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**ACT SUMMARY**

**CHILD WELFARE**

**Reports of child abuse and neglect**

- Adds to the list of individuals that are required, under continuing law, to report knowledge or suspicion of child abuse or neglect persons performing the duties of an adoption assessor and employees of (1) respite care facilities or homes, (2) home health agencies, (3) entities that provide homemaker services, and (4) a third party employed by a public children services agency (PCSA) to assist in providing child or family related services.
- Establishes the uniform statewide automated child welfare information system (SACWIS) as a collection point of information regarding investigations of a known, threatened, or suspected case of child abuse or child neglect.
- Requires that a PCSA report an investigation of known or suspected child abuse or child neglect to SACWIS.

\* *In the previous version of this analysis, there was a typographical error in the second bullet point on this page. The phrase "Uniform Statewide Adoption and Child Welfare Information System" was updated to "uniform statewide automated child welfare information system" to reflect the phrase as used in the act.*

- Restricts access to information contained in SACWIS and provides that the unlawful access or use of information in SACWIS is a fourth degree misdemeanor.
- Provides that information contained in or obtained from SACWIS is confidential.
- Requires the Ohio Department of Job and Family Services (ODJFS) to adopt rules requiring a search of SACWIS to be included in adoption home study report and conducted prior to placement in a foster home.
- Replaces a humane society's authority to take immediate possession of a child with a duty to comply with the general provisions for reporting known or suspected child abuse or neglect.
- Requires PCSAs to disclose information discovered during an investigation of known or suspected child abuse or child neglect to any federal, state, or local government entity that needs the information to carry out its responsibilities to protect children from child abuse or child neglect, but provides that the information is otherwise confidential.
- Authorizes ODJFS to develop, on a pilot basis, an "Alternative Response" approach to reports of child abuse, neglect, and dependency.

#### *Criminal records checks*

- Adds misdemeanor arson to the list of offenses that require a sheriff or chief of police to fingerprint a person and to the list of offenses the records for which must be furnished to and recorded by the Superintendent of the Bureau of Criminal Identification and Investigation (BCII).
- Adds arson and aggravated arson to the list of offenses the Superintendent of the BCII must identify in regards to an applicant for employment as a person responsible for the care of children.
- Requires BCII to determine if an adult residing in a type A or certified type B family day-care home or a person who is an applicant for employment in a child care center, type A home, or certified type B home has ever been convicted of or pleaded guilty to certain offenses.

### **Guardians ad litem**

- Requests that the Supreme Court of Ohio adopt rules concerning guardians ad litem.
- Maintains continuing law regulating the role of a person as both counsel and guardian ad litem to a child until the Supreme Court adopts rules concerning guardians ad litem that regulate conflicts between those roles.

### **Definition of "person"**

- Defines "person" to be used in the juvenile law as "an individual, association, corporation, or partnership and the state or any of its political subdivisions, departments, or agencies."

### **Orders of disposition for an adjudicated abused, neglected, or dependent child**

- Allows a court to award legal custody of an adjudicated abused, neglected, or dependent child to a person identified as a proposed legal custodian in a complaint or motion filed by any party to the proceeding prior to the dispositional hearing.
- Requires that the person identified as a proposed legal custodian sign a statement of understanding attesting to the person's understanding of the nature and scope of the agreement to become a legal custodian.

### **Review of case plans**

- Eliminates the requirement that ODJFS report to the public and the General Assembly the results of a review of PCSA and private child placing agency (PCPA) case plans.

### **Children's Trust Fund Board**

- Allows ODJFS to adopt rules related to budgetary, procurement, accounting, and other management functions for the Children's Trust Fund Board; requires the Board to carry out the state plan in accordance with these rules.

### **Administration of federal child welfare and abuse programs**

- Replaces the ability of the Director of ODJFS to adopt internal management rules regarding certain federal child and family services laws with general rule-making authority.

### **Ohio Child Welfare Training Program**

- Makes changes to the Ohio Child Welfare Training Program (OCWTP) Law relating to (1) the training that the program must provide, (2) the types of funds that the program may receive and use, (3) the selection and duties of the OCWTP Coordinator, (4) the composition and duties of the OCWTP Steering Committee, (5) the periodic review of regional training center districts and the duties of regional training centers, and (6) ODJFS's duties to monitor and evaluate the OCWTP.

### **Public children services agencies**

- Requires PCSAs to implement a system of safety and risk assessment to assess both the ongoing safety of the child and the appropriateness of the intensity and duration of the services provided to meet child and family needs throughout the duration of a case.
- Limits a PCSA's ability to use the system to be only in connection with an investigation of known or suspected child abuse or child neglect or a known or suspected threat of child abuse or child neglect.
- Permits the Director of ODJFS to inspect records of investigations of families, children, and foster homes, and of the care, training, and treatment afforded children and permits the PCSA executive director, rather than the PCSA executive secretary as under former law, to grant written permission to other persons to inspect these records.

### **Training for PCSA caseworkers and PCSA caseworker supervisors**

- Increases the number of hours each PCSA caseworker must complete from 90 to 102 hours during the first year of employment.
- Requires that each PCSA caseworker receive training on accepting reports of child abuse, neglect, and dependency, assessing child safety, the importance of and need for accurate data, preparation for court,

maintenance of case record information, and recognizing the signs of domestic violence and its relationship to child abuse.

- Requires the PCSA caseworker and PCSA caseworker's supervisor to *jointly* complete the caseworker's individual training needs assessment.
- Requires each PCSA caseworker supervisor receive training in screening reports of child abuse, neglect, and dependency and in recognizing the signs of domestic violence and its relationship to child abuse.
- Requires the PCSA caseworker supervisor and PCSA executive director to *jointly* complete the caseworker supervisor's individual training needs assessment.

#### **Application of continuing law to prospective foster caregivers**

- Applies to prospective foster caregivers several provisions of law that apply to the training of foster caregivers and makes several other provisions that apply only to the training of foster caregivers to additionally apply to the training of prospective foster caregivers.

#### **Preplacement and continuing training programs for foster caregivers**

- Repeals a provision that expressly requires ODJFS to develop a model training program for foster caregivers, but retains this duty generally.
- Requires that the written needs assessment for a foster caregiver specify the number of hours of continuing training, if any, that the agency will waive, and removes certain provisions pertaining to satisfaction of conditions for a waiver of continuing training.
- Revises ODJFS's duties relating to the Department's payment of the cost of foster caregiver and prospective foster caregiver training courses.

#### **Civil immunity for foster caregivers**

- Provides foster caregivers with a qualified immunity from civil liability relating to foster care activities.

#### **Public records requests**

- Exempts from public records laws the names and identifying information regarding children placed with a certified institution or association that

cares for children, and the names and identifying information of a person who makes a complaint regarding an institution or association regarding the placement of children in foster care.

## **ADOPTION**

### **Adoption of an adult**

- Allows a consenting adult to be adopted if the adult was in the permanent custody of a PCSA or a PCPA at the time of the adult's 18th birthday.

### **Falsification of adoption and foster care related documents**

- Provides that a person seeking to adopt a minor who knowingly makes a false statement in an adoption application submitted to an adoption agency or attorney in order to obtain adoption services is guilty of falsification, a first-degree misdemeanor.
- Provides that a person seeking to adopt a minor who knowingly makes a false statement included in the written report of the home study is guilty of falsification.
- Provides that an institution or association that knowingly makes a false statement that is included as part of its certification to receive and care for children is guilty of falsification.

### **Adoption assessors**

- Permits a licensed marriage and family therapist to act as an adoption assessor.
- Requires students acting as adoption assessors be students who are working to earn a four-year post-secondary degree, or higher, in social or behavior science, or both, and additionally permits the student's supervisor to be a licensed marriage and family therapist.
- Requires that a person supervising a student acting as an adoption assessor on or after July 1, 2009, to have completed specified training.
- Requires ODJFS to develop and maintain a registry of adoption assessors not later than January 1, 2008.

### **Multiple children assessments**

- Requires an assessor to complete a multiple children assessment during the home study, if a person seeking to adopt a minor or foster child will have at least five children who permanently reside in the prospective adoptive home once the minor or child is placed in the home.
- Requires an assessor to include the multiple children assessment in the written report of the home study.

### **Prospective adoptive home visits**

- Generally requires an assessor, no later than seven days after a minor to be adopted is placed in the prospective adoptive home, to conduct a prospective adoptive home visit, and every 30 days thereafter, until the court issues a final decree of adoption in order to evaluate the progression of the placement.
- Requires the prospective adoptive home visit evaluation to be included in the prefinalization assessment.
- Requires the assessor, during the prospective adoptive home visits, to make face-to-face contact with the prospective adoptive parent and the minor to be adopted, and requires contact with all other children or adults residing in the home as prescribed by administrative rule adopted by the Director of ODJFS.

### **Sharing of information concerning an impending adoption**

- Generally requires an agency or attorney arranging an adoption to notify the county PCSA where the prospective adoptive parent resides within ten days after the initiation of a home study.
- Requires the agency or attorney arranging the adoption and the PCSA of the county in which the prospective adoptive parent resides to share relevant information regarding the prospective adoptive parent.
- Generally requires the agency or attorney mentioned above to notify the county PCSA where the prospective adoptive parent resides of (1) the name of the prospective adoptive parent, (2) the special needs and age of the prospective adoptive child, and (3) the number of children that will be

- residing in the prospective adoptive home, no later than ten days before placement.
- Grants the agency or attorney sharing information a qualified immunity from civil liability relating to acts or omissions in connection with the sharing of information.
  - Authorizes the Director of ODJFS to adopt administrative rules regarding the sharing of information.

**Adoption prefinalization assessment report**

- Requires, if applicable, the assessor's prefinalization assessment to include the documents or forms created by the act regarding an adoption.

**Permitted adoption related expenses**

- Permits the payment of expenses or fees incurred in connection with the multiple children assessment and the prospective adoptive home visit in connection with a placement and adoption.

**Duties of a placing agency regarding an unsuccessful cross-county adoption**

- Requires the agency that had custody of a child before a cross-county adoption that subsequently fails to share in the planning and financial responsibility with the county that assumes custody after the unsuccessful adoption.

**Extension of access to certain adoption records**

- Extends the right of access to nonidentifying information in an adoption record to persons adopted or available for adoption between January 1, 1964, and September 18, 1996.

**CHILD CARE**

**Child care law changes**

- Requires the county department of job and family services to request information from a PCSA concerning any reports of abuse or neglect not only for an applicant for certification as a type B family day-care home, but also for any other adult residing in the applicant's home and any

person designated by the applicant to be an emergency or substitute caregiver.

- Requires the county department of job and family services to consider any information provided by a PCSA concerning an applicant for certification or recertification as a type B family day-care home for the purpose of evaluating their fitness to care for children.
- Amends the definition of "type A family day-care home" and "type B family day-care home" to remove the exclusion of instances in which all the children are siblings of the same immediate family and the residence is the children's home.
- Limits publicly funded child day-care provided in the child's own home to care provided by an in-home aide and requires that in-home aides not reside in the home in which they provide care.

#### **Children's crisis care facilities**

- Replaces the licensure of type A and type B crisis nurseries with the certification of children's crisis care facilities.
- Expands the types of children who may be served by children's crisis care facilities.
- Limits the amount of time a pre-teen can be cared for in a children's crisis care facility.
- Requires the operator of a children's crisis care facility to have criminal records checks of its prospective employees conducted.

### **OTHER**

#### **Interstate Compact for the Placement of Children**

- Replaces former provisions regarding the Interstate Compact on the Placement of Children with provisions enacting the most recent Interstate Compact for the Placement of Children issued in March, 2006.

#### **Prohibition against revealing information pertaining to a placement**

- Removes the prohibition regarding revealing certain information pertaining to a child's placement with an association or institution.



**Recording of appeals**

- Broadens the type of recording permitted in a hearing that is an appeal of a decision or order of an agency administering a family services program.

**Adoption of rules concerning Ohio Works First**

- Requires the Director of ODJFS to adopt rules as necessary for Ohio to comply with requirements included in the Deficit Reduction Act of 2005 concerning the Temporary Assistance for Needy Families program.
- Requires that the Director of ODJFS issue a report containing recommendations for codifying the substance of the rules.

**Task force on implementing the federal domestic violence option**

- Creates the Task Force on Implementing the federal domestic violence option in the Ohio Works First Program.

**Adoption of rules governing adult protective services**

- Alters the rule-making process for the Director of ODJFS in adopting rules regarding adult protective services.

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## CONTENT AND OPERATION

### CHILD WELFARE

#### Reports of child abuse and neglect

##### Continuing law, generally unchanged by the act

Continuing law prohibits any person, specifically including certain professionals acting in an official or professional capacity, from failing to immediately report to the appropriate person or agency when that person 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. Generally, reports can be made to the county public children services agency (PCSA) 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. If such a report is made to a municipal or county peace officer, the officer is required to refer it to the appropriate PCSA.

Continuing law also provides procedures regarding investigating the report, and, as part of the required procedures for investigations of a report of known or suspected child abuse or child neglect, former law required the PCSA to report each case to a central registry maintained by the Ohio Department of Job and Family Services (ODJFS). (R.C. 2151.421.)

##### The act--mandatory reporters

The act adds to the list of professionals who are required to report known or suspected child abuse or neglect: (1) employees of a facility or home that provides respite care,<sup>1</sup> (2) employees of home health agencies, (3) employees of an entity that provides homemaker services, (4) persons performing the duties of an assessor, and (5) a third party employed by a PCSA to assist in providing child or family related services (R.C. 2151.421(A)(1)(b)).

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<sup>1</sup> "Respite care" means appropriate, short-term, temporary care provided to a mentally retarded or developmentally disabled person to sustain the family structure or to meet planned or emergency needs of the family (R.C. 5123.171, not in the act).

**Establishment and implementation of a uniform statewide automated child welfare information system**

The act eliminates the central registry and instead requires ODJFS to establish and maintain a uniform statewide automated child welfare information system (SACWIS) in place of the registry and in accordance with federal law. The federal government allocates funds for each state that installs a statewide mechanized data collection and information retrieval systems in accordance with federal regulations and guidelines.

The act requires SACWIS to contain records regarding: (1) investigations of children and families, and investigations of reports of known or suspected child abuse or child neglect that occur in out-of-home care,<sup>2</sup> (2) care and treatment provided to children and families, and (3) any other information related to children and families that state or federal law, regulation, or rule requires ODJFS or a PCSA to maintain. (R.C. 2151.421(F)(1) and 5101.13(A).)

ODJFS is directed to plan implementation of SACWIS on a county by county basis, and must finalize statewide implementation by January 1, 2008. ODJFS must promptly notify all PCSAs of the initiation and completion of statewide implementation of SACWIS (R.C. 5101.13(B) and (C)).

**Access to and confidentiality of information in SACWIS**

Information contained in SACWIS may be accessed only (1) by ODJFS and a PCSA when the access is directly connected with assessment, investigation, or services regarding a child or family, or the access is permitted by state or federal law, rule, or regulation, (2) by a private child placing agency (PCPA) or private noncustodial agency (PNA) according to administrative rules adopted by ODJFS, or (3) by a person for use in a manner, to the extent, and for the purposes authorized by rules adopted by ODJFS (R.C. 5101.132 and 5101.134(A)). The act further allows a PCPA or PNA to enter data and use the information contained in SACWIS according to administrative rules adopted by ODJFS (R.C. 5101.134(A)).

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<sup>2</sup> "Out-of-home care" means detention facilities, shelter facilities, certified foster homes, placement in a prospective adoptive home prior to the issuance of a final decree of adoption, organizations, certified organizations, child day-care centers, type A family day-care homes, child care provided by type B family day-care home providers and by in-home aides, group home providers, group homes, institutions, state institutions, residential facilities, residential care facilities, residential camps, day camps, public schools, chartered nonpublic schools, educational service centers, hospitals, and medical clinics that are responsible for the care, physical custody, or control of children (R.C. 2151.011(B)(27)).

Otherwise, information contained in or obtained from SACWIS is confidential and not subject to disclosure pursuant to a public records request or disclosure as a right of a person to inspect their personal information in a personal information system, and no person can access, use information contained in, or disclose information from SACWIS, other than for those reasons prescribed by statute or rules authorized by statute (R.C. 1347.08, 5101.131, and 5101.133). A violation of either of these prohibitions is a fourth degree misdemeanor (R.C. 5101.99).

### SACWIS searches

The act also requires ODJFS to adopt rules, by January 1, 2008, requiring a summary report of the results of a search of SACWIS to be included in the home study report of an adoption application and prior to a child's placement with an association or institution, such as a foster home (R.C. 3107.033(A), 5103.16(A), and 5103.18(A) and (D)). The summary report must contain, if applicable, a chronological list of abuse and neglect determinations or allegations of which the person seeking to adopt or seeking to become a foster caregiver is subject and in regards to which a PCSA has (1) determined that abuse or neglect occurred, (2) initiated an investigation, and the investigation is ongoing, or (3) initiated an investigation and the agency was unable to determine whether abuse or neglect occurred. (R.C. 3107.034(A) and 5103.18.)

The summary report, however, must not contain the following (R.C. 3107.034(B) and 5103.18(B)):

- (1) An abuse or neglect determination of which the person seeking to adopt or seeking to become a foster caregiver is subject and in regards to which a PCSA determined that abuse or neglect did not occur;
- (2) Information or reports the dissemination of which is prohibited by, or interferes with eligibility under the federal "Child Abuse Prevention and Treatment Act" (42 U.S.C. 5101 et seq.).
- (3) The name of the person who or entity that made, or participated in the making of, the report of abuse or neglect.

An application for adoption or a foster placement may not be denied based solely on the fact that a PCSA initiated an investigation when the investigation is ongoing or when the agency was unable to determine whether abuse or neglect occurred. However, an application or placement may be denied based on the PCSA's determination that abuse or neglect occurred, when considered within the totality of the circumstances. An application for adoption that is denied for this reason may be appealed using the procedure adopted by ODJFS rule. The rule



must specify the procedure under which a person whose application for adoption has been denied may appeal the denial to the agency that employed the assessor who filed the report. (R.C. 3107.033(B), 3107.034(C), and 5103.18(C).)

### **Adoption of SACWIS rules**

The act permits ODJFS to adopt administrative rules regarding the provision allowing a person to access information contained in SACWIS and other rules, as if they were internal management rules, that are necessary to carry out the statutory provisions concerning SACWIS. The act also directs PCSAs to implement and use SACWIS in accordance with those rules. (R.C. 5101.134(B) and (C).)

### **Humane societies**

Prior to the act, an officer or agent of the Ohio Humane Society or a county humane society had the authority to remove a child from the possession and control of the child's parents or other persons having charge of the child because of cruelty inflicted on the child or because of the child's surroundings. The officer or agent was allowed to take immediate possession of the child, and then had to promptly file a complaint with the juvenile court concerning the child. The act removes this procedure and instead requires the officer or agent to comply with the general provision for reporting known or suspected child abuse or child neglect (see "**Reports of child abuse and neglect**," above). (R.C. 1717.14.)

### **Confidentiality and disclosure of information obtained during an investigation**

The act requires PCSAs to disclose confidential information discovered during an investigation conducted pursuant to a report of known or suspected child abuse or child neglect to any federal, state, or local government entity that needs the information to carry out its responsibilities to protect children from abuse or neglect. This information is otherwise confidential and not subject to disclosure pursuant to a public records request or disclosure as a right of a person to inspect their personal information kept in a personal information system by an agency to whom the information was disclosed during an investigation. The agency that receives the information must also maintain its confidentiality. (R.C. 2151.423.)

### **Development of an "Alternative Response" approach to reports of child abuse, neglect, and dependency**

The act directs ODJFS to develop, implement, oversee, and evaluate a pilot program on an "Alternative Response" approach to reports of child abuse, neglect, and dependency. The Department cannot implement this program in more than

ten counties, which must agree to participate in the pilot program. The pilot program cannot last more than 18 months, not including the time needed to prepare for the implementation of the program or any post-pilot program evaluation activity. The Department must assure that the program is independently evaluated with respect to outcomes for children and families, costs, worker satisfaction, and any other criteria the Department determines will be useful in the consideration of statewide implementation of an Alternative Response approach to child protection. The measure associated with the 18-month pilot program must, for the purposes of the evaluation, be compared with those same measure in the counties included in the pilot program during the 18 months immediately preceding the beginning of the pilot-program period. The act also authorizes ODJFS to adopt rules, as if they were internal management rules, as necessary to carry out the program. (Section 3 of the act.)

### **Criminal records checks**

#### **Offenses requiring the taking of fingerprints**

Continuing law requires the sheriffs of the several counties and the chiefs of police of cities, to fingerprint a person immediately upon: (1) the arrest of any person for a felony, suspicion of a felony, and for certain misdemeanors, and (2) immediately upon the taking into custody of certain allegedly delinquent children. Copies of the completed fingerprinting forms, along with any other description that may be required and the history of the offense, must be forwarded to the Bureau of Criminal Identification and Investigation (BCII) and to the clerk of court having jurisdiction over the prosecution of the offense or adjudication of the act. The act adds arson, when the violation is a misdemeanor, to the list of offenses to which these provisions apply. (R.C. 109.60.)

#### **Criminal record files**

Under continuing law, the persons in charge of state or local correctional or other residential facilities having custody of the following types of persons must furnish photographs, fingerprints, and other pertinent information concerning those persons to the Superintendent of the BCII, who is then required to file the information for record: (1) those who have been convicted of committing a felony in Ohio, (2) those who have been convicted of certain misdemeanors, and (3) children under 18 years old who have been adjudicated delinquent for committing an act that would be a felony or an offense of violence if committed by an adult. In addition, every clerk of an Ohio trial court of record must send the Superintendent a weekly report containing a summary of each case involving a crime of the type described above.

The act additionally requires that this information be filed about persons convicted of arson when the violation is a misdemeanor. (R.C. 109.57.)

**Checks made pursuant to an application to care for children**

The Superintendent of the BCII is required under continuing law to conduct a criminal records check of the applicants to be employed as a person responsible for the care of children when requested to do so by the executive director of a PCSA. The Superintendent must determine whether the person being checked previously has been convicted of or pleaded guilty to certain offenses.<sup>3</sup> If the person has been convicted of or pleaded guilty to one of these offenses, the person generally may not be employed as a person responsible for the care of children.

The act adds to the list of offenses the offenses of arson or aggravated arson or an existing or former law of Ohio, any other state, or the United States that is substantially equivalent to either arson or aggravated arson. (R.C. 109.572(A)(10) and 5153.111.)

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<sup>3</sup> *The full list of the criminal offenses are as follows: aggravated murder, murder, voluntary manslaughter, involuntary manslaughter, felonious assault, aggravated assault, assault, failing to provide for a functionally impaired person, aggravated menacing, patient abuse, gross patient neglect, patient neglect, kidnapping, abduction, criminal child enticement, rape, sexual battery, unlawful sexual conduct with a minor, gross sexual imposition, sexual imposition, importuning, voyeurism, public indecency, compelling prostitution, promoting prostitution, procuring, prostitution, prostitution after a positive HIV test, disseminating matter harmful to juveniles, pandering obscenity, pandering obscenity involving a minor, pandering sexually oriented matter involving a minor, illegal use of a minor in nudity-oriented material or performance, aggravated robbery, robbery, aggravated burglary, burglary, unlawful abortion, endangering children, contributing to the unruliness or delinquency of a child, domestic violence, carrying concealed weapons, having weapons while under disability, improperly discharging a firearm at or into a habitation or in a school safety zone, corrupting another with drugs, numerous types of "trafficking in drugs" offenses, illegal manufacture of drugs or illegal cultivation of marihuana, various funding of drug or marihuana trafficking offenses, illegal administration or distribution of anabolic steroids, placing harmful or hazardous objects or substances in or furnishing adulterated food or confections, child stealing as it existed prior to July 1, 1996, interference with custody that would have been the offense of child stealing as it existed prior to July 1, 1996, various types of possession of drugs offenses that are not a minor drug possession offense, or the former offense of felonious sexual penetration; a felony contained in the Revised Code that is not specifically listed above, if the felony bears a direct and substantial relationship to the duties and responsibilities of the position being filled; or a violation of any existing or former law of Ohio, any other state, or the United States that is substantially equivalent to any of the offenses or violations listed or described above.*

In addition to the checks described above, continuing law also requires the Superintendent, when conducting a criminal records check as part of the process of licensure of child day-care centers and type A family day-care homes, to conduct a check on a person who is an owner, licensee, or administrator of a child day-care center or a type A family day-care home, or an authorized provider of a certified type B family day-care home, to determine if the person has ever been convicted of or pleaded guilty to theft or certain other offenses, including but not limited to, passing bad checks, misuse of credit cards, Medicaid fraud, illegal use of food stamps or WIC program benefits, identity fraud, or a violation of attempt or complicity that relates to one of the other crimes, or a second violation of driving while under the influence of alcohol or drugs within 5 years of the date of application for licensure or certification. If a person for whom the criminal records check is required has been convicted of or pleaded guilty to such an offense, the Director of ODJFS may not grant the license, or the director of the county department of job and family services may not grant the certification.

The act adds that these offenses will be checked when conducting a criminal records check on an adult residing in a type A or certified type B home, or when conducting a criminal records check or a request for a check on a person who is an applicant for employment in a center, type A home, or certified type B home. (R.C. 109.572(A)(9) and R.C. 5104.012, not in the act.)

### **Guardians ad litem**

Under continuing law, a guardian ad litem (GAL) is a person appointed to protect the interest of a child in any proceeding concerning (1) an alleged or adjudicated delinquent child or unruly child when either the child has no parent, guardian, or legal custodian, or the court finds there is a conflict of interest between the child and the child's parent, guardian, or legal custodian, (2) an alleged abused or neglected child, or (3) the temporary or permanent custody of a child. A GAL who is also an attorney admitted to practice law in Ohio may serve as both GAL and as counsel to the child. Continuing law requires the court to relieve the person as the child's GAL and appoint someone else as the child's GAL if the court finds that a conflict could exist between the person's dual roles. (R.C. 2151.281.)

The act requests the Supreme Court to adopt rules regarding the standards, qualifications, and service of guardians ad litem and makes the appointment and service of guardians ad litem subject to those rules. The act maintains continuing law regarding a person's dual role as attorney and guardian ad litem to a child until the Supreme Court adopts rules that regulate conflicts between those roles. (R.C. 2151.281 and Section 4 of the act.)

In addition, the act directs the court, when appointing a guardian ad litem, to appoint either a qualified volunteer (as under continuing law) *or* a court appointed special advocate (R.C. 2151.281(J)).

**Definition of "person"**

The act defines "person" for use in the Juvenile Law as "an individual, association, corporation, or partnership and the state or any of its political subdivisions, departments, or agencies" (R.C. 2151.011(B)(32)). The definition affects several provisions in that Law, including:

- The allowance of any person with standing under applicable law to file a complaint for the determination of any matter over which the juvenile court is given jurisdiction (R.C. 2151.27, not in the act).
- If a child is adjudicated an abused, neglected, or dependent child, the court may award legal custody of the child to either parent or any other person who files a motion requesting legal custody or a person who is identified as a proposed legal custodian in a complaint or motion filed prior to the dispositional hearing by any party to the proceedings (see "**Orders of disposition for an adjudicated abused, neglected, or dependent child,**" below) (R.C. 2151.353).
- In a criminal case charging an adult with a violation of an offense for which the juvenile court has jurisdiction, any person may file an affidavit with the juvenile court clerk setting forth the charges against the accused (R.C. 2151.43, not in the act).

**Orders of disposition for an adjudicated abused, neglected, or dependent child**

Continuing law allows a court to make one of several orders of disposition for a child who is adjudicated an abused, neglected, or dependent child, including (R.C. 2151.353):

- (1) Placing the child in protective supervision;
- (2) Committing the child to the temporary custody of a PCSA, a PCPA, either parent, a relative residing within or outside of Ohio, or a probation officer for placement in a certified foster home, or in any other home approved by the court;
- (3) Awarding legal custody of the child to either parent or any other person who files a motion requesting legal custody of the child before the dispositional hearing;

(4) If the child cannot or should not be placed with one of the child's parents, committing the child to the permanent custody of a PCSA or PCPA if it is in the best interest of the child;

(5) Placing the child in a planned permanent living arrangement with a PCSA or PCPA, if the agency requests the court to place the child in a planned permanent living arrangement and if the court finds by clear and convincing evidence that, in addition to other factors, a planned permanent living arrangement is in the best interest of the child;

(6) Ordering the removal of the person who committed abuse against the child or caused or allowed the child to suffer neglect, or who is the parent, guardian, or custodian of a child who is adjudicated a dependent child and order any person not to have contact with the child or the child's siblings.

The act creates an additional option of awarding legal custody of the child to a person who is identified as a proposed legal custodian in a complaint or motion filed by any party to the proceeding, before the dispositional hearing has occurred. (See also, "Definition of "person"," above.)

In order for the court to award that person legal custody, that person must sign a statement of understanding that contains at least the following provisions (R.C. 2151.353(A)(3)):

(1) That the person intends to become the child's legal custodian and is able to assume legal responsibility for the child's care and supervision;

(2) That the person understands that legal custody is intended to be permanent and that the person will be responsible as the child's custodian until the child is 18 years old, unless the child is still pursuing a secondary education or the person's legal duty to see that the child receives an education has not been excused;

(3) That the parents of the child have residual parental rights, privileges, and responsibilities;

(4) That the person understands that the person must be present in court for the dispositional hearing in order to affirm the person's intention to become legal custodian, to affirm that the person understands the effect of the custodianship before the court, and to answer any questions that the court or any parties to the case may have.

### **Review of case plans**

Under continuing law, PCSAs and PCPAs are required to prepare and maintain a case plan for each child who is allegedly abused, neglected, or dependent, in the temporary or permanent custody of the agency, subject of a protective supervision order, or in a planned permanent living arrangement. ODJFS is required to adopt rules regarding the content and format of the case plans. (R.C. 2151.412(A) and (B).) Both PCSAs and PCPAs must conduct administrative reviews of each case plan they prepare and to prepare a written summary of each review to be filed with the court. The summary must specify, among other conclusions, (1) the safety and appropriateness of the child's placement, (2) the extent to which each party is complying with the case plan, and (3) the progress that has been made toward alleviating the circumstances that required the PCSA or PCPA to assume temporary custody of the child (R.C. 2151.416).

Under former law, ODJFS had to annually report annually to the public and to the General Assembly on the results of the review of case plans of each PCSA and PCPA. The annual report had to include any information that ODJFS required, including all of the following:

(1) A statistical analysis of the administrative reviews of the case plans;

(2) The number of children in temporary or permanent custody for whom an administrative review was conducted, the number of children whose custody status changed during the period, the number of children whose residential placement changed during the period, and the number of residential placement changes for each child during the period;

(3) An analysis of the utilization of public social services by PCSAs, PCPAs, and parents or guardians, and the utilization of ODJFS's adoption listing service.

The act eliminates the requirement for ODJFS to make this report. (R.C. 2151.416.)

### **Children's Trust Fund Board**

Continuing law generally requires certain additional fees be collected for certified copies of a birth record, birth certificates, death certificates, and for filing a divorce or dissolution decree. These fees must be forwarded to the Children's Trust Fund, a fund in the state treasury (R.C. 3109.14, not in the act). This money is used by the Children's Trust Fund Board in developing and carrying out a biennial state plan for comprehensive child abuse and child neglect prevention.

The act clarifies that the Board's duties in developing and carrying out the state plan are accomplished in accordance with administrative rules adopted by ODJFS. (R.C. 3109.17.)

Additionally, continuing law requires ODJFS to provide budgetary, procurement, accounting, and other related management functions for the Children's Trust Fund Board. The act allows ODJFS to adopt administrative rules for these purposes. (R.C. 3109.16.)

### **Administration of federal child welfare and abuse programs**

Continuing law gives ODJFS the power to administer funds received under certain federal child and family services laws. The Department, in administering the funds, may use them to establish a child welfare services program and a child abuse and neglect prevention and adoption reform program. ODJFS is provided with all powers necessary for the adequate administration of the funds and programs. In addition, the Director has the power to adopt R.C. 111.15 internal management rules as necessary to carry out these purposes. The act eliminates the requirement that these be "R.C. 111.15 internal management" rules. (R.C. 5103.07.)

### **The Ohio Child Welfare Training Program**

#### **Establishment and requirements**

Continuing law requires ODJFS to establish a statewide program called the Ohio Child Welfare Training Program (OCWTP). The program must provide training that PCSA caseworkers and caseworker supervisors are required to complete, preplacement training for prospective foster caregivers and continuing training for foster caregivers for issuance and renewal of a foster care certification, and education programs for adoption assessors. (R.C. 5103.30, renumbered from R.C. 5153.60, with conforming changes in R.C. 5101.141, 5103.031, 5103.033, 5103.034, 5103.036, and 5103.0312.)

Under the act, the training provided by the OCWTP must provide the knowledge, skill, and ability needed to do the jobs that the training is for. The OCWTP Coordinator (see below) must identify the competencies needed so that the training helps the development of those competencies. It also declares that the training must comply with applicable administrative rules. (R.C. 5103.31.)

For purposes of adequately funding the OCWTP, continuing law authorizes ODJFS to use available state or federal funds as needed. The act also permits ODJFS to use funds that a person, including a foundation, makes available. (R.C. 5103.32, renumbered from R.C. 5153.78.)

### **The Ohio Child Welfare Training Program Coordinator**

Under continuing law, ODJFS is required to contract with an entity each fiscal biennium to serve as the OCWTP Coordinator. The Coordinator must develop, implement, and manage the training program. ODJFS must select this entity from candidates who submit a response to a request for proposals (RFP) and that meet the RFP's requirements. The contract is effective from the first day to the last day of the fiscal biennium for which it is made. (R.C. 5103.35, renumbered from R.C. 5153.61.)

In addition, prior law required ODJFS to oversee the operation of the entity contracted as Coordinator regarding the development, implementation, and management of the program. The act clarifies that ODJFS is not overseeing the "operation" of the Coordinator, but rather the Coordinator itself. (R.C. 5103.38, renumbered from R.C. 5153.70.)

**Request for proposals for the Coordinator.** Under continuing law, ODJFS must develop and issue an RFP for a Coordinator of the OCWTP in consultation with representatives from regional training centers (see below), the staff of PCSAs, and the staff of ODJFS. The act adds that ODJFS must issue, *or cause to be issued*, an RFP and specifies that the RFP must explain the types of duties of the Coordinator. (R.C. 5103.36, renumbered from R.C. 5153.62 and conforming changes in R.C. 5103.362 and 5103.363.) In addition, the act adds "a statewide organization that represents the interests of PCSAs" to the group of entities with whom ODJFS must consult (R.C. 5103.363, renumbered from R.C. 5153.64 and conforming changes in R.C. 5103.36 and 5103.362).

Former law required representatives from the regional training centers, the staff of PCSAs, and the staff of ODJFS to review all responses to an RFP for Coordinator before the beginning of each fiscal biennium and recommend to ODJFS the entities that meet the requirements of the request. The act amends this procedure by specifying that ODJFS must determine which of the proposals meet the requirements of the request after considering the recommendations from the representatives of these other entities involved and a statewide organization that represents the interests of PCSAs (R.C. 5103.362, renumbered from R.C. 5153.63).

The act states that the entity selected as Coordinator must meet the requirements of the RFP and adds that ODJFS may contract with the same entity for two fiscal biennia in a row, even though no RFP is issued, when an RFP is not required for the upcoming fiscal biennium because (1) ODJFS has developed and issued or caused to be issued such an RFP before at least one of the three previous fiscal biennia, and (2) ODJFS and the entity under contract to serve as the Coordinator execute another contract for that entity to continue serving as

Coordinator for the upcoming biennium (R.C. 5103.35, renumbered from R.C. 5153.61, and 5103.361 and conforming changes in R.C. 5103.35 and 5103.37).

**Duties of the Coordinator.** Under continuing law, modified in part by the act, the Coordinator is required to do all of the following (R.C. 5103.37, renumbered from R.C. 5153.65 and conforming changes in R.C. 5153.125 and 5153.126):

- (1) Administer, coordinate, and evaluate all training program activities under the program;
- (2) Develop training, resources, and products;
- (3) Provide fiscal management and technical assistance to regional training centers;
- (4) Cooperate with the regional training centers to schedule training sessions, provide notices of training sessions, and provide training materials;
- (5) Employ and compensate training session instructors;
- (6) Create individual training needs assessment forms for use by PCSA caseworkers and PCSA caseworker supervisors;
- (7) Conduct any other activities necessary for the development, implementation, and management of the training program.

The act clarifies that the Coordinator must perform these duties pursuant to the contract entered into between ODJFS and the entity, recognizes that the Coordinator manages (rather than administers) the program, and requires the Coordinator to provide staff for the OCWTP Steering Committee (see below) (R.C. 5103.35, renumbered from R.C. 5153.61, and 5103.37, renumbered from R.C. 5153.65).

**The Ohio Child Welfare Training Program Steering Committee**

**Composition.** Continuing law directs the Director of ODJFS to establish the Ohio Child Welfare Training Program Steering Committee (R.C. 5103.39, renumbered from R.C. 5153.66). Formerly, the composition of the Committee included: (1) employees of ODJFS, (2) representatives of the regional training centers, (3) a representative of a statewide organization that represents the interest of PCSAs, (4) a representative of the entity contracted with to serve as the OCWTP Coordinator, and (5) two employees of PCSAs.

The act specifies that *each* regional training center must have one representative, that *one* representative will be from a statewide organization that represents the interests of PCSAs, that *one* representative will be from the Coordinator, and removes the restriction on the number of employees of PCSAs (R.C. 5103.391, renumbered from R.C. 5153.67).

**Duties.** Former law required the Steering Committee to do all of the following (R.C. 5153.68 and 5153.69):

(1) Adopt bylaws governing the operation of the Committee, including provisions addressing the Committee's governing structure, subcommittees, frequency of meetings, and amendment of the bylaws;

(2) Monitor and evaluate the OCWTP to ensure that the program (a) is a competency-based training system that satisfies the training requirements for PCSA caseworkers and supervisors, and (b) provides preplacement or continuing training for foster caregivers that meets the requirements preplacement training programs and continuing training programs must meet to obtain ODJFS approval.

The act relocates and revises these duties.

The act requires the Steering Committee to do the following (R.C. 5103.40 and repeal of R.C. 5153.68 and 5153.69):

(1) Adopt, amend, and rescind bylaws as necessary regarding the Committee's governance, frequency of meetings, and other matters concerning the Committee's operation;

(2) Conduct strategic planning activities regarding the OCWTP;

(3) Provide ODJFS and the OCWTP Coordinator with recommendations regarding the program's operation;

(4) Consult with the OCWTP Coordinator on the design and content of the training that the program provides for PCSA caseworkers and PCSA caseworker supervisors, after reviewing individual training needs assessments for those persons;

(5) Review curricula created for training provided by the OCWTP;

(6) Provide ODJFS with recommendations regarding the curricula for the OCWTP as necessary for the training to be relevant to the needs of the child welfare field;



(7) Evaluate the training and provide ODJFS with recommendations as necessary for the training to be able to enable assessors, prospective foster caregivers, foster caregivers, PCSA caseworkers, and PCSA caseworker supervisors to satisfy their respective statutory training requirements.

### **Regional training centers**

Under continuing law, ODJFS, in consultation with the Steering Committee, is required to designate eight training regions. ODJFS may change the training regions as needed. Each training region must contain only one regional training center (RTC). The act requires ODJFS to periodically review the composition of the RTCs, and requires the OCWTP Steering Committee to periodically review the RTC's composition and provide any recommendation on changes to the Department. (R.C. 5103.41, renumbered from R.C. 5153.71.)

Under continuing law, the PCSAs of Athens, Cuyahoga, Franklin, Greene, Guernsey, Hamilton, Lucas, and Summit counties must each establish and maintain an RTC. On the recommendation of the Steering Committee, ODJFS may direct a PCSA to establish and maintain an RTC to replace a center established in a county described above. There may be no more and no less than eight RTCs in existence at any time. ODJFS may make a grant to a PCSA that establishes and maintains an RTC for the purpose of wholly or partially subsidizing the operation of the center. The act additionally requires ODJFS to specify in the grant all of the center's duties. (R.C. 5103.42, renumbered from R.C. 5153.72 and conforming changes in R.C. 5103.363, 5103.37, 5103.391, and 5103.41.)

Under continuing law, the executive director of each PCSA that is required to establish and maintain an RTC must appoint a manager to operate the RTC in accordance with its statutory duties (R.C. 5103.421, renumbered under the act from R.C. 5153.73). Under the act, an RTC's responsibilities (rephrased by the act) include (R.C. 5103.422, renumbered from R.C. 5153.74 and a conforming change in R.C. 5103.421):

- (1) Securing suitable facilities for the training;
- (2) Providing administrative services and paying all administrative costs related to the conduct of the training;
- (3) Maintaining a database of the data contained in the individual training needs assessment for each PCSA caseworker and PCSA caseworker supervisor employed by a PCSA located in the training region served by the center;

(4) Analyzing the training needs of PCSA caseworkers and PCSA caseworker supervisors employed by a PCSA located in the training region served by the center;

(5) Coordinating training at the center with the OCWTP Coordinator.

### **Preplacement and continuing training programs**

Under continuing law, the OCWTP must make their preplacement or continuing training programs available to prospective foster caregivers or foster caregivers regardless of the type of agency from which the foster caregiver seeks a recommendation (R.C. 5103.034(A) relocated to R.C. 5103.301 under the act). However, the OCWTP may condition enrollment in a preplacement or continuing training program of prospective foster caregiver or a foster caregiver on the availability of space in the training program if the prospective foster caregiver or foster caregiver's recommending agency is a PCPA or private noncustodial agency (PNA) (R.C. 5103.302, relocated from R.C. 5103.034(C) under the act).<sup>4</sup>

Continuing law also allows ODJFS to compensate a PCPA or PNA for the cost of procuring and operating preplacement and continuing training programs for prospective foster caregivers and foster caregivers who are recommended for initial certification or recertification by the agency. Under former law, the OCWTP could condition the enrollment in the program on assignment to the program by the foster caregivers recommending agency the ODJFS compensation allowance. Instead, the act prohibits ODJFS from paying the OCWTP the allowance the Department would otherwise pay to the PCPA or PNA when it provides preplacement or continuing training to a prospective foster caregiver or foster caregiver whose recommending agency is a PCPA or PNA (R.C. 5103.034(C), 5103.0313, and 5103.303).

### **Adoption of rules**

The act authorizes the Director of ODJFS to adopt administrative rules as necessary to implement the changes to OCWTP (R.C. 5103.33).

### **Monitoring and evaluation**

Former law, retained in part, requires the OCWTP Steering Committee to monitor and evaluate the OCWTP to ensure the following (R.C. 5153.69):

(1) That the OCWTP is a competency-based training system that satisfies the training requirements for PCSA caseworkers and supervisors;

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<sup>4</sup> The act expanded this provision to also apply to prospective foster caregivers.

(2) That the OCWTP provides preplacement or continuing training for foster caregivers that meets the requirements that these types of programs must meet to obtain approval by ODJFS, except that the program is not required to obtain ODJFS approval.

The act transfers the monitoring and evaluation duties to ODJFS and revises those duties.

The act directs ODJFS to monitor and evaluate the OCWTP to ensure that it satisfies all of the statutory and administrative requirements pertaining to it, and specifies that the training specifically must meet all of the statutory requirements, including the requirement that the training be competency based. (R.C. 5103.34 and repeal of R.C. 5153.69.)

### **Public children services agencies**

#### **Duties of a public children services agency**

Under continuing law, each county has a public children services agency, which has a number of existing duties with respect to children whom the PCSA considers to be in need of public care or protective services and are to be performed in accordance with rules adopted by ODJFS. Among these duties are the duty to (1) investigate any allegation that a child is an abused, neglected, or dependent child, (2) enter into agreements with respect to the custody, care, or placement of any child, or with respect to any matter in the interests of the child, (3) accept custody of children committed to the PCSA by a juvenile court, and (4) provide care that the PCSA considers to be in the best interest of a child adjudicated to be abused, neglected, or dependent.

In addition, the PCSA must have a system of risk assessment to assist in determining the risk of abuse or neglect to a child. Under continuing law, this system must be used in connection with an investigation undertaken pursuant to a report of known or suspected child abuse or child neglect and of a known or suspected threat of child abuse or child neglect and under prior law could be used at any other time the agency was involved with any child when the agency determined that risk assessment was necessary.

The act expands the requirement to implement a system of risk assessment by adding that the PCSA must implement a system of "safety and risk assessment" to assess both the ongoing safety of the child and the appropriateness of the intensity and duration of the services provided to meet child and family needs throughout the duration of a case. The act removes the PCSA's ability to use the system any time other than in connection with an investigation of known or

suspected child abuse or child neglect or a known or suspected threat of child abuse or child neglect. (R.C. 5153.16.)

### **Adoption of rules**

The act authorizes the Director of ODJFS to adopt rules governing PCSAs' performance of the family services duties, including the duties specified by statute, in addition to the other rules specifically authorized (R.C. 5153.166).

### **Records of investigations**

Continuing law requires PCSAs to prepare and keep written records of investigations of families, children, and foster homes, and of the care, training, and treatment afforded children, and must prepare and keep such other records as required by ODJFS. Except in certain cases regarding the adoption of a child, these records are confidential, but are open to inspection by the agency, the director of the county department of job and family services, and by other persons, upon written permission of the executive secretary of the PCSA. Under the act, these records are also open to the Director of ODJFS, and the PCSA's executive director, not the executive secretary, is the person authorized to give the written permission for inspection by other persons. (R.C. 5153.17.)

### **Training for PCSA caseworkers and PCSA caseworker supervisors**

#### **Definitions**

The act defines "PCSA caseworker" as an individual employed by a PCSA as a caseworker, and a "PCSA caseworker supervisor" as an individual employed by a PCSA to supervise PCSA caseworkers (R.C. 5153.01(B)(6) and (7)).

#### **Training requirements for PCSA caseworkers**

**Training.** Under continuing law, changed in part by the act, each PCSA caseworker must complete at least 90 hours of in-service training during the first year of the caseworker's continuous employment. The training must consist of courses in recognizing and preventing child abuse and neglect, assessing risks, interviewing persons, investigating cases, and providing services to children and their families. After the first year of continuous employment, a PCSA caseworker must annually complete 36 hours of training in areas relevant to the caseworker's assigned duties.

The act increases the number of hours the caseworker must complete to 102 hours, for each caseworker hired after January 1, 2007. The act also adds that the first year training must include courses on (1) accepting reports of child abuse, neglect, and dependency, (2) assessing child safety, (3) the importance of and need

for accurate data, (4) preparation for court, and (5) maintenance of case record information. The act further revises the required first year courses that must include topics relevant to child abuse and neglect to include topics relevant to child abuse, neglect, *and dependency*.

Additionally, the act requires each PCSA caseworker to complete at least 12 hours of training in recognizing the signs of domestic violence and its relationship to child abuse. The Director of ODJFS must adopt administrative rules establishing this training. These 12 hours may be in addition to the training required during the caseworker's first year of employment, or part of the training required during the second year of employment. (R.C. 5153.122.)

**Needs assessments.** Under continuing law, each PCSA caseworker supervisor must work with the caseworker to determine the caseworker's training needs in accordance with, and ensure the caseworker's compliance with, the training required by statute. Once every two years, the supervisor must complete an individual training needs assessment form for each caseworker. The act requires the caseworker and supervisor to complete the individual training needs assessment jointly. Each PCSA executive director, or person designated by the director, must collect and maintain the data obtained from the training needs assessment and forward this data to the regional training center region where the PCSA is located (see "**Regional training centers**"). (R.C. 5153.125, renumbered from R.C. 5153.75 and 5153.127, renumbered from R.C. 5153.77.)

#### **Training requirements for PCSA caseworker supervisors**

**Training.** Continuing law requires each PCSA caseworker supervisor to complete at least 60 hours of in-service training during the first year of the supervisor's continuous employment in that position, and then 30 hours annually after that first year in areas relevant to the supervisor's assigned duties (see former R.C. 5153.122(B)).

The act relocates this provision and adds that the training must include courses in screening reports of child abuse, neglect, and dependency. The act also adds that the PCSA caseworker supervisor must also complete at least 12 hours of training in recognizing the signs of domestic violence and its relationship to child abuse. The 12 hours may be in addition to the 60 hours of training required during the supervisor's first year of employment or part of the 30 hours of training required during the second year of employment. (R.C. 5153.123.)

**Needs assessments.** Under continuing law, the executive director of each PCSA or a person designated by the executive director is required to work with each PCSA caseworker supervisor to determine the supervisor's training needs in accordance with, and ensure the supervisor's compliance with, the required

training. Once every two years, the executive director or the designated person must complete an individual training needs assessment for each supervisor. The act requires the executive director of the PCSA or the person designated by the executive director to complete the supervisor's individual training needs assessment jointly with the PCSA caseworker supervisor. As under continuing law, each PCSA executive director, or person designated by the director, must collect and maintain the data obtained from the training needs assessment and forward this data to the regional training center region where the PCSA is located (see "Regional training centers"). (R.C. 5153.126, renumbered from R.C. 5153.76 and 5153.127, renumbered from R.C. 5153.77.)

### Adoption of rules

The act allows the Director of ODJFS to adopt rules necessary to implement the training requirements for PCSA caseworkers and PCSA caseworker supervisors, and specifies that, notwithstanding the laws concerning the OCWTP and other training requirements specified by statute, ODJFS may require additional training for PCSA caseworkers and PCSA caseworker supervisors as necessary to comply with federal requirements (R.C. 5153.122, 5153.123, and 5153.124).

### Application of continuing law to prospective foster caregivers

The act makes several changes recognizing prospective foster caregivers as distinct from foster caregivers, including:

- Specifying that "*prospective* foster caregivers," rather than "foster caregivers" must complete a specified number of hours of preplacement training before ODJFS can issue the caregiver a certificate to operate a family foster home (R.C. 5103.031).
- Allowing ODJFS to issue or renew a certificate for the care of a child younger than six months of age if the "*prospective* foster caregiver" or "foster caregiver" successfully completes 12 hours of preplacement training (R.C. 5103.033).
- Specifying that ODJFS-approved preplacement and continuing training programs operated by a PCPA or PNA must be made available to a prospective foster caregiver as well as a foster caregiver (R.C. 5103.034(A)).
- Extending the provision to prospective foster caregivers that a PCSA, PCPA, or PNA, in determining whether to recommend that ODJFS certify or recertify a foster home, is required to accept a foster

caregiver's training obtained pursuant to an ODJFS-approved preplacement or continuing training program or the OCWTP (R.C. 5103.036).

- Allowing a recommending agency to require a prospective foster caregiver, as well as a foster caregiver, to successfully complete additional training as a condition of recommending that ODJFS certify or recertify the foster caregiver's foster home (R.C. 5103.036).
- Extending the provision to prospective foster caregivers that requires ODJFS to compensate a PCPA and PNA for the cost to the agency of procuring or operating an ODJFS-approved preplacement or continuing training program for foster caregivers who are recommended for initial certification or recertification by the agency (R.C. 5103.0313).
- Makes conforming changes (R.C. 5103.033, 5103.036, and 5103.0313).

**Requirements of preplacement training programs**

**Continuing law.** Under continuing law, changed in part by the act, a preplacement training program for foster caregivers who care for children in the custody of a PCSA or PCPA pursuant to voluntary surrender agreements involving children who were less than six months of age when the agreements were executed must consist of courses that address all of the following (R.C. 5103.0311):

- (1) The legal rights and responsibilities of foster caregivers;
- (2) PCSA, PCPA, and PNA policies and procedures regarding foster caregivers;
- (3) ODJFS requirements for certifying foster homes;
- (4) Infant care;
- (5) Early childhood development.

All other proposed preplacement training programs must provide for the program to consist of courses in the role of foster caregivers as part of the care and treatment of foster children that address all of the following (R.C. 5103.039):

- (1) The legal rights and responsibilities of foster caregivers;
- (2) PCSAs', PCPAs', and PNAs' policies and procedures regarding foster caregivers;

- (3) ODJFS' requirements for certifying foster homes;
- (4) The effects placement, separation, and attachment issues have on children, their families, and foster caregivers;
- (5) Foster caregivers' involvement in permanency planning for children and their families;
- (6) The effects of physical abuse, sexual abuse, emotional abuse, neglect, and substance abuse on normal human growth and development;
- (7) Behavior management techniques;
- (8) Effects of caregiving on children's families;
- (9) Cultural issues in placement;
- (10) Prevention, recognition, and management of communicable diseases;
- (11) Community health and social services available to children and their families;
- (12) The substance of state law regarding information that is provided to foster caregivers about certain delinquent children, which must be at least one hour long;
- (13) In the case of a preplacement training program for a foster caregiver seeking certification for a specialized foster home, additional issues specific to the types of children placed in specialized foster homes.

**The act.** The act specifies that this training is required for prospective foster caregivers, rather than foster caregivers (R.C. 5103.039 and 5103.0311(A)).

**Preplacement and continuing training programs for foster caregivers**

**Approval of training programs**

**Former law.** To obtain ODJFS approval of a preplacement or continuing training program, a PCPA and PNA had to submit to ODJFS a proposal outlining the program. The proposal was due every other year by a date specified in rules adopted by ODJFS. Not later than 30 days after receiving a proposal, the Department was required to either approve or disapprove it. If ODJFS disapproved a proposal, it had to provide the reason for disapproval and advise the PCPA or PNA that submitted it of how to revise the proposal so that it could have been approved. If ODJFS approved a proposal, the approval was valid only for

two years following the year the proposal was submitted to ODJFS. (R.C. 5103.038.)

The Department, in consultation with the Departments of Youth Services, Mental Health, Education, Mental Retardation and Developmental Disabilities, and Alcohol and Drug Addiction Services, was required to develop a model design of a preplacement training program and continuing training program. The model designs had to include courses that training programs need for ODJFS approval. The Department was required to make the model designs available to the OCWTP, PCPAs and PNAs. (R.C. 5103.037.)

**The act.** The act repeals the provisions for the model program described in the preceding paragraph (repeal of R.C. 5103.037). However, the act generally indicates that a proposal for a training program by a PCPA or PNA may be the same as, a modification of, or different from, a model design developed by ODJFS (R.C. 5103.038).

#### **Needs assessments and continuing training plans**

Under continuing law, changed in part by the act, a PCSA, PCPA, or PNA that works with a foster caregiver for the purpose of recommending that ODJFS renew the caregiver's foster home certificate is required to develop and implement a written needs assessment and continuing training plan for the caregiver. Each assessment and plan must satisfy certain requirements, including a requirement that the plan specify whether the agency will waive any of the hours of continuing training the caregiver is required to complete annually if the caregiver satisfies the conditions for the agency to issue a waiver. If the agency will issue a waiver, the agency is required to state in the assessment and plan the number of hours of continuing training, not to exceed eight, that the agency will waive.

The act instead requires that the needs assessment specify the number of hours of continuing training, if any, that the agency will waive and removes the provisions pertaining to satisfaction of conditions for a waiver. (R.C. 5103.035(F).)

#### **ODJFS to pay the cost of training**

Under continuing law, ODJFS is required to pay foster caregivers (who by definition have been issued a foster home certificate) for attending training courses pursuant to an ODJFS-approved preplacement or continuing training program. The payment is to be based on a stipend rate ODJFS establishes. The payment must be the same regardless of the type of agency with which a foster caregiver works for recommendation of certification.

The act specifies that no payment is required to be made to an individual for attending a preplacement training program unless the individual actually obtains a foster home certification (R.C. 5103.0312).

The act also requires ODJFS to seek federal financial participation for the cost of making payments to prospective foster caregivers and foster caregivers for attending the training. The Department must notify the Governor, President and Minority Leader of the Senate, and Speaker and Minority Leader of the House of Representatives of any proposed federal legislation that endangers the federal financial participation. (R.C. 5103.0315.)

### **Contracts for services**

Under continuing law, changed in part by the act, PCSAs and PCPAs are permitted to contract with an individual or a public or private entity to administer preplacement training for prospective foster caregivers and foster caregivers. The act rephrases this provision to allow the PCSAs and PCPAs to contract with a person or governmental entity to administer the program (R.C. 5103.034(D)).

### **Qualified civil immunity for foster caregivers**

The act provides foster caregivers with immunity from liability in a civil action to recover damages for injury, death, or loss to person or property allegedly caused by an act or omission in connection with a power, duty, responsibility, or authorization under the foster care laws or rules. This immunity does not apply, however, if, in relation to the act or omission in question, any of the following applies (R.C. 5103.162):

- (1) The act or omission was manifestly outside the scope of the foster caregiver's power, duty, responsibility, or authorization;
- (2) The act or omission was with malicious purpose, in bad faith, or in a wanton or reckless manner;
- (3) Liability for the act or omission is expressly imposed by law.

### **Public records requests**

Continuing law exempts from public records laws records held by ODJFS, a county department of job and family services, or a PCSA that identify children enrolled in or attending a child day-care center or home subject to licensure, certification, or registration under the child care law and records identifying a person who makes an oral or written complaint regarding such a child day-care center or home to ODJFS or another state or county entity responsible for enforcing state law concerning child care.

The act also exempts from public records laws the names and other identifying information regarding children placed with a certified institution or association that receives and cares for children, and the names and other identifying information regarding a person who makes an oral or written complaint regarding such an institution or association to ODJFS or another state or county entity responsible for enforcing state law concerning the placement of children in foster care (R.C. 5101.29).

## **ADOPTION**

### **Adoption of an adult**

Continuing law permits any minor to be adopted. An adult may only be adopted if the adult (1) is totally and permanently disabled, (2) is determined to be a mentally retarded person, or (3) had established a child-foster caregiver or child-stepparent relationship with the petitioners as a minor and the adult consents.

The act also allows an adult to be adopted if the adult was in the permanent custody of a PCSA or PCPA at the time of the adult's 18th birthday, and the adult consents. In addition, the adult must provide the court with the name and contact information of the PCSA or PCPA that had permanent custody of the adult, and the petitioner must request verification from the agency as to whether the adult was or was not in the permanent custody of that agency at the time of the adult's 18th birthday. The petitioner must provide this verification to the court. (R.C. 3107.02.)

The act also states that the issuance of a final decree or interlocutory order of adoption for the adoption of an adult who was in the permanent custody of a PCSA or PCPA at the time of the adult's 18th birthday does not disqualify the adoptee from independent living service arrangements entered into between the agency and the adoptee (R.C. 3107.14(E)).

### **Falsification of adoption and foster care related documents**

The act states that making false statements in connection with certain documents pertaining to adoptions and foster care placements constitutes the offense of falsification, a first degree misdemeanor.

### **Falsification of adoption application**

Continuing law requires a person seeking to adopt a minor to use either an agency or an attorney to formally arrange the adoption. The act provides that a person seeking to adopt a minor who knowingly makes a false statement in the adoption application submitted to the agency or attorney to obtain services in



arranging an adoption is guilty of falsification, a misdemeanor of the first degree.<sup>5</sup> (R.C. 3107.011.)

**Falsification of documents pertaining to a home study**

Continuing law requires an assessor to conduct a home study concerning a person seeking to adopt and to file a written report on the home study at least ten days before the petition for adoption is heard. The report must contain the assessor's opinion as to whether the person seeking to adopt is suitable to adopt, and other information specified in administrative rule, including the JFS 01673 "Assessment for Child Placement (Homestudy)."<sup>6</sup> (R.C. 3107.031.)

Under the act, a person seeking to adopt a minor who knowingly makes a false statement that is included in the written report of the home study is guilty of falsification, a first degree misdemeanor. A falsified home study may not be filed with the court; if the home study is filed, the court may strike the home study from the court's records. (R.C. 3107.031.)

**Falsification regarding statements included as part of the certification of an institution or association**

Continuing law requires the Department of Job and Family Services (ODJFS) to pass upon the fitness of every institution and association that receives, or desires to receive and care for children, or places children in private homes, every two years. ODJFS must issue a certificate to an institution or association when it is satisfied as to the care given such children and when the institution or

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<sup>5</sup> *The offense of falsification prohibits a person from knowingly making a false statement, or knowingly swearing or affirming the truth of a false statement previously made, in a number of situations, including when the statement is: (1) made in an official proceeding, (2) made with purpose to mislead a public official in performing the public official's official function, (3) made with purpose to secure a government-issued certificate, (4) in connection with a report that is required or authorized by law, and (5) knowingly made to a probate court in connection with any matter within its jurisdiction.*

<sup>6</sup> *The JFS 01673 includes such information as household members; description of the home; military history; criminal history; applicant's residential, employment, and marital history; relationship between co-applicants; religious affiliation and/or spiritual beliefs; children and non-applicant adults residing in the home; family finances; attitudes and beliefs regarding foster care/adoption issues; a narrative; and additional assessor observations (<http://www.odjfs.state.oh.us/forms/file.asp?id=43560>, last visited August 23, 2006).*

association complies with the requirements of statutes and rules covering the management of such institutions or associations. (R.C. 5103.03.)<sup>7</sup>

The act states that, if an institution or association knowingly makes a false statement that is included as part of the certification, the institution or association is guilty of falsification. ODJFS is prohibited from certifying the institution or association. (R.C. 5103.03(B)(4).)

### **Adoption assessors**

Under continuing law, a person seeking to adopt a minor, other than an adoption of a foster child by the child's foster caregiver, must complete a home study for the purpose of determining whether the person is suitable to adopt. The report must contain the opinion of an assessor as to whether the person is suitable to adopt, and other information and documents specified by rules adopted by the Director of ODJFS. (R.C. 3107.031.)

To be an adoption assessor, a person must be employed by, appointed by, or under contract with a court, PCSA, PCPA, or PNA. In addition, the person must be either (1) a professional counselor or licensed social worker, (2) a licensed psychologist, or (3) a student pursuing a post-secondary degree who works under the supervision of a professional counselor, licensed social worker, or licensed psychologist. (R.C. 3107.014.)

The act permits a licensed marriage and family therapist to act as an adoption assessor. The act also requires the student to be working to earn a four-year post-secondary degree, or higher, in social or behavior science, or both, and permits the student to also work under the supervision of a licensed marriage and family therapist. Beginning July 1, 2009, however, a student may only be eligible to serve as an assessor if the supervising professional counselor, social worker, marriage and family therapist, or psychologist has completed the training required by rules adopted by the Director of ODJFS. (R.C. 3107.014(A)(2).)

In addition, under continuing law, assessors are required to complete education programs that include courses on adoption placement practices, federal and state adoption assistance programs, and post adoption support services. The

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<sup>7</sup> *An institution or association includes generally (1) any incorporated or unincorporated organization, society, association, or agency, public or private, 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, and (3) any individual not in the regular employ of a court, or of a certified institution or association who in any manner becomes a party to the placing of children in foster homes (R.C. 5103.02, not in the act).*

act changes the term "education programs" to "training." (R.C. 3107.014, 3107.015, and 3107.016.)

### **Assessor registry**

The act requires ODJFS, not later than January 1, 2008, to develop and maintain an assessor registry to list all individuals who are employed, appointed by, or under contract with a court, PCSA, PCPA, or PNA, and who meet the requirements of an assessor. A PCSA, PCPA, PNA, court, or any other person may contact ODJFS to determine if an individual is listed in the assessor registry. An individual listed in the registry has a duty to immediately inform the department when that individual is no longer employed by, appointed by, or under contract with a court, PCSA, PCPA, or PNA to perform the duties of an assessor.

The Director of Job and Family Services is directed to adopt administrative rules as necessary for the implementation, contents, and maintenance of the registry, and any sanctions related to the providing of information, or the failure to provide information, that is needed for the proper operation of the assessor registry. (R.C. 3107.014(D).)

### **Multiple children assessments**

Under the act, each time a person seeks to adopt a minor or foster child when that person will have at least five children residing in the prospective adoptive home after the minor or foster child is placed in the home, an assessor must complete a multiple children assessment during the home study and must include the assessment in the written report of the home study filed with the court. The assessment must evaluate the ability of the person seeking to adopt in meeting the needs of both the child to be adopted and continuing to meet the needs of the other children residing in the home. An assessor is not required to complete the multiple children assessment for an adoption by a stepparent whose spouse is a biological or adoptive parent of the minor to be adopted. (R.C. 3107.031 and 3107.032(A) and (C) and conforming changes in R.C. 2101.11, 3107.014, 3107.055, and 3107.12.)

The act authorizes the Director of ODJFS to adopt administrative rules specifying any further requirements and documents necessary for an assessor to complete a multiple children assessment (R.C. 3107.032(B)).

### **Prospective adoptive home visits**

The Administrative Code requires, within four days after a placement for adoption, an assessor from the agency responsible for supervising the adoptive placement to contact the adoptive family by telephone to determine how the

placement is progressing. The assessor must make a home visit no later than seven days following placement. The assessor also must make monthly face-to-face contact with the adoptive parent and the child throughout the prefinalization period. At a minimum, two visits in every six-month period must be in the adoptive home. (O.A.C. 5101:2-48-17(A) and (B).)

The act requires the assessor providing placement or post placement services in the prospective adoptive home to conduct a prospective adoptive home visit in that home not later than seven days after the minor to be adopted is placed in a prospective adoptive home, and every 30 days thereafter, until the court issues a final decree of adoption. During the prospective adoptive home visits the assessor must evaluate the progression of the placement in the prospective adoptive home. The assessor must include the evaluation in the prefinalization assessment. The prospective home visit is not required to be conducted for an adoption by a stepparent whose spouse is a biological or adoptive parent of the minor to be adopted. (R.C. 3107.101(A) and (D) and conforming changes in R.C. 2101.11, 3107.014, 3107.055, and 3107.12.)

The assessor is required to make face-to-face contact with the prospective adoptive parent and the minor to be adopted during the prospective home visit. In addition, the assessor must make contact with all other children or adults residing in the prospective adoptive home as specified by rules (R.C. 3107.101(B)).

The Director of ODJFS is required to adopt administrative rules as necessary concerning the prospective adoptive home visits (R.C. 3107.101(B) and (C)).

### **Sharing of information concerning a pending adoption**

Under the act, a PCSA arranging a cross-county adoption, and a PCPA, PNA, or an attorney arranging an adoption must send a notification to the PCSA in the county in which the prospective adoptive parent resides twice in the course of an adoptive placement. The first notification must be sent within ten days after the initiation of the home study. After a PCSA has received the notification, both the agency or attorney arranging the adoption, and the PCSA that receives the notification must share relevant information regarding the prospective adoptive parent as soon as possible after initiation of the home study (R.C. 3107.10(A)). The second notification must occur not later than ten days prior to placement. This notification must include (1) a description of the special needs and the age of the prospective adoptive child, (2) name of the prospective adoptive parent, and (3) the number of children that will be residing in the prospective adoptive home when the prospective adoptive child is placed there. (R.C. 3107.10(B).)

Neither notification applies to a stepparent adoption (R.C. 3107.10(E)).

The Director of ODJFS is required to adopt administrative rules regarding the sharing of information concerning a pending adoption, including, but not limited to, a definition of "relevant information" that is required to be shared (R.C. 3107.10(D)).

The act also provides the agency or attorney sharing relevant information with immunity from civil liability for damages for injury, death, or loss to person or property allegedly caused by any act or omission in connection with sharing relevant information unless the acts or omissions are done maliciously, in bad faith, or in a wanton or reckless manner (R.C. 3107.10(C)).

### **Adoption prefinalization assessment report**

Under continuing law, an assessor must conduct a prefinalization assessment of a minor and petitioner before a court issues a final decree of adoption or finalizes an interlocutory order of adoption for the minor. On completion of the assessment, the assessor must prepare a written report of the assessment and provide a copy of the report to the court before which the adoption petition is pending.

The assessor is not required to conduct a prefinalization assessment or file a report if the petitioner is the minor's stepparent, unless a court, after determining a prefinalization assessment is in the best interest of the minor, orders that an assessor conduct a prefinalization assessment.

The report of prefinalization assessment must include the following (R.C. 3107.12):

- (1) The minor's and petitioner's adjustment to the placement;
- (2) The present and anticipated needs of the minor and petitioner;
- (3) The physical, mental, and developmental condition of the minor;
- (4) The minor's biological family background, if known;
- (5) The reasons for the minor's placement with the petitioner, the petitioner's attitude toward the proposed adoption, and the circumstances under which the minor was placed in the home of the petitioner;
- (6) If the minor's age makes it feasible, the attitude of the minor towards the proposed adoption;
- (7) If the minor is an Indian child, how the placement complies with the federal "Indian Child Welfare Act of 1978";

(8) The minor's psychological background, if known.

The act adds to the list of items required to be included in the prefinalization assessment, if applicable, the documents or forms required for (1) the multiple children assessment, (2) the notification to a PCSA of a pending adoptive placement, and (3) the prospective adoptive home visit (R.C. 3107.12(A)(9)).

**Permitted adoption related expenses**

Continuing law prohibits a petitioner, person acting on behalf of a petitioner, or agency<sup>8</sup> or attorney from making or agreeing to make any disbursements in connection with a minor's permanent surrender, placement, or adoption, other than certain medical expenses and expenses charged by the attorney or agency arranging the adoption for providing services in connection with the placement and adoption, including the home study.

The act additionally permits disbursements for expenses charged by an attorney or agency for expenses or fees incurred in connection with the multiple children assessment and the prospective adoptive home visit. (R.C. 3107.055, renumbered from R.C. 3107.10 and conforming change in R.C. 5103.131.)

**Duties of a placing agency regarding an unsuccessful cross-county adoption**

Continuing law generally requires a child's county of legal residence to pay the cost of care furnished by a PCSA or the board of county commissioners of another county when a child needs services in the other county. Under the act, however, if an adopted child is removed from the adoptive home and placed in the temporary or permanent custody of a PCSA or PCPA within 36 months after the adoption is finalized, and a court determines that reasonable efforts have been made to prevent the removal of the adopted child from the adoptive home, the agency that previously held permanent custody of the child when the child was placed with the adoptive parent must, along with the agency currently with custody over the child, be given the opportunity to participate in planning for the child's care and treatment and must assume 50% of the financial responsibility for that care and treatment. On the first day of the 37th month after the date the child's adoption was finalized, shared planning and financial responsibility ceases, and the custodial agency assumes full planning and financial responsibility. The act allows the custodial agency and the agency that previously held permanent

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<sup>8</sup> For the purposes of this provision, an "agency" does not include a PCSA (current R.C. 3107.10, renumbered by the act as R.C. 3107.055).

custody of the child to enter into a different, written agreement for shared financial responsibility. (R.C. 5153.20(B)(1).)

The shared planning and financial responsibility does not apply, however, to an adoption by a stepparent whose spouse is a biological or adoptive parent of the child, to an international adoption, or in cases involving an adoption where either the agency that assumes custody for the child after the unsuccessful adoption or the agency that previously held permanent custody of the child before the adoption is not in Ohio (R.C. 5153.20(B)(2)).

Also, the shared planning and financial responsibility requirement does not prevent a court or a child support enforcement agency from issuing a child support order (R.C. 5153.20(B)(3)).

### **Extension of access to certain adoption records**

#### **The act**

The act expands the availability of nonidentifying information<sup>9</sup> kept in an adoption record to persons who were adopted or were available or potentially available for adoption *before* September 18, 1996,<sup>10</sup> on the same basis as is

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<sup>9</sup> "Nonidentifying information" means any information that is not identifying information, including all of the following (R.C. 3107.60, not in the act):

- (1) A birth parent's age at the time the birth parent's child is adopted;
- (2) The medical and genetic history of the birth parents;
- (3) The age, sex, and medical and genetic history of an adopted person's birth sibling and extended family members;
- (4) A person's heritage and ethnic background, education level, general physical appearance, religion, occupation, and cause of death;
- (5) Any information that may be included in a social and medical history as specified by law.

"Identifying information" includes a person's name, address, social security number, and telephone number (R.C. 3107.01).

<sup>10</sup> A person was available or potentially available for adoption prior to September 18, 1996, if, prior to that date, either (1) at least one of the person's biological parents executed consent to the person's adoption, or (2) a probate court entered a finding that the consent of at least one of the person's biological parents to the person's adoption was not needed.



available to a person who was adopted as a minor *after* September 18, 1996, as discussed below (R.C. 3107.66(A)).<sup>11</sup>

### **Continuing law**

Continuing law allows an "adopted person," meaning a person who was adopted after September 18, 1996, to have access to nonidentifying information concerning an adopted person's birth parent or birth sibling kept in an adoption record by an agency, attorney, or probate court. An adopted person who is 18 years old or older, an adoptive parent of an adopted person under age 18, or an adoptive family member of a deceased adopted person, may submit a written request for the information to the agency or attorney who arranged the adoption or to the probate court that finalized the adoption. The agency, attorney, or court must provide the information sought within a reasonable amount of time and may charge a reasonable fee for providing the information.

In addition, continuing law allows the same information to be provided on the same basis to a birth parent of an adopted person, birth sibling age 18 or older, or a birth family member of a deceased birth parent. (R.C. 3107.66(B).)

The mandate to provide the information is not required of an agency or attorney that has permanently ceased to arrange adoptions. In this instance, if a probate court, person, or other governmental entity holds the adoption records of such an agency or attorney, the party permitted to request the information may submit the written request to the court, person, or other governmental entity that holds the records. The court, person, or other governmental entity must provide the required information within a reasonable amount of time and may charge a reasonable fee for providing the information. (R.C. 3107.66(C).)

Before providing the nonidentifying information in the manner discussed above, the person or governmental entity providing the information must review the record to ensure that all identifying information about any person contained in the record is deleted (R.C. 3107.66(D)).

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<sup>11</sup> *Adopted persons whose adoptions were decreed before January 1, 1964, also currently have access to their adoption records. The adopted person may either submit a request to the Department of Health for the Department to provide a copy of the contents of the adopted person's adoption file or file a petition for the release of information regarding the adopted person's name by birth and the identity of the adopted person's biological parent and biological siblings in the same manner as currently available for adopted persons who were adopted or who became available or potentially available for adoption before September 18, 1996 (R.C. 3107.38(B)).*

## CHILD CARE

### Child care law changes

#### Certification of a type B family day-care home

Under continuing law, every person desiring to receive certification for a type B family day-care home to provide publicly funded child care must apply for certification to the county director of job and family services. When the county department of job and family services receives an application for certification, it must request information concerning any abuse or neglect report made of which the applicant is the subject from the PCSA.

The act additionally requires the county department to request information concerning any abuse or neglect report of which the applicant, any other adult residing in the applicant's home, or any person designated by the applicant to be an emergency or substitute caregiver for the applicant, is a subject.<sup>12</sup> The act also specifies that the county department must request this information from (1) the PCSA, until the county department is notified by ODJFS that the SACWIS has been finalized, and (2) SACWIS, when the PCSA is notified that the SACWIS has been implemented. (R.C. 5104.11(A)(3)(a).)

In addition, continuing law requires the county department to consider any information provided by the agency for the purpose of evaluating the fitness of a person who has applied for certification or renewal of certification as a type B family day-care home. The county department must deny the application for certification or renewal of certification, or revoke the certification of an authorized provider if the department determines that, when viewed within the totality of the

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<sup>12</sup> "Emergency caregiver" and "substitute caregiver" are not defined in the Revised Code, but the Ohio Administrative Code defines "emergency child care" as the provision of child care services for a maximum of one day by a county department of job and family services approved emergency caregiver due to an unplanned absence by the certified type B home provider as a result of unanticipated circumstances such as illness, accident, or other family crisis. Under the Administrative Code, emergency child care may not exceed one day at any one time. In addition, the Ohio Administrative Code defines "substitute child care" as the provision of child care services by a county department of job and family services approved substitute caregiver due to a planned absence, not to exceed 14 consecutive days at any one time, by the provider as a result of vacations or scheduled appointments.

The Administrative Code requires each type B provider to designate an individual to serve as their emergency or substitute caregiver. (O.A.C. 5101:2-14-01 and 5101:2-14-14.)

circumstances, the information reasonably leads to the conclusion that the applicant may endanger the health, safety, or welfare of children. The act additionally requires that the county department consider information provided by ODJFS and specifies that the danger to the children may be direct or indirect. (R.C. 5104.11(A)(3)(b).)

**Changes to the definitions of "type A family day-care home" and "type B family day-care home"**

For the purposes of the child care laws, continuing law, changed in part by the act, defines a "type A family day-care home" as a day-care administrator's permanent residence in which child care is provided for seven to 12 children at one time or, if four or more children are under two years of age at one time, for four to 12 children. It defines a "type B family day-care home" as a provider's permanent residence in which child 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. The act removes from both definitions a provision excluding a residence from being considered a type A or type B family day-care home if all of the children whose needs are being administered to are siblings of the same immediate family and the residence is the home of the siblings. (R.C. 5104.01(RR) and (SS).)

**Publicly funded child day-care in a child's own home**

For the purposes of the child care laws, "in-home aide" means a person certified by a county director of job and family services to provide publicly funded child care to a child in a child's own home pursuant to those laws and any rules adopted under them. The act adds that the person must not reside with the child but provide care in the child's home. Also, the act permits only an in-home aide to provide publicly funded child day-care in a child's own home. (R.C. 5104.01(X) and 5104.31.)

**Children's crisis care facilities**

**Former law**

Under former law, the Director of ODJFS provided administrative rules for licensing crisis nurseries as either a type A or type B crisis nursery, which specified that the license must not be issued to an applicant if the conditions at the facility would jeopardize the health and safety of the children it provides care to.

A type A crisis nursery provided temporary shelter and other care for not more than 20 children at a time, and each child had to be under age six and be either drug exposed, infected with HIV, or referred by a PCSA. In addition, a type A crisis nursery could not provide shelter or care to any child for more than 60

days. A type B crisis nursery provided, without charging a fee for the care or services, temporary services and care to children under 13 years old who were abused and neglected, at a high risk of abuse and neglect, or to members of families receiving child protective services. A type B crisis nursery also provided referrals to support services. A type B crisis nursery did not provide services or care for any child for more than 30 days in a year. (R.C. 5103.13.)

### **The act**

The act removes the provisions concerning the licensing and operation of a type A and type B crisis nursery, creates one type of children's crisis care facility, and outlines the facility's role.

### **Certification**

The act requires the operator of a children's crisis care facility to obtain a certificate for the facility from the Director of ODJFS. The Director must certify the facility if the facility meets the Director's certification standards and the operator complies with all of the Director's other rules regarding certification. The act prohibits the operation of an uncertified children's crisis care facility and prohibits a facility from holding itself out as a certified children's crisis care facility unless it has obtained the certification (R.C. 5103.13(B) and (C)).<sup>13</sup> Under the act, a "children's crisis care facility" is a facility that has as its primary purpose the provision of residential and other care to either or both of the following (R.C. 5103.13(A)(1)(a)):

(1) One or more pre-teens<sup>14</sup> voluntarily placed in the facility by the pre-teen's parent or other caretaker who is facing a crisis that causes the parent or caretaker to seek temporary care for the pre-teen and referral for support services;

(2) One or more pre-teens placed in the facility by a PCSA or PCPA that has legal custody<sup>15</sup> or permanent custody<sup>16</sup> of the pre-teen when the agency

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<sup>13</sup> *The act does not provide a penalty for a violation of either prohibition.*

<sup>14</sup> *A "pre-teen" is an individual under 13 years of age (R.C. 5103.13(A)(3)).*

<sup>15</sup> *"Legal custody" means a legal status that vests in the custodian the right to have physical care and control of the child and to determine where and with whom the child lives, and the right and duty to protect, train, and discipline the child and to provide the child with food, shelter, education, and medical care, all subject to any residual parental rights, privileges, and responsibilities (R.C. 2151.011(B)(19)).*

<sup>16</sup> *"Permanent custody" means a legal status that vests in a PCSA or a PCPA, all parental rights, duties, and obligations, including the right to consent to adoption, and*

determines that an emergency situation exists necessitating the pre-teen's placement in the facility rather than a certified institution or association that receives and cares for children, or elsewhere.

The act exempts from the requirement to obtain a certification as a "children's crisis care facility" (1) any organization, society, association, school, agency, child guidance center, detention or rehabilitation facility, or children's clinic licensed, regulated, approved, operated under the direction of, or otherwise certified by the Department of Education, a local board of education, the Department of Youth Services, the Department of Mental Health, or the Department of Mental Retardation and Developmental Disabilities, and (2) an individual who provides care for only a single-family group, placed there by their parents or other relative having custody (R.C. 5103.13(A)(1)(b)).

The issuance of a children's crisis care facility certificate does not exempt the facility from the requirement to obtain another certificate or license mandated by law (R.C. 5103.13(C)). For example, if the facility is also an association or institution, it would have to be certified as such under the foster care laws (R.C. 5103.03).

#### **Prohibitions on the length of a pre-teen's stay at a facility**

A certified children's crisis care facility is permitted to provide residential care to a pre-teen for only a certain length of time, with an overall limit of 120 days in a calendar year. Generally, the facility is prohibited from providing care to a pre-teen for more than 60 consecutive days. The facility is allowed to provide care to a pre-teen who was *not* placed in the facility by a PCSA or PCPA for up to 90 consecutive days if (1) the pre-teen's parent or other caretaker is enrolled in a certified alcohol and drug addiction program or a certified community mental health service, (2) the pre-teen's parent or other caretaker is an inpatient in a hospital, (3) the pre-teen's parent or other caretaker is incarcerated, or (4) a physician has diagnosed the pre-teen's parent or other caretaker as medically incapacitated. No facility is permitted to care for a pre-teen placed in the facility by a PCPA or PCSA for more than 72 consecutive hours unless the Director of ODJFS (or the Director's designee) issues a waiver, which may authorize the facility to provide care for the pre-teen for up to 14 consecutive days. (R.C. 5103.13(D).)

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*divests the natural parents or adoptive parents of all parental rights, privileges, and obligations, including all residual rights and obligations (R.C. 2151.011(B)(30)).*



### **Criminal records checks**

Certified children's crisis care facilities must conduct criminal records checks on all applicants for employment in the facility and generally are prohibited from employing a person who has pleaded guilty to or been convicted of certain offenses<sup>17</sup> (R.C. 2151.011(B)(27) and (33) and 5103.13(D)(1)(d) and R.C. 2151.86--not in the act).

### **Revocation of a certification**

The act permits the Director of ODJFS to suspend or revoke the certificate of a children's crisis care facility if the facility fails to adhere to the requirements regarding the length of time a pre-teen can be cared for in the facility, fails to complete a criminal records check on an employee, or ceases to meet or comply with any of the certification standards established by administrative rule (R.C. 5103.13(E)).

### **Rules**

The act retains an updated version of the requirement that the Director of ODJFS adopt administrative rules requiring that a certificate not be issued to an applicant if the conditions at the facility would jeopardize the health or safety of the pre-teens in its care. The act requires that these rules be adopted within 90 days of the effective date of the act. (R.C. 5103.13(F).)

### **Federal grants**

The act authorizes ODJFS to apply to the United States Secretary of Health and Human Services for a federal grant under the "Child Abuse Prevention and Treatment Act," 42 U.S.C. 5116, to assist children's crisis care facilities certified under the act in providing temporary residential and other care to pre-teens. Prior law authorized ODJFS to apply for federal grants under the "Temporary Child Care for Children With Disabilities and Crisis Nurseries Act," 100 Stat. 907 (1986), 42 U.S.C. 5117, which was repealed in 1996 (110 Stat. 3089). (R.C. 5103.131.)

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<sup>17</sup> *The list of criminal offenses includes, but is not limited to, various homicide and assault offenses, failing to provide for a functionally impaired person, patient abuse, patient neglect, kidnapping, abduction, criminal child enticement, rape and other sexually oriented offenses, arson, endangering children, contributing to the unruliness or delinquency of a minor, domestic violence, carrying a concealed weapon, various drug offenses, placing harmful objects in food or confection, or a violation of an existing or former law of this state, any other state, or the United States that is substantially equivalent to any of the specified offenses.*

## OTHER

### **Interstate compact for the placement of children**

In 1975, the 111th Ohio General Assembly enacted the Interstate Compact on the Placement of Children (ICPC) that provided all states with general guidelines for the interstate placement of children in foster care or adoptive homes (R.C. 5103.20 to 5103.28). The act repeals the former ICPC and replaces it with the most recent ICPC<sup>18</sup> issued by the American Public Human Services Association in March, 2006. The new ICPC contains three major sections: (1) the ICPC, (2) the Interstate *Commission* for the Placement of Children, and (3) miscellaneous legal provisions. (R.C. 5103.20, 5103.21, and 5103.22, repeal of former R.C. 5103.20 to 5103.28, and conforming changes in R.C. 2151.23(F)(1), 2151.39, and 3313.64.)

#### **The ICPC**

(R.C. 5103.20, Articles I through VII)

**Purpose.** The purpose of the ICPC is to:

- (1) Provide a process through which children subject to the ICPC are placed in safe and suitable homes in a timely manner;
- (2) Facilitate ongoing supervision of a placement, the delivery of services, and communication between the states;
- (3) Provide operating procedures that will ensure that children are placed in safe and suitable homes in a timely manner;
- (4) Provide for the promulgation and enforcement of administrative rules implementing the provisions of the ICPC and regulating the covered activities of the member states;
- (5) Provide for uniform data collection and information sharing between member states under the ICPC;
- (6) Promote coordination between the ICPC, the Interstate Compacts for Juveniles, the Interstate Compact on Adoption and Medical Assistance, and other

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<sup>18</sup> *The American Public Human Services Association changed the title of the compact from the Interstate Compact on the Placement of Children to the Interstate Compact for the Placement of Children.*

compacts affecting the placement of and which provide services to children otherwise subject to the ICPC;

(7) Provide for a state's continuing legal jurisdiction and responsibility for placement and care of a child that it would have had if the placement were intrastate; and

(8) Provide for the promulgation of guidelines, in collaboration with Indian tribes, for interstate cases involving Indian children as is or may be permitted by federal law.

**Applicability.** Generally, the ICPC applies to the interstate placement of a child (1) subject to ongoing court jurisdiction in the sending state, due to allegations or findings that the child has been abused, neglected, or deprived, (2) adjudicated delinquent or unmanageable, or (3) by a public child placing agency or private child placing agency as a preliminary step to a possible adoption.

The ICPC *does not* apply to (1) the interstate placement of a child, by a parent, with a non-relative in a receiving state provided that the placement is not intended to effectuate an adoption, (2) the interstate placement of a child by an authorized relative directly with another relative in a receiving state, (3) the placement of a child into a residential facility by a parent, (4) the placement of a child with a non-custodial parent, with certain restrictions, (5) a child entering the United States from a foreign country for the purpose of adoption or leaving the United States to go to a foreign country for the purpose of adoption in that country, (6) cases in which a U.S. citizen child living overseas with his or her family, at least one of whom is in the U.S. Armed Services, and who is stationed overseas, is removed and placed in a state, and (7) the sending of a child by a public child placing agency or a private child placing agency for a visit.

**Jurisdiction.** Under the act, the sending state retains jurisdiction over a child with respect to all matters of custody and disposition of the child that it would have had if the child had remained in the sending state. This jurisdiction includes the power to order the return of the child to the sending state. Also, the sending state retains the right to terminate its jurisdiction under limited circumstances (e.g. the child is adopted or turns 18) and if the sending state terminates its jurisdiction, the sending state must notify the child placing agency in the receiving state. When an issue of child protection or custody is brought before a court in the receiving state, such court must confer with the court of the sending state to determine the most appropriate forum for adjudication.

The act does not limit the receiving state's ability to (1) deal with an act of truancy, delinquency, crime, or behavior committed by the child in the receiving

state which would be a violation of the laws of that receiving state, or (2) take emergency jurisdiction for the protection of the child.

**Assessments.** Generally, prior to the placement of a child into a receiving state, the public child placing agency must request an assessment in the receiving state. Upon receipt of the request from the sending state, the receiving state must initiate an assessment of the proposed placement to determine its safety and suitability. If the proposed placement is a placement with a relative, the public child placing agency of the sending state may request a determination of whether the placement qualifies as a provisional placement. The public child placing agency in the receiving state may request, and is entitled to receive, supporting or additional information necessary to complete the assessment from the agency in the sending state.

**Placement authority.** While the sending state retains primary jurisdiction over the child, the receiving state (through a public child placing agency) must approve the placement of the child into the receiving state prior to the placement. The receiving state must provide written documentation to the sending state regarding a placement that *is not* approved; this determination is not subject to judicial review in the sending state. But, any interested party may seek an administrative review of the decision in the receiving state.

**State responsibility.** During placement, the sending state is responsible for financial support and maintenance and any services beyond public services the child is eligible for in the receiving state. The receiving state is financially responsible for any assessment conducted by the receiving state, any necessary supervision of the placement between the states, and any provision of supervision or services for the child.

### **The Interstate Commission for the Placement of Children**

(R.C. 5103.20, Articles VIII through XIV)

**Membership.** The act establishes the administration of the ICPC by the Interstate Commission for the Placement of Children (Commission), which is a joint commission of member states. The membership must include one commissioner from each member state who is appointed by the executive head of the state human services administration (ODJFS) with ultimate responsibility for the child welfare program. The membership must also include persons from interested organizations, however, these persons are *ex officio* and are not entitled to vote on Commission issues. The governors of non-member states or their designees must be invited to participate in the activities of the Commission on a non-voting basis prior to adoption of the compact by all states. Once membership

is established, the Commission must create an executive committee to operate day-to-day functions of the Commission.

**Powers and duties.** Generally, the Commission has the power to establish a budget, make expenditures, accept donations or gifts, adopt rules, provide dispute resolution between both member and non-member states, carry out administrative functions (e.g. maintain offices or establish committees), and perform any other function necessary to carry out the purpose of the ICPC. The act requires the Commission to meet in a public hearing at least once each calendar year, however the Commission may close all or portions of a meeting if the meeting involves certain issues. The act also provides certain Commission employees with qualified immunity from suit or liability and legal defense in the instance of a civil action. The act also specifies that such persons will be held harmless in the amount of a settlement or judgment obtained against such persons arising out of an actual or alleged act, error, or omission that occurred within the scope of Commission employment, duties, or responsibilities, or that such persons had a reasonable basis for believing occurred within the scope of the Commission employment, duties, or responsibilities, provided that the act, error, or omission did not result from intentional or willful and wanton misconduct on the part of such persons.

**Financing.** The Commission may levy and collect an annual assessment from each member state to cover the cost of the operations and activities of the Commission and its staff, which must be in a total amount sufficient to cover the Commission's annual budget as approved by its members each year. The aggregate annual assessment amount must be allocated based upon a formula to be determined by the Commission. The Commission must not incur obligations of any kind prior to securing the funds adequate to meet the same; nor can the Commission pledge the credit of any of the member states, except by and with the authority of the member state. The Commission must keep accurate accounts of all receipts and disbursements, which are subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the Commission must be audited yearly by a certified or licensed public accountant and the report of the audit must be included in and become part of the Commission's annual report.

#### **Miscellaneous legal provisions**

(R.C. 5103.20, Articles XIV through XVIII, 5103.21, and 5103.22)

**Effective date.** The act specifies that the ICPC becomes effective and binding upon legislative enactment of the ICPC into law by no less than 35 states. The effective date will be the later of July 1, 2007, or upon enactment of the ICPC



into law by the 35th state. Thereafter it becomes effective and binding as to any other member state upon enactment of the ICPC into law by that state.

**Amendments.** The Commission may propose amendments to the ICPC for enactment by the member states. No amendment becomes effective and binding on the member states unless and until it is enacted into law by unanimous consent of the member states.

**Withdrawal and dissolution.** Once effective, the ICPC continues in force and remains binding upon each and every member state; provided that a member state may withdraw from the ICPC specifically repealing the statute that enacted the ICPC into law. Withdrawal from the ICPC must be by the enactment of a statute repealing the same. The effective date of withdrawal is the effective date of the repeal of the statute. The withdrawing state must immediately notify the president of the Commission in writing upon the introduction of legislation repealing the ICPC in the withdrawing state. The Commission must then notify the other member states of the withdrawing state's intent to withdraw. The withdrawing state is responsible for all assessments, obligations and liabilities incurred through the effective date of withdrawal. Reinstatement following withdrawal of a member state occurs upon the withdrawing state reenacting the ICPC or upon such later date as determined by the members of the Commission.

The ICPC dissolves effective upon the date of the withdrawal or default of the member state that reduces the membership in the ICPC to one member state. Upon the dissolution of the ICPC, the ICPC becomes null and void and will be of no further force or effect, and the business and affairs of the Commission will be concluded and surplus funds will be distributed in accordance with the bylaws.

**Severability and construction.** The provisions of the ICPC are severable, and if any phrase, clause, sentence or provision is deemed unenforceable, the remaining provisions of the ICPC continue to be enforceable. The provisions of the ICPC must be liberally construed to effectuate its purposes. Also, nothing in the ICPC is to be construed to prohibit the concurrent applicability of other interstate compacts to which the states are members.

**Binding effect.** Nothing in the ICPC prevents the enforcement of any other law of a member state that is not inconsistent with the ICPC. All member states' laws conflicting with the ICPC or its rules are superseded to the extent of the conflict. All lawful actions of the Commission, including all rules and bylaws promulgated by the Commission, are binding upon the member states. All agreements between the Commission and the member states are binding in accordance with their terms. In the event any provision of the ICPC exceeds the constitutional limits imposed on the legislature of any member state, such



provision is ineffective to the extent of the conflict with the constitutional provision in question in that member state.

**Indian tribes.** The Commission may create guidelines to permit Indian tribes to utilize the ICPC to achieve any or all of the purposes of the ICPC. The Commission must make reasonable efforts to consult with Indian tribes in creating guidelines to reflect the diverse circumstances of the various Indian tribes.

**ODJFS.** The act allows ODJFS to adopt rules necessary for the implementation of the ICPC. The act also specifies that "state human services administration" (as written in the ICPC) means ODJFS.

**Prohibition against revealing information pertaining to a placement**

Former law prohibited a person or governmental entity from knowingly revealing any information contained in a paper, book, or record that was part of the permanent record of a court or maintained by ODJFS, an agency, or an attorney pertaining to a child's placement with an association or institution or pertaining to an adoption without the consent of a court. A violation of this prohibition was a third degree misdemeanor (R.C. 3107.17 and 3107.99). The act removes this prohibition as it pertains to information regarding the placement of a child with an association or institution under R.C. 5103.16 (R.C. 3107.17).

**Recording of appeals**

An appellant who, under state or federal law, appeals a decision or order of an agency administering a family services program must be granted a state hearing by ODJFS if the appellant so requests. Under former law, the hearing had to be tape recorded, however the act broadens the type of recording permitted by stating that the hearing simply must be recorded, rather than specifically requiring that it be a tape recording. (R.C. 5101.35.)

**Adoption of rules concerning Ohio Works First**

The Deficit Reduction Act was enacted in February of 2006. It includes a requirement that states receiving federal funds under the Temporary Assistance for Needy Families (TANF) block grant establish procedures for determining, with respect to TANF recipients, whether activities may be counted as work activities, how to count and verify reported hours of work, and who is a work-eligible individual. States must also establish internal controls to ensure compliance with the procedures. These requirements must be met by September 30, 2006, and be consistent with federal regulations that the United States Secretary of Health and Human Services must promulgate by June 30, 2006. The Secretary is required to reduce a state's TANF block grant by 1 to 5% if the Secretary determines that the

state has failed to meet the new requirements. The amount of the reduction is to be based on the degree of noncompliance.

The act requires the Director of ODJFS to adopt rules as necessary for Ohio to comply with these requirements of the Deficit Reduction Act. The rules must be adopted not later than September 30, 2006, which is the federal deadline. The rules are permitted to deviate from current law governing the Ohio Works First program, Ohio's main TANF program, if that is necessary to bring the state into compliance with the federal requirements.

There are two general statutory processes under which a state agency may adopt a rule: Revised Code Chapter 119. and Revised Code section 111.15. Chapter 119. is known as the Administrative Procedure Act. Section 111.15 is known as the abbreviated rule-making procedure. The major difference between them is that Chapter 119. requires that an agency provide public notice and conduct a hearing on a proposed rule before its adoption but section 111.15 does not. The Director of ODJFS is required to follow the abbreviated rule-making procedure when adopting rules under the act that govern financial and other administrative requirements applicable to ODJFS and county departments of job and family services. All of the other rules are to be adopted in accordance with the Administrative Procedure Act. Further, the rules adopted under the abbreviated rule-making procedure are to be adopted as if they were internal management rules. Internal management rules are not subject to legislative review or invalidation and do not have to be accompanied by a rule summary or fiscal analysis.

The Director of ODJFS must prepare a report that contains recommendations for codifying in the Revised Code the substance of the rules that the act requires the Director to adopt. The Director must submit the report not later than January 1, 2007, to the Governor, Director of Budget and Management, Speaker and Minority Leader of the House of Representatives, and President and Minority Leader of the Senate. (Section 5 of the act.)

### **Task force on implementing the federal domestic violence option**

#### **Creation and functions**

The act creates the Task Force on Implementing the Federal Domestic Violence Option in the Ohio Works First Program. The Task Force is required to study issues pertaining to the implementation of the federal domestic violence option as an exemption to the work and time limit requirements for benefits under

the Ohio Works First Program.<sup>19</sup> The Task Force is also required to (1) assess the current status of domestic violence services in each county, including counseling and screening, (2) review the application and implementation of the federal domestic violence option in other states, and (3) conduct public meetings in different parts of Ohio throughout its existence. (Section 6(A) and (C) of the act.)

### **Membership and organization**

The Task Force will consist of the following members (Section 6(A) of the act):

(1) Three members of the Senate, appointed by the Senate President, not more than two of whom can belong to the same political party as the Senate President;

(2) Three members of the House of Representatives, appointed by the House Speaker, not more than two of whom can belong to the same political party as the House Speaker;

(3) The Director of Job and Family Services, or the Director's designee;

(4) Two individuals representing the Ohio Empowerment Coalition, appointed by the Governor;

(5) Two individuals representing domestic violence prevention organizations, appointed by the Governor;

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<sup>19</sup> *Federal law provides for optional certification of standards and procedures to ensure that states will screen for and identify domestic violence (42 U.S.C. 602(a)(7)). Under this option (the federal domestic violence option), the state may establish standards and procedures to do all of the following:*

*(1) Screen and identify individuals receiving assistance with a history of domestic violence while maintaining the confidentiality of such individuals;*

*(2) Refer such individuals to counseling and supportive services;*

*(3) Waive, pursuant to a determination of good cause, other program requirements (such as time limits (for so long as necessary) for individuals receiving assistance, residency requirements, child support cooperation requirements, and family cap provisions), in cases where compliance with such requirements would make it more difficult for individuals receiving assistance to escape domestic violence or unfairly penalize such individuals who are or have been victimized by such violence, or individuals who are at risk of further domestic violence.*

(6) One individual who has been a victim of domestic violence, appointed by the Governor;

(7) One individual from a county department of job and family services, appointed by the Governor;

(8) One county prosecuting attorney, appointed by the Governor.

Initial appointments must be made no later than 45 days after the act's effective date. And, vacancies must be filled in the same manner as the initial appointments. (Section 6(A) of the act.)

The Task Force must convene for its first meeting no later than 90 days after the act's effective date and must elect a chairperson from among its members. A majority of the members constitutes a quorum for the conduct of meetings and transaction of business. (Section 6(B) of the act.)

### **Report and termination**

The Task Force must prepare and submit a report, no later than December 31, 2006, to the Governor, the President and Minority Leader of the Senate, and the Speaker and Minority Leader of the House of Representatives. The report must include recommendations on how to implement the federal domestic violence option within the Ohio Works First Program. The Task Force ceases to exist when the report is submitted. (Section 6(D) of the act.)

### **Adoption of rules governing adult protective services**

Under continuing law, changed in part by the act, ODJFS may reimburse county departments of job and family services, to the extent that funds are available, for all or part of the costs they incur in implementing the laws governing Adult Protective Services. The Director of ODJFS is also permitted to adopt, amend, or rescind rules that provides for the reimbursement of county departments of job and family services for these costs.

The act specifies that the rules to be adopted are "internal management" rules and removes the Director's express authority to amend or rescind the rules. In addition, the Director is required to adopt internal management rules to (1) implement the statutory requirements governing Adult Protective Services, and (2) require the county departments to collect and submit to ODJFS, or ensure that a designated agency collects and submits to ODJFS, data concerning the implementation of the adult protective services laws. (R.C. 5101.72.)

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## HISTORY

ACTION	DATE
Introduced	12-08-05
Reported, S. Health, Human Services, and Aging	03-02-06
Passed Senate (32-0)	03-08-06
Reported, H. Health	05-10-06
Passed House (94-1)	05-10-06
Senate refused to concur in House amendments (0-31)	05-16-06
House insisted on its amendments and requested conference committee	05-17-06
Senate acceded to request for conference committee	05-18-06
House agreed to conference committee report (91-4)	05-23-06
Senate agreed to conference committee report (33-0)	05-24-06

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