

STATE FUND	FY 2008	FY 2009	FUTURE YEARS*
Various Other Funds of the Attorney General**			
Revenues	- 0 -	- 0 -	- 0 -
Expenditures	- 0 -	- 0 -	Potential increase when representing ODJFS in accordance with ORC Chapter 119.

Note: The state fiscal year is July 1 through June 30. For example, FY 2007 is July 1, 2006 – June 30, 2007.

*The provisions of this bill regarding licensing of type B homes go into effect three years after the bill's effective date.

**The Attorney General may use a variety of funds to pay costs associated with the provisions of this bill. Which funds will be used at any given time is not known at this time.

- **Licensing child care homes.** In order to implement and enforce the new licensing, inspection, and investigating requirements for certain type B homes, ODJFS will need to hire new staff. The Department estimates that the total annual cost for the additional staff members is approximately \$6.8 million. The Department also anticipates the need to rent additional office space to accommodate the extra staff.
- **Licensing fees.** According to ODJFS, the fee for licensing a type B home will likely be \$100 every two years. The fees are paid into the state GRF. If the Department's estimate of 13,000 providers is accurate, the gain in revenue to the GRF from the licensing fee will be \$1.3 million every two years.
- **Penalties.** If ODJFS were to exercise the authority granted under the bill with regard to type B homes and the authority granted in current law with regard to type A homes with the enhanced penalty provisions in the bill, the GRF will likely experience a gain in revenue.
- **Revocation.** The Department anticipates there may be an increase in expenditures relating to legal costs associated with the change from county certification to state licensure of type B homes. ODJFS predicts an increase in administrative costs for the Department's offices of Legal Services, as well as the office of the Attorney General to conduct enforcement activities in accordance with Chapter 119. of the Revised Code.
- **Criminal records checks.** The Attorney General's General Reimbursement Fund (Fund 106) will likely experience a revenue gain for performing additional criminal records checks on persons applying for a type B home license. Any gain in revenue by BCII would likely be offset by an increase in expenditures related to performing these criminal records checks.
- **Availability of rules.** The bill requires the ODJFS Director to "make available," rather than "send," proposed rules to child care centers and type A home licensees and requires the Director to provide copies of adopted rules to licensees in electronic form only. This provision may result in minimal administrative savings for the Department.

Local Fiscal Highlights

LOCAL GOVERNMENT	FY 2008	FY 2009	FUTURE YEARS
County court system			
Revenues	- 0 -	- 0 -	- 0 -
Expenditures	- 0 -	- 0 -	Potential increase in legal and administrative costs due to changes in the revocation procedure
County departments of job and family services			
Revenues	- 0 -	- 0 -	Potential loss due to reallocation of state and federal funds for certification activities
Expenditures	- 0 -	- 0 -	Potential cost savings as a result of a decrease in demand for certification and criminal records check requests

Note: For most local governments, the fiscal year is the calendar year. The school district fiscal year is July 1 through June 30.

- ***Licensing child care homes.*** County departments of job and family services are likely to experience a significant decrease in demand for certification of type B homes. Due to issues regarding job classification and job duties, ODJFS and county departments are still evaluating what staffing modifications and employment transfers will be necessary and acceptable. Currently, county departments use state funds allocated from the Child Care Development Block Grant and the Temporary Assistance for Needy Families Block Grant to pay some costs associated with type B home certifications. Before the responsibility for licensing type B homes transfers to ODJFS, decisions will have to be made as to how those funds will be allocated in the future.
- ***Criminal records checks.*** Currently, some county departments of job and family services pay this fee for type B home applicants. As a result, when this responsibility is transferred to the state, counties that are currently paying this fee may experience some cost savings.
- ***Revocation.*** Under current law, county departments of job and family services are responsible for revoking certification of type B homes if the applicant or licensee does not comply with the requirements of the child care law or rules adopted under that law. Under the bill, the procedure detailed in Chapter 119. of the Revised Code must be followed. It specifies that providers may appeal hearing decisions to the county court of common pleas. This may result in an increase in expenditures to the county court system.

Detailed Fiscal Analysis

Licensing child care homes

There are two types of providers who provide child care at the provider's home: type A and type B family child care homes.¹ A type A home is the permanent residence of an administrator in which child care is provided for seven to twelve children at one time or the permanent residence of an administrator in which child care is provided for four to twelve children at one time if four or more of the children at one time are under age two. A type B home is the permanent residence of a provider in which child care is provided for one to six children at one time and in which no more than three children at one time are under age two. To determine whether a child-care provider is a type A home or a type B home, the number of children receiving child care at the home must be counted, including consideration of children who are related to those who own or work in the home.

Currently, the Ohio Department of Job and Family Services (ODJFS) licenses type A homes. County departments of job and family services certify type B homes that provide publicly funded child care. A type B home that does not provide publicly funded child care is not required to be licensed or certified.

The county director must inspect every certified type B family day-care home at least twice within each twelve-month period of operation. A minimum of one inspection must be unannounced and all inspections may be unannounced. Upon receipt of a complaint, the county director must investigate the certified type B home. The authorized provider must permit the county director to inspect any part of the certified type B home. The county director is required to prepare a written inspection report and furnish one copy to the authorized provider within a reasonable time after the inspection.

Child care provided to a child by the child's parent, guardian, custodian, or a relative by blood, marriage, or adoption is not subject to regulation.

The bill

The bill reduces to two from six the number of children who may be cared for in a home-based child care setting without a license. Specifically, the bill requires that type B homes providing child care for three to six children be licensed by ODJFS beginning three years after the bill's effective date. Furthermore, the bill requires certain type B homes to obtain a license regardless of whether they provide publicly funded care. The license is to be obtained from ODJFS, *not* a county department of job and family services. The Director of ODJFS is required to set fees, which must be paid at the time of the license or renewal application.

¹ A "child care center" is defined as any place that is not the permanent residence of the licensee or administrator in which child care is provided for seven to twelve children at one time or any place in which child care is provided for thirteen or more children at one time. Child care centers are licensed by the Ohio Department of Job and Family Services.

The bill also eliminates limited certification of type B homes. However, under the bill, to provide publicly funded child care, all type B homes not required to be licensed (those caring for no more than two children), must meet the current requirements for certification. In other words, counties will continue to certify those type B homes that receive public funds for providing care but are not required to be licensed.

The bill requires ODJFS to establish procedures to be followed in investigating, inspecting, and licensing type B homes. The criteria that must be followed in establishing those procedures is the same as those that are currently set forth for the county directors. In effect, the bill maintains the inspection and investigation requirements for type B homes, but the responsibility to enforce those requirements transfers to ODJFS.

The bill also limits the relatives who may provide child care without being subject to regulation to the following individuals who are related by blood, marriage, or adoption to the child receiving care: parents, step-parents, grandparents, siblings, step-siblings, half-siblings, aunts, uncles, and first cousins.

Fiscal effect - ODJFS estimates that approximately 13,000 type B home providers, possibly more, will need to be licensed. The number of providers was calculated by taking into account the number of currently certified type B providers (approximately 5,000), adding the estimated 4,000 on the resource and referral registry (on the assumption that providers that take the step of adding themselves to the registry are operating as a business and not as a informal provider of child care for a friend or relative), and including an estimate of about 4,000 providers who are currently caring for children but who are neither certified nor registered, but would be required to be licensed under the bill.

In order to implement and enforce the new licensing, inspection, and investigating requirements, ODJFS will need to hire new staff. The Department estimates that the total annual cost for the additional staff members is approximately \$6.8 million. The annual staffing cost estimate includes salary and benefits, equipment, and travel.

Staff	Cost
87 licensing specialists (with a caseload of 150)	\$5,499,966
11 supervisors (1 supervisor for every 8 staff members)	\$752,312
6 clerical staff (1 support staff for every two units)	\$258,804
2 program administrators (1 administrator for every 8 supervisors)	\$150,000
1 licensing enforcement position	\$81,900
1 human services developer	\$77,514
Total Annual Cost	\$6,820,496

The Department calculated the number of new staff by considering that it takes a day to conduct a licensing review for a child care center and determining that half a day would be a reasonable estimation of time needed to conduct a licensing review of a family child care home. Based on the premise that caseloads for specialists inspecting centers are 75 providers, the Department estimated that projected caseloads for specialists inspecting homes would be 150. In addition, although the cost estimate above includes equipment expenses, there will likely be additional management information systems expenses as a result of licensing equipment maintenance.

In order to inspect and license child care centers and type A homes, ODJFS has five regional offices from which licensing staff work. The Department is uncertain at this point how it will organize its staff statewide to implement and enforce the licensing requirements of type B homes as set forth in this bill. Regardless of whether ODJFS organizes its type B homes licensing staff into five regions or across 88 counties, the Department anticipates the need to rent additional office space to accommodate the extra staff.

Currently, there are no fees associated with the certification of type B homes. According to ODJFS, the fee for licensing a type B home will likely be \$100 every two years. The fees will be paid into the state General Revenue Fund (GRF). If the Department's estimate of 13,000 providers is accurate, the gain in revenue to the GRF from the licensing fee will be \$1.3 million every two years.

County departments of job and family services are likely to experience a significant decrease in demand for certification of type B homes. Due to issues regarding job classification and job duties, ODJFS and county departments are still evaluating what staffing modifications and employment transfers will be necessary and acceptable. Currently, county departments use state funds allocated from the Child Care Development Block Grant and the Temporary Assistance for Needy Families Block Grant to pay some costs associated with type B home certifications. Before the responsibility for licensing type B homes transfers to ODJFS, decisions will have to be made as to how those funds will be allocated in the future.

Penalties

Current law specifies the penalties applicable to type A homes that violate licensing requirements and requires the court to order the offender to reduce the number of children to which it provides child care to a number that does not exceed either the number of children to which a type B family day-care home may provide child care or, if the offender is a licensed type A family day-care home that is operating as a child day-care center without being licensed as a center, the license capacity of the type A home.

Existing law does not specify penalties for type B homes. Those providers who exceed type B limits on the number of children receiving care are considered to be operating a type A home without a license and would be subject to the penalties applicable to type A homes.

The bill

The bill increases the penalty the provider of a type A home or child care center would be required to pay if the provider does not have the proper license for the home or center and establishes penalties applicable to persons who violate the licensing requirements for licensed type B homes or who care for more children than permitted under the license.

Fiscal effect - According to ODJFS, the authority to issue a penalty to a center or type A home for a violation of the license capacity has never been exercised. Typically, the Department works with the provider to bring them into compliance or moves to revoke the license.

Current law and the bill do not specify where such penalty revenue is to be deposited if collected. The Department assumes that any penalties collected will be paid into the state GRF. If ODJFS were to exercise the authority granted under the bill with regard to type B homes and the authority granted in current law with regard to type A homes with the enhanced penalty provisions in the bill, the GRF will likely experience a gain in revenue. The magnitude of such a gain cannot be determined at this time.

Revocation

Under current law, county departments of job and family services are responsible for revoking certification of type B homes if the applicant or licensee does not comply with the requirements of the child care law or rules adopted under that law. If an applicant or licensee chooses to appeal the revocation, the county appeals process is followed. According to ODJFS, the revocation hearing and appeals process is typically handled within the county department with a staff person acting as the hearing officer. The courts are not involved in the certification revocation process.

The bill

Chapter 119. of the Ohio Revised Code specifies the procedure that must be followed by state agencies in order to deny, refuse to renew, or revoke a license. It specifies that the agency must provide written notice of noncompliance. If the provider requests a hearing, one must be scheduled by the agency. The Attorney General, or designated special counsel, must represent the agency. If the provider chooses to appeal the decision of the hearing, they may appeal to the county court of common pleas.

A result of the bill is that all actions of the Director with respect to refusal to license or renew a license, and license revocations of type B homes, must be conducted in accordance with Chapter 119.

Fiscal effect - The Department anticipates there may be an increase in expenditures relating to legal costs associated with the change from county certification to state licensure of type B homes. ODJFS predicts an increase in administrative costs for the Department's offices of Legal Services, as well as the office of the Attorney General to respond to increased enforcement activity resulting from a larger number of licensees.

However, it is important to note the range of possibilities in regard to how the revocation process unfolds in individual cases. In the event a provider is determined to be out of compliance the department must notify the licensee in writing regarding the nature of the violation, what must be done to correct the violation, and by what date the correction must be made. If the correction is not made by the date established by the department, the department may commence action under Chapter 119. of the Revised Code to revoke the license. It is often the case that upon receiving notice of noncompliance, the provider will either correct the violation or voluntarily cease operating. As a result, it is difficult to estimate how many cases will go through the entire legal process and at what cost to the state.

Criminal records checks

Under existing law, the administrator of a child care center or a type A home or the provider of a certified type B home is required to request that the Superintendent of the Bureau of Criminal Identification and Investigation (BCII) conduct a criminal records check with respect to any applicant who has applied to the center or home for employment as a person responsible for the care, custody, or control of a child.

The ODJFS Director, as part of the process of licensure of child care centers and type A homes, must request that the Superintendent of BCII conduct a criminal records check with respect to the owner, licensee, or administrator of a child care center or type A home. Similarly, a county director of job and family services, as part of the process of certification of type B homes, must request that the Superintendent of BCII conduct a criminal records check with respect to any authorized provider of a certified type B home.

The bill

The bill maintains most of the current requirements of criminal records checks of child care providers and makes them applicable to licensed type B homes. Under the bill, criminal records checks of licensed type B homes must be requested by the ODJFS Director, and not a county department of job and family services.

Fiscal effect - Presumably, as a result of the increase in type B home providers requiring a license, additional criminal records checks will be requested and performed, specifically during the initial phase of implementation. The current fee for a BCII check is \$15.00. However, on December 3, 2007, the Joint Committee on Agency Rule Review approved rule 109:5-1-01, which increases this fee to \$22.00. In order for the fee increase to take effect, the Attorney General is required to perform a final filing after December 16, 2007. If the Attorney General chooses to take this action, the rule could be effective ten days from the date of the final filing, or on a date established by the Attorney General. (BCII sets the fee for conducting such checks and presumably the revenue generated from the collection of the fee offsets the cost of the checks.)

The Attorney General's General Reimbursement Fund (Fund 106) will likely experience a revenue gain for performing additional criminal records of persons applying for a type B home license. Using ODJFS' estimate of the number of type B licenses that the Department will have to issue and taking into account the expected fee increase, at least \$176,000 in revenue will likely be generated from the additional criminal records checks. This estimate assumes that 8,000 of the 13,000 new providers seeking a license will now need to obtain a criminal records check (due to the fact that the approximately 5,000 currently certified professional type B providers are already required to obtain a check). Additional revenue may also be generated from providers who request a criminal records check but are ultimately refused a license. Any gain in revenue by BCII will be deposited into Fund 106 and will likely be offset by an increase in expenditures related to performing these criminal records checks.

Currently, some county departments of job and family services pay this fee for type B home applicants. As a result, when this responsibility is transferred to the state, counties that are currently paying this fee may experience some cost savings. At the state level, this cost will be borne by the individual seeking the license, so there will likely be no additional cost for ODJFS as a result of the increased number of applicants for licensure.

Availability of rules

The bill requires the ODJFS Director to "make available," rather than "send," proposed rules to child care centers and type A home licensees and requires the Director to provide copies of adopted rules to licensees in electronic form only. These provisions are also applicable to the new licensed type B homes.

Fiscal effect - This provision may result in minimal administrative cost savings for the Department.

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