



**H.B. 213**

127th General Assembly  
(As Introduced)

**Reps. Combs and Wagner, J. McGregor, Evans, Yuko, Brown, Stebelton**

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**BILL SUMMARY**

- Requires that the weekly report of case summaries sent by clerks of court to the Bureau of Criminal Identification and Investigation (BCII) include the date of offense, summons, or arraignment.
- Clarifies that if a person or child has not been arrested and first appears before a court or magistrate in response to a summons, the court must order the person or child to appear before the sheriff or chief of police within 24 hours for fingerprinting.
- Directs the Superintendent of BCII to establish and maintain a Retained Applicant Fingerprint Database to notify a participating entity when an individual who is licensed, certified, or employed by, or volunteers with, the participating entity is arrested for, pleads guilty to, or is convicted of an offense that would disqualify that individual from licensure, certification, employment, or volunteering with the participating entity.
- Specifies that information contained in the Retained Applicant Fingerprint Database and in the notice sent by BCII to a participating entity that an individual has been arrested for, convicted of, or pleaded guilty to a disqualifying offense is only to be used by BCII and the participating entity for specified purposes; otherwise the information is confidential and not a public record under the Public Records Act.
- Prohibits any person from knowingly disseminating or using the information contained in the Retained Applicant Fingerprint Database for any purpose that is not authorized by law or by rules and classifies such a violation as a misdemeanor of the fourth degree.

- Prohibits any person from knowingly using the information contained in the Retained Applicant Fingerprint Database to harass or intimidate another person and classifies such a violation as a misdemeanor of the first degree.
- Provides that any law enforcement official or official employed by a participating entity who receives notification regarding the Retained Applicant Fingerprint Database and who disseminates or fails to disseminate information contained in the Database in good faith compliance with statutory requirements is generally immune from civil liability relating to that dissemination or failure to disseminate.
- States that a participating entity is not to be found negligent per se in a civil action for failure to submit an individual's information or fingerprint impressions to BCII for the Retained Applicant Fingerprint Database.
- Removes JFS's rulemaking authority regarding a private child placing agency's or private noncustodial agency's access to the uniform statewide automated child welfare information system and instead statutorily permits a private child placing agency and a private noncustodial agency to access the information.
- Requires that if an FBI check is performed as part of BCII's criminal records check for a person who wishes to provide out-of-home care, be certified as a foster home, or be approved for adoption, the check must include fingerprint based checks of national crime information databases, and additionally requires that for a prospective foster caregiver and any adult who resides with the foster caregiver the check must include information from the FBI, including fingerprint based checks of national crime information databases, prior to issuing a foster home certificate, or upon every other foster home recertification.
- Expands the list of offenses that disqualify a person from providing out-of-home care, being certified as a foster parent, or being approved as an adoptive parent to include the following: cruelty to animals, permitting child abuse, menacing by stalking, soliciting or providing support for act of terrorism, making terroristic threat, terrorism, identity fraud, inciting to violence, aggravated riot, ethnic intimidation, or state OVI or state OVUAC.



- Prohibits a person from being employed as a person responsible for a child's care in out-of-home care, being certified as a prospective foster caregiver, or being approved for adoption if that person or any person 16 years of age or older residing with that person has been convicted of, pleaded guilty to, or adjudicated a juvenile traffic offender for committing state OVI or state OVUAC or a violation of an existing or former law of Ohio, any other state, or the United States that is substantially equivalent to a violation of state OVI or state OVUAC, two or more times within the three years immediately preceding the submission of the application or petition, unless the person with the prior OVI or OVUAC conviction meets JFS rehabilitation standards.
- Allows a public children services agency to access the otherwise confidential criminal records checks for prospective out-of-home care providers, foster caregivers, or adoptive parents.
- Prohibits JFS from passing upon the fitness of, or issuing a temporary or two-year certificate to, a prospective foster home or prospective specialized foster home pursuant to a specific statutory authority if the prospective foster home operates as a type A family day-care home or in the case of a prospective specialized foster home if the prospective specialized foster home operates as a type B family day-care.
- Directs a foster caregiver, prior to certification, to notify the recommending agency of the revocation of any foster home license, certificate, or other similar authorization in another state occurring within five years prior to the date of application to become a foster caregiver in Ohio and prohibits JFS from issuing a foster home certificate to that person if the person has had such a revocation.
- Directs JFS to review, for possible revocation, a foster caregiver's certificate if JFS learns that the foster caregiver or any person 16 years of age or older who resides with the foster caregiver has been convicted of, pleaded guilty to, or adjudicated a juvenile traffic offender for committing a violation of state OVI or state OVUAC or a violation of a substantially equivalent law two or more times within a three-year period, unless the offender meets rehabilitation standards.
- Requires that before a foster home is certified or recertified a recommending agency must obtain a summary report of a search of the

uniform statewide automated child welfare information system from an entity that is authorized to access the system.

- Requires JFS to include in its rules governing type B family day-care homes requirements that the type B home notify parents with children in the home that the home is also certified as a foster home.
- Requires an FBI check as part of a criminal records check for applicable persons associated with a child day-care center, type A family home, or type B family home at licensure, every other license renewal, certification, and every other certification renewal, as applicable.
- Prohibits JFS from licensing a prospective type A family day-care home if that prospective home is certified to be a foster home or specialized foster home and prohibits a county department of job and family services from certifying a prospective type B family day-care home if that home is certified as a specialized foster home.
- Specifies that if a child has been in the temporary custody of one or more public children services agencies or private child placing agencies and the child previously was in the temporary custody of an equivalent agency in another state, the agency with custody of the child must apply the time in temporary custody in the other state to the time in temporary custody in Ohio and unless specified circumstances are present, if the time spent in temporary custody equals 12 months or more of a consecutive 22-month period, the agency with custody may file a motion requesting permanent custody.
- Includes a provision permitting the clerk of the court of common pleas to sign a required memorandum of understanding to minimize interviews of children who are the subject of alleged child abuse.
- Requires the Director of JFS to convene a work group to study and make recommendations to the Director regarding both of the following: (1) support for positive child and family outcomes offered to public children services agencies, private child placing agencies, and private noncustodial agencies by JFS, and (2) the establishment of fines and sanctions for public children services agencies, private child placing agencies, and private noncustodial agencies that do not comply with foster care related laws or rules.

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## CONTENT AND OPERATION

### Court summaries of specified cases

#### Current law

Current law, unchanged by the bill, requires every clerk of a court of record, other than the Supreme Court or a court of appeals, to send BCII a weekly report containing a summary of specified cases that includes all of the following (R.C. 109.57(A)(2)):

- (1) The incident tracking number;
- (2) The style and number of the case;
- (3) The date of arrest;
- (4) The date of any determination that constitutes final resolution of the case (such as the date of conviction, finding of not guilty, adjudication as a delinquent child);
- (5) A statement of the original charge with the R.C. section that was allegedly violated;
- (6) The sentence or terms of probation imposed or any other disposition;
- (7) A clear notation if the offense involved the disarming of a law enforcement officer or an attempt to disarm a law enforcement officer.

#### The bill

The bill additionally requires that the weekly report of case summaries sent by clerks of court to the Bureau of Criminal Identification and Investigation (BCII) include the date of offense, summons, or arraignment for each case (R.C. 109.57(A)(2)(c)).

### When a court must order a person to be fingerprinted

#### Current law

Current law requires sheriffs and city chiefs of police to immediately fingerprint or cause to be fingerprinted a person who is arrested for a felony, on suspicion of a felony, or a specified misdemeanor and to immediately fingerprint a child under 18 who is arrested or taken into custody for committing an act that would be a felony or an offense of violence if committed by an adult or upon

probable cause to believe the child committed such an act. The sheriffs and chiefs of police must then forward these fingerprints and other required information to BCII and to the clerk of the court with jurisdiction over the case.

If a sheriff or chief of police has not taken the person's or child's fingerprints by the time of the person's arraignment or first appearance, the court must order the person or child to appear before the sheriff or chief of police within 24 hours for fingerprinting. The sheriff or chief of police must then forward the fingerprints and required information to BCII and the court clerk.

At the time of a person's sentencing or a child's adjudication for an offense for which fingerprinting is required, the court must inquire whether the person's fingerprints were taken. If the person or child was not fingerprinted for the original arrest, the court must order the person to appear before the sheriff or chief of police within 24 hours for fingerprinting. The sheriff or chief of police must then forward the fingerprints and required information to BCII and the court clerk.

These fingerprinting requirements do not apply to a violator of a city ordinance unless specified criteria are met (R.C. 109.60(A)(1), (2), and (3) and (B)).

### **The bill**

The bill clarifies that if a person or child has not been arrested (and thus no fingerprints would have been taken by a sheriff or police chief as described under "**Current law**") and first appears before the court or magistrate in response to a summons, the court must order the person or child to appear before the sheriff or chief of police within 24 hours for fingerprinting, unless the offense is a violation of a non-qualifying city ordinance. Similarly, the court must inquire at the time of a person's sentencing or a child's adjudication for an offense for which fingerprinting is required whether the person's fingerprints were taken. If the person or child was not fingerprinted for the original arrest *or court appearance*, the court must order the person to appear before the sheriff or chief of police within 24 hours for fingerprinting. (R.C. 109.60(A)(2) and (3).)

The bill also restates a court's fingerprinting duties discussed above in the Revised Code chapters concerning municipal courts, county courts, and courts of common pleas (R.C. 1901.43, 1907.181, and 2301.10).

### **Retained Applicant Fingerprint Database**

The bill requires the Superintendent of BCII to establish and maintain a Retained Applicant Fingerprint Database, separate and apart from all other records maintained by BCII. The purpose of the database is to notify a "participating



entity" when an individual who is licensed, certified, or employed by, or volunteers with, the participating entity and is arrested for, pleads guilty to, or is convicted of an offense that would disqualify that individual from licensure, certification, employment, or volunteering with the participating entity.<sup>1</sup>

The bill requires participating entities to ensure that BCII receives fingerprint impressions in a manner prescribed by BCII rules prior to an individual being licensed, certified, or employed by, or beginning volunteer service with the participating entity. BCII, then, must enter information and the fingerprint impressions relating to the individual into the Database within 30 days of receipt of the information and impressions. Participating entities must also notify BCII when an individual is deceased or is no longer licensed, certified, or employed by, or volunteers with the participating entity. (R.C. 109.581(C)(1) and (3).)

An individual who has submitted fingerprint impressions for licensure, certification, employment, or volunteer service with a participating entity is required by the bill to be reprinted for licensure, certification, employment, or volunteer service with another participating entity. If an individual has been reprinted, BCII must update that individual's information accordingly. (R.C. 109.581(C)(2).)

**Notice that an individual has been arrested for, pleaded guilty to, or convicted of a disqualifying offense**

BCII is responsible for promptly notifying a participating entity when an individual who is licensed, certified, employed by, or volunteers with a participating entity is arrested for, pleads guilty to, or is convicted of an offense that would disqualify that individual from licensure, certification, employment, or volunteering with the participating entity. The Superintendent of BCII and each participating entity must work together to develop procedures and formats necessary to produce these notices in a format that is acceptable for use by the participating entity. (R.C. 109.581(B) and (D).)

Additionally, the bill requires the Department of Job and Family Services (JFS) to work with BCII to develop procedures and formats necessary to produce these notices in a format that is acceptable to JFS. JFS is also required to adopt

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<sup>1</sup> "Individual" means any person who is required by law to submit fingerprint impressions to a participating entity for a criminal records check. "Participating entity" means a state agency, or its designee, that requires fingerprint impressions of an individual for a criminal records check as a condition of licensure, certification, employment, or volunteer service with the agency. "State agency" has the same meaning as in R.C. 9.23. (R.C. 109.581(A).)



rules in accordance with R.C. 111.15, as if they were internal management rules, necessary for these collaborations. JFS, also, must adopt rules that are necessary for utilizing the information received from the Database pursuant to the Administrative Procedure Act. (R.C. 5101.32.)

### **Confidentiality of information in the Database**

The bill specifies that information contained in the Database and in the notice sent by BCII to a participating entity that an individual has been arrested for, convicted of, or pleaded guilty to a disqualifying offense must be used by BCII and the participating entity for the purposes of licensure, certification, employment, or volunteer service with the participating entity. Otherwise, this information is confidential and not a public record under the Public Records Act. (R.C. 109.581(E)(1).)

### **Criminal offenses**

The bill creates two criminal offenses associated with the improper usage of information contained in the Database. First, the bill prohibits any person from knowingly disseminating or using the information contained in the Database for any purpose that is not authorized by law or by rules. A violation of this prohibition is the offense of unlawful dissemination or use of retained applicant fingerprint database information, a misdemeanor of the fourth degree. (R.C. 109.581(E)(2) and 109.99(D)(1).)

Second, the bill prohibits any person from knowingly using the information contained in the Database to harass or intimidate another person. A violation of this prohibition is the offense of harassment or intimidation using retained applicant fingerprint database information, a misdemeanor of the first degree. (R.C. 109.581(E)(3) and 109.99(D)(2).)

### **Civil liability**

The bill provides that any law enforcement official or official employed by a participating entity who receives notification regarding the Database and who disseminates or fails to disseminate information contained in the Database in good faith compliance with the duties described above is immune from civil liability relating to that dissemination or failure to disseminate. This immunity does not apply if the official's actions were manifestly outside the scope of the duties described above, or the official acted with malicious purpose, in bad faith, or in a wonton or reckless manner. (R.C. 109.581(F)(1).)

The bill also states that a participating entity is not to be found negligent per se in a civil action for failure to submit an individual's information or fingerprint impressions to BCII, as described above (R.C. 109.581(F)(2)).

**Rule-making authority**

The bill requires the Superintendent of BCII to adopt rules in accordance with the Administrative Procedure Act necessary to carry out the purposes of the Database, including rules regarding all of the following (R.C. 109.581(G)):

(1) The establishment and maintenance of the Retained Applicant Fingerprint Database;

(2) The collection of fingerprint impressions and a reasonable fee for utilizing the Database;

(3) The expungement of fingerprint impressions and other personal information of individuals who are deceased or are no longer licensed, certified, employed by, or volunteering with a participating entity.

**Private child placing agency and private noncustodial agency access to the uniform statewide automated child welfare information system**

**Current law**

JFS operates a uniform statewide automated child welfare information system. The information system contains records regarding any of the following (R.C. 5101.13, not in the bill):

(1) Investigations of children and families and children's care in out-of-home care;

(2) Care and treatment provided to children and families;

(3) Any other information related to children and families that state or federal law, regulation, or rule requires JFS or a public children services agency to maintain.

Current law specifies that this information may only be accessed by JFS and a public children services agency in specified circumstances. Current law, however, also gives JFS rulemaking authority regarding a private child placing agency's or private noncustodial agency's access to the database. (R.C. 5101.132 and 5101.134.)

### **The bill**

The bill removes JFS's rulemaking authority regarding a private child placing agency's or private noncustodial agency's access to the database and instead statutorily permits a private child placing agency and a private noncustodial agency to access the information. (R.C. 5101.132 and 5101.134.)

### **Criminal records checks for out-of-home care providers, foster parents, and prospective adoptive parents**

#### **Types of required criminal records checks**

**Current law.** Under current law, partially amended by the bill, an appointing or hiring authority must request a criminal records check by BCII before employing a person as a provider of out-of-home care;<sup>2</sup> the administrative director of an agency, or an attorney, who arranges an adoption must request a criminal records check with respect to that prospective adoptive parent and any person 18 years of age or older who resides with the prospective adoptive parent; and before a "recommending agency" submits a recommendation to JFS on whether JFS should issue a certificate to a foster home, the administrative director of the agency must request a criminal records check with respect to the prospective foster caregiver and all other persons 18 years of age or older who reside with the foster caregiver.<sup>3</sup> If a person subject to a criminal records check does not present proof that the person has been an Ohio resident for the five-year period immediately prior to the date upon which the criminal records check is requested or does not provide evidence that within that five-year period BCII has requested information about the person from the FBI in a criminal records check, then BCII must also request information from the FBI regarding the person. If the person does present proof of Ohio residency for the prior five years, the criminal records check may include information from the FBI. (R.C. 2151.86(A) and (B).)

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<sup>2</sup> In this context, "out-of-home care" refers to persons who provide care to children in detention facilities, shelter facilities, certified children's crisis care facilities, certified foster homes, placement in a prospective adoptive home prior to the issuance of a final decree of adoption, organizations, certified organizations, child day-care centers, type A family day-care homes, child care provided by type B family day-care home providers and by in-home aides, group home providers, group homes, institutions, state institutions, residential facilities, residential care facilities, residential camps, day camps, and children's hospitals, other than prospective employees of the Department of Youth Services (R.C. 2151.86(A)(1) and (I)(3), and referencing R.C. 2151.011).

<sup>3</sup> "Recommending agency" means a public children services agency, private child placing agency, or private noncustodial agency to which JFS has delegated a duty to inspect and approve foster homes (R.C. 2151.86(I)(5)).

**The bill.** The bill additionally requires that if an FBI check is performed, it must include fingerprint based checks of national crime information databases as described in federal law. For a prospective foster caregiver and any adult who resides with the foster caregiver, the bill also requires the administrative director of a recommending agency to request BCII to obtain information from the FBI as part of a criminal records check, including fingerprint based checks of national crime information databases, prior to issuing a foster home certificate or upon every other foster home recertification. This requirement applies even if the prospective foster caregiver has lived in Ohio for the five-year period immediately prior to the request for the criminal records check. (R.C. 2151.86(B)(1).)

### **Disqualifying offenses**

**Current law.** Currently, unless the person meets rehabilitation standards established by JFS, a conviction or guilty plea to any of the following offenses disqualifies a person from providing out-of-home care, being an adoptive parent, or being a foster caregiver (additionally if a person 18 years of age or older who resides with a prospective adoptive parent or foster caregiver has been convicted of or pleaded guilty to one of the following offenses, the prospective adoptive parent or foster caregiver is disqualified) (R.C. 109.572(A)(8) and 2151.86(C)(1)(a), with a conforming change in R.C. 3107.14(C)):

(1) Aggravated murder, murder, voluntary manslaughter, involuntary manslaughter, felonious assault, aggravated assault, assault, failure to provide for a functionally impaired person, aggravated menacing, patient abuse, gross patient neglect, patient neglect, kidnapping, abduction, criminal child enticement, rape, sexual battery, unlawful sexual conduct with a minor, gross sexual imposition, sexual imposition, importuning, voyeurism, public indecency, compelling prostitution, promoting prostitution, procuring, prostitution, prostitution after a positive HIV test, disseminating matter harmful to juveniles, pandering obscenity, pandering obscenity involving a minor, pandering sexually oriented matter involving a minor, illegal use of a minor in a nudity-oriented material or performance, aggravated arson, arson, aggravated robbery, robbery, aggravated burglary, burglary, unlawful abortion, endangering children, contributing to the unruliness or delinquency of a child, domestic violence, carrying a concealed weapon, having weapons while under disability, improperly discharging firearm at or into a habitation or into school related areas, corrupting another with drugs, trafficking in drugs, illegal manufacture of drugs or the cultivation of marihuana, funding of drugs or marihuana trafficking, illegal administration or distribution of an anabolic steroid, placing harmful objects in food or confection, the former offense of child stealing, possession of drugs that is not a minor misdemeanor, or the former offense of felonious sexual penetration.

(2) A violation of an existing or former law of Ohio, any other state, or the United States that is substantially equivalent to any of the offenses listed in (1).

**The bill.** The bill expands the list of disqualifying offenses to include the following: cruelty to animals, permitting child abuse, menacing by stalking, soliciting or providing support for act of terrorism, making terroristic threat, terrorism, identity fraud, inciting to violence, aggravated riot, ethnic intimidation, or state OVI or state OVUAC (R.C. 109.572(A)(8)(a)).

The bill also prohibits the appointing or hiring authority from appointing or employing a person as a person responsible for a child's care in out-of-home care, JFS from issuing a certificate to a prospective foster caregiver, and the probate court from issuing a final decree of adoption or an interlocutory order of adoption making a person an adoptive parent if the prospective appointee, employee, foster caregiver, or adoptive parent, or any person 16 years of age or older residing with any of those persons, has been convicted of, pleaded guilty to, or adjudicated a juvenile traffic offender for committing state OVI or state OVUAC or a violation of an existing or former law of Ohio, any other state, or the United States that is substantially equivalent to a violation of state OVI or state OVUAC, two or more times within the three years immediately preceding the submission of the application or petition. This prohibition does not apply if the person with the prior state OVI or state OVUAC violations meets JFS rehabilitation standards. (R.C. 2151.86(C)(1)(b) and (F).)

### **Confidentiality of criminal records checks**

Under continuing law, any criminal records check for an out-of-home care provider, prospective adoptive parent, or prospective foster caregiver is not a public record under the Public Records Law. Only the following persons have authority to access the information (R.C. 2151.86(E)):

- (1) The person who is the subject of the records check or the person's representative;
- (2) The appointing or hiring officer, administrative director, or attorney requesting the records check, or that person's representative;
- (3) JFS or a county department of job and family services;
- (4) Any court, hearing officer, or other necessary individual involved in a case dealing with the denial of employment, a final decree of adoption or interlocutory order of adoption, or a foster home certificate.

The bill additionally allows a public children services agency access to the otherwise confidential criminal records check (R.C. 2151.86(E)(3)).

### *Foster caregiver notices*

Prior to certification as a foster caregiver, the bill requires the foster caregiver to notify the recommending agency of the revocation of any foster home license, certificate, or other similar authorization in another state occurring within five years prior to the date of application to become a foster caregiver in Ohio. If a person has had such a revocation, JFS is prohibited from issuing a foster home certificate to the prospective foster caregiver. (R.C. 2151.86(C)(3).)

### *Certification of specified foster caregivers*

#### *Current law*

Current law requires JFS, every two years, to pass upon the fitness of an "institution" or "association" that receives, or desires to receive and care for children, or places children in private homes.<sup>4</sup> This requirement does not apply to facilities under the control of the Department of Youth Services (DYS), specified places of detention, and child day-care centers subject to R.C. Chapter 5104. If an institution or association satisfies the fitness review, JFS issues that entity a foster caregiver's certificate to that effect that is valid for two years, unless revoked by JFS. JFS also has the authority to issue a temporary certificate valid for less than one year authorizing an institution or association to operate until minimum standards have been met. (R.C. 5103.03.)

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<sup>4</sup> "Association" or "institution" includes any incorporated or unincorporated organization, society, association, or agency, public or private, that receives or cares for children for two or more consecutive weeks; 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 to them by blood or marriage; and any individual not in the regular employ of a court, or of an institution or association certified in accordance with R.C. 5103.03, who in any manner becomes a party to the placing of children in foster homes, unless the individual is related to such children by blood or marriage, or is the appointed guardian of such children. However, any organization, society, association, school, agency, child guidance center, detention or rehabilitation facility, or children's clinic licensed, regulated, approved, operated under the direction of, or otherwise certified by the Department of Education, a local board of education, the Department of Youth Services, the Department of Mental Health, or the Department of Mental Retardation and Developmental Disabilities, or any individual who provides care for only a single-family group, placed there by their parents or other relative having custody, is not included in "association" or "institution." (R.C. 5103.02(A), not in the bill.)



### *The bill*

The bill specifically prohibits JFS from passing upon the fitness of, or issuing a temporary or two-year certificate to, a prospective foster home or prospective specialized foster home pursuant to this specific statutory authority if the prospective foster home operates as a type A family day-care home under R.C. Chapter 5104. Additionally, the bill prohibits JFS from passing upon the fitness of, or issuing a temporary or two-year certificate to, a prospective specialized foster home if the prospective specialized foster home operates as a type B family day-care home pursuant to R.C. Chapter 5104. (See **COMMENT** for definition of type A family day-care home and type B family day-care home.) (R.C. 5103.03(B)(5).)

JFS is required by the bill to adopt rules that require a foster caregiver or other individual certified to operate a foster home, as described above, to notify the recommending agency that the foster caregiver or other individual is certified to operate a type B family day-care home. There is not a similar requirement regarding notice that the foster caregiver operates as a type A family day-care home. (R.C. 5103.03(G)(2).)

### *Revocation of a foster caregiver's certificate for OVI or OVUAC violations*

The bill directs JFS to review, for possible revocation, a foster caregiver's certificate if JFS learns that the foster caregiver or any person 16 years of age or older who resides with the foster caregiver has been convicted of, pleaded guilty to, or adjudicated a juvenile traffic offender for committing a violation of state OVI or state OVUAC or a violation of an existing or former law of Ohio, another state, or the United States that is substantially equivalent to state OVI or state OVUAC, two or more times within a three-year period. JFS is prohibited from revoking a foster caregiver's certificate on this basis if the person with the state OVI or state OVUAC violations meets JFS rehabilitation standards. (R.C. 5103.0328.)

### *Search of the uniform statewide automated child welfare system before certification as a foster home*

The bill requires that before a foster home is certified or recertified as discussed above in "*Certification of specified foster caregivers*," a recommending agency must obtain a summary report of a search of the uniform statewide automated child welfare information system from an entity that is authorized to access the system as discussed above in "*Private child placing agency and private noncustodial agency access to the uniform statewide automated child welfare information system*." Based on the summary report, and when considered within the totality of the circumstances, JFS may deny a foster home certification or



recertification. JFS may not deny certification or recertification solely based on the summary report. (R.C. 5103.18 and conforming change in R.C. 5103.16(A).)

Current law provides that this summary report must be submitted by an association or institution certified to place a child into a foster home to JFS before a child is placed in a foster home (R.C. 5103.16 and 5103.18).

**Provisions regarding child day-care centers, type A homes, and type B homes**

**Requirement that a type B family day-care home notify parents that the home is also certified as a foster home**

Current law requires JFS to adopt rules governing the certification of type B family day-care homes. Current law also includes a list of topics that JFS must address in these rules. The bill adds to the required rules that JFS must adopt by specifying that the type B family day-care rules must include requirements for the type B home to notify parents with children in the home that the home is also certified as a foster home. (R.C. 5104.011(G)(1)(c) and (G)(2)(p), conforming change in R.C. 5104.30(E)(2)(c)(i) and (ii).)

**Criminal records checks**

**Current law.** Existing law, unchanged by the bill, requires JFS, as part of the process of licensure of child day-care centers and type A family day-care homes, to request BCII to conduct a criminal records check with respect to any owner, licensee, or administrator of a child day-care center or type A family home, and, for a type A family home, any person 18 years of age or older who resides in the type A home. Current law also requires the director of a county department of job and family services, as part of the process of certification of type B family day-care homes, to request BCII to conduct a criminal records check with respect to any authorized provider of a certified type B family day-care home and any person 18 years of age or older who resides in the home.

Currently, if a person subject to a criminal records check does not present proof that the person has been an Ohio resident for the five-year period immediately prior to the date upon which the criminal records check is requested or does not provide evidence that within that five-year period BCII has requested information about the person from the FBI in a criminal records check, then BCII must also request information from the FBI regarding the person. If the person does present proof of Ohio residency for the prior five years, the criminal records check may include information from the FBI.

**The bill.** The bill removes the provision described in the prior paragraph regarding an FBI check and instead requires an FBI check at licensure, every other

license renewal, certification, and every other certification renewal, as applicable. (R.C. 5104.013(A)(3).)

**No licensure or certification if the home is a foster home**

The bill prohibits JFS from licensing a prospective type A family day-care home if that prospective home is certified to be a foster home or specialized foster home under R.C. Chapter 5103. Additionally, the bill prohibits a county department of job and family services from certifying a prospective type B family day-care home if that home is certified as a specialized foster home. (R.C. 5104.022.)

**Permanent custody of a child who has been in the temporary custody of a public children services agency for 12 or more months of a consecutive 22-month period**

Under current law, if a child has been in the temporary custody of one or more public children services agencies or private child placing agencies for 12 or more months of a consecutive 22-month period ending on or after March 18, 1999, the agency with custody of the child, unless specified circumstances are present, must file a motion with the court who issued the current temporary order requesting permanent custody. If the court finds that it is in the best interests of the child and specified circumstances are present, the court may grant permanent custody of the child to the agency. (R.C. 2151.413(D) and 2151.414.)

The bill specifies that if the child has been in the temporary custody of one or more public children services agencies or private child placing agencies and the child previously was in the temporary custody of an equivalent agency in another state on or after March 18, 1999, the agency with custody of the child must apply the time in temporary custody in the other state to the time in temporary custody in Ohio. Unless specified circumstances are present, if the time spent in temporary custody equals 12 months or more of a consecutive 22-month period, the agency with custody may file a motion requesting permanent custody. This time spent in temporary custody in another state may be considered by the court when deciding custody of the child. (R.C. 2151.413(D)(1) and R.C. 2151.414(B)(1)(a) and (d), and (D)(3).)

**Public children services agency memorandum of understanding**

Current law, unchanged by the bill, requires each public children services agency to prepare a memorandum of understanding signed by various public officials. The memorandum must set forth the normal operating procedure for all concerned officials in the execution of their respective responsibilities in the investigation and prosecution of child abuse. Two of the primary goals of the

memorandum are the elimination of all unnecessary interviews of children who are the subject of alleged child abuse reports and, when feasible, providing for only one interview of such a child. (R.C. 2151.421(J)(1) and (2).)

The bill includes a provision permitting the clerk of the court of common pleas to sign the memorandum of understanding. If the clerk signs the memorandum, the clerk must execute all relevant responsibilities as required of officials specified in the memorandum. (R.C. 2151.421(J)(5).)

### **JFS work group**

Not later than 30 days after the effective date of the bill, the bill requires the Director of JFS to convene a work group to study and make recommendations to the Director regarding both of the following (Section 3):

(1) Support for positive child and family outcomes offered to public children services agencies, private child placing agencies, and private noncustodial agencies by JFS;

(2) The establishment of fines and sanctions for public children services agencies, private child placing agencies, and private noncustodial agencies that do not comply with foster care related laws or rules.

The work group must include representatives of public children services agencies, private child placing agencies, private noncustodial agencies, the Ohio Family Care Association, the Ohio Association of Child Caring Agencies, the Public Children Services Association of Ohio, the Ohio Job and Family Services Directors' Association, the County Commissioners' Association of Ohio, foster caregivers, and current and former foster children. By June 30, 2008, the work group must prepare a report that contains recommendations regarding JFS support for local agencies and the establishment of fines and sanctions either in law, rule, or both. The Director of JFS must review the recommendations and create an executive summary of the recommendations for submission to the Governor, the Speaker of the House of Representatives, and the President of the Senate. The work group ceases to exist upon submission of the executive summary.

### **References to former Ohio laws and the laws of other states**

The bill includes references to existing or former laws of Ohio, any other state, or the United States that are substantially equivalent to specified sections of the Revised Code in provisions that:

(1) Require a court to enter a finding that a child for whom a public children services agency or a private child placing agency is requesting permanent custody cannot be placed with either parent within a reasonable period of time or

should not be placed with either parent because the parent has had parental rights involuntarily terminated with respect to a sibling of the child pursuant to R.C. 2151.214, 2151.353, or 2151.415 *or under an existing or former law of this state, another state, or the United States that is substantially equivalent to those sections* (R.C. 2151.214(E)(11)).

(2) Require a court to make a determination that a public children services agency or a private child placing agency is not required to make reasonable efforts to prevent the removal of the child from the child's home, eliminate the continued removal of the child from the child's home, and return the child to the child's home because the parent from whom the child was removed has had parental rights involuntarily terminated with respect to a sibling of the child pursuant to R.C. 2151.353, 2151.414, or 2151.415 *or under an existing or former law of this state, another state, or the United States that is substantially equivalent to those sections* (R.C. 2151.419(A)(2)(e)).

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## COMMENT

As used in this analysis:

(1) "Child day-care center" and "center" mean any place in which child care or publicly funded child care is provided for 13 or more children at one time or any place that is not the permanent residence of the licensee or administrator in which child care or publicly funded child care is provided for 7 to 12 children at one time. In counting children, any children under six years of age who are related to a licensee, administrator, or employee and who are on the premises of the center are counted. "Child day-care center" and "center" do not include any of the following (R.C. 5104.01(L)):

(a) A place located in and operated by a hospital, as defined in R.C. 3727.01, in which the needs of children are administered to, if all the children whose needs are being administered to are monitored under the on-site supervision of a physician licensed under R.C. Chapter 4731. or a registered nurse licensed under R.C. Chapter 4723., and the services are provided only for children who, in the opinion of the child's parent, guardian, or custodian, are exhibiting symptoms of a communicable disease or other illness or are injured;

(b) A child day camp;

(c) A place that provides child care, but not publicly funded child care, if all of the following apply:

(i) An organized religious body provides the child care;

(ii) A parent, custodian, or guardian of at least one child receiving child care is on the premises and readily accessible at all times;

(iii) The child care is not provided for more than thirty days a year;

(iv) The child care is provided only for preschool and school children.

(2) "Type A family day-care home" and "type A home" mean a permanent residence of the administrator in which child care or publicly funded child care is provided for 7 to 12 children at one time or a permanent residence of the administrator in which child care is provided for 4 to 12 children at one time if four or more children at one time are under two years of age. In counting children, any children under six years of age who are related to a licensee, administrator, or employee and who are on the premises of the type A home are counted. "Type A family day-care home" and "type A home" do not include any child day camp. (R.C. 5104.01(RR).)

(3) "Type B family day-care home" and "type B home" mean a permanent residence of the provider in which child care is provided for one to six children at one time and in which no more than three children are under two years of age at one time. In counting children, any children under six years of age who are related to the provider and who are on the premises of the type B home are counted. "Type B family day-care home" and "type B home" do not include any child day camp. (R.C. 5104.01(SS).)

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## HISTORY

### ACTION

### DATE

Introduced

05-08-07

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