



Sub. H.B. 117

125th General Assembly

(As Reported by S. Health, Human Services and Aging)

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BILL SUMMARY

- Requires that a foster caregiver successfully complete at least 24 hours of preplacement training to be eligible for an initial family foster home certificate, rather than at least 12 hours before certification and at least 12 additional hours before children may be placed in the home.
- Changes continuing training requirements for foster caregivers to require that training be completed over the two-year certification period, rather than annually.
- Eliminates specification of courses that must be included in a continuing training program for foster caregivers, and instead requires that ODJFS adopt rules governing continuing training.
- Eliminates the requirement that the preplacement training for foster caregivers seeking certification for a treatment foster home or a medically fragile foster home include up to eight hours of special education surrogate parenting training.
- Requires that foster caregivers who operate a specialized foster home complete courses concerning the use of appropriate behavioral intervention techniques, such as de-escalation, self-defense, and physical restraints.

- Removes cardiopulmonary resuscitation and first aid as a required subject in preplacement training for foster caregivers generally, but retains it as a required preplacement training course for foster caregivers seeking certification for a specialized foster home.
- Makes clarifications to the law that permits a public children services agency, private child placing agency, or private noncustodial agency to waive a certain number of hours of the continuing training foster caregivers must complete.
- Requires ODJFS to establish in rules an extension of time within which to complete continuing training requirements for certain persons on active duty with the United States armed forces or the Ohio organized militia.
- Creates new exceptions to the limit on the number of children in a foster home.
- Makes clarifications to the law governing injunctive relief against institutions or associations that care for children without a certificate.
- Permits the Ohio Department of Job and Family Services to seek an order preventing an institution or association that holds a certificate from receiving additional children into its care or an order removing children from its care in certain circumstances.
- Requires specified persons who arrange an adoption for a prospective adoptive parent to request that the Bureau of Criminal Identification and Investigation conduct a criminal records check of all persons 18 years of age or older who reside with the prospective adoptive parent and prohibits a probate court from issuing a final adoption decree or an interlocutory adoption order making the prospective adoptive parent the adoptive parent if any such person has been convicted of or pleaded guilty to specified offenses.
- Permits ODJFS to waive the criminal records check requirement based on fingerprints for an adult resident of a prospective adoptive or foster home or the home of a foster caregiver if the recommending agency documents to ODJFS's satisfaction that the adult resident is physically unable to comply with the fingerprinting requirement and poses no danger to foster children or adoptive children who may be placed in the

home, and instead requires the agency to request that BCII conduct a criminal records check using the person's name and social security number.

- Requires that a criminal records check for a person who is to be responsible for a child's care in out-of-home care, who is a prospective adoptive parent, or a person who is 18 years of age or older who resides with the prospective adoptive parent also determine whether the person has been convicted of arson or aggravated arson and generally precludes a person who is convicted of or pleads guilty to arson or aggravated arson from becoming responsible for a child's care in out-of-home care or becoming an adoptive parent.
- Expressly includes the operator of a foster home within the definition of "association" or "institution" for the purposes of the child placement law.
- Repeals a provision of Am. Sub. H.B. 95 of the 125th General Assembly requiring the Legislative Office of Education Oversight to conduct a review of partnership agreements between a Head Start provider and a provider of child care or day care services.

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CONTENT AND OPERATION

Background

A foster caregiver who, for hire, gain, or reward, receives or cares for children for two or more consecutive weeks must obtain a certificate from the Ohio Department of Job and Family Services (ODJFS). For a foster caregiver to obtain certification, a public children services agency, private child placing agency, or private noncustodial agency must determine whether certification standards are satisfied.¹ With few exceptions, the standards are established by ODJFS rules. If the agency is satisfied, it must recommend that ODJFS issue the certificate. ODJFS has sole discretion regarding whether to issue the certificate. A certificate is valid for two years.

Training requirements for foster caregivers

Preplacement training

(R.C. 5103.031)

Under current law, ODJFS is prohibited from issuing a certificate of compliance with the requirements of the statutes and rules covering the management of institutions and associations that care for children to a foster caregiver seeking to operate a family foster home unless the foster caregiver successfully completes at least 12 hours of preplacement training. The law prohibits the placement of children in a family foster home unless the foster caregiver completes at least 12 additional hours of preplacement training. A foster caregiver seeking to operate a specialized foster home must successfully complete at least 36 hours of preplacement training.² Both types of foster caregivers must complete the training through an ODJFS-approved preplacement training program operated by an agency.

¹ *In this analysis, "agency" refers to all three types of agencies.*

² *"Specialized foster home" means a medically fragile foster home or a treatment foster home. "Medically fragile foster home" means a foster home that provides specialized medical services designed to meet the needs of children with intensive health care needs who meet specified criteria.*

"Treatment foster home" means a foster home that incorporates special rehabilitative services designed to treat the specific needs of the children received in the foster home and that receives and cares for children who have exceptional needs. (R.C. 5103.02(D), (F), and (G).)

The bill prohibits ODJFS from issuing a certificate to a foster caregiver seeking to operate a family foster home unless the foster caregiver successfully completes at least 24 hours of preplacement training. It eliminates the requirement that a foster caregiver complete additional training before a child may be placed in the family foster home. The increase in the number of hours required before ODJFS may issue a certificate means that the total number of training hours required before a child may be placed in a family foster home is unchanged.

Continuing training

(R.C. 5103.032(A) and 5103.033(B))

Current law prohibits ODJFS from renewing a foster home certificate unless the foster caregiver successfully completes a certain amount of continuing training. A foster caregiver operating a family foster home must complete at least 20 hours of training annually and foster caregiver operating a specialized foster home at least 30 hours annually. A foster caregiver who operates a foster home for the care of a child who is in the custody of a public children services agency or private child placing agency pursuant to a voluntary surrender agreement executed when the child was less than six months of age must complete at least 12 hours of continuing training annually.

Instead of requiring that continuing training be completed annually, the bill requires that it be completed over a two-year period. A family foster home foster caregiver must complete at least 40 hours, a foster caregiver who operates a specialized foster home at least 60 hours, and a foster caregiver who operates a foster home for the care of a child in the custody of an agency pursuant to a voluntary surrender agreement executed when the child was less than six months of age at least 24 hours in each two-year period.

Waiver for good cause of failure to complete training

(R.C. 5103.032(B) and 5103.035(F))

An agency with which a foster caregiver operating a family foster home works to receive recommendation for certification renewal is permitted by current law to waive up to four hours annually of continuing foster caregiver training if the foster caregiver (1) has provided foster care for at least two years and for at least 90 days of the 12 months preceding the date the agency issues the waiver, (2) has not violated any requirements governing certification of foster homes during the 12 months preceding that date, and (3) has complied in full with the needs assessment and continuing training plan.

The bill instead permits an agency to waive at the beginning of a two-year certification period up to eight hours of the continuing training a family foster home foster caregiver is otherwise required to complete in that certification period if the foster caregiver (1) has *held a certificate for a family foster home or specialized foster home* for at least two years and has provided foster care for at least 90 days of the 12 months preceding the date the agency issues the waiver, (2) has not violated any requirements governing certification of foster homes during the 12 months preceding the date the agency issues the waiver, and (3) has complied in full with the needs assessment and continuing training plan *for the preceding certification period*. The bill also permits an agency to waive up to eight hours of continuing training under the same circumstances for foster caregivers operating a specialized foster home. Under current law, that authority extends only to family foster homes.

Continuing training requirements--extension of time

(R.C. 5103.032(D) and 5103.033(D))

The bill requires ODJFS to adopt rules to give a foster caregiver an additional amount of time to complete continuing training if either of the following applies:

(1) The foster caregiver has served in active duty outside Ohio with a branch of the armed forces of the United States for more than 30 days in the preceding two-year period.

(2) The foster caregiver has served in active duty as a member of the Ohio organized militia³ for more than 30 days in the preceding two-year period, and that active duty relates to either an emergency in or outside of Ohio or relates to military duty in or outside of Ohio.

Preplacement training programs

(R.C. 5103.039 and 5103.0311(A)(5))

Under existing law a preplacement training program operated by an agency is to consist of courses in the role of foster caregivers as part of the care and treatment of foster children. The courses must address certain subjects specified

³ *The Ohio organized militia consist of members of the following: (1) the Ohio national guard, including both the air national guard and the army national guard, (2) the Ohio naval militia, and (3) the Ohio military reserve (R.C. 5923.01(A) and (B)).*

in the Revised Code, including cardiopulmonary resuscitation and first aid.⁴ In the case of a preplacement training program for a foster caregiver seeking certification for a specialized foster home, current law requires additional issues specific to the types of children placed in specialized foster homes, including physical restraint techniques and the appropriate use of physical restraints and up to eight hours of special education surrogate parent training. And a foster caregiver who cares for a child who was under six months of age when a voluntary surrender agreement was executed must complete preplacement training of a more limited scope that includes cardiopulmonary resuscitation and first aid.⁵

The bill eliminates from the preplacement training requirements for foster caregivers seeking certification for a specialized foster home the requirement that the courses address up to eight hours of special education surrogate parent training. The bill also requires that the preplacement training include training in appropriate behavioral intervention techniques, such as de-escalation, self-defense, and physical restraint techniques, and the appropriate uses of those techniques.

Finally, the bill removes cardiopulmonary resuscitation and first aid as a required subject in preplacement training for foster caregivers generally, but retains it as a required preplacement training course for foster caregivers seeking certification for specialized foster homes.

⁴ *The subjects include (1) the legal rights and responsibilities of foster caregivers, (2) agency policies and procedures regarding foster caregivers, (3) ODJFS requirements for certifying foster homes, (4) the effects placement, separation, and attachment have on children, their families, and foster caregivers, (5) foster caregivers' involvement in permanency planning for children and their families, (6) the effects of physical abuse, sexual abuse, emotional abuse, neglect, and substance abuse on normal human growth and development, (7) behavior management techniques, (8) effects of caregiving on children's families, (9) cultural issues in placement, (10) prevention, recognition, and management of communicable diseases, (11) community health and social services available to children and their families, (12) cardiopulmonary resuscitation and first aid, (13) the substance of state law regarding information that is provided to foster caregivers about certain delinquent children, and (14) in the case of a preplacement training program for a foster caregiver seeking certification for a specialized foster home, additional issues specific to the types of children placed in specialized foster homes.*

⁵ *The other subjects of the training include (1) the legal rights and responsibilities of foster caregivers, (2) the policies and procedures of public children services agencies, private child placing agencies, and private noncustodial agencies regarding foster caregivers, (3) ODJFS's requirements for certifying foster homes, (4) infant care, and (5) early childhood development.*

Continuing training programs

(R.C. 5103.032(A), 5103.035(C), 5103.037, 5103.038, 5103.0310 (repealed), 5103.0311(B), 5103.0316, and 5153.60)

Agencies operate ODJFS-approved continuing training programs for foster caregivers seeking training. To obtain ODJFS approval of a continuing training program, every other year an agency must submit to ODJFS a proposal outlining the program. In the case of a proposal submitted by an agency operating a continuing training program at the time the proposal is submitted, ODJFS must be satisfied with the agency's operation of the program.

A continuing training program for foster caregivers who care for children in the custody of a public children services agency or private child placing agency pursuant to voluntary surrender agreements executed when the children were less than six months of age must address both infant care and early childhood development, including developmentally appropriate activities.

All other proposed continuing training programs must provide for the program to consist of courses that address at least all of a number of subjects specified in the Revised Code.⁶

The bill eliminates any specification of courses that must be addressed in continuing training programs and requires instead that ODJFS adopt rules in accordance with the Administrative Procedure Act (R.C. Chapter 119.) that provide for requirements governing continuing training programs for foster caregivers.

⁶ *The subjects are (1) parents and foster caregivers as part of child protection teams, (2) the dynamics of child abuse and neglect and recognizing and preventing child abuse and neglect, (3) the effect of child abuse and neglect on child development, (4) how foster caregivers should work with children and their families regarding placement, separation, and attachment issues, (5) behavior management techniques, (6) foster caregivers' working with children's families, (7) effects of caregiving on children's families, (8) caring for children who have been sexually abused, (9) cultural competency, (10) substance abuse and dependency, (11) symptoms of mental illness and learning disorders, (12) developmentally appropriate activities for children, and (13) in the case of a continuing training program for a foster caregiver seeking recertification of a specialized foster home, additional issues specific to the types of children placed in specialized foster homes, including physical restraint techniques and up to eight hours of special education surrogate parent training (R.C. 3109.0310).*

Exceptions to number of children permitted in foster homes

(R.C. 5103.0317)

Under current law, a foster home may not receive more than five children apart from their parents, guardian, or custodian, except in order to accommodate a sibling group or the remaining members of a sibling group. The bill adds the following new exceptions to the five-child limit:

(1) When the additional child or children are related to the foster caregiver by blood or marriage;

(2) When the additional child or children are foster children who previously resided in the foster home;

(3) When the additional child or children are the children of a foster child who resides in the foster home.

Injunction

(R.C. 5103.03)

Under current law, if the Director of ODJFS determines that an institution or association is operating a facility that cares for children without a certificate of compliance with the requirements of the statutes and rules covering the management of institutions and associations that care for children, the Director may petition the common pleas court in the county in which the facility is located for an order enjoining (stopping) the operation of that facility.⁷ The court is required to grant injunctive relief on a showing that the institution or association is operating a facility without a certificate.

The bill clarifies that if the institution or association that cares for children is operating without a certificate, regardless of whether it is operating a facility, the Director may petition the court of common pleas in the county in which the

⁷ For purposes of the requirement that a certificate be obtained, an "institution" or "association" includes (1) any organization, society, association, or agency that receives or cares for children for two or more consecutive weeks, (2) any individual who, for hire, gain, or reward receives or cares for children for two or more consecutive weeks, unless the individual is related to the children by blood or marriage, and (3) an individual who in any manner becomes a party to the placing of children in foster homes, other than individuals employed by a court or by an institution or association that has been certified to receive and care for children, individuals related to the children by blood or marriage, or an individual appointed as guardian of the children (R.C. 5103.02(A)).

institution or association is located for an order enjoining its operation. In addition, the bill permits the Director to petition the court for an order, and permits the court to issue an order, preventing an institution or association that holds a certificate from receiving additional children into its care or an order removing children from its care if both of the following are the case:

(1) ODJFS has evidence that the life, health, or safety of one or more children in the care of the institution or association is at imminent risk;

(2) ODJFS has issued a proposed adjudication order under the Administrative Procedure Act to deny renewal of or revoke the certificate of the institution or association.

Criminal records checks for persons responsible for out-of-home care

(R.C. 109.572 and 2151.86)

Existing law requires criminal records checks for certain persons who work with children. A records check must be requested for (1) a person who is under final consideration to be responsible for a child's care in out-of-home care, (2) a prospective adoptive parent, and (3) a prospective foster caregiver and all other persons 18 years old or older who reside with the foster caregiver.⁸ The request must be made to the Superintendent of the Bureau of Criminal Identification and Investigation (BCII) for BCII to conduct the criminal records check. The Superintendent must determine whether the person being checked has been convicted of or pleaded guilty to certain offenses, including, for example, homicides, assaults, certain sex offenses, and certain theft offenses. With respect to prospective foster caregivers and persons 18 years old or older who reside with a prospective foster caregiver, the Superintendent must also determine whether the person has been convicted of or pleaded guilty to arson or aggravated arson or an existing or former law of Ohio, another state, or the United States that is substantially similar to arson or aggravated arson.

A person cannot care for children in out-of-home care or be an adoptive parent or foster caregiver if a criminal records check indicates the person, or, in the case of a foster caregiver, a person 18 years old or older who resides with the

⁸ A "person responsible for a child's care in out-of-home care" includes, for example, a foster caregiver; any administrator, employee, or agent of a detention facility, child day-care center, or group home; or any person who performs similar functions with respect to, or has a similar relationship with, children. A person responsible for a child's care in out-of-home care does not include a prospective employee of the Department of Youth Services or a person responsible for a child's care in a hospital or medical clinic other than a children's hospital. (R.C. 2151.86(H)(4) and 2151.011(B)(32), not in the bill.)

foster caregiver, committed one of the offenses checked for by the Superintendent, unless the person meets rehabilitation standards established by ODJFS.

The bill requires that a criminal records check also be requested for all persons 18 years of age or older who reside with a prospective adoptive parent. The bill also extends to all persons responsible for a child's care in out-of-home care and to prospective adoptive parents the existing requirement that the Superintendent of BCII determine whether the person has been convicted of or pleaded guilty to arson or aggravated arson or an existing or former law of Ohio, another state, or the United States that is substantially similar to arson or aggravated arson. A person found to have committed such an offense could not become an adoptive parent or be employed as a person responsible for a child's out-of-home care unless the person met the rehabilitation standards established by ODJFS.

Finally, the bill permits ODJFS to waive the criminal records check requirement based on fingerprints for an adult resident of a prospective adoptive or foster home or the home of a foster caregiver if the recommending agency documents to ODJFS's satisfaction that the adult resident is physically unable to comply with the fingerprinting requirement and poses no danger to foster children or adoptive children who may be placed in the home. In these cases, the recommending or approving agency must request that BCII conduct a criminal records check using the person's name and social security number.

Definition of "association" and "institution"

(R.C. 5103.02(A))

Current law

The child placement law generally requires that ODJFS every two years pass on the fitness of every institution and association that receives, or desires to receive and care for children, or places children in private homes. When ODJFS is satisfied as to the care given such children and that the institution or association is complying with the requirements covering the management of such institutions and associations, it must issue to the institution or association a certificate to that effect.

The current definition of "institution" or "association" includes any individual who, for hire, gain, or reward, receives or cares for children for two or more consecutive weeks, unless the individual is related to them by blood or marriage. This definition appears to include a foster home, which is defined as a private residence in which children are received apart from their parents, guardian,

or legal custodian, by an individual reimbursed for providing the children nonsecure care, supervision, or training 24 hours a day.

The bill

The bill expressly includes the operator of a foster home within the portion of the current definition of "association" or "institution" described above. Thus, under the bill, "association" or "institution" includes any individual, *including the operator of a foster home*, who, for hire, gain, or reward, receives or cares for children for two or more consecutive weeks, unless the individual is related by blood or marriage.

Legislative Office of Education Oversight study

(Section 3; Section 160 of Am. Sub. H.B. 95 of the 125th General Assembly)

The bill repeals Section 160 of Am. Sub. H.B. 95 of the 125th General Assembly. That provision required the Legislative Office of Education Oversight (LOEO) to conduct a review of partnership agreements between Head Start providers and providers of child care or day care services. LOEO was required to submit the final results of this review to the General Assembly not later than December 31, 2004. In conducting this review, LOEO was required to analyze the following:

- (1) The impact on literacy-readiness for children receiving services as a result of such agreements;
- (2) The costs and benefits of such agreements to both participant children and the providers who are parties to the agreements, including the financial costs and benefits to providers who are parties to the agreements and to families of participant children and the intangible costs and benefits to participant children.
- (3) The operation of the agreements, including how the agreements work, how well the agreements work, what components are included in the agreements, and whether the agreements are unique to the providers who are parties to the agreements or standardized across Ohio or within a local region.
- (4) Whether there is an administrative entity, such as a county department of job and family services, that oversees the implementation of a particular agreement. If there is such an entity that oversees an agreement, LOEO must examine the degree to which oversight is performed and what overhead costs the administrative entity incurs in overseeing such agreements.

Technical corrections

(R.C. 513.02(C), (D), and (G) and 5120.65)

The bill makes technical corrections to the definitions for the child placement law and to a provision of law governing the Prison Nursery Program.

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	03-11-03	p. 218
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