

Fiscal Note & Local Impact Statement

127th General Assembly of Ohio

Ohio Legislative Service Commission
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BILL: **Sub. S.B. 232** DATE: **May 29, 2008**

STATUS: **As Reported by Senate Health, Human Services, and Aging** SPONSOR: **Sen. Stivers**

LOCAL IMPACT STATEMENT REQUIRED: **No — Possible indirect local effects**

CONTENTS: **Revises the law governing child care**

State Fiscal Highlights

STATE FUND	FY 2009	FY 2010	FUTURE YEARS*
General Revenue Fund			
Revenues	- 0 -	- 0 -	Loss due to licensing fees being deposited into Child Care Regulatory Fund
	- 0 -	- 0 -	Potential gain as a result of establishing and enforcing penalties
Expenditures	- 0 -	- 0 -	- 0 -
Various State and Federal Funds in the Department of Job and Family Services			
Revenues	- 0 -	- 0 -	- 0 -
Expenditures	- 0 -	- 0 -	Increase due to additional staffing and office space needs
	- 0 -	- 0 -	Increase to establish the dispute resolution process and child care ombudsperson program
	- 0 -	- 0 -	Increase due to contracts and payment shifting to the state
	- 0 -	- 0 -	Potential decrease in moneys provided to counties due to reallocation of state and federal funds for certification activities
Child Care Regulatory Fund			
Revenues	- 0 -	- 0 -	Estimated gain of approximately \$2,180,000 every two years due to child care home licensure fees
Expenditures	- 0 -	- 0 -	Increase to pay administrative costs to license child care homes



STATE FUND	FY 2009	FY 2010	FUTURE YEARS*
General Reimbursement Fund (Fund 106) – Attorney General			
Revenues	- 0 -	- 0 -	Estimated gain of at least \$242,000 from criminal records check fees
Expenditures	- 0 -	- 0 -	Increase to conduct additional records checks

Note: The state fiscal year is July 1 through June 30. For example, FY 2009 is July 1, 2008 – June 30, 2009.

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

- Licensing type B child care homes.** 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 and, with certain exceptions, any type B home that desires to provide publicly funded child care be licensed by the Ohio Department of Job and Family Services (ODJFS). 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. ODJFS estimates that the total annual cost for the additional staff members is approximately \$10.4 million. ODJFS also anticipates the need to rent additional office space to accommodate the extra staff. 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.
- Licensing fees.** The bill requires that license fees for child care centers, type A homes, and type B homes be paid into a newly created Child Care Regulatory Fund and requires ODJFS to use money in the fund to pay for ODJFS's administrative expenses in licensing centers and homes. With regard to licensing centers and type A homes, the revenue gain to the Child Care Regulatory Fund and the corresponding revenue loss to the GRF will be at least \$179,800 every two years; this amount may be more depending on the number of new applications for licensure ODJFS receives each year. According to ODJFS, the fee for licensing a type B home will likely be \$100 every two years. If ODJFS's estimate of 20,000 providers is accurate, the gain in revenue to the GRF from the licensing fee will be \$2 million every two years.
- Dispute resolution process child care ombudsperson program.** The bill requires the Director of Job and Family Services to establish a dispute resolution process for complaints that persons seeking or holding a type B home license have regarding licensure and to establish a child care ombudsperson program. These provisions will result in an increase in costs for ODJFS to establish the dispute resolution process and child care ombudsperson program. The magnitude of those costs will depend on the specifics of the process and program established by ODJFS.
- Complaints.** The bill requires that a license for a type B home must include a toll-free telephone number to be used for persons suspecting that the home has violated a licensing requirement. The bill also requires that an explanation of the toll-free number be printed on each child care license. These provisions will result in an increase in costs for ODJFS to hire two additional staff at a cost of \$155,000 to accommodate an increase in call volume due to utilization of the number for type B home complaints and better understanding of the number.

- **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.
- **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 certain persons applying for a type B home license under the bill. Using ODJFS's estimate of 11,000 currently unregulated type B homes that will be required to be licensed under the bill, at least \$242,000 in revenue will likely be generated. Any gain in revenue by the Bureau of Criminal Identification and Investigation (BCII) would likely be offset by an increase in expenditures related to performing these criminal records checks.
- **Contracts and payments.** The bill generally requires ODJFS, beginning not later than three years after the bill's effective date, to contract with and directly pay child care providers that provide publicly funded child care. ODJFS will experience an increase in administrative costs as the primary responsibility for contracting with and directly paying providers of publicly funded child care shifts from the county to the state.

Local Fiscal Highlights

LOCAL GOVERNMENT	FY 2008	FY 2009	FUTURE YEARS
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 certification responsibilities and criminal records check requests
	- 0 -	- 0 -	Decrease due to contracts and payment shifting to the state

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 will experience a significant decrease in responsibility and therefore costs associated with regulation 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.

- **Contracts and payments.** The bill generally requires ODJFS, beginning not later than three years after the bill's effective date, to contract with and directly pay child care providers that provide publicly funded child care. County departments of job and family services will experience a decrease in costs as the primary responsibility for contracting with and paying providers of publicly funded child care shifts from the county to the state.
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Detailed Fiscal Analysis

Licensing of child care homes (current law)

There are two types of providers who provide child care at the provider's home: type A and type B family child care homes. 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.¹

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. Type B homes that do not provide publicly funded child care are not required to be licensed or certified. County directors are also responsible for inspecting and, upon receipt of a complaint, investigating certified type B homes.

Type B homes

Licensure

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 and, with certain exceptions, any type B home that desires to provide publicly funded child care be licensed by ODJFS. Furthermore, the bill eliminates the authority of county directors to issue full certification to type B homes. These provisions go into effect three years after the bill's effective date. The bill maintains the inspection and investigation requirements for type B homes, but the responsibility to establish the procedures and carry them out transfers to ODJFS. The bill also specifies that the Director of Job and Family Services must complete licensing procedures for type B homes not later than 60 days after receiving the completed application. The Director of Job and Family Services must develop the infrastructure necessary to begin issuing licenses to type B homes as quickly as possible, but not later than three years after the bill's effective date.

Limited certification

¹ 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 authorizes a county director to issue limited certification for a type B home to a person who seeks to provide publicly funded child care in the person's home to (1) not more than two children at one time, (2) not more than six children at one time, all of whom are the person's grandchildren, great-grandchildren, nieces, nephews, grandnieces, grandnephews, or siblings, or (3) not more than six children at one time all of whom have the same caretaker parent. The bill gives county directors discretion to either inspect the home or obtain from the provider and a caretaker parent of each child to whom the provider provides publicly funded child care written verification that the home meets the standard for limited certification. The bill expressly applies to type B homes with limited certification certain provisions of law that currently apply to type B homes with full certification.

Costs

ODJFS estimates that approximately 20,000 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 an informal provider of child care for a friend or relative), and including an estimate of about 11,000 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. ODJFS estimates that the total annual cost for the additional staff members is approximately \$10.4 million. The annual staffing cost estimate includes salary and benefits, equipment, and travel.

Staff	Cost
134 licensing specialists (with a caseload of 150)	\$8,471,212
17 supervisors (1 supervisor for every 8 staff members)	\$1,162,664
6 clerical staff (1 support staff for every 2 units)	\$258,804
3 program administrators (1 administrator for every 8 supervisors)	\$225,000
2 licensing enforcement positions	\$163,800
2 human services developers	\$155,028
Total Annual Cost	\$10,436,508

ODJFS 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, ODJFS 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. ODJFS 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, ODJFS anticipates the need to rent additional office space to accommodate the extra staff.

County departments of job and family services will experience a significant decrease in responsibility and costs due to the provisions of the bill. 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.

New fund for licensing fees

Under current law, license fees that child care centers and type A homes pay to ODJFS are paid to the credit of the GRF. Currently, there are no fees associated with the certification of type B homes. The Director of Job and Family Services is required to set fees for licensure of type B homes, which must be paid at the time of the license or renewal application. The bill requires that license fees for child care centers, type A homes, and type B homes be paid into a newly created Child Care Regulatory Fund and requires ODJFS to use money in the fund to pay for ODJFS's administrative expenses in licensing centers and homes.

ODJFS currently licenses 3,500 child care centers and 192 type A homes. For a center, the initial license fee is \$100 and the biennial renewal fee is \$50. For a type A home, the initial license fee is \$50 and the biennial renewal fee is \$25. With regard to licensing centers and type A homes, the revenue gain to the Child Care Regulatory Fund and the corresponding revenue loss to the GRF will be at least \$179,800 every two years; this amount may be more depending on the number of new applications for licensure ODJFS receives each year. According to ODJFS, the fee for licensing a type B home will likely be \$100 every two years. If ODJFS's estimate of 20,000 providers is accurate, the gain in revenue to the Child Care Regulatory Fund will be \$2 million every two years specifically for type B homes.

Monitoring expenditures

Under current law, the ODJFS Director is required to establish a procedure in rules for monitoring the expenditures of county departments to ensure that expenditures do not exceed the federal and state funds available for publicly funded child care. The bill also requires that the procedure monitor ODJFS's expenditures.

Dispute resolution process and child care ombudsperson program

The bill requires the Director of Job and Family Services to establish a dispute resolution process for complaints that persons seeking or holding a type B home license have regarding licensure. The Director is also required to establish a child care ombudsperson program under which the Director appoints a statewide child care ombudsperson, regional child care ombudsperson, or both to (1) utilize the dispute resolution process to accept complaints from persons seeking or holding a type B home license regarding licensure and attempt to settle the complaints informally and (2) ensure that the appropriate authority responds to a complaint accepted under the dispute resolution process that concerns an immediate threat of harm to a

child. The bill also requires a person seeking or holding a type B home license to utilize the dispute resolution process before requesting a hearing under the Administrative Procedure Act (R.C. Chapter 119.). These provisions will result in an increase in costs for ODJFS to establish the dispute resolution process and child care ombudsperson program. The magnitude of those costs will depend on the specifics of the process and program established by ODJFS. There may also be additional costs to ODJFS if the dispute resolution process fails to satisfy the complaint resulting in a Chapter 119. hearing.

Complaints

Toll-free number for complaints

Under current law, a license for a child care center or type A home must include a toll-free telephone number to be used for persons suspecting that the center or home has violated a licensing requirement. The bill applies this requirement to licenses for type B homes. The bill also requires that an explanation of the toll-free number be printed on each child care center, type A home, and type B home license. According to ODJFS, these provisions will result in an increase in costs to hire two additional staff at a cost of \$155,000 to accommodate an increase in call volume due to utilization of the number for type B home complaints and better understanding of the number.

Referrals and investigations

The bill requires a county department of job and family services, public children services agency (PCSA), and child care resource and referral service organization that receives a complaint that a child care provider is not in compliance with licensing requirements (complaints concerning a type B home with limited certification are referred to the county department). The bill also requires ODJFS, a county department or child care resource and referral organization to notify a PCSA if the complaint alleges an immediate threat of harm to a child. ODJFS is then required to initiate an investigation not later than 24 hours after receiving a complaint if the complaint alleges an immediate threat of harm to a child. These provisions may result in an increase in costs for county departments to refer complaints and for ODJFS and PCSAs to receive referrals and investigate complaints.

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 home may provide child care or, if the offender is a licensed type A home that is operating as a child 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 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.

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, ODJFS 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. ODJFS 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.

Criminal records checks

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. Presumably, as a result of the bill, additional criminal records checks will be requested and performed for those type B homes that are not currently certified but that would be required to be licensed under the bill, specifically during the initial phase of implementation. The current fee for a Bureau of Criminal Identification and Investigation (BCII) check is \$22.00. (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 checks of persons applying for a type B home license.

Using ODJFS's estimate of 11,000 currently unregulated type B homes that will be required to obtain a criminal records check to obtain a license under the bill, at least \$242,000 in revenue will likely be generated. 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 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.

Publicly funded child care

Contracts

Under current law, county departments of job and family services contract with providers of publicly funded child care. The bill requires ODJFS, beginning not later than three years after the bill's effective date, to contract with the following providers: child care centers, type A homes, licensed type B homes, child day camps, preschool programs, school child programs, and border state child care providers. County departments are only required to contract with type B homes with limited certification and in-home aides once ODJFS begins to contract with the other providers. ODJFS will experience an increase in costs and county departments will experience a decrease in costs as the primary responsibility for contracting with providers of publicly funded child care shifts from the county to the state.

Payments

Under current law, a county department of job and family services is required to pay providers unless ODJFS makes direct payments to providers pursuant to an agreement entered into with a board of county commissioners. The bill requires ODJFS to pay a provider the amount specified in the contract if ODJFS contracted with the provider and for a county department to pay the provider (type B homes with limited certification), unless ODJFS is to make direct payments to those providers pursuant to an agreement entered into with a board of county commissioners. ODJFS is also permitted to undertake certain activities with regard to payments that are currently done by county departments. These provisions will result in an increase in administrative costs for ODJFS to pay the required providers and perform certain activities currently executed by county departments.

Limited certification

Under current law, the reimbursement ceiling for publicly funded child care provided by a type B home with limited certification is as follows: (1) if the provider provides child care to eligible children who are great-grandchildren, grandchildren, nieces, nephews, or siblings of the provider or for eligible children whose caretaker parent is a grandchild, child, niece, nephew, or sibling of the provider, the reimbursement ceiling is 75% of the reimbursement ceiling that applies to a type B home with full certification, (2) if the provider provides child care to eligible children all of whom are the children of the same caretaker parent, the reimbursement ceiling is 60% of the reimbursement ceiling that applies to a type B home with full certification.

The bill sets the reimbursement ceiling for type B homes with limited certification as follows: (1) if the home underwent an inspection not more than one year earlier, the reimbursement ceiling is to be 75% of the reimbursement ceiling that would otherwise apply, (2) if the home has not undergone an inspection during that one-year period, the reimbursement ceiling is to be 60% of the reimbursement ceiling that would otherwise apply. To the extent that these provisions are not already current practice by ODJFS, these provisions may result in an increase in costs to ODJFS if those not currently eligible to receive the higher percentage of reimbursement become eligible by being inspected.

Step Up to Quality

Step Up to Quality is Ohio's voluntary quality-rating program in which participants may receive grants, technical assistance, training, and other assistance and become eligible for unrestricted monetary awards for maintaining a quality rating. The bill expands the Step Up to Quality Program to type A homes and type B homes.

This expansion may result in an increase in costs for ODJFS to conduct the expansion and to award monetary grants for participants that maintain the necessary quality ratings. The magnitude of the increase will depend on the number of participants who choose to take part in the program and ODJFS's available resources.

Public awareness program

The bill requires the Director of Job and Family Services to establish an ongoing public awareness program regarding the licensure of type B homes that is aimed at child care providers

and caretaker parents of children in need of child care. This provision will result in an increase in costs for ODJFS to establish such a program. The magnitude of the increase will depend on the specifics of programs established by ODJFS.

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