT 1** for definitions of the terms in quotations marks): (a) any action that causes a mental illness or condition of such gravity as would normally require hospitalization or prolonged psychiatric treatment, (b) any "physical harm" that carries a "substantial risk" of death, (c) any "physical harm" that involves some permanent incapacity, whether partial or total, or involves some temporary, substantial incapacity, (d) any "physical harm" that involves some permanent disfigurement or some temporary, serious disfigurement, or (e) any "physical harm" that involves acute pain of such duration as to result in substantial suffering or involves any degree of prolonged or intractable pain.

(3) "Sexual abuse of a child" means unlawful "sexual conduct" or "sexual contact," as those terms are defined in R.C. 2907.01 (see **COMMENT 2** for definitions of the terms in quotations marks), with a person under 18 years of age or a mentally retarded, developmentally disabled, or physically impaired person under 21 years of age.

Reports of child abuse and neglect

Reports and investigations

Existing law. Existing law lists certain categories of professions, and prohibits a person in any of the specified professions who is acting in an official or professional capacity and knows or suspects that a child under 18 years of age or a mentally retarded, developmentally disabled, or physically impaired child under 21 years of age has suffered or faces a threat of suffering any physical or mental wound, injury, disability, or condition of a nature that reasonably indicates abuse or neglect of the child, from failing to immediately report that knowledge or suspicion to the public children services agency or a municipal or county peace officer in the county in which the child resides or in which the abuse or neglect is occurring or has occurred, or, if the child is an inmate in the custody of a state correctional institution, to the State Highway Patrol. Existing law also authorizes

any person who knows or suspects that a child under 18 years of age or a mentally retarded, developmentally disabled, or physically impaired child under 21 years of age has suffered or faces a threat of suffering any physical or mental wound, injury, disability, or condition of a nature that reasonably indicates abuse or neglect of the child, to report or cause reports to be made of that knowledge or suspicion to the public children services agency or a municipal or county peace officer, or, if the child is an inmate in the custody of a state correctional institution, to the State Highway Patrol. Existing law provides procedures for making the mandatory report, rules and procedures regarding follow-ups and investigations regarding the report, a qualified civil immunity regarding the making of the report, rules regarding the use or confidentiality of the report, and rules and procedures regarding protective services based on the report. (R.C. 2151.421(A), (C) to (I), and (K) to (N).)

Operation of the bill. The bill modifies some of the existing rules and procedures regarding follow-ups and investigations regarding a report of child abuse or neglect, and related provisions, to reflect the establishment under its provisions of children's advocacy centers, as described above in "**Children's advocacy centers**," and to link the rules, procedures, and provisions to the centers. Specifically, the bill does the following:

(1) Existing law, unchanged by the bill, provides that, when a municipal or county peace officer receives a report concerning the possible abuse or neglect of a child or the possible threat of abuse or neglect of a child, upon receipt of the report, the municipal or county peace officer who receives the report must refer the report to the appropriate public children services agency. Under the bill, when a public children services agency receives a report directly from a person reporting the abuse or neglect, or receives a report from a peace officer as described in the preceding sentence, the public children services agency must do both of the following: (a) as under existing law, comply with R.C. 2151.422 of the Revised Code, and (b) as added by the bill, if the report alleges "severe physical abuse of a child" or "sexual abuse of a child" and the county served by the agency is also served by a "children's advocacy center" (see "**Definitions**," above for definitions of the terms in quotation marks), refer the report to the center. (R.C. 2151.421(D).)

(2) Existing law specifies that, except as provided in R.C. 2151.422, the public children services agency must investigate, within 24 hours, each report of known or suspected child abuse or child neglect and of a known or suspected threat of child abuse or child neglect that is referred to it made by a mandatory or discretionary reporter under R.C. 2151.421 to determine the circumstances surrounding the injuries, abuse, or neglect or the threat of injury, abuse, or neglect, the cause of the injuries, abuse, neglect, or threat, and the person or persons

responsible. Existing law describes the manner in which the investigation is to be made, specifies that the failure to make an investigation does not affect any charges or grant any rights to any person, and requires the submission of a report of the investigation to a Central Registry that the Department of Job and Family Services maintains and to the law enforcement agency. The bill expands the existing exception to this investigation provision to specify that it also does not apply as provided in R.C. 2151.428, which contains the bill's provisions described above in "*Investigations by multidisciplinary team, and report.*" (R.C. 2151.421(F).)

(3) Existing law provides that, when a report is made by a mandatory or discretionary reporter under R.C. 2151.421 concerning the possible abuse or neglect of a child or the possible threat of abuse or neglect of a child and the child who is the subject of the report dies for any reason at any time after the report is made but before the child attains 18 years of age, the public children services agency or municipal or county peace officer to which the report was made or referred, on the request of the Child Fatality Review Board, must submit a summary sheet of information providing a summary of the report to the Review Board of the county in which the deceased child resided at the time of death. On the request of the Review Board, the agency or peace officer may, at its discretion, make the report available to the Review Board. The bill revises this provision so that it also applies to a child advocacy center established under the bill to which a report of abuse or neglect is referred. (R.C. 2151.421(H)(4).)

(4) Existing law requires a public children services agency to advise a person alleged to have inflicted abuse or neglect on a child who is the subject of a report made by a mandatory or discretionary reporter under R.C. 2151.421 in writing of the disposition of the investigation. The agency cannot provide to the person any information that identifies the person who made the report, statements of witnesses, or police or other investigative reports. The bill expands this provision to also apply regarding reports made by a mandatory or discretionary reporter under R.C. 2151.421 that are referred to a children's advocacy center under the bill. (R.C. 2151.421(H)(5).)

(5) Existing law specifies that a person who is required to make a mandatory report of child abuse or neglect under R.C. 2151.421(A) generally may make a reasonable number of requests of the public children services agency that receives or is referred the report to be provided information as to whether the agency has initiated an investigation of the report, whether the agency is continuing to investigate the report, whether the agency is otherwise involved with the child who is the subject of the report, the general status of the health and safety of the child who is the subject of the report, and whether the report has resulted in the filing of a complaint in juvenile court or of criminal charges in another court.

A person may request this information only if, at the time the report is made, the person's name, address, and telephone number are provided to the person who receives the report. When a peace officer or employee of a public children services agency receives a report made by a mandatory or discretionary reporter, the recipient must inform the person of the right to request this information. Each request is subject to verification of the identity of the person making the report; if that person's identity is verified, the agency must provide the person with the specified information a reasonable number of times, except that the agency cannot disclose any confidential information regarding the child who is the subject of the report other than the specified information. A request for information under this provision is not a substitute for any report required to be made pursuant to the mandatory reporting requirements. The bill expands this provision to also permit a person who is required to make such a mandatory report of child abuse or neglect to generally make a reasonable number of requests of the children's advocacy center that receives or is referred the report to be provided information as to whether the center has initiated an investigation of the report, whether the center is continuing to investigate the report, whether the center is otherwise involved with the child who is the subject of the report, the general status of the health and safety of the child who is the subject of the report, and whether the report has resulted in the filing of a complaint in juvenile court or of criminal charges in another court. (R.C. 2151.421(K).)

Memorandum of understanding

Existing law. Existing law requires each public children services agency to prepare a memorandum of understanding that is signed by all of the following: (1) if there is only one juvenile judge in the county, the juvenile judge of the county or the juvenile judge's representative, (2) if there is more than one juvenile judge in the county, a juvenile judge or the juvenile judges' representative selected by the juvenile judges or, if they are unable to do so for any reason, the juvenile judge who is senior in point of service or the senior juvenile judge's representative, (3) the county peace officer, (4) all chief municipal peace officers within the county, (5) other law enforcement officers handling child abuse and neglect cases in the county, (6) the prosecuting attorney of the county, (7) if the public children services agency is not the county department of job and family services, the county department of job and family services, and (8) the county humane society.

A memorandum of understanding must set forth the normal operating procedure to be employed by all concerned officials in the execution of their respective responsibilities under R.C. 2151.421, 2919.21(C), 2919.22(B)(1), 2919.23(B), and 2919.24 and must have as two of its primary goals the elimination of all unnecessary interviews of children who are the subject of reports made by mandatory or discretionary reporters under R.C. 2151.421 and, when feasible,

providing for only one interview of a child who is the subject of any report so made. A failure to follow the procedure set forth in the memorandum by the concerned officials is not grounds for, and does not result in, the dismissal of any charges or complaint arising from any reported case of abuse or neglect or the suppression of any evidence obtained as a result of any reported child abuse or child neglect and does not give, and cannot be construed as giving, any rights or any grounds for appeal or post-conviction relief to any person.

A memorandum of understanding must include all of the following: (1) the roles and responsibilities for handling emergency and nonemergency cases of abuse and neglect, and (2) standards and procedures to be used in handling and coordinating investigations of reported cases of child abuse and reported cases of child neglect, methods to be used in interviewing the child who is the subject of the report and who allegedly was abused or neglected, and standards and procedures addressing the categories of persons who may interview the child who is the subject of the report and who allegedly was abused or neglected. (R.C. 2151.421(J).)

Operation of the bill. The bill modifies the existing "memorandum of understanding" provisions to reflect the establishment under its provisions of children's advocacy centers, as described above in "**Children's advocacy centers,**" and to link the existing provisions to the centers. Specifically, the bill:

(1) Expands the required signatories of a memorandum of understanding to specify that, if a public children services agency participated in the execution of a memorandum of understanding authorized under the bill that establishes a child advocacy center (see "**Children's advocacy centers,**" above), each participating member of the children's advocacy center established by the memorandum also must be a signatory of this memorandum of understanding (R.C. 2151.421(J)(1)).

(2) Specifies that, if a public children services agency participated in the execution of a memorandum of understanding authorized under the bill that establishes a child advocacy center (see "**Children's advocacy centers,**" above), the agency must incorporate the contents of that memorandum in this memorandum of understanding (R.C. 2151.421(J)(4)).

COMMENT

1. Existing R.C. 2901.01, not in the bill, provides that, as used in the Revised Code:

(a) "Physical harm to persons" means any injury, illness, or other physiological impairment, regardless of its gravity or duration (presumably, the "physical harm" used in the bill refers to physical harm to person).

(b) "Physical harm to property" means any tangible or intangible damage to property that, in any degree, results in loss to its value or interferes with its use or enjoyment. "Physical harm to property" does not include wear and tear occasioned by normal use.

(c) "Substantial risk" means a strong possibility, as contrasted with a remote or significant possibility, that a certain result may occur or that certain circumstances may exist.

2. Existing R.C. 2907.01, not in the bill, provides that, as used in the Sex Offenses Law (R.C. Chapter 2907.):

(a) "Sexual conduct" means vaginal intercourse between a male and female; anal intercourse, fellatio, and cunnilingus between persons regardless of sex; and, without privilege to do so, the insertion, however slight, of any part of the body or any instrument, apparatus, or other object into the vaginal or anal cavity of another. Penetration, however slight, is sufficient to complete vaginal or anal intercourse.

(b) "Sexual contact" means any touching of an erogenous zone of another, including without limitation the thigh, genitals, buttock, pubic region, or, if the person is a female, a breast, for the purpose of sexually arousing or gratifying either person.

HISTORY

ACTION	DATE	JOURNAL ENTRY
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