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DDDCD21 Funds Used for the ICF/MR Franchise Permit Fees

R.C. *5112.37, 5112.31, 5112.371, 5112.39; Section 263.10.80 of H.B. 153 (Repealed)*

Revises the law governing the funds into which money raised by the franchise permit fees on ICFs/MR is deposited as follows:

- (1) Provides for all of the installment payments and penalties paid by ICFs/MR regarding the franchise permit fees to be deposited into the Home and Community-Based Services for the Mentally Retarded and Developmentally Disabled Fund (Fund 4K10) rather than 82.2% of the payments and penalties;
- (2) Rather than requiring the Ohio Department of Job and Family Services (ODJFS) to distribute money in Fund 4K10 in accordance with rules and requiring ODJFS and ODODD to use the money for Medicaid and home and community-based services to persons with mental retardation or developmental disabilities, requires ODJFS to certify quarterly to the OBM Director the amount in Fund 4K10 as of the last day of each quarter and requires the OBM Director to transfer the amount certified to the Operating and Services Fund (Fund 5GE0) used by ODODD.
- (3) Provides for Fund 5GE0 to consist of money that the OBM Director transfers to it from Fund 4K10 rather than the percentage of installment payments and penalties not deposited into Fund 4K10.

Repeals provisions of H.B.153 regarding:

- (1) Transfers of funds resulting from the ODODD Director certifying to the OBM Director the estimated amount needed to fund slots for home and community-based services provided under ODODD-administered Medicaid waivers made available by the conversion of certain ICFs/MR into home and community-based services and the revocation or suspension of ICF/MR licenses;
- (2) Allows the OBM Director to authorize expenditures from the Medicaid Waiver Fund (Fund 3G60), which is used by ODODD, and the Interagency Reimbursement (Fund 3G50), which is used by ODJFS, when receipts credited to those funds exceed the amounts appropriated from them.

Fiscal effect: Simplifies the transfer of ICF/MR franchise fee revenue from ODJFS to ODODD.

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DDDCD4 Fees Charged County DD Boards for Home and Community-Based Services**R.C. 5123.0412, 5123.01**

Prohibits ODODD from charging a county DD board a fee for Medicaid paid claims for home and community-based services provided under the Medicaid waiver program known as the Transitions Developmental Disabilities Waiver.

Fiscal effect: Decrease in expenditures for county DD boards. Loss of revenue for ODODD.

DDDCD16 Plans for Residential Services**R.C. 5123.042, 5123.19**

Eliminates the role of county DD boards regarding recommendations for plans for development of residential services for persons with mental retardation or developmental disabilities.

Requires each person or government entity seeking to develop new or modify existing residential services to submit a plan for development or modification to ODODD.

Fiscal effect: Potential decrease in costs for county DD boards from not receiving and reviewing residential service plans, and potential increase in costs for ODODD to receive and review plans.

DDDCD22 ODODD-Related Criminal Records Checks

**R.C. 5123.081, 109.57, 109.572, 5123.033,
5123.082, 5123.16, 5123.161, 5123.162,
5123.163, 5123.164, 5123.166, 5123.169,
5123.1610, 5123.542, 5126.0221, 5126.0222,
5126.25, 5126.28 (Repealed), and 5126.281
(Repealed), Sections 620.10, 620.11, 751.20**

Revises the law governing criminal records checks for employment positions with ODODD, county DD boards, and providers of specialized services as follows:

(1) Subjects a subcontractor that contracts with a provider or another subcontractor to the criminal records checks requirements if the subcontractor employs a person in a direct services position;

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- (2) Permits the ODODD Director to adopt rules requiring employees to undergo criminal records checks and requiring ODODD, county DD boards, providers, and subcontractors to obtain the driving records of employees;
 - (3) Provides that the requirements do not apply to a person who applies to a provider for a position in which the person would have physical contact with one or more individuals with mental retardation or a developmental disability unless the person would have the opportunity to be alone with or would exercise supervision or control over such individuals;
 - (4) Eliminates a requirement that ODODD or a county DD board inform a job applicant about the criminal records check requirements at the time of the applicant's initial application for employment;
 - (5) Revises the list of disqualifying offenses for which a criminal records check is to search;
 - (6) Requires ODODD, county DD boards, providers, and subcontractors to request certain applicants' or (if rules so require) employees' driving records from the Bureau of Motor Vehicles rather than requiring ODODD, county DD boards, and providers to request the Registrar of Motor Vehicles to provide certified abstracts regarding certain applicants' violations of motor vehicle laws;
 - (7) Permits a criminal records check or driving record report to be made available to a court, hearing officer, or other necessary individual involved in a case dealing with the denial, suspension, or revocation of a supported living certificate; a certificate for MR/DD personnel to administer prescribed medications, perform health-related activities, and perform tube feedings; or a certificate for a registered nurse to provide MR/DD personnel training courses rather than a case dealing with the denial, suspension, or revocation of a certificate or evidence of registration related to certain employment positions regarding individuals with mental retardation or developmental disabilities;
 - (8) Permits a criminal records check or driving record report to be made available to a court, hearing officer, or other necessary individual involved in a case dealing with a civil or criminal action regarding the Medicaid program or a program ODODD administers;
 - (9) Eliminates a requirement for a county DD board to assist a provider who requests help in obtaining a report.
- Establishes criminal records check requirements for the chief executive officers of businesses and independent providers seeking initial or renewed supported living certificates.

Fiscal effect: Potential minimal increase in administrative costs.

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DDDCD3 Licensure of ICFs/MR as Residential Facilities

R.C. *5123.192, (Repealed and New Enactment),
3702.62, 3721.01, 3721.21, 3721.50,
5123.171, 5123.19, 5123.41, and 5126.51,
Section 751.10*

Repeals a law that makes an ICF/MR subject to licensure by the Department of Health as a nursing home rather than by ODODD as a residential facility if the ICF/MR was certified before June 30, 1987, or had an application to convert intermediate care facility beds to ICF/MR beds pending on that date.

Requires a person or government agency that is operating an ICF/MR pursuant to a nursing home license to do the following as a condition of continuing to operate the ICF/MR on and after July 1, 2013:

- (1) Apply to the ODODD Director for a residential facility license not later than February 1, 2013.
- (2) Obtain the residential facility license not later than July 1, 2013.

Fiscal effect: Potential increase in administrative costs for ODODD to license additional ICF/MR beds. Potential gain of license revenue. Corresponding potential decrease in administrative costs for the Department of Health and potential loss of license revenue.

DDDCD7 Records of DD Institutions to be Deposited with the Ohio Historical Society

R.C. *5123.31, 5123.89, 5123.166*

Permits records on institution residents kept by ODODD to be deposited (after a period of time determined by ODODD) with the Ohio Historical Society.

Generally prohibits the records or information in them from being disclosed, except that they may be disclosed to the closest living relative of an identified person on that person's request.

Fiscal effect: Potential increase in costs for the Ohio Historical Society to retain the records and corresponding decrease for ODODD. Potential increase in costs for ODODD to deposit records with the Ohio Historical Society.

Executive**DDDCD6 County DD Board Responsibility for Certain Medicaid Costs****R.C. 5123.38**

Revises the law governing a county DD board's responsibility under certain circumstances to pay the nonfederal share of Medicaid expenditures for an individual's care in a state-operated ICF/MR by (1) giving ODODD the option of collecting the amount the county DD board owes by submitting an invoice for payment of that amount to the county DD board rather than using funds otherwise allocated to the county DD board and (2) authorizing the ODODD Director to grant to a county DD board a waiver that exempts the county DD board from responsibility for the nonfederal share in an individual's case.

Fiscal effect: None, permissive.

DDDCD20 Registry of MR/DD Employee Abuse, Neglect, or Misappropriation**R.C. 5123.50, 5123.51, 5123.542**

Adds to the list of offenses for which an MR/DD employee is to be included in the MR/DD employee abuse registry (1) misappropriation of prescribed medication of an individual with mental retardation or developmental disability and (2) conviction of or guilty plea to certain offenses when the victim is an individual with mental retardation or developmental disability, including any violent offenses, sex offenses, theft offenses, failing to provide for a functionally impaired person, patient abuse or neglect, patient endangerment, and endangering children.

Provides that independent providers of Supported Living are MR/DD employees for the purpose of the law governing the registry of MR/DD employees.

Requires ODODD or a county DD board to provide to an MR/DD employee who is an independent provider an annual notice regarding the conduct for which an MR/DD employee may be included in the registry of MR/DD employees.

Fiscal effect: None.

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DDDCD19 County DD Board Employees as Members of Governing Board**R.C. 5126.0222, (Repealed)**

Eliminates provisions specifying (1) that an employee of a county DD board may be a member of the governing board of either a political subdivision, including a board of education, or an agency that does not provide specialized services to persons with developmental disabilities, and (2) that the county DD board may contract with that governing board even though its membership includes a county DD board employee.

Fiscal effect: None.

DDDCD12 Members of County DD Boards**R.C. 5126.023**

Clarifies that the following may not serve as a member of a county DD board: (1) an employee of any county DD board, (2) an immediate family member of an employee of the same county DD board, and (3) an immediate family member of a member of the same county DD board.

Prohibits a former county DD board employee from serving as a member of the same county DD board within four (rather than one) years of the date that employment ceases.

Prohibits a former county DD board employee from serving as a member of a different county DD board within two years of the date that employment ceases.

Eliminates a provision that prohibits (unless there is no conflict of interest) a person from serving as a county DD board member if the person is, or has an immediate family member who is, an employee or board member of a contracting agency that is not licensed or certified by the ODODD to provide services.

Fiscal effect: None.

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DDDCD14 Decision-making Authority for Individuals with Mental Retardation or Another Developmental Disability**R.C. 5126.043**

Eliminates a provision authorizing only the guardian of an individual with mental retardation or another developmental disability, and who has been adjudicated incompetent, to make decisions regarding the individual's receipt of services from a county DD board.

Replaces the provision described above with provisions that:

- (1) Require an individual with mental retardation or another developmental disability to make the decision, if the individual has the capacity to do so, regarding the individual's receipt of a service or participation in a program provided for or funded by ODODD or a county DD board;
- (2) Permit such an individual to seek support and guidance from a family member or trusted friend without jeopardizing the individual's authority to make decisions;
- (3) Specify a priority list of persons who must make a decision on an individual's behalf when the individual lacks the capacity to make the decision.

Fiscal effect: None.

DDDCD17 Choosing Providers of Certain ODODD Programs**R.C. 5126.046, 5123.044, 5126.055**

Eliminates a requirement that county DD boards with Medicaid local administrative authority create lists of all persons and government entities eligible to provide habilitation, vocational, or community employment services under a Medicaid waiver administered by ODODD.

Eliminates a requirement that ODODD monthly create a list of all persons and government entities eligible to provide residential services and supported living.

Revises the law governing the rights of individuals with mental retardation and developmental disabilities to choose service providers by:

- (1) providing that such an individual who is eligible for home and community-based services provided under an ODODD-administered Medicaid waiver has, except as otherwise provided by a federal Medicaid regulation, the right to obtain the

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services from a qualified and willing provider; and,

(2) providing that such an individual who is eligible for non-Medicaid residential services or supported living has the right to obtain the residential services or supported living from any qualified and willing provider.

Fiscal effect: Potential reduction in administrative costs to county DD boards and ODODD.

DDDCD2 Distribution of Funds for County DD Boards in Regional Councils of Government**R.C. 5126.13**

Eliminates a provision requiring ODODD, when directed to do so by a county DD board that is part of a regional council of governments, to distribute funds for that county DD board to the regional council's fiscal officer.

Fiscal effect: None.

DDDCD13 Service and Support Administration**R.C. 5126.15**

Eliminates a requirement that a county DD board's service and support administrators ensure that each recipient of services have a designated person responsible for providing continuous representation, advocacy, advice, and assistance regarding the daily coordination of services.

Fiscal effect: Potential decrease in costs from not requiring each recipient of services to have a designated person.

DDDCD10 Management Employees of a County DD Board**R.C. 5126.20, 5126.21**

Eliminates a requirement that a county DD board reemploy a management employee for one year if the board superintendent fails to notify the employee 90 days before the expiration of the employee's contract that the board does not intend to rehire the employee (but maintains the notification requirement).

Eliminates a provision specifying that a management employee's benefits include sick leave, vacation leave, holiday pay, and such other benefits.

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Eliminates provisions referring to procedures for retention of management employees who were under contract or in probationary periods at the time the statutes for contracting with management employees were modified in 1988.

Fiscal effect: Potential reduction in county DD board payroll costs.

DDDCD8 Certification or Registration of Employees Providing Services to Individuals with Mental Retardation or Developmental Disabilities

R.C. *5126.25, 5123.033, 5123.0414, 5123.0415, 5123.081, 5126.0220, 5126.20, 5126.22, 5126.251, Repealed: R.C. 5123.082, 5123.083, 5126.252, and 5126.26-5126.29*

Transfers to superintendents of county DD boards the responsibility, currently held by the ODODD Director, for the certification or registration of persons to be employed, either by a county DD board or an entity contracting with a county DD board, in positions serving individuals with mental retardation or developmental disabilities.

Maintains the ODODD Director's responsibility to take such actions relative to the position of county DD board superintendent.

Eliminates most of the statutory provisions establishing specific standards and procedures for the certification or registration of employees and instead requires the standards and procedures to be established by the ODODD Director through the adoption of rules, which must include (1) the employment positions that will require certification or registration and (2) the training, education, and experience requirements that must be met.

Eliminates provisions regarding fees to be charged for certification or registration, including the use of the fees for the Supported Living Program, residential facility licensing, and continuing education and professional training for providers of services to individuals with mental retardation or developmental disabilities.

Fiscal effect: Minimal increase in costs to adopt rules. Potential increase in county DD board costs to maintain records of employees' certification and registration requirements. Potential loss of revenue to ODODD from eliminating fees.

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DDDCD18 **Professional Employees of County DD Boards****R.C.** **5126.26, 5126.27 (Repealed)**

Eliminates provisions referring to procedures for retention of professional employees who were employed by a county DD board at the time the statutes for certification of employees were modified in 1990.

Fiscal effect: None.

DDDCD9 **Termination of Contracts by County DD Board Employees****R.C.** **5126.29, (Repealed)**

Eliminates a provision prohibiting a teacher, professional employee, or management employee from terminating an employment contract with a county DD board without either receiving the board's consent or giving 30 days' notice.

Fiscal effect: None.

DDDCD1 **Screening and Early Intervention****Section: 601.40**
Amends Section 263.10.30 of H.B. 153

Requires that new GRF line item 322420, Screening and Early Intervention, be used for screening and early intervention programs for children with autism selected by the ODODD Director.

DDDCD15 **Rate Increase for Individual Options Waiver Providers Serving Residents of Converted Facilities****Section: 601.40**
Amends Section 263.20.70 of H.B. 153

Requires, subject to approval by the U.S. Centers for Medicare and Medicaid Services, the Department of Job and Family Services to increase the Medicaid rate paid to a provider under the Individual Options waiver by 52¢ for each 15 minutes of routine homemaker/personal care provided to an individual for up to a year if all of the following apply:

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- (1) The individual was a resident of an ICF/MR, or former ICF/MR, that converted some or all of its beds to providing services under the Individual Options waiver immediately prior to enrollment in the waiver;
- (2) The provider begins serving the individual on or after July 1, 2011; and,
- (3) The ODODD Director determines that the increased rate is warranted by the individual's special circumstances and that serving the individual through the Individual Options waiver is fiscally prudent for the Medicaid program.

Fiscal effect: Potential increase in Medicaid expenditures for services provided under the Individual Options waiver to individuals who had resided in an ICF/MR facility.

Executive**Medicaid****JFSCD9 Uniform Eligibility Standards and Procedures****R.C. 121.35**

Requires the Departments of Aging, Alcohol and Drug Addiction Services, Development, Developmental Disabilities, Education, Health, Job and Family Services, Mental Health, and Rehabilitation Services Commission to collaborate to revise eligibility standards and eligibility determination procedures of programs they administer for the purpose of making the standards and procedures more uniform.

Fiscal effect: None.

JFSCD29 Conversion of ICF/MR Beds**R.C. 5111.877, 5111.878, 5111.874**

Permits the ODJFS Director to seek federal approval for up to 500 (rather than 200) slots for home and community-based services provided for the purpose of beds that convert from providing ICF/MR services to home and community-based services.

Prohibits the conversion of more than 500 (rather than 100) ICF/MR beds.

Eliminates the requirement that the ODJFS Director approve the conversion of ICF/MR beds and maintains the requirement that the ODODD Director approve the conversion.

Fiscal effect: Potential decrease in Medicaid costs assuming that home and community-based services are generally less expensive than institutional care.
