

**As Introduced**

**127th General Assembly  
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**H. B. No. 97**

**Representative Fessler**

**Cosponsors: Representatives Seitz, Webster, Stebelton, McGregor, J.,  
Adams, Bulp, Goodwin, Fende, Chandler**

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**A B I L L**

To amend sections 2151.421, 5104.011, 5104.02, 1  
5104.03, 5104.04, 5104.10, and 5104.99 and to 2  
enact sections 5104.016, 5104.041, 5104.042, 3  
5104.043, 5104.044, and 5104.14 of the Revised 4  
Code to modify the laws pertaining to the 5  
licensing of child care providers and the child 6  
abuse memorandum of understanding that must be 7  
prepared for each county. 8

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

**Section 1.** That sections 2151.421, 5104.011, 5104.02, 9  
5104.03, 5104.04, 5104.10, and 5104.99 be amended and sections 10  
5104.016, 5104.041, 5104.042, 5104.043, 5104.044, and 5104.14 of 11  
the Revised Code be enacted to read as follows: 12

**Sec. 2151.421.** (A)(1)(a) No person described in division 13  
(A)(1)(b) of this section who is acting in an official or 14  
professional capacity and knows, or has reasonable cause to 15  
suspect based on facts that would cause a reasonable person in a 16  
similar position to suspect, that a child under eighteen years of 17  
age or a mentally retarded, developmentally disabled, or 18

physically impaired child under twenty-one years of age has 19  
suffered or faces a threat of suffering any physical or mental 20  
wound, injury, disability, or condition of a nature that 21  
reasonably indicates abuse or neglect of the child shall fail to 22  
immediately report that knowledge or reasonable cause to suspect 23  
to the entity or persons specified in this division. Except as 24  
provided in section 5120.173 of the Revised Code, the person 25  
making the report shall make it to the public children services 26  
agency or a municipal or county peace officer in the county in 27  
which the child resides or in which the abuse or neglect is 28  
occurring or has occurred. In the circumstances described in 29  
section 5120.173 of the Revised Code, the person making the report 30  
shall make it to the entity specified in that section. 31

(b) Division (A)(1)(a) of this section applies to any person 32  
who is an attorney; physician, including a hospital intern or 33  
resident; dentist; podiatrist; practitioner of a limited branch of 34  
medicine as specified in section 4731.15 of the Revised Code; 35  
registered nurse; licensed practical nurse; visiting nurse; other 36  
health care professional; licensed psychologist; licensed school 37  
psychologist; independent marriage and family therapist or 38  
marriage and family therapist; speech pathologist or audiologist; 39  
coroner; administrator or employee of a child day-care center; 40  
administrator or employee of a residential camp or child day camp; 41  
administrator or employee of a certified child care agency or 42  
other public or private children services agency; school teacher; 43  
school employee; school authority; person engaged in social work 44  
or the practice of professional counseling; agent of a county 45  
humane society; person, other than a cleric, rendering spiritual 46  
treatment through prayer in accordance with the tenets of a 47  
well-recognized religion; superintendent, board member, or 48  
employee of a county board of mental retardation; investigative 49  
agent contracted with by a county board of mental retardation; 50  
employee of the department of mental retardation and developmental 51

disabilities; employee of a facility or home that provides respite care in accordance with section 5123.171 of the Revised Code; employee of a home health agency; employee of an entity that provides homemaker services; a person performing the duties of an assessor pursuant to Chapter 3107. or 5103. of the Revised Code; or third party employed by a public children services agency to assist in providing child or family related services.

(2) Except as provided in division (A)(3) of this section, an attorney or a physician is not required to make a report pursuant to division (A)(1) of this section concerning any communication the attorney or physician receives from a client or patient in an attorney-client or physician-patient relationship, if, in accordance with division (A) or (B) of section 2317.02 of the Revised Code, the attorney or physician could not testify with respect to that communication in a civil or criminal proceeding.

(3) The client or patient in an attorney-client or physician-patient relationship described in division (A)(2) of this section is deemed to have waived any testimonial privilege under division (A) or (B) of section 2317.02 of the Revised Code with respect to any communication the attorney or physician receives from the client or patient in that attorney-client or physician-patient relationship, and the attorney or physician shall make a report pursuant to division (A)(1) of this section with respect to that communication, if all of the following apply:

(a) The client or patient, at the time of the communication, is either a child under eighteen years of age or a mentally retarded, developmentally disabled, or physically impaired person under twenty-one years of age.

(b) The attorney or physician knows, or has reasonable cause to suspect based on facts that would cause a reasonable person in similar position to suspect, as a result of the communication or any observations made during that communication, that the client

or patient has suffered or faces a threat of suffering any 84  
physical or mental wound, injury, disability, or condition of a 85  
nature that reasonably indicates abuse or neglect of the client or 86  
patient. 87

(c) The abuse or neglect does not arise out of the client's 88  
or patient's attempt to have an abortion without the notification 89  
of her parents, guardian, or custodian in accordance with section 90  
2151.85 of the Revised Code. 91

(4)(a) No cleric and no person, other than a volunteer, 92  
designated by any church, religious society, or faith acting as a 93  
leader, official, or delegate on behalf of the church, religious 94  
society, or faith who is acting in an official or professional 95  
capacity, who knows, or has reasonable cause to believe based on 96  
facts that would cause a reasonable person in a similar position 97  
to believe, that a child under eighteen years of age or a mentally 98  
retarded, developmentally disabled, or physically impaired child 99  
under twenty-one years of age has suffered or faces a threat of 100  
suffering any physical or mental wound, injury, disability, or 101  
condition of a nature that reasonably indicates abuse or neglect 102  
of the child, and who knows, or has reasonable cause to believe 103  
based on facts that would cause a reasonable person in a similar 104  
position to believe, that another cleric or another person, other 105  
than a volunteer, designated by a church, religious society, or 106  
faith acting as a leader, official, or delegate on behalf of the 107  
church, religious society, or faith caused, or poses the threat of 108  
causing, the wound, injury, disability, or condition that 109  
reasonably indicates abuse or neglect shall fail to immediately 110  
report that knowledge or reasonable cause to believe to the entity 111  
or persons specified in this division. Except as provided in 112  
section 5120.173 of the Revised Code, the person making the report 113  
shall make it to the public children services agency or a 114  
municipal or county peace officer in the county in which the child 115

resides or in which the abuse or neglect is occurring or has 116  
occurred. In the circumstances described in section 5120.173 of 117  
the Revised Code, the person making the report shall make it to 118  
the entity specified in that section. 119

(b) Except as provided in division (A)(4)(c) of this section, 120  
a cleric is not required to make a report pursuant to division 121  
(A)(4)(a) of this section concerning any communication the cleric 122  
receives from a penitent in a cleric-penitent relationship, if, in 123  
accordance with division (C) of section 2317.02 of the Revised 124  
Code, the cleric could not testify with respect to that 125  
communication in a civil or criminal proceeding. 126

(c) The penitent in a cleric-penitent relationship described 127  
in division (A)(4)(b) of this section is deemed to have waived any 128  
testimonial privilege under division (C) of section 2317.02 of the 129  
Revised Code with respect to any communication the cleric receives 130  
from the penitent in that cleric-penitent relationship, and the 131  
cleric shall make a report pursuant to division (A)(4)(a) of this 132  
section with respect to that communication, if all of the 133  
following apply: 134

(i) The penitent, at the time of the communication, is either 135  
a child under eighteen years of age or a mentally retarded, 136  
developmentally disabled, or physically impaired person under 137  
twenty-one years of age. 138

(ii) The cleric knows, or has reasonable cause to believe 139  
based on facts that would cause a reasonable person in a similar 140  
position to believe, as a result of the communication or any 141  
observations made during that communication, the penitent has 142  
suffered or faces a threat of suffering any physical or mental 143  
wound, injury, disability, or condition of a nature that 144  
reasonably indicates abuse or neglect of the penitent. 145

(iii) The abuse or neglect does not arise out of the 146

penitent's attempt to have an abortion performed upon a child 147  
under eighteen years of age or upon a mentally retarded, 148  
developmentally disabled, or physically impaired person under 149  
twenty-one years of age without the notification of her parents, 150  
guardian, or custodian in accordance with section 2151.85 of the 151  
Revised Code. 152

(d) Divisions (A)(4)(a) and (c) of this section do not apply 153  
in a cleric-penitent relationship when the disclosure of any 154  
communication the cleric receives from the penitent is in 155  
violation of the sacred trust. 156

(e) As used in divisions (A)(1) and (4) of this section, 157  
"cleric" and "sacred trust" have the same meanings as in section 158  
2317.02 of the Revised Code. 159

(B) Anyone who knows, or has reasonable cause to suspect 160  
based on facts that would cause a reasonable person in similar 161  
circumstances to suspect, that a child under eighteen years of age 162  
or a mentally retarded, developmentally disabled, or physically 163  
impaired person under twenty-one years of age has suffered or 164  
faces a threat of suffering any physical or mental wound, injury, 165  
disability, or other condition of a nature that reasonably 166  
indicates abuse or neglect of the child may report or cause 167  
reports to be made of that knowledge or reasonable cause to 168  
suspect to the entity or persons specified in this division. 169  
Except as provided in section 5120.173 of the Revised Code, a 170  
person making a report or causing a report to be made under this 171  
division shall make it or cause it to be made to the public 172  
children services agency or to a municipal or county peace 173  
officer. In the circumstances described in section 5120.173 of the 174  
Revised Code, a person making a report or causing a report to be 175  
made under this division shall make it or cause it to be made to 176  
the entity specified in that section. 177

(C) Any report made pursuant to division (A) or (B) of this 178

section shall be made forthwith either by telephone or in person 179  
and shall be followed by a written report, if requested by the 180  
receiving agency or officer. The written report shall contain: 181

(1) The names and addresses of the child and the child's 182  
parents or the person or persons having custody of the child, if 183  
known; 184

(2) The child's age and the nature and extent of the child's 185  
injuries, abuse, or neglect that is known or reasonably suspected 186  
or believed, as applicable, to have occurred or of the threat of 187  
injury, abuse, or neglect that is known or reasonably suspected or 188  
believed, as applicable, to exist, including any evidence of 189  
previous injuries, abuse, or neglect; 190

(3) Any other information that might be helpful in 191  
establishing the cause of the injury, abuse, or neglect that is 192  
known or reasonably suspected or believed, as applicable, to have 193  
occurred or of the threat of injury, abuse, or neglect that is 194  
known or reasonably suspected or believed, as applicable, to 195  
exist. 196

Any person, who is required by division (A) of this section 197  
to report child abuse or child neglect that is known or reasonably 198  
suspected or believed to have occurred, may take or cause to be 199  
taken color photographs of areas of trauma visible on a child and, 200  
if medically indicated, cause to be performed radiological 201  
examinations of the child. 202

(D) As used in this division, "children's advocacy center" 203  
and "sexual abuse of a child" have the same meanings as in section 204  
2151.425 of the Revised Code. 205

(1) When a municipal or county peace officer receives a 206  
report concerning the possible abuse or neglect of a child or the 207  
possible threat of abuse or neglect of a child, upon receipt of 208  
the report, the municipal or county peace officer who receives the 209

report shall refer the report to the appropriate public children services agency. 210  
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(2) When a public children services agency receives a report pursuant to this division or division (A) or (B) of this section, upon receipt of the report, the public children services agency shall do both of the following: 212  
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(a) Comply with section 2151.422 of the Revised Code; 216

(b) If the county served by the agency is also served by a children's advocacy center and the report alleges sexual abuse of a child or another type of abuse of a child that is specified in the memorandum of understanding that creates the center as being within the center's jurisdiction, comply regarding the report with the protocol and procedures for referrals and investigations, with the coordinating activities, and with the authority or responsibility for performing or providing functions, activities, and services stipulated in the interagency agreement entered into under section 2151.428 of the Revised Code relative to that center. 217  
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(E) No township, municipal, or county peace officer shall remove a child about whom a report is made pursuant to this section from the child's parents, stepparents, or guardian or any other persons having custody of the child without consultation with the public children services agency, unless, in the judgment of the officer, and, if the report was made by physician, the physician, immediate removal is considered essential to protect the child from further abuse or neglect. The agency that must be consulted shall be the agency conducting the investigation of the report as determined pursuant to section 2151.422 of the Revised Code. 228  
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(F)(1) Except as provided in section 2151.422 of the Revised Code or in an interagency agreement entered into under section 239  
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2151.428 of the Revised Code that applies to the particular 241  
report, the public children services agency shall investigate, 242  
within twenty-four hours, each report of child abuse or child 243  
neglect that is known or reasonably suspected or believed to have 244  
occurred and of a threat of child abuse or child neglect that is 245  
known or reasonably suspected or believed to exist that is 246  
referred to it under this section to determine the circumstances 247  
surrounding the injuries, abuse, or neglect or the threat of 248  
injury, abuse, or neglect, the cause of the injuries, abuse, 249  
neglect, or threat, and the person or persons responsible. The 250  
investigation shall be made in cooperation with the law 251  
enforcement agency and in accordance with the memorandum of 252  
understanding prepared under division (J) of this section. A 253  
representative of the public children services agency shall, at 254  
the time of initial contact with the person subject to the 255  
investigation, inform the person of the specific complaints or 256  
allegations made against the person. The information shall be 257  
given in a manner that is consistent with division (H)(1) of this 258  
section and protects the rights of the person making the report 259  
under this section. 260

A failure to make the investigation in accordance with the 261  
memorandum is not grounds for, and shall not result in, the 262  
dismissal of any charges or complaint arising from the report or 263  
the suppression of any evidence obtained as a result of the report 264  
and does not give, and shall not be construed as giving, any 265  
rights or any grounds for appeal or post-conviction relief to any 266  
person. The public children services agency shall report each case 267  
to the uniform statewide automated child welfare information 268  
system that the department of job and family services shall 269  
maintain in accordance with section 5101.13 of the Revised Code. 270  
The public children services agency shall submit a report of its 271  
investigation, in writing, to the law enforcement agency. 272

(2) The public children services agency shall make any 273  
recommendations to the county prosecuting attorney or city 274  
director of law that it considers necessary to protect any 275  
children that are brought to its attention. 276

(G)(1)(a) Except as provided in division (H)(3) of this 277  
section, anyone or any hospital, institution, school, health 278  
department, or agency participating in the making of reports under 279  
division (A) of this section, anyone or any hospital, institution, 280  
school, health department, or agency participating in good faith 281  
in the making of reports under division (B) of this section, and 282  
anyone participating in good faith in a judicial proceeding 283  
resulting from the reports, shall be immune from any civil or 284  
criminal liability for injury, death, or loss to person or 285  
property that otherwise might be incurred or imposed as a result 286  
of the making of the reports or the participation in the judicial 287  
proceeding. 288

(b) Notwithstanding section 4731.22 of the Revised Code, the 289  
physician-patient privilege shall not be a ground for excluding 290  
evidence regarding a child's injuries, abuse, or neglect, or the 291  
cause of the injuries, abuse, or neglect in any judicial 292  
proceeding resulting from a report submitted pursuant to this 293  
section. 294

(2) In any civil or criminal action or proceeding in which it 295  
is alleged and proved that participation in the making of a report 296  
under this section was not in good faith or participation in a 297  
judicial proceeding resulting from a report made under this 298  
section was not in good faith, the court shall award the 299  
prevailing party reasonable attorney's fees and costs and, if a 300  
civil action or proceeding is voluntarily dismissed, may award 301  
reasonable attorney's fees and costs to the party against whom the 302  
civil action or proceeding is brought. 303

(H)(1) Except as provided in divisions (H)(4) and (M) of this 304

section, a report made under this section is confidential. The 305  
information provided in a report made pursuant to this section and 306  
the name of the person who made the report shall not be released 307  
for use, and shall not be used, as evidence in any civil action or 308  
proceeding brought against the person who made the report. In a 309  
criminal proceeding, the report is admissible in evidence in 310  
accordance with the Rules of Evidence and is subject to discovery 311  
in accordance with the Rules of Criminal Procedure. 312

(2) No person shall permit or encourage the unauthorized 313  
dissemination of the contents of any report made under this 314  
section. 315

(3) A person who knowingly makes or causes another person to 316  
make a false report under division (B) of this section that 317  
alleges that any person has committed an act or omission that 318  
resulted in a child being an abused child or a neglected child is 319  
guilty of a violation of section 2921.14 of the Revised Code. 320

(4) If a report is made pursuant to division (A) or (B) of 321  
this section and the child who is the subject of the report dies 322  
for any reason at any time after the report is made, but before 323  
the child attains eighteen years of age, the public children 324  
services agency or municipal or county peace officer to which the 325  
report was made or referred, on the request of the child fatality 326  
review board, shall submit a summary sheet of information 327  
providing a summary of the report to the review board of the 328  
county in which the deceased child resided at the time of death. 329  
On the request of the review board, the agency or peace officer 330  
may, at its discretion, make the report available to the review 331  
board. If the county served by the public children services agency 332  
is also served by a children's advocacy center and the report of 333  
alleged sexual abuse of a child or another type of abuse of a 334  
child is specified in the memorandum of understanding that creates 335  
the center as being within the center's jurisdiction, the agency 336

or center shall perform the duties and functions specified in this 337  
division in accordance with the interagency agreement entered into 338  
under section 2151.428 of the Revised Code relative to that 339  
advocacy center. 340

(5) A public children services agency shall advise a person 341  
alleged to have inflicted abuse or neglect on a child who is the 342  
subject of a report made pursuant to this section, including a 343  
report alleging sexual abuse of a child or another type of abuse 344  
of a child referred to a children's advocacy center pursuant to an 345  
interagency agreement entered into under section 2151.428 of the 346  
Revised Code, in writing of the disposition of the investigation. 347  
The agency shall not provide to the person any information that 348  
identifies the person who made the report, statements of 349  
witnesses, or police or other investigative reports. 350

(I) Any report that is required by this section, other than a 351  
report that is made to the state highway patrol as described in 352  
section 5120.173 of the Revised Code, shall result in protective 353  
services and emergency supportive services being made available by 354  
the public children services agency on behalf of the children 355  
about whom the report is made, in an effort to prevent further 356  
neglect or abuse, to enhance their welfare, and, whenever 357  
possible, to preserve the family unit intact. The agency required 358  
to provide the services shall be the agency conducting the 359  
investigation of the report pursuant to section 2151.422 of the 360  
Revised Code. 361

(J)(1) Each public children services agency shall prepare a 362  
memorandum of understanding that is signed by all of the 363  
following: 364

(a) If there is only one juvenile judge in the county, the 365  
juvenile judge of the county or the juvenile judge's 366  
representative; 367

(b) If there is more than one juvenile judge in the county, a juvenile judge or the juvenile judges' representative selected by the juvenile judges or, if they are unable to do so for any reason, the juvenile judge who is senior in point of service or the senior juvenile judge's representative;

(c) The county peace officer;

(d) All chief municipal peace officers within the county;

(e) Other law enforcement officers handling child abuse and neglect cases in the county;

(f) The prosecuting attorney of the county;

(g) If the public children services agency is not the county department of job and family services, the county department of job and family services;

(h) The county humane society;

(i) If the public children services agency participated in the execution of a memorandum of understanding under section 2151.426 of the Revised Code establishing a children's advocacy center, each participating member of the children's advocacy center established by the memorandum.

(2) A memorandum of understanding shall set forth the normal operating procedure to be employed by all concerned officials in the execution of their respective responsibilities under this section and division (C) of section 2919.21, division (B)(1) of section 2919.22, division (B) of section 2919.23, and section 2919.24 of the Revised Code and shall have as two of its primary goals the elimination of all unnecessary interviews of children who are the subject of reports made pursuant to division (A) or (B) of this section and, when feasible, providing for only one interview of a child who is the subject of any report made pursuant to division (A) or (B) of this section. A failure to

follow the procedure set forth in the memorandum by the concerned 398  
officials is not grounds for, and shall not result in, the 399  
dismissal of any charges or complaint arising from any reported 400  
case of abuse or neglect or the suppression of any evidence 401  
obtained as a result of any reported child abuse or child neglect 402  
and does not give, and shall not be construed as giving, any 403  
rights or any grounds for appeal or post-conviction relief to any 404  
person. 405

(3) A memorandum of understanding shall include all of the 406  
following: 407

(a) The roles and responsibilities for handling emergency and 408  
nonemergency cases of abuse and neglect; 409

(b) Standards and procedures to be used in handling and 410  
coordinating investigations of reported cases of child abuse and 411  
reported cases of child neglect, methods to be used in 412  
interviewing the child who is the subject of the report and who 413  
allegedly was abused or neglected, and standards and procedures 414  
addressing the categories of persons who may interview the child 415  
who is the subject of the report and who allegedly was abused or 416  
neglected. 417

(4) If a public children services agency participated in the 418  
execution of a memorandum of understanding under section 2151.426 419  
of the Revised Code establishing a children's advocacy center, the 420  
agency shall incorporate the contents of that memorandum in the 421  
memorandum prepared pursuant to this section. 422

(5) Not less than once every five years, the public children 423  
services agency shall review the memorandum of understanding 424  
prepared pursuant to this section. If it determines from the 425  
review that revisions are necessary, the agency shall prepare 426  
another memorandum of understanding in accordance with divisions 427  
(J)(1) to (4) of this section. 428

(6) The public children services agency shall file a copy of each memorandum of understanding it prepares pursuant to this section with the department of job and family services.

(7) The public children services agency shall provide a copy of any memorandum of understanding it prepares pursuant to this section to a member of the public on request.

(K)(1) Except as provided in division (K)(4) of this section, a person who is required to make a report pursuant to division (A) of this section may make a reasonable number of requests of the public children services agency that receives or is referred the report, or of the children's advocacy center that is referred the report if the report is referred to a children's advocacy center pursuant to an interagency agreement entered into under section 2151.428 of the Revised Code, to be provided with the following information:

(a) Whether the agency or center has initiated an investigation of the report;

(b) Whether the agency or center is continuing to investigate the report;

(c) Whether the agency or center is otherwise involved with the child who is the subject of the report;

(d) The general status of the health and safety of the child who is the subject of the report;

(e) Whether the report has resulted in the filing of a complaint in juvenile court or of criminal charges in another court.

(2) A person may request the information specified in division (K)(1) of this section only if, at the time the report is made, the person's name, address, and telephone number are provided to the person who receives the report.

When a municipal or county peace officer or employee of a 459  
public children services agency receives a report pursuant to 460  
division (A) or (B) of this section the recipient of the report 461  
shall inform the person of the right to request the information 462  
described in division (K)(1) of this section. The recipient of the 463  
report shall include in the initial child abuse or child neglect 464  
report that the person making the report was so informed and, if 465  
provided at the time of the making of the report, shall include 466  
the person's name, address, and telephone number in the report. 467

Each request is subject to verification of the identity of 468  
the person making the report. If that person's identity is 469  
verified, the agency shall provide the person with the information 470  
described in division (K)(1) of this section a reasonable number 471  
of times, except that the agency shall not disclose any 472  
confidential information regarding the child who is the subject of 473  
the report other than the information described in those 474  
divisions. 475

(3) A request made pursuant to division (K)(1) of this 476  
section is not a substitute for any report required to be made 477  
pursuant to division (A) of this section. 478

(4) If an agency other than the agency that received or was 479  
referred the report is conducting the investigation of the report 480  
pursuant to section 2151.422 of the Revised Code, the agency 481  
conducting the investigation shall comply with the requirements of 482  
division (K) of this section. 483

(L) The director of job and family services shall adopt rules 484  
in accordance with Chapter 119. of the Revised Code to implement 485  
this section. The department of job and family services may enter 486  
into a plan of cooperation with any other governmental entity to 487  
aid in ensuring that children are protected from abuse and 488  
neglect. The department shall make recommendations to the attorney 489  
general that the department determines are necessary to protect 490



children from child abuse and child neglect. 491

(M)(1) As used in this division: 492

(a) "Out-of-home care" includes a nonchartered nonpublic 493  
school if the alleged child abuse or child neglect, or alleged 494  
threat of child abuse or child neglect, described in a report 495  
received by a public children services agency allegedly occurred 496  
in or involved the nonchartered nonpublic school and the alleged 497  
perpetrator named in the report holds a certificate, permit, or 498  
license issued by the state board of education under section 499  
3301.071 or Chapter 3319. of the Revised Code. 500

(b) "Administrator, director, or other chief administrative 501  
officer" means the superintendent of the school district if the 502  
out-of-home care entity subject to a report made pursuant to this 503  
section is a school operated by the district. 504

(2) No later than the end of the day following the day on 505  
which a public children services agency receives a report of 506  
alleged child abuse or child neglect, or a report of an alleged 507  
threat of child abuse or child neglect, that allegedly occurred in 508  
or involved an out-of-home care entity, the agency shall provide 509  
written notice of the allegations contained in and the person 510  
named as the alleged perpetrator in the report to the 511  
administrator, director, or other chief administrative officer of 512  
the out-of-home care entity that is the subject of the report 513  
unless the administrator, director, or other chief administrative 514  
officer is named as an alleged perpetrator in the report. If the 515  
administrator, director, or other chief administrative officer of 516  
an out-of-home care entity is named as an alleged perpetrator in a 517  
report of alleged child abuse or child neglect, or a report of an 518  
alleged threat of child abuse or child neglect, that allegedly 519  
occurred in or involved the out-of-home care entity, the agency 520  
shall provide the written notice to the owner or governing board 521  
of the out-of-home care entity that is the subject of the report. 522

The agency shall not provide witness statements or police or other 523  
investigative reports. 524

(3) No later than three days after the day on which a public 525  
children services agency that conducted the investigation as 526  
determined pursuant to section 2151.422 of the Revised Code makes 527  
a disposition of an investigation involving a report of alleged 528  
child abuse or child neglect, or a report of an alleged threat of 529  
child abuse or child neglect, that allegedly occurred in or 530  
involved an out-of-home care entity, the agency shall send written 531  
notice of the disposition of the investigation to the 532  
administrator, director, or other chief administrative officer and 533  
the owner or governing board of the out-of-home care entity. The 534  
agency shall not provide witness statements or police or other 535  
investigative reports. 536

**Sec. 5104.011.** (A) The director of job and family services 537  
shall adopt rules pursuant to Chapter 119. of the Revised Code 538  
governing the operation of child day-care centers, including, ~~but~~ 539  
~~not limited to,~~ parent cooperative centers, part-time centers, 540  
drop-in centers, and school child centers, which rules shall 541  
reflect the various forms of child care and the needs of children 542  
receiving child care or publicly funded child care and shall 543  
include specific rules for school child care centers that are 544  
developed in consultation with the department of education. The 545  
rules shall not require an existing school facility that is in 546  
compliance with applicable building codes to undergo an additional 547  
building code inspection or to have structural modifications. The 548  
rules shall include the following: 549

(1) Submission of a site plan and descriptive plan of 550  
operation to demonstrate how the center proposes to meet the 551  
requirements of this chapter and rules adopted pursuant to this 552  
chapter for the initial license application; 553

(2) Standards for ensuring that the physical surroundings of 554  
the center are safe and sanitary including, ~~but not limited to,~~ 555  
the physical environment, the physical plant, and the equipment of 556  
the center; 557

(3) Standards for the supervision, care, and discipline of 558  
children receiving child care or publicly funded child care in the 559  
center; 560

(4) Standards for a program of activities, and for play 561  
equipment, materials, and supplies, to enhance the development of 562  
each child; however, any educational curricula, philosophies, and 563  
methodologies that are developmentally appropriate and that 564  
enhance the social, emotional, intellectual, and physical 565  
development of each child shall be permissible. As used in this 566  
division, "program" does not include instruction in religious or 567  
moral doctrines, beliefs, or values that is conducted at child 568  
day-care centers owned and operated by churches and does include 569  
methods of disciplining children at child day-care centers. 570

(5) ~~Admissions~~ Subject to section 5104.016 of the Revised 571  
Code, admission policies and procedures, health care policies and 572  
procedures, including, ~~but not limited to,~~ procedures for the 573  
isolation of children with communicable diseases, first aid and 574  
emergency procedures, procedures for discipline and supervision of 575  
children, standards for the provision of nutritious meals and 576  
snacks, and procedures for screening children and employees, 577  
including, ~~but not limited to,~~ any necessary physical examinations 578  
and immunizations; 579

(6) Methods for encouraging parental participation in the 580  
center and methods for ensuring that the rights of children, 581  
parents, and employees are protected and that responsibilities of 582  
parents and employees are met; 583

(7) Procedures for ensuring the safety and adequate 584

supervision of children traveling off the premises of the center	585
while under the care of a center employee;	586
(8) Procedures for record keeping, organization, and	587
administration;	588
(9) Procedures for issuing, renewing, denying, and revoking a	589
license that are not otherwise provided for in Chapter 119. of the	590
Revised Code;	591
(10) <del>Inspection procedures</del> <u>Procedures for conducting</u>	592
<u>inspections and investigations under sections 5104.03 and 5104.04</u>	593
<u>of the Revised Code, when applicable, with regard to applicants,</u>	594
<u>licensed centers, and child care providers allegedly in violation</u>	595
<u>of division (A)(2) of section 5104.02 of the Revised Code for not</u>	596
<u>being licensed as a center;</u>	597
(11) Procedures and standards for setting initial and renewal	598
license application fees;	599
(12) Procedures for receiving, recording, and responding to	600
complaints <u>received under section 5104.14 of the Revised Code</u>	601
about <u>licensed centers and about child care providers allegedly in</u>	602
<u>violation of division (A)(2) of section 5104.02 of the Revised</u>	603
<u>Code for not being licensed as a center;</u>	604
(13) Procedures for <u>implementing or enforcing section</u>	605
<u>sections 5104.04, 5104.041, 5104.042, and 5104.043</u> of the Revised	606
Code;	607
(14) <del>A standard requiring the inclusion, on and after July 1,</del>	608
<del>1987, of a current department of job and family services toll-free</del>	609
<del>telephone number on each center provisional license or license</del>	610
<del>which any person may use to report a suspected violation by the</del>	611
<del>center of this chapter or rules adopted pursuant to this chapter;</del>	612
<del>(15)</del> Requirements for the training of administrators and	613
child-care staff members in first aid, in prevention, recognition,	614

and management of communicable diseases, and in child abuse 615  
recognition and prevention. Training requirements for child 616  
day-care centers adopted under this division shall be consistent 617  
with divisions (B)(6) and (C)(1) of this section. 618

~~(16)~~(15) Procedures to be used by licensees for checking the 619  
references of potential employees of centers ~~and procedures. For~~ 620  
cases in which the licensee is not the administrator of the 621  
center, the rules shall specify procedures to be followed by the 622  
licensee in obtaining from an individual being considered for 623  
employment as the administrator a signed statement specifying 624  
whether the individual has been the administrator of a child 625  
day-care center or type A family day-care home that had its 626  
license revoked while the individual was the administrator. 627

(16) Procedures to be used by the director for checking the 628  
references of applicants for licenses to operate centers; 629

(17) Standards providing for the special needs of children 630  
who are handicapped or who require treatment for health conditions 631  
while the child is receiving child care or publicly funded child 632  
care in the center; 633

(18) A procedure for reporting of injuries of children that 634  
occur at the center; 635

(19) ~~Any other procedures~~ Procedures and standards necessary 636  
to ~~carry out this chapter~~ protect the health and safety of 637  
children receiving child care or publicly funded child care in the 638  
center. 639

(B)(1) The child day-care center shall have, for each child 640  
for whom the center is licensed, at least thirty-five square feet 641  
of usable indoor floor space wall-to-wall regularly available for 642  
the child care operation exclusive of any parts of the structure 643  
in which the care of children is prohibited by law or by rules 644  
adopted by the board of building standards. The minimum of 645

thirty-five square feet of usable indoor floor space shall not 646  
include hallways, kitchens, storage areas, or any other areas that 647  
are not available for the care of children, ~~as determined by the~~ 648  
~~director~~, in meeting the space requirement of this division, and 649  
bathrooms shall be counted in determining square footage only if 650  
they are used exclusively by children enrolled in the center, 651  
except that the exclusion of hallways, kitchens, storage areas, 652  
bathrooms not used exclusively by children enrolled in the center, 653  
and any other areas not available for the care of children from 654  
the minimum of thirty-five square feet of usable indoor floor 655  
space shall not apply to: 656

(a) Centers licensed prior to or on September 1, 1986, that 657  
continue under licensure after that date; 658

(b) Centers licensed prior to or on September 1, 1986, that 659  
are issued a new license after that date solely due to a change of 660  
ownership of the center. 661

(2) The child day-care center shall have on the site a safe 662  
outdoor play space which is enclosed by a fence or otherwise 663  
protected from traffic or other hazards. The play space shall 664  
contain not less than sixty square feet per child using such space 665  
at any one time, and shall provide an opportunity for supervised 666  
outdoor play each day in suitable weather. The director may exempt 667  
a center from the requirement of this division, if an outdoor play 668  
space is not available and if all of the following are met: 669

(a) The center provides an indoor recreation area that has 670  
not less than sixty square feet per child using the space at any 671  
one time, that has a minimum of one thousand four hundred forty 672  
square feet of space, and that is separate from the indoor space 673  
required under division (B)(1) of this section. 674

(b) The director has determined that there is regularly 675  
available and scheduled for use a conveniently accessible and safe 676

park, playground, or similar outdoor play area for play or recreation. 677  
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(c) The children are closely supervised during play and while traveling to and from the area. 679  
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The director also shall exempt from the requirement of this division a child day-care center that was licensed prior to September 1, 1986, if the center received approval from the director prior to September 1, 1986, to use a park, playground, or similar area, not connected with the center, for play or recreation in lieu of the outdoor space requirements of this section and if the children are closely supervised both during play and while traveling to and from the area and except if the director determines upon investigation and inspection pursuant to section 5104.04 of the Revised Code and rules adopted pursuant to that section that the park, playground, or similar area, as well as access to and from the area, is unsafe for the children. 681  
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(3) The child day-care center shall have at least two responsible adults available on the premises at all times when seven or more children are in the center. The center shall organize the children in the center in small groups, shall provide child-care staff to give continuity of care and supervision to the children on a day-by-day basis, and shall ensure that no child is left alone or unsupervised. Except as otherwise provided in division (E) of this section, the maximum number of children per child-care staff member and maximum group size, by age category of children, are as follows: 693  
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	Maximum Number of		
	Children Per	Maximum	
Age Category	Child-Care	Group	
of Children	Staff Member	Size	
(a) Infants:			704
(i) Less than twelve			705 706 707 708

months old	5:1, or		709
	12:2 if two		710
	child-care		711
	staff members		712
	are in the room	12	713
(ii) At least twelve			714
months old, but			715
less than eighteen			716
months old	6:1	12	717
(b) Toddlers:			718
(i) At least eighteen			719
months old, but			720
less than thirty			721
months old	7:1	14	722
(ii) At least thirty months			723
old, but less than			724
three years old	8:1	16	725
(c) Preschool			726
children:			727
(i) Three years old	12:1	24	728
(ii) Four years old and			729
five years old who			730
are not school			731
children	14:1	28	732
(d) School children:			733
(i) A child who is			734
enrolled in or is			735
eligible to be			736
enrolled in a grade			737
of kindergarten			738
or above, but			739
is less than			740
eleven years old	18:1	36	741



(ii) Eleven through fourteen 742  
years old 20:1 40 743

Except as otherwise provided in division (E) of this section, 744  
the maximum number of children per child-care staff member and 745  
maximum group size requirements of the younger age group shall 746  
apply when age groups are combined. 747

(4)(a) The child day-care center administrator shall show the 748  
director both of the following: 749

(i) Evidence of at least high school graduation or 750  
certification of high school equivalency by the state board of 751  
education or the appropriate agency of another state; 752

(ii) Evidence of having completed at least two years of 753  
training in an accredited college, university, or technical 754  
college, including courses in child development or early childhood 755  
education, or at least two years of experience in supervising and 756  
giving daily care to children attending an organized group 757  
program. 758

(b) In addition to the requirements of division (B)(4)(a) of 759  
this section, any administrator employed or designated on or after 760  
September 1, 1986, shall show evidence of, and any administrator 761  
employed or designated prior to September 1, 1986, shall show 762  
evidence within six years after such date of, at least one of the 763  
following: 764

(i) Two years of experience working as a child-care staff 765  
member in a center and at least four courses in child development 766  
or early childhood education from an accredited college, 767  
university, or technical college, except that a person who has two 768  
years of experience working as a child-care staff member in a 769  
particular center and who has been promoted to or designated as 770  
administrator of that center shall have one year from the time the 771  
person was promoted to or designated as administrator to complete 772

the required four courses; 773

(ii) Two years of training, including at least four courses 774  
in child development or early childhood education from an 775  
accredited college, university, or technical college; 776

(iii) A child development associate credential issued by the 777  
national child development associate credentialing commission; 778

(iv) An associate or higher degree in child development or 779  
early childhood education from an accredited college, technical 780  
college, or university, or a license designated for teaching in an 781  
associate teaching position in a preschool setting issued by the 782  
state board of education. 783

(5) All child-care staff members of a child day-care center 784  
shall be at least eighteen years of age, and shall furnish the 785  
director evidence of at least high school graduation or 786  
certification of high school equivalency by the state board of 787  
education or the appropriate agency of another state or evidence 788  
of completion of a training program approved by the department of 789  
job and family services or state board of education, except as 790  
follows: 791

(a) A child-care staff member may be less than eighteen years 792  
of age if the staff member is either of the following: 793

(i) A graduate of a two-year vocational child-care training 794  
program approved by the state board of education; 795

(ii) A student enrolled in the second year of a vocational 796  
child-care training program approved by the state board of 797  
education which leads to high school graduation, provided that the 798  
student performs the student's duties in the child day-care center 799  
under the continuous supervision of an experienced child-care 800  
staff member, receives periodic supervision from the vocational 801  
child-care training program teacher-coordinator in the student's 802  
high school, and meets all other requirements of this chapter and 803

rules adopted pursuant to this chapter. 804

(b) A child-care staff member shall be exempt from the 805  
educational requirements of this division if the staff member: 806

(i) Prior to January 1, 1972, was employed or designated by a 807  
child day-care center and has been continuously employed since 808  
either by the same child day-care center employer or at the same 809  
child day-care center; or 810

(ii) Is a student enrolled in the second year of a vocational 811  
child-care training program approved by the state board of 812  
education which leads to high school graduation, provided that the 813  
student performs the student's duties in the child day-care center 814  
under the continuous supervision of an experienced child-care 815  
staff member, receives periodic supervision from the vocational 816  
child-care training program teacher-coordinator in the student's 817  
high school, and meets all other requirements of this chapter and 818  
rules adopted pursuant to this chapter. 819

(6) Every child care staff member of a child day-care center 820  
annually shall complete fifteen hours of inservice training in 821  
child development or early childhood education, child abuse 822  
recognition and prevention, first aid, and in prevention, 823  
recognition, and management of communicable diseases, until a 824  
total of forty-five hours of training has been completed, unless 825  
the staff member furnishes one of the following to the director: 826

(a) Evidence of an associate or higher degree in child 827  
development or early childhood education from an accredited 828  
college, university, or technical college; 829

(b) A license designated for teaching in an associate 830  
teaching position in a preschool setting issued by the state board 831  
of education; 832

(c) Evidence of a child development associate credential; 833

(d) Evidence of a preprimary credential from the American 834  
Montessori society or the association Montessori ~~international~~ 835  
internationale. For the purposes of division (B)(6) of this 836  
section, "hour" means sixty minutes. 837

(7) The administrator of each child day-care center shall 838  
prepare at least once annually and for each group of children at 839  
the center a roster of names and telephone numbers of parents, 840  
custodians, or guardians of each group of children attending the 841  
center and upon request shall furnish the roster for each group to 842  
the parents, custodians, or guardians of the children in that 843  
group. The administrator may prepare a roster of names and 844  
telephone numbers of all parents, custodians, or guardians of 845  
children attending the center and upon request shall furnish the 846  
roster to the parents, custodians, or guardians of the children 847  
who attend the center. The administrator shall not include in any 848  
roster the name or telephone number of any parent, custodian, or 849  
guardian who requests the administrator not to include the 850  
parent's, custodian's, or guardian's name or number and shall not 851  
furnish any roster to any person other than a parent, custodian, 852  
or guardian of a child who attends the center. 853

(C)(1) Each child day-care center shall have on the center 854  
premises and readily available at all times at least one 855  
child-care staff member who has completed a course in first aid 856  
and in prevention, recognition, and management of communicable 857  
diseases which is approved by the state department of health and a 858  
staff member who has completed a course in child abuse recognition 859  
and prevention training which is approved by the department of job 860  
and family services. 861

(2) The administrator of each child day-care center shall 862  
maintain enrollment, health, and attendance records for all 863  
children attending the center and health and employment records 864  
for all center employees. The records shall be confidential, 865

except as otherwise provided in division (B)(7) of this section 866  
and except that they shall be disclosed by the administrator to 867  
the director upon request for the purpose of administering and 868  
enforcing this chapter and rules adopted pursuant to this chapter. 869  
Neither the center nor the licensee, administrator, or employees 870  
of the center shall be civilly or criminally liable in damages or 871  
otherwise for records disclosed to the director by the 872  
administrator pursuant to this division. It shall be a defense to 873  
any civil or criminal charge based upon records disclosed by the 874  
administrator to the director that the records were disclosed 875  
pursuant to this division. 876

(3)(a) Any parent who is the residential parent and legal 877  
custodian of a child enrolled in a child day-care center and any 878  
custodian or guardian of such a child shall be permitted unlimited 879  
access to the center during its hours of operation for the 880  
purposes of contacting their children, evaluating the care 881  
provided by the center, evaluating the premises of the center, or 882  
for other purposes approved by the director. A parent of a child 883  
enrolled in a child day-care center who is not the child's 884  
residential parent shall be permitted unlimited access to the 885  
center during its hours of operation for those purposes under the 886  
same terms and conditions under which the residential parent of 887  
that child is permitted access to the center for those purposes. 888  
However, the access of the parent who is not the residential 889  
parent is subject to any agreement between the parents and, to the 890  
extent described in division (C)(3)(b) of this section, is subject 891  
to any terms and conditions limiting the right of access of the 892  
parent who is not the residential parent, as described in division 893  
(I) of section 3109.051 of the Revised Code, that are contained in 894  
a parenting time order or decree issued under that section, 895  
section 3109.12 of the Revised Code, or any other provision of the 896  
Revised Code. 897

(b) If a parent who is the residential parent of a child has presented the administrator or the administrator's designee with a copy of a parenting time order that limits the terms and conditions under which the parent who is not the residential parent is to have access to the center, as described in division (I) of section 3109.051 of the Revised Code, the parent who is not the residential parent shall be provided access to the center only to the extent authorized in the order. If the residential parent has presented such an order, the parent who is not the residential parent shall be permitted access to the center only in accordance with the most recent order that has been presented to the administrator or the administrator's designee by the residential parent or the parent who is not the residential parent.

(c) Upon entering the premises pursuant to division (C)(3)(a) or (b) of this section, the parent who is the residential parent and legal custodian, the parent who is not the residential parent, or the custodian or guardian shall notify the administrator or the administrator's designee of the parent's, custodian's, or guardian's presence.

(D) The director of job and family services, in addition to the rules adopted under division (A) of this section, shall adopt rules establishing minimum requirements for child day-care centers. The rules shall include, ~~but not be limited to,~~ the requirements set forth in divisions (B) and (C) of this section. Except as provided in section 5104.07 of the Revised Code, the rules shall not change the square footage requirements of division (B)(1) or (2) of this section; the maximum number of children per child-care staff member and maximum group size requirements of division (B)(3) of this section; the educational and experience requirements of division (B)(4) of this section; the age, educational, and experience requirements of division (B)(5) of this section; the number of inservice training hours required

under division (B)(6) of this section; or the requirement for at least annual preparation of a roster for each group of children of names and telephone numbers of parents, custodians, or guardians of each group of children attending the center that must be furnished upon request to any parent, custodian, or guardian of any child in that group required under division (B)(7) of this section; however, the rules shall provide procedures for determining compliance with those requirements.

(E)(1) When age groups are combined, the maximum number of children per child-care staff member shall be determined by the age of the youngest child in the group, except that when no more than one child thirty months of age or older receives services in a group in which all the other children are in the next older age group, the maximum number of children per child-care staff member and maximum group size requirements of the older age group established under division (B)(3) of this section shall apply.

(2) The maximum number of toddlers or preschool children per child-care staff member in a room where children are napping shall be twice the maximum number of children per child-care staff member established under division (B)(3) of this section if all the following criteria are met:

(a) At least one child-care staff member is present in the room.

(b) Sufficient child-care staff members are on the child day-care center premises to meet the maximum number of children per child-care staff member requirements established under division (B)(3) of this section.

(c) Naptime preparations are complete and all napping children are resting or sleeping on cots.

(d) The maximum number established under division (E)(2) of this section is in effect for no more than one and one-half hours

during a twenty-four-hour day. 961

(F) The director of job and family services shall adopt rules 962  
pursuant to Chapter 119. of the Revised Code governing the 963  
operation of type A family day-care homes, including, ~~but not~~ 964  
~~limited to,~~ parent cooperative type A homes, part-time type A 965  
homes, drop-in type A homes, and school child type A homes, which 966  
shall reflect the various forms of child care and the needs of 967  
children receiving child care. The rules shall include the 968  
following: 969

(1) Submission of a site plan and descriptive plan of 970  
operation to demonstrate how the type A home proposes to meet the 971  
requirements of this chapter and rules adopted pursuant to this 972  
chapter for the initial license application; 973

(2) Standards for ensuring that the physical surroundings of 974  
the type A home are safe and sanitary, including, ~~but not limited~~ 975  
~~to,~~ the physical environment, the physical plant, and the 976  
equipment of the type A home; 977

(3) Standards for the supervision, care, and discipline of 978  
children receiving child care or publicly funded child care in the 979  
type A home; 980

(4) Standards for a program of activities, and for play 981  
equipment, materials, and supplies, to enhance the development of 982  
each child; however, any educational curricula, philosophies, and 983  
methodologies that are developmentally appropriate and that 984  
enhance the social, emotional, intellectual, and physical 985  
development of each child shall be permissible; 986

(5) ~~Admissions~~ Subject to section 5104.016 of the Revised 987  
Code, admission policies and procedures, health care policies and 988  
~~procedures, including, but not limited to,~~ procedures for the 989  
isolation of children with communicable diseases, first aid and 990  
emergency procedures, procedures for discipline and supervision of 991



children, standards for the provision of nutritious meals and	992
snacks, and procedures for screening children and employees,	993
including, <del>but not limited to,</del> any necessary physical examinations	994
and immunizations;	995
(6) Methods for encouraging parental participation in the	996
type A home and methods for ensuring that the rights of children,	997
parents, and employees are protected and that the responsibilities	998
of parents and employees are met;	999
(7) Procedures for ensuring the safety and adequate	1000
supervision of children traveling off the premises of the type A	1001
home while under the care of a type A home employee;	1002
(8) Procedures for record keeping, organization, and	1003
administration;	1004
(9) Procedures for issuing, renewing, denying, and revoking a	1005
license that are not otherwise provided for in Chapter 119. of the	1006
Revised Code;	1007
(10) <del>Inspection procedures</del> <u>Procedures for conducting</u>	1008
<u>inspections and investigations under sections 5104.03 and 5104.04</u>	1009
<u>of the Revised Code, when applicable, with regard to applicants,</u>	1010
<u>licensed type A homes, and child care providers allegedly in</u>	1011
<u>violation of division (A)(2) of section 5104.02 of the Revised</u>	1012
<u>Code for not being licensed as a type A home;</u>	1013
(11) Procedures and standards for setting initial and renewal	1014
license application fees;	1015
(12) Procedures for receiving, recording, and responding to	1016
complaints <u>received under section 5104.14 of the Revised Code</u>	1017
about <u>licensed type A homes and about child care providers</u>	1018
<u>allegedly in violation of division (A)(2) of section 5104.02 of</u>	1019
<u>the Revised Code for not being licensed as a type A home;</u>	1020
(13) Procedures for <u>implementing or enforcing section</u>	1021

<u>sections 5104.04, 5104.041, 5104.042, and 5104.043</u> of the Revised Code;	1022 1023
<del>(14) A standard requiring the inclusion, on or after July 1, 1987, of a current department of job and family services toll-free telephone number on each type A home provisional license or license which any person may use to report a suspected violation by the type A home of this chapter or rules adopted pursuant this chapter;</del>	1024 1025 1026 1027 1028 1029
<del>(15)</del> Requirements for the training of administrators and child-care staff members in first aid, in prevention, recognition, and management of communicable diseases, and in child abuse recognition and prevention;	1030 1031 1032 1033
<del>(16)</del> <u>(15)</u> Procedures to be used by licensees for checking the references of potential employees of type A homes and procedures to be used by the director for checking the references of applicants for licenses to operate type A homes;	1034 1035 1036 1037
<del>(17)</del> <u>(16)</u> Standards providing for the special needs of children who are handicapped or who require treatment for health conditions while the child is receiving child care or publicly funded child care in the type A home;	1038 1039 1040 1041
<del>(18)</del> <u>(17)</u> Standards for the maximum number of children per child-care staff member;	1042 1043
<del>(19)</del> <u>(18)</u> Requirements for the amount of usable indoor floor space for each child;	1044 1045
<del>(20)</del> <u>(19)</u> Requirements for safe outdoor play space;	1046
<del>(21)</del> <u>(20)</u> Qualifications and training requirements for administrators and for child-care staff members;	1047 1048
<del>(22)</del> <u>(21)</u> Procedures for granting a parent who is the residential parent and legal custodian, or a custodian or guardian access to the type A home during its hours of operation;	1049 1050 1051

~~(23)~~(22) Standards for the preparation and distribution of a roster of parents, custodians, and guardians; 1052  
1053

~~(24) Any other procedures~~ (23) Procedures and standards 1054  
necessary to ~~carry out this chapter~~ protect the health and safety 1055  
of children receiving child care or publicly funded child care in 1056  
the type A home. 1057

(G) The director of job and family services shall adopt rules 1058  
pursuant to Chapter 119. of the Revised Code governing the 1059  
certification of type B family day-care homes. 1060

(1) The rules shall include procedures, standards, and other 1061  
necessary provisions for granting limited certification to type B 1062  
family day-care homes that are operated by the following adult 1063  
providers: 1064

(a) Persons who provide child care for eligible children who 1065  
are great-grandchildren, grandchildren, nieces, nephews, or 1066  
siblings of the provider or for eligible children whose caretaker 1067  
parent is a grandchild, child, niece, nephew, or sibling of the 1068  
provider; 1069

(b) Persons who provide child care for eligible children all 1070  
of whom are the children of the same caretaker parent. 1071

The rules shall require, and shall include procedures for the 1072  
director to ensure, that type B family day-care homes that receive 1073  
a limited certification provide child care to children in a safe 1074  
and sanitary manner. With regard to providers who apply for 1075  
limited certification, a provider shall be granted a provisional 1076  
limited certification on signing a declaration under oath 1077  
attesting that the provider meets the standards for limited 1078  
certification. Such provisional limited certifications shall 1079  
remain in effect for no more than sixty calendar days and shall 1080  
entitle the provider to offer publicly funded child care during 1081  
the provisional period. Except as otherwise provided in division 1082

(G)(1) of this section, section 5104.013 or 5104.09 of the Revised Code, or division (A)(2) of section 5104.11 of the Revised Code, prior to the expiration of the provisional limited certificate, a county department of job and family services shall inspect the home and shall grant limited certification to the provider if the provider meets the requirements of this division. Limited certificates remain valid for two years unless earlier revoked. Except as otherwise provided in division (G)(1) of this section, providers operating under limited certification shall be inspected annually.

If a provider is a person described in division (G)(1)(a) of this section or a person described in division (G)(1)(b) of this section who is a friend of the caretaker parent, the provider and the caretaker parent may verify in writing to the county department of job and family services that minimum health and safety requirements are being met in the home. Except as otherwise provided in section 5104.013 or 5104.09 or in division (A)(2) of section 5104.11 of the Revised Code, if such verification is provided, the county shall waive any inspection required by this chapter and grant limited certification to the provider.

(2) The rules shall provide for safeguarding the health, safety, and welfare of children receiving child care or publicly funded child care in a certified type B home and shall include the following:

(a) Standards for ensuring that the type B home and the physical surroundings of the type B home are safe and sanitary, including, ~~but not limited to,~~ physical environment, physical plant, and equipment;

(b) Standards for the supervision, care, and discipline of children receiving child care or publicly funded child care in the home;

(c) Standards for a program of activities, and for play equipment, materials, and supplies to enhance the development of each child; however, any educational curricula, philosophies, and methodologies that are developmentally appropriate and that enhance the social, emotional, intellectual, and physical development of each child shall be permissible;	1114 1115 1116 1117 1118 1119
(d) <del>Admission</del> <u>Subject to section 5104.016 of the Revised Code, admission</u> policies and procedures, health care, first aid and emergency procedures, procedures for the care of sick children, procedures for discipline and supervision of children, nutritional standards, and procedures for screening children and authorized providers, including, <del>but not limited to,</del> any necessary physical examinations and immunizations;	1120 1121 1122 1123 1124 1125 1126
(e) Methods of encouraging parental participation and ensuring that the rights of children, parents, and authorized providers are protected and the responsibilities of parents and authorized providers are met;	1127 1128 1129 1130
(f) Standards for the safe transport of children when under the care of authorized providers;	1131 1132
(g) Procedures for issuing, renewing, denying, refusing to renew, or revoking certificates;	1133 1134
(h) Procedures for the inspection of type B family day-care homes that require, at a minimum, that each type B family day-care home be inspected prior to certification to ensure that the home is safe and sanitary;	1135 1136 1137 1138
(i) Procedures for record keeping and evaluation;	1139
(j) Procedures for receiving, recording, and responding to complaints;	1140 1141
(k) Standards providing for the special needs of children who are handicapped or who receive treatment for health conditions	1142 1143

while the child is receiving child care or publicly funded child care in the type B home;	1144 1145
(1) Requirements for the amount of usable indoor floor space for each child;	1146 1147
(m) Requirements for safe outdoor play space;	1148
(n) Qualification and training requirements for authorized providers;	1149 1150
(o) Procedures for granting a parent who is the residential parent and legal custodian, or a custodian or guardian access to the type B home during its hours of operation;	1151 1152 1153
(p) <del>Any other procedures</del> <u>Procedures</u> and standards necessary to <del>carry out this chapter</del> <u>protect the health and safety of children receiving child care or publicly funded child care in the type B home.</u>	1154 1155 1156 1157
(H) The director shall adopt rules pursuant to Chapter 119. of the Revised Code governing the certification of in-home aides. The rules shall include procedures, standards, and other necessary provisions for granting limited certification to in-home aides who provide child care for eligible children who are great-grandchildren, grandchildren, nieces, nephews, or siblings of the in-home aide or for eligible children whose caretaker parent is a grandchild, child, niece, nephew, or sibling of the in-home aide. The rules shall require, and shall include procedures for the director to ensure, that in-home aides that receive a limited certification provide child care to children in a safe and sanitary manner. The rules shall provide for safeguarding the health, safety, and welfare of children receiving publicly funded child care in their own home and shall include the following:	1158 1159 1160 1161 1162 1163 1164 1165 1166 1167 1168 1169 1170 1171 1172
(1) Standards for ensuring that the child's home and the physical surroundings of the child's home are safe and sanitary,	1173 1174

including, <del>but not limited to</del> , physical environment, physical plant, and equipment;	1175 1176
(2) Standards for the supervision, care, and discipline of children receiving publicly funded child care in their own home;	1177 1178
(3) Standards for a program of activities, and for play equipment, materials, and supplies to enhance the development of each child; however, any educational curricula, philosophies, and methodologies that are developmentally appropriate and that enhance the social, emotional, intellectual, and physical development of each child shall be permissible;	1179 1180 1181 1182 1183 1184
(4) <del>Health</del> <u>Subject to section 5104.016 of the Revised Code,</u> <u>health</u> care, first aid, and emergency procedures, procedures for the care of sick children, procedures for discipline and supervision of children, nutritional standards, and procedures for screening children and in-home aides, including, <del>but not limited</del> <del>to</del> , any necessary physical examinations and immunizations;	1185 1186 1187 1188 1189 1190
(5) Methods of encouraging parental participation and ensuring that the rights of children, parents, and in-home aides are protected and the responsibilities of parents and in-home aides are met;	1191 1192 1193 1194
(6) Standards for the safe transport of children when under the care of in-home aides;	1195 1196
(7) Procedures for issuing, renewing, denying, refusing to renew, or revoking certificates;	1197 1198
(8) Procedures for inspection of homes of children receiving publicly funded child care in their own homes;	1199 1200
(9) Procedures for record keeping and evaluation;	1201
(10) Procedures for receiving, recording, and responding to complaints;	1202 1203
(11) Qualifications and training requirements for in-home	1204

aides;	1205
(12) Standards providing for the special needs of children who are handicapped or who receive treatment for health conditions while the child is receiving publicly funded child care in the child's own home;	1206 1207 1208 1209
(13) <del>Any other procedures</del> <u>Procedures</u> and standards necessary to <del>carry out this chapter</del> <u>protect the health and safety of children receiving child care or publicly funded child care in the child's own home.</u>	1210 1211 1212 1213
(I) To the extent that any rules adopted for the purposes of this section require a health care professional to perform a physical examination, the rules shall include as a health care professional a physician assistant, a clinical nurse specialist, a certified nurse practitioner, or a certified nurse-midwife.	1214 1215 1216 1217 1218
(J)(1) The director of job and family services shall do all of the following:	1219 1220
(a) Send to each licensee notice of proposed rules governing the licensure of child day-care centers and type A homes;	1221 1222
(b) Give public notice of hearings regarding the rules to each licensee at least thirty days prior to the date of the public hearing, in accordance with section 119.03 of the Revised Code;	1223 1224 1225
(c) At least thirty days before the effective date of a rule, provide, in either paper or electronic form, a copy of the adopted rule to each licensee.	1226 1227 1228
(2) The director shall do all of the following:	1229
(a) Send to each county director of job and family services a notice of proposed rules governing the certification of type B family homes and in-home aides that includes an internet web site address where the proposed rules can be viewed;	1230 1231 1232 1233
(b) Give public notice of hearings regarding the proposed	1234



rules not less than thirty days in advance; 1235

(c) Provide to each county director of job and family 1236  
services an electronic copy of each adopted rule at least 1237  
forty-five days prior to the rule's effective date. 1238

(3) The county director of job and family services shall send 1239  
copies of proposed rules to each authorized provider and in-home 1240  
aide and shall give public notice of hearings regarding the rules 1241  
to each authorized provider and in-home aide at least thirty days 1242  
prior to the date of the public hearing, in accordance with 1243  
section 119.03 of the Revised Code. At least thirty days before 1244  
the effective date of a rule, the county director of job and 1245  
family services shall provide, in either paper or electronic form, 1246  
copies of the adopted rule to each authorized provider and in-home 1247  
aide. 1248

(4) Additional copies of proposed and adopted rules shall be 1249  
made available by the director of job and family services to the 1250  
public on request at no charge. 1251

(5) The director of job and family services shall recommend 1252  
standards for imposing sanctions on persons and entities that are 1253  
licensed or certified under this chapter and that violate any 1254  
provision of this chapter. The standards shall be based on the 1255  
scope and severity of the violations. The director shall provide 1256  
copies of the recommendations to the governor, the speaker and 1257  
minority leader of the house of representatives, and the president 1258  
and minority leader of the senate and, on request, shall make 1259  
copies available to the public. 1260

(6) The director of job and family services shall adopt rules 1261  
pursuant to Chapter 119. of the Revised Code that establish 1262  
standards for the training of individuals whom any county 1263  
department of job and family services employs, with whom any 1264  
county department of job and family services contracts, or with 1265

whom the director of job and family services contracts, to inspect 1266  
or investigate type B family day-care homes pursuant to section 1267  
5104.11 of the Revised Code. The department shall provide training 1268  
in accordance with those standards for individuals in the 1269  
categories described in this division. 1270

(K) The director of job and family services shall review all 1271  
rules adopted pursuant to this chapter at least once every ~~seven~~ 1272  
five years. 1273

(L) Notwithstanding any provision of the Revised Code, the 1274  
director of job and family services shall not regulate in any way 1275  
under this chapter or rules adopted pursuant to this chapter, 1276  
instruction in religious or moral doctrines, beliefs, or values. 1277

Sec. 5104.016. Rules the director of job and family services 1278  
adopts for purposes of divisions (A)(5), (F)(5), (G)(2)(d), and 1279  
(H)(4) of section 5104.011 of the Revised Code shall not do any of 1280  
the following: 1281

(A) Include a procedure that permits a child day-care center, 1282  
type A family day-care home, type B family day-care home, or 1283  
in-home aide to perform a physical examination on a child unless 1284  
the center, type A home, type B home, or in-home aide has obtained 1285  
the informed consent of the child's parent or legal guardian. 1286

(B) Require a child to be immunized for rubeola, natural 1287  
mumps, or natural chicken pox if the child has had the specified 1288  
disease and presents a signed statement from the child's parent, 1289  
guardian, or physician to that effect. 1290

(C)(1) Except as provided in division (C)(2) of this section, 1291  
require a child to be immunized for any disease if the child 1292  
presents a written statement of the child's parent or guardian in 1293  
which the parent or guardian declines to have the child immunized 1294  
for reasons of conscience, including religious convictions. 1295

(2) A rule may provide that notwithstanding division (C)(1) 1296  
of this section, the director of job and family services may 1297  
specify that a child can be denied admission to a center, type A 1298  
home, or type B home, or from receiving child care from an in-home 1299  
aide, if the director of health determines that a chicken pox 1300  
epidemic exists in the local population. Any such rule shall 1301  
specify that the denial of admission or provision of child care 1302  
must cease when the director of health notifies the administrator 1303  
of the center, type A home, or type B home, or in-home aide, that 1304  
the epidemic no longer exists. 1305

As used in this division, "chicken pox epidemic" means the 1306  
occurrence of cases of chicken pox in numbers greater than 1307  
expected in the local population or for a particular period of 1308  
time. 1309

(D) Require a child to be immunized for a particular disease 1310  
if the child's physician certifies in writing that such 1311  
immunization is medically contraindicated. 1312

**Sec. 5104.02.** (A)(1) The director of job and family services 1313  
is responsible for the licensing of child day-care centers and 1314  
type A family day-care homes. Each entity operating a head start 1315  
program shall meet the criteria for, and be licensed as, a child 1316  
day-care center. The director is responsible for the enforcement 1317  
of this chapter and of rules promulgated pursuant to this chapter. 1318

~~No~~ (2) Except as provided in division (B) of this section and 1319  
as otherwise provided in this chapter, no person, firm, 1320  
organization, institution, or agency shall operate, establish, 1321  
manage, conduct, or maintain a child day-care center or type A 1322  
family day-care home without a license issued under section 1323  
5104.03 of the Revised Code. 1324

(3) Division (A)(2) of this section is applicable and shall 1325  
be enforced, regardless of the manner in which a person, firm, 1326

organization, institution, or agency represents its provision of 1327  
child care to the public. 1328

(4) The current license shall be posted in a conspicuous 1329  
place in the center or type A home that is accessible to parents, 1330  
custodians, or guardians and employees of the center or type A 1331  
home at all times when the center or type A home is in operation. 1332

(B) A person, firm, institution, organization, or agency 1333  
operating any of the following programs is exempt from the 1334  
requirements of this chapter: 1335

(1) A program of child care that operates for two or less 1336  
consecutive weeks; 1337

(2) Child care in places of worship during religious 1338  
activities during which children are cared for while at least one 1339  
parent, guardian, or custodian of each child is participating in 1340  
such activities and is readily available; 1341

(3) Religious activities which do not provide child care; 1342

(4) Supervised training, instruction, or activities of 1343  
children in specific areas, including, but not limited to: art; 1344  
drama; dance; music; gymnastics, swimming, or another athletic 1345  
skill or sport; computers; or an educational subject conducted on 1346  
an organized or periodic basis no more than one day a week and for 1347  
no more than six hours duration; 1348

(5) Programs in which the director determines that at least 1349  
one parent, custodian, or guardian of each child is on the 1350  
premises of the facility offering child care and is readily 1351  
accessible at all times, except that child care provided on the 1352  
premises at which a parent, custodian, or guardian is employed 1353  
more than two and one-half hours a day shall be licensed in 1354  
accordance with division (A) of this section; 1355

(6)(a) Programs that provide child care funded and regulated 1356

or operated and regulated by state departments other than the 1357  
department of job and family services or the state board of 1358  
education when the director of job and family services has 1359  
determined that the rules governing the program are equivalent to 1360  
or exceed the rules promulgated pursuant to this chapter. 1361

Notwithstanding any exemption from regulation under this 1362  
chapter, each state department shall submit to the director of job 1363  
and family services a copy of the rules that govern programs that 1364  
provide child care and are regulated or operated and regulated by 1365  
the department. Annually, each state department shall submit to 1366  
the director a report for each such program it regulates or 1367  
operates and regulates that includes the following information: 1368

(i) The site location of the program; 1369

(ii) The maximum number of infants, toddlers, preschool 1370  
children, or school children served by the program at one time; 1371

(iii) The number of adults providing child care for the 1372  
number of infants, toddlers, preschool children, or school 1373  
children; 1374

(iv) Any changes in the rules made subsequent to the time 1375  
when the rules were initially submitted to the director. 1376

The director shall maintain a record of the child care 1377  
information submitted by other state departments and shall provide 1378  
this information upon request to the general assembly or the 1379  
public. 1380

(b) Child care programs conducted by boards of education or 1381  
by chartered nonpublic schools that are conducted in school 1382  
buildings and that provide child care to school children only 1383  
shall be exempt from meeting or exceeding rules promulgated 1384  
pursuant to this chapter. 1385

(7) Any preschool program or school child program, except a 1386

head start program, that is subject to licensure by the department 1387  
of education under sections 3301.52 to 3301.59 of the Revised 1388  
Code. 1389

(8) Any program providing child care that meets all of the 1390  
following requirements and, on October 20, 1987, was being 1391  
operated by a nonpublic school that holds a charter issued by the 1392  
state board of education for kindergarten only: 1393

(a) The nonpublic school has given the notice to the state 1394  
board and the director of job and family services required by 1395  
Section 4 of Substitute House Bill No. 253 of the 117th general 1396  
assembly; 1397

(b) The nonpublic school continues to be chartered by the 1398  
state board for kindergarten, or receives and continues to hold a 1399  
charter from the state board for kindergarten through grade five; 1400

(c) The program is conducted in a school building; 1401

(d) The program is operated in accordance with rules 1402  
promulgated by the state board under sections 3301.52 to 3301.57 1403  
of the Revised Code. 1404

(9) A youth development program operated outside of school 1405  
hours by a community-based center to which all of the following 1406  
apply: 1407

(a) The children enrolled in the program are under nineteen 1408  
years of age and enrolled in or eligible to be enrolled in a grade 1409  
of kindergarten or above. 1410

(b) The program provides informal child care and at least two 1411  
of the following supervised activities: educational, recreational, 1412  
culturally enriching, social, and personal development activities. 1413  
1414

(c) The state board of education has approved the program's 1415  
participation in the child and adult care food program as an 1416

outside-school-hours care center pursuant to standards established 1417  
under section 3313.813 of the Revised Code. 1418

(d) The community-based center operating the program is 1419  
exempt from federal income taxation pursuant to 26 U.S.C. 501(a) 1420  
and (c)(3). 1421

**Sec. 5104.03.** (A) Any person, firm, organization, 1422  
institution, or agency desiring to establish a child day-care 1423  
center or type A family day-care home shall apply for a license to 1424  
the director of job and family services on such form as the 1425  
director prescribes. The director shall provide at no charge to 1426  
each applicant for licensure a copy of the child care license 1427  
requirements in Chapter 5104. of the Revised Code and of the rules 1428  
adopted pursuant to Chapter 5104. of the Revised Code. The 1429  
director shall mail application forms for renewal of license at 1430  
least one hundred twenty days prior to the date of expiration of 1431  
the license, and the application for renewal shall be filed with 1432  
the director at least sixty days before the date of expiration. 1433  
Fees shall be set by the director pursuant to section 5104.011 of 1434  
the Revised Code and shall be paid at the time of application for 1435  
or renewal of a license to operate a center or type A home. Fees 1436  
collected under this section shall be paid into the state treasury 1437  
to the credit of the general revenue fund. 1438

(B) Upon filing of the application for a license, the 1439  
director shall investigate and inspect the center or type A home 1440  
to determine the license capacity for each age category of 1441  
children of the center or type A home and to determine whether the 1442  
center or type A home complies with Chapter 5104. of the Revised 1443  
Code and rules adopted pursuant to Chapter 5104. of the Revised 1444  
Code. When, after investigation and inspection, the director is 1445  
satisfied that Chapter 5104. of the Revised Code and rules adopted 1446  
pursuant to Chapter 5104. of the Revised Code are complied with, 1447

subject to division (G) of this section, a provisional license 1448  
shall be issued as soon as practicable in such form and manner as 1449  
prescribed by the director. The provisional license shall be valid 1450  
for six months from the date of issuance unless revoked earlier. 1451

(C) The director shall investigate and inspect the center or 1452  
type A home at least once during operation under the provisional 1453  
license. If after the investigation and inspection the director 1454  
determines that the requirements of Chapter 5104. of the Revised 1455  
Code and rules adopted pursuant to Chapter 5104. of the Revised 1456  
Code are met, subject to division (G) of this section, the 1457  
director shall issue a license to the provisional license holder. 1458  
The license shall be effective for two years from the date of 1459  
issuance of the provisional license, unless revoked earlier. 1460

(D) Upon the filing of an application for renewal of a 1461  
license by the center or type A home, the director shall 1462  
investigate and inspect the center or type A home. If the director 1463  
determines that the requirements of Chapter 5104. and rules 1464  
adopted pursuant to Chapter 5104. of the Revised Code are met, 1465  
subject to division (G) of this section, the director shall renew 1466  
the license ~~to~~. The license shall be effective for two years from 1467  
the expiration date of the previous license, unless revoked 1468  
earlier. 1469

(E) The license or provisional license shall state the name 1470  
of the licensee, the name of the administrator, the address of the 1471  
center or type A home, and the license capacity for each age 1472  
category of children. ~~After July 1, 1987, the~~ The provisional 1473  
license or license shall include thereon, ~~in accordance with~~ 1474  
~~section 5104.011 of the Revised Code,~~ the toll-free telephone 1475  
number ~~to be used by persons suspecting that the center or type A~~ 1476  
~~home has violated a provision of Chapter 5104., or rules adopted~~ 1477  
~~pursuant to Chapter 5104. of the Revised Code~~ the department of 1478  
job and family services maintains under section 5104.14 of the 1479



~~Revised Code for purposes of accepting complaints regarding  
providers of child care. A license or provisional license is valid  
only for the licensee, administrator, address, and license  
capacity for each age category of children designated on the  
license. The license capacity specified on the~~ 1480-1484

~~A license or provisional license is holder shall not provide  
child care to more than the maximum number of children in each age  
category that may be cared for in the center or type A home at one  
time, as indicated by the license capacity specified on the  
license or provisional license. The center or type A home shall  
notify the director when circumstances require a change in the  
license capacity. The director shall amend the current license or  
provisional license to reflect a change in license capacity, if  
the director determines that the center or type A home meets the  
requirements of the chapter and the rules adopted under it for  
that capacity.~~ 1485-1495

~~The A center or type A home licensee shall notify the  
director when the administrator of the center or home changes. The  
director shall amend the current license or provisional license to  
reflect a change in an administrator, if the director determines  
that the administrator meets the requirements of Chapter 5104. of  
the Revised Code and rules adopted pursuant to Chapter 5104. of  
the Revised Code, or a change in license capacity for any age  
category of children as determined by the director of job and  
family services.~~ 1496-1504

~~(F) If the director revokes a license or refuses to renew a  
license to a center or a type A home, the director shall not issue  
a license to the owner of the center or type A home within two  
years from the date of the revocation of a license or refusal to  
renew a license. If during the application for licensure or  
renewal of licensure process the director determines that the  
license of the owner has been revoked or renewal of licensure has~~ 1505-1511

~~been denied, the investigation of the center or type A home shall  
cease, and shall not constitute denial of the application. All  
actions of the director with respect to licensing centers or type  
A homes, renewing a license, refusal to license or renew a  
license, and revocation of a license shall be in accordance with  
Chapter 119. of the Revised Code. Any applicant who is denied a  
license or any owner whose license is not renewed or is revoked  
may appeal in accordance with section 119.12 of the Revised Code.~~

(G) In no case shall the director issue a provisional license  
or license, or renew a license, under this section for a type A  
home or center if the director, based on documentation provided by  
the appropriate county department of job and family services,  
determines that the applicant previously had been certified as a  
type B family day-care home, that the county department revoked  
that certification, that the revocation was based on the  
applicant's refusal or inability to comply with the criteria for  
certification, and that the refusal or inability resulted in a  
risk to the health or safety of children.

**Sec. 5104.04.** (A) The department of job and family services  
shall establish procedures to be followed in investigating,  
inspecting, and licensing child day-care centers and type A family  
day-care homes.

(B)(1)(a) The department shall, at least twice during every  
twelve-month period of operation of a center or type A home,  
inspect the center or type A home. The department shall inspect a  
part-time center or part-time type A home at least once during  
every twelve-month period of operation. The At least one  
inspection shall be unannounced and all inspections may be  
unannounced.

At the conclusion of an inspection and if requested by the  
provider, the department shall give a verbal explanation of any

violations of the requirements of this chapter or rules adopted 1543  
under it found during the inspection. 1544

The department shall provide a written inspection report to 1545  
the licensee within a reasonable time after each inspection. 1546  
The 1547  
and, except when there is a finding of the presence of an 1547  
immediate and serious threat to the health and safety of the 1548  
children in the care of the licensee, offer the licensee an 1549  
opportunity to dispute any of the findings in the report. All 1550  
requests from licensees to dispute inspection findings shall be 1551  
reviewed by two employees of the department. The department and 1552  
two child care providers appointed by the child care advisory 1553  
council created pursuant to section 5104.08 of the Revised Code 1554  
shall conduct the dispute resolution process in accordance with 1555  
rules adopted under section 5104.011 of the Revised Code, 1556  
including the timelines established in the rules for making 1557  
requests to dispute inspection findings and for responding to the 1558  
requests. 1559

The licensee shall display all written reports of inspections 1560  
conducted during the current licensing period in a conspicuous 1561  
place in the center or type A home. If the department at any time 1562  
issues a corrected report of inspection, the licensee shall 1563  
replace the incorrect report with the corrected report. 1564

~~At least one inspection shall be unannounced and all~~ 1565  
~~inspections may be unannounced.~~ No person, firm, organization, 1566  
institution, or agency shall interfere with the inspection of a 1567  
center or type A home by any state or local official engaged in 1568  
performing duties required of the state or local official by 1569  
Chapter 5104. of the Revised Code or rules adopted pursuant to 1570  
Chapter 5104. of the Revised Code, including inspecting the center 1571  
or type A home, reviewing records, or interviewing licensees, 1572  
employees, children, or parents. 1573

(b) Upon receipt of any complaint that a center or type A 1574

home is out of compliance with the requirements of Chapter 5104. 1575  
of the Revised Code or rules adopted pursuant to Chapter 5104. of 1576  
the Revised Code, the department shall investigate the center or 1577  
home, and both of the following apply: 1578

(i) If the complaint alleges that a child suffered physical 1579  
harm while receiving child care at the center or home or that the 1580  
noncompliance alleged in the complaint involved, resulted in, or 1581  
poses a substantial risk of physical harm to a child receiving 1582  
child care at the center or home, the department shall inspect the 1583  
center or home. 1584

(ii) If division (B)(1)(b)(i) of this section does not apply 1585  
regarding the complaint, the department may inspect the center or 1586  
home. 1587

(c) Division (B)(1)(b) of this section does not limit, 1588  
restrict, or negate any duty of the department to inspect a center 1589  
or type A home that otherwise is imposed under this section, or 1590  
any authority of the department to inspect a center or type A home 1591  
that otherwise is granted under this section when the department 1592  
believes the inspection is necessary and it is permitted under the 1593  
grant. 1594

(2) If the department implements an instrument-based program 1595  
monitoring information system, it may use an indicator checklist 1596  
to comply with division (B)(1) of this section. 1597

(3) The department shall, at least once during every 1598  
twelve-month period of operation of a center or type A home, 1599  
collect information concerning the amounts charged by the center 1600  
or home for providing child care services for use in establishing 1601  
reimbursement ceilings and payment pursuant to section 5104.30 of 1602  
the Revised Code. 1603

~~(C) In the event a licensed center or type A home is 1604  
determined to be out of compliance with the requirements of 1605~~

~~Chapter 5104. of the Revised Code or rules adopted pursuant to 1606  
Chapter 5104. of the Revised Code, the department shall notify the 1607  
licensee of the center or type A home in writing regarding the 1608  
nature of the violation, what must be done to correct the 1609  
violation, and by what date the correction must be made. If the 1610  
correction is not made by the date established by the department, 1611  
the department may commence action under Chapter 119. of the 1612  
Revised Code to revoke the license. 1613~~

~~(D) The department may deny or revoke a license, or refuse to 1614  
renew a license of a center or type A home, if the applicant 1615  
knowingly makes a false statement on the application, does not 1616  
comply with the requirements of Chapter 5104. or rules adopted 1617  
pursuant to Chapter 5104. of the Revised Code, or has pleaded 1618  
guilty to or been convicted of an offense described in section 1619  
5104.09 of the Revised Code. 1620~~

~~(E) If the department finds, after notice and hearing 1621  
pursuant to Chapter 119. of the Revised Code, that any person, 1622  
firm, organization, institution, or agency licensed under section 1623  
5104.03 of the Revised Code is in violation of any provision of 1624  
Chapter 5104. of the Revised Code or rules adopted pursuant to 1625  
Chapter 5104. of the Revised Code, the department may issue an 1626  
order of revocation to the center or type A home revoking the 1627  
license previously issued by the department. Upon the issuance of 1628  
any order of revocation, the person whose license is revoked may 1629  
appeal in accordance with section 119.12 of the Revised Code. 1630~~

~~(F) The surrender of a center or type A home license to the 1631  
department or the withdrawal of an application for licensure by 1632  
the owner or administrator of the center or type A home shall not 1633  
prohibit the department from instituting any of the actions set 1634  
forth in this section. 1635~~

~~(G) Whenever When the department receives a complaint, is 1636  
advised, or otherwise has any reason to believe that a center or 1637~~

~~type A home is providing~~ child care is being provided without a 1638  
license issued or renewed pursuant to section 5104.03 and the 1639  
provider is not exempt from licensing pursuant to section 5104.02 1640  
of the Revised Code or another provision of this chapter, and when 1641  
a complaint must be investigated pursuant to division (B)(1) of 1642  
section 5104.14 of the Revised Code, the department shall 1643  
investigate the ~~center or type A home~~ alleged violation and may 1644  
inspect the areas children have access to or areas necessary for 1645  
the care of children ~~in the center or type A home~~ by the provider 1646  
during suspected hours of operation to determine whether the 1647  
~~center or type A home~~ provider is subject to the requirements of 1648  
Chapter 5104. or rules adopted pursuant to Chapter 5104. of the 1649  
Revised Code. 1650

~~(H)~~ The department, upon determining that ~~the center or type~~ 1651  
~~A home is operating without a license, shall notify~~ child care is 1652  
being provided in violation of division (A)(2) of section 5104.02 1653  
of the Revised Code shall provide notice of the violation to the 1654  
attorney general, the prosecuting attorney of the county in which 1655  
the ~~center or type A home~~ provider is located, or the city 1656  
attorney, village solicitor, or other chief legal officer of the 1657  
municipal corporation in which the ~~center or type A home~~ provider 1658  
is located, ~~that the center or type A home is operating without a~~ 1659  
~~license.~~ Upon receipt of the notification, the attorney general, 1660  
prosecuting attorney, city attorney, village solicitor, or other 1661  
chief legal officer of a municipal corporation shall file a 1662  
complaint in the court of common pleas of the county in which the 1663  
~~center or type A home~~ provider is located requesting that the 1664  
court grant an order enjoining the owner from ~~operating the center~~ 1665  
~~or type A home in violation of~~ continuing to violate division 1666  
(A)(2) of section 5104.02 of the Revised Code. ~~The~~ 1667

The court shall grant such injunctive relief upon a showing 1668  
that the respondent named in the complaint is operating a center 1669

or type A home ~~and is doing so~~ without a license as prohibited by 1670  
division (A)(2) of section 5104.02 of the Revised Code. If the 1671  
respondent has been found in violation of a permanent injunction 1672  
issued by a court under this division, the court may include in 1673  
any subsequent order issued under this division in the same or any 1674  
subsequent case involving the same respondent an order enjoining 1675  
the respondent from providing child care in any capacity, 1676  
including as an operator of a type B family day care home. 1677

~~(I)~~(D) The department shall prepare an annual report on 1678  
inspections and investigations conducted under this section. The 1679  
report shall include the number of inspections and investigations 1680  
conducted, the number and types of violations found, and the steps 1681  
taken to address the violations. The department shall file the 1682  
report with the governor, the president and minority leader of the 1683  
senate, and the speaker and minority leader of the house of 1684  
representatives on or before the first day of January of each 1685  
year, beginning in 1999. 1686

**Sec. 5104.041.** (A) If the department of job and family 1687  
services determines that a licensee, including a provisional 1688  
licensee, or applicant for a child day-care center license or type 1689  
A family day-care home license is not in compliance with a 1690  
provision of this chapter or the rules adopted under it, the 1691  
department may impose any of the following sanctions: 1692

(1) Deny issuance of a license; 1693

(2) Refuse to renew a license; 1694

(3) Suspend a license; 1695

(4) Revoke a license; 1696

(5) Impose a fine of not less than fifty and not more than 1697  
one thousand dollars for each citation of noncompliance; 1698

(6) Issue an order for the submission of a plan of 1699

<u>correction;</u>	1700
<u>(7) Issue an order requiring all persons involved in the</u>	1701
<u>provision of child care at the child day-care center or type A</u>	1702
<u>family day-care home to undergo training on the requirements of</u>	1703
<u>this chapter and the rules adopted under it.</u>	1704
<u>(B) In the department's selection and administration of the</u>	1705
<u>sanction to be imposed under this section, all of the following</u>	1706
<u>apply:</u>	1707
<u>(1) Except for the sanctions that may be imposed under</u>	1708
<u>divisions (A)(6) and (7) of this section, all actions taken by the</u>	1709
<u>department under this section shall be taken in accordance with</u>	1710
<u>Chapter 119. of the Revised Code and any appeals of those actions</u>	1711
<u>shall be conducted in accordance with Chapter 119. of the Revised</u>	1712
<u>Code.</u>	1713
<u>(2) The department shall select the sanction to be imposed by</u>	1714
<u>taking into consideration all of the following factors:</u>	1715
<u>(a) The scope of the violation;</u>	1716
<u>(b) The severity of the violation;</u>	1717
<u>(c) The presence or absence of an immediate and serious</u>	1718
<u>threat to the health and safety of the children in the care of the</u>	1719
<u>licensee or applicant;</u>	1720
<u>(d) Whether sanctions have previously been imposed against</u>	1721
<u>the licensee or applicant for the same or other violations;</u>	1722
<u>(e) The licensee's or applicant's history of compliance or</u>	1723
<u>noncompliance with previously imposed sanctions for the same or</u>	1724
<u>other violations.</u>	1725
<u>(3) When issuing an order described in division (A)(6) of</u>	1726
<u>this section, the department shall give the licensee written</u>	1727
<u>notice of the nature of the violation, the action that must be</u>	1728
<u>taken to correct the violation, and the date by which the action</u>	1729



must be taken. If the action is not taken by the date specified, 1730  
the department may impose an additional sanction under this 1731  
section. 1732

1733  
(4) When issuing an order described in division (A)(7) of 1734  
this section, the department shall specify the content and length 1735  
of the training that must be completed. At a minimum, the 1736  
department shall order the completion of two hours of training. 1737

(5) The surrender of a day-care center or type A family 1738  
day-care home license to the department or the withdrawal of an 1739  
application for licensure by the owner or administrator of the 1740  
center or home does not prohibit the department from imposing a 1741  
sanction under this section. 1742

(6) If it revokes a license or refuses to renew a license, 1743  
the department shall not issue a license to the person, firm, 1744  
organization, institution, or agency that was subject to the 1745  
action during a two-year period. The two-year period shall begin 1746  
on the date the department issues the final order of revocation or 1747  
refusal to renew unless the person, firm, organization, 1748  
institution, or agency appeals the department's final order to a 1749  
court under section 119.12 of the Revised Code. If the 1750  
department's final order is so appealed, the two-year period shall 1751  
begin on the date that the appeals' process is exhausted. 1752

If it knows that a person, firm, organization, institution, 1753  
or agency submitting an application is subject to a two-year 1754  
period of ineligibility, the department shall not accept the 1755  
application. If it determines during the review of an application 1756  
that the applicant is subject to a two-year period of 1757  
ineligibility, the department shall cease its review of the 1758  
application. In either case, the department's action is not 1759  
subject to appeal under Chapter 119. of the Revised Code. 1760

Sec. 5104.042. (A) Subject to division (B) of this section, 1761  
the department of job and family services shall establish and 1762  
maintain a web site and list on it both of the following for each 1763  
licensee for which the department has imposed a sanction under 1764  
division (A)(1), (2), (3), or (4) of section 5104.041 of the 1765  
Revised Code: 1766

(1) Each name known to the department under which the child 1767  
day-care center or type A family day-care home is doing business; 1768

(2) Each address known to the department at which the child 1769  
day-care center or type A family day-care home is doing business. 1770

(B)(1) The department shall remove as soon as practicable the 1771  
information regarding a licensee specified in division (A) of this 1772  
section from the web site if a licensee appeals, in accordance 1773  
with Chapter 119. of the Revised Code, a sanction imposed under 1774  
division (A)(1), (2), (3), or (4) of section 5104.041 of the 1775  
Revised Code and the appeal results in a finding that the sanction 1776  
was not warranted. 1777

(2) The department shall list, as soon as practicable, the 1778  
information regarding the licensee specified in division (A) of 1779  
this section on the web site if the department appeals a finding 1780  
described in division (B)(1) of this section that the department's 1781  
original sanction was not warranted, and the department's appeal 1782  
results in a finding that the original sanction was warranted. 1783

Sec. 5104.043. Fines imposed under section 5104.041 of the 1784  
Revised Code or division (A) of section 5104.99 of the Revised 1785  
Code shall be deposited into the child care enforcement fund, 1786  
which is hereby created. Amounts deposited in the fund shall be 1787  
used in the same manner as federal funds received under the child 1788  
care block grant act. 1789

Sec. 5104.044. The department of job and family services 1790  
shall maintain statistics regarding the individuals who conduct 1791  
inspections and investigations under section 5104.04 of the 1792  
Revised Code. The statistics shall identify the number of 1793  
inspections and investigations conducted by each individual, the 1794  
reasons for which the inspections and investigations were 1795  
initiated, and the findings from the inspections and 1796  
investigations. 1797

The department shall prepare an annual report on the 1798  
statistics maintained pursuant to this section. A copy of the 1799  
report shall be provided to the speaker of the house of 1800  
representatives and the president of the senate. 1801

**Sec. 5104.10.** No employer shall discharge, demote, suspend, 1802  
or threaten to discharge, demote, suspend, or in any manner 1803  
discriminate against any employee based solely on the employee 1804  
taking any of the following actions: 1805

(A) Making any good faith oral or written complaint to the 1806  
director of job and family services or other agency responsible 1807  
for enforcing Chapter 5104. of the Revised Code regarding a 1808  
violation of this chapter or the rules adopted pursuant to Chapter 1809  
5104. of the Revised Code; 1810

(B) Instituting or causing to be instituted any proceeding 1811  
against the employer under section 5104.04 or 5104.041 of the 1812  
Revised Code; 1813

(C) Acting as a witness in any proceeding under section 1814  
5104.04 or 5104.041 of the Revised Code; 1815

(D) Refusing to perform work that constitutes a violation of 1816  
Chapter 5104., or the rules adopted pursuant to Chapter 5104. of 1817  
the Revised Code. 1818

Sec. 5104.14. (A) In accordance with rules adopted under 1819  
section 5104.011 of the Revised Code, the department of job and 1820  
family services shall accept complaints regarding providers of 1821  
child care, including providers allegedly in violation of division 1822  
(A)(2) of section 5104.02 of the Revised Code for not being 1823  
licensed as a day-care center or type A family day-care home. Any 1824  
person or government entity suspecting a violation of this chapter 1825  
or the rules adopted under it or having another complaint 1826  
regarding child care may submit to the department a report of that 1827  
suspicion or complaint. 1828

The department shall maintain a toll-free telephone number 1829  
for purposes of accepting complaints under this section. The 1830  
department shall also use the toll-free number to make information 1831  
on child day-care available to consumers. 1832

(B) With regard to the department's response to complaints 1833  
received under this section, all of the following apply: 1834

(1) If the complaint alleges that care is being provided 1835  
without a license for more than ten children, the department shall 1836  
conduct an on-site investigation. 1837

(2) The department shall conduct an on-site investigation of 1838  
at least every fifth complaint of an alleged violation received by 1839  
the department. 1840

(3) For complaints other than those meeting the requirements 1841  
of division (B)(1) and (2) of this section, the department shall 1842  
send a letter to the provider of child care that summarizes the 1843  
complaint and requires the provider to send a letter to the 1844  
department that responds to the complaint. The department shall 1845  
follow up on the complaint as it determines necessary to resolve 1846  
the complaint. 1847

(4) The department shall not make public the name or any 1848

other identifying information about a complainant unless the 1849  
complainant gives the department written consent to do so. 1850

**Sec. 5104.99.** (A) Whoever violates division (A)(2) of section 1851  
5104.02 of the Revised Code shall be punished as follows: 1852

(1) For each offense, the offender shall be fined not less 1853  
than one hundred dollars nor more than five hundred dollars 1854  
multiplied by the number of children receiving child care at the 1855  
child day-care center or type A family day-care home that either 1856  
exceeds the number of children to which a type B family day-care 1857  
home may provide child care or, if the offender is a licensed type 1858  
A family day-care home that is operating as a child day-care 1859  
center without being licensed as a center, exceeds the license 1860  
capacity of the type A home. 1861

(2) In addition to the fine specified in division (A)(1) of 1862  
this section, all of the following apply: 1863

(a) Except as provided in divisions (A)(2)(b), (c), and (d) 1864  
of this section, the court shall order the offender to reduce the 1865  
number of children to which it provides child care to a number 1866  
that does not exceed either the number of children to which a type 1867  
B family day-care home may provide child care or, if the offender 1868  
is a licensed type A family day-care home that is operating as a 1869  
child day-care center without being licensed as a center, the 1870  
license capacity of the type A home. 1871

(b) If the offender previously has been convicted of or 1872  
pleaded guilty to one violation of section 5104.02 of the Revised 1873  
Code, the court shall order the offender to cease the provision of 1874  
child care to any person until it obtains a child day-care center 1875  
license or a type A family day-care home license, as appropriate, 1876  
under section 5104.03 of the Revised Code. 1877

(c) If the offender previously has been convicted of or 1878

pleaded guilty to two violations of section 5104.02 of the Revised Code, the offender is guilty of a misdemeanor of the first degree, and the court shall order the offender to cease the provision of child care to any person until it obtains a child day-care center license or a type A family day-care home license, as appropriate, under section 5104.03 of the Revised Code. The court shall impose the fine specified in division (A)(1) of this section and may impose an additional fine provided that the total amount of the fines so imposed does not exceed the maximum fine authorized for a misdemeanor of the first degree under section 2929.28 of the Revised Code.

(d) If the offender previously has been convicted of or pleaded guilty to three or more violations of section 5104.02 of the Revised Code, the offender is guilty of a felony of the fifth degree, and the court shall order the offender to cease the provision of child care to any person until it obtains a child day-care center license or a type A family day-care home license, as appropriate, under section 5104.03 of the Revised Code. The court shall impose the fine specified in division (A)(1) of this section and may impose an additional fine provided that the total amount of the fines so imposed does not exceed the maximum fine authorized for a felony of the fifth degree under section 2929.18 of the Revised Code.

(B) Whoever violates division (B) of section 5104.09 of the Revised Code is guilty of a misdemeanor of the first degree. If the offender is a licensee of a center or type A home, the conviction shall constitute grounds for denial, revocation, or refusal to renew an application for licensure pursuant to section ~~5104.04~~ 5104.041 of the Revised Code. If the offender is a person eighteen years of age or older residing in a center or type A home or is an employee of a center or a type A home and if the licensee had knowledge of, and acquiesced in, the commission of the

offense, the conviction shall constitute grounds for denial, 1911  
revocation, or refusal to renew an application for licensure 1912  
pursuant to section ~~5104.04~~ 5104.041 of the Revised Code. 1913

(C) Whoever violates division (C) of section 5104.09 of the 1914  
Revised Code is guilty of a misdemeanor of the third degree. 1915

**Section 2.** That existing sections 2151.421, 5104.011, 1916  
5104.02, 5104.03, 5104.04, 5104.10, and 5104.99 of the Revised 1917  
Code are hereby repealed. 1918

**Section 3.** Sections 1 and 2 of this act shall take effect one 1919  
year after the effective date of this act. 1920