

As Introduced

**130th General Assembly
Regular Session
2013-2014**

S. B. No. 268

Senator Cafaro

Cosponsor: Senator Seitz

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A B I L L

To amend sections 5104.01 and 5104.38 and to enact 1
section 5104.023 of the Revised Code to permit a 2
type B family day-care home to have more than six 3
children on the premises under certain 4
circumstances. 5

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

Section 1. That sections 5104.01 and 5104.38 be amended and 6
section 5104.023 of the Revised Code be enacted to read as 7
follows: 8

Sec. 5104.01. As used in this chapter: 9

(A) "Administrator" means the person responsible for the 10
daily operation of a center, type A home, or type B home. The 11
administrator and the owner may be the same person. 12

(B) "Approved child day camp" means a child day camp approved 13
pursuant to section 5104.22 of the Revised Code. 14

(C) "Border state child care provider" means a child care 15
provider that is located in a state bordering Ohio and that is 16
licensed, certified, or otherwise approved by that state to 17
provide child care. 18

(D) "Career pathways model" means an alternative pathway to 19
meeting the requirements to be a child-care staff member or 20
administrator that does both of the following: 21

(1) Uses a framework approved by the director of job and 22
family services to document formal education, training, 23
experience, and specialized credentials and certifications; 24

(2) Allows the child-care staff member or administrator to 25
achieve a designation as an early childhood professional level 26
one, two, three, four, five, or six. 27

(E) "Caretaker parent" means the father or mother of a child 28
whose presence in the home is needed as the caretaker of the 29
child, a person who has legal custody of a child and whose 30
presence in the home is needed as the caretaker of the child, a 31
guardian of a child whose presence in the home is needed as the 32
caretaker of the child, and any other person who stands in loco 33
parentis with respect to the child and whose presence in the home 34
is needed as the caretaker of the child. 35

(F) "Chartered nonpublic school" means a school that meets 36
standards for nonpublic schools prescribed by the state board of 37
education for nonpublic schools pursuant to section 3301.07 of the 38
Revised Code. 39

(G) "Child" includes an infant, toddler, preschool-age child, 40
or school-age child. 41

(H) "Child care block grant act" means the "Child Care and 42
Development Block Grant Act of 1990," established in section 5082 43
of the "Omnibus Budget Reconciliation Act of 1990," 104 Stat. 44
1388-236 (1990), 42 U.S.C. 9858, as amended. 45

(I) "Child day camp" means a program in which only school-age 46
children attend or participate, that operates for no more than 47
seven hours per day, that operates only during one or more public 48
school district's regular vacation periods or for no more than 49

fifteen weeks during the summer, and that operates outdoor 50
activities for each child who attends or participates in the 51
program for a minimum of fifty per cent of each day that children 52
attend or participate in the program, except for any day when 53
hazardous weather conditions prevent the program from operating 54
outdoor activities for a minimum of fifty per cent of that day. 55
For purposes of this division, the maximum seven hours of 56
operation time does not include transportation time from a child's 57
home to a child day camp and from a child day camp to a child's 58
home. 59

(J) "Child care" means administering to the needs of infants, 60
toddlers, preschool-age children, and school-age children outside 61
of school hours by persons other than their parents or guardians, 62
custodians, or relatives by blood, marriage, or adoption for any 63
part of the twenty-four-hour day in a place or residence other 64
than a child's own home. 65

(K) "Child day-care center" and "center" mean any place in 66
which child care or publicly funded child care is provided for 67
thirteen or more children at one time or any place that is not the 68
permanent residence of the licensee or administrator in which 69
child care or publicly funded child care is provided for seven to 70
twelve children at one time. ~~In counting children for the purposes~~ 71
~~of this division, any children under six years of age who are~~ 72
~~related to a licensee, administrator, or employee and who are on~~ 73
~~the premises of the center shall be counted.~~ "Child day-care 74
center" and "center" do not include any of the following: 75

(1) A place located in and operated by a hospital, as defined 76
in section 3727.01 of the Revised Code, in which the needs of 77
children are administered to, if all the children whose needs are 78
being administered to are monitored under the on-site supervision 79
of a physician licensed under Chapter 4731. of the Revised Code or 80
a registered nurse licensed under Chapter 4723. of the Revised 81

Code, and the services are provided only for children who, in the	82
opinion of the child's parent, guardian, or custodian, are	83
exhibiting symptoms of a communicable disease or other illness or	84
are injured;	85
(2) A child day camp;	86
(3) A place that provides child care, but not publicly funded	87
child care, if all of the following apply:	88
(a) An organized religious body provides the child care;	89
(b) A parent, custodian, or guardian of at least one child	90
receiving child care is on the premises and readily accessible at	91
all times;	92
(c) The child care is not provided for more than thirty days	93
a year;	94
(d) The child care is provided only for preschool-age and	95
school-age children.	96
(L) "Child care resource and referral service organization"	97
means a community-based nonprofit organization that provides child	98
care resource and referral services but not child care.	99
(M) "Child care resource and referral services" means all of	100
the following services:	101
(1) Maintenance of a uniform data base of all child care	102
providers in the community that are in compliance with this	103
chapter, including current occupancy and vacancy data;	104
(2) Provision of individualized consumer education to	105
families seeking child care;	106
(3) Provision of timely referrals of available child care	107
providers to families seeking child care;	108
(4) Recruitment of child care providers;	109
(5) Assistance in the development, conduct, and dissemination	110

of training for child care providers and provision of technical	111
assistance to current and potential child care providers,	112
employers, and the community;	113
(6) Collection and analysis of data on the supply of and	114
demand for child care in the community;	115
(7) Technical assistance concerning locally, state, and	116
federally funded child care and early childhood education	117
programs;	118
(8) Stimulation of employer involvement in making child care	119
more affordable, more available, safer, and of higher quality for	120
their employees and for the community;	121
(9) Provision of written educational materials to caretaker	122
parents and informational resources to child care providers;	123
(10) Coordination of services among child care resource and	124
referral service organizations to assist in developing and	125
maintaining a statewide system of child care resource and referral	126
services if required by the department of job and family services;	127
(11) Cooperation with the county department of job and family	128
services in encouraging the establishment of parent cooperative	129
child care centers and parent cooperative type A family day-care	130
homes.	131
(N) "Child-care staff member" means an employee of a child	132
day-care center or type A family day-care home who is primarily	133
responsible for the care and supervision of children. The	134
administrator may be a part-time child-care staff member when not	135
involved in other duties.	136
(O) "Drop-in child day-care center," "drop-in center,"	137
"drop-in type A family day-care home," and "drop-in type A home"	138
mean a center or type A home that provides child care or publicly	139
funded child care for children on a temporary, irregular basis.	140

(P) "Employee" means a person who either:	141
(1) Receives compensation for duties performed in a child day-care center or type A family day-care home;	142 143
(2) Is assigned specific working hours or duties in a child day-care center or type A family day-care home.	144 145
(Q) "Employer" means a person, firm, institution, organization, or agency that operates a child day-care center or type A family day-care home subject to licensure under this chapter.	146 147 148 149
(R) "Federal poverty line" means the official poverty guideline as revised annually in accordance with section 673(2) of the "Omnibus Budget Reconciliation Act of 1981," 95 Stat. 511, 42 U.S.C. 9902, as amended, for a family size equal to the size of the family of the person whose income is being determined.	150 151 152 153 154
(S) "Head start program" means a comprehensive child development program that receives funds distributed under the "Head Start Act," 95 Stat. 499 (1981), 42 U.S.C.A. 9831, as amended, and is licensed as a child day-care center.	155 156 157 158
(T) "Income" means gross income, as defined in section 5107.10 of the Revised Code, less any amounts required by federal statutes or regulations to be disregarded.	159 160 161
(U) "Indicator checklist" means an inspection tool, used in conjunction with an instrument-based program monitoring information system, that contains selected licensing requirements that are statistically reliable indicators or predictors of a child day-care center's type A family day-care home's, or licensed type B family day-care home's compliance with licensing requirements.	162 163 164 165 166 167 168
(V) "Infant" means a child who is less than eighteen months of age.	169 170

(W) "In-home aide" means a person who does not reside with the child but provides care in the child's home and is certified by a county director of job and family services pursuant to section 5104.12 of the Revised Code to provide publicly funded child care to a child in a child's own home pursuant to this chapter and any rules adopted under it.

(X) "Instrument-based program monitoring information system" means a method to assess compliance with licensing requirements for child day-care centers, type A family day-care homes, and licensed type B family day-care homes in which each licensing requirement is assigned a weight indicative of the relative importance of the requirement to the health, growth, and safety of the children that is used to develop an indicator checklist.

(Y) "Legal custody" has the same meaning as in section 2151.011 of the Revised Code.

(Z) "License capacity" means the maximum number in each age category of children who may be cared for in a child day-care center or type A family day-care home at one time as determined by the director of job and family services considering building occupancy limits established by the department of commerce, amount of available indoor floor space and outdoor play space, and amount of available play equipment, materials, and supplies. For the purposes of a provisional license issued under this chapter, the director shall also consider the number of available child-care staff members when determining "license capacity" for the provisional license.

~~(Z)~~(AA) "Licensed child care program" means any of the following:

(1) A child day-care center licensed by the department of job and family services pursuant to this chapter;

(2) A type A family day-care home or type B family day-care

home licensed by the department of job and family services	202
pursuant to this chapter;	203
(3) A licensed preschool program or licensed school child	204
program.	205
(AA) (BB) "Licensed preschool program" or "licensed school	206
child program" means a preschool program or school child program,	207
as defined in section 3301.52 of the Revised Code, that is	208
licensed by the department of education pursuant to sections	209
3301.52 to 3301.59 of the Revised Code.	210
(BB) (CC) "Licensed type B family day-care home" and "licensed	211
type B home" mean a type B family day-care home for which there is	212
a valid license issued by the director of job and family services	213
pursuant to section 5104.03 of the Revised Code.	214
(CC) (DD) "Licensee" means the owner of a child day-care	215
center, type A family day-care home, or type B family day-care	216
home that is licensed pursuant to this chapter and who is	217
responsible for ensuring its compliance with this chapter and	218
rules adopted pursuant to this chapter.	219
(DD) (EE) "Operate a child day camp" means to operate,	220
establish, manage, conduct, or maintain a child day camp.	221
(EE) (FF) "Owner" includes a person, as defined in section	222
1.59 of the Revised Code, or government entity.	223
(FF) (GG) "Parent cooperative child day-care center," "parent	224
cooperative center," "parent cooperative type A family day-care	225
home," and "parent cooperative type A home" mean a corporation or	226
association organized for providing educational services to the	227
children of members of the corporation or association, without	228
gain to the corporation or association as an entity, in which the	229
services of the corporation or association are provided only to	230
children of the members of the corporation or association,	231
ownership and control of the corporation or association rests	232

solely with the members of the corporation or association, and at 233
least one parent-member of the corporation or association is on 234
the premises of the center or type A home during its hours of 235
operation. 236

~~(GG)~~(HH) "Part-time child day-care center," "part-time 237
center," "part-time type A family day-care home," and "part-time 238
type A home" mean a center or type A home that provides child care 239
or publicly funded child care for no more than four hours a day 240
for any child. 241

~~(HH)~~(II) "Place of worship" means a building where activities 242
of an organized religious group are conducted and includes the 243
grounds and any other buildings on the grounds used for such 244
activities. 245

~~(II)~~(JJ) "Preschool-age child" means a child who is three 246
years old or older but is not a school-age child. 247

~~(JJ)~~(KK) "Protective child care" means publicly funded child 248
care for the direct care and protection of a child to whom either 249
of the following applies: 250

(1) A case plan prepared and maintained for the child 251
pursuant to section 2151.412 of the Revised Code indicates a need 252
for protective care and the child resides with a parent, 253
stepparent, guardian, or another person who stands in loco 254
parentis as defined in rules adopted under section 5104.38 of the 255
Revised Code; 256

(2) The child and the child's caretaker either temporarily 257
reside in a facility providing emergency shelter for homeless 258
families or are determined by the county department of job and 259
family services to be homeless, and are otherwise ineligible for 260
publicly funded child care. 261

~~(KK)~~(LL) "Publicly funded child care" means administering to 262
the needs of infants, toddlers, preschool-age children, and 263

school-age children under age thirteen during any part of the 264
twenty-four-hour day by persons other than their caretaker parents 265
for remuneration wholly or in part with federal or state funds, 266
including funds available under the child care block grant act, 267
Title IV-A, and Title XX, distributed by the department of job and 268
family services. 269

~~(LL)~~(MM) "Religious activities" means any of the following: 270
worship or other religious services; religious instruction; Sunday 271
school classes or other religious classes conducted during or 272
prior to worship or other religious services; youth or adult 273
fellowship activities; choir or other musical group practices or 274
programs; meals; festivals; or meetings conducted by an organized 275
religious group. 276

~~(MM)~~(NN) "School-age child" means a child who is enrolled in 277
or is eligible to be enrolled in a grade of kindergarten or above 278
but is less than fifteen years old. 279

~~(NN)~~(OO) "School-age child care center" and "school-age child 280
type A home" mean a center or type A home that provides child care 281
for school-age children only and that does either or both of the 282
following: 283

(1) Operates only during that part of the day that 284
immediately precedes or follows the public school day of the 285
school district in which the center or type A home is located; 286

(2) Operates only when the public schools in the school 287
district in which the center or type A home is located are not 288
open for instruction with pupils in attendance. 289

~~(OO)~~(PP) "Serious risk noncompliance" means a licensure or 290
certification rule violation that leads to a great risk of harm 291
to, or death of, a child, and is observable, not inferable. 292

~~(PP)~~(QQ) "State median income" means the state median income 293
calculated by the department of development pursuant to division 294

(A)(1)(g) of section 5709.61 of the Revised Code. 295

~~(QQ)~~(RR) "Title IV-A" means Title IV-A of the "Social 296
Security Act," 110 Stat. 2113 (1996), 42 U.S.C. 601, as amended. 297

~~(RR)~~(SS) "Title XX" means Title XX of the "Social Security 298
Act," 88 Stat. 2337 (1974), 42 U.S.C. 1397, as amended. 299

~~(SS)~~(TT) "Toddler" means a child who is at least eighteen 300
months of age but less than three years of age. 301

~~(TT)~~(UU) "Type A family day-care home" and "type A home" mean 302
a permanent residence of the administrator in which child care or 303
publicly funded child care is provided for seven to twelve 304
children at one time or a permanent residence of the administrator 305
in which child care is provided for four to twelve children at one 306
time if four or more children at one time are under two years of 307
age. ~~In counting children for the purposes of this division, any 308
children under six years of age who are related to a licensee, 309
administrator, or employee and who are on the premises of the type 310
A home shall be counted.~~ "Type A family day-care home" and "type A 311
home" do not include any child day camp. 312

~~(UU)~~(VV) "Type B family day-care home" and "type B home" mean 313
a permanent residence of the provider in which child care is 314
provided for one to six children at one time and in which no more 315
than three children are under two years of age at one time. ~~In 316
counting children for the purposes of this division, any children 317
under six years of age who are related to the provider and who are 318
on the premises of the type B home shall be counted.~~ "Type B 319
family day-care home" and "type B home" do not include any child 320
day camp. 321

Sec. 5104.023. (A) Each child who is under six years of age 322
and on the premises of a place in which child care is provided 323
counts in determining whether the place is a child day-care 324

center, type A family day-care home, or type B family day-care 325
home, regardless of whether the child is related to or in the 326
legal custody of the licensee, the administrator, or an employee 327
of the center or home. 328

(B) At the request of the administrator of a type B family 329
day-care home, the administrator's permanent residence may be 330
licensed as a type B family day-care home rather than a child 331
day-care center or type A family day-care home even though there 332
are more than six children on the premises at one time if all of 333
the additional children are at least six years of age and related 334
to or in the legal custody of the administrator and regardless of 335
whether the additional children receive privately funded or 336
publicly funded child care at the residence. 337

Sec. 5104.38. In addition to any other rules adopted under 338
this chapter, the director of job and family services shall adopt 339
rules in accordance with Chapter 119. of the Revised Code 340
governing financial and administrative requirements for publicly 341
funded child care and establishing all of the following: 342

(A) Procedures and criteria to be used in making 343
determinations of eligibility for publicly funded child care that 344
give priority to children of families with lower incomes and 345
procedures and criteria for eligibility for publicly funded 346
protective child care. The rules shall specify the maximum amount 347
of income a family may have for initial and continued eligibility. 348
The maximum amount shall not exceed two hundred per cent of the 349
federal poverty line. The rules may specify exceptions to the 350
eligibility requirements in the case of a family that previously 351
received publicly funded child care and is seeking to have the 352
child care reinstated after the family's eligibility was 353
terminated. 354

(B) Procedures under which a county department of job and family services may, if the department, under division (A) of this section, specifies a maximum amount of income a family may have for eligibility for publicly funded child care that is less than the maximum amount specified in that division, specify a maximum amount of income a family residing in the county the county department serves may have for initial and continued eligibility for publicly funded child care that is higher than the amount specified by the department but does not exceed the maximum amount specified in division (A) of this section;

(C) A schedule of fees requiring all eligible caretaker parents to pay a fee for publicly funded child care according to income and family size, which shall be uniform for all types of publicly funded child care, except as authorized by rule, and, to the extent permitted by federal law, shall permit the use of state and federal funds to pay the customary deposits and other advance payments that a provider charges all children who receive child care from that provider. The schedule of fees may not provide for a caretaker parent to pay a fee that exceeds ten per cent of the parent's family income.

(D) A formula for determining the amount of state and federal funds appropriated for publicly funded child care that may be allocated to a county department to use for administrative purposes;

(E) Procedures to be followed by the department and county departments in recruiting individuals and groups to become providers of child care;

(F) Procedures to be followed in establishing state or local programs designed to assist individuals who are eligible for publicly funded child care in identifying the resources available to them and to refer the individuals to appropriate sources to obtain child care;

(G) Procedures to deal with fraud and abuse committed by either recipients or providers of publicly funded child care;	387 388
(H) Procedures for establishing a child care grant or loan program in accordance with the child care block grant act;	389 390
(I) Standards and procedures for applicants to apply for grants and loans, and for the department to make grants and loans;	391 392
(J) A definition of "person who stands in loco parentis" for the purposes of division (JJ) (KK)(1) of section 5104.01 of the Revised Code;	393 394 395
(K) Procedures for a county department of job and family services to follow in making eligibility determinations and redeterminations for publicly funded child care available through telephone, computer, and other means at locations other than the county department;	396 397 398 399 400
(L) If the director establishes a different reimbursement ceiling under division (E)(3)(d) of section 5104.30 of the Revised Code, standards and procedures for determining the amount of the higher payment that is to be issued to a child care provider based on the special needs of the child being served;	401 402 403 404 405
(M) To the extent permitted by federal law, procedures for paying for up to thirty days of child care for a child whose caretaker parent is seeking employment, taking part in employment orientation activities, or taking part in activities in anticipation of enrolling in or attending an education or training program or activity, if the employment or the education or training program or activity is expected to begin within the thirty-day period;	406 407 408 409 410 411 412 413
(N) Any other rules necessary to carry out sections 5104.30 to 5104.43 of the Revised Code.	414 415
Section 2. That existing sections 5104.01 and 5104.38 of the	416

Revised Code are hereby repealed.

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