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## DEPARTMENT OF JOB AND FAMILY SERVICES

### Child care

- Changes the periodic criminal records check required for certain child care providers from every four to every five years.
- Permits the Ohio Department of Job and Family Services (ODJFS) Director to issue a child care license or provisional license to an applicant whose type B family day-care home certificate was revoked, if the revocation occurred more than five years before applying for the license.
- Requires a county department of job and family services (CDJFS), as part of the certification process for type B homes, to request from the public children services agency (rather than ODJFS) information concerning abuse or neglect reports.
- Permits ODJFS to issue a child care license to a youth development center that applies for and meets the requirements for the license.
- Exempts preschool programs operated by nonchartered, nontax-supported schools from child day-care licensing requirements, provided the programs meet specified conditions.
- Requires ODJFS to establish the Ohio Electronic Child Care System to track attendance and calculate payments for publicly funded child care and requires all publicly funded child care providers to participate in the system.

### Child welfare

- Requires a private child placing agency or private noncustodial agency seeking renewal of a certificate of fitness issued by ODJFS to provide ODJFS evidence of an independent financial statement audit performed by a licensed public accounting firm.
- Requires that the independent audits demonstrate that the agency operated in a fiscally accountable manner as determined by ODJFS.
- Eliminates provisions authorizing ODJFS, with respect to a criminal records check required for an adult resident of a prospective adoptive or foster home or a foster caregiver's home, to waive the requirement that the records check be based on fingerprints if the adult resident is physically unable to provide fingerprints and poses no danger to the children who may be placed in the home.



## **Child support**

- Revises the frequency of publication by ODJFS's Office of Child Support of a set of posters of delinquent child support obligors who cannot be located from not less than twice annually to annually and makes it discretionary for the Office to publish the poster.
- Relieves an employer of the obligation to make a new hire report to ODJFS when an employee is rehired after a period of separation from employment of less than 60 days.

## **Ohio Parenting and Pregnancy Program**

- Establishes the Ohio Parenting and Pregnancy Program to provide to pregnant women and parents or other relatives caring for children under 12 months of age services that promote childbirth, parenting, and alternatives to abortion.
- Specifies requirements that an entity seeking funds from the Program must meet, including having the primary purpose of promoting childbirth, not abortion.
- Allows an entity receiving funds under the Program to provide services through a subcontractor.

## **Therapeutic wilderness camps (VETOED)**

- Would have exempted therapeutic wilderness camps from certification by ODJFS (VETOED).
- Would have required a therapeutic wilderness camp to certify annually to the parents of the children attending the camp that the camp met specified minimum standards (VETOED).

## **Workforce training pilot (VETOED)**

- Would have established the Workforce Training Pilot Program for the Economically Disadvantaged which would have required the ODJFS Director to award grants to demonstration projects to provide training in life and technical skills (VETOED).

## Child care

### Regulation of child care: background

(R.C. Chapter 5104.; Section 815.20)

The Ohio Department of Job and Family Services (ODJFS) and county departments of job and family services (CDJFSs) are responsible for the regulation of child care providers, other than preschool programs and school child programs, which are regulated by the Ohio Department of Education.<sup>132</sup> Child care can be provided in a facility, the home of the provider, or the child's home. Not all child care providers are subject to regulation, but a provider must be licensed or certified to be eligible to provide publicly funded child care. The distinctions among the types of providers are described in the table below.

Child Care Providers		
Type	Description/Number of children served	Regulatory system
<b>Child day-care center</b>	Any place in which child care is provided as follows: --For 13 or more children at one time; or --For 7-12 children at one time if the place is not the permanent residence of the licensee or administrator (which is, instead, a type A home).	A child day-care center must be licensed by ODJFS, regardless of whether it provides publicly funded child care.
<b>Family day-care home</b>	<p><b>Type A home</b> – a permanent residence of an administrator in which child care is provided as follows:            --For 7-12 children at one time; or            --For 4-12 children at one time if 4 or more are under age 2.</p> <p><b>Type B home</b> – a permanent residence of the provider in which child care is provided as follows:            --For 1-6 children at one time; and            --No more than 3 children at one time under age 2.</p>	<p>A type A home must be licensed by ODJFS, regardless of whether it provides publicly funded child care.</p> <p>To be eligible to provide publicly funded child care, a type B home must be certified by a CDJFS or, beginning January 1, 2014, licensed by ODJFS.</p>

<sup>132</sup> R.C. 3301.51 to 3301.59, not in the act.



<b>Child Care Providers</b>		
<b>Type</b>	<b>Description/Number of children served</b>	<b>Regulatory system</b>
<b>In-home aide</b>	A person who provides child care in a child's home but does not reside with the child.	To be eligible to provide publicly funded child care, an in-home aide must be certified by a CDJFS.

## **Child care licensing**

### **Criminal records checks for child care providers**

(R.C. 5104.012 and 5104.013; Sections 110.20, 110.21, and 110.22)

ODJFS is required by continuing law to request a criminal records check of the following persons: (1) the owner, licensee, or administrator of a child day-care center, (2) the owner, licensee, or administrator of a type A family day-care home and any person 18 years of age or older who lives in a type A home, and (3) beginning January 1, 2014, the administrator of a licensed type B family day-care home and any person age 18 or older who lives in the home. In addition, a CDJFS is required to request a criminal records check of the following persons: (1) until January 1, 2014, an authorized provider of a certified type B family day-care home and any person age 18 or older who resides in the home, and (2) beginning January 1, 2014, an in-home aide. An administrator of a child day-care center or type A home must request a criminal records check of any applicant who has applied for employment as a person responsible for the care, custody, or control of a child.

Prior law required that the criminal records checks for all of the specified persons be requested at the time of the initial application for licensure, certification, or employment and every four years thereafter. The act continues the requirement that the criminal records checks be requested on initial application, but thereafter, requires that the records check be requested every five years rather than four.

### **Restriction on licensure for applicants with a prior revocation**

(R.C. 5104.03)

Continuing law prohibits the ODJFS Director from issuing a license or provisional license for a child day-care center or type A home if the Director determines, based on documentation from the CDJFS, that the applicant previously had been certified as a type B family day-care home, that the CDJFS revoked that certification, that the revocation was based on the applicant's refusal or inability to



comply with criteria for certification, and that the refusal or inability resulted in a risk to the health or safety of children.

The act maintains this restriction, but only if the revocation occurred less than five years before applying for the license.

#### **Requests for information on reports of abuse or neglect**

(R.C. 5104.11)

As part of the requirements for certification of type B homes, continuing law requires that a CDJFS request information concerning any abuse or neglect report of which the applicant for a type B home certification, any other adult residing in the applicant's home, or a person designated by the applicant to be an emergency or substitute caregiver is the subject. Under prior law, the request was to be made to the public children services agency until the Statewide Automated Child Welfare System (SACWIS) is finalized statewide; after SACWIS is finalized statewide, the request was to be made to ODJFS. The act provides that the CDJFS request this information from only the public children services agency.

#### **Authority to revoke a type B home certificate**

(R.C. 5104.11 and 5104.12)

Under prior law, a CDJFS director could revoke a type B home or in-home aide certificate after determining that the revocation was necessary. The act provides instead that a CDJFS director may revoke such a certificate (1) if the director determines, pursuant to rules adopted under the Administrative Procedure Act, that revocation is necessary or (2) if the authorized provider or in-home aide does not participate in the Ohio Electronic Child Care System or violates prohibitions regarding the system.

#### **Licensure of youth development programs**

(R.C. 5104.02 and 5104.021)

Under law unchanged by the act, youth development programs operated outside of school hours by a community-based center are exempt from child care licensure laws if all of the following apply:

(1) The children enrolled in the program are under age 19 and enrolled in or eligible to be enrolled in a grade of kindergarten or above;



(2) The program provides informal child care and at least two of the following supervised activities: educational, recreational, culturally enriching, social, and personal development activities;

(3) The program is eligible for participation in the child and adult care food program as an outside-school-hours care center pursuant to standards established by the Ohio Department of Education;

(4) The community-based center is operating the program under the charitable exemption from federal income taxation.

Prior law prohibited the ODJFS Director from issuing a child day-care center or type A home license to these youth development programs. The act permits the ODJFS Director to issue such a license if the program applies for and meets all of the requirements for the license. It clarifies that "informal child care" refers to child care that does not require parental signature, permission, or notice for the child receiving the care to enter or leave the program. The act removes the restriction that the program must provide at least two of the activities described in (2) above.

**Exemption for preschools operated by nonchartered, nontax-supported schools**

(R.C. 5104.02)

The act exempts preschool programs operated by nonchartered, nontax-supported schools from child care licensure if the following conditions are satisfied:

(1) The program complies with state and local health, fire, and safety laws;

(2) The program annually certifies in a report to the parents of its pupils that the school is in compliance with state and local health, fire, and safety laws, and a copy of the report is filed with ODJFS on or before September 30 of each year;

(3) The program complies with all applicable reporting requirements in the same manner as required by the State Board of Education for nonchartered, nonpublic primary and secondary schools;

(4) The program is associated with a nonchartered, nontax-supported primary or secondary school.

## **Publicly funded child care**

### **Ohio Electronic Child Care System**

(R.C. 5104.32 (primary), 5104.11, and 5104.12; Sections 110.20, 110.21, and 110.22)

During fiscal years 2012 and 2013, H.B. 153 of the 129th General Assembly required that, if ODJFS implemented a program using a swipe card system and point-of-service device to track attendance and submit invoices for payment for publicly funded child care, (1) misuse of the system by a provider participating in the program was a reason for which the provider's license or certification could be revoked and (2) misuse of the system by a caretaker parent participating in the program was a reason for which the parent could lose eligibility for publicly funded child care.

The act requires ODJFS to establish the Ohio Electronic Child Care System to track attendance and calculate payments for publicly funded child care. It requires that all child care providers seeking to provide publicly funded child care participate. A participating provider may not use or possess an electronic child care card issued to a caretaker parent, falsify attendance records, knowingly seek payment for publicly funded child care that was not provided, or knowingly accept reimbursement for publicly funded child care that was not provided.

## **Child welfare**

### **Audit prior to renewal of certificate**

(R.C. 5103.0323)

Continuing law requires ODJFS every two years to pass upon the fitness of every institution and association that receives, or desires to receive and care for children, or places children in private homes.<sup>133</sup> These institutions and associations include a private child placing agency or a private noncustodial agency. When ODJFS is satisfied as to the care given such children and that the requirements of the statutes and rules covering the management of such institutions and associations are being complied with, ODJFS must issue a certificate to that effect to the institution or association.

Under prior law, a private child placing agency or private noncustodial agency that sought renewal of its certificate from ODJFS, as a condition of renewal, had to provide ODJFS evidence of an independent audit of its first year of certification (initial renewal) or the two most recent years (subsequent renewal) it was possible to have such an audit unless the State Auditor had audited the agency during that year or years and

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<sup>133</sup> R.C. 5103.03, not in the act.



the audit set forth that no money has been illegally expended, converted, misappropriated, or is unaccounted for or set forth findings that are inconsequential, as defined by government auditing standards. The act eliminates this requirement and instead requires such an agency, as a condition of renewal, to provide ODJFS evidence of an independent financial statement audit performed by a licensed public accounting firm following applicable American Institute of Certified Public Accountants auditing standards for the most recent fiscal year for the first recertification or for the two most recent previous years it is possible to have such an audit for any subsequent recertifications.

The act eliminates the requirement that, for an agency to be eligible for renewal, the independent audit demonstrate that the agency operated in a fiscally accountable manner in accordance with state laws and rules and any agreement between the agency and a public children services agency and that all audits be conducted in accordance with generally accepted government auditing standards. The act instead requires that the independent audits demonstrate that the agency operated in a fiscally accountable manner as determined by ODJFS and provides that the ODJFS Director may adopt rules as necessary to implement the above-described provisions. The rules are to be adopted under R.C. 111.15, which does not require public notice or hearings on proposed rules.

### **Criminal records checks of adults in prospective adoptive or foster homes**

(R.C. 2151.86)

The act eliminates a provision authorizing ODJFS, with respect to a criminal records check required for an adult resident of a prospective adoptive or foster home or a foster caregiver's home, to waive the requirement that the records check be based on fingerprints if the adult resident is physically unable to comply with the fingerprinting requirement and poses no danger to foster children or adoptive children who may be placed in the home. Additionally, the act eliminates a provision specifying that in such cases, a records check using the person's name and Social Security number be requested from the Bureau of Criminal Identification and Investigation.

### **Child support**

#### **Poster of delinquent child support obligors**

(R.C. 3123.958)

The act authorizes, instead of requires as under former law, the Office of Child Support in ODJFS to publish throughout Ohio a set of posters of delinquent child support obligors who cannot be located. The set of posters may be published annually instead of not less than twice annually as under former law.



## Conditions for filing a new hire report

(R.C. 3121.89 and 3121.891 (primary); 3121.892 and 3121.893)

The act requires every employer to make a new hire report to ODJFS regarding a newly hired employee who resides, works, or will be assigned to work in Ohio and to whom the employer anticipates paying compensation. The act defines "newly hired employee" as either of the following: (1) an employee who has not previously been employed by the employer, or (2) an employee who was previously employed by an employer but has been separated from that prior employment for at least 60 consecutive days. Former law required every employer to make a new hire report to ODJFS regarding the hiring, rehiring, or return to work as an employee, of a person who resides, works, or would be assigned to work in Ohio to whom the employer anticipated paying compensation, but did *not* make an exception for an employee who was previously employed by an employer and had been separated from that employment for less than 60 consecutive days. Continuing law requires every employer to make a new hire report to ODJFS with regard to contractors.

## Ohio Parenting and Pregnancy Program

(R.C. 5101.804 (primary), 3125.18, 5101.35, 5101.80, 5101.801, 5101.803, and 5153.16)

The act establishes the Ohio Parenting and Pregnancy Program to provide Temporary Assistance to Needy Families (TANF) block grant funds to certain private, nonprofit entities that provide services to pregnant women and parents or other relatives caring for children under 12 months of age that promote childbirth, parenting, and alternatives to abortion and meet one of the purposes of the TANF block grant. ODJFS may provide funds to these entities by contract (to the extent permitted by federal law).

In accordance with criteria it develops, ODJFS may solicit proposals from entities seeking funds under the Program. ODJFS may enter into an agreement with the entity to receive Program funds only if the entity meets all of the following conditions:

- (1) The entity is a private and not-for-profit entity;
- (2) The entity is one whose primary purpose is to promote childbirth, rather than abortion, through counseling and other services, including parenting and adoption support;
- (3) The entity provides services to pregnant women and parents or other relatives caring for children 12 months of age or younger, including clothing,



counseling, diapers, food, furniture, health care, parenting classes, postpartum recovery, shelter, and any other supportive programs or related outreach;

(4) The entity does not charge pregnant women and parents or other relatives caring for children 12 months of age or younger a fee for any services received;

(5) The entity is not involved in or associated with any abortion activities, including providing abortion counseling or referrals to abortion clinics, performing abortion-related medical procedures, or engaging in pro-abortion advertising; and

(6) The entity does not discriminate in its provision of services on the basis of race, religion, color, age, marital status, national origin, disability, or gender.

Under the act, an entity that has entered into an agreement with ODJFS is permitted to provide some or all of the Program's services through a subcontractor. A subcontract may be entered into with another entity only if that entity meets all of the following conditions:

(1) The entity is a private and not-for-profit entity;

(2) The entity is physically and financially separate from any entity, or component of an entity, that engages in abortion activities;

(3) The entity is not involved in or associated with any abortion activities, including providing abortion counseling or referrals to abortion clinics, performing abortion-related medical procedures, or engaging in pro-abortion advertising.

The ODJFS Director is required to adopt rules as necessary to implement the Program.

### **Therapeutic wilderness camps (VETOED)**

(R.C. 5103.02 and 5103.05)

The Governor vetoed a provision that would have exempted therapeutic wilderness camps from the requirement to be certified by ODJFS that applies under continuing law to any institution or association that receives or desires to receive and care for children for two or more consecutive weeks. The act would have defined "therapeutic wilderness camp" as a structured, alternative residential setting for children who are experiencing emotional, behavioral, moral, social, or learning difficulties at home or school in which the children (1) are placed by their parents or with another relative with custody, and (2) spend the majority of their time either outdoors or in a primitive structure.



Under continuing law, administrators and employees of residential camps must report suspected child abuse or neglect to a public children services agency or law enforcement, and persons responsible for a child's care at residential camps are subject to criminal background check requirements. Residential camps also must meet requirements that the Department of Health adopts under its general authority to regulate public health. The act did not change these requirements; however, the Governor vetoed a provision that would have required a therapeutic wilderness camp to certify annually to the parents of the children attending the camp that the camp was in compliance with those requirements.

### **Workforce training pilot program (VETOED)**

(Sections 301.10, 301.171, 751.41, and 812.20)

The Governor vetoed a provision that would have created the Workforce Training Pilot Program for the Economically Disadvantaged. The provision would have required the ODJFS Director, in consultation with the Director of Development Services and JobsOhio, to issue a request for proposals to allow an entity to receive a grant under the Program to create and administer a workforce development demonstration project to provide training in life and technical skills. The Program would have utilized \$8,000,000 from the Economic Development Projects Fund for this purpose.

A detailed description of the vetoed provisions is available on pages 266 and 267 of LSC's analysis of the House version of H.B. 59. The analysis is available online at [www.lsc.state.oh.us/analyses130/h0059-ph-130.pdf](http://www.lsc.state.oh.us/analyses130/h0059-ph-130.pdf).

