



H.B. 342

127th General Assembly
(As Introduced)

Reps. Peterson, B. Williams, Koziura, Fende, Stebelton, Wagoner

BILL SUMMARY

REGULATION OF CHILD CARE

- Limits the relatives who may provide child care without being subject to regulation to the following individuals who are related by blood, marriage, or adoption to the child receiving care: parents, step-parents, grandparents, siblings, step-siblings, half-siblings, aunts, uncles, and first cousins.
- Reduces to two (from six) the number of children who may be cared for in a home-based child care setting without a license by requiring type B homes providing child care to three to six children to be licensed by the Ohio Department of Job and Family Services (ODJFS) beginning three years after the bill's effective date.
- Exempts the following from the licensing requirement: (1) persons under age 18, (2) persons who do not charge for providing child care, and (3) persons providing child care for less than ten hours per week and less than four weeks per year.
- Requires that the rules governing the licensure of type B homes be no more stringent than the rules governing the certification of type B homes that provide publicly funded child care.
- Provides that a child on the premises of a facility or home is to be counted for purposes of determining whether the facility or home is a child care center, type A home, or type B home if the child is under age 15 and the care is provided for remuneration.

- Eliminates limited certification of type B homes in which publicly funded child care is provided only to certain relatives of the provider or children who are all children of the same caretaker parent.

CRIMINAL RECORDS CHECKS

- Reorganizes, but generally retains, the law requiring that criminal record checks be conducted of child-care providers.
- Makes uniform the disqualifying offenses relating to licensure, certification, and employment under the child care law.
- Specifically requires criminal record checks on renewal of a license or certification.
- No longer permits a child-care center or type A home employee to be employed conditionally until a criminal record check is completed.

OTHER CHILD CARE PROVISIONS

- Requires a county department of job and family services to approve or deny an application for publicly funded child care no later than 30 days from the date it receives the application regardless of whether the application is complete.
- Requires the ODJFS Director to "make available," rather than "send," proposed rules to child care center and type A home licensees; requires the Director to provide copies of adopted rules to licensees in electronic form only; and applies these provisions to the new licensed type B homes.
- Renames "child *day*-care centers" "child-care centers," "type A family *day*-care homes" "type A family *child*-care homes," and "type B family *day*-care homes" "type B family *child*-care homes."
- Relocates, but does not substantively change, numerous provisions of the child care law.

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CONTENT AND OPERATION

REGULATION OF CHILD CARE

"Child care" defined

With certain exceptions, the Ohio Department of Job and Family Services (ODJFS) and county departments of job and family services are responsible for regulation of child-care providers that are required to be licensed or certified.¹ A person or entity engages in child care when administering to the needs of infants, toddlers, preschool children, and school children outside of school hours for any part of the 24-hour day in a place or residence other than a child's own home.

Under current law, child care provided to a child by the child's parent, guardian, custodian, or a relative by blood, marriage, or adoption is not subject to regulation. The bill limits the relatives who may provide child care without being subject to regulation to individuals related to the child by blood, marriage, or adoption as a parent, step-parent, grandparent, sibling, step-sibling, half-sibling, aunt, uncle, or first cousin (R.C. 5104.01(L)).

Licensing type B homes

Background

There are different types of providers of child care. Differences among providers include where the child care is provided and the number of children to whom a provider provides child care at one time. Child care can be provided in a facility, the home of the provider, or the child's home.

Generally, facility-based child care is provided in a child-care center. A child-care center is any place that is not the permanent residence of the licensee or administrator in which child care is provided for 7 to 12 children at one time. However, any place in which child care is provided for 13 or more children at one time, including the permanent residence of the licensee or administrator, is also treated as a child-care center (R.C. 5104.01(M)).

Besides child-care centers providing child care to 13 or more children at one time, there are two types of providers who provide child care at the provider's

¹ Some activities that meet the definition of "child care" are nonetheless not regulated by ODJFS or county departments. For example, a program of child care that operates for two or fewer consecutive weeks is not subject to regulation by ODJFS or the county departments. Another example is that the Ohio Department of Education, rather than ODJFS, licenses preschool programs and school child programs. (R.C. 5104.02(B).)

home: type A family child-care homes (type A homes) and type B family child-care homes (type B homes). The difference between a type A home and type B home is the number of children who receive child care at the provider's home at one time. A type A home is the permanent residence of an administrator in which child care is provided for 7 to 12 children at one time or the permanent residence of an administrator in which child care is provided for 4 to 12 children at one time if four or more of the children at one time are under age two (R.C. 5104.01(XX)). A type B home is the permanent residence of a provider in which child care is provided for 1 to 6 children at one time and in which no more than three children at one time are under age two (R.C. 5104.01(YY)).²

For purposes of child care law, a provider of child care who provides the care in the child's home is known as an in-home aide. Continuing law defines "in-home aide" as 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 to provide publicly funded child care³ to a child in a child's own home (R.C. 5104.01(AA)).

Need for type B home license

ODJFS licenses child-care centers and type A homes. Generally, operation of a child-care center or type A home without an ODJFS license is prohibited (R.C. 5104.02).⁴

County departments of job and family services certify type B homes that provide publicly funded child care (R.C. 5104.11). Under current law, a type B home that does not provide publicly funded child care is not required to be licensed or certified.

² Existing law uses the terms "child day-care center," "type A family day-care home," and "type B family day-care home." The bill changes these terms to "child-care center," "type A family child-care home," and "type B family child-care home." (See "**Name of child care providers**" below.)

³ "Publicly funded child care" is defined by continuing law as administering to the needs of infants, toddlers, preschool children, and school children under age 13 during any part of the 24-hour day by persons other than their caretaker parents for remuneration wholly or in part with federal or state funds distributed by ODJFS (R.C. 5104.01(OO)).

⁴ As discussed in the first footnote, not all child care is regulated by ODJFS or a county department. Certain providers of child care technically meet the definition of "child-care center" or "type A home" but are nonetheless exempt from ODJFS licensure (R.C. 5104.021).

The bill requires certain type B homes to obtain a license regardless of whether they provide publicly funded child care. The license is to be obtained from ODJFS, not a county department of job and family services. With certain exceptions, under the bill, a type B home is prohibited from operating without an ODJFS license if child care is provided for 3 to 6 children at one time in the home. The prohibition goes into effect three years after the bill's effective date. (R.C. 5104.02(B).) Once the prohibition takes effect, a person who is prohibited from operating a type B home without a license is prohibited from applying for or obtaining a certificate for that type B home (R.C. 5104.11(A)(1)).

The following are not subject to the prohibition (R.C. 5104.022):

- Persons under age 18;
- Persons who do not charge for providing the child care;
- Persons who provide the child care for less than ten hours per week and less than four weeks per year.

The bill establishes penalties for persons who violate the prohibition. For each offense, the offender must be fined not less than \$100 nor more than \$500 multiplied by the number of children receiving child care at the home that exceeds two (the number of children to which a type B home may provide child care without a license). A person licensed as a type B home that provides child care to more than six children at one time is to be fined, for each offense, not less than \$100 nor more than \$500 multiplied by the license capacity of the type B home. The court also must order the offender to reduce the number of children to which it provides child care to the number of children permitted under its license, if licensed, or to the number that may be cared for without a license. (R.C. 5104.99.)

The bill also increases the penalty the provider of a type A home or child-care center would be required to pay if the provider does not have the proper license for the home or center. For each offense, the provider is to pay a fine of not less than \$100 nor more than \$500 multiplied by the number of children receiving child care at the home or center that exceeds a certain number. Under current law that number is six, the maximum number of children to which a type B home can provide child care. Under the bill, that number is two, the maximum number of children to which a type B home may provide child care without a license (R.C. 5104.99). As an example, a provider providing child care to eight children without the appropriate license would be subject to a fine ranging from \$600 [$\$100 \times (8-2)$] to \$3,000 [$\$500 \times (8-2)$] rather than a fine ranging from \$200 [$\$100 \times (8-6)$] to \$1,000 [$\$500 \times (8-2)$].

Whenever ODJFS receives a complaint, is advised, or otherwise has any reason to believe that a type B home is providing child care without a license and is not exempt from licensing, ODJFS must investigate the home and is permitted to inspect the areas children have access to or areas necessary for the care of children in the type B home during suspected hours of operation to determine whether the home is in violation of the licensing requirement.

On determining that a type B home is operating without a required license, ODJFS must notify the Attorney General, the prosecuting attorney of the county in which the home is located, or the chief legal office of the municipal corporation in which the home is located that the home is operating without a required license. On receipt of notice, the Attorney General, prosecuting attorney, or chief legal office is required to file a complaint in the common pleas court of the county in which the home is located requesting that the court grant an order enjoining the owner from operating the type B home in violation of the licensing requirement. The court must order the injunctive relief on a showing that the respondent named in the complaint is operating a type B home without a required license. (R.C. 5104.04(G) and (H).)

Standards for licensed type B homes

The bill requires the ODJFS Director to adopt rules governing the licensure of type B homes that are required to be licensed, including part-time licensed type B homes.⁵ The Director must make proposed rules available to each licensee, give each licensee at least 30 days' notice of public hearings on the proposed rules, and provide a copy of those rules, in electronic form, to each licensee at least 30 days before the rule takes effect (R.C. 5104.0114). The rules must be no more stringent than the rules governing the certification of type B homes and must provide for safeguarding the health, safety, and welfare of children receiving child care or publicly funded child care in a licensed type B home. The rules must include all of the following (R.C. 5104.015):

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

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

⁵ A "part-time licensed type B home" means a licensed type B home that provides child care for no more than four hours a day for any child (R.C. 5104.01(KK)).

(3) Standards for a program of activities, and for play equipment, materials, and supplies to enhance the development of each child. However, any educational curricula, philosophies, and methodologies that are developmentally appropriate and that enhance the social, emotional, intellectual, and physical development of each child must be permissible;

(4) Admission policies and procedures, health care, first aid, and emergency procedures, procedures for the care of sick children, procedures for discipline and supervision of children, nutritional standards, and procedures for screening children and licensed providers,⁶ including, but not limited to, any necessary physical examinations and immunizations;

(5) Methods of encouraging parental participation and ensuring that the rights of children, parents, and licensed providers are protected and the responsibilities of parents and licensed providers are met;

(6) Standards for the safe transport of children when under the care of licensed providers;

(7) Procedures for issuing, renewing, denying, and revoking a license that are not otherwise provided for under the Administrative Procedure Act;

(8) Inspection procedures;

(9) Procedures and standards for setting initial and renewal license application fees;

(10) Procedures for receiving, recording, and responding to complaints about type B homes;

(11) A standard requiring the inclusion of a current ODJFS toll-free telephone number on each type B provisional license or license which any person may use to report a suspected violation of the child care law or the rules adopted under that law;

(12) Procedures for enforcing inspection and license revocation processes;

(13) Procedures for record keeping and evaluation;

⁶ A "licensed provider" means a person authorized by a license issued by the Director of Job and Family Services to operate a licensed type B home (R.C. 5104.01(EE)).

(14) Standards providing for the special needs of children who are handicapped or who receive treatment for health conditions while the child is receiving child care or publicly funded child care in the home;

(15) Requirements for the amount of useable indoor floor space for each child;

(16) Requirements for safe outdoor play space;

(17) Qualification and training requirements for licensed providers;

(18) Procedures for granting a parent who is the residential parent and legal custodian, or a guardian or custodian access to the home during its hours of operation;

(19) Any other procedures and standards necessary to carry out the child care law regarding licensed type B homes.

Application and licensing process

Any person who desires to operate a type B home that cannot be operated without a license must apply to the ODJFS Director for a type B home license. The application must be made on a form prescribed by the Director. (R.C. 5104.03(A).)

The Director must provide at no charge to each applicant for licensure a copy of the applicable child care license requirements of the child care law and of the rules adopted under that law. The Director must mail application forms for license renewal at least 120 days prior to the date the license expires, and the renewal application must be filed with the Director at least 60 days before the license expires. The Director is required to set fees, which must be paid at the time of the license or renewal application. Fees must be paid into the state treasury to the credit of the General Revenue Fund.

On filing of the application for a license, the Director must investigate and inspect the type B home to determine the license capacity for each age category of children of the type B home and to determine whether the type B home complies with the child care law and rules adopted under that law. When, after investigation and inspection, the Director is satisfied that the laws and rules are complied with, a provisional license must be issued as soon as practicable in such form and manner as the Director prescribes. The provisional license is valid for six months from the date of issuance unless revoked.

The Director is required to investigate and inspect the type B home at least once during operation under the provisional license. If after the investigation and

inspection the Director determines that the requirements of the child care law and the rules adopted under that law are met, the Director must issue a license, which will be effective for two years from the date the provisional license was issued. A similar inspection must be performed on the filing of an application for a renewal of a license; if the requirements for the renewal are met, the Director must renew the license for two years from the expiration date of the previous license.

The license or provisional license must state the name of the licensee, the name of the administrator, the address of the type B home, and the license capacity for each category of children. The license also must include the toll-free number to be used by persons suspecting that the type B home has violated a provision of the child care law or the rules adopted under that law. A license or provisional license is valid only for the licensee, administrator, address, and license capacity for each age category of child specified on the license.

If the ODJFS Director revokes a license or refuses to renew a license, the Director must not issue a license to the owner of the type B home within two years from the date of the license revocation or refusal to renew the license. If the Director determines, during the application process, that the license of the owner has been revoked or a renewal has been denied, the investigation of the type B home must cease, and does not constitute denial of the application. All actions of the Director with respect to licensing type B homes, renewing licenses, refusal to license or renew a license, and license revocations must be conducted in accordance with the Administrative Procedure Act (R.C. Chapter 119.). Any applicant that is denied a license or any owner whose license is not renewed or is revoked may appeal the decision under that act. (R.C. 5104.03.)

The bill provides that in no case is the Director permitted to issue a provisional license or license or renew a license if the Director, based on documentation provided by the appropriate county department, determines all of the following apply (R.C. 5104.03(G)):

- The applicant previously had been certified as a type B home;
- The county department revoked the applicant's previous certification;
- The revocation was based on the applicant's refusal or inability to comply with the certification criteria;
- The refusal or inability to comply with the certification criteria resulted in a risk to the health or safety of children.

Inspection of licensed type B homes

The bill requires ODJFS to establish procedures to be followed in investigating, inspecting, and licensing type B homes. At least twice during every 12-month period of operation, ODJFS must inspect the home. A part-time type B home must be inspected at least once during every 12-month period of operation. ODJFS must provide a written inspection report to the licensee within a reasonable time after each inspection. The licensee must display all written reports of inspections conducted during the current licensing period in a conspicuous place in the licensed type B home.

At least one inspection must be unannounced, and all inspections may be unannounced. No person, firm, organization, institution, or agency is permitted to interfere with the inspection of a type B home, including reviewing records or interviewing licensees, employees, children, or parents, by a state or local official under the child care law or rules adopted under that law.

On receipt of any complaint that a licensed type B home is out of compliance with the requirements of the child care law or the rules adopted under that law, ODJFS must investigate the home. If the complaint alleges that a child suffered physical harm while receiving child care at the home or that the noncompliance alleged in the complaint involved, resulted in, or poses a substantial risk of physical harm to a child receiving care at the home, ODJFS must inspect the home. If the complaint does not make such an allegation, ODJFS is still permitted to inspect the home. The investigation of a home pursuant to a complaint does not limit, restrict, or negate the general duty of ODJFS to inspect a home.

In addition to inspections, the bill requires ODJFS, at least once during every 12 months of operation of the home, to collect information concerning the amounts charged by the home for providing child care services for use in establishing reimbursement ceilings and payment. (R.C. 5104.04(A) and (B).)

Disciplinary actions against licensed type B homes

If a licensed type B home is determined to be out of compliance with the child care law or the rules adopted under that law, ODJFS must notify the licensee of the home in writing of all of the following:

- (1) The nature of the violation;
- (2) What must be done to correct the violation;
- (3) The date by which the correction must be made.

If the correction is not made by the specified date, ODJFS is permitted to commence action under the Administrative Procedure Act to revoke the home's license.

ODJFS may deny or revoke a license or refuse to renew a license of a licensed type B home if the applicant or licensee does not comply with the requirements of the child care law or the rules adopted under that law, or if the applicant or licensee violates a prohibition of the child care law. If ODJFS finds, after notice and hearing under the Administrative Procedure Act, that any person or government entity is in violation of the child care law or the rules adopted under that law, ODJFS is permitted to issue an order of revocation to the licensed type B home revoking the license previously issued. On the issuance of an order of revocation, the person or government entity whose license is revoked may appeal. Surrendering a license to the ODJFS or withdrawing an application for a license does not prohibit ODJFS from instituting any action against the licensee or proposed licensee. (R.C. 5104.04(C), (D), (E), and (F).)

Expansion of laws applicable to current types of child-care homes

Provisions of law that currently apply to all type B homes continue to apply, under the bill, to the new licensed type B homes. For example, type B homes are not required to be licensed as food service operations (R.C. 3717.42(B)(8)). Since this exemption applies to all type B homes, it applies, under the bill, to certified, uncertified, and licensed type B homes.

In addition to the provisions that apply to all type B homes, the bill expands to licensed type B homes several provisions that currently apply only to certified type B homes. The bill expands these provisions by doing all of the following:

Child abuse and neglect:

- Including licensed type B homes in the definitions used in the juvenile court law in relation to a child's out-of-home care and out-of-home care child abuse (R.C. 2151.011(B)(6), (7), (27), and (33));
- Requiring a public children services agency to promptly provide information to a county department of job and family services regarding an applicant to become a licensed provider of a licensed type B home, or an applicant to renew such a license, for the purpose of evaluating the person's fitness for licensure, notwithstanding confidentiality laws (R.C. 5153.175).

Sex-offender registration notification:

- Requiring the sheriff to notify the provider of the licensed type B home if a person who has been convicted of or pleaded guilty to a specified sex-related offense (or has committed specified childhood sexual abuse) registers a residence or an intent to reside in the specified geographical notification area in which the type B home is located (R.C. 2950.11(A)(6) and 3797.06(A)(6));
- Requiring the Attorney General to adopt rules regarding the proper use and administration of information received by a licensed type B home about offenders who are subject to community notification under the sex offender and child-victim offender registration and notification law who are residing in the specified geographic area (R.C. 2950.13(A)(9)).

Health and safety:

- Requiring the Fire Marshal to cooperate with the ODJFS Director when the Director adopts fire prevention and fire safety rules (R.C. 3737.22(F) and 5104.018). Since licensed type B homes must be licensed, the bill does not extend to those homes the existing law provision permitting uncertified type B homes to request inspection by the Fire Marshal in order to receive funds under the *National School Lunch Act*⁷ (R.C. 3737.22(G) and 5104.053);
- Including licensed type B homes as home-based child care in which smoking generally is prohibited during the hours of operation, unless the smoking is in an indoor area that is separately ventilated from the rest of the home or in an outdoor area so far removed from the children that they cannot inhale any smoke (R.C. 5104.14).

Property zoning:

- Specifying that certified, uncertified, and licensed type B homes must be considered to be a residential use of property for the purposes of municipal, county, and township zoning regulations (R.C. 5104.054).

⁷ 60 Stat. 230 (1946), 42 U.S.C. 1751, as amended.

Child Care Advisory Council:

- Including licensed type B homes among the child care facilities from which representatives to the Child Care Advisory Council are appointed (R.C. 5104.08(A));
- Including licensed type B homes as child care facilities regarding which the Child Care Advisory Council is required to advise the ODJFS Director on licensing and certification (R.C. 5104.08(B)).

Provision of publicly funded child care:

- Including licensed type B homes as child care providers that may provide publicly funded child care and requiring that such care be purchased by contract between the provider and the county department of job and family services (R.C. 5104.31(A)(2), 5104.32, and 5104.35(A)(4));
- Including licensed type B homes as child care providers required to keep a record of each child eligible for publicly funded child care that must be made available to ODJFS or the county department of job and family services on request (R.C. 5104.36).

Recruiting and training providers:

- Including licensed type B homes as child care providers in relation to which each county department of job and family services is required to recruit individuals and groups interested in developing and operating child care (R.C. 5104.35(A)(2));
- Including licensed type B homes as child care providers for which the county departments of job and family services must establish and administer on-the-job training activities for persons who wish to become licensed providers (R.C. 5107.60(B)).

Background checks for providers:

- Requiring licensed providers and residents of licensed type B homes to sign a statement attesting that they have not been convicted of or pleaded guilty to an offense that disqualifies them from providing child care (R.C. 5104.0911(A)(3));
- Requiring licensed providers to sign a statement attesting that no residents of the home under age 18 have been adjudicated a delinquent

child for committing an offense that would disqualify them from providing child care (R.C. 5104.0912);

- Requiring licensed type B homes to pay to the Bureau of Criminal Identification and Investigation fees for conducting required criminal background checks (R.C. 5104.098).

In addition to the provisions that parallel certified type B homes, the bill also applies a few provisions generally applicable to licensed type A homes to licensed type B homes. Type A home provisions are applied, by the bill, to licensed type B homes by doing all of the following:

Licensure:

- Prohibiting the ODJFS Director from issuing a type B home license to a youth development program that is exempt from operating without a license (R.C. 5104.023);
- Requiring the licensee of each licensed type B home to post the home's current license in a conspicuous place in the home that is accessible to parents, custodians, and guardians of children who receive care at the home at all times when child care is provided (R.C. 5104.031).

Provision of assistance and training:

- Including licensed type B homes as child care providers to which the ODJFS Director must provide consultation, technical assistance, and training to improve programs and facilities providing child care (R.C. 5104.06).

Criminal records checks:

- Requiring a criminal records check of each individual seeking licensure or license renewal of a licensed type B home and each individual age 18 or older residing in that home as part of the process for using and renewing a type B home license (R.C. 5104.093(C));
- Requiring licensed type B homes to keep on file at the home statements signed attesting that licensed providers and residents of the home have not been convicted of or pleaded guilty to an offense that disqualifies them from providing child care (R.C. 5104.0911(C)).

Calculating the number of children receiving child care

To determine whether a child-care provider is a child-care center, type A home, or type B home, the number of children receiving child care at the facility or home must be counted. Under existing law, a child-care center and a type A home must include in that count any children under age six who are related to a licensee, administrator, or employee and are on the premises of the center or type A home. A type B home must include in the count any children under age six who are related to the provider and are on the premises of the type B home. (R.C. 5104.01(M), (XX), and (YY).)

The bill revises how the number of children in the center or home are calculated. A child under age six who is related to an owner, rather than a licensee, is to be counted when on the premises of a child-care center or type A home. A licensee is an owner of a licensed child-care center or type A home who is responsible for ensuring compliance with state law and rules governing child care. A child under age six who is related to the individual responsible for the daily operation of child care provided at the type B home, rather than the provider, is to be counted when on the premises of the type B home. In addition to including children under age six, the bill requires additional children at the facility or home to be included in the calculation of children receiving child care. A child-care center and type A home must include in the count children under age 15 who are on the premises of the facility or residence and to whom the owner, administrator, or an employee of the facility or residence provides child care, foster care, or other type of care for remuneration paid by a person or government entity. A type B home must include in the count children under age 15 who are on the premises of the residence and to whom the individual responsible for child care provided at the residence provides child care, foster care, or other type of care for remuneration paid by a person or government entity. (R.C. 5104.024 and 5104.025.)

Certification of type B homes

Existing law requires a county director of job and family services to issue a certificate for a type B home to provide publicly funded child care if the county director determines that the type B home complies with the child care law and any rules adopted under that law. Under the bill, the county director must issue the certificate unless the county director determines that the type B home is not in compliance with the child care law or the rules adopted under that law or that the applicant has violated a prohibition of the child care law.

Once issued, the certificate is valid for 12 months, unless revoked earlier. Current law permits the county director to revoke the certificate after determining that revocation is necessary. Under the bill, the county director may revoke the

certificate after determining that the certified provider has violated a provision of the child care law or that revocation is otherwise necessary. (R.C. 5104.11(A) and (B).)

The bill prohibits a person from making a false statement on an application for a certificate for a type B home or other document used in the process of issuing such a certificate or as part of an investigation or inspection of a type B home (R.C. 5104.111).

At reasonable intervals, ODJFS must publish a guide describing state statutes and rules governing the certification of type B homes. Existing law requires ODJFS to distribute the guide to county departments in sufficient numbers that a copy is available to each type B home. The bill requires instead that ODJFS provide sufficient numbers of the guide so that a copy is available to each *certified* type B home. (R.C. 5104.13.)

Elimination of limited certifications of type B homes

Current law provides for two types of certified type B homes--fully certified type B homes and type B homes with limited certification. The rules for certification by the ODJFS Director must include provisions for granting limited certification to type B homes operated by the following:

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

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

The rules must require, and include procedures for the Director to ensure, that type B homes with limited certification provide child care to children in a safe and sanitary manner. Generally, providers operating under limited certification must be inspected annually. If a provider is one of the family members listed above or a friend of the caretaker parent, the provider and caretaker parent may verify in writing to the county department that minimum health and safety requirements are being met in the home. If such verification is provided, the county must waive the required inspection and grant limited certification to the provider. (R.C. 5104.011(G)(1), 5104.30(E)(2)(c), and 5104.31(A)(3).)

The bill eliminates limited certifications of type B homes. Under the bill, to provide publicly funded child care, all type B homes not required to be licensed must meet the same requirements for certification.

CRIMINAL RECORDS CHECKS

Disqualifying offenses and criminal records checks

Existing law

Child care employees. Under existing law, the administrator of a child-care center or a type A home or the provider of a certified type B home is required to request that the Superintendent of the Bureau of Criminal Identification and Investigation (BCII) conduct a criminal records check with respect to any applicant who has applied to the center or home for employment as a person responsible for the care, custody, or control of a child.

Existing law generally prohibits a child-care center, type A home, or certified type B home from employing or contracting with another entity for the services of a person as a person responsible for the care, custody, or control of a child if the person has been convicted of or pleaded guilty to certain specified offenses. If the person meets certain rehabilitation standards adopted by ODJFS, the person may be so employed despite a conviction or plea of guilty. The center or home may employ a person conditionally until the criminal records check is completed. (R.C. 5104.012(A)(1), (B), and (E).)

The Superintendent of BCII is required to perform a criminal records check of the person and to check for both offenses that disqualify the person from employment under R.C. 5104.012 and offenses that do not (R.C. 109.572(A)(1) and (9)).

Child care owner, licensee, administrator, or provider. The ODJFS Director, as part of the process of licensure of child-care centers and type A homes, must request that the Superintendent of BCII conduct a criminal records check with respect to the owner, licensee, or administrator of a child-care center or type A home. Similarly, a county director of job and family services, as part of the process of certification of type B homes, must request that the Superintendent of BCII conduct a criminal records check with respect to any authorized provider of a certified type B home.

The ODJFS Director is generally prohibited from granting a license to a child-care center or type A home and a county director of job and family services is generally prohibited from certifying a type B home if a person for whom a criminal records check is required in connection with the center or home has been convicted of or pleaded guilty to certain offenses. A license or certificate may be issued if the person has met certain ODJFS established rehabilitation standards. (R.C. 5104.013(A), (D), and (G).)

The Superintendent of BCII is required to perform a criminal records check of the person. The offenses for which the Superintendent is required to check match the offenses that disqualify the center or home from licensure or certification under current law--R.C. 5104.013. (R.C. 109.572(A)(1) and (9).)

Adult residing in a type A or type B home. The ODJFS Director, as part of the process of licensure of type A homes, must request that the Superintendent of BCII conduct a criminal records check with respect to any person age 18 or older who resides in a type A home. Similarly, a county director of job and family services, as part of the process of certification of type B homes, must request that the Superintendent of BCII conduct a criminal records check with respect to any person age 18 or older who resides in the certified type B home.

The ODJFS Director is generally prohibited from granting a license to a type A home and a county director of job and family services is generally prohibited from certifying a type B home if the adult previously has been convicted of or pleaded guilty to certain offenses. A license or certificate may be issued if the adult meets certain ODJFS established rehabilitation standards. (R.C. 5104.013(A), (D), and (G).)

The Superintendent of BCII is required to perform a criminal records check of the person but is required to check for both offenses that disqualify the home from licensure or certification under R.C. 5104.013 and offenses that do not (R.C. 109.572(A)(1) and (9)).

Prohibition. Current law (R.C. 5104.09) contains a general prohibition against a person playing certain roles in relation to children, requires certain people to sign attestations regarding whether they or others have committed certain offenses, and makes withholding information or falsifying information on those attestations a criminal offense. It generally prohibits an individual who has been convicted of or pleaded guilty to certain offenses from:

- Being certified as an in-home aide;
- Being employed in any capacity in a child-care center, type A home, type B home, or certified type B home;
- Owning or operating a child-care center, type A home, type B home, or certified type B home (the disqualifying offenses for owners include all of the disqualifying offenses that apply to employees and also include additional offenses).

This prohibition does not apply to a person who meets certain ODJFS rehabilitation standards. It also does not appear to contain an enforcement

mechanism--no mechanism is provided to determine whether a person has pleaded guilty to or been convicted of a disqualifying offense and no entity is specifically directed to take any action, or refrain from taking an action, if a person is convicted of a disqualifying offense. The disqualifying offenses overlap, but do not exactly match either: (1) the offenses for which the Superintendent of BCII conducts a criminal records check, or (2) the offenses that generally preclude a person from being employed in a center or home or being licensed or certified. And, adult residents are not included in this prohibition.

Attestations. Existing law requires the following attestations:

- Each employee of a child-care center and type A home and every person age 18 or older residing in a type A home must sign a statement attesting to the fact that the employee or resident person has not been convicted of or pleaded guilty to any disqualifying offense that applies to employees and that no child has been removed from the employee's or resident person's home pursuant to an abuse, dependency, or neglect adjudication.
- Each licensee of a type A home and each certified provider of a type B home must sign a statement attesting to the fact that no person *under* age 18 who resides at the home has been adjudicated a delinquent child for committing any disqualifying offense that applies to employees.
- Each administrator and licensee of a center or type A home and each certified provider of a type B home must sign a statement attesting that the administrator, licensee, or provider has not been convicted of or pleaded guilty to any offense applicable to owners or operators of centers and homes and that no child has been removed from the person's home pursuant to an abuse, dependency, or neglect adjudication.
- Each in-home aide must sign a statement attesting that the aide has not been convicted of or pleaded guilty to any disqualifying offense that applies to employees and that no child has been removed from the aide's home pursuant to an abuse, dependency, or neglect adjudication.
- Every person 18 years of age or older residing in a type A or certified type B home must sign a statement attesting to the fact that the resident has not been convicted of or pleaded guilty to any disqualifying offense that applies to employees and that no child has been removed from the employee's or resident person's home pursuant to an abuse, dependency, or neglect adjudication.

Criminal prohibition. The bill makes it a criminal offense to withhold information from, or falsify information on, any of the preceding statements (R.C. 5104.09).

Inconsistency in current law

Current law contains several inconsistencies. The list of offenses that the Superintendent must search for, in some instances, does not match the list of disqualifying offenses. The list of disqualifying offenses under R.C. 5104.09 does not match the list of offenses for the same type of person under R.C. 5104.012 or 5104.013.

Operation of the bill

Substantive changes. The bill makes the following substantive changes:

- Makes the list of disqualifying offenses uniform, generally by including all of the offenses listed under the various existing provisions (R.C. 109.57, 109.572(A)(1) and (9), and 5104.01(R) and R.C. 5104.012(B)(1), 5104.013(D), and 5104.09(A)(1)--*repealed by the bill*).
- Specifically requires criminal records checks on renewal of a license or certification (R.C. 5104.093 and 5104.094 and R.C. 5104.013--*repealed by the bill*).
- Eliminates the provision permitting child-care center and type A home employees to be employed conditionally until the records check is completed (R.C. 5104.012(B)(2)--*repealed by the bill*).
- Expressly prohibits the issuance or renewal of a license for a child-care center, type A home, or type B home or issuance or renewal of a certificate for a type B home or in-home aide if the provider or an adult resident has had a child removed from his or her home pursuant to an abuse, neglect, or dependency adjudication or if a minor resident has been adjudicated a delinquent child for committing a disqualifying offense unless the minor meets rehabilitation standards (R.C. 5104.09 and 5104.091).
- Expressly prohibits a child-care center or type A home from employing an individual in a position in which the individual is responsible for the care, custody, or control of a child at the center or home if the individual has had a child removed from his or her home pursuant to an abuse, neglect, or dependency adjudication (R.C. 5104.092).

- Requires an individual who has been convicted of or pleaded guilty to a disqualifying offense but meets rehabilitation standards to sign a statement attesting to that fact (R.C. 5104.0911).
- Requires the provider of a type A home or type B home to sign a statement attesting to the fact that a minor resident of the home has been adjudicated a delinquent child for committing a disqualifying offense but meets rehabilitation standards (R.C. 5104.0912).

Nonsubstantive changes. The bill consolidates the various criminal records check provisions into a single series of provisions as follows:

- | | |
|-----------|---|
| 5104.09 | Prohibitions against issuing or renewing a license for a child-care center, type A home, or licensed type B home. |
| 5104.091 | Prohibitions against issuing or renewing a certificate for a type B home. |
| 5104.092 | Child-care center or type A home employment prohibitions. |
| 5104.093 | ODJFS Director duty to request criminal records check. |
| 5104.094 | County director of job and family services duty to request criminal records check. |
| 5104.095 | Child-care center and type A home duty to request criminal records check. |
| 5104.096 | Duty of person to complete criminal records check form and fingerprint impression sheet. |
| 5104.097 | FBI search if subject of criminal records check is not five-year Ohio resident. |
| 5104.098 | Subject of R.C. 5104.093 and 5104.094 criminal records checks pay criminal records check fee. |
| 5104.099 | Child-care center or type A home pays fee for R.C. 5104.095 criminal records check. |
| 5104.0910 | Criminal records check report is generally confidential. |
| 5104.0911 | Attestations. |
| 5104.0912 | Attestations. |
| 5104.0913 | Prohibition relating to attestations. |

Type B home employees. The bill also eliminates the express requirement that employees of type B homes undergo a criminal records check (it is unclear whether in practice type B homes actually have employees). But, an employee of a certified or licensed type B home, if any, would appear to still be required to undergo a criminal records check under R.C. 2151.86, which requires the hiring officer of any entity that employs any "person responsible for a child's care in out-of-home care" to request that the Superintendent of BCII conduct a criminal records check with respect to any person who is under final consideration for employment as a person responsible for a child's care in out-of-home care. The hiring officer is prohibited from hiring the person if the person has pleaded guilty to or been convicted of certain offenses. Under the bill, the definition of "person responsible for a child's care in out-of-home care" includes both an employee of a certified type B home and an employee of a licensed type B home. (R.C. 2151.011(B)(33)(b) and 2151.86, not in the bill.)

OTHER CHILD CARE PROVISIONS

Notification of results of publicly funded child care application

Existing law requires each county department of job and family services to implement procedures for making determinations of eligibility for publicly funded child care. Under those procedures, the eligibility determination for each applicant must be made no later than 30 calendar days from the date a county department receives a *completed* application for publicly funded child care. The bill eliminates the requirement that the application be completed before the determination is made. Under the bill, a county department must make the determination no later than 30 days from the date it receives an application. (R.C. 5104.34(A)(1).)

Notice of proposed rule changes

Existing law requires the ODJFS Director, when proposing rules governing the licensing of child-care centers and type A homes to send to each licensee notice of the proposed rules, give public notice of hearings regarding the rules to each licensee at least 30 days before the public hearings, and provide either an electronic or paper copy of a rule to each licensee at least 30 days before its effective date. (R.C. 5104.011(J).)

The bill generally retains these provisions and also applies them to rules proposed to govern licensed type B homes. The bill changes the manner in which notice of the proposed rules must be provided. Instead of requiring the Director to send notice of the proposed rules to each licensee, the bill requires the Director to make those proposed rules available to each licensee. Once adopted, the Director must provide, in electronic form, a copy of the rule to each licensee at least 30

days before the rule's effective date. Thus, the bill eliminates the discretion to provide either a paper or electronic copy of the rule to the licensees. (R.C. 5104.0114.)

Grounds for denying or revoking a license for child-care center or type A home

Under existing law, ODJFS may deny or revoke a license, or refuse to renew a license of a center or type A home, if the applicant does any of the following:

- Does not comply with the requirements of the child care law or rules adopted under that law;
- Knowingly makes a false statement on the application;
- Has pleaded guilty to or been convicted of an offense that disqualifies a person from working with children.

The bill clarifies that this provision also applies to licensees, not just applicants for licenses. The bill also replaces the last two points above with a more general standard of violating a prohibition of the child care law. Finally, the bill relocates the middle point and makes it a prohibition. (R.C. 5104.04(D) and 5104.041.)

Name of child care providers

The bill changes all references to "child day-care centers" and "family day-care homes" to "child-care centers" and "family child-care homes" in the following current and relocated sections: R.C. 109.57, 349.01, 921.06, 2151.011, 2151.421, 2907.08, 2919.223, 2919.224, 2919.225, 2919.226, 2923.124, 2923.126, 2923.1212, 2950.11, 2950.13, 3109.051, 3301.53, 3301.58, 3321.01, 3325.07, 3701.80, 3714.03, 3717.42, 3737.22, 3737.83, 3737.841, 3742.01, 3781.06, 3781.10, 3797.06, 4511.01, 4511.81, 4513.182, 5101.29, 5103.03, 5104.01, 5104.011, 5104.012, 5104.013, 5104.014, 5104.015, 5104.016, 5104.017, 5104.018, 5104.019, 5104.0114, 5104.0115, 5104.02, 5104.022, 5104.023, 5104.024, 5104.025, 5104.03, 5104.031, 5104.04, 5104.05, 5104.051, 5104.053, 5104.054, 5104.06, 5104.08, 5104.09, 5104.091, 5104.092, 5104.093, 5104.094, 5104.095, 5104.098, 5104.099, 5104.0910, 5104.0911, 5104.0912, 5104.11, 5104.111, 5104.13, 5104.14, 5104.15, 5104.151, 5104.16, 5104.161, 5104.17, 5104.171, 5104.172, 5104.18, 5104.19, 5104.20, 5104.21, 5104.301, 5104.31, 5104.32, 5104.35, 5104.36, 5104.99, 5107.16, 5107.60, 5153.175, 5747.35, and 5747.98.

Elimination of obsolete provisions

One additional type of child-care home, a type C family day-care home was previously established in uncodified law as part of a time-limited pilot program.⁸ Law establishing type C family day-care homes has expired. However, existing codified law still contains statutory references to type C family day-care homes. The bill eliminates these obsolete references. (R.C. 109.57, 2923.124, 2923.126, 2923.1212, and 3742.01.)

Relocation of provisions

The bill relocates all of the following (organized according to original citation):

<i>Original citation</i>	<i>Description of relocated provision</i>	<i>New citation</i>
5104.01(L)	Which children are counted for purposes of counting children in a child-care center.	5104.024
5104.01(RR)	Which children are counted for purposes of counting children for a type A home.	5104.024
5104.01(SS)	Which children are counted for purposes of counting children for a type B home.	5104.025
5104.011(B)(1)	Amount of usable indoor floor space that must be available for a child-care center.	5104.15
5104.011(B)(2)	Amount of outdoor play space that must be available for a child-care center.	5104.151
5104.011(B)(3)	Permissible number of children per child-care staff member ratio applicable to child-care centers.	5104.16(A) and (B)(1)
5104.011(B)(4)	Proof of a child-care administrator's education, training, and child-care experience.	5104.17
5104.011(B)(5)	Education and training standards of child-care staff.	5104.171
5104.011(B)(6)	Continuing education requirements applicable to child-care staff.	5104.172

⁸ Type C family day-care homes were authorized under a two-year pilot program created by Sub. H.B. 62 of the 121st General Assembly. Am. Sub. S.B. 160 of the 121st General Assembly lengthened the pilot program to three years. Sub. H.B. 407 of the 123rd General Assembly extended the pilot program an additional three years, through March 28, 2003.

<i>Original citation</i>	<i>Description of relocated provision</i>	<i>New citation</i>
5104.011(B)(7)	Preparation and availability of roster of names and telephone numbers of parents, custodians, or guardians of each group of children in the center.	5104.18
5104.011(C)(1)	Staff member trained in first aid, management of communicable diseases, and child abuse recognition and prevention.	5104.161
5104.011(C)(2)	Child-care center enrollment, health, attendance, and employment records.	5104.19
5104.011(C)(3)	Access of a parent, custodian, or guardian of a child enrolled in a child-care center to the center during its hours of operation.	5104.20
5104.011(D)	Rules establishing minimum requirements for child-care centers.	5104.011(B)
5104.011(E)	Exceptions to the general rule regarding the permissible number of children per child-care staff member ratio when age groups are mixed.	5104.16(B)(2) and (C)
5104.011(F)	Rules governing the operation of type A family child-care homes.	5104.013
5104.011(G)(1)	Rules establishing procedures, standards, and other necessary provisions for granting limited certification to type B homes that are operated by certain adult providers (repealed).	--
5104.011(G)(2)	Rules governing the operation of certified type B homes and type B homes that provide a limited certification.	5104.016
5104.011(H)	Rules governing the certification of in-home aides.	5104.0110
5104.011(I)	Health care professionals to include physician assistants, clinical nurse specialists, certified nurse practitioners, and certified nurse-midwives.	5104.0112
5104.011(J)(1)	Notice to licensees of proposed and adopted rules governing the licensure of child-care centers and type A homes. ⁹	5104.0114

⁹ The bill expands this provision to also apply to rules governing the licensure of licensed type B homes.

<i>Original citation</i>	<i>Description of relocated provision</i>	<i>New citation</i>
5104.011(J)(2)	Notice to each county director of job and family services of proposed and adopted rules governing the certification of type B homes and in-home aides.	5104.0115(A)
5104.011(J)(3)	Notice to licensed providers and in-home aides of proposed and adopted rules governing the certification of type B homes and in-home aides.	5104.0115(B)
5104.011(J)(4)	Copies of proposed and adopted rules governing child-care centers, child-care homes, and in-home aides to the public.	5104.0116
5104.011(J)(5)	Recommend standards for imposing sanctions on licensees who violate the child care law.	5104.082
5104.011(J)(6)	Rules that establish training standards and the provision of training for individuals employed or contracted to inspect or investigate type B homes.	5104.017
5104.011(K)	Periodic review of all child care law rules.	5104.0117
5104.011(L)	Regulation of instruction in religious or moral doctrines, beliefs, or values.	5104.0113
5104.012(A)(1)	Administrator of child-care center and type A home must request criminal records check of potential employees who will work with children.	5104.095(A)
5104.012(A)(1)	Provider of type B home must request criminal records check of potential employees who will work with children (repealed).	--
5104.012(A)(1)	Criminal records check must include search of FBI records if potential employee has not resided in state for 5 years.	5104.097
5104.012(A)(2) and (3)	Delivery, completion, and return of criminal records check form and fingerprint impression sheet.	5104.096 and 5104.01(SS)
5104.012(A)(2)	Child-care center or type A home prohibited from hiring person who fails to complete criminal records check form and fingerprint impression sheet.	5104.092(B)
5104.012(B)(1)	No child-care center or type A home may employ person to work with children who has	5104.092(A)

<i>Original citation</i>	<i>Description of relocated provision</i>	<i>New citation</i>
	pleaded guilty to or been convicted of a disqualifying offense.	
5104.012(B)(1)	No type B home may employ person to work with children who has pleaded guilty to or been convicted of a disqualifying offense (repealed).	--
5104.012(B)(1)	List of disqualifying offenses.	5104.01(R)
5104.012(B)(2)	Conditional employment pending results of criminal records check (repealed).	--
5104.012(C)(1)	Payment of fees for criminal records checks for prospective employees.	5401.099
5104.012(C)(2)	Charging applicants fees incurred for criminal records checks.	5104.099
5104.012(D)	Public availability of criminal records checks.	5104.0910
5104.012(E)	Rules regarding criminal records checks, including standards for rehabilitation.	5104.0111
5104.012(F)	Inform applicant of criminal records check requirement.	5104.095(C)
5104.013(A)(1)	Criminal records checks for owners, administrators, and residents of child-care centers and type A homes.	5104.093
5104.013(A)(2)	Criminal records checks for certified type B homes.	5104.094
5104.013(A)(3)	Criminal records check process for owners, administrators, and employees who are recent residents of Ohio.	5104.097
5104.013(B) and (C)	Delivery, completion, and return of criminal records check form and fingerprint impression sheet.	5104.096
5104.013(C)	Person fails to complete criminal records check form and fingerprint impression sheet.	5104.09(A)(2) and (B)(2)
5104.013(D)	Child-care center may not be granted a license if owner, licensee, or administrator of center has pleaded guilty to or been convicted of a disqualifying offense.	5104.09(A)(1)
5104.013(D)	Type A home may not be granted a license if owner, licensee, or administrator of home, or person 18 years or older who resides in	5104.09(B)(1)

<i>Original citation</i>	<i>Description of relocated provision</i>	<i>New citation</i>
	residence, has pleaded guilty to or been convicted of a disqualifying offense.	
5104.013(D)	Type B home may not be certified if authorized provider of home, or person 18 years or older who resides in residence, has pleaded guilty to a disqualifying offense.	5104.091(A)(1)
5104.013(D)(1)(a) and (2)(a)	List of disqualifying offenses.	5104.01(R)
5104.013(E)	Payment of fees for criminal records checks.	5104.098
5104.013(F)	Public availability of criminal records checks.	5104.0910
5104.013(G)	Rules regarding criminal records checks, including standards for rehabilitation.	5104.0111
5104.014	Rules for the licensing of child-care centers for children with short-term illnesses and other temporary medical conditions.	5104.012
5104.015(A), (B), and (C)	Smoking in a child-care center, type A home, or type B home. ¹⁰	5104.14(A), (B), and (C)
5104.015(D)	Rules implementing the smoking restrictions applicable to child-care centers, type A homes, and type B homes.	5104.019
5104.02(A), first and third sentences	Expressly states that the ODJFS Director is responsible for child day-care licensing and for the enforcement of the child care laws (repealed).	--
5104.02(A), second paragraph	Prohibition against operating a child-care center or type A home without a license; license posting requirements. ¹¹	5104.02(A) and (B) and 5104.031
5104.02(B)	Exceptions from the general licensing requirements.	5104.021
5104.021	Licensing of youth development programs.	5104.023

¹⁰ The smoking restrictions previously applied to certified type B homes. The bill also applies the smoking restrictions to the newly created licensed type B homes.

¹¹ The bill also applies the license posting requirements to the newly created licensed type B homes.

<i>Original citation</i>	<i>Description of relocated provision</i>	<i>New citation</i>
5104.04(D)	ODJFS may deny or revoke license of person who knowingly makes a false statement on an application.	5104.041
5104.04(D)	ODJFS may deny, revoke, or refuse to renew license of person who pleads guilty to or is convicted of certain offenses.	5104.09(A)
5104.05(B)	Requirement that ODJFS Director investigate applicant prior to issuance of type A home provisional license or license.	5104.05(B)(3)
5104.05(B)	Requirement that ODJFS Director investigate home prior to issuance of type A home provisional license or license.	5104.093
5104.052	Rules regarding fire prevention and fire safety in certain type B homes. ¹²	5104.018
5104.07(A)	Additional requirements for licensing child-care centers and type A homes that provide publicly funded child care and standards required by federal laws and regulations for child-care programs supported by federal funds.	5104.014
5104.07(B)	Statewide plan for child care resource and referral service and rules for funding child care resource and referral service organizations.	5104.07(A)
5104.07(C)	Child care resource and referral service organizations receiving funds from ODJFS to enter into contracts for the provision of those services in the community.	5104.07(B)
5104.09(A)(1)	Offenses that disqualify a person from providing child care.	5104.01(R)
5104.09(A)(1)	No person convicted of a disqualifying offense may be certified as an in-home aide.	5104.094
5104.09(A)(2), (3), and (4)	Signed statement that child care provider or resident in a child-care home has not committed a disqualifying offense.	5104.0911(A)

¹² These rules previously applied only to certified type B homes. The bill also applies these rulemaking provisions to the newly created licensed type B homes.

<i>Original citation</i>	<i>Description of relocated provision</i>	<i>New citation</i>
5104.09(A)(2) and (3)	Signed statement that a resident, under 18 years, of a child-care home has not committed a disqualifying offense.	5104.0912(A) and (C)
5104.09(B)	Prohibition against withholding or falsifying information on statements regarding disqualifying offenses.	5104.0913
5104.09(C)	Child-care centers prohibited from discriminating.	5104.21
5104.09(D)	Rules regarding criminal records checks, including standards for rehabilitation.	5104.0111
5104.20	Child care law does not apply to park district and joint recreation district programs for children aged 5 and over.	5104.24
5104.21	Application of child care law to child day camps.	5104.22
5104.22	Rules for the approval of child day camps that enable an approved camp to receive public moneys.	5104.23

The following chart identifies the relocated provisions based on their new citations.

<i>New citation</i>	<i>Description of relocated provision</i>	<i>Original citation</i>
--	Rules establishing procedures, standards, and other necessary provisions for granting limited certification to type B homes that are operated by certain adult providers (repealed).	5104.011(G)(1)
--	Provider of type B home must request criminal records check of potential employees who will work with children (repealed).	5104.012(A)(1)
--	No type B home may employ person to work with children who has pleaded guilty to or been convicted of a disqualifying offense (repealed).	5104.012(B)(1)
--	Conditional employment pending results of criminal records check (repealed).	5104.012(B)(2)
--	Expressly states that the ODJFS Director is responsible for child day-care licensing and	5104.02(A), first and third sentences

<i>New citation</i>	<i>Description of relocated provision</i>	<i>Original citation</i>
	for the enforcement of the child care laws (repealed).	
5104.01(R)	List of disqualifying offenses.	5104.012(B)(1)
5104.01(R)	List of disqualifying offenses.	5104.013(D)(1)(a) and (2)(a)
5104.01(R)	Offenses that disqualify a person from providing child care.	5104.09(A)(1)
5104.011(B)	Rules establishing minimum requirements for child-care centers.	5104.011(D)
5104.012	Rules for the licensing of child-care centers for children with short-term illnesses and other temporary medical conditions.	5104.014
5104.013	Rules governing the operation of type A family child-care homes.	5104.011(F)
5104.014	Additional requirements for licensing child-care centers and type A homes that provide publicly funded child care and standards required by federal laws and regulations for child-care programs supported by federal funds.	5104.07(A)
5104.016	Rules governing the operation of certified type B homes and type B homes that provide a limited certification.	5104.011(G)(2)
5104.017	Rules that establish training standards and the provision of training for individuals employed or contracted to inspect or investigate type B homes.	5104.011(J)(6)
5104.018	Rules regarding fire prevention and fire safety in certain type B homes. ¹³	5104.052
5104.019	Rules implementing the smoking restrictions applicable to child-care centers, type A homes, and type B homes.	5104.015(D)
5104.0110	Rules governing the certification of in-home aides.	5104.011(H)

¹³ These rules previously applied only to certified type B homes. The bill also applies these rulemaking provisions to the newly created licensed type B homes.

<i>New citation</i>	<i>Description of relocated provision</i>	<i>Original citation</i>
5104.0111	Rules regarding criminal records checks, including standards for rehabilitation.	5104.012(E)
5104.0111	Rules regarding criminal records checks, including standards for rehabilitation.	5104.013(G)
5104.0111	Rules regarding criminal records checks, including standards for rehabilitation.	5104.09(D)
5104.0112	Health care professionals to include physician assistants, clinical nurse specialists, certified nurse practitioners, and certified nurse-midwives.	5104.011(I)
5104.0113	Regulation of instruction in religious or moral doctrines, beliefs, or values.	5104.011(L)
5104.0114	Notice to licensees of proposed and adopted rules governing the licensure of child-care centers and type A homes. ¹⁴	5104.011(J)(1)
5104.0115(A)	Notice to each county director of job and family services of proposed and adopted rules governing the certification of type B homes and in-home aides.	5104.011(J)(2)
5104.0115(B)	Notice to licensed providers and in-home aides of proposed and adopted rules governing the certification of type B homes and in-home aides.	5104.011(J)(3)
5104.0116	Copies of proposed and adopted rules governing child-care centers, child-care homes, and in-home aides to the public.	5104.011(J)(4)
5104.0117	Periodic review of all child care law rules.	5104.011(K)
5104.02(A) and (B) and 5104.031	Prohibition against operating a child-care center or type A home without a license; license posting requirements. ¹⁵	5104.02(A), second paragraph
5104.021	Exceptions from the general licensing requirements.	5104.02(B)

¹⁴ The bill expands this provision to also apply to rules governing the licensure of licensed type B homes.

¹⁵ The bill also applies the license posting requirements to the newly created licensed type B homes.

<i>New citation</i>	<i>Description of relocated provision</i>	<i>Original citation</i>
5104.023	Licensing of youth development programs.	5104.021
5104.024	Which children are counted for purposes of counting children in a child-care center.	5104.01(L)
5104.024	Which children are counted for purposes of counting children for a type A home.	5104.01(RR)
5104.025	Which children are counted for purposes of counting children for a type B home.	5104.01(SS)
5104.041	ODJFS may deny or revoke license of person who knowingly makes a false statement on an application.	5104.04(D)
5104.05(B)(3)	Requirement that ODJFS Director investigate applicant prior to issuance of type A home provisional license or license.	5104.05(B)
5104.07(A)	Statewide plan for child care resource and referral service and rules for funding child care resource and referral service organizations.	5104.07(B)
5104.07(B)	Child care resource and referral service organizations receiving funds from ODJFS to enter into contracts for the provision of those services in the community.	5104.07(C)
5104.082	Recommend standards for imposing sanctions on licensees who violate the child care law.	5104.011(J)(5)
5104.09(A)	ODJFS may deny, revoke, or refuse to renew license of person who pleads guilty to or is convicted of certain offenses.	5104.04(D)
5104.09(A)(1)	Child-care center may not be granted a license if owner, licensee, or administrator of center has pleaded guilty to or been convicted of a disqualifying offense.	5104.013(D)
5104.09(A)(2) and (B)(2)	Person fails to complete criminal records check form and fingerprint impression sheet.	5104.013(C)
5104.09(B)(1)	Type A home may not be granted a license if owner, licensee, or administrator of home, or person 18 years or older who resides in residence, has pleaded guilty to or been convicted of a disqualifying offense.	5104.013(D)
5104.091(A)(1)	Type B home may not be certified if authorized provider of home, or person 18	5104.013(D)

<i>New citation</i>	<i>Description of relocated provision</i>	<i>Original citation</i>
	years or older who resides in residence, has pleaded guilty to a disqualifying offense.	
5104.092(A)	No child-care center or type A home may employ person to work with children who has pleaded guilty to or been convicted of a disqualifying offense.	5104.012(B)(1)
5104.092(B)	Child-care center or type A home prohibited from hiring person who fails to complete criminal records check form and fingerprint impression sheet.	5104.012(A)(2)
5104.093	Criminal records checks for owners, administrators, and residents of child-care centers and type A homes.	5104.013(A)(1)
5104.093	Requirement that ODJFS Director investigate home prior to issuance of type A home provisional license or license.	5104.05(B)
5104.094	Criminal records checks for certified type B homes.	5104.013(A)(2)
5104.094	No person convicted of a disqualifying offense may be certified as an in-home aide.	5104.09(A)(1)
5104.095(A)	Administrator of child-care center and type A home must request criminal records check of potential employees who will work with children.	5104.012(A)(1)
5104.095(C)	Inform applicant of criminal records check requirement.	5104.012(F)
5104.096 and 5104.01(SS)	Delivery, completion, and return of criminal records check form and fingerprint impression sheet.	5104.012(A)(2) and (3)
5104.096	Delivery, completion, and return of criminal records check form and fingerprint impression sheet.	5104.013(B) and (C)
5104.097	Criminal records check must include search of FBI records if potential employee has not resided in state for 5 years.	5104.012(A)(1)
5104.097	Criminal records check process for owners, administrators, and employees who are recent residents of Ohio.	5104.013(A)(3)
5104.098	Payment of fees for criminal records checks.	5104.013(E)

<i>New citation</i>	<i>Description of relocated provision</i>	<i>Original citation</i>
5401.099	Payment of fees for criminal records checks for prospective employees.	5104.012(C)(1)
5104.099	Charging applicants fees incurred for criminal records checks.	5104.012(C)(2)
5104.0910	Public availability of criminal records checks.	5104.012(D)
5104.0910	Public availability of criminal records checks.	5104.013(F)
5104.0911(A)	Signed statement that child care provider or resident in a child-care home has not committed a disqualifying offense.	5104.09(A)(2), (3), and (4)
5104.0912(A) and (C)	Signed statement that a resident, under 18 years, of a child-care home has not committed a disqualifying offense.	5104.09(A)(2) and (3)
5104.0913	Prohibition against withholding or falsifying information on statements regarding disqualifying offenses.	5104.09(B)
5104.14(A), (B), and (C)	Smoking in a child-care center, type A home, or type B home. ¹⁶	5104.015(A), (B), and (C)
5104.15	Amount of usable indoor floor space that must be available for a child-care center.	5104.011(B)(1)
5104.151	Amount of outdoor play space that must be available for a child-care center.	5104.011(B)(2)
5104.16(A) and (B)(1)	Permissible number of children per child-care staff member ratio applicable to child-care centers.	5104.011(B)(3)
5104.16(B)(2) and (C)	Exceptions to the general rule regarding the permissible number of children per child-care staff member ratio when age groups are mixed.	5104.011(E)
5104.161	Staff member trained in first aid, management of communicable diseases, and child abuse recognition and prevention.	5104.011(C)(1)
5104.17	Proof of a child-care administrator's education, training, and child-care experience.	5104.011(B)(4)

¹⁶ The smoking restrictions previously applied to certified type B homes. The bill also applies the smoking restrictions to licensed type B homes.

<i>New citation</i>	<i>Description of relocated provision</i>	<i>Original citation</i>
5104.171	Education and training standards of child-care staff.	5104.011(B)(5)
5104.172	Continuing education requirements applicable to child-care staff.	5104.011(B)(6)
5104.18	Preparation and availability of roster of names and telephone numbers of parents, custodians, or guardians of each group of children in the center.	5104.011(B)(7)
5104.19	Child-care center enrollment, health, attendance, and employment records.	5104.011(C)(2)
5104.20	Access of a parent, custodian, or guardian of a child enrolled in a child-care center to the center during its hours of operation.	5104.011(C)(3)
5104.21	Child-care centers prohibited from discriminating.	5104.09(C)
5104.22	Application of child care law to child day camps.	5104.21
5104.23	Rules for the approval of child day camps that enable an approved camp to receive public moneys.	5104.22
5104.24	Child care law does not apply to park district and joint recreation district programs for children aged 5 and over.	5104.20

In relocating the previously described provisions, the bill makes conforming changes in the following sections: R.C. 109.57(F)(2)(a), 109.572(A)(1), (A)(9), (B), and (C)(1), (2), and (3), 3109.051(I), 3301.52(H), 3737.22(F) and (G), 5104.38(J), 5104.01(B), 5104.023, 5104.053, 5104.11(D), 5104.22, 5104.23, and 5104.31(A)(5).

The bill also specifies that Revised Code sections cited as the authority for rules adopted under the child care law are deemed to be the sections as renumbered by the bill. The bill provides that the ODJFS Director is not required to amend any rule previously adopted under that law for the sole purpose of changing the citation of the Revised Code section that authorizes the rule. (Section 3.)

HISTORY

ACTION	DATE
Introduced	10-03-07

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