



# Ohio Legislative Service Commission

## Bill Analysis

Amber Hardesty

### Sub. H.B. 118

128th General Assembly

(As Reported by H. Local Government and Public Administration)

**Reps.** Newcomb and Phillips, Murray, Harris, Dodd, B. Williams, Fende, Harwood, Heard, Luckie, Chandler, Letson, Domenick, Okey, Ujvagi, Hagan, DeGeeter, Skindell, Yuko, Weddington, Yates, Brown, Lehner, Derickson, Hite, Zehringer, Gardner, Bacon, Evans

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## BILL SUMMARY

- Changes the name of the Department of Mental Retardation and Developmental Disabilities to the Department of Developmental Disabilities.
- Changes the name of county boards of mental retardation and developmental disabilities to county boards of developmental disabilities.
- Renames related state entities and state and county funds.
- Confirms the abolition of the Community Mental Retardation and Developmental Disabilities Trust Fund Advisory Council.

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## CONTENT AND OPERATION

### Background

#### State

The Department of Mental Retardation and Developmental Disabilities was created as a separate cabinet-level state agency in 1980.<sup>1</sup> The Department is required to promote comprehensive, statewide programs and services for persons with mental retardation or a developmental disability and their families wherever they reside in the state. The programs are to include public education, prevention, diagnosis, treatment,

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<sup>1</sup> Am. Sub. H.B. 900 of the 113th General Assembly divided the Department of Mental Health and Mental Retardation into two separate agencies: the Department of Mental Health and the Department of Mental Retardation and Developmental Disabilities. The separation was effective July 1, 1980.

training, and care.<sup>2</sup> The Department has numerous other duties regarding mental retardation and developmental disabilities, including maintaining, operating, managing, and governing all state institutions for the care, treatment, and training of persons with mental retardation.<sup>3</sup>

The Director of Mental Retardation and Developmental Disabilities is the executive head of the Department.<sup>4</sup> The Director is appointed by the Governor with the advice and consent of the Senate.<sup>5</sup>

## Counties

Each county has a board of mental retardation and developmental disabilities.<sup>6</sup> County boards consist of seven members: five members appointed by the board of county commissioners and the other two appointed by the county's senior probate judge.<sup>7</sup>

County boards are required to plan and set priorities based on available resources for the provision of facilities, programs, and other services to meet the needs of county residents who have mental retardation or other developmental disabilities, former county residents who reside in a state institution or are placed under a purchase of service agreement, and children subject to a determination made under a dispute resolution process initiated under a county family and children first council. County boards must assess the facility and service needs of individuals with mental retardation and other developmental disabilities who are residents of the county or former residents residing in state institutions or placed under purchase of service agreements.<sup>8</sup> County boards have numerous other duties.

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<sup>2</sup> R.C. 5123.02.

<sup>3</sup> R.C. 5123.03.

<sup>4</sup> R.C. 5123.04.

<sup>5</sup> R.C. 121.03.

<sup>6</sup> Counties were permitted to create multicounty boards of mental retardation and developmental disabilities before January 1, 2007, but no multicounty boards were created. The bill repeals the law that allowed multicounty boards to be created. (R.C. 5126.021 through 5126.027.)

<sup>7</sup> R.C. 5126.028.

<sup>8</sup> R.C. 5126.04.

## **Department and Director renamed**

(R.C. 121.02, 121.03, and 5123.014)

The bill changes the name of the Department of Mental Retardation and Developmental Disabilities to the Department of Developmental Disabilities. The Director of Mental Retardation and Developmental Disabilities is renamed the Director of Developmental Disabilities. Whenever the Department or Director of Mental Retardation and Developmental Disabilities is referred to or designated in any statute, rule, contract, grant, or other document, the reference or designation is deemed by the bill to refer to the Department or Director of Developmental Disabilities, as the case may be.

## **County boards renamed**

(R.C. 5126.011 and 5126.02)

The bill changes the name of county boards of mental retardation and developmental disabilities to county boards of developmental disabilities. Whenever a county board of mental retardation and developmental disabilities is referred to or designated in any statute, rule, contract, grant, or other document, the reference or designation is deemed by the bill to refer to a county board of developmental disabilities.

## **Name changes of related state entities**

In addition to changing the name of the Department, the bill renames two related state-level entities as follows:

### **Joint Council on Mental Retardation and Developmental Disabilities**

(R.C. 101.37; Sections 11 and 12)

The Joint Council on Mental Retardation and Developmental Disabilities consists of three members of the House of Representatives, three members of the Senate, and the Director of Mental Retardation and Developmental Disabilities. The Joint Council has a number of duties, including (1) making final determinations in any dispute between the Director and a citizen's advisory council concerning the appointment of members to the citizen's advisory council, (2) receiving reports as appropriate concerning extenuating circumstances at institutions under the Department's control, (3) conducting reviews and making recommendations to the Director with respect to any disputes between the Department and entities that have entered into contracts with the Department for the provision of protective services to individuals with mental retardation or developmental disabilities, and (4) providing the Director with advice on legislative and

fiscal issues affecting the Department, county boards of mental retardation and developmental disabilities, persons with mental retardation or developmental disabilities, and providers of services to such persons and on related issues the Director requests that the Joint Council address.

The Joint Council is renamed the Joint Council on Developmental Disabilities.

### **MR/DD Center Closure Commission**

(R.C. 5123.032)

The Mental Retardation and Developmental Disabilities Developmental Center Closure Commission is to be established any time the Legislative Service Commission (LSC) completes a report on the closure of a developmental center. LSC must issue such a report whenever the Governor notifies the General Assembly of an intent to close a developmental center.

The Closure Commission is to consist of six members: the Director of Mental Retardation and Developmental Disabilities; the Director of Health; a private executive with expertise in facility utilization, economics, or both; a member of the Board of the Ohio Civil Service Employees' Association; a family member of a resident of a developmental center or a representative of a mental retardation and developmental disabilities advocacy group; and a member of the law enforcement community. The Closure Commission must issue a report with recommendations regarding the closure.

The Commission is renamed the Developmental Disabilities Developmental Center Closure Commission.

### **State funds renamed**

The bill renames five related state-level funds as follows:

#### **Mental Retardation Operating Fund**

(R.C. 5121.01)

The Mental Retardation Operating Fund is part of the state treasury and consists of money paid by residents of institutions under the control of the Department of Mental Retardation and Developmental Disabilities and residents of private institutions whose care or treatment is paid for by the Department or the liable relatives of such residents. Money in the fund must be used for general purposes of the Department.

The fund is renamed the Developmental Disabilities Operating Fund.

## **Community MR/DD Trust Fund**

(R.C. 5123.352 and 5126.19)

The Community Mental Retardation and Developmental Disabilities Trust Fund is part of the state treasury and consists in part of money transferred to it by the Director of Budget and Management after the end of a fiscal year based on amounts the Director of Mental Retardation and Developmental Disabilities certifies as being the unexpended, unencumbered balances of General Revenue Fund appropriations made to the Department for that fiscal year, excluding appropriations for rental payments to the Ohio Public Facilities Commission. If the fund contains more than \$10 million on the first day of July, the Director must use \$1 million for payments to county boards of mental retardation and developmental disabilities for tax equity payments, \$2 million for subsidies to county boards for supported living, and \$1 million for subsidies to county boards for early childhood services and adult services. The Director of Mental Retardation and Developmental Disabilities is permitted to use money in the fund to grant temporary funding for county board services.

The fund is renamed the Community Developmental Disabilities Trust Fund.

## **MR/DD Community Capital Replacement Facilities Fund**

(R.C. 5123.375)

The MR/DD Community Capital Replacement Facilities Fund is part of the state treasury and consists of amounts paid by county boards of mental retardation and developmental disabilities and private, nonprofit agencies to reimburse the Department of Mental Retardation and Developmental Disabilities for state funds used to acquire a facility the county board or agency sells. Money in the fund is to be used to make payments to county boards and private, nonprofit agencies to acquire replacement facilities and to help fund mental retardation and developmental disabilities construction projects.

The fund is renamed the Developmental Disabilities Community Capital Replacement Facilities Fund.

## **State MR/DD Risk Fund**

(R.C. 5123.049 and 5123.0413)

The State MR/DD Risk Fund is part of the state treasury and consists of amounts withheld from county boards of mental retardation and developmental disabilities from payments to the county boards for home and community-based services and Medicaid case management services the county boards provide. Money in the fund is to be used



in accordance with the Department's rules. The rules are to establish a method of paying for extraordinary costs, including extraordinary costs for services to individuals with mental retardation or other developmental disability.

The fund is renamed the State Developmental Disabilities Risk Fund.

### **State Insurance Against MR/DD Risk Fund**

(R.C. 5123.0413)

The State Insurance Against MR/DD Risk Fund is part of the state treasury and is to be used in accordance with rules of the Department of Mental Retardation and Developmental Disabilities. The rules are to establish a method of paying for extraordinary costs, including extraordinary costs for services to individuals with mental retardation or other developmental disability.

The fund is renamed the State Insurance Against Developmental Disabilities Risk Fund.

### **Renaming of related county funds**

In addition to changing the name of county boards of mental retardation and developmental disabilities, the bill renames three related county funds as follows:

#### **Community MR/DD residential services funds**

(R.C. 5126.47)

A county board is permitted to establish, by agreement with one or more other county boards, a residential services consortium to jointly provide residential services and supported living. Such an agreement must designate one board to assume the fiscal responsibilities for the consortium. The county auditor of the designated county is required to establish a community mental retardation and developmental disabilities residential services fund for the consortium. Each county board that is a member of the consortium must deposit in the fund any state or federal money the county board has agreed to contribute to the consortium.

Under the bill, such a fund is called a community developmental disabilities residential services fund.

## **Mental retardation and developmental disabilities general funds**

(R.C. 5705.091)

Each board of county commissioners is required to establish a mental retardation and developmental disabilities general fund. The fund is to consist of money raised by levies for mental retardation and developmental disabilities services, and that money is to be used for the purposes for which the levies are raised. The general fund must also consist of other money provided to a county board under state laws governing county boards and education of children with disabilities, other than money required to be deposited elsewhere.

Counties' mental retardation and developmental disabilities general funds are renamed developmental disabilities general funds.

## **Mental retardation and developmental disabilities capital funds**

(R.C. 5705.091)

A county board may request that the board of county commissioners establish a mental retardation and developmental disabilities capital fund to be used for acquisition, construction, or improvement of capital facilities or acquisition of capital equipment used in providing services to persons with mental retardation or a developmental disability.

Counties' mental retardation and developmental disabilities capital funds are renamed developmental disabilities capital funds.

## **Correction regarding the Community MR/DD Trust Fund Advisory Council**

(Sections 11 and 12)

Am. Sub. H.B. 516 of the 125th General Assembly abolished the Community Mental Retardation and Developmental Disabilities Trust Fund Advisory Council by repealing the Revised Code section that established the advisory council (R.C. 5123.353). However, an uncodified section of H.B. 516 provides for the advisory council to continue to exist. (The uncodified section lists agencies subject to sunset review that the legislature chose to continue to exist.)

The bill corrects this conflict by deleting the reference to the Community Mental Retardation and Developmental Disabilities Trust Fund Advisory Council from the uncodified section providing for its continuation. This confirms the advisory council's abolition.

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## HISTORY

### ACTION

### DATE

Introduced

04-01-09

Reported, H. Local Gov't & Public Administration

05-27-09

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