



**Sub. S.B. 238\***

126th General Assembly  
(As Reported by H. Health)

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**BILL SUMMARY**

**Reports of child abuse and neglect**

- Establishes the Statewide Adoption and 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.
- 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 and not subject to a public records request or to a request by a person to inspect personal information kept on the person by the agency collecting the information.
- Requires that a Public Children Services Agency (PCSA) report an investigation of known or suspected child abuse or child neglect to SACWIS.
- 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

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\* This analysis was prepared before the report of the House Health Committee appeared in the House Journal. Note that the list of co-sponsors and the legislative history may be incomplete.

neglect, but provides that the information is otherwise confidential and not subject to disclosure as a public record or disclosure as a right of a person to inspect their personal information kept by an agency collecting the information.

- Authorizes the Department of Job and Family Services (ODJFS) to develop, on a pilot basis, an "Alternative Response" approach to reports of child abuse, neglect, and dependency.
- Replaces a humane society's authority to summarily take possession of a child with a duty to comply with the general provisions for reporting known or suspected child abuse or neglect.

#### **Criminal records checks**

- Adds arson and aggravated arson to the list of offenses the Superintendent of the Bureau of Criminal Identification and Investigation (BCII) must identify in regards to an applicant for employment with a PCSA.
- 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 offenses such as theft, Medicaid fraud, or identity fraud.

#### **Guardians ad litem**

- Requests that the Supreme Court of Ohio adopt rules concerning guardians ad litem.
- Maintains current law regulating the service 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 case plans that each PCSA and PCPA must conduct.

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

- Makes changes to the laws concerning the Ohio Child Welfare Training Program (OCWTP) 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 existing law, to grant written permission to other persons to inspect these records.

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

- Requires that each PCSA caseworker receive training on assessing safety and risk, 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 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 existing law to prospective foster caregivers**

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

**Placement 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 obliquely.
- 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.

### **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.

### **Confidentiality of information regarding a child's placement**

- Removes the prohibition against disclosure of information kept in a paper, book, or record that is part of the permanent record of a court or maintained by ODJFS, an agency, or an attorney, concerning the placement of a child with an institution or association.

### **Adoption home studies**

- 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 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.

### **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, but also another 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.

**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 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.

**ODJFS rulemaking authority**

- Revises ODJFS's rulemaking authority.

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## CONTENT AND OPERATION

### Reports of child abuse and neglect

#### Current law

A person in one of certain professions who is acting in an official or professional capacity is prohibited from failing to immediately report that knowledge or suspicion 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.

Any person who knows or suspects that a child under 18 years of age (or a mentally retarded, developmentally disabled, or physically impaired child under 21 years of age) has suffered or faces a threat of suffering any physical or mental wound, injury, disability, or condition of a nature that reasonably indicates abuse or neglect of the child, may report or cause reports to be made of that knowledge or suspicion. If such a report is made to a municipal or county peace officer, on receipt of the report the officer is required to refer it to the appropriate PCSA.

Current law also provides procedures for making the mandatory report, rules and procedures regarding follow-ups and investigations regarding the report, a qualified civil immunity regarding the making of the report, rules regarding the use or confidentiality of the report, and rules and procedures regarding protective services based on the report. (R.C. 2151.421(A) to (I), and (K) to (N).)

As part of the required procedures for investigations of a report of known or suspected child abuse or child neglect, the PCSA must report each case to the central registry maintained by the Ohio Department of Job and Family Services (ODJFS) (R.C. 2151.421(F)(1)).

#### The bill--reporting

The bill eliminates the central registry and instead requires the PCSA to report each case to the uniform statewide automated child welfare information system (SACWIS), which the bill requires ODJFS to establish and maintain (R.C. 2151.421(F)(1) and 5101.13(A)).

**The bill--establishment and implementation of a uniform statewide automated child welfare information system**

The bill requires ODJFS to establish and maintain SACWIS in accordance with federal law that provides federal funds for each state that installs a statewide mechanized data collection and information retrieval systems in accordance with federal regulations and guidelines. (R.C. 5101.13(A).)

SACWIS is required 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>1</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. 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 (R.C. 5101.13(B)). ODJFS must promptly notify all PCSAs of the initiation and completion of statewide implementation of SACWIS (R.C. 5101.13(C)).

**The bill--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, or (2) 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). ODJFS is authorized by the bill to adopt administrative rules to carry out the provision of law allowing a person to access information contained in SACWIS, and the bill prohibits the disclosure of information obtained from SACWIS in a manner not specified by rule (R.C. 5101.133 and 5101.134). No person can access or use information contained in SACWIS other than for those reasons prescribed by statute or rules authorized by statute (R.C. 5101.133). A

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<sup>1</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)).

violation of either of these prohibitions is a fourth degree misdemeanor (R.C. 5101.99).

Except as provided above, 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 (R.C. 1347.08 and 5101.131).

**The bill--adoption of rules**

The bill permits ODJFS to adopt R.C. 111.15 rules, as if they were internal management rules, that are necessary to carry out the statutory provisions concerning SACWIS. The bill also directs PCSAs to implement and use SACWIS in accordance with those rules. (R.C. 5101.134.)

**The bill--humane societies**

Currently, an officer or agent of the Ohio Humane Society or a county humane society has 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 is allowed to summarily take possession of the child, then immediately file a complaint with the juvenile court concerning the child. That court would then, subject to prior jurisdiction of another court over the child, have full jurisdiction to deal with the child as provided by law. The bill 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. (R.C. 1717.14.)

**The bill--confidentiality and disclosure of information obtained during an investigation**

The bill requires PSCAs 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 bill 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 bill also authorizes ODJFS to adopt rules, as if they were internal management rules, as necessary to carry out the program. (Section 3 of the bill.)

**Criminal records checks**

**Offenses requiring the taking of fingerprints**

Current law requires the sheriffs of the several counties and the chiefs of police of cities, immediately upon the arrest of any person for a felony, suspicion of a felony, for a crime constituting a misdemeanor on the first offense and a felony on subsequent offenses, and for specified misdemeanors that the Superintendent of the Bureau of Criminal Identification and Investigation (BCII) examines pursuant to a criminal records check for an applicant or employee who is charged with the care of children (see below), and immediately upon the taking into custody of certain allegedly delinquent children, to fingerprint the person. 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 BCII and to the clerk of court having jurisdiction over the prosecution of the offense or adjudication of the act. The bill adds the offenses of arson and aggravated arson to the list of offenses to which these provisions apply. (R.C. 109.60.)

**Criminal record files**

Under current law, the person in charge of a 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 misdemeanors needed for criminal records checks, 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 listed above.

The bill additionally requires that this information be filed about persons convicted of the offenses of arson and aggravated arson. (R.C. 109.57.)

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

The Superintendent of the BCII is required under current 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>2</sup> If the

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<sup>2</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.*

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 bill adds to this 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.)

In addition to the checks described above, current 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 bill 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 5104.012.)

### **Guardians ad litem**

Under current law, a guardian ad litem (GAL) is a person appointed to protect the interest of a child in any proceeding (1) concerning 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, or (2) concerning an alleged abused or neglected child and in any proceeding concerning the 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. Current 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 bill 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 bill maintains current 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 bill.)

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

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

The bill defines "person" for use in the Juvenile Law (Chapter 2151. of the Revised Code) 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 bill).
- 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 (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 bill).

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

Current 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 private child placing agency (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 bill 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 current law, PCSAs and PCPAs are required to conduct administrative reviews of each case plan they prepare and to prepare a written summary of each review. 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. ODJFS must 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 must include any information that ODJFS requires, 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 bill eliminates the requirement for ODJFS to make this report. (R.C. 2151.416.)

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

Current law generally requires certain additional fees collected for certified copies of a birth record, birth certificates, death certificates, and upon filing a divorce decree to be forwarded to the Children's Trust Fund, a fund in the state treasury (R.C. 3109.14, not in the bill). 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 bill 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, current law requires ODJFS to provide budgetary, procurement, accounting, and other related management functions for the

Children's Trust Fund Board. The bill allows ODJFS to adopt administrative rules for these purposes. (R.C. 3109.16.)

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

Current 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 bill eliminates the requirement that these be "internal management" rules. (R.C. 5103.07.)

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

#### **Establishment and requirements**

Current 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 bill, 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, current law authorizes ODJFS to use available state or federal funds as needed. The bill 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 current 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, current law requires ODJFS to oversee the operation of the entity contracted as Coordinator regarding the development, implementation, and management of the program. The bill recognizes 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 current 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 bill 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.) In addition, the bill 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).

Current law requires 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 bill 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 bill 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).

**Duties of the Coordinator.** Currently, the Coordinator is required to do all of the following (R.C. 5153.65):

(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 bill 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.** Current law directs the Director of ODJFS to establish the Ohio Child Welfare Training Program Steering Committee (R.C. 5153.66). Currently, the composition of the Committee includes: (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 bill 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.** Current law requires 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, which must include 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 bill relocates and revises these duties.

The bill states that the Steering Committee must 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, following procedures that the Committee establishes;

(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 current 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 bill 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 current 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 bill additionally requires ODJFS to specify in the grant all of the center's duties. (R.C. 5103.42, renumbered from R.C. 5153.72.)

Under continuing law, rephrased by the bill, 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). Under the bill, an RTC's responsibilities include (R.C. 5103.422, renumbered from R.C. 5153.74):

- (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**

The OCWTP currently 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 (current R.C. 5103.034(A) relocated to R.C. 5103.301 under the bill). However, the OCWTP may condition enrollment in a preplacement or continuing training program of 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 bill).

Current 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. In addition, the OCWTP may condition the enrollment in the program on assignment to the program by the foster caregivers recommending agency the ODJFS compensation allowance. However, the bill 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 bill authorizes the Director of ODJFS to adopt administrative rules as necessary to implement the changes to OCWTP (R.C. 5103.33).

### **Monitoring and evaluation**

Current law 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;

(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 bill transfers the monitoring and evaluation duties to ODJFS and revises those duties.

The bill 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**

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, which are to be performed in accordance with rules adopted by ODJFS. Among these duties are (1) the duty to investigate any allegation that a child is an abused, neglected, or dependent child, (2) to 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) to accept custody of children committed to the PCSA by a juvenile court, and (4) to 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 currently must implement a system of risk assessment to assist in determining the risk of abuse or neglect to a child. 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 may be used at any other time the agency is involved with any child when the agency determines that risk assessment is necessary.

The bill adds to 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 bill 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 bill 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**

Current 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 bill, 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 bill 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(A)(6) and (7)).

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

**Training.** Under current law, 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 bill adds that the first year training must include courses on assessing "safety and risk" (as opposed to assessing "risks") and on the importance of and need for accurate data, preparation for court, and maintenance of case record information. Each PCSA caseworker must also 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 90 hours of training required during the caseworker's first year of employment, or part of the 36 hours of training required during the second year of employment. (R.C. 5153.122.)

**Needs assessments.** Under current 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 bill requires the caseworker and supervisor to complete the individual training needs assessment jointly. (R.C. 5153.125.)

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

**Training.** Current law also 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 current R.C. 5153.122(B)).

The bill relocates this provision and 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 current 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 bill 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. (R.C. 5153.126.)

#### **Adoption of rules**

The bill 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(C) and 5153.124).

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

The bill 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. 5103.0314).
- Makes conforming changes (R.C. 5103.033, 5103.036, and 5103.0313).

**Requirements of preplacement training programs**

**Current law.** Under current law, 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 bill.** The bill 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**

**Current law.** To obtain ODJFS approval of a preplacement or continuing training program, a PCPA and PNA must submit to ODJFS a proposal outlining the program. The proposal is due every other year by a date specified in rules adopted by ODJFS. Not later than 30 days after receiving a proposal, the Department is required to either approve or disapprove it. If ODJFS disapproves a proposal, it must provide the reason for disapproval and advise the PCPA or PNA

that submitted it of how to revise the proposal so that it can be approved. If ODJFS approves a proposal, the approval is valid only for two years following the year the proposal is 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, is required to develop a model design of a preplacement training program and continuing training program. The model designs must include courses that training programs need for ODJFS approval. The Department is required to make the model designs available to the OCWTP, PCPAs and PNAs. (R.C. 5103.037.)

**The bill.** The bill repeals the provisions for the model program described in the preceding paragraph (repeal of R.C. 5103.037). However, the bill still 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 current law, 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 bill 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 current 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.

Instead, the bill 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 bill 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**

Currently, 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 bill 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)).

### **Public records requests**

Current 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 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 day care.

The bill 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 assessors**

Under current 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. The bill permits a licensed marriage and family therapist to act as an adoption assessor (R.C. 3107.014).

The bill 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)(c).)

In addition, under current 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 bill changes the term "education programs" to "training." (R.C. 3107.014, 3107.015, and 3107.016.)

### **Child care law changes**

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

Under current 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 bill instead 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>3</sup> The county

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<sup>3</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

department must request this information from (1) the PCSA, until the county department is notified by ODJFS that the uniform SACWIS has been finalized, and (2) SACWIS, when the PCSA is notified that the uniform SACWIS has been implemented. (R.C. 5104.11(A)(3)(a).)

In addition, current 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 circumstances, the information reasonably leads to the conclusion that the applicant may endanger the health, safety, or welfare of children. The bill additionally requires that the department consider information provided by ODJFS and specifies that the danger to the children to 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, current law 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 bill removes from both definitions the 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).)

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*"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.)*



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

The bill permits only an in-home aide to provide publicly funded child day-care in a child's own home. The in-home aide must be certified by the county department of job and family services. (R.C. 5104.31.)

For the purposes of the Child Care Laws, "in-home aide" currently 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 bill adds that the person must not reside with the child but provide care in the child's home. (R.C. 5104.01(X).)

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

Current law prohibits a person or governmental entity from knowingly revealing any information contained in a paper, book, or record that is 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 is a third degree misdemeanor (R.C. 3107.17 and 3107.99). The bill 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 current law, the hearing must be tape recorded, but neither the recording nor a transcript shall be part of the official record. The bill 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.)

### **Ohio Works First rules to bring state into compliance with Deficit Reduction Act**

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 bill requires that the Director of ODJFS 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 bill 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 is required by the bill to prepare a report that contains recommendations for codifying in the Revised Code the substance of the rules that the bill 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.)

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

Under current law, 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 bill 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**

<b>ACTION</b>	<b>DATE</b>
Introduced	12-08-05
Reported, S. Health, Human Services & Aging	03-02-06
Passed Senate (32-0)	03-08-06
Reported, H. Health	---

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