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Sens. Niehaus, Cates, Kearney, Austria, Clancy, Schuring, Padgett, Sawyer, Schaffer, Carey, Coughlin, Faber, Fedor, Gardner, Grendell, Harris, Mason, D. Miller, Roberts, Schuler, Spada, Stivers, Mumper, R. Miller, Jacobson

Reps. Uecker, Bolon, Boyd, Celeste, Chandler, Combs, Domenick, Dyer, Evans, Flowers, Heard, Jones, Letson, Mallory, Setzer, Wagner, White

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ACT SUMMARY

- In provisions that require various persons within the criminal justice system to provide certain information to the Bureau of Criminal Identification and Investigation (BCII), expands the information that must be provided to also require information regarding any misdemeanor described in a criminal records check provision located in R.C. 109.572(A)(8)(a).
- Requires that the weekly report of case summaries sent by clerks of court to BCII under one of the provisions described in the preceding dot point include the date of offense, summons, or arraignment.
- Clarifies that if a person or child has not been arrested and first appears before a court or magistrate in response to a summons, the court must order the person or child to appear before the sheriff or chief of police within 24 hours for fingerprinting.
- Expands the offenses for which a person who is arrested, taken into custody, or issued a summons is subjected to fingerprinting to additionally include a misdemeanor described in R.C. 109.572(A)(8)(a).
- Modifies the law regarding the Retained Applicant Fingerprint Database to specify that the Database include the fingerprints of individuals on whom BCII has conducted criminal records checks for the purpose of

- determining approval for adoption by a public office and modifies the law to require that the rules adopted by the Attorney General governing the operation and maintenance of the Database provide for the expungement or sealing of records of individuals who are no longer granted licensure or approved for adoption by the public office that required the submission of the person's fingerprints.
- Requires that when the Superintendent of BCII receives information that an individual whose name is in the Retained Applicant Fingerprint Database has pleaded guilty to any offense, the Superintendent promptly notify any participating public office that employs, licenses, or approved the individual of the guilty plea.
 - Requires that when the Superintendent of BCII receives information that an individual whose name is in the Retained Applicant Fingerprint Database has been arrested for, convicted of, or pleaded guilty to any offense, the Superintendent promptly notify any participating public office that approved the individual of the arrest, conviction, or guilty plea.
 - Provides that BCII and the participating public office must use the information contained in the Retained Applicant Fingerprint Database and in the notices described in the previous two dot points for the purpose of employment with, licensure by, or approval for adoption by the participating public office and provides that this information is otherwise confidential and not a public record.
 - Provides that if an individual has submitted fingerprint impressions for employment with, licensure by, or approval for adoption by a participating public office and seeks employment with, licensure by, or approval for adoption by another participating public office, the other public office must reprint the individual and the Superintendent of BCII must update that individual's information accordingly.
 - For purposes of the law regarding the Retained Applicant Fingerprint Database, expands the definition of "licensure" to include the authorization to be a foster caregiver and expands the definition of "participating public office" to include an office that requires a fingerprint background check as a condition of approval for adoption by the public office and that elects to receive notice that an individual whose

name is in the Retained Applicant Fingerprint Database has been arrested for, convicted of, or pleaded guilty to any offense.

- Modifies the law regarding the uniform statewide automated child welfare information system by: (1) specifying that the Department of Job and Family Services (ODJFS) must finalize statewide implementation of the system by all public children services agencies not later than January 1, 2008, (2) expanding the entities that may access information contained in the system to also permit access by a Title IV-E agency, a prosecuting attorney, a private child placing agency, and a private noncustodial agency in connection with assessment, investigation, or services regarding a child or family or when permitted by state or federal law, rule, or regulation, (3) allowing ODJFS and other specified entities to also enter information when the entry is directly connected with an assessment, investigation, or services regarding a child or family, or when permitted by law or rule, and (4) providing that, until the system is implemented statewide, agencies or persons required to include a summary report pursuant to adoption or foster care provisions must request a check of the Ohio Central Registry of Abuse and Neglect and that after the system is implemented statewide, all private agencies must request a check of that system until the private agency can access the system and conduct its own search.
- Modifies the law regarding criminal records checks required for any prospective out-of-home care provider, foster caregiver, or adoptive parent by: (1) specifying that such a check must be requested regarding a prospective adoptive parent and specified persons who reside with the prospective adoptive parent at the time of the initial home study, every four years after the initial home study at the time of an update, and at the time an adoptive home study is completed as a new home study, (2) specifying that such a check must be requested regarding a prospective foster caregiver and specified persons who reside with the foster caregiver before submitting a recommendation to ODJFS on whether a foster home certificate should be issued and every four years after the submission of a recommendation to ODJFS prior to a recertification of the foster home, (3) specifying that such a check requested at the time of the initial home study regarding an adoption or prior to the submission of a recommendation to ODJFS regarding foster home certification must request an FBI check for the person subject to the check, and (4) specifying that every request for an FBI check for any of the specified

persons must request that information obtained from the FBI include fingerprint based checks of national crime information databases.

- Expands the list of offenses that disqualify a person from providing out-of-home care, being certified as a foster parent, or being approved as an adoptive parent to include the following: cruelty to animals, permitting child abuse, menacing by stalking, menacing, soliciting or providing support for act of terrorism, making terroristic threat, terrorism, identity fraud, inciting to violence, aggravated riot, ethnic intimidation, or two or more state OVI or state OVUAC violations, or substantially equivalent offenses, committed within the three years immediately preceding the submission of the person's application.
- Allows a public children services agency to access the otherwise confidential criminal records checks for prospective out-of-home care providers, foster caregivers, or adoptive parents.
- Directs a prospective foster caregiver, prior to certification or recertification, to notify the recommending agency of the revocation of any foster home license, certificate, or other similar authorization in another state occurring within five years prior to the date of application to become a foster caregiver in Ohio, prohibits ODJFS from issuing a foster home certificate to that person if the person has had such a revocation, and specifies that the failure of a prospective foster caregiver to notify the recommending agency of any such revocation in another state occurring within that five-year period is grounds for denial of the person's foster home application or the revocation of the person's foster home certification, whichever is applicable.
- Prohibits ODJFS from issuing a certificate to a prospective foster home or prospective specialized foster home pursuant to a specific ongoing statutory authority if the prospective foster home operates as a type A family day-care home or in the case of a prospective specialized foster home if the prospective specialized foster home operates as a type B family day-care.
- Requires ODJFS, not later than 96 hours after receiving notice from BCII or otherwise learning that a foster caregiver has been arrested for, convicted of, or pleaded guilty to an offense that disqualifies a person from being a foster caregiver, to provide notice of that arrest, conviction, guilty plea, or adjudication to the recommending agency relative to the

foster caregiver and the custodial agency of any child currently placed with that caregiver.

- Requires that the recommending agency referred to in the previous dot point, upon receipt of the notice or otherwise learning that a foster caregiver has been arrested for, convicted of, or pleaded guilty to any foster caregiver-disqualifying offense, to assess the foster caregiver's overall situation for safety concerns and forward any recommendations, if applicable, for revoking the foster caregiver's certificate to ODJFS for ODJFS's review for possible revocation.
- Requires the Director of ODJFS to adopt rehabilitation standards that a person who has been convicted of or pleaded guilty to a disqualifying offense must satisfy in order for ODJFS to not revoke a foster home certificate for a disqualifying violation.
- Authorizes ODJFS to revoke the certificate of any foster caregiver who has not cared for one or more foster children in the foster caregiver's home within the preceding 12 months, but specifies that, prior to the revocation, the recommending agency must have the opportunity to provide good cause for ODJFS to continue the certification and not revoke the certification and that, if ODJFS decides to revoke the certification, ODJFS must notify the recommending agency that the certification will be revoked.
- Prohibits a foster caregiver or prospective foster caregiver from failing to notify the recommending agency if a person at least 12 years of age but less than 18 years of age who resides with the foster caregiver or prospective foster caregiver has been convicted of, pleaded guilty to, or adjudicated a delinquent child for committing a state OVI or OVUAC violation or a substantially equivalent offense if the person previously was convicted of or pleaded guilty to one or more such violations within the three years immediately preceding the current violation, and specifies that a recommending agency that learns that a foster caregiver has failed to comply with this requirement must notify ODJFS and ODJFS must revoke the foster caregiver's foster home certificate.
- Requires that before a foster home is certified or recertified a recommending agency must obtain a summary report of a search of the uniform statewide automated child welfare information system from an entity that is authorized to access the system, and requires that, whenever

a prospective foster parent or any person 18 years of age or older who resides with the prospective foster parent has resided in a state other than Ohio within the five-year period immediately prior to the date on which a criminal records check is requested for the person, the recommending agency must request a check of the Ohio Central Registry of Abuse and Neglect from ODJFS regarding the prospective foster parent or person to enable the agency to check any child abuse and neglect registry maintained by that other state.

- Provides that prior to a hearing on a final decree of adoption or interlocutory order of adoption by a probate court, the administrative director of an agency, or an attorney, who arranges an adoption for a prospective parent must provide the clerk either: (1) any information received from BCII or the FBI as part of the criminal records check, including fingerprint checks of national crime information databases or (2) written notification that the person subject to the criminal records check failed upon request to provide the necessary information or failed to provide required impressions of the person's fingerprints.
- Provides that, whenever a prospective adoptive parent or a person 18 years of age or older who resides with a prospective adoptive parent has resided in a state other than Ohio within the five-year period immediately prior to the date on which a criminal records check is requested for the person, before a final decree of adoption or an interlocutory order of adoption may be made, the administrative director of an agency, or attorney, who arranges the adoption must request a check of the Ohio Central Registry of Abuse and Neglect from ODJFS regarding the prospective adoptive parent or person to enable the agency or attorney to check any child abuse and neglect registry maintained by that other state.
- Related to the provisions described in the preceding dot point, specifies that ODJFS rules regarding the information and documents to be included in a home study report must include a report of a check of a central registry of a state other than Ohio if such a check is required under the provision described in the preceding dot point.
- Requires ODJFS to include in its rules governing type B family day-care homes requirements that the type B home notify parents with children in the home that the home is also certified as a foster home.

- In provisions that require the Director of ODJFS to provide to each day-care licensee notice of proposed rules governing the licensure of child day-care centers and type A homes and require the county director of job and family services to provide to authorized providers and in-home aides copies of proposed rules, specifies that the notice or copies may be provided or made available in either paper or electronic form.
- Modifies the law regarding criminal records checks required for child day-care centers, type A homes, and type B homes by: (1) specifying that ODJFS or a county department of job and family services, whichever is applicable, must request such a check for the specified persons at the time of the initial application for licensure as a center or type A home or certification as a type B home and every four years thereafter at the time of a license or certification renewal, (2) specifying that the administrator of a center or a type A home must request such a check for a prospective employee or in-home aide at the time of the applicant's initial application for employment and every four years thereafter at the time of a license renewal and removing references to a provider of a type B home requesting a check for prospective employees (type B homes supposedly never have employees), (3) specifying that such a check requested at the time of an initial application for licensure or certification or at the time of an applicant's initial application for employment must request an FBI check for the person subject to the check, and that every request for such an FBI check must request that information obtained from the FBI include fingerprint based checks of national crime information databases, and (4) specifying that the administrator of a care center or type A home must review the results of the check before the applicant has sole responsibility for the care, custody, or control of any child and ODJFS and the director of a county department must review the results of the check prior to approval of a license or certification, whichever is applicable.
- Consolidates the two lists of offenses that disqualify a person from the issuance of a license to a child day-care center or type A home, the certification of a type B home, or employment by a center or home as a person responsible for the care, custody, or control of a child, expands the list of disqualifying offenses so that it also includes the offense of menacing, and removes references to a provider of a type B home from the provisions regarding disqualifying offenses for a prospective employee (type B homes supposedly never have employees).

- In provisions not directly linked to criminal records checks that disqualify a person convicted of an offense included in either of two lists of specified offenses from certification as an in-home aide or employment in, or ownership or operation of, a child day-care center, type A family day-care home, type B family day-care home, or certified type B family day-care home, revises the specified disqualifying offenses so that they include any offense specified under the consolidated list described in the preceding dot point and any offense specified in either of the lists retained by the act.
- Prohibits ODJFS from licensing a prospective type A family day-care home if that prospective home is certified to be a foster home or specialized foster home and prohibits a county department of job and family services from certifying a prospective type B family day-care home if that home is certified as a specialized foster home.
- In provisions of law that pertain to permanent custody of a child who has been in the temporary custody of an agency for 12 or more months of a consecutive 22-month period, eliminates references to the 22-month period ending on or after March 18, 1999.
- Specifies that if a child has been in the temporary custody of one or more public children services agencies or private child placing agencies and the child previously was in the temporary custody of an equivalent agency in another state, the agency with custody of the child must apply the time in temporary custody in the other state to the time in temporary custody in Ohio and unless specified circumstances are present, if the time spent in temporary custody equals 12 months or more of a consecutive 22-month period, the agency with custody may file a motion requesting permanent custody.
- Modifies two of the four specified circumstances used by a court in determining whether to grant permanent custody so that, under those two circumstances, the court may grant permanent custody of a child to an agency if it finds that it is in the best interest of the child and that either of the following applies: (1) the child has not been in the temporary custody of one or more public children services agencies or private child placing agencies for 12 or more months of a consecutive 22-month period if the child was previously in the temporary custody of an equivalent agency in a state other than Ohio, and the child cannot be

placed with either of the child's parents within a reasonable time or should not be placed with the child's parents, or (2) the child has been in the temporary custody of one or more public children services agencies or private child placing agencies for 12 or more months of a consecutive 22-month period and the child was previously in the temporary custody of an equivalent agency in a state other than Ohio.

- Provides that, in any review hearing that pertains to a permanency plan for a child who will not be returned to the parent, the court must consider in-state and out-of-state placement options and must determine whether the in-state or the out-of-state placement continues to be appropriate and in the best interests of the child and that in any review hearing that pertains to a permanency plan, the court or a citizens board appointed by the court must consult with the child, in an age-appropriate manner, regarding the proposed permanency plan for the child.
- In provisions that govern certain reviews or hearings regarding foster care placement of a child, custody of a child with a relative other than a parent, or adoption of a child, specifies that the foster caregiver, relative, or prospective adoptive parent has the right to present evidence (replacing the statement that the foster caregiver, relative, or prospective adoptive parent may present evidence).
- Includes a provision permitting the clerk of the court of common pleas to sign a required memorandum of understanding to minimize interviews of children who are the subject of alleged child abuse.
- Requires the Director of ODJFS to convene a work group to study and make recommendations to the Director regarding both of the following: (1) support for positive child and family outcomes offered to public children services agencies, private child placing agencies, and private noncustodial agencies by ODJFS, and (2) the establishment of fines and sanctions for public children services agencies, private child placing agencies, and private noncustodial agencies that do not comply with foster care related laws or rules.
- In two continuing provisions that list certain Revised Code sections, refer to certain types of actions that occur under the listed sections, and link certain restrictions related to the custody of a child to those actions, includes references to existing or former laws of Ohio, any other state, or

the United States that are substantially equivalent to the listed Revised Code sections retained by the act.

- In the provisions of law that govern a putative father's consent to the adoption of any child born prior to January 1, 1997, removes references to the Department of Human Services (the predecessor department to ODJFS) regarding a putative father's filing of objections with the Department to the adoption of the child.
- Expands the categories of professions to which the state's mandatory child abuse and neglect reporting provision applies to also include an employee of a county department of job and family services who is a professional and who works with children and families.
- Removes the requirement in an uncodified section of law enacted in Am. Sub. H.B. 119 of the 127th General Assembly that requires the Ohio Department of Mental Health to conduct a study of children placed using the Child Placement Level of Care Tool.

TABLE OF CONTENTS

Provision of information to BCII	12
Prior law	12
Operation of the act	14
When a court must order a person to be fingerprinted	14
Prior law	14
Operation of the act	15
Retained Applicant Fingerprint Database	16
Prior law	16
Operation of the act	16
Uniform statewide automated child welfare information system	17
Prior law	17
Operation of the act	18
Criminal records checks for prospective out-of-home care providers, foster parents, and adoptive parents	19
Types of required criminal records checks.....	19
Operation of the act	20
Disqualifying offenses.....	22
Confidentiality of criminal records checks	23
Foster caregiver notices	24
Certification of specified foster caregivers	24
Prior law	24

Operation of the act	25
Revocation of a foster caregiver's certificate for conviction of disqualifying offense	25
Revocation of a foster caregiver's certificate if no foster children within 12-month period	26
Continuing law	26
Operation of the act	26
Foster caregiver notification if minor residing with the caregiver is convicted of or found to be delinquent or a juvenile traffic offender for committing a specified offense	27
Prior law	27
Operation of the act	27
Search of the uniform statewide automated child welfare system before certification as a foster home.....	28
Search of uniform statewide automated child welfare information system and central registries in other states, in an adoption.....	29
Prior law	29
Operation of the act	29
Provisions regarding child day-care centers, type A homes, and type B homes....	31
Requirement that a type B family day-care home notify parents that the home is also certified as a foster home.....	31
Provision of proposed rules regarding child day-care centers, type A homes, type B homes, and in-home aides	31
Criminal records checks	31
Separate disqualification of certain offenders from day-care ownership, operation, certification, or employment	35
No licensure or certification if the home is a foster home	38
Permanent custody of a child who has been in the temporary custody of a public children services agency for 12 or more months of a consecutive 22-month period	39
Prior law	39
Operation of the act	39
Review hearings that pertain to permanency plans	40
Presentation of evidence at hearing or review regarding foster care or relative placement or prospective adoption of a child.....	41
Prior law	41
Operation of the act	41
Public children services agency memorandum of understanding	41
ODJFS work group.....	42
References to former Ohio laws and the laws of other states	42
Putative father consent to adoption	43
Mandatory reporter--child abuse or neglect	44

CONTENT AND OPERATION

Provision of information to BCII

Prior law

Prior law largely retained by the act contains a series of provisions that pertain to the provision of information by various persons within the criminal justice system to the Bureau of Criminal Identification and Investigation (BCII) and the sharing of the information. A summary of the prior law's provisions follows:

Procurement by BCII Superintendent. Prior law required BCII's Superintendent to procure from wherever procurable and file for record photographs, pictures, descriptions, fingerprints, measurements, and other information that may be pertinent of all persons who have been convicted of committing within Ohio a felony, a crime constituting a misdemeanor on the first offense and a felony on subsequent offenses, or a misdemeanor described in division (A)(1)(a) or (A)(10)(a) of R.C. 109.572 (those provisions pertain to mandatory criminal records checks of persons who are under consideration for certain types of employment or licensing, generally involving specified positions that have frequent and regular contact with children), of all children under 18 years of age who have been adjudicated delinquent children for committing within Ohio an act that would be a felony or an offense of violence if committed by an adult or who have been convicted of or pleaded guilty to committing within Ohio a felony or an offense of violence, and of all well-known and habitual criminals (R.C. 109.57(A)(1)).

Provision by correctional facility official. Prior law required the person in charge of any local jail or workhouse, community-based correctional facility, halfway house, alternative residential facility, or state correctional institution and the person in charge of any state institution having custody of a person suspected of having committed a felony, a crime constituting a misdemeanor on the first offense and a felony on subsequent offenses, or a misdemeanor described in R.C. 109.572(A)(1)(a) or (A)(10)(a) or having custody of a child under 18 years of age with respect to whom there is probable cause to believe that the child may have committed an act that would be a felony or an offense of violence if committed by an adult to furnish material of the type described in the preceding paragraph to BCII's Superintendent (R.C. 109.57(A)(1)).

Provision by clerk of court. Prior law required every clerk of a court of record in Ohio, other than the Supreme Court or a court of appeals, to send to BCII's Superintendent a weekly report containing a summary of each case

involving a felony, involving a crime constituting a misdemeanor on the first offense and a felony on subsequent offenses, involving a misdemeanor described in R.C. 109.572(A)(1)(a) or (A)(10)(a), or involving an adjudication in a case in which a child under 18 years of age was alleged to be a delinquent child for committing an act that would be a felony or an offense of violence if committed by an adult. The summary had to be written on standard forms furnished by the Superintendent and had to include the following information: (1) the incident tracking number contained on the standard forms furnished by the Superintendent, (2) the style and number of the case, (3) the date of arrest, (4) the date that the person was convicted of or pleaded guilty to the offense, adjudicated a delinquent child for committing the act that would be a felony or an offense of violence if committed by an adult, found not guilty of the offense, or found not to be a delinquent child for committing an act that would be a felony or an offense of violence if committed by an adult, the date of an entry dismissing the charge, an entry declaring a mistrial of the offense in which the person is discharged, an entry finding that the person or child is not competent to stand trial, or an entry of a *nolle prosequi*, or the date of any other determination that constitutes final resolution of the case, (5) a statement of the original charge with the Revised Code section allegedly violated, (6) if the person or child was convicted or was adjudicated a delinquent child, the sentence or terms of probation imposed or any other disposition of the offender or the delinquent child. (R.C. 109.57(A)(2).)

BCII establishment of identification system. Prior law required BCII's Superintendent to cooperate with and assist sheriffs, chiefs of police, and other law enforcement officers in the establishment of a complete system of criminal identification and in obtaining fingerprints and other means of identification of all persons arrested on a charge of a felony, a crime constituting a misdemeanor on the first offense and a felony on subsequent offenses, or a misdemeanor described in R.C. 109.572(A)(1)(a) or (A)(10)(a) and of all children under 18 years of age arrested or otherwise taken into custody for committing an act that would be a felony or an offense of violence if committed by an adult. The Superintendent also was required to file for record the fingerprint impressions of all persons confined in a local jail or workhouse, community-based correctional facility, halfway house, alternative residential facility, or state correctional institution for the violation of state laws and of all children under 18 years of age who are confined in a local jail or workhouse, community-based correctional facility, halfway house, alternative residential facility, or state correctional institution or in any facility for delinquent children for committing an act that would be a felony or an offense of violence if committed by an adult, and any other information that the Superintendent may receive from law enforcement officials. (R.C. 109.57(A)(3).)

Data processing center or communications network. Prior law authorized BCII's Superintendent to operate a center for electronic, automated, or other data

processing for the storage and retrieval of information, data, and statistics pertaining to criminals and to children under 18 years of age who are adjudicated delinquent children for committing an act that would be a felony or an offense of violence if committed by an adult, criminal activity, crime prevention, law enforcement, and criminal justice, and to establish and operate a statewide communications network to gather and disseminate information, data, and statistics for the use of law enforcement agencies (R.C. 109.57(C)).

Operation of the act

The act modifies all of the provisions described above to require that the information provided to BCII's Superintendent also include information regarding any misdemeanor described in division (A)(8)(a) of R.C. 109.572 (R.C. 109.57(A)(1) to (3)). The offenses that are listed or described in R.C. 109.572(A)(8)(a) are described below in "**Disqualifying offenses**" under "**Criminal records checks for prospective out-of-home care providers, foster parents, and adoptive parents.**"

The act additionally requires that the weekly report of case summaries sent by clerks of court to BCII include the date of offense, summons, or arraignment for each case (R.C. 109.57(A)(2)(c)).

When a court must order a person to be fingerprinted

Prior law

Prior law generally unchanged by the act required sheriffs and city chiefs of police to immediately fingerprint or cause to be fingerprinted a person who is arrested for a felony, on suspicion of a felony, a crime constituting a misdemeanor on the first offense and a felony on subsequent offenses, or a misdemeanor described in R.C. 109.572(A)(1)(a) or (A)(10)(a) and to immediately fingerprint a child under 18 who is arrested or taken into custody for committing an act that would be a felony or an offense of violence if committed by an adult or upon probable cause to believe the child committed such an act. The sheriffs and chiefs of police were required to then forward these fingerprints and other required information to BCII and to the clerk of the court with jurisdiction over the case.

If a sheriff or chief of police had not taken, or caused to be taken, the person's or child's fingerprints by the time of the person's or child's arraignment or first appearance, the court was required to order the person or child to appear before the sheriff or chief of police within 24 hours for fingerprinting. The sheriff or chief of police was required to then forward the fingerprints and required information to BCII and the court clerk.

At the time of a person's sentencing or a child's adjudication for an offense for which fingerprinting is required, the court was required to inquire whether the person's or child's fingerprints were taken. If the person or child was not fingerprinted for the original arrest, the court was required to order the person or child to appear before the sheriff or chief of police within 24 hours for fingerprinting. The sheriff or chief of police was required to then forward the fingerprints and required information to BCII and the court clerk.

These fingerprinting requirements did not apply to a violator of a city ordinance unless specified criteria are met (R.C. 109.60(A)(1), (2), and (3) and (B)).

Operation of the act

The act clarifies that if a person or child has not been arrested (and thus no fingerprints would have been taken by a sheriff or police chief as described above) and first appears before the court or magistrate in response to a summons, the court must order the person or child to appear before the sheriff or chief of police within 24 hours for fingerprinting, unless the offense is a violation of a non-qualifying city ordinance. Similarly, the court must inquire at the time of a person's sentencing or a child's adjudication for an offense for which fingerprinting is required whether the person's or child's fingerprints were taken for the original arrest *or court appearance*. If the person or child was not fingerprinted for the original arrest *or court appearance*, the court must order the person or child to appear before the sheriff or chief of police within 24 hours for fingerprinting. (R.C. 109.60(A)(2) and (3), act's changes to prior law in italics.)

The act also expands the offenses for which an arrest or a taking into custody (or, under the act, a summons) subjects the arrested or detained person (or the summoned person) to the fingerprinting provisions. Under the act, in addition to the offenses specified by continuing law, a person is subjected to the fingerprint provisions if the person is arrested for a misdemeanor described in division (A)(8)(a) of R.C. 109.572 (R.C. 109.60(A)(1)). The offenses that are listed or described in R.C. 109.572(A)(8)(a) are described below in "**Disqualifying offenses**" under "**Criminal records checks for prospective out-of-home care providers, foster parents, and adoptive parents.**"

Finally, the act restates a court's fingerprinting duties discussed above in the Revised Code chapters concerning municipal courts, county courts, and courts of common pleas (R.C. 1901.43, 1907.181, and 2301.10).

Retained Applicant Fingerprint Database

Prior law

Prior law largely retained by the act required the Superintendent of BCII to establish and maintain a database of fingerprints of individuals on whom the bureau had conducted criminal records checks for the purpose of determining eligibility for employment with or licensure by a public office, called the Retained Applicant Fingerprint Database. When the Superintendent of BCII received information that an individual whose name was in the Database had been arrested for or convicted of any offense, the Superintendent was required to promptly notify any "participating public office" that employed or that licensed the individual of the arrest or conviction. "Participating public office" was defined as a public office that required a fingerprint background check as a condition of employment with or licensure by the public office and that elected to receive the notification just described, above.

Prior law required the Attorney General to adopt administrative rules to govern the operation of the Database. The rules were required to provide for, but were not limited to, both of the following: (1) the expungement or sealing of records of individuals who are deceased or who are no longer employed or licensed by the public office that required submission of the individual's fingerprints and (2) the terms under which a public office may elect to receive notification that a person whose name is in the Database has been arrested for or convicted of any offense. (R.C. 109.5721.)

Operation of the act

The act authorizes the Department of Job and Family Services (ODJFS) to work with BCII to develop procedures and formats necessary to produce the notifications described above in a format that is acceptable for use by ODJFS. ODJFS is also authorized to adopt rules in accordance with R.C. 111.15, as if they were internal management rules, necessary for these collaborations. ODJFS is further authorized to adopt rules that are necessary for utilizing the information received from the Database pursuant to the Administrative Procedure Act, with a final effective date not later than December 31, 2008 (R.C. 5101.32).

The act modifies the law regarding the Retained Applicant Fingerprint Database to specify that the Database include the fingerprints of individuals on whom BCII has conducted criminal records checks for the purpose of determining approval for adoption by a public office. In addition, the act modifies the law to require that the rules adopted by the Attorney General governing the operation and maintenance of the Database provide for the expungement or sealing of records of individuals who are no longer approved for adoption or granted licensure by the

public office that required the submission of the person's fingerprints. (R.C. 109.5721(B) and (F)(1).)

When the Superintendent of BCII receives information that an individual whose name is in the Retained Applicant Fingerprint Database has been arrested for, convicted of, *or pleaded guilty to* any offense, the Superintendent of BCII must promptly notify any participating public office that employs, licensed, *or approved* the individual of the arrest, conviction, *or guilty plea*. The public office that receives the notification and its employees and officers must use the information contained in the notification solely to determine the individual's eligibility for continued employment with the public office, to retain licensure, *or to be approved for adoption by the public office*. (R.C. 109.5721(C).)

Additionally, the act provides that BCII and the participating public office must use the information contained in the Retained Applicant Fingerprint Database and in the notices for the purpose of employment with, licensure by, or approval for adoption by the participating public office and provides that this information is otherwise confidential and not a public record. Also, the act provides that if an individual has submitted fingerprint impressions for employment with, licensure by, or approval for adoption by a participating public office and seeks employment with, licensure by, or approval for adoption by another participating public office, the other public office must reprint the individual and the Superintendent of BCII must update that individual's information accordingly. (R.C. 109.5721(D) and (E).)

Finally, for purposes of the law regarding the Retained Applicant Fingerprint Database, the act expands the definition of "licensure" to include the authorization to be a foster caregiver and expands the definition of "participating public office" to include a public office that requires a fingerprint background check as a condition of approval for adoption by the office and that elects to receive notice that an individual whose name is in the Retained Applicant Fingerprint Database has been arrested for, convicted of, or pleaded guilty to any offense. (R.C. 109.5721(A)(2) and (3).)

Uniform statewide automated child welfare information system

Prior law

Prior law unchanged by the act required ODJFS to operate a uniform statewide automated child welfare information system. The information system contained records regarding any of the following (R.C. 5101.13(A)):

(1) Investigations of children and families and children's care in out-of-home care;

(2) Care and treatment provided to children and families;

(3) Any other information related to children and families that state or federal law, regulation, or rule requires ODJFS or a public children services agency to maintain.

Under prior law largely unchanged by the act, ODJFS was required to plan implementation of the information system on a county-by-county basis and to finalize statewide implementation no later than January 1, 2008. ODJFS was required to promptly notify all public children services agencies of the initiation and completion of statewide implementation of the statewide information system. (R.C. 5101.13(B) and (C).)

Prior law generally unchanged by the act specified that information contained in the uniform statewide automated child welfare information system generally could be accessed only by ODJFS and a public children services agency when the access was directly connected with assessment, investigation, or services regarding a child or family or when the access is permitted by state or federal law, rule, or regulation. Prior law, however, also required ODJFS to adopt rules regarding a private child placing agency's or private noncustodial agency's access to the information system and authorized a person to access the information as authorized by ODJFS rules. (R.C. 5101.132 and 5101.134.)

Operation of the act

The act modifies prior law regarding the uniform statewide automated child welfare information system in the following ways:

(1) It specifies that ODJFS must finalize statewide implementation of the information system *by all public children services agencies as described in R.C. 5153.02* not later than January 1, 2008 (R.C. 5101.13(B)).

(2) It allows the entities that are permitted to access information to also enter information when the entry is directly connected with assessment, investigation, or services regarding a child or family or when the entry is permitted by state or federal law, rule, or regulation. A person may enter the information in a manner, to the extent, and for the purposes authorized by ODJFS rules.

(3) It provides that, in addition to access *or entry* by ODJFS and public children services agencies, information contained in the information system also may be accessed or entered by a "Title IV-E agency" (see below), a prosecuting attorney, a private child placing agency, and a private noncustodial agency when the access or entry is directly connected with assessment, investigation, or services regarding a child or family or when the access is permitted by state or federal law,

rule, or regulation. As used in this provision, "Title IV-E agency" means a public children services agency or a public entity with which ODJFS has a Title IV-E subgrant agreement in effect. (R.C. 5101.132 and 5101.134.)

(4) It provides in uncodified law that, until the information system is implemented statewide by all public children services agencies, agencies or persons required to include a summary report pursuant to R.C. 3107.033 or 5103.18 must request a check of the Ohio Central Registry of Abuse and Neglect from ODJFS regarding any prospective foster parent and any person 18 years of age or older who resides with the prospective foster parent or regarding any prospective adoptive parent and any person 18 years of age or older who resides with the prospective adoptive parent, whichever is applicable, to enable the agency or person to check any child abuse and neglect registry maintained by any state in which the prospective foster parent, the prospective adoptive parent, or the person 18 years of age or older who resided with the prospective foster parent or prospective adoptive parent has resided in the preceding five years. After the information system is implemented statewide by all public children services agencies, all private agencies must request a check of that system by ODJFS until the private agency can access the system and conduct its own search. (Section 6.)

(5) It authorizes ODJFS to adopt rules regarding the access or entry of information by a Title IV-E agency, a prosecuting attorney, a private child placing agency, and a private noncustodial agency and regarding the entry of information by ODJFS and a public children services agency (R.C. 5101.134(B)(2)).

Criminal records checks for prospective out-of-home care providers, foster parents, and adoptive parents

Types of required criminal records checks

Prior law. Under prior law largely retained by the act, an appointing or hiring authority was required to request a criminal records check by BCII before employing a person as a provider of out-of-home care;¹ the administrative director of an agency, or an attorney, who arranged an adoption for a prospective adoptive

¹ In this context, "out-of-home care" refers to persons who provide care to children in detention facilities, shelter facilities, certified children's crisis care 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, and children's hospitals, other than prospective employees of the Department of Youth Services (R.C. 2151.86(A)(1) and (I)(3), and referencing R.C. 2151.011).

parent was required to request a criminal records check with respect to that prospective adoptive parent and all persons 18 years of age or older who resided with the prospective adoptive parent; and before a "recommending agency" submitted a recommendation to ODJFS on whether ODJFS should issue a certificate to a foster home, the administrative director of the agency was required to request a criminal records check with respect to the prospective foster caregiver and all other persons 18 years of age or older who resided with the foster caregiver.² If a person subject to a criminal records check did not present proof that the person had been an Ohio resident for the five-year period immediately prior to the date upon which the criminal records check was requested or did not provide evidence that within that five-year period BCII had requested information about the person from the FBI in a criminal records check, then the appointing or hiring officer, administrative director, or attorney was required to request that BCII obtain information from the FBI regarding the person as part of the criminal records check. If the person did present proof of Ohio residency for the prior five years, the officer, director, or attorney could request that BCII include in the criminal records check information from the FBI. (R.C. 2151.86(A) and (B).)

When BCII received a request for a criminal records check under the above provisions, it was required to review or cause to be reviewed any relevant information it gathers and compiles that relates to the person who is the subject of the request, including any relevant information contained in sealed conviction records. If the request asked for information from the FBI, BCII was required to request from the FBI any information it had with respect to the person who was the subject of the request and to review the information received from the FBI. BCII could request criminal history records from other states or the federal government pursuant to the National Crime Prevention and Privacy Compact set forth in R.C. 109.571. BCII conducted the record check to determine whether any information existed that indicated that the person who was the subject of the request previously has been convicted of or pleaded guilty to any of a list of specified offenses, which are described below in "Disqualifying offenses." (R.C. 109.572(A)(8) and (B).)

Operation of the act

The act changes the above provisions regarding criminal records checks for prospective out-of-home care providers, foster parents, and adoptive parents in the following ways:

² "Recommending agency" means a public children services agency, private child placing agency, or private noncustodial agency to which JFS has delegated a duty to inspect and approve foster homes (R.C. 2151.86(I)(5)).

(1) It requires the administrative director of an agency, or attorney, who arranges an adoption to request a criminal records check of a prospective adoptive parent and of all persons 18 years of age or older who reside with the prospective adoptive parent at the time of the initial home study, every four years after the initial home study at the time of an update, and at the time that an adoptive home study is completed as a new home study (R.C. 2151.86(A)(2)).

(2) It requires the administrative director of a recommending agency to request a criminal records check of a prospective foster caregiver and of all persons 18 years of age or older who reside with the foster caregiver before submitting a recommendation to ODJFS on whether a foster home certificate should be issued, and every four years after the submission of the recommendation to ODJFS prior to a recertification of the foster home (R.C. 2151.86(A)(3)).

(3) It revises the situations in which a request to BCII for a criminal records check must include a request that BCII obtain information from the FBI regarding the subject person. Under the act (R.C. 2151.86(B)(1)): (a) when an appointing or hiring officer requests a criminal records check before employing a person as an out-of-home care provider, the appointing or hiring officer must request an FBI check in the same circumstances as under prior law, (b) when the administrative director of an agency, or attorney, who arranges an adoption for a prospective parent requests, at the time of the initial home study, a criminal records check for a person, the administrative director or attorney must request an FBI check for the person subject to the criminal records check, and, in all other cases, the administrative director or attorney may request an FBI check, (c) when the administrative director of a recommending agency requests, before submitting a recommendation on whether ODJFS should issue a foster home certificate, a criminal records check for a person, the administrative director must request an FBI check for the person subject to the criminal records check, and, in all other cases in which the administrative director requests a criminal records check for a person, the administrative director may request an FBI check.

(4) It specifies that prior to a hearing on a final decree of adoption or interlocutory order of adoption by a probate court, the administrative director of an agency, or an attorney, who arranges an adoption for a prospective parent must provide to the clerk of the probate court either of the following: (1) any information received from the Superintendent of BCII or the FBI as part of the criminal records check, including fingerprint-based checks of national crime information databases, for the person subject to the criminal records check, or (2) written notification that the person subject to a criminal records check failed upon request to provide the information necessary to complete the form or failed to provide impressions of the person's fingerprints.

(5) It specifies that every request for an FBI check must request that BCII obtain information from the FBI as part of the criminal records check, including fingerprint based checks of national crime information databases as described in a specified provision of federal law (R.C. 2151.86(B)(1) and 109.572(B)(2)).

Disqualifying offenses

Prior law. Under prior law largely unchanged by the act, when BCII conducted a record check under the provisions described above in "**Types of criminal records checks,**" it determined whether any information existed that indicated that the person who was the subject of the request previously had been convicted of or pleaded guilty to any of the offenses described below in paragraphs (1) and (2) and it notified the requesting appointing or hiring officer, administrative director, or attorney of its findings (R.C. 109.572(A)(8) and (13)). Unless the person who was the subject of the request met rehabilitation standards established by ODJFS, a conviction of or guilty plea to any of the following offenses disqualified a person from providing out-of-home care, being approved as an adoptive parent, or being certified as a foster caregiver (additionally if a person 18 years of age or older who resided with a prospective adoptive parent or foster caregiver had been convicted of or pleaded guilty to one of the following offenses, the prospective adoptive parent or foster caregiver was disqualified) (R.C. 2151.86(C)(1)):

(1) Aggravated murder, murder, voluntary manslaughter, involuntary manslaughter, felonious assault, aggravated assault, assault, failure 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 a nudity-oriented material or performance, aggravated arson, arson, aggravated robbery, robbery, aggravated burglary, burglary, unlawful abortion, endangering children, contributing to the unruliness or delinquency of a child, domestic violence, carrying a concealed weapon, having weapons while under disability, improperly discharging firearm at or into a habitation in a school safety zone, or with the intent to cause harm or panic to persons in a school, in a school building, or at a school function or the evacuation of a school function, corrupting another with drugs, a drug trafficking offense, illegal manufacture of drugs, illegal cultivation of marihuana, an offense regarding funding of drug or marihuana trafficking, illegal administration or distribution of anabolic steroids, placing harmful objects in food or confection, the

former offense of child stealing, interference with custody that is comparable to the former offense of child stealing, a drug possession offense that is not a minor drug possession offense, or the former offense of felonious sexual penetration.

(2) A violation of an existing or former law of Ohio, any other state, or the United States that is substantially equivalent to any of the offenses listed in (1).

Operation of the act. The act expands the list of disqualifying offenses for out-of-home care providers, adoptive parents, and foster caregivers to also include the following: cruelty to animals, permitting child abuse, menacing by stalking, menacing, soliciting or providing support for act of terrorism, making a terroristic threat, terrorism, identity fraud, inciting to violence, aggravated riot, ethnic intimidation, or two or more OVI or state OVUAC violations committed within the three years immediately preceding the submission of the application or petition that is the basis of the request (R.C. 109.572(A)(8) and 2151.86(C)(1)).

As used in the provision described in the preceding paragraph, "OVI or OVUAC violation" means a violation of R.C. 4511.19 or a violation of an existing or former law of Ohio, any other state, or the United States that is substantially equivalent to R.C. 4511.19 (R.C. 109.572(E)(4)).

Confidentiality of criminal records checks

Prior law. Under prior law largely retained by the act, any criminal records check for an out-of-home care provider, prospective adoptive parent, or prospective foster caregiver was not a public record under the Public Records Law. Only the following persons had authority to access the information (R.C. 2151.86(E)):

(1) The person who is the subject of the records check or the person's representative;

(2) The appointing or hiring officer, administrative director, or attorney requesting the records check, or that person's representative;

(3) ODJFS or a county department of job and family services;

(4) Any court, hearing officer, or other necessary individual involved in a case dealing with the denial of employment, a final decree of adoption or interlocutory order of adoption, or a foster home certificate.

Operation of the act. The act additionally allows a public children services agency access to the otherwise confidential criminal records check (R.C. 2151.86(E)(3)).

Foster caregiver notices

Prior to certification or recertification as a foster caregiver, the act requires the prospective foster caregiver to notify the recommending agency of the revocation of any foster home license, certificate, or other similar authorization in another state occurring within the five years prior to the date of application to become a foster caregiver in Ohio. The failure of a prospective foster caregiver to notify the recommending agency of any such revocation in another state occurring within that five-year period is grounds for denial of the person's foster home application or the revocation of the person's foster home certification, whichever is applicable. If a person has had such a revocation, ODJFS is prohibited from issuing a foster home certificate to the prospective foster caregiver. (R.C. 2151.86(C)(3).)

Certification of specified foster caregivers

Prior law

Prior law largely retained by the act required ODJFS, every two years, to pass upon the fitness of an "institution" or "association" that receives, or desires to receive and care for children, or places children in private homes.³ This requirement did not apply to facilities under the control of the Department of Youth Services (DYS), specified places of detention, and child day-care centers subject to R.C. Chapter 5104. (Child Care Law). If an institution or association satisfied the fitness review, ODJFS issued that entity a foster caregiver's certificate to that effect that was valid for two years, unless sooner revoked by ODJFS.

³ "Association" or "institution" includes any incorporated or unincorporated organization, society, association, or agency, public or private, that receives or cares for children for two or more consecutive weeks; 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 any individual not in the regular employ of a court, or of an institution or association certified in accordance with R.C. 5103.03, 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. However, 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, or any individual who provides care for only a single-family group, placed there by their parents or other relative having custody, is not included in "association" or "institution." (R.C. 5103.02(A), not in the act.)

ODJFS also had the authority to issue a temporary certificate valid for less than one year authorizing an institution or association to operate until minimum standards have been met. (R.C. 5103.03(B).)

Operation of the act

The act specifically prohibits ODJFS from issuing a certificate to a prospective foster home or prospective specialized foster home pursuant to this specific statutory authority if the prospective foster home operates as a type A family day-care home under R.C. Chapter 5104. Additionally, the act prohibits ODJFS from issuing a certificate to a prospective specialized foster home if the prospective specialized foster home operates as a type B family day-care home pursuant to R.C. Chapter 5104. (R.C. 5103.03(B)(5).)

The act requires ODJFS to adopt rules that require a foster caregiver or other individual certified to operate a foster home, as described above, to notify the recommending agency that the foster caregiver or other individual is certified to operate a type B family day-care home. There is not a similar requirement regarding notice that the foster caregiver operates as a type A family day-care home. (R.C. 5103.03(G)(2).)

Revocation of a foster caregiver's certificate for conviction of disqualifying offense

The act provides that, not later than 96 hours after receiving notice from BCII pursuant to the act's provisions described above in "**Retained Applicant Fingerprint Database**" that a foster caregiver has been arrested for, convicted of, or pleaded guilty to any "foster caregiver-disqualifying offense" (see below), and not later than 96 hours after learning in any other manner that a foster caregiver has been arrested for, convicted of, or pleaded guilty to any "foster caregiver-disqualifying offense," ODJFS must provide notice of that arrest, conviction, or guilty plea to both the recommending agency relative to the foster caregiver and the custodial agency of any child currently placed with that caregiver.

If a recommending agency receives notice from ODJFS as described in the preceding paragraph that a foster caregiver has been convicted of or pleaded guilty to any "foster caregiver-disqualifying offense," or if a recommending agency learns in any other manner that a foster caregiver has been convicted of or pleaded guilty to any "foster caregiver-disqualifying offense," the recommending agency must assess the foster caregiver's overall situation for safety concerns and forward any recommendations, if applicable, for revoking the foster caregiver's certificate to ODJFS for ODJFS's review for possible revocation.

As used in these provisions, "foster caregiver-disqualifying offense" means any offense or violation that is a disqualifying offense for certification of a foster caregiver. The offenses and violations, as expanded by the act, are described above in "Disqualifying offenses" under "Criminal records checks for prospective out-of-home care providers, foster parents, and adoptive parents." (R.C. 5103.0328.)

The act expands an existing provision that requires the Director of ODJFS to adopt rehabilitation standards that a person who has been convicted of or pleaded guilty to a disqualifying offense must satisfy in order to be appointed or employed as a person responsible for a child's care in out-of-home care, to be approved as an adoptive parent, or to be issued a foster caregiver certificate to also require that the Director adopt rehabilitation standards that a person who has been convicted of or pleaded guilty to a disqualifying offense must satisfy in order for ODJFS to not revoke a foster home certificate for a violation specified in the three preceding paragraphs (R.C. 2151.86(F)).

Revocation of a foster caregiver's certificate if no foster children within 12-month period

Continuing law

Under continuing law retained by the act, a recommending agency may recommend that ODJFS not renew a foster home certificate under R.C. 5103.03 if the foster caregiver refused to accept the placement of any children into the foster home during the current certification period. Based on the agency's recommendation, ODJFS may refuse to renew a foster home certificate. (R.C. 5103.0326.)

Operation of the act

The act additionally authorizes ODJFS to revoke the certificate of any foster caregiver who has not cared for one or more foster children in the foster caregiver's home within the preceding 12 months. Prior to the revocation of any certification pursuant to this provision, the recommending agency must have the opportunity to provide good cause for ODJFS to continue the certification and not revoke the certification. If ODJFS decides to revoke the certification, ODJFS must notify the recommending agency that the certification will be revoked. (R.C. 5103.0326(B).)

Foster caregiver notification if minor residing with the caregiver is convicted of or found to be delinquent or a juvenile traffic offender for committing a specified offense

Prior law

Prior law largely retained by the act prohibited a foster caregiver or prospective foster caregiver from failing to notify the recommending agency that recommended or was recommending the foster caregiver or prospective foster caregiver for certification in writing if a person at least 12 years of age but less than 18 years of age residing with the foster caregiver or prospective foster caregiver had been convicted of or pleaded guilty to, or had been adjudicated to be a delinquent child for committing, any of a list of specified offenses, an offense that would be a felony if committed by an adult and the court determined that the child, if an adult, would be guilty of a specification found in R.C. 2941.141, 2941.144, or 2941.145 or in another Revised Code section that related to the possession or use of a firearm during the commission of the act for which the child was adjudicated a delinquent child, or a violation of an existing or former law of Ohio, any other state, or the United States that was substantially equivalent to any of the specified offenses or other offenses described in this paragraph.

If a recommending agency learned that a foster caregiver had failed to comply with the requirement described in the preceding paragraph, it was required to notify ODJFS and ODJFS was required to revoke the foster caregiver's foster home certificate. (R.C. 5103.0319.)

Operation of the act

The act expands the prohibition described above to also prohibit a foster caregiver or prospective foster caregiver from failing to notify the recommending agency that recommended or is recommending the foster caregiver or prospective foster caregiver for certification in writing if a person at least 12 years of age but less than 18 years of age residing with the foster caregiver or prospective foster caregiver has been convicted of or pleaded guilty to, or has been adjudicated to be a delinquent child for committing, an "OVI or OVUAC violation" (see below) and the person previously was convicted of or pleaded guilty to one or more OVI or OVUAC violations within the three years immediately preceding the current violation (R.C. 5103.0319(A)(1)). As used in this provision, "OVI or OVUAC violation" means a violation of R.C. 4511.19 or a violation of an existing or former law of Ohio, any other state, or the United States that is substantially equivalent to R.C. 4511.19 (R.C. 5103.0319(C).)

If a recommending agency learns that a foster caregiver has failed to comply with the requirement described in the preceding paragraph, it must notify

ODJFS and ODJFS must revoke the foster caregiver's foster home certificate. (R.C. 5103.0319(B).)

Search of the uniform statewide automated child welfare system before certification as a foster home

The act requires that before a foster home is certified or recertified, a recommending agency must obtain a summary report of a search of the uniform statewide automated child welfare information system from an entity that is authorized to access the system. Under ongoing provisions of the law, the summary report must contain, if applicable, a chronological list of abuse and neglect determinations or allegations of which a person seeking to become a foster caregiver of a child is subject and in regards to which a public children services agency has determined that abuse or neglect has occurred, has initiated an investigation that is ongoing, or has initiated an investigation but was unable to determine whether abuse or neglect occurred.

The act also requires that, whenever a prospective foster parent or any other person 18 years of age or older who resides with the prospective foster parent has resided in a state other than Ohio within the five-year period immediately prior to the date on which a criminal records check is requested for the person, the recommending agency must request a check of the Ohio Central Registry of Abuse and Neglect from ODJFS regarding the prospective foster parent or the person 18 years of age or older who resides with the prospective foster parent to enable the agency to check any child abuse and neglect registry maintained by that other state. The recommending agency must make the request and must review the results of the check before the prospective foster parent may be finally approved for placement of a child. Information received pursuant to such a request is to be considered, for purposes of R.C. Chapter 5104., as if it were a summary report required as described in the preceding paragraph. ODJFS must comply with any request to check the central registry that is similar to the request described in this paragraph and that is received from any other state.

Based on a summary report containing a determination that abuse or neglect has occurred, and when considered within the totality of the circumstances, ODJFS may deny a foster home certification or recertification. ODJFS may not deny certification or recertification solely based on a summary report containing information indicating that a public children services agency has initiated an investigation that is ongoing or has initiated an investigation but was unable to determine whether abuse or neglect occurred. (R.C. 5103.18 and conforming change in R.C. 5103.16(A).)

Prior law required this summary report to be submitted by an association or institution certified to place a child into a foster home to ODJFS before a child was placed in a foster home (R.C. 5103.16 and 5103.18).

The act provides in uncodified law that, until the uniform statewide automated child welfare information system is implemented statewide by all public children services agencies as described in R.C. 5153.02, agencies or persons required to include a summary report pursuant to the provisions described above must request a check of the Ohio Central Registry of Abuse and Neglect from ODJFS regarding any prospective foster parent and any person 18 years of age or older who resides with the prospective foster parent to enable the agency or person to check any child abuse and neglect registry maintained by any state in which the prospective foster parent or the person 18 years of age or older who resided with the prospective foster parent has resided in the preceding five years. After the information system is implemented statewide by all public children services agencies as described in R.C. 5153.02, all private agencies, as defined in R.C. 5103.02, must request a check of that system by ODJFS until the private agency can access the system and conduct its own search. (Section 6.)

Search of uniform statewide automated child welfare information system and central registries in other states, in an adoption

Prior law

Prior law largely unchanged by the act provided that, not later than January 1, 2008, the Director of ODJFS was required to adopt rules under the Administrative Procedure Act specifying both of the following regarding adoptions: (1) the manner in which a home study is to be conducted and the information and documents to be included in a home study report, which must include, pursuant to the provisions described in the next paragraph, a summary report of a search of the uniform statewide automated child welfare information system described above in "**Uniform statewide automated child welfare information system**," and (2) a procedure under which a person whose application for adoption has been denied as a result of a search of the system as part of the home study may appeal the denial to the agency that employed the assessor who filed the report (R.C. 3107.033).

Operation of the act

The act provides that, whenever a prospective adoptive parent or a person 18 years of age or older who resides with a prospective adoptive parent has resided in a state other than Ohio within the five-year period immediately prior to the date on which a criminal records check is requested for the person under R.C. 2151.86(A), the administrative director of an agency, or attorney, who arranges

the adoption for the prospective adoptive parent must request a check of the Ohio Central Registry of Abuse and Neglect from ODJFS regarding the prospective adoptive parent or the person 18 years of age or older who resides with the prospective adoptive parent to enable the agency or attorney to check any child abuse and neglect registry maintained by that other state. The administrative director or attorney must make the request and review the results of the check before a final decree of adoption or an interlocutory order of adoption making the person an adoptive parent may be made. Information received pursuant to the request is considered, for purposes of the Adoption Law, as if it were a summary report required under the provision described in the preceding paragraph. ODJFS must comply with any request to check the central registry that is similar to the request described in this paragraph and that is received from any other state. (R.C. 3107.034(A).)

Related to the provisions described in the preceding paragraph, the act expands a provision of continuing law that requires the Director of ODJFS to adopt 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 so that, in addition to including a summary report of a search of the uniform statewide automated child welfare information system, the information and documents to be included in a home study report also must include a report of a check of a central registry of a state other than Ohio if such a check is required under the provision described in the preceding paragraph (R.C. 3107.033).

The act provides in uncodified law that, until the uniform statewide automated child welfare information system is implemented statewide by all public children services agencies as described in R.C. 5153.02, agencies or persons required to include a summary report pursuant to the provisions described above must request a check of the Ohio Central Registry of Abuse and Neglect from ODJFS regarding any prospective adoptive parent and any person 18 years of age or older who resides with the prospective adoptive parent to enable the agency or person to check any child abuse and neglect registry maintained by any state in which the prospective adoptive parent or the person 18 years of age or older who resided with the prospective adoptive parent has resided in the preceding five years. After the information system is implemented statewide by all public children services agencies as described in R.C. 5153.02, all private agencies, as defined in R.C. 5103.02, must request a check of that system by ODJFS until the private agency can access the system and conduct its own search. (Section 6.)

Provisions regarding child day-care centers, type A homes, and type B homes

Requirement that a type B family day-care home notify parents that the home is also certified as a foster home

Prior law generally retained by the act required ODJFS to adopt rules governing the certification of type B family day-care homes. The law also included a list of topics that JFS must address in these rules. The act adds to the required rules that JFS must adopt by specifying that the type B family day-care rules must include, in addition to those previously required, requirements for the type B home to notify parents with children in the home that the home is also certified as a foster home. (R.C. 5104.011(G)(1)(c) and (G)(2)(p), conforming change in R.C. 5104.30(E)(2)(c)(i) and (ii).)

Provision of proposed rules regarding child day-care centers, type A homes, type B homes, and in-home aides

By ODJFS--rules regarding child day-care centers and type A homes.

Prior law required the Director of ODJFS to *send* to each licensee (i.e., the owner of a child day-care center or type A family day-care home licensed under R.C. Chapter 5104.) notice of proposed rules governing the licensure of child day-care centers and type A homes. The act modifies prior law to require the Director to *provide or make available in either paper or electronic form* to each licensee notice of proposed rules governing the licensure of child day-care centers and type A homes. (R.C. 5104.011(J)(1).)

By county director of job and family services--rules regarding type B homes and in-home aides. Prior law required the county director of job and family services to *send* copies of proposed rules to each authorized provider (i.e., a person authorized by a county director to operate a certified type B family day-care home) and in-home aide (i.e., a person who does not reside with the child but provides care in the child's home and is certified by a county director to provide publicly funded child care to a child in the child's own home). The act modifies prior law to require the county director of job and family services to *provide or make available in either paper or electronic form* to each authorized provider and in-home aide copies of proposed rules. (R.C. 5104.011(J)(3).)

Criminal records checks

The act changes ongoing provisions in the laws governing criminal records checks regarding child day-care centers, type A homes, and type B homes in the following ways:

(1) In the ongoing provision that requires the ODJFS to request a criminal records check of the owner, licensee, or administrator of a child day-care center and of the owner, licensee, or administrator of a type A family day-care home and any person 18 years of age or older who resides in a type A home, and in the ongoing provision that requires the director of a county department of job and family services to request a criminal records check of the authorized provider of a certified type B family day-care home and any person 18 years of age or older who resides in a certified type B home, it specifies that ODJFS must request the criminal records check for all of the specified persons regarding a child day-care center or type A home at the time of the initial application for licensure and every four years thereafter at the time of a license renewal, and that the director of the county department must request the criminal records check regarding a type B home at the time of the initial application for certification and every four years thereafter at the time of a certification renewal (R.C. 5104.013(A)(1), (2), and (3)).

(2) In the ongoing provision that requires the administrator of a child day-care center or a type A home and the provider of a certified type B home to request a criminal records check of a person who is under final consideration for appointment to or employment in a position with the center or home as a person responsible for the care, custody, or control of a child, an in-home aide, or a person who would serve in a position with the center or home as a person responsible for the care, custody, or control of a child, it: (a) removes from the provision the references to a provider of a certified type B home (type B homes supposedly never have employees), and (b) specifies that the administrator of a child day-care center or type A home must request the criminal records check at the time of the applicant's initial application for employment and every four years thereafter at the time of a license renewal (R.C. 5104.012(A)(1)).

(3) It revises the situations in which a request to BCII for a criminal records check must include a request that BCII obtain information from the FBI regarding the subject person. Under the act: (a) when ODJFS or the director of a county department of job and family services requests, at the time of the initial application for licensure or certification, a criminal records check for a person, ODJFS or the director must request an FBI check for the person subject to the criminal records check, and, in all other cases in which ODJFS or the director of a county department requests a criminal records check for a person, ODJFS or the director may request an FBI check (R.C. 5104.013(A)(3)), and (b) when the administrator of a child day-care center or a type A home requests a criminal records check for an applicant at the time of the applicant's initial application for employment, the administrator must request an FBI check for the person subject to the criminal records check, and, in all other cases in which the administrator requests a criminal records check for an applicant, the administrative director may request an FBI check (R.C. 5104.012(A)(1)).

(4) It specifies that every request for an FBI check must request that BCII obtain information from the FBI as part of the criminal records check, including fingerprint based checks of national crime information databases as described in a specified provision of federal law (R.C. 5104.012(A)(1), 5120.013(A)(3), and 109.572(B)(2)).

(5) It specifies that: (a) on and after the act's effective date, the administrator of a child day-care center or a type A family day-care home must review the results of a criminal records check conducted under these provisions before the applicant has sole responsibility for the care, custody, or control of any child (R.C. 5104.012(A)(2)), and (b) ODJFS and the director of a county department of job and family services must review the results of a criminal records check conducted under these provisions prior to approval of a license or prior to approval of certification, whichever is applicable (R.C. 5104.013(A)(4)).

Disqualifying offenses--prior law. Under prior law largely retained by the act, when BCII conducted a records check under the provisions described above, it determined whether any information existed that indicated that the person who was the subject of the request previously had been convicted of or pleaded guilty to any of the offenses described below that were relevant regarding the particular request and it notified the requesting ODJFS, county department of job and family services, administrator of a child day-care center or a type A family day-care home, or provider of a type B family day-care home of its findings (R.C. 109.572(A)(1), (8), and (9)). Unless the person who was the subject of the request met rehabilitation standards adopted by ODJFS, a conviction of or plea of guilty to any of the following offenses prohibited the issuance of a license to a child day-care center or type A home, the certification of a type B home, or the employment of the person by a center or home as a person responsible for the care, custody, or control of a child:

(1) If the request was made pursuant to R.C. 5104.012 or 5104.013 regarding possible licensure or certification of a center or home or possible employment in a center or home, the offenses for which BCII checked and that were disqualifying offenses were: (a) 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 a disability, improperly discharging a firearm at or into a habitation, in a school safety zone, or with the intent to cause harm or panic to persons in a school, in a school building, or at a school function or the evacuation of a school function, corrupting another with drugs, a drug trafficking offense, illegal manufacture of drugs, illegal cultivation of marihuana, an offense regarding funding of drug or marihuana trafficking, illegal administration or distribution of anabolic steroids, placing harmful objects in food or confection, the former offense of felonious sexual penetration, the former offense of child stealing, interference with custody that is comparable to the former offense of child stealing, or a drug possession offense that is not a minor drug possession offense, or (b) a violation of an existing or former law of Ohio, any other state, or the United States that is substantially equivalent to any of the offenses listed in clause (a) of this paragraph (R.C. 109.572(A)(1), 5104.012(B)(1), and 5104.013(D)(1)).

(2) If the request was made pursuant to R.C. 5104.013 regarding possible licensure or certification of a center or home, the offenses for which BCII checked and that were disqualifying offenses, in addition to those described in paragraph (1), above, were: (a) theft and the related offenses set forth in R.C. 2913.02, unauthorized use of a vehicle, unauthorized use of property, unauthorized use of computer, cable, or telecommunication property, possession of an unauthorized device, sale of an unauthorized device, telecommunications fraud, unlawful use of a telecommunications device, passing bad checks, misuse of credit cards, forgery, forging identification cards or selling or distributing forged identification cards, criminal simulation, making or using slugs, trademark counterfeiting, Medicaid fraud, defrauding a livery or hostelry, tampering with records, securing writings by deception, personating an officer, unlawful display of the emblem of a law enforcement agency or an organization of law enforcement officers, defrauding creditors, illegal use of food stamps or WIC program benefits, insurance fraud, workers' compensation fraud, identity fraud, perjury, falsification, falsification in a theft offense, falsification to purchase a firearm, falsification to obtain a concealed handgun license, conspiracy, attempt or complicity that relates to a crime specified in this paragraph or clause (a) of paragraph (1), above, or a second state OVI or OVUAC offense within five years of the date of application for licensure or certification, or (b) a violation of an existing or former law of Ohio, any other state, or the United States that is substantially equivalent to any of the offenses or violations described in clause (a) of this paragraph (R.C. 109.572(A)(9) and 5104.013(D)(2)). Note that if the request is made pursuant to R.C. 5104.012 regarding possible employment in a center or home, BCII is required to check for the offenses listed in this paragraph, but the offenses are not explicitly identified as

disqualifying offenses regarding the possible employment (R.C. 109.572(A)(9) requires the check for the offenses, but neither R.C. 5104.012(B)(1) nor 5104.013(D)(2) identifies them as disqualifying offenses regarding employment).

Disqualifying offenses--operation of the act. The act modifies the above "disqualifying offense" provisions regarding the issuance of a license to a child day-care center or type A home, the certification of a type B home, or the employment of the person by a center or home as a person responsible for the care, custody, or control of a child as follows:

(1) In the provision that lists disqualifying offenses regarding employment in a position with a child day-care center, type A home, or certified type B home, the act removes from the provision the references to employment with a certified type B home (type B homes supposedly never have employees) (R.C. 5104.012(B) to (G)).

(2) It consolidates the two lists of disqualifying offenses for which BCII conducts a criminal records check regarding the issuance of a license to a child day-care center or type A home, the certification of a type B home, or the employment of the person by a center or type A home as a person responsible for the care, custody, or control of a child, as described above, into one list that is located in R.C. 109.572(A)(9). It also expands the consolidated list so that it also includes the offense of menacing. The expanded consolidated list applies regarding all requests for criminal records checks made under R.C. 5104.012 or 5104.013 regarding the issuance of a license to a child day-care center or type A home, the certification of a type B home, or the employment of the person by a center or type A home as a person responsible for the care, custody, or control of a child. (R.C. 109.572(A)(1) and (A)(9), 5104.012(B), and 5104.013(D).)

Separate disqualification of certain offenders from day-care ownership, operation, certification, or employment

Prior law--disqualification not directly linked to criminal records check. In provisions that are not directly linked to the criminal records check provisions described above, prior law generally retained by the act specified that, except as provided in rules adopted by ODJFS, as described below (R.C. 5104.09(A)(1)):

(1) No individual who had been convicted of or pleaded guilty to aggravated murder, murder, voluntary manslaughter, involuntary manslaughter, felonious assault, aggravated assault, assault, failing to provide for a functionally impaired person, aggravated menacing, menacing, patient abuse, gross patient neglect, patient neglect, kidnapping, abduction, criminal child enticement, extortion, 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 arson, arson, disrupting public services, vandalism, aggravated robbery, robbery, aggravated burglary, burglary, inciting to violence, aggravated riot, riot, inducing panic, unlawful abortion, endangering children, contributing to the unruliness or delinquency of a child, domestic violence, intimidation, escape, aiding escape or resistance to lawful authority, carrying concealed weapons, having weapons while under a disability, improperly discharging a firearm at or into a habitation, in a school safety zone, or with the intent to cause harm or panic to persons in a school, in a school building, or at a school function or the evacuation of a school function, corrupting another with drugs, a drug trafficking offense, illegal manufacture of drugs, illegal cultivation of marijuana, an offense regarding funding of drug or marijuana trafficking, illegal administration or distribution of anabolic steroids, placing harmful objects in food or confection, the former offense of child stealing, a drug possession offense that is not a minor drug possession offense, the former offense of felonious sexual penetration, or a violation of an existing or former law or ordinance of any municipal corporation, Ohio, any other state, or the United States that is substantially equivalent to any of those offenses could be certified as an in-home aide or be employed in any capacity in or own or operate a child day-care center, type A family day-care home, type B family day-care home, or certified type B family day-care home.

(2) No individual who had been convicted of or pleaded guilty to theft or a related offense set forth in R.C. 2913.02, unauthorized use of a vehicle, unauthorized use of property, unauthorized use of computer, cable, or telecommunication property, possession of an unauthorized device, sale of an unauthorized device, telecommunications fraud, unlawful use of a telecommunications device, passing bad checks, misuse of credit cards, forgery, forging identification cards or selling or distributing forged identification cards, criminal simulation, making or using slugs, trademark counterfeiting, Medicaid fraud, defrauding a livery or hostelry, tampering with records, securing writings by deception, personating an officer, unlawful display of the emblem of a law enforcement agency or an organization of law enforcement officers, defrauding creditors, illegal use of food stamps or WIC program benefits, insurance fraud, workers' compensation fraud, identity fraud, perjury, falsification, falsification in a theft offense, falsification to purchase a firearm, falsification to obtain a concealed handgun license, conspiracy, attempt or complicity that relates to a crime specified in this paragraph or paragraph (1), above, a second state OVI or OVUAC offense within five years of the date of application for licensure or certification, or two state OVI or OVUAC offenses during the operation of the center or home, or a

violation of an existing or former law of Ohio, any other state, or the United States that is substantially equivalent to any of those violations could own or operate a child day-care center, type A family day-care home, type B family day-care home, or certified type B family day-care home.

Operation of the act--disqualification not directly linked to criminal records check. The act revises the disqualification provisions described above, and the lists of disqualifying offenses they contain, so that they specify that no individual who has been convicted of or pleaded guilty to any offense listed in R.C. 109.572(A)(9), as described above in "**Disqualifying offenses--operation of the act**" under "**Criminal records checks**," or any offense specified in either of the lists provided under ongoing law, as described in paragraphs (1) and (2) under "**Prior law--disqualification not directly linked to criminal records check**," that are not listed in division (A)(9) of R.C. 109.572 (those offenses are extortion, aggravated arson, arson, disrupting public services, vandalism, inciting to violence, aggravated riot, riot, inducing panic, intimidation, escape, aiding escape or resistance to lawful authority, and two state OVI or OVUAC offenses during the operation of the center or home) may be certified as an in-home aide or be employed in any capacity in or own or operate a child day-care center, type A family day-care home, type B family day-care home, or certified type B family day-care home (R.C. 5104.09(A)(1), partially by cross-reference to the list of offenses that the act consolidates in R.C. 109.572(A)(9), as described above in "**Disqualifying offenses--operation of the act**" under "**Criminal records checks**").

Prior law--attestation of no conviction. Prior law largely retained by the act provided the following, in relation to the disqualifications described above (R.C. 5104.09(A)(2) to (D)):

(1) It required each employee of a child day-care center or type A home and each person 18 years of age or older residing in a type A home to sign a statement attesting to the fact that the person had not been convicted of or pleaded guilty to any offense identified in paragraph (1), above, under "**Prior law--disqualification not directly linked to criminal records check**" and that no child had been removed from the employee's or resident person's home pursuant to R.C. 2151.353, and requires each licensee of a type A home to sign a statement attesting to the fact that no person who resided at the type A home and who was under the age of 18 had been adjudicated a delinquent child for committing a violation of any section identified in paragraph (1), above, under "**Prior law--disqualification not directly linked to criminal records check**." The statements must be kept on file at the center or type A home.

(2) It required each in-home aide and each person 18 years of age or older residing in a certified type B home to sign a statement attesting that the person had not been convicted of or pleaded guilty to any offense identified in paragraph (1),

above, under "**Prior law--disqualification not directly linked to criminal records check**" and that no child had been removed from the aide's or person's home pursuant to R.C. 2151.353, required each authorized provider to sign a statement attesting that the provider had not been convicted of or pleaded guilty to any offense identified in paragraph (1) or (2), above, under "**Prior law--disqualification not directly linked to criminal records check**" and that no child had been removed from the provider's home pursuant to R.C. 2151.353, and required each authorized provider to sign a statement attesting to the fact that no person who resided at the certified type B home and who was under the age of 18 had been adjudicated a delinquent child for committing a violation of any section identified in paragraph (1), above, under "**Prior law--disqualification not directly linked to criminal records check**." The statements were required to be kept on file at the county department of job and family services.

(3) It required each administrator and licensee of a center or type A home to sign a statement attesting that the administrator or licensee had not been convicted of or pleaded guilty to any offense identified in paragraph (1) or (2), above, under "**Prior law--disqualification not directly linked to criminal records check**" and that no child had been removed from the administrator's or licensee's home pursuant to R.C. 2151.353. The statement was required to be kept on file at the center or type A home.

Operation of the act--attestation of no conviction. The act amends the attestation provisions described above so that all of the required attestations are that the subject person has not been convicted of or pleaded guilty to any offense described above in "**Operation of the act--disqualification not directly linked to criminal records check**" (R.C. 5104.09(A)(2) to (4) and (D), by cross-reference to the list of offenses the act references in R.C. 5104.09(A)(1), as described above in "**Operation of the act--disqualification not directly linked to criminal records check**").

No licensure or certification if the home is a foster home

The act prohibits ODJFS from licensing a prospective type A family day-care home if that prospective home is certified to be a foster home or specialized foster home under R.C. Chapter 5103. (Placement of Children). Additionally, the act prohibits a county department of job and family services from certifying a prospective type B family day-care home if that home is certified as a specialized foster home. (R.C. 5104.022.)

Permanent custody of a child who has been in the temporary custody of a public children services agency for 12 or more months of a consecutive 22-month period

Prior law

Under prior law generally retained by the act, if a child had been in the temporary custody of one or more public children services agencies or private child placing agencies for 12 or more months of a consecutive 22-month period ending on or after March 18, 1999, the agency with custody of the child, unless specified circumstances were present, was required to file a motion with the court that issued the current temporary order requesting permanent custody. If the court found that it was in the best interests of the child (ongoing law specifies factors to be considered in determining the best interest) and any of four specified circumstances were present, the court could grant permanent custody of the child to the agency. The specified circumstances were: (1) the child was not abandoned or orphaned or had not been in the temporary custody of one or more public children services agencies or private child placing agencies for 12 or more months of a consecutive 22-month period ending on or after March 18, 1999, and the child could not be placed with either of the child's parents within a reasonable time or should not be placed with the child's parents, (2) the child was abandoned, (3) the child was orphaned and there were no relatives of the child who were able to take permanent custody, or (4) the child had been in the temporary custody of one or more public children services agencies or private child placing agencies for 12 or more months of a consecutive 22-month period ending on or after March 18, 1999. (R.C. 2151.413(D) and 2151.414(B).)

Operation of the act

In all of the provisions of the prior law described above that contain a reference to a period "ending on or after March 18, 1999," the act eliminates the reference to the period ending on or after March 18, 1999. The act also specifies that, if the child has been in the temporary custody of one or more public children services agencies or private child placing agencies and the child previously was in the temporary custody of an equivalent agency in another state, the agency with custody of the child must apply the time in temporary custody in the other state to the time in temporary custody in Ohio and, unless specified circumstances are present, if the time spent in temporary custody equals 12 months or more of a consecutive 22-month period, the agency with custody may file a motion requesting permanent custody. (R.C. 2151.413(D)(1) and R.C. 2151.414(B)(1)(d) and (D)(3).)

Regarding the court's determination as to whether to grant permanent custody, the act modifies two of the four specified circumstances that are used in

determining whether to grant permanent custody. Under the act, if the court finds that it is in the best interest of the child, it may grant permanent custody of the child to the agency if it finds that any of the following circumstances apply: (1) the child is not abandoned or orphaned, has not been in the temporary custody of one or more public children services agencies or private child placing agencies for 12 or more months of a consecutive 22-month period, *or has not been in the temporary custody of one or more public children services agencies or private child placing agencies for 12 or more months of a consecutive 22-month period if, as described in the preceding paragraph, the child was previously in the temporary custody of an equivalent agency in a state other than Ohio*, and the child cannot be placed with either of the child's parents within a reasonable time or should not be placed with the child's parents (amended by the act), (2) the child is abandoned (continuing law), (3) the child is orphaned and there are no relatives of the child who are able to take permanent custody (continuing law), or (4) the child has been in the temporary custody of one or more public children services agencies or private child placing agencies for 12 or more months of a consecutive 22-month period, *or the child has been in the temporary custody of one or more public children services agencies or private child placing agencies for 12 or more months of a consecutive 22-month period and, as described in the preceding paragraph, the child was previously in the temporary custody of an equivalent agency in a state other than Ohio* (amended by the act). (R.C. 2151.414(B)(1).)

Finally, prior law required the court, in determining the best interest of a child, to consider all relevant factors, including five specified factors. One of the specified factors was the custodial history of the child, including whether the child had been in the temporary custody of one or more public children services agencies or private child placing agencies for 12 or more months of a consecutive 22-month period ending on or after March 18, 1999. The act removes the "ending on or after March 18, 1999," reference and expands this factor so that it also refers to whether the child has been in the temporary custody of one or more public children services agencies or private child placing agencies for 12 or more months of a consecutive 22-month period and, as described in the second preceding paragraph, the child was previously in the temporary custody of an equivalent agency in a state other than Ohio. (R.C. 2151.414(D)(3).)

Review hearings that pertain to permanency plans

The act provides that, in any review hearing that pertains to a permanency plan for a child who will not be returned to the parent, the court must consider in-state and out-of-state placement options and the court must determine whether the in-state or the out-of-state placement continues to be appropriate and in the best interests of the child. In any review hearing that pertains to a permanency plan for a child, the court or a citizens board appointed by the court as described above

must consult with the child, in an age-appropriate manner, regarding the proposed permanency plan for the child. (R.C. 2151.417(F).)

Presentation of evidence at hearing or review regarding foster care or relative placement or prospective adoption of a child

Prior law

Prior law largely retained by the act provided that, if a child had been placed in a certified foster home or was in the custody of a relative of the child, other than a parent, a court, prior to conducting a hearing under R.C. 2151.412(E)(2) or (3) or R.C. 2151.28, 2151.33, 2151.35, 2151.414, 2151.415, 2151.416, or 2151.417 with respect to the child, was required to notify the foster caregiver or relative of the date, time, and place of the hearing and that, at the hearing, the foster caregiver or relative could present evidence.

It also provided that, if a public children services agency or private child placing agency had permanent custody of a child and a petition to adopt the child had been filed, the agency, prior to conducting a review under R.C. 2151.416, or a court, prior to conducting a hearing under R.C. 2151.412(E)(2) or (3) or R.C. 2151.416 or 2151.417, was required to notify the prospective adoptive parent of the date, time, and place of the review or hearing and that, at the review or hearing, the prospective adoptive parent could present evidence. (R.C. 2151.424.)

Operation of the act

The act modifies the provisions described above to specify that, at the hearing or reviews described in those provisions, the foster caregiver or relative, or the prospective adoptive parent, whichever is applicable, *has the right* to present evidence (replacing the statement that the foster caregiver or relative, or the prospective adoptive parent, whichever is applicable, *may* present evidence) (R.C. 2151.424).

Public children services agency memorandum of understanding

Ongoing law requires each public children services agency to prepare a memorandum of understanding signed by various public officials from the county the agency serves. The act does not change the specified public officials who must sign the memorandum of understanding, but it includes a provision permitting the clerk of the court of common pleas to sign the memorandum of understanding. If the clerk signs the memorandum, the clerk must execute all relevant responsibilities as required of officials specified in the memorandum. (R.C. 2151.421(J)(1) and (5).)

ODJFS work group

The act requires the Director of ODJFS, not later than 30 days after the act's effective date and in addition to the actions authorized by R.C. 5101.24 (the section pertains to ODJFS actions against certain entities), to convene a work group to study and make recommendations to the Director regarding both of the following (Section 5):

(1) Support for positive child and family outcomes offered to public children services agencies, private child placing agencies, and private noncustodial agencies by ODJFS;

(2) The establishment of fines and sanctions for public children services agencies, private child placing agencies, and private noncustodial agencies that do not comply with foster care related laws or rules.

The work group must include representatives of public children services agencies, private child placing agencies, private noncustodial agencies, the Ohio Family Care Association, the Ohio Association of Child Caring Agencies, the Public Children Services Association of Ohio, the Ohio Job and Family Services Directors' Association, the County Commissioners' Association of Ohio, foster caregivers, and current and former foster children. By June 30, 2009, the work group must prepare and submit to the Director of ODJFS a report that contains recommendations regarding ODJFS support for local agencies and the establishment of fines and sanctions either in law, rule, or both. The Director must review the recommendations and create an executive summary of the recommendations for submission to the Governor, the Speaker of the House of Representatives, and the President of the Senate. The work group ceases to exist upon submission of the executive summary.

An uncodified section of law enacted in Am. Sub. H.B. 119 of the 127th General Assembly provides that contingent on the availability of funding, ODJFS must implement and oversee use of a Child Placement Level of Care Tool on a pilot basis. This section of uncodified law also requires the Ohio Department of Mental Health to conduct a study of the children placed using the Child Placement Level of Care Tool. The act removes the requirement that the Ohio Department of Mental Health conduct this study. (Section 3.)

References to former Ohio laws and the laws of other states

In two ongoing provisions that list certain Revised Code sections, refer to certain types of actions that occur under the listed sections, and link certain restrictions to those actions, the act includes references to existing or former laws of Ohio, any other state, or the United States that are substantially equivalent to

the listed Revised Code sections. The provisions amended by the act, with the modifications made by the act indicated in italics, do the following:

(1) Require a court to enter a finding that a child for whom a public children services agency or a private child placing agency is requesting permanent custody cannot be placed with either parent within a reasonable period of time or should not be placed with either parent if the court determines that the parent has had parental rights involuntarily terminated with respect to a sibling of the child pursuant to R.C. 2151.214, 2151.353, or 2151.415 *or under an existing or former law of this state, another state, or the United States that is substantially equivalent to those sections* (R.C. 2151.414(E)(11)).

(2) Require a court to make a determination that a public children services agency or a private child placing agency is not required to make reasonable efforts to prevent the removal of the child from the child's home, eliminate the continued removal of the child from the child's home, and return the child to the child's home if the parent from whom the child was removed has had parental rights involuntarily terminated with respect to a sibling of the child pursuant to R.C. 2151.353, 2151.414, or 2151.415 *or under an existing or former law of this state, another state, or the United States that is substantially equivalent to those sections* (R.C. 2151.419(A)(2)(e)).

Putative father consent to adoption

Uncodified law enacted in Am. Sub. H.B. 419 of the 121st General Assembly specified that the amendments made by the act to R.C. 3107.06 and 3107.07 concerning a putative father consenting to his child's adoption apply only if the child is born on or after January 1, 1997, and that whether a putative father's consent to the adoption of his child born prior to January 1, 1997, is required is determined in accordance with R.C. 3107.06 and 3107.07 as those sections existed immediately prior to their amendment by that act.

The act provides that, notwithstanding the provisions of the versions of R.C. 3107.06 and 3107.07 that, pursuant to Section 5 of Am. Sub. H.B. 419 of the 121st General Assembly, apply regarding a putative father's consent to the adoption of any child born prior to January 1, 1997, on and after the act's effective date, both of the following apply (R.C. 3107.066):

(1) The references in former R.C. 3107.06(F)(4) to the Department of Human Services are repealed, and that division of that former section is to be considered as reading, and be applicable, as follows: "Has filed an objection to the adoption with the agency having custody of the minor at any time before the placement of the minor in the home of the petitioner, or with the probate court

within 30 days of the filing of a petition to adopt the minor or its placement in the home of the petitioner, whichever occurs first."

(2) The references in former R.C. 3107.07(B) to the Department of Human Services are repealed, and that division of that former section is to be considered as reading, and be applicable, as follows: "The putative father of a minor if the putative father fails to file an objection with the court or the agency having custody of the minor as provided in division (F)(4) of section 3107.06 of the Revised Code, or files an objection with the court or agency and the court finds, after proper service of notice and hearing, that he is not the father of the minor, or that he has willfully abandoned or failed to care for and support the minor, or abandoned the mother of the minor during her pregnancy and up to the time of her surrender of the minor, or its placement in the home of the petitioner, whichever occurs first."

Mandatory reporter--child abuse or neglect

Ongoing law identifies specified categories of professions and prohibits a person in any of those categories who is acting in an official or professional capacity and knows, or has reasonable cause to suspect based on facts that would cause a reasonable person in a similar position to suspect, that a child under 18 years of age or a mentally retarded, developmentally disabled, or physically impaired child under 21 years of age has suffered or faces a threat of suffering any physical or mental wound, injury, disability, or condition of a nature that reasonably indicates abuse or neglect of the child from failing to immediately report that knowledge or reasonable cause to suspect to a specified person or entity.

The act expands the categories of professions to which the mandatory reporting provision applies so that the provision also applies to an employee of a county department of job and family services who is a professional and who works with children and families. The person making the report generally must make it to the public children services agency or a municipal or county peace officer in the county in which the child resides or in which the abuse or neglect is occurring or has occurred, but in limited circumstances described in R.C. 5120.173, the person making the report must make it to the entity specified in that section. (R.C. 2151.421(A)(1).)

HISTORY

ACTION	DATE
Introduced	05-09-07
Reported, S. Judiciary - Criminal Justice	06-13-07
Passed Senate (33-0)	06-26-07
Reported, H. Criminal Justice	04-14-08
Passed House (94-1)	04-23-08
Senate concurred in House amendments (30-2)	04-29-08

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