

As Introduced

**126th General Assembly
Regular Session
2005-2006**

S. B. No. 242

Senator Armbruster

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A B I L L

To amend sections 2151.011, 5103.13, and 5103.131 of 1
the Revised Code regarding the certification of 2
children's crisis care facilities. 3

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 2151.011, 5103.13, and 5103.131 of 4
the Revised Code be amended to read as follows: 5

Sec. 2151.011. (A) As used in the Revised Code: 6

(1) "Juvenile court" means whichever of the following is 7
applicable that has jurisdiction under this chapter and Chapter 8
2152. of the Revised Code: 9

(a) The division of the court of common pleas specified in 10
section 2101.022 or 2301.03 of the Revised Code as having 11
jurisdiction under this chapter and Chapter 2152. of the Revised 12
Code or as being the juvenile division or the juvenile division 13
combined with one or more other divisions; 14

(b) The juvenile court of Cuyahoga county or Hamilton county 15
that is separately and independently created by section 2151.08 or 16
Chapter 2153. of the Revised Code and that has jurisdiction under 17
this chapter and Chapter 2152. of the Revised Code; 18

(c) If division (A)(1)(a) or (b) of this section does not 19

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| apply, the probate division of the court of common pleas. | 20 |
| (2) "Juvenile judge" means a judge of a court having jurisdiction under this chapter. | 21 22 |
| (3) "Private child placing agency" means any association, as defined in section 5103.02 of the Revised Code, that is certified under section 5103.03 of the Revised Code to accept temporary, permanent, or legal custody of children and place the children for either foster care or adoption. | 23 24 25 26 27 |
| (4) "Private noncustodial agency" means any person, organization, association, or society certified by the department of job and family services that does not accept temporary or permanent legal custody of children, that is privately operated in this state, and that does one or more of the following: | 28 29 30 31 32 |
| (a) Receives and cares for children for two or more consecutive weeks; | 33 34 |
| (b) Participates in the placement of children in certified foster homes; | 35 36 |
| (c) Provides adoption services in conjunction with a public children services agency or private child placing agency. | 37 38 |
| (B) As used in this chapter: | 39 |
| (1) "Adequate parental care" means the provision by a child's parent or parents, guardian, or custodian of adequate food, clothing, and shelter to ensure the child's health and physical safety and the provision by a child's parent or parents of specialized services warranted by the child's physical or mental needs. | 40 41 42 43 44 45 |
| (2) "Adult" means an individual who is eighteen years of age or older. | 46 47 |
| (3) "Agreement for temporary custody" means a voluntary agreement authorized by section 5103.15 of the Revised Code that | 48 49 |

transfers the temporary custody of a child to a public children services agency or a private child placing agency. 50
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(4) "Certified foster home" means a foster home, as defined in section 5103.02 of the Revised Code, certified under section 5103.03 of the Revised Code. 52
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(5) "Child" means a person who is under eighteen years of age, except that the juvenile court has jurisdiction over any person who is adjudicated an unruly child prior to attaining eighteen years of age until the person attains twenty-one years of age, and, for purposes of that jurisdiction related to that adjudication, a person who is so adjudicated an unruly child shall be deemed a "child" until the person attains twenty-one years of age. 55
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(6) "Child day camp," "child care," "child day-care center," "part-time child day-care center," "type A family day-care home," "certified type B family day-care home," "type B home," "administrator of a child day-care center," "administrator of a type A family day-care home," "in-home aide," and "authorized provider" have the same meanings as in section 5104.01 of the Revised Code. 63
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(7) "Child care provider" means an individual who is a child-care staff member or administrator of a child day-care center, a type A family day-care home, or a type B family day-care home, or an in-home aide or an individual who is licensed, is regulated, is approved, operates under the direction of, or otherwise is certified by the department of job and family services, department of mental retardation and developmental disabilities, or the early childhood programs of the department of education. 70
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(8) "Chronic truant" has the same meaning as in section 2152.02 of the Revised Code. 79
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| (9) "Commit" means to vest custody as ordered by the court. | 81 |
| (10) "Counseling" includes both of the following: | 82 |
| (a) General counseling services performed by a public children services agency or shelter for victims of domestic violence to assist a child, a child's parents, and a child's siblings in alleviating identified problems that may cause or have caused the child to be an abused, neglected, or dependent child. | 83 84 85 86 87 |
| (b) Psychiatric or psychological therapeutic counseling services provided to correct or alleviate any mental or emotional illness or disorder and performed by a licensed psychiatrist, licensed psychologist, or a person licensed under Chapter 4757. of the Revised Code to engage in social work or professional counseling. | 88 89 90 91 92 93 |
| (11) "Custodian" means a person who has legal custody of a child or a public children services agency or private child placing agency that has permanent, temporary, or legal custody of a child. | 94 95 96 97 |
| (12) "Delinquent child" has the same meaning as in section 2152.02 of the Revised Code. | 98 99 |
| (13) "Detention" means the temporary care of children pending court adjudication or disposition, or execution of a court order, in a public or private facility designed to physically restrict the movement and activities of children. | 100 101 102 103 |
| (14) "Developmental disability" has the same meaning as in section 5123.01 of the Revised Code. | 104 105 |
| (15) "Foster caregiver" has the same meaning as in section 5103.02 of the Revised Code. | 106 107 |
| (16) "Guardian" means a person, association, or corporation that is granted authority by a probate court pursuant to Chapter 2111. of the Revised Code to exercise parental rights over a child | 108 109 110 |

to the extent provided in the court's order and subject to the 111
residual parental rights of the child's parents. 112

(17) "Habitual truant" means any child of compulsory school 113
age who is absent without legitimate excuse for absence from the 114
public school the child is supposed to attend for five or more 115
consecutive school days, seven or more school days in one school 116
month, or twelve or more school days in a school year. 117

(18) "Juvenile traffic offender" has the same meaning as in 118
section 2152.02 of the Revised Code. 119

(19) "Legal custody" means a legal status that vests in the 120
custodian the right to have physical care and control of the child 121
and to determine where and with whom the child shall live, and the 122
right and duty to protect, train, and discipline the child and to 123
provide the child with food, shelter, education, and medical care, 124
all subject to any residual parental rights, privileges, and 125
responsibilities. An individual granted legal custody shall 126
exercise the rights and responsibilities personally unless 127
otherwise authorized by any section of the Revised Code or by the 128
court. 129

(20) A "legitimate excuse for absence from the public school 130
the child is supposed to attend" includes, but is not limited to, 131
any of the following: 132

(a) The fact that the child in question has enrolled in and 133
is attending another public or nonpublic school in this or another 134
state; 135

(b) The fact that the child in question is excused from 136
attendance at school for any of the reasons specified in section 137
3321.04 of the Revised Code; 138

(c) The fact that the child in question has received an age 139
and schooling certificate in accordance with section 3331.01 of 140

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| the Revised Code. | 141 |
| (21) "Mental illness" and "mentally ill person subject to hospitalization by court order" have the same meanings as in section 5122.01 of the Revised Code. | 142 143 144 |
| (22) "Mental injury" means any behavioral, cognitive, emotional, or mental disorder in a child caused by an act or omission that is described in section 2919.22 of the Revised Code and is committed by the parent or other person responsible for the child's care. | 145 146 147 148 149 |
| (23) "Mentally retarded person" has the same meaning as in section 5123.01 of the Revised Code. | 150 151 |
| (24) "Nonsecure care, supervision, or training" means care, supervision, or training of a child in a facility that does not confine or prevent movement of the child within the facility or from the facility. | 152 153 154 155 |
| (25) "Of compulsory school age" has the same meaning as in section 3321.01 of the Revised Code. | 156 157 |
| (26) "Organization" means any institution, public, semipublic, or private, and any private association, society, or agency located or operating in the state, incorporated or unincorporated, having among its functions the furnishing of protective services or care for children, or the placement of children in certified foster homes or elsewhere. | 158 159 160 161 162 163 |
| (27) "Out-of-home care" means detention facilities, shelter facilities, <u>certified children's crisis care facilities</u> , certified foster homes, placement in a prospective adoptive home prior to the issuance of a final decree of adoption, organizations, certified organizations, child day-care centers, type A family day-care homes, child care provided by type B family day-care home providers and by in-home aides, group home providers, group homes, | 164 165 166 167 168 169 170 |

institutions, state institutions, residential facilities, 171
residential care facilities, residential camps, day camps, public 172
schools, chartered nonpublic schools, educational service centers, 173
hospitals, and medical clinics that are responsible for the care, 174
physical custody, or control of children. 175

(28) "Out-of-home care child abuse" means any of the 176
following when committed by a person responsible for the care of a 177
child in out-of-home care: 178

(a) Engaging in sexual activity with a child in the person's 179
care; 180

(b) Denial to a child, as a means of punishment, of proper or 181
necessary subsistence, education, medical care, or other care 182
necessary for a child's health; 183

(c) Use of restraint procedures on a child that cause injury 184
or pain; 185

(d) Administration of prescription drugs or psychotropic 186
medication to the child without the written approval and ongoing 187
supervision of a licensed physician; 188

(e) Commission of any act, other than by accidental means, 189
that results in any injury to or death of the child in out-of-home 190
care or commission of any act by accidental means that results in 191
an injury to or death of a child in out-of-home care and that is 192
at variance with the history given of the injury or death. 193

(29) "Out-of-home care child neglect" means any of the 194
following when committed by a person responsible for the care of a 195
child in out-of-home care: 196

(a) Failure to provide reasonable supervision according to 197
the standards of care appropriate to the age, mental and physical 198
condition, or other special needs of the child; 199

(b) Failure to provide reasonable supervision according to 200

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| the standards of care appropriate to the age, mental and physical condition, or other special needs of the child, that results in sexual or physical abuse of the child by any person; | 201 202 203 |
| (c) Failure to develop a process for all of the following: | 204 |
| (i) Administration of prescription drugs or psychotropic drugs for the child; | 205 206 |
| (ii) Assuring that the instructions of the licensed physician who prescribed a drug for the child are followed; | 207 208 |
| (iii) Reporting to the licensed physician who prescribed the drug all unfavorable or dangerous side effects from the use of the drug. | 209 210 211 |
| (d) Failure to provide proper or necessary subsistence, education, medical care, or other individualized care necessary for the health or well-being of the child; | 212 213 214 |
| (e) Confinement of the child to a locked room without monitoring by staff; | 215 216 |
| (f) Failure to provide ongoing security for all prescription and nonprescription medication; | 217 218 |
| (g) Isolation of a child for a period of time when there is substantial risk that the isolation, if continued, will impair or retard the mental health or physical well-being of the child. | 219 220 221 |
| (30) "Permanent custody" means a legal status that vests in a public children services agency or a private child placing agency, all parental rights, duties, and obligations, including the right to consent to adoption, and divests the natural parents or adoptive parents of all parental rights, privileges, and obligations, including all residual rights and obligations. | 222 223 224 225 226 227 |
| (31) "Permanent surrender" means the act of the parents or, if a child has only one parent, of the parent of a child, by a voluntary agreement authorized by section 5103.15 of the Revised | 228 229 230 |

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| Code, to transfer the permanent custody of the child to a public | 231 |
| children services agency or a private child placing agency. | 232 |
| (32) "Person responsible for a child's care in out-of-home | 233 |
| care" means any of the following: | 234 |
| (a) Any foster caregiver, in-home aide, or provider; | 235 |
| (b) Any administrator, employee, or agent of any of the | 236 |
| following: a public or private detention facility; shelter | 237 |
| facility; <u>certified children's crisis care facility</u> ; organization; | 238 |
| certified organization; child day-care center; type A family | 239 |
| day-care home; certified type B family day-care home; group home; | 240 |
| institution; state institution; residential facility; residential | 241 |
| care facility; residential camp; day camp; school district; | 242 |
| community school; chartered nonpublic school; educational service | 243 |
| center; hospital; or medical clinic; | 244 |
| (c) Any person who supervises or coaches children as part of | 245 |
| an extracurricular activity sponsored by a school district, public | 246 |
| school, or chartered nonpublic school; | 247 |
| (d) Any other person who performs a similar function with | 248 |
| respect to, or has a similar relationship to, children. | 249 |
| (33) "Physically impaired" means having one or more of the | 250 |
| following conditions that substantially limit one or more of an | 251 |
| individual's major life activities, including self-care, receptive | 252 |
| and expressive language, learning, mobility, and self-direction: | 253 |
| (a) A substantial impairment of vision, speech, or hearing; | 254 |
| (b) A congenital orthopedic impairment; | 255 |
| (c) An orthopedic impairment caused by disease, rheumatic | 256 |
| fever or any other similar chronic or acute health problem, or | 257 |
| amputation or another similar cause. | 258 |
| (34) "Placement for adoption" means the arrangement by a | 259 |
| public children services agency or a private child placing agency | 260 |

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| with a person for the care and adoption by that person of a child | 261 |
| of whom the agency has permanent custody. | 262 |
| (35) "Placement in foster care" means the arrangement by a | 263 |
| public children services agency or a private child placing agency | 264 |
| for the out-of-home care of a child of whom the agency has | 265 |
| temporary custody or permanent custody. | 266 |
| (36) "Planned permanent living arrangement" means an order of | 267 |
| a juvenile court pursuant to which both of the following apply: | 268 |
| (a) The court gives legal custody of a child to a public | 269 |
| children services agency or a private child placing agency without | 270 |
| the termination of parental rights. | 271 |
| (b) The order permits the agency to make an appropriate | 272 |
| placement of the child and to enter into a written agreement with | 273 |
| a foster care provider or with another person or agency with whom | 274 |
| the child is placed. | 275 |
| (37) "Practice of social work" and "practice of professional | 276 |
| counseling" have the same meanings as in section 4757.01 of the | 277 |
| Revised Code. | 278 |
| (38) "Sanction, service, or condition" means a sanction, | 279 |
| service, or condition created by court order following an | 280 |
| adjudication that a child is an unruly child that is described in | 281 |
| division (A)(4) of section 2152.19 of the Revised Code. | 282 |
| (39) "Protective supervision" means an order of disposition | 283 |
| pursuant to which the court permits an abused, neglected, | 284 |
| dependent, or unruly child to remain in the custody of the child's | 285 |
| parents, guardian, or custodian and stay in the child's home, | 286 |
| subject to any conditions and limitations upon the child, the | 287 |
| child's parents, guardian, or custodian, or any other person that | 288 |
| the court prescribes, including supervision as directed by the | 289 |
| court for the protection of the child. | 290 |

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| (40) "Psychiatrist" has the same meaning as in section 5122.01 of the Revised Code. | 291 292 |
| (41) "Psychologist" has the same meaning as in section 4732.01 of the Revised Code. | 293 294 |
| (42) "Residential camp" means a program in which the care, physical custody, or control of children is accepted overnight for recreational or recreational and educational purposes. | 295 296 297 |
| (43) "Residential care facility" means an institution, residence, or facility that is licensed by the department of mental health under section 5119.22 of the Revised Code and that provides care for a child. | 298 299 300 301 |
| (44) "Residential facility" means a home or facility that is licensed by the department of mental retardation and developmental disabilities under section 5123.19 of the Revised Code and in which a child with a developmental disability resides. | 302 303 304 305 |
| (45) "Residual parental rights, privileges, and responsibilities" means those rights, privileges, and responsibilities remaining with the natural parent after the transfer of legal custody of the child, including, but not necessarily limited to, the privilege of reasonable visitation, consent to adoption, the privilege to determine the child's religious affiliation, and the responsibility for support. | 306 307 308 309 310 311 312 |
| (46) "School day" means the school day established by the state board of education pursuant to section 3313.48 of the Revised Code. | 313 314 315 |
| (47) "School month" and "school year" have the same meanings as in section 3313.62 of the Revised Code. | 316 317 |
| (48) "Secure correctional facility" means a facility under the direction of the department of youth services that is designed to physically restrict the movement and activities of children and | 318 319 320 |

used for the placement of children after adjudication and 321
disposition. 322

(49) "Sexual activity" has the same meaning as in section 323
2907.01 of the Revised Code. 324

(50) "Shelter" means the temporary care of children in 325
physically unrestricted facilities pending court adjudication or 326
disposition. 327

(51) "Shelter for victims of domestic violence" has the same 328
meaning as in section 3113.33 of the Revised Code. 329

(52) "Temporary custody" means legal custody of a child who 330
is removed from the child's home, which custody may be terminated 331
at any time at the discretion of the court or, if the legal 332
custody is granted in an agreement for temporary custody, by the 333
person who executed the agreement. 334

(C) For the purposes of this chapter, a child shall be 335
presumed abandoned when the parents of the child have failed to 336
visit or maintain contact with the child for more than ninety 337
days, regardless of whether the parents resume contact with the 338
child after that period of ninety days. 339

Sec. 5103.13. (A) As used in this section, ~~"HIV" has the same~~ 340
~~meaning as in section 3701.24 of the Revised Code and section~~ 341
5103.131 of the Revised Code: 342

(1)(a) "Children's crisis care facility" means a facility 343
that has as its primary purpose the provision of residential and 344
other care to either or both of the following: 345

(i) One or more pre-teens voluntarily placed in the facility 346
by the pre-teen's parent or other caretaker who is facing a crisis 347
that causes the parent or other caretaker to seek temporary care 348
for the pre-teen and referral for support services; 349

(ii) One or more pre-teens placed in the facility by a public children services agency or private child placing agency that has legal custody or permanent custody of the pre-teen and determines that an emergency situation exists necessitating the pre-teen's placement in the facility rather than an institution certified under section 5103.03 of the Revised Code or elsewhere.

(b) "Children's crisis care facility" does not include either of the following:

(i) Any organization, society, association, school, agency, child guidance center, detention or rehabilitation facility, or children's clinic licensed, regulated, approved, operated under the direction of, or otherwise certified by the department of education, a local board of education, the department of youth services, the department of mental health, or the department of mental retardation and developmental disabilities;

(ii) Any individual who provides care for only a single-family group, placed there by their parents or other relative having custody.

(2) "Legal custody" and "permanent custody" have the same meanings as in section 2151.011 of the Revised Code.

(3) "Pre-teen" means an individual under thirteen years of age.

(B) No person shall operate a children's crisis care facility or hold a children's crisis care facility out as a certified children's crisis care facility unless there is a valid children's crisis care facility certificate issued under this section for the facility.

(C) A person seeking to operate a children's crisis care facility shall apply to the director of job and family services to obtain a certificate for the facility. The director shall certify

the person's children's crisis care facility if the facility meets 380
all of the certification standards established in rules adopted 381
under division (F) of this section and the person complies with 382
all of the rules governing the certification of children's crisis 383
care facilities adopted under that division. The issuance of a 384
children's crisis care facility certificate does not exempt the 385
facility from a requirement to obtain another certificate or 386
license mandated by law. 387

(D)(1) No certified children's crisis care facility shall do 388
any of the following: 389

(a) Provide residential care to a pre-teen for more than one 390
hundred twenty days in a calendar year; 391

(b) Subject to division (D)(1)(c) of this section and except 392
as provided in division (D)(2) of this section, provide 393
residential care to a pre-teen for more than sixty consecutive 394
days; 395

(c) Except as provided in division (D)(3) of this section, 396
provide residential care to a pre-teen for more than seventy-two 397
consecutive hours if a public children services agency or private 398
child placing agency placed the pre-teen in the facility; 399

(d) Fail to comply with section 2151.86 of the Revised Code. 400

(2) A certified children's crisis care facility may provide 401
residential care to a pre-teen for up to ninety consecutive days, 402
other than a pre-teen placed in the facility by a public children 403
services agency or private child placing agency, if any of the 404
following are the case: 405

(a) The pre-teen's parent or other caretaker is enrolled in 406
an alcohol and drug addiction program certified under section 407
3793.06 of the Revised Code or a community mental health service 408
certified under section 5119.611 of the Revised Code; 409

(b) The pre-teen's parent or other caretaker is an inpatient 410
in a hospital; 411

(c) The pre-teen's parent or other caretaker is incarcerated; 412

(d) A physician has diagnosed the pre-teen's parent or other 413
caretaker as medically incapacitated. 414

(3) A certified children's crisis care facility may provide 415
residential care to a pre-teen placed in the facility by a public 416
children services agency or private child placing agency for more 417
than seventy-two consecutive hours if the director of job and 418
family services or the director's designee issues the agency a 419
waiver of the seventy-two consecutive hour limitation. The waiver 420
may authorize the certified children's crisis care facility to 421
provide residential care to the pre-teen for up to fourteen 422
consecutive days. 423

(E) The director of job and family services may suspend or 424
revoke a children's crisis care facility's certificate pursuant to 425
Chapter 119. of the Revised Code if the facility violates division 426
(D) of this section or ceases to meet any of the certification 427
standards established in rules adopted under division (F) of this 428
section or the facility's operator ceases to comply with any of 429
the rules governing the certification of children's crisis care 430
facilities adopted under that division. 431

(F) Not later than ninety days after the effective date of 432
this amendment, the director of job and family services shall 433
provide, by adopt rules adopted pursuant to Chapter 119. of the 434
Revised Code, for the licensure certification of children's crisis 435
nurseries as either type A or type B crisis nurseries care 436
facilities. The rules shall specify that a license certificate 437
shall not be issued to an applicant for licensure as a crisis 438
nursery if the conditions at any of its facilities the children's 439
crisis care facility would jeopardize the health or safety of the 440

~~children to whom it provides care pre-teens placed in the~~ 441
~~facility.~~ 442

~~(C) A type A crisis nursery shall provide temporary shelter~~ 443
~~and other care for not more than twenty children at one time. Each~~ 444
~~child shall be under age six and drug exposed, HIV infected, or~~ 445
~~referred by a public children services agency. No child shall~~ 446
~~receive shelter or other care from a particular type A crisis~~ 447
~~nursery for a period exceeding sixty days.~~ 448

~~(D) A type B crisis nursery shall provide, without charging a~~ 449
~~fee, temporary services and care to children under age thirteen~~ 450
~~who are abused and neglected, at high risk of abuse and neglect,~~ 451
~~or members of families receiving child protective services. A type~~ 452
~~B crisis nursery shall also provide referrals to support services.~~ 453
~~No child shall receive services or care from a type B crisis~~ 454
~~nursery for more than thirty days in any year.~~ 455

Sec. 5103.131. The department of job and family services may 456
apply to the United States secretary of health and human services 457
for a federal grant under the "~~Temporary Child Care for Children~~ 458
~~With Disabilities Abuse Prevention and Crisis Nurseries Treatment~~ 459
Act," ~~100 Stat. 907 (1986)~~, 42 U.S.C. 5117 5116, to assist ~~type B~~ 460
children's crisis nurseries licensed care facilities certified 461
under section 5103.13 of the Revised Code in providing temporary 462
~~services residential~~ and ~~other~~ care to ~~minors~~ pre-teens. 463

Section 2. That existing sections 2151.011, 5103.13, and 464
5103.131 of the Revised Code are hereby repealed. 465

Section 3. Section 2151.011 of the Revised Code is presented 466
in this act as a composite of the section as amended by both Am. 467
Sub. H.B. 11 and Am. Sub. H.B. 106 of the 125th General Assembly. 468
The General Assembly, applying the principle stated in division 469
(B) of section 1.52 of the Revised Code that amendments are to be 470

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| harmonized if reasonably capable of simultaneous operation, finds | 471 |
| that the composite is the resulting version of the section in | 472 |
| effect prior to the effective date of the section as presented in | 473 |
| this act. | 474 |