



Bill Analysis

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Legislative Service Commission

H.B. 529

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(As Introduced)

Reps. **Wagner, Martin, Wagoner, Seitz, Fende, J. McGregor, Gilb, Fessler, Reidelbach, DeGeeter, Harwood, C. Evans, Garrison**

BILL SUMMARY

Prospective adoptive parents' and prospective foster caregiver's form concerning the safety and health of a child

- Requires a prospective adoptive parent or foster caregiver to complete a form stating whether a person with whom the person previously resided or currently resides has ever been the subject of any of several actions regarding the safety and health of a child.
- Allows the executive director of the public children services agency (PCSA) to determine whether an assessor will conduct a home study for a prospective adoptive parent who provides an affirmative response on the form described in the preceding dot point.
- Allows the Department of Job and Family Services (ODJFS) to refuse a foster home certificate to a prospective foster caregiver if that prospective foster caregiver provides an affirmative response on the form described in the second preceding dot point.
- Specifies that knowingly making a false statement on the form above is falsification, a first-degree misdemeanor.
- Requires the above form to be included in the home study report.

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

- 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 every 30 days until the court issues an interlocutory order or 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 adoptive placement

- Requires an agency or attorney arranging an adoption to notify the county PCSA where the prospective adoptive parent resides, upon initiation of a home study, of an impending adoptive placement.
- 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.
- Grants the agency or attorney sharing information a qualified immunity from civil liability from acts or omissions in connection with the sharing of information.
- Authorizes the Director of ODJFS to adopt administrative rules to (1) require the results of a search of the central registry of reports of abuse and neglect, or its successor, to be included in the home study report, and (2) specify an appeals procedure for persons whose application for adoption has been denied because of the results of a search of the central registry, or its successor.

Adoption prefinalization assessment report

- Requires, if applicable, the assessor's prefinalization assessment to include the documents or forms created by the bill 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.

PCSA caseworker and supervisor training

- Increases from 90 to 102 the number of hours of in-service training required of a caseworker hired by a PCSA.
- Requires a PCSA caseworker to complete training courses in accepting reports of child abuse, neglect, and dependency, and in assessing child safety.
- Requires a PCSA supervisor to complete training courses in how to accept reports of child abuse, neglect, or dependency.

Child abuse or neglect reporting

- Adds 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 PCSA to assist in providing child or family related services to the list of individuals that are required, under current law, to report knowledge or suspicion of child abuse or neglect.

CONTENT AND OPERATION

Home studies

Current 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)."¹ (Current R.C. 3107.031, renumbered by the bill as R.C. 3107.032.)

Under current law, every two years the Ohio Department of Job and Family Services (ODJFS) must pass upon the fitness of every institution and association that receives, or desires to receive and care for children, including foster caregivers (R.C. 5103.03(B)). Pursuant to this duty, prospective foster caregivers are assessed to ensure their compliance with various requirements for foster caregiving, and the assessment includes a home study (O.A.C. 5101:2-5-21).

Prospective adoptive parents' and prospective foster caregiver's form concerning the safety and health of a child

Current law requires the administrative director of an agency, or attorney, who arranges an adoption for a prospective adoptive parent to require the Superintendent of the Bureau of Criminal Identification and Investigation (BCII) to conduct a criminal records check with respect to the prospective adoptive parent and all persons 18 years of age or older who reside with the prospective adoptive parent. The Superintendent must determine whether the subject of the check has been convicted of or pleaded guilty to certain offenses. A person who has pleaded guilty to or been convicted of one of these offenses generally may not be an adoptive parent or foster caregiver. (R.C. 2151.86, not in the bill.)

The bill additionally requires a prospective foster caregiver and, before an assessor conducts a home study, a person seeking to adopt a minor, to complete a form stating whether an individual who previously resided or currently resides with the prospective adoptive parent or prospective foster caregiver either was, or is, the subject of one of several actions, including (R.C. 3107.031(A) and 5103.0328(A)(1)):

(1) The taking into custody (as a child) by a law enforcement officer or officer of the court when there are reasonable grounds to believe that:

- The child is suffering from illness or injury and is not receiving proper care and therefore comes under the legal definition of a neglected child, and the child's removal is necessary to prevent immediate or threatened physical or emotional harm;

¹ *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>).*

- The child is in immediate danger from the child's surroundings and that the child's removal is necessary to prevent immediate or threatened physical or emotional harm;
- A parent, guardian, custodian, or other household member of the child's household has abused or neglected another child in the household and that the child is in danger of immediate or threatened physical or emotional harm from that person;
- The child has run away from the child's parents, guardian, or other custodian;
- The conduct, conditions, or surroundings of the child are endangering the health, welfare, or safety of the child.

(2) Placement into the temporary or permanent custody of an agency or other person after removal from the home by a person or entity other than the prospective adoptive parent;

(3) An abuse, neglect, or dependency adjudication;

(4) An action similar to one described above that has occurred or is occurring in another state.

Whoever knowingly makes a false statement on the form is guilty of falsification, a misdemeanor of the first degree (R.C. 3107.031(A)(2) and 5103.0328(A)(2)).

If the person seeking to adopt a minor provides an affirmative response on the form, the executive director of the public children services agency (PCSA) in the county in which the person seeking to adopt resides is required to determine whether the assessor must conduct the home study (R.C. 3107.031(B)). If a home study is conducted, the form must be included in the home study report (R.C. 3107.32, renumbered from R.C. 3107.031). If the person seeking to become a prospective foster caregiver provides an affirmative response on the form, the ODJFS may refuse to issue the prospective foster caregiver a foster home certificate (R.C. 5103.0328(B)).²

² *There could be circumstances in which the form concerning the safety and health of a child might not be completed for a given adoption. Current law excludes from the requirement to complete a home study a foster caregiver seeking to adopt a foster child if the foster child has resided in the foster caregiver's home for at least 12 months prior to the submission of an application to adopt (R.C. 3107.031). Additionally, administrative rule states that a home study is valid for six years from the date of the initial approval of*

The Director of ODJFS is authorized to adopt administrative rules as necessary for the implementation and execution of these provisions (R.C. 3107.031(C) and 5103.0328(C)).

Multiple children assessments

Under the bill, 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 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. 3107.032 (renumbered from R.C. 3107.031) and 3107.033(A) and (C).)

The bill 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. 3107.033(B)).

Prospective adoptive home visits

The Administrative Code currently 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 bill requires the assessor conducting the home study to conduct a prospective adoptive home visit in that home no 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 an interlocutory order or final decree of adoption. The prospective adoptive home visits are designed to evaluate the progression of the placement in the prospective adoptive home. The assessor must include the

the applicant as an adoptive parent. However, the home study must be updated if there have been changes to the family's composition or life circumstances, including but not limited to the finalization of an adoption or a criminal conviction of an approved adoptive applicant. (O.A.C. 5101:2-48-12(L) and (O).)

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. 3107.32 (renumbered from R.C. 3107.031) and 3107.101(A) and (D).)

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 (R.C. 3107.101(B)).

The Director of ODJFS is required to adopt administrative rules as necessary concerning the prospective adoptive home visits, including rules regarding the assessor's required contact with all other children and adults residing in the prospective adoptive home (R.C. 3107.101(B) and (C)).

Sharing of information concerning a pending adoption

Under the bill, a PCSA arranging a cross-county adoption, and a private child placing agency, private noncustodial agency, or an attorney arranging an adoption must notify the PCSA in the county in which the prospective adoptive parent resides of an impending adoptive placement in that prospective adoptive parent's home. The notification must be sent upon initiation of the home study. (R.C. 3107.10(A).) 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 (R.C. 3107.10(B)). The notification does not apply 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 (R.C. 3107.10(D)).

The bill 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 of rules concerning searches of the central registry of reports of abuse or neglect or its successor

Current law requires the Director of ODJFS to adopt administrative rules specifying the manner in which a home study is to be conducted and the information and documents to be included in a home study report. The bill requires two new provisions to be adopted by January 1, 2008 (R.C. 3107.034, renumbered from R.C. 3107.032):

(1) The rules must require the results of a search of the central registry of reports of abuse or neglect, or its successor, to be included in the home study report.³

(2) The rules must specify an appeals procedure for persons whose application for adoption has been denied because of the results of a search of the central registry, or its successor, to be able to appeal the denial to the agency that employed the assessor who filed the report.

Adoption prefinalization assessment report

Under current 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;

³ ODJFS plans to replace this central registry with a statewide automated child welfare information system (SACWIS). According to Sub. S.B. 238 of the 126th General Assembly, As Passed by the Senate, ODJFS must complete statewide implementation of SACWIS by January 1, 2008. (See Sub. S.B. 238 of the 126th General Assembly, As Passed by the Senate, and <http://jfs.ohio.gov/sacwis/>.)

(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 bill adds to the list of items required to be included in the prefinalization assessment, if applicable, the documents or forms required for (1) the home study, (2) the multiple children assessment, (3) the notification to a PCSA of a pending adoptive placement, and (4) the prospective adoptive home visit (R.C. 3107.12(A)(9)).

Permitted adoption related expenses

Current law prohibits a petitioner, person acting on behalf of a petitioner, or agency⁴ 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 arranging the adoption for providing legal services in connection with the placement and adoption, including the home study.

The bill 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.)

Training for a caseworker and a public children services association supervisor

Current law generally requires each caseworker hired by a PCSA to complete at least 90 hours of in-service training during the first year of a caseworker's continuous employment. The training must include courses in recognizing and preventing child abuse and neglect, assessing risks, intervention, providing services to children and their families, and other topics relevant to child abuse and neglect. The bill increases the number of hours the caseworker must complete to 102 hours. The bill also specifies that the courses must consist of courses in accepting reports of child abuse, neglect, and dependency and in assessing child safety. The bill revises the required courses in recognizing and preventing child abuse and neglect to be courses in recognizing and preventing child abuse, neglect, *and dependency*. Similarly, the bill expands the courses on

⁴ An "agency" does not include a PCSA (current R.C. 3107.10, renumbered by the bill as R.C. 3107.055).

other relevant topics to other topics relevant to child abuse, neglect, *and dependency*. (R.C. 5153.122(A).)

Current law also requires each supervisor hired by a PCSA to complete 60 hours of in-service training. The bill requires the training to include courses in how to accept a report of child abuse, neglect, or dependency. (R.C. 5153.122(B).)

Reports and investigations of known or suspected child abuse or child neglect

When a person in one of certain professions, who is acting in an official or professional capacity, 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, that person is prohibited from failing to immediately report that knowledge or suspicion to the appropriate person or agency. These professionals include, but are not limited to, attorneys, physicians, administrators or employees of child day-care centers, and school teachers. A violation of this prohibition is a misdemeanor of the fourth degree. (R.C. 2151.421 and 2151.99.)

The bill adds to the list of professionals who are required to report known or suspected child abuse or neglect employees of a facility or home that provides respite care,⁵ employees of home health agencies, employees of an entity that provides homemaker services, and a third party employed by a PCSA to assist in providing child or family related services (R.C. 2151.421).

Conforming changes

The bill makes several conforming changes. These changes are found in Revised Code sections 2101.11, 3107.014, 3107.141, 3107.61, and 5103.16.

HISTORY

ACTION	DATE
Introduced	03-09-06

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⁵ *"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 bill).*