



Ohio Legislative Service Commission

Bill Analysis

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Sub. H.B. 438

130th General Assembly
(As Reported by H. Judiciary)

Reps. Pelanda and Grossman, Stebelton, Hackett, Phillips, Fedor, Buchy, Blair, Celebrezze

BILL SUMMARY

- Requires doctors, school employees, and other persons who provide services to a child that are requested by an attorney in fact (AIF) under authority of a document other than a court order, grandparent's power of attorney, or caretaker authorization affidavit to report the request to the county public children services agency (PCSA).
- Requires a PCSA to treat such a report as an allegation that the child is a dependent child, to investigate the child's placement with the AIF, and to file a dependency complaint if it finds that the placement is unsafe for the child.

CONTENT AND OPERATION

The bill addresses documents that purport to "rehome" a child by granting parental rights and responsibilities through a document other than a court order, grandparent's power of attorney, or caretaker authorization affidavit.

Definitions

Service provider

The bill defines "service provider" as any person who is required to report known or suspected child abuse or neglect to a peace officer or public children services agency.¹ The so-called "mandatory reporters" include attorneys, physicians, teachers, and other individuals who may have contact with children through their work.²

¹ R.C. 3109.81(A)(1).

² R.C. 2151.421(A)(1)(b) (unchanged by the bill).

Other terms

The bill applies existing definitions of "child," "custodian," "guardian," "legal custody," and "residual parental rights, privileges, and responsibilities" to the bill's new Revised Code section dealing with documents that purport to grant parental rights and responsibilities.³

Service provider's duty to report documents that purport to grant parental rights and responsibilities

The bill deals with situations in which a person with whom a child is residing possesses a document that purports to grant to that person any of the parent's, guardian's, or custodian's rights and responsibilities regarding the care, physical control, and custody of the child. Under the bill, when an attorney in fact (AIF) under such a document, other than a court order, a statutorily authorized power of attorney given to a grandparent, or a statutorily authorized caretaker authorization affidavit executed by a grandparent, requests registration in a school, medical treatment, or other services for a child and presents the school employee, physician, or other service provider with the document as authority for requesting the services, the service provider must promptly report the request, in writing, to the public children services agency (PCSA) of the county in which the child resides. A service provider need not make a report if the document presented appears to be a valid court order, statutorily authorized power of attorney given to a grandparent, or statutorily authorized caretaker authorization affidavit executed by a grandparent.⁴ The report must include the name and address of the AIF and of the child, the child's age, and the nature of the services requested.⁵

The bill separately requires mandatory reporters to comply with the foregoing provision, but it does not penalize the failure to do so.⁶

PCSA's duties on receipt of report of document

On receiving a report from a service provider that an AIF requested services for a child under authority of a document other than a court order, grandparent's power of attorney, or caretaker authorization affidavit, a PCSA must treat the report as an allegation that the child is a dependent child and must investigate the child's temporary

³ R.C. 3109.51.

⁴ R.C. 3109.81(B)(2).

⁵ R.C. 3109.81(B).

⁶ R.C. 2151.421(A)(1)(c) and 2151.99(C).



placement with the AIF in accordance with the statute and administrative rules governing PCSA investigations of dependent children. The investigation must include a criminal records check, a check of court records for any child-related civil proceedings, and a home safety study.⁷ If the PCSA determines that the temporary placement of the child with the AIF is unsafe for the child, it must file a dependency complaint with the juvenile court.⁸

HISTORY

ACTION	DATE
Introduced	02-11-14
Reported, H. Judiciary	11-19-14

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⁷ R.C. 3109.81(C).

⁸ R.C. 3109.81(D).

