



Ohio Legislative Service Commission

Bill Analysis

Bethany Boyd

H.B. 446

128th General Assembly
(As Introduced)

Reps. Harris, Hagan, Domenick, Foley, Heard, Letson, Combs, Brown

BILL SUMMARY

- Specifies that, if a juvenile court commits an abused, neglected, or dependent child, an unruly child, or a delinquent child to an agency, home, school, camp, institution, or other entity or residential facility that is located outside Ohio:
 - The agency, home, school, camp, institution, or other entity or residential facility must comply with all standards established under Ohio's laws regarding the placement of children and mental health institutions, and with all rules adopted under those laws, that are applicable to an equivalent agency, home, school, camp, institution, or other entity or residential facility located in Ohio.
 - No public money may be paid to an agency, home, school, camp, institution, or other entity or residential facility that is located in another state if it does not comply with those standards and rules.
- Requires the Director of Job and Family Services and the Director of Mental Health to jointly adopt rules under the Administrative Procedure Act that establish compliance procedures and fees for the agencies, homes, schools, camps, institutions, and other entities or residential facilities located outside Ohio and that establish a list of the entities or facilities that are in compliance with Ohio's standards and rules, among other matters.
- Requires that a public children services agency, private child placing agency, private noncustodial agency, court of common pleas, probate court, juvenile court, or other entity responsible for placing a child in or committing a child to such an out-of-state entity ensure that the out-of-state entity is on the list as being in compliance with Ohio's standards and rules.

CONTENT AND OPERATION

Out-of-state placements or commitments of juveniles

Orders of disposition

(R.C. 2151.353(A), 2151.354(A) to (C), 2152.19(A), and 3109.90)

Existing law authorizes a juvenile court to choose from various options for making orders of disposition of a child who is adjudicated an abused, neglected, or dependent child (see **COMMENT 1**, below), an unruly child (see **COMMENT 2**, below), or a delinquent child (see **COMMENT 3**, below), depending on which classification applies to the child. An example of such a disposition is that, among the various options, a juvenile court may place an abused, neglected, or dependent child in protective supervision, may suspend an unruly child's driver's license, or may place a delinquent child in a detention facility for up to 90 days.

The bill provides that the juvenile court's orders of disposition are subject to the bill's requirements for committing an abused, neglected, or dependent child, an unruly child, or a delinquent child to an agency, home, school, camp, institution,¹ or other entity or residential facility² that is located outside Ohio. The out-of-state agency, home, school, camp, institution, or other entity or residential facility (hereinafter, collectively referred to as "out-of-state entity") that receives a child from Ohio must comply with all standards that are established under Ohio law regarding the placement of children (R.C. Chapter 5103.) and under Ohio law regarding mental health institutions (R.C. Chapter 5119.), and with all rules adopted under those laws, that are applicable to an equivalent agency, home, school, camp, institution, or other entity or residential facility located in Ohio.³ The bill provides that no public money may be paid to an out-of-state entity that does not comply with those standards and rules.

¹ Under the bill, an "institution" is any hospital or other facility maintained by a state that is a party to the Interstate Compact on Mental Health, or a political subdivision thereof, for the care and treatment of mental illness or mental retardation (R.C. 5119.50, not in the bill).

² A "residential facility" is defined under the bill and the Interstate Compact for the Placement of Children as a facility providing a level of care that is sufficient to substitute for parental responsibility or foster care, and is beyond what is needed for assessment or treatment of an acute condition, but does not include institutions primarily educational in character, hospitals, or other medical facilities (R.C. 5103.20).

³ But the out-of-state entity is not required to be licensed or certified by the Department of Job and Family Services or the Department of Mental Health, as applicable (R.C. 3109.90(D)).

Joint rulemaking

(R.C. 3109.90(C))

Continuing law generally requires that the Director of Job and Family Services certify "institutions" and "associations"⁴ and adopt rules as necessary for their adequate and competent management (R.C. 5103.02 and 5103.03, not in the bill), and that the Director of Mental Health, through the Department of Mental Health, maintain, operate, manage, and govern state institutions for the care and treatment of mentally ill persons (R.C. 5119.02, not in the bill).

The bill requires that the Director of Job and Family Services and the Director of Mental Health jointly adopt rules under the Administrative Procedure Act (which requires notice and a public hearing) that establish all of the following:

- (1) Procedures for periodically verifying that an out-of-state entity that receives a child from Ohio for placement or commitment, as applicable, complies with the standards and rules described above;
- (2) A list of out-of-state entities that are in compliance with the standards and rules;
- (3) Procedures for the removal of a child from an out-of-state entity that does not comply with the standards and rules if that child is from Ohio and has been placed in or committed to the out-of-state entity;
- (4) Fees applicable to out-of-state entities that receive children from Ohio;
- (5) Any other procedures or requirements necessary to implement the bill.

Responsibility for placing or committing children

(R.C. 3109.90(E))

The bill requires that a public children services agency, private child placing agency, private noncustodial agency, court of common pleas, probate court, juvenile court, or other entity responsible for placing a child in or committing a child to an out-of-state entity ensure that the out-of state entity is listed, in accordance with the jointly

⁴ In general, the "institutions" and "associations" certified by the Director of Job and Family Services are any incorporated or unincorporated organization, society, association, or agency, public or private, that receives or cares for children for two or more consecutive weeks, or 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.

adopted rules, as being in compliance with all standards that are established under the law regarding the placement of children and under the law regarding mental health institutions, and all rules adopted under those laws, that are applicable to an equivalent agency, home, school, camp, institution, or other entity or residential facility located in Ohio.

COMMENT

1. An "unruly child" includes any child who:

- Does not submit to the reasonable control of the child's parents, teachers, guardian, or custodian, by reason of being wayward or habitually disobedient;
- Is an habitual truant from school and who previously has not been adjudicated an unruly child for being an habitual truant;
- Behaves in a manner as to injure or endanger the child's own health or morals or the health or morals of others; or
- Violates a law that is applicable only to a child, other than the laws prohibiting an individual who is under age 18 from showing or giving false identification to gain entrance to an adult entertainment establishment, prohibiting the underage purchase of a firearm, prohibiting the underage purchase or receipt of a pseudoephedrine product, unless dispensed by a pharmacist pursuant to a valid prescription, prohibiting knowingly showing false identification to purchase or receive a pseudoephedrine product, and prohibiting a child from possessing, using, purchasing, or receiving cigarettes or other tobacco products. (R.C. 2151.022.)

2. A "dependent child" is any child: (a) who is homeless, destitute, or without adequate parental care, through no fault of the child's parents, guardian, or custodian, (b) who lacks adequate parental care by reason of the mental or physical condition of the child's parents, guardian, or custodian, (c) whose condition or environment is such as to warrant the state, in the interests of the child, in assuming the child's guardianship, and (d) who is residing in a household in which a parent, guardian, custodian, or other member of the household committed an act that was the basis for an adjudication that a sibling of the child or any other child who resides in the household is an abused, neglected, or dependent child, and, because of the circumstances surrounding the abuse, neglect, or dependency of the sibling or other child and the

conditions in the child's household, the child is in danger of being abused or neglected by that parent, guardian, custodian, or member of the household. (R.C. 2151.04.)

3. Under R.C. 2152.02, a "delinquent child" includes any child who:

- Violates any law of this state or the United States, or any ordinance of a political subdivision of the state, that would be an offense if committed by an adult, except a juvenile traffic offender;
- Violates any lawful order of the court made under the Delinquent Children Law or Juvenile Court Law, other than an order issued under the law that prohibits children from possessing, using, purchasing, or receiving cigarettes or other tobacco products;
- Shows or gives false identification to gain entrance to an adult entertainment establishment, purchases or attempts to purchase a firearm, purchases or receives a pseudoephedrine product that is not dispensed by a pharmacist pursuant to a valid prescription, or knowingly shows false identification to purchase or receive a pseudoephedrine product;
- Is an habitual truant and previously has been adjudicated an unruly child for being an habitual truant; or
- Is a chronic truant.

HISTORY

ACTION	DATE
Introduced	02-08-10

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