



# Ohio Legislative Service Commission

## Bill Analysis

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### **S.B. 74**

130th General Assembly  
(As Introduced)

**Sens.** Tavares, Kearney, Brown

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## **BILL SUMMARY**

- Provides that an agency, home, school, camp, institution, or other entity or residential facility that is located in a state other than Ohio and that receives a child from Ohio must comply with all standards that are established under specified Ohio law regarding the placement of children and under specified Ohio law regarding mental health institutions and all related rules that are applicable to an equivalent agency, home, school, camp, institution, or other entity or residential facility located in Ohio.
- Specifies that an out-of-state agency, home, school, camp, institution, or other entity or residential facility is not required to be licensed or certified by the Department of Job and Family Services or the Department of Mental Health, as applicable.
- Requires the Director of Job and Family Services and the Director of Mental Health to jointly adopt rules that, among other matters, establish: (1) compliance procedures and fees for out-of-state agencies, homes, schools, camps, institutions, and other entities or residential facilities that receive a child from Ohio, and (2) a list of those out-of-state entities and facilities that are in compliance with Ohio's standards and rules.
- Requires that an Ohio public children services agency, private child placing agency, private noncustodial agency, court of common pleas, probate court, juvenile court, or other entity placing a child in an out-of-state agency, home, school, camp, or other entity or residential facility or committing a child to an out-of-state institution ensure that the entity or facility or the institution is listed as described in the preceding dot point as being in compliance with Ohio's standards and rules.

- In the existing provisions that set forth authorized orders of disposition that a juvenile court may make of an adjudicated abused, neglected, dependent, unruly, or delinquent child, specifies that dispositions made under any of the provisions is subject to the requirements described above for placing a child in an out-of-state agency, home, school, camp, or other entity or residential facility or committing a child to an out-of-state institution.
- Specifies that no public money may be paid to an out-of-state agency, home, school, camp, institution, or other entity or residential facility that does not comply with the Ohio standards and rules referred to above in the first dot point.

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## **CONTENT AND OPERATION**

### **Background**

Existing R.C. Chapter 5103. generally requires that the Director of Job and Family Services certify "institutions" and "associations" and adopt rules as necessary for their adequate and competent management. It also sets forth standards and procedures applicable to such institutions and associations. In general, the "institutions" and "associations" subject to this provision are incorporated or unincorporated organizations, societies, associations, and agencies, public or private, that receive or care for children for two or more consecutive weeks, and individuals, including operators of a foster home, who, for hire, gain, or reward, receive or care for children for two or more consecutive weeks.<sup>1</sup> Existing R.C. Chapter 5119. generally requires 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 and adopt rules for the operation of mental health facilities and provision of mental health services, sets forth standards and procedures regarding such care, treatment, and services, and authorizes the Director to contract with public and private agencies, institutions, and other entities as necessary for the Department to carry out its duties.<sup>2</sup>

### **Out-of-state entity receiving an Ohio child – required compliance with Ohio standards and rules**

The bill provides that, except as otherwise described below, an agency, home, school, camp, institution, or other entity or residential facility that is located in a state other than Ohio and that receives a child from Ohio must comply with all standards

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<sup>1</sup> R.C. 5103.02 and 5103.03, not in the bill.

<sup>2</sup> R.C. 5119.013 and 5119.02, not in the bill.



that are established under R.C. Chapter 5103. or 5119. (see above) and all rules adopted under either Chapter that are applicable to an equivalent agency, home, school, camp, institution, or other entity or residential facility located in Ohio.<sup>3</sup>

An out-of-state agency, home, school, camp, institution, or other entity or residential facility is not required to be licensed or certified by the Department of Job and Family Services or the Department of Mental Health, as applicable.<sup>4</sup>

### **Joint rulemaking – Director of Job and Family Services and Director of Mental Health**

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 that establish all of the following:<sup>5</sup>

(1) Procedures for periodically verifying that an out-of-state agency, home, school, camp, institution, or other entity or residential facility that receives a child from Ohio for placement or commitment, as applicable, complies with the standards and rules referred to above in "**Out-of-state entity receiving Ohio child – required compliance with Ohio standards and rules**";

(2) A list of out-of-state agencies, homes, schools, camps, institutions, or other entities or residential facilities that are in compliance with the standards and rules referred to above in (1);

(3) Procedures for the removal of a child from an out-of-state agency, home, school, camp, institution, or other entity or residential facility entity that does not comply with the standards and rules referred to above in (1) if that child is from Ohio and has been placed in or committed to the out-of-state agency, home, school, camp, institution, or other entity or residential facility entity;

(4) Fees applicable to out-of-state agencies, homes, schools, camps, institutions, or other entities or residential facilities that receive children from Ohio;

(5) Any other procedures or requirements necessary to implement the bill.

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<sup>3</sup> R.C. 3109.90(A).

<sup>4</sup> R.C. 3209.90(D).

<sup>5</sup> R.C. 3109.90(C).



## **Ohio agency, court, or other entity placing a child with an out-of-state entity; restriction on use of public money**

Under the bill, an Ohio 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 an out-of-state agency, home, school, camp, or other entity or residential facility or committing a child to an out-of-state institution must ensure that the agency, home, school, camp, institution, or other entity or residential facility is listed in accordance with rules adopted as described above in "**Joint rulemaking – Director of Job and Family Services and Director of Mental Health**" as being in compliance with the standards and rules referred to above in "**Out-of-state entity receiving Ohio child – required compliance with Ohio standards and rules.**"<sup>6</sup>

The bill amends the existing provisions that set forth authorized orders of disposition that a juvenile court may make of an adjudicated abused, neglected, or dependent child, authorized orders of disposition for an adjudicated unruly child, and authorized orders of disposition for an adjudicated delinquent child (other than commitment to the Department of Youth Services, a financial sanction, or a serious youthful offender disposition) to specify that dispositions that a court makes under any of the provisions is subject to the bill's requirements for placing a child in an out-of-state agency, home, school, camp, or other entity or residential facility or committing a child to an out-of-state institution, as described above.<sup>7</sup> A summary of the existing provisions that set forth authorized orders of disposition that a juvenile court may make of an adjudicated abused, neglected, or dependent, unruly, or delinquent child and that are relevant to the bill is set forth below in "**Existing law – orders of disposition of an abused, neglected, or dependent child, an unruly child, or a delinquent child.**"

The bill specifies that no public money may be paid to an out-of-state agency, home, school, camp, institution, or other entity or residential facility that does not comply with the standards and rules referred to above in "**Out-of-state entity receiving Ohio child – required compliance with Ohio standards and rules.**"<sup>8</sup>

### **Definitions**

As used in the bill:

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<sup>6</sup> R.C. 3109.90(E).

<sup>7</sup> R.C. 2151.353(A), 2151.354(A), (B), and (C), and 2152.19(A).

<sup>8</sup> R.C. 3109.90(B).



**"Institution"** means any hospital or other facility maintained by a party state (a state that is a party to the Interstate Compact on Mental Health) or political subdivision thereof for the care and treatment of mental illness or mental retardation.<sup>9</sup>

**"Residential facility"** means 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.<sup>10</sup>

## **Existing law – orders of disposition of an abused, neglected, or dependent child, an unruly child, or a delinquent child**

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

Existing law provides that if a child is adjudicated an abused, neglected, or dependent child, the juvenile court may make the following orders of disposition that are relevant to the bill:<sup>11</sup>

(1) Commit the child to the temporary custody of a public children services agency, a private child placing agency, either parent, a relative residing within or outside Ohio, or a probation officer for placement in a certified foster home, or in any other home approved by the court;

(2) Commit the child to the permanent custody of a public children services agency or private child placing agency, if the court determines in accordance with specified provisions that the child cannot be placed with one of the child's parents within a reasonable time or should not be placed with either parent, and that the permanent commitment is in the best interest of the child;

(3) Place the child in a planned permanent living arrangement with a public children services agency or private child placing agency, if a public children services agency or private child placing agency requests the court to place the child in a planned permanent living arrangement and if the court finds, by clear and convincing evidence, that a planned permanent living arrangement is in the best interest of the child and that other specified criteria exist.

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<sup>9</sup> R.C. 3109.90(F)(1), by reference to R.C. 5119.50, which is not in the bill.

<sup>10</sup> R.C. 3109.90(F)(2), by reference to R.C. 5103.20, which is not in the bill.

<sup>11</sup> R.C. 2151.353.



## Orders of disposition of an unruly child

Existing law provides that if a child is adjudicated an unruly child, the juvenile court may make the following orders of disposition that are relevant to the bill:<sup>12</sup>

(1) Make any of the dispositions authorized for an abused, neglected, or dependent child, as described above in "**Orders of disposition of an abused, neglected, or dependent child**";

(2) Place the child on community control under any sanctions, services, and conditions that the court prescribes, as described below in "**Orders of disposition of a delinquent child**," provided that any period of community service imposed may not exceed 175 hours;

(3) Commit the child to the temporary or permanent custody of the court;

(4) Make any further disposition the court finds proper that is consistent with R.C. 2151.312 and 2151.56 to 2151.59;

(5) If, after making a disposition of a type described above in (1) or (2), the court finds upon further hearing that the child is not amenable to treatment or rehabilitation under that disposition, make a disposition described below in (1), (4), (5), or (7) under "**Orders of disposition of a delinquent child**" that is consistent with R.C. 2151.312 and 2151.56 to 2151.59.

## Orders of disposition of a delinquent child

Existing law provides many authorized orders of disposition for a child who is adjudicated a delinquent child. The orders include financial sanctions and, in specified limited circumstances, commitment to the Department of Youth Services or a serious youthful offender disposition.<sup>13</sup> The juvenile court also may make any of the following orders of disposition that are relevant to the bill, in addition to any other disposition authorized or required by the Juvenile Code:<sup>14</sup>

(1) Any order of disposition authorized for an abused, neglected, or dependent child, as described above in "**Orders of disposition of an abused, neglected, or dependent child**";

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<sup>12</sup> R.C. 2151.354.

<sup>13</sup> R.C. 2152.11 to 2152.18 and 2152.20, not in the bill.

<sup>14</sup> R.C. 2152.19(A), (B), and (G).



(2) Commit the child to the temporary custody of any school, camp, institution, or other facility operated for the care of delinquent children by the county, a district, or a private agency or organization, within or without Ohio, that is authorized and qualified to provide the care, treatment, or placement required, including, but not limited to, a school, camp, or facility operated under R.C. 2151.65;

(3) Place the child in a detention facility or district detention facility for up to 90 days;

(4) Place the child on community control under any sanctions, services, and conditions that the court prescribes, including a mandatory requirement that the child abide by the law during the period of community control.

(5) Commit the child to the custody of the court;

(6) If a child is adjudicated a delinquent child for being a chronic truant or an habitual truant who previously has been adjudicated an unruly child for being a habitual truant, require the child to participate in a truancy prevention mediation program, make any order of disposition as described above, except that the court may not commit the child to a facility described in (2) or (3), above, unless it determines that the child violated a specified type of court order. The court also may impose specified types of requirements upon the child's parent, guardian, or other person having care of the child if the parent, guardian, or person failed to cause the child's attendance at school in violation of state law.

(7) Make any further disposition that the court finds proper, except that the child may not be placed in: (a) a state correctional institution, a county, multicounty, or municipal jail or workhouse, or another place in which an adult convicted of a crime, under arrest, or charged with a crime is held, or (b) in specified circumstances, a community corrections facility.

(8) If the court commits a delinquent child to the custody of any person, organization, or entity pursuant to the provisions described above in (1) to (7) and if the delinquent act for which the child is so committed is a sexually oriented offense or a child-victim oriented offense, the court either must require that the child be provided treatment as described in R.C. 5139.13(A)(2) or must inform the person, organization, or entity that it is the preferred course of action in Ohio that the child be provided treatment as described in R.C. 5139.13(A)(2) and encourage the person, organization, or entity to provide that treatment.

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## HISTORY

ACTION

DATE

Introduced

03-12-13

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