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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to issue a child care license or provisional license to an applicant whose type B family day-care home certificate was revoked, if the revocation occurred more than five years before applying for the license.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 (PCSA) (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.
- 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 following applicable American Institute of Certified Public Accountants auditing standards for the most recent fiscal year (initial renewal) or the two most recent previous fiscal years (subsequent renewal).
- Removes the requirement that a private child placing agency or private noncustodial agency, as a condition of renewal of a certificate of fitness, provide ODJFS with evidence of an independent audit of its first year of certification (initial renewal) or the two most recent fiscal years it is possible to have such an audit (subsequent renewal) unless an audit by the State Auditor during that year sets forth that no money has been illegally expended, concerted, misappropriated, or is unaccounted for or sets forth findings that are inconsequential as defined by government auditing standards.
- Removes the requirement that for a private child placing agency or private noncustodial 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.

- Removes the requirement that all audits be conducted in accordance with generally accepted government auditing standards and instead requires that the independent audits demonstrate that the agency operated in a fiscally accountable manner as determined by ODJFS.
- Allows ODJFS to adopt rules in accordance with R.C. 111.15 as necessary to implement the above-described dot points.
- Repeals the provision that authorizes 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 it determines that the adult resident is physically unable to provide fingerprints and poses no danger to foster children or adoptive children who may be placed in the home.
- Repeals the provision that specifies that, in such cases as described in the preceding dot point, the involved agency must request that BCII perform a records check using the person's name and Social Security number.

### **Child Support**

- Revises the frequency of publication by the Office of Child Support in ODJFS 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 the ODJFS when an employee is rehired after a period of separation from employment of less than 60 days.

### **Unemployment**

- Creates the Military Spouse Compensation Grant Program to provide compensation to an individual who leaves employment to accompany the individual's spouse on a military transfer.
- Requires the ODJFS Director to administer and enforce the Program and to give great weight and deference to decisions made under Ohio's Unemployment

Compensation Law with respect to unemployment compensation in administering and enforcing the Program.

- Requires the Director to adopt rules for the Program, which must include rules establishing eligibility requirements, application procedures, awarding and payment procedures, grant reduction requirements, all of which must be based upon the Unemployment Compensation Law; and appeal procedures.
- Describes the manner in which weekly grant amounts are calculated, including maximum amounts, which is similar to the manner in which weekly benefit amounts are calculated under the Unemployment Compensation Law.
- Requires the Director to use eligible funds to issue grants, except from the Unemployment Compensation Fund.
- Prohibits waiver of a grant and exempts grants from creditor claims and from levy, execution, attachment, and all other process or remedy for recovery or collection of a debt.
- Prohibits failing to comply with the Program and lists fines for violating this prohibition.
- Includes knowingly making a false statement or swearing or affirming the truth of a false statement previously made, when the statement is made to secure a grant, in the criminal offense of falsification.

### **Workforce development**

- Establishes the Workforce Training Pilot Program for the economically disadvantaged.
- Requires the ODJFS Director, in consultation with the Director of Development Services and JobsOhio, to issue a request for proposals to provide grants for demonstration projects that provide training in life and technical skills and specifies requirements for the request for proposals.
- Lists requirements an applicant must satisfy to receive a grant under the Pilot Program.
- Requires the ODJFS Director, in consultation with the Director of Development Services and JobsOhio, to award a grant in each of the "JobsOhio" regions.



- Permits the ODJFS Director to award a grant to one or two demonstration projects located in such a region, but prohibits any region from receiving more than \$1 million in grant funding.

### **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**

- Exempts therapeutic wilderness camps from certification by ODJFS.

## **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 (ODE). Child care consists of administering to the needs of infants, toddlers, preschool-age children, and school-age children outside of school hours for any part of the 24-hour day in a place or residence other than a child's own home.<sup>94</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.

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<sup>94</sup> R.C. 3301.51 to 3301.59, not in the bill.



<b>Child Care Providers</b>		
<b>Type</b>	<b>Description/Number of children served</b>	<b>Regulatory system</b>
<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>	<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.  <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.	A type A home must be licensed by ODJFS, regardless of whether it provides publicly funded child care.  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.
<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 current 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.

Current law specifies that the criminal records checks for all of the specified persons must be requested at the time of the initial application for licensure, certification, or employment and every four years thereafter. The bill requires instead that the criminal records checks be requested on initial application and every *five* years thereafter.

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

(R.C. 5104.03)

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

#### **Requests for information from the Statewide Automated Child Welfare Information System (SACWIS)**

(R.C. 5104.11)

As part of the requirements for certification of type B homes, current law requires that a CDJFS request from the public children services agency (PCSA) (until SACWIS is finalized statewide) or ODJFS (once SACWIS is finalized statewide) 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. The bill provides that the CDJFS request this information from only the PCSA.

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

(R.C. 5104.11 and 5104.12)

Under current law, a CDJFS director may revoke a type B home or in-home aide certificate after determining that the revocation is necessary. The bill 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 (Ohio ECC) or violates certain prohibitions regarding Ohio ECC.

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

(R.C. 5104.02 and 5104.021)

Under current law, 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 ODE;

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

The ODJFS Director currently is prohibited from issuing a child day-care center or type A home license to these youth development programs. The bill permits the ODJFS Director to issue a child day-care center or type A home license to a youth development program that is exempt from the child care licensure law 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 bill removes the restriction that the program must provide at least two of the activities described in (2) above.

## **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 (the main operating appropriations act for 2011-2013) required that, if ODJFS implements a program that uses 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 is a reason for which the provider's license or certification may be subject to revocation and (2) misuse of the system by a caretaker parent participating in the program is a reason for which the parent may lose eligibility for publicly funded child care.

The bill requires ODJFS to establish Ohio ECC 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 in Ohio ECC. A provider participating in Ohio ECC 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; R.C. 5103.03 (not in the bill))

Current 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. 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 existing law, a private child placing agency or private noncustodial agency that seeks renewal of that certificate, as a condition of renewal, must provide ODJFS evidence of an independent audit of its first year of certification (initial renewal) or the two most recent years (subsequent renewal) it is possible to have such an audit unless the State Auditor has audited the agency during that year or years and the audit sets forth that no money has been illegally expended, converted, misappropriated, or is unaccounted for or sets forth findings that are inconsequential, as defined by government auditing



standards. The bill repeals 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 bill removes 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 must be conducted in accordance with generally accepted government auditing standards. The bill 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 in accordance with R.C. 111.15 rules as necessary to implement the above-described provisions.

The bill removes the term "government auditing standards," defined as the government auditing standards published by the comptroller general of the U.S. General Accounting Office and replaces it with "American Institute of Certified Public Accountants auditing standards," defined as the auditing standards published by the American Institute of Certified Public Accountants.

### **Criminal records checks for adult residents of a prospective adoptive or foster home or a foster caregiver's home**

(R.C. 2151.86)

Under existing law, ODJFS may waive the requirement that a criminal records check based on fingerprints be conducted for an adult resident of a prospective adoptive or foster home or the home of a foster caregiver if the recommending agency documents to the Department's satisfaction that 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. In such cases, the recommending or approving agency must request that BCII conduct a criminal records check using the person's name and social security number.

The bill repeals the provision that authorizes 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 it determines that the adult resident is physically unable to provide fingerprints and poses no danger to foster children or adoptive children who may be

placed in the home. Additionally, the bill repeals the provision that specifies that in such cases, the involved agency must request that BCII perform a records check using the person's name and Social Security number.

## **Child support**

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

(R.C. 3123.958)

The bill authorizes, instead of requires as under current law, the Office of Child Support in ODJFS to publish throughout the state 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 current law.

### **Conditions for filing a new hire report**

(R.C. 3121.89 and 3121.891; conforming changes to R.C. 3121.892 and 3121.893)

The bill 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 bill defines a 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. Current law requires 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 will be assigned to work in Ohio to whom the employer anticipates paying compensation, but does *not* make an exception for an employee who was previously employed by an employer and has 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.

## **Unemployment**

### **Military Spouse Compensation Grant Program**

(R.C. 4143.02, 4143.03(B) and (C), and 4143.08, by reference to R.C. 4141.43, not in the bill)

The bill creates the Military Spouse Compensation Grant Program to provide compensation to an individual who leaves employment to accompany the individual's spouse on a military transfer. The ODJFS Director must administer the Program in accordance with the bill's requirements.



The Director must enforce the Program in accordance with the rules the Director adopts under the bill in accordance with the Administrative Procedure Act. In addition to any other rules the Director is required to adopt under the bill as discussed below, the Director, in accordance with the Administrative Procedure Act, may adopt any other rules as the Director determines necessary to administer and enforce the Program. Any rules adopted must be consistent with any similar provision addressed in Ohio's Unemployment Compensation Law. Additionally, the bill allows the Director to apply any agreement the Director has entered into pursuant to the Unemployment Compensation Law, to the extent permitted under an agreement, in administering the Program, or the Director may enter into similar agreements as the Director determines necessary. Many of these agreements concern enforcement and administration involving claimants who make a claim in or previously worked in multiple jurisdictions. The bill requires the Director to cooperate with the Industrial Commission, the Bureau of Workers' Compensation, the U.S. Internal Revenue Service, the U.S. Employment Service, and other similar departments and agencies, as determined by the Director, in the exchange or disclosure of information as to wages, employment, payrolls, unemployment, and other information in the administration of the Program.

In administering and enforcing the Program, the Director must give great weight and deference to decisions made under the Unemployment Compensation Law with respect to unemployment compensation. The bill allows the Director to administer oaths, certify to official acts, take depositions, issue subpoenas, and compel the attendance and testimony of witnesses and the production of documents and testimony in connection with the administration of the Program. If a witness refuses to attend or testify, or to produce documents, as to any matter regarding which the witness might be lawfully interrogated in the administration of the Program, the court of common pleas of the county in which the person resides or is found, the court of appeals that has jurisdiction over the county in which the person resides or is found, upon the Director's application, must compel obedience by proceedings as for contempt as in case of like refusal to obey a similar order of the court.

### **Eligibility for grants**

(R.C. 4143.04, 4143.01, 4143.03(A)(1), (2), and (6), by reference to R.C. 4141.162 and R.C. 4141.01 and 4141.33, not in the bill)

Under the bill, an individual is eligible to receive a grant for a week in which the individual satisfies all of the following requirements:



(1) The individual's spouse is a member of the U.S. armed services, the spouse is the subject of a military transfer, and the individual left employment to accompany the individual's spouse;

(2) The individual is not otherwise eligible for unemployment compensation (any compensation payable under Ohio's Unemployment Compensation Law including amounts payable by the Director pursuant to an agreement under any federal law providing for compensation, assistance, or allowances with respect to unemployment);

(3) The individual satisfies the eligibility requirements established by the Director in the rules the Director adopts.

Under the bill, the Director must adopt rules to establish eligibility requirements an individual must satisfy to receive a grant, including the definition of an individual's "base period," which must be similar to the requirements an individual must satisfy to receive unemployment compensation. To receive unemployment compensation, continuing law requires an individual to:

(1) Have worked in "covered employment" (almost all types of employment, with certain exclusions such as church employment or casual labor) for at least 20 qualifying weeks with the individual's base period (the bill requires the Director to define base period under the Program);

(2) Have had an average weekly wage of 27½% of the statewide average weekly wage within the base period (for 2013, \$230);

(3) Have become unemployed for a nondisqualifying reason;

(4) Be able to, available for, and actively seeking suitable work;

(5) Be a U.S. citizen or legal alien.<sup>95</sup>

Additionally, under the bill the Director must adopt rules establishing procedures for an individual to follow to apply for a grant and procedures for the awarding and payment of grants. These procedures must be similar to the manner in which claims for unemployment compensation are applied for, awarded, and paid pursuant to the Unemployment Compensation Law. Under that Law, the Director first determines whether an individual has earned enough and worked long enough to qualify overall for unemployment compensation. The Director next examines whether, for each weekly claim, the individual is qualified for unemployment compensation,

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<sup>95</sup> R.C. 4141.01(R) and 4141.29, not in the bill.



examining the reason for unemployment and whether the individual satisfies the work search requirements.<sup>96</sup>

Additionally, the bill requires the Director to adopt rules to establish requirements for eligibility for an individual who has seasonal employment, which must be similar to the Unemployment Compensation Law requirements for seasonal employment (employment of individuals hired primarily to perform services in an industry that because of climatic conditions or the industry's seasonal nature it is customary to operate only during regularly recurring periods of 40 weeks or less in any consecutive 52 weeks). Because of the nature of the industries involved in seasonal employment, continuing law specifies some different eligibility requirements for an individual who has seasonal employment in the individual's base period.

The bill allows the Director to use the information the Director obtains under the Income and Eligibility Verification System to determine an individual's eligibility for a grant under the Program.

#### **Payment of grants**

(R.C. 4143.04(C), by reference to R.C. 4141.09, not in the bill)

Similar to unemployment compensation, the bill requires all grants to be paid through public employment offices in accordance with the Director's rules. The bill requires the Director to use eligible funds to issue grants, except from the Unemployment Compensation Fund, which is the Fund from which unemployment compensation is paid.

#### **Grant amounts**

(R.C. 4143.04(D), (E), (F), (G), and (H), by reference to R.C. 4141.30)

The amount of a grant awarded under the bill is similar to the amount of unemployment compensation one may receive. Under the bill, a grant is payable to an eligible and qualified individual for each week the individual is totally unemployed at the weekly grant amount determined by the following:

- (1) Computing the individual's average weekly wage;
- (2) Determining the individual's dependency class discussed below;

(3) Computing the individual's weekly grant amount to be 50% of the individual's average weekly wage.

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<sup>96</sup> R.C. 4141.28, not in the bill.

An individual's grant amount cannot exceed the following amounts:

- (1) For dependency class A, 50% of the statewide average weekly wage (SAWW) as calculated under the Unemployment Compensation Law;
- (2) For dependency class B, 60% of the SAWW;
- (3) For dependency class C, 66⅔% of the SAWW.

A dependent under the Program is the same as a dependent under the Unemployment Compensation Law (generally, children and spouses). An individual is assigned a dependency class as described in the table below:

<b>Class</b>	<b>Description of dependents</b>
A	No dependents, or has insufficient wages to qualify for more than the maximum weekly grant amount as provided under dependency class A
B	One or two dependents
C	Three or more dependents

A grant is payable to each partially unemployed individual otherwise eligible on account of each week the individual is partially unemployed in an amount equal to the individual's weekly grant amount determined above less that part of the remuneration payable to the individual with respect to that week that is in excess of 20% of the individual's weekly grant amount.

The total amount of a grant to which an individual is entitled in any grant year, whether for partial or total unemployment, or both, must not exceed the lesser of the following two amounts:

- (1) An amount equal to 26 times the individual's weekly grant amount; or
- (2) An amount computed by taking the sum of 20 times the individual's weekly grant amount for the first 20 base period qualifying weeks plus one times the weekly grant amount for each additional qualifying week beyond the first 20 qualifying weeks in the individual's base period.

Any weekly grant amount that is not a multiple of one dollar must be rounded to the next lower multiple of one dollar. Any grant paid must be calculated against the maximum total unemployment compensation payable to the individual in a benefit year under the Unemployment Compensation Law.



### **Extended benefits**

(R.C. 4143.04(I), by reference to R.C. 4141.301, not in the bill)

If permitted by the U.S. Secretary of Labor, a grant paid under the Program must be considered regular benefits for purposes of state extended benefits under the Unemployment Compensation Law. The federal government pays for half or all of extended benefits, depending upon the event that triggered the extended benefit period. If an individual who receives a grant is eligible for state extended benefits, notwithstanding the requirements that extended benefits be paid from the Unemployment Compensation Fund or that employers' accounts be charged for state extended benefits, extended benefits that may become payable to that individual under the Program that are chargeable to an employer's account of an employer from whom the individual was separated must not be charged to that account and must be paid from the funds used to pay grants under the bill.

### **Reduction in grant amounts**

(R.C. 4143.05 and 4143.03(A)(4) and (5), by reference to R.C. 4141.284, 4141.31, 4141.312, and 4141.321, not in the bill)

The bill requires the ODJFS Director to reduce the amount of any weekly grant amount paid under the Program in accordance with the rules the Director adopts. The requirements must be similar to the requirements for reductions under the Unemployment Compensation Law. Under that Law, if in any week a participating employee reports the receipt of any of the following types of payment, the unemployment compensation amount payable to that individual must be reduced by the amount of those payments received for that week:

- (1) Remuneration in lieu of notice;
- (2) Compensation for wage loss under Ohio's Workers' Compensation Law or a similar provision under the workers' compensation law of any state or the United States;
- (3) Payments in the form of retirement, or pension allowances as provided in continuing law;
- (4) Unless an exception concerning military service applies, remuneration in the form of separation or termination pay paid to an employee at the time of the employee's separation from employment;



(5) Vacation pay or allowance payable under the Law, terms of a labor-management contract or agreement, or other contract of hire, which payments are allocated to designated weeks;

(6) The determinable value of cost savings days.

The Director also must adopt rules to establish procedures and requirements addressing child support obligations, which must be similar to the procedures and requirements described in the Unemployment Compensation Law. Under that Law, the Director, when a claim for unemployment compensation is filed by an individual who owes child support obligations, must notify the state or local child support enforcement agency enforcing the obligation only if the claimant has been determined to be eligible for unemployment compensation and must withhold and deduct specified amounts from the unemployment compensation payable.

Under the bill the Director must make any deduction from a grant for purposes of federal income tax payment in a similar manner as the Director makes that deduction with respect to unemployment compensation. Currently, with respect to unemployment compensation, the Director must inform an individual who files an application for determination of benefit rights that unemployment compensation is subject to federal income tax, that requirements exist pertaining to estimated tax payments, that the individual may elect to have federal income tax deducted and withheld from the unemployment compensation benefits payable to that individual in the amount specified in the Internal Revenue Code, and that the individual may change the withholding status the individual has previously elected once during the individual's benefit year. The Director must make the income tax deduction if an individual elects to have it made and must comply with procedures established by the U.S. Department of Labor in making that deduction.

### **Appeals**

(R.C. 4143.03(A)(7) and 4143.06, by reference to R.C. 119.12)

An individual may appeal a determination made by the Director in accordance with the Director's rules. Those procedures must include the time limits in which the individual has to file an appeal. Unlike unemployment compensation claims, it does not appear that appeals of grant determinations go before the Unemployment Compensation Review Commission, as the law specifying the Commission's jurisdiction is not amended in the bill to specifically provide jurisdiction over these appeals.<sup>97</sup>

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<sup>97</sup> R.C. 4141.06 and 4141.281, not in the bill.



The determination made upon completion of the appeals process established by the Director under the bill is a final determination that may be appealed pursuant to the procedures in Ohio's Administrative Procedure Act to appeal to a court.

### **Overpayment and fraud**

(R.C. 2921.13 and 4143.03(A)(8), by reference to R.C. 4141.35, not in the bill)

Under the bill and similar to unemployment compensation, an individual who obtains a grant through fraudulent misrepresentation may be guilty of falsification or falsification in a theft offense. The bill prohibits any person from knowingly making a false statement, or knowingly swearing or affirming the truth of a false statement previously made, when the statement is made with purpose to secure the payment of a grant. Whoever violates this prohibition is guilty of falsification, a first degree misdemeanor. If the statement is made with purpose to commit or facilitate the commission of a theft offense, whoever violates the prohibition is guilty of falsification in a theft offense, a first degree misdemeanor. However, this penalty escalates up to a third degree felony based on the value of property or services stolen.

Additionally, the bill requires the Director to adopt rules establishing penalties for overpayments and procedures to collect those overpayments, which must be similar to the penalties and procedures for overpayments under the Unemployment Compensation Law. If an individual obtains unemployment compensation through fraudulent misrepresentation, then under that Law the Director must do all of the following:

(1) Within a specified time period, reject or cancel the individual's entire weekly claim for benefits that was fraudulently claimed, or the individual's entire benefit rights if the misrepresentation was in connection with the filing of the individual's application;

(2) Declare the individual ineligible for two otherwise valid weekly claims for benefits claimed within six years subsequent to the discovery of the misrepresentation;

(3) Require the total amount of unemployment compensation rejected or canceled be repaid before the individual may become eligible for further benefits and withhold any unpaid sums from future compensation payments accruing and otherwise payable to the individual;

(4) Assess, if the compensation is not repaid within 30 days after the Director's order becomes final, interest on the amount remaining at a rate of 14% per annum, compounded monthly.



The Director also may take action to collect compensation that has been fraudulently obtained, interest, and court costs, through attachment proceedings under Ohio's Attachment Law and garnishment proceedings under Ohio's Garnishment Law.

If an overpayment is not the result of fraudulent misrepresentation, the Director must cancel that waiting period and require that the unemployment compensation be repaid or be withheld from any unemployment compensation to which the applicant is or may become entitled before any additional compensation is paid.

### **Additional prohibitions and penalties**

(R.C. 4143.07 and 4143.99)

Similar to unemployment compensation, except with respect to the rules adopted by the Director under the bill concerning child support obligations, no agreement by an individual to waive the individual's right to a grant is valid, nor may a grant be assigned, released, or commuted. A grant also is exempt from all creditor claims and from levy, execution, garnishment, attachment, and all other process or remedy for recovery or collection of a debt, and that exemption may not be waived.<sup>98</sup>

Also similar to unemployment compensation, the bill prohibits an individual claiming a grant under the Program from being charged fees of any kind by the Director in any proceeding under the Program and prohibits any person from charging or receiving anything of value in violation of the bill. Whoever violates these prohibitions is guilty of a first degree misdemeanor. Any individual claiming a grant may represent the individual's self personally or be represented by a person admitted to the practice of law or by a person not admitted to the practice of law in any proceeding under this new chapter before the Director, but no such counsel or agent representing an individual claiming a grant may either charge or receive for those services more than an amount approved by the Director.<sup>99</sup>

The bill prohibits any employee or other person from violating the bill's provisions governing the Program, or do any act prohibited by those provisions, or fail to perform any duty lawfully enjoined, within the time prescribed by the Director, for which no penalty has been specifically provided, or fail to obey any lawful order given or made by the Director or any judgment or decree made by any court in connection with the Program. Whoever violates this prohibition must be fined not more than \$500 for the first offense, and for each subsequent offense, fined not less than \$25 or more than \$1,000. Every day during which any person fails to comply with any order or to

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<sup>98</sup> See R.C. 4141.32, not in the bill.

<sup>99</sup> See R.C. 4141.07, not in the bill.



perform any duty constitutes a separate violation. The Unemployment Compensation Law has a similar prohibition.<sup>100</sup>

### **Liberal construction**

(R.C. 4143.09)

The bill requires the Program to be liberally construed. Under continuing law, the Unemployment Compensation Law also must be liberally construed.<sup>101</sup>

### **Additional definitions**

(R.C. 4143.01 and 4143.03(A)(3), by reference to R.C. 4141.01, not in the bill)

The bill defines the following terms for purposes of the Program:

(1) "Average weekly wage" means the amount obtained by dividing an individual's total remuneration for all qualifying weeks during the base period by the number of such qualifying weeks (same as the Unemployment Compensation Law).

(2) "Duration of unemployment" means the full period of unemployment next ensuing after a separation from any base period, as defined in rules adopted under the bill, or subsequent work and until an individual has become reemployed in employment subject to the Program, or the unemployment compensation act of another state, or of the United States, and until the individual has worked six weeks and for those weeks has earned or been paid remuneration equal to six times an average weekly wage of not less than the amount as determined in the rules adopted by the Director (similar to the Unemployment Compensation Law).

(3) "Grant year," with respect to an individual, means the 52-week period beginning with the first day of that week with respect to which the individual first files a valid application for a grant under the Program, and thereafter the 52-week period beginning with the first day of that week with respect to which the individual next files a valid application after the termination of the individual's last preceding grant year, except that the application is not considered valid unless the individual has had employment in six weeks and has, since the beginning of the individual's previous grant year, in the employment earned three times the average weekly wage determined for the previous grant year.

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<sup>100</sup> See R.C. 4141.40, not in the bill.

<sup>101</sup> R.C. 4141.46, not in the bill.



(4) "Partially unemployed" with respect to a week, means any week if, due to involuntary loss of work, the total remuneration payable to an individual for that week is less than the individual's weekly benefit amount (same as the Unemployment Compensation Law).

(5) "Qualifying week" means any calendar week in an individual's base period with respect to which the individual earns or is paid remuneration in employment.

(6) "Totally unemployed" with respect to a week, means any week during which an individual performs no services and with respect to such week no remuneration is payable to the individual (same as the Unemployment Compensation Law).

### **Federal law**

Unemployment compensation is funded through a federal-state partnership. If an employer pays contributions into an "approved" state system, the employer receives significant credit on the employer's federal unemployment tax. Additionally, a state receives administrative funding for its unemployment compensation program paid for through the federal taxes on employers. "Approval" requires adherence to federal law and U.S. Department of Labor regulations. Federal law requires each state to establish a state unemployment compensation fund that is used to pay unemployment benefits in order for employers in that state to receive the tax credit under the Federal Unemployment Tax Act.<sup>102</sup>

If grants awarded under the Military Spouse Compensation Grant Program created in the bill are considered unemployment compensation, a question may exist as to whether Ohio's unemployment compensation system complies with federal law. For example, to receive administrative funding, federal law requires methods of administration, including a state merit system, that insures full payment of unemployment compensation when due.<sup>103</sup> Since the bill requires grants to be paid from available funds, if no funds are available then it does not appear that the Program satisfies this requirement. Additionally, as discussed above, federal law requires a state to create an unemployment fund from which unemployment compensation is paid. The federal law does not appear to address whether unemployment compensation may be paid from a different fund.

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<sup>102</sup> 26 U.S.C. 3302 and 3304.

<sup>103</sup> 42 U.S.C. 503.



## **Workforce development**

### **Workforce Training Pilot Program for the economically disadvantaged**

(Sections 751.40 and 812.20)

The bill establishes the Workforce Training Pilot Program for the economically disadvantaged to provide grants to provide training in life and technical skills. Under the bill, the ODJFS Director administers the Pilot Program for a period of two years, beginning July 1, 2013 (the Pilot Program has an immediate effective date).

Under the bill, the ODJFS Director, in consultation with the Director of Development Services and JobsOhio, must issue a request for proposals to allow an entity to receive a grant under the Pilot Program to create and administer a demonstration project in the field of workforce development. The demonstration project must provide training to those individuals located in the region described below where the project is located who the applicant determines are economically disadvantaged. The request for proposals must include all of the following requirements:

(1) That the applicant must include in the proposal a description of the manner in which the applicant will determine whether an individual is economically disadvantaged;

(2) That the demonstration project must provide life skills training, to assist an individual to develop character traits necessary to obtain employment, and technical, field-related training;

(3) That the applicant is collaborating with an organization in the region described below where the project is located and at least one community-based nonprofit organization that has experience in life-skill support services and workforce development; and

(4) That the applicant satisfies any other requirements established in the request for proposals.

The bill requires the ODJFS Director, in consultation with the Director of Development Services and JobsOhio, to award a grant in fiscal year 2014 for a demonstration project in each of the following regions of the state (the "JobsOhio" regions):

(1) Allen, Crawford, Defiance, Fulton, Hancock, Hardin, Henry, Lucas, Ottawa, Paulding, Putnam, Sandusky, Seneca, Van Wert, Williams, Wood, and Wyandot counties;



(2) Ashland, Ashtabula, Columbiana, Cuyahoga, Erie, Geauga, Huron, Lake, Lorain, Mahoning, Medina, Portage, Richland, Stark, Summit, Trumbull, Tuscarawas, and Wayne counties;

(3) Auglaize, Champaign, Clark, Clinton, Darke, Fayette, Greene, Mercer, Miami, Montgomery, Preble, and Shelby counties;

(4) Delaware, Fairfield, Franklin, Knox, Licking, Logan, Madison, Marion, Morrow, Pickaway, and Union counties;

(5) Adams, Athens, Belmont, Carroll, Coshocton, Gallia, Guernsey, Harrison, Highland, Hocking, Holmes, Jackson, Jefferson, Lawrence, Meigs, Monroe, Morgan, Muskingum, Noble, Perry, Pike, Ross, Scioto, Vinton, and Washington counties; and

(6) Brown, Butler, Clermont, Hamilton, and Warren counties.

The ODJFS Director may award a grant to one or two demonstration projects located in a region described above, however, no region must receive more than \$1 million in grant funding. The bill requires, on July 1, 2013, or as soon as possible thereafter, the Director of Budget and Management to transfer \$8,000,000 cash from the Economic Development Projects Fund, which is comprised of upfront license fees for casino operators (R.C. 3772.17) and is used by the Board of Regents, to the Training Activities Fund used by ODJFS. The transferred funds must be used for the Pilot Program.

The bill requires the ODJFS Director to adopt rules in accordance with the Administrative Procedure Act to establish reporting requirements for grant recipients. Those rules must require a grant recipient to report on the successful completion rate of project participants, rate of participant job placement, tracking of participant's employment after completion of the project, and any other information requested by the ODJFS Director. The ODJFS Director must require grant recipients to report this information during the two-year Pilot Program and to submit a final report upon the expiration of the Pilot Program. A grant recipient must comply with rules adopted by the Director.

### **Ohio Parenting and Pregnancy Program**

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

The bill 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. Under the bill, ODJFS may enter into an agreement only if the entity meets 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.

The bill permits an entity that has entered into an agreement with ODJFS to provide some or all of the services through a subcontractor. Under the bill, 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; and

(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

(R.C. 5103.02)

The bill exempts therapeutic wilderness camps from a requirement to be certified by ODJFS. It defines "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 current 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 bill does not change these requirements.

In addition to the requirements described in the previous paragraph, however, therapeutic wilderness camps are subject to certification by ODJFS. With limited exception, any institution or association that receives or desires to receive and care for children for two or more consecutive weeks must be certified by ODJFS. The bill exempts therapeutic wilderness camps from this requirement.

