



Britton Hicks

Bill Analysis
Legislative Service Commission

S.B. 242

126th General Assembly
(As Introduced)

Sen. Armbruster

BILL SUMMARY

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

CONTENT AND OPERATION

Current law

Under current law, the Director of Job and Family Services (ODJFS) must provide administrative rules for licensing crisis nurseries as either a type A or type B crisis nursery, and specifies that the license must not be issued to an applicant if the conditions at the facility would jeopardize the health and safety of the children it provides care to.

A type A crisis nursery provides temporary shelter and other care for not more than 20 children at a time, and each child must be under age six and be either drug exposed, infected with HIV, or referred by a public children services agency (PCSA). In addition, a type A crisis nursery must not provide shelter or care to any child for more than 60 days. A type B crisis nursery provides, without charging a fee for the care or services, temporary services and care to children under 13 years old who are abused and neglected, at a high risk of abuse and neglect, or to members of families receiving child protective services. A type B

crisis nursery must also provide referrals to support services. A type B crisis nursery must not provide services or care for any child for more than 30 days in a year. (R.C. 5101.13.)

The bill

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

Certification

The bill requires the operator of a children's crisis care facility to obtain a certificate for the facility from the Director of ODJFS. The Director must certify the facility if the facility meets the Director's certification standards and the operator complies with all of the Director's other rules regarding certification. The bill prohibits the operation of an uncertified children's crisis care facility and prohibits a facility from holding itself out as a certified children's crisis care facility unless it has obtained the certification (R.C. 5101.13(B) and (C)).¹ Under the bill, a "children's crisis care facility" is a facility that has as its primary purpose the provision of residential and other care to either or both of the following (R.C. 5101.13(A)(1)(a)):

(1) One or more pre-teens² voluntarily placed in the facility by the pre-teen's parent who is facing a crisis that causes the parent to seek temporary care for the pre-teen and referral for support services;

(2) One or more pre-teens placed in the facility by a PCSA or private child placing agency (PCPA) that has legal custody³ or permanent custody⁴ of the pre-teen when the agency determines that an emergency situation exists necessitating

¹ *The bill does not provide a penalty for a violation of either prohibition.*

² *A "pre-teen" is an individual under 13 years of age (R.C. 5103.13(A)(3)).*

³ *"Legal custody" means a legal status that vests in the custodian the right to have physical care and control of the child and to determine where and with whom the child lives, and the right and duty to protect, train, and discipline the child and to provide the child with food, shelter, education, and medical care, all subject to any residual parental rights, privileges, and responsibilities (R.C. 2151.011(B)(19)).*

⁴ *"Permanent custody" means a legal status that vests in a PCSA or a PCPA, all parental rights, duties, and obligations, including the right to consent to adoption, and divests the natural parents or adoptive parents of all parental rights, privileges, and obligations, including all residual rights and obligations (R.C. 2151.011(B)(30)).*

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

The bill exempts from the requirement to obtain a certification as a "children's crisis care facility" (1) any organization, society, association, school, agency, child guidance center, detention or rehabilitation facility, or children's clinic licensed, regulated, approved, operated under the direction of, or otherwise certified by the Department of Education, a local board of education, the Department of Youth Services, the Department of Mental Health, or the Department of Mental Retardation and Developmental Disabilities, and (2) an individual who provides care for only a single-family group, placed there by their parents or other relative having custody (R.C. 5101.13(A)(1)(b)).

The issuance of a children's crisis care facility certificate does not exempt the facility from the requirement to obtain another certificate or license mandated by law (R.C. 5101.13(C)). For example, if the facility is also an association or institution,⁵ it would have to be certified as such under the foster care laws (R.C. 5103.03).

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

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

⁵ "Association" or "institution" includes any (1) incorporated or unincorporated organization, society, association, or agency, public or private, that receives or cares for children for two or more consecutive weeks, (2) any individual, including the operator of a foster home, who, for hire, gain, or reward, receives or cares for children for two or more consecutive weeks, unless the individual is related to them by blood or marriage, and (3) any individual not in the regular employ of a court, or of a certified institution or association who in any manner becomes a party to the placing of children in foster homes, unless the individual is related to such children by blood or marriage, or is the appointed guardian of such children (R.C. 5103.02).

authorize the facility to provide care for the pre-teen for up to 14 consecutive days. (R.C. 5101.13(D).)

Criminal records checks

Certified children's crisis care facilities must conduct criminal records checks on all applicants for employment in the facility and generally are prohibited from employing a person who has pleaded guilty to or been convicted of certain offenses⁶ (R.C. 2151.011(B)(32) and 5103.13(D)(1)(d) and R.C. 2151.86--not in the bill).

Revocation of a certification

The bill permits the Director of ODJFS to suspend or revoke the certificate of a children's crisis care facility if the facility fails to adhere to the requirements regarding the length of time a pre-teen can be cared for in the facility, fails to complete a criminal records check on an employee, or ceases to meet or comply with any of the certification standards established by administrative rule (R.C. 5101.13(E)).

Rules

The bill retains an updated version of the requirement that the Director of ODJFS adopt administrative rules requiring that a certificate not be issued to an applicant if the conditions at the facility would jeopardize the health or safety of the pre-teens in its care. The bill requires that these rules be adopted within 90 days of the effective date of the bill. (R.C. 5101.13(F).)

Federal grants

The bill authorizes ODJFS to apply to the United States Secretary of Health and Human Services for a federal grant under the "Child Abuse Prevention and Treatment Act," 42 U.S.C. 5116, to assist children's crisis care facilities certified under the bill in providing temporary residential and other care to pre-teens. Current law authorizes ODJFS to apply for federal grants under the "Temporary

⁶ *The list of criminal offenses includes, but is not limited to various homicide and assault offenses, failing to provide for a functionally impaired person, patient abuse, patient neglect, kidnapping, abduction, criminal child enticement, rape and other sexually oriented offenses, arson, endangering children, contributing to the unruliness or delinquency of a minor, domestic violence, carrying a concealed weapon, various drug offenses, placing harmful objects in food or confection, or a violation of an existing or former law of this state, any other state, or the United States that is substantially equivalent to any of the specified offenses.*

Child Care for Children With Disabilities and Crisis Nurseries Act," 100 Stat. 907 (1986), 42 U.S.C. 5117, which was repealed in 1996 (110 Stat. 3089). (R.C. 5103.131.)

HISTORY

ACTION	DATE
Introduced	12-20-05

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