



# Ohio Legislative Service Commission

## Bill Analysis

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### H.B. 371

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(As Introduced)

**Reps.** Pillich and Belcher, Amstutz, Bacon, Bolon, Boyd, Celeste, Chandler, Combs, DeGeeter, Domenick, Fende, Foley, Garland, Hackett, Hagan, Harris, Letson, Murray, Newcomb, Okey, Patten, Phillips, Skindell, Ujvagi, Wagner, Weddington, B. Williams, S. Williams, Yuko

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## BILL SUMMARY

- Expresses the General Assembly's intent regarding children in need of protective services and the purposes of the state's child services and protection system.
- Repeals existing definitions of "abused child," "neglected child," and "dependent child," defines "child in need of protective services," and defines terms used within the definition of "child in need of protective services."
- Replaces "abused child," "neglected child," and "dependent child," wherever they are used individually or in combination in the Revised Code, with "child in need of protective services," in some places with and in other places without qualifying language to limit the scope of "child in need of protective services."
- Requires a public children services agency (PCSA) to provide written notice of the rights of and services available to a parent, legal guardian, or legal custodian of a child who is the subject of a report that a child is in need of protective services and to notify the appropriate school attendance officer or assistant if the PCSA discovers facts that may support an adjudication that a child is lacking legally required education and authorizes a PCSA to apply for a court order directing that steps be taken to ensure that a child receives legally required education.
- Requires any person responsible for reporting or investigating alleged violations of or enforcing the compulsory school attendance laws who knows or suspects that a child is in need of protective services for any reason other than that the child may be lacking legally required education to report that knowledge or suspicion to the appropriate PCSA for its standard assessment or investigation.

- Authorizes a school attendance officer or assistant to provide written notice to an appropriate PCSA if the officer or assistant believes that the PCSA's intervention may help to assist a child who is lacking legally required education.
- Requires a PCSA to investigate, within 24 hours, any report it receives of evidence that a child is in need of protective services and provides that a PCSA may investigate such a report only if there is a reason to believe that any alleged injury, harm, or risk of injury or harm to the child resulted from an act or omission by the child's parent, legal guardian, or legal custodian.
- Requires a juvenile court to comply with the definitional sections of the bill, specifies the evidentiary basis and required findings for an adjudication that a child is in need of protective services, and requires the appointment of a guardian ad litem in any case involving an alleged or adjudicated child in need of protective services.
- Provides that a juvenile court may adjudicate a child to be in need of protective services only if it finds from clear and convincing evidence that the physical, sexual, or emotional harm or substantial risk of such harm to the child, exposure to substance abuse, or lack of necessary health care, legally required education, or necessary care or supervision *resulted from an act or omission by a parent, legal guardian, or legal custodial of the child.*
- Authorizes a law enforcement officer or officer of the court to take a child into custody when there are reasonable grounds to believe that the child's parent, guardian, or custodian committed an act or omission that indicates that the child is a child in need of protective services or when a parent, guardian, custodian, or other household member of the child's household has caused another child in the household to become a child in need of protective services and to believe that the child is in danger of immediate or threatened physical or emotional harm from that person.
- Modifies findings that support an award of custody of a child to a PCSA or a private child placing agency.
- Prohibits false reports regarding acts or omissions that resulted in a child being a child in need of protective services due to physical harm, sexual harm, emotional harm, or harm by exposure to substance misuse.
- Makes endangering children a felony of the fourth degree if the offender was previously convicted of an offense that involved permitting or causing a child to become a child in need of protective services.

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## CONTENT AND OPERATION

### Intent of the bill

The bill expressly states its purposes in two codified sections of law. First, the bill notes that the bonds between children and their parents or legal guardians and the preservation of the family relationships are matters of great importance, so that intervention into family life on behalf of a child must be guided by clearly drafted law and sound professional practice standards. It further states that parents have the primary responsibility for the care of their children and the primary right to make decisions on behalf of their children and that children should have the chance to grow up in their own families if at all possible. However, where a child is found to be in need of protective services because of maltreatment or deprivation of necessities required for

the child's physical or emotional health and safety, including the use of corporal discipline that results in physical injury or a substantial risk of physical injury in order to correct and restrain the child, the bill declares that the state is justified in intervening. In such circumstances, the bill states that the paramount considerations guiding all decisions, with due deference to the constitutionally guaranteed parental interests, are the health, safety, and well-being of the child. (R.C. 2151.02.)

The bill then states that Ohio's child services and protection system is intended to accomplish all of the following (R.C. 2151.021(A)):

(1) Be child-centered and family-focused in its prevention and intervention efforts and to accommodate the individualized needs of different families;

(2) Provide effective services throughout the state to safeguard the well-being and development of endangered children and to preserve and stabilize family life, whenever appropriate;

(3) Operate within a fair and equitable procedural framework, compatible with due process and equal protection requirements, when it is necessary to intervene in family life for the safety and welfare of a child;

(4) Collaborate, whenever appropriate, with law enforcement and other government agencies to maximize efficiencies and minimize trauma to children.

According to the bill, state and county services for families should be accessible and aimed, so far as possible, at encouraging and enabling families to adequately address their problems within their own family systems and at preserving families whenever possible. The bill states that the need for a child's removal from a parent, legal guardian, or legal custodian should always be balanced against the trauma that removal would cause the child. When removal is necessary for a child's health, safety, and well-being, it states that all efforts should be made to ensure permanency for that child on a timely basis. (R.C. 2151.021(B).)

Finally, the bill expresses a preference, in cases not requiring the involvement of law enforcement or investigation by a public children services agency (PCSA), for an approach to child services and protection that stresses the safety of the child and builds on the strengths of the family through collaboration efforts between the PCSA and the family (R.C. 2151.021(C)).

## Definitions related to abused, neglected, and dependent children

The Revised Code contains numerous provisions dealing with abused, neglected, and dependent children. Some of these provisions refer to all three of these categories of children; others address only one or two.

Under existing law, an abused child is defined to include any child who (R.C. 2151.031):

(A) Is the victim of "sexual activity" as defined under R.C. Ch. 2907., where such activity would constitute an offense under that chapter, except that the court need not find that any person has been convicted of the offense in order to find that the child is an abused child;

(B) Is endangered as defined in R.C. 2919.22, except that the court need not find that any person has been convicted under that section in order to find that the child is an abused child;

(C) Exhibits evidence of any physical or mental injury or death, inflicted other than by accidental means, or an injury or death which is at variance with the history given of it. Except as provided in paragraph (D), a child exhibiting evidence of corporal punishment or other physical disciplinary measure by a parent, guardian, custodian, person having custody or control, or person in loco parentis of a child is not an abused child if the measure is not prohibited under R.C. 2919.22.

(D) Because of the acts of the child's parents, guardian, or custodian, suffers physical or mental injury that harms or threatens to harm the child's health or welfare.

(E) Is subjected to out-of-home care child abuse.

A neglected child is defined in existing law to include any child (R.C. 2151.03(A)):

(A) Who is abandoned by the child's parents, guardian, or custodian;

(B) Who lacks adequate parental care because of the faults or habits of the child's parents, guardian, or custodian;

(C) Whose parents, guardian, or custodian neglects the child or refuses to provide proper or necessary subsistence, education, medical or surgical care or treatment, or other care necessary for the child's health, morals, or well-being;

(D) Whose parents, guardian, or custodian neglects the child or refuses to provide the special care made necessary by the child's mental condition;

(E) Whose parents, legal guardian, or custodian have placed or attempted to place the child in violation of R.C. 5103.16 and 5103.17;

(F) Who, because of the omission of the child's parents, guardian, or custodian, suffers physical or mental injury that harms or threatens to harm the child's health or welfare;

(G) Who is subjected to out-of-home care child neglect.

A dependent child is defined in existing law as any child (R.C. 2151.04):

(A) Who is homeless, destitute, or destitute or without adequate parental care, through no fault of the child's parents, guardian, or custodian;

(B) Who lacks adequate parental care by reason of the mental or physical condition of the child's parents, guardian, or custodian;

(C) Whose condition or environment is such as to warrant the state, in the interests of the child, in assuming the child's guardianship;

(D) To whom both of the following apply:

(1) The child is residing in a household in which a parent, guardian, custodian, or other member of the household committed an act that was the basis for an adjudication that a sibling of the child or any other child who resides in the household is an abused, neglected, or dependent child.

(2) Because of the circumstances surrounding the abuse, neglect, or dependency of the sibling or other child and the other conditions in the household of the child, the child is in danger of being abused or neglected by that parent, guardian, custodian, or member of the household.

The bill repeals the existing definitions of "abused child," "neglected child," and "dependent child" and replaces these terms, wherever they appear, with "child in need of protective services" (repeal of R.C. 2151.03(A), 2151.031, and 2151.04, and 2151.45(A)(1)).

In the bill, "child in need of protective services," as used throughout the Revised Code, means a child with respect to whom one or more of the following has occurred due to one or more acts or omissions of a child's parent, legal guardian, or legal custodian (R.C. 2151.03(A)(1)):

(A) The child suffers "physical harm," as defined in the bill (see "**New definitions**," below).

(B) The child is "sexually harmed," as determined in accordance with the bill (see "**New definitions**," below).

(C) The child is "emotionally harmed," as determined in accordance with the bill (see "**New definitions**," below).

(D) The child is "harmed by exposure to substance misuse," as determined in accordance with the bill (see "**New definitions**," below).

(E) The child is "lacking necessary health care," as determined in accordance with the bill (see "**New definitions**," below).

(F) The child is "lacking legally required education," as determined in accordance with the bill (see "**New definitions**," below).

(G) The child is "lacking necessary care or supervision," as determined in accordance with the bill (see "**New definitions**," below).

The bill also repeals the definition of "adequate parental care," which is in existing R.C. 2151.011(B)(1) and means the provision by a child's parent or parents, guardian, or custodian of adequate food, clothing, and shelter to ensure the child's health and physical safety and the provision by a child's parent or parents of specialized services warranted by the child's physical or mental needs.

The bill expressly provides that the definitions of "abused child," "dependent child," and "neglected child" contained in existing law, even though they are to be repealed, will continue to apply in reference to past acts, adjudications, and statuses (R.C. 2151.03(D)). In addition, the bill retains the existing terms in several Revised Code sections in order to address situations that will have arisen prior to the bill's effective date. For example, existing law requires that an agency, when recommending certification of a foster home, obtain a summary report that includes a list of determinations by a PCSA concerning the prospective foster caregiver and finding that *abuse or neglect* occurred. Under the bill, the list of determinations must include those with respect to which a PCSA has found that *abuse or neglect occurred or an act or omission that indicates that a child is a child in need of protective services* occurred. (R.C. 5103.18(B)(1)(a).)

Many of the bill's amendments to existing Revised Code sections simply substitute "child in need of protective services" for "abused child," "neglected child," and "dependent child," or a combination of all or some of those terms or make conforming changes in provisions related to abused, neglected, or dependent children. In most instances, "child in need of protective services," which encompasses all three existing categories of children, replaces "neglected, abused, or dependent children" or other

language that refers to all three categories (see **COMMENT** for a list of Revised Code sections in which all three terms were replaced by the new term). However, "child in need of protective services" also replaces the existing terms even when only one or two of them are used in current law. For example, in the Revised Code sections that deal with the allocation of parental rights and responsibilities and with shared parenting arrangements in divorce, legal separation, and annulment proceedings, existing law usually refers to abuse or neglect but not to dependency (as when the court considers whether either parent has been convicted of any offense involving an act that resulted in the child being an abused or neglected child). The bill substitutes or adds the broader term "child in need of protective services," so that, with regard to the illustration in the preceding sentence, the provision in the bill refers to any offense involving an act *or omission* that results in the child being an abused child *or a child in need of protective services*, to a neglected child *or a child in need of protective services*, or to an abused or neglected child *or a child in need of protective services*. (R.C. 3109.04(C) and (F)(1)(h), 3109.051(D)(11) and (12) and (G)(2), (3), and (4), and 3109.052(A) and (C).)

In some cases, the bill uses "child in need of protective services" to replace just one of the existing terms but adds restrictive language to keep the provision in line with existing law. For example, the Revised Code section that authorizes civil protection orders in domestic violence cases defines domestic violence, in part, as the commission of an act that would result in the child being an abused child. The bill changes "abused child" to "child in need of protective services" but specifies that the child must be in need of those services because the act (or omission) results in physical, sexual, or emotional harm. (R.C. 3113.31(A)(1)(c).) Because of the qualifying language, the bill still refers, in essence, to an abused child as defined in existing law.

### **Repealed definitions**

The primary substantive change made by the bill is the repeal of the existing definitions of "abused child" (R.C. 2151.031), "neglected child" (R.C. 2151.03(A)), and "dependent child" (R.C. 2151.04) and their replacement with the term "child in need of protective services." The bill also repeals the definition of "adequate parental care," which is used in the existing definitions of "neglected child" and "dependent child" (R.C. 2151.011(B)(1), renumbered R.C. 2151.03(B)(1) in the bill). The bill also repeals the definitions of "abused child," "neglected child," and "dependent child" where they appear in the Revised Code by reference to the definitions in R.C. Ch. 2151. (R.C. 3109.04(J)(1) and (3), 3109.051(N)(1), and 3127.23(F)).



## **New definitions**

### **Physical harm**

The bill defines "physical harm" to mean that a child has suffered physical injury, or was placed at substantial risk of physical injury, from one or more intentional or negligent acts or omissions by the child's parent, legal guardian, or legal custodian, including corporal discipline. "Physical harm" includes, but is not limited to, any of the following (R.C. 2151.031(A)(5)):

- (1) A sprain, dislocation, or cartilage damage;
- (2) A bone or skull fracture;
- (3) Brain or spinal cord damage;
- (4) An intracranial hemorrhage or injury to other internal organs;
- (5) Asphyxiation, suffocation, or drowning;
- (6) An injury resulting from the use of a deadly weapon;
- (7) A burn, scalding, laceration, puncture, or bite;
- (8) Loss of consciousness;
- (9) Loss or impairment of a body part or function;
- (10) Significant soft tissue swelling;
- (11) Significant bruising;
- (12) Injury that requires medical treatment;
- (13) Severe pain to the child;
- (14) Death of the child.

The bill provides specific examples of circumstances that may result in a child's physical injury. These include, but are not limited to, the following (R.C. 2151.031(B)):

- (1) Being struck with an object or a closed fist;
- (2) Being shaken;
- (3) Having a limb twisted;

(4) Being thrown, kicked, burned, or cut;

(5) Having breathing interfered with;

(6) Being deprived of sustenance;

(7) Being provided with a drug not in accordance with a prescription, dangerous drug, harmful intoxicant, or controlled substance, or any other chemical or substance that poses a substantial risk of causing physical injury to the child;

(8) Being physically restrained in a cruel manner or for a prolonged period of time.

The bill states that being threatened with a deadly weapon is an example of a substantial risk of physical harm (R.C. 2151.031(C)), and it provides that, in determining whether an act or omission placed a child at substantial risk of physical harm, the factors that may be considered include but are not limited to the following (R.C. 2151.031(D)):

(1) The size, age, and any pre-existing condition of the child;

(2) The location of the injury;

(3) The strength and duration of any force used against the child;

(4) Whether the act was committed by an adult whose judgment was impaired at the time of the act.

An act or omission of a parent, legal guardian, or legal custodian that results in physical harm to a child does not cause the child to be a child in need of protective services if the act or omission was necessary to prevent imminent physical harm to another person, or more serious physical harm to the child (R.C. 2151.031(E)).

### **Sexual harm**

The bill states that a child is "sexually harmed" when either of the following applies (R.C. 2151.032(A)):

(1) The child's parent, legal guardian, or legal custodian participates in a sexual act with the child.

(2) The child's parent, legal guardian, or legal custodian requires, directs, coerces, encourages, permits, or negligently fails to prevent participation in a sexual act by the child with another person.

The bill presents the following as examples of a sexual act for the purpose of determining if a child has been sexually harmed (R.C. 2151.032(B)):

(1) Penetration, however slight, of the vagina or anal opening of one person by the penis of another;

(2) Sexual contact between the genitals or anal opening of one person and the mouth or tongue of another;

(3) Insertion by one person into the genitals or anal opening of another person, including the use of objects for this purpose, other than for a valid medical purpose;

(4) Intentional touching of the genitals, breasts, genital area, groin, inner thigh, or buttocks, or the clothing covering them, except when such touching occurs as part of appropriate child care activity, including medical care;

(5) Intentional exposure of the genitals in the presence of a child if that exposure is for the purpose of sexual arousal, sexual gratification, humiliation, or degradation, or a similar purpose;

(6) Sexual exploitation of a child (includes (a) requiring, directing, coercing, encouraging, or permitting a child to solicit another to engage in prostitution with the child, engage in prostitution, or engage in a commercial sexually related act or performance and (b) negligently failing to prevent a child from engaging in such acts or performances) (R.C. 2151.032(E));

(7) Making recorded images of a child for sexual gratification or commercial sexual exploitation;

(8) Requiring, directing, coercing, encouraging, or permitting a child to view one or more sexually explicit acts or materials or negligently failing to prevent a child from viewing sexually explicit acts or materials;

(9) Flagellation, torture, defecation, urination, or other sado-masochistic acts involving a child when done for the purpose of the adult's or child's sexual stimulation;

(10) Requiring, directing, coercing, encouraging, permitting, or negligently failing to prevent a violation of R.C. 2907.04 (unlawful sexual conduct with a minor) or 2907.02(A)(1)(b) (rape when the victim is under 13) in which the child is the victim of the offense.

The bill expressly provides that if a parent, legal guardian, or legal custodian provides a child with a product or information for the purpose of avoiding pregnancy

or a sexually transmitted disease that act is not, by itself, evidence that the parent, legal guardian, or legal custodian has encouraged, permitted, or negligently failed to prevent the child's participation in a sexual act (R.C. 2151.032(C)).

The bill also states that the participation by a child who is at least 16 years of age in a consensual sexual act with a non-relative who is at least 16 but less than 20 years of age is not evidence that the child was sexually harmed, but may be evidence that the child is, for other reasons, a child in need of protective services (R.C. 2151.032(D)).

The bill also states that "sexual exploitation of a child," as used in the above provisions, includes requiring, directing, coercing, encouraging, or permitting a child to solicit another to engage in prostitution with the child, engage in prostitution, or engage in a commercial sexually related act or performance. "Sexual exploitation of a child" also includes negligently failing to prevent a child from engaging in such acts or performances (R.C. 2151.032(E)).

### **Emotional harm**

The bill defines "emotionally harmed" to mean that a child has suffered psychological, emotional, or cognitive injury, or has been placed at a substantial risk of such injury, from one or more intentional or negligent acts or omissions by the child's parent, legal guardian, or legal custodian and the injury has a substantial, observable, adverse effect on the child's behavioral, emotional, social, or cognitive performance or condition. Evidence that a child has been emotionally harmed may include, but is not limited to, the child's failure or inability to control aggressive or self-destructive impulses, significant acting out or regressive behavior, social withdrawal, or inability to think or reason, when that behavior or condition is age or developmentally inappropriate. (R.C. 2151.033.)

### **Harmed by exposure to substance misuse**

Under the bill, a child is "harmed by exposure to substance misuse" if the child's parent, legal guardian, or legal custodian does any of the following (R.C. 2151.034(A)):

(1) Uses a substance, and the use results in physical, psychological, emotional, or cognitive injury, or a substantial risk of such an injury, to the child, including instances of substance misuse that are first discovered through a newborn child's positive toxicology screen;

(2) Requires, directs, coerces, encourages, permits, or negligently fails to prevent any of the following:

(a) The child's use of alcohol, and that use results in physical, psychological, emotional, or cognitive injury, or substantial risk of such an injury, to the child;

(b) The child's use of an illegal substance or use of a legal substance illegally;

(c) The child's exposure to the sale, manufacture, or distribution of an illegal substance or the illegal sale or distribution of a legal substance, or to the presence of chemicals or equipment intended for use in the manufacture of an illegal substance.

In determining whether a child has been "harmed by exposure to substance misuse," psychological, emotional, or cognitive injury includes a substantial, observable, adverse effect on a child's behavioral, emotional, social, or cognitive performance. Evidence that may be used to prove "harm by exposure to substance misuse" includes, but is not limited to, the child's failure or inability to control aggressive or self-destructive impulses, significant acting out or regressive behavior, social withdrawal, or inability to think or reason, when that behavior or condition is age or developmentally inappropriate. (R.C. 2151.034(B).)

#### **Lacking necessary health care**

The bill defines "lacking necessary health care" to mean that a child is not provided medical, surgical, psychiatric, psychological, or other care required to treat a condition if the treatment is likely to prevent the child's death, disfigurement, or serious impairment of a major bodily function, or if the treatment is necessary to substantially reduce the child's pain, suffering, or serious impairment of a major bodily function, or correct or substantially diminish the child's debilitating or crippling condition (R.C. 2151.035(A)).

A child is lacking necessary health care only if the court finds both of the following (R.C. 2151.035(B) and (E)):

(1) There is a disagreement between a licensed health professional authorized to prescribe drugs and a child's parent, legal guardian, or legal custodian as to the necessary course of health care treatment for that child.

(2) The course of treatment advised by the licensed health professional authorized to prescribe drugs is substantially more beneficial to the child than the course of treatment preferred by the child's parent, legal guardian, or legal custodian.

If a child's parent, legal guardian, or legal custodian provides or declines to provide health care services to a child, in contravention of the advice of a "licensed health professional authorized to prescribe drugs," because of a sincerely held religious or spiritual belief or for any other reason, the court may order the provision of health

care services over the objection of the parent, legal guardian, or legal custodian only if the court determines that the child is lacking necessary health care. The refusal of a child's parent, legal guardian, or legal custodian to administer or permit the child to take behavior modifying medication may only be considered evidence that the child is lacking necessary health care (R.C. 2151.035(C) and (D)). "Licensed health professional authorized to prescribe drugs" has the same meaning as in R.C. 4729.01, which includes a dentist, clinical nurse specialist, certified nurse-midwife, certified nurse practitioner, optometrist, physician, physician assistant, and veterinarian.

### **Lacking legally required education**

As used in the bill, "lacking legally required education" means that a child is of compulsory school age, has not regularly or timely attended school, has no legitimate excuse for the absence, and has not received other education services as required by state or federal law (R.C. 2151.036(A)).

### **Lacking necessary care or supervision**

The bill states that a child is "lacking necessary care or supervision" in either of the following situations, regardless of the cause of the situation (whether due to the death or physical or mental incapacity of the child's parent, legal guardian, or legal custodian or any other reason) (R.C. 2151.037):

(1) The child is at substantial risk of becoming a child in need of protective services for a reason other than the child is lacking necessary care or supervision.

(2) The child's parent, legal guardian, or legal custodian fails to provide the child with any of the following, and such failure creates a substantial risk that the child would suffer an injury that could result in an adjudication that the child is in need of protective services:

(a) Adequate food, clothing, shelter, or supervision;

(b) Adequate supervision or arrangements for the child's care in the absence of the child's parent, legal guardian, or legal custodian;

(c) A safe and appropriate place to live after prohibiting the child from living in the same residence as the parent, legal guardian, or legal custodian.

### **Other terms**

***Controlled substance***, as used in R.C. 2151.031, which defines "physical harm," and in R.C. 2151.034, which defines "harmed by exposure to substance misuse," means a drug, compound, mixture, preparation, or substance included in schedule I, II, III, IV,

or V of the Controlled Substances Law (R.C. 2151.031(A)(1) and 2151.034(C) by reference to R.C. 3719.01, which is not in the bill).

*Dangerous drug*, as used in R.C. 2151.031, has the same meaning as in R.C. 4729.01, which is not in the bill (R.C. 2151.031(A)(2) and 4729.01(F)).

*Drug*, as used in R.C. 2151.031 and 2151.034 and in R.C. 2151.035, which defines "lacking necessary health care," has the same meaning as in R.C. 4729.01, which is not in the bill (R.C. 2151.031(A)(2) and 4729.01(E)).

*Deadly weapon*, as used in R.C. 2151.031 means any instrument, device, or thing capable of inflicting death and designed or specially adapted for use as a weapon or possessed, carried, or used as a weapon (R.C. 2151.031(A)(3) by reference to R.C. 2923.11(A), which is not in the bill).

*Harmful intoxicant*, as used in R.C. 2151.031 and 2151.034 does not include beer or intoxicating liquor but means any of the following: (1) gamma butyrolactone, (2) 1,4 butanediol, or (3) any compound, mixture, preparation, or substance the gas, fumes, or vapor of which when inhaled can induce intoxication, excitement, giddiness, irrational behavior, depression, stupefaction, paralysis, unconsciousness, asphyxiation, or other harmful psychological effects, and includes, but is not limited to, any volatile or organic solvent, plastic cement, fingernail polish remover, lacquer thinner, cleaning fluid, gasoline, or other volatile organic solvent, any aerosol propellant, any fluorocarbon refrigerant, or any anesthetic gas (R.C. 2151.031(A)(4) by reference to R.C. 2925.01(I), which is not in the bill).

*Substance*, as used in R.C. 2151.034, means any mood or behavior altering product, including, but not limited to, alcohol, a drug, a controlled substance, a harmful intoxicant, and any other product that can be inhaled, ingested, injected, or applied (R.C. 2151.034(C)).

*Substantial risk*, as used in R.C. Ch. 2151., means the risk that a specified harm is markedly more likely than not to result from one or more acts or omissions (R.C. 2151.03(B)(52)).

### **Substitution of "child in need of protective services" for fewer than all three categories of abused, neglected, dependent children**

Because the definition of "child in need of protective services" is different from the existing definitions of abused, neglected, and dependent children, the substitution of the former for any of the latter, alone or in combination, may be a substantive change in the law. In general, though, the substantive change, if any, is smallest when "child in need of protective services" replaces all three current terms and greatest when it

replaces just one of the current terms. For example, a juvenile court has many responsibilities with respect to abused, neglected, and dependent children: requesting appropriations from the board of county commissioners (R.C. 2151.10); preparing annual reports on cases heard in the court (R.C. 2151.18); exercising jurisdiction (R.C. 2151.23); and so on. Similarly, a board of county commissioners must provide hearing rooms for cases involving abused, neglected, and dependent children (R.C. 2151.24), and each county must have a plan for providing services for such children (R.C. 121.37(D)). In such instances, the use of the new terminology may have little or no substantive effect.

However, where the bill substitutes "child in need of protective services" for only one or two of the current terms, it substantively amends existing law. For example, the statutes governing peace officer training require that peace officers receive training in the handling of abuse and neglect cases (R.C. 109.73) and that the Attorney General adopt rules pertaining to that training (R.C. 109.741). By replacing abuse and neglect cases with cases of children in need of protective services, the bill mandates that the rules and the training be expanded to cover dependent child cases as well. R.C. 2151.35(G) authorizes a juvenile court to order that the testimony of an allegedly abused child to be taken by deposition. The bill substitutes "child in need of protective services" for "abused child" and thereby empowers the court to order that the testimony of allegedly neglected or dependent children also be taken by deposition.

The following charts list those Revised Code sections amended by the bill in which "child in need of protective services" replaces only one or two of the terms used in existing law for such children. In some cases, the context, limiting language in existing law retained by the bill, or limiting language added by the bill restricts the effect of the substitution to situations that are essentially the same as under current law. In a few sections, "child in need of protective services" replaces all three terms in one place and just one or two terms in another. For example, current R.C. 2151.28(L) reads: "If the court, at an adjudicatory hearing . . . upon a complaint alleging that a child is an *abused, neglected, dependent, delinquent, or unruly child*, or a juvenile traffic offender, determines that the child is a *dependent child*, the court shall incorporate that determination into written findings of fact and conclusions of law . . . ." Under the bill, this sentence reads: "If the court, at an adjudicatory hearing . . . upon a complaint alleging that a child is a *child in need of protective services*, a delinquent or unruly child or a juvenile traffic offender, determines that the child is a *child in need of protective services because the child is lacking necessary care or supervision* . . . the court shall incorporate that determination into written findings of fact and conclusions of law and enter those findings of fact and conclusions of law . . . ." In this and similar cases, the charts refer only to the replacement of the single term.



The bill's language in the last example also illustrates the use of limiting language to avoid changing the sense of the statute. In some cases, the bill retains references to abuse or neglect but adds "child in need of protective services" (e.g., R.C. 2710.05(A)(7)). Because the latter phrase includes abuse and neglect, it effectively replaces abuse and neglect with regard to actions occurring after the bill's effective date and is therefore included in the second chart.

Chart 1 lists those Revised Code sections in which "child in need of protective services" replaces the category of abused child, neglected child, or dependent child, but not all three, without restrictive language. In a few instances, additions or deletions peculiar to the particular section are noted. Chart 2 lists those Revised Code sections in which "child in need of protective services" replaces the category of abused child, neglected child, or dependent child, but not all three, with language that limits the application of "child in need of protective services." Again, the chart makes note of some language unique to particular sections. In Chart 2, CNPS means "child in need of protective services."

Chart 1

Revised Code sections in which "child in need of protective services" replaces a reference to "abused child," "neglected child," or "dependent child" or a reference to two of those terms

R.C. Section	Current Term or Status	Subject
109.73(A), 109.741, 109.77(l), 109.79(A)	abuse, neglect	peace officer training
109.93	abuse	Attorney General (AG) Education Fund
340.15(A)	abuse, neglect	public children services agency (PCSA) reference of addicted parents, guardian, or custodian of a child
2101.17(F)	dependency, neglect	probate court fees (when acting as juvenile judge)
2151.281(B), (G)	abuse, neglect  (in 2151.281(G), bill eliminates different treatment of certain dependency cases)	guardian ad litem

<b>R.C. Section</b>	<b>Current Term or Status</b>	<b>Subject</b>
2151.31(A)(3), (F)	abuse, neglect  (in 2151.31(A)(3), bill eliminates language that refers to child's lack of medical care or child's dangerous surroundings)	taking child into custody
2151.35(G)	abuse	testimony by deposition
2151.3517(A)(5)	abuse, neglect	Safe Havens Law
2151.3520, 2151.3521, 2151.3522	neglect	Safe Havens Law
2151.3524, 2151.3527	abuse, neglect	Safe Havens Law
2151.412(E)(3), (H)	abuse, neglect	PCSA and private child placing agency case plans
2151.414(E)(3)	abuse, neglect	permanent custody hearing
2151.421	abuse, neglect	mandatory and voluntary reporters of abuse or neglect
2151.423	abuse, neglect	investigation of reports of abuse or neglect
2151.03 (renumbered 2151.45)	abuse, neglect	religious motivation
2151.56	neglect, dependency	Interstate Compact on Juveniles
2151.99(A)(2)	abuse, neglect	criminal liability for failure to report abuse or neglect
2317.02(G), (K)(2), (L)(3)	abuse, neglect  (2317.02(G) and (K)(2) refer to abuse and neglect; 2317.02(L) refers to abuse)	duty to report abuse or neglect  testimonial privilege
2710.05(A)(7)	abuse, neglect	testimonial privilege
2901.13(I)	abuse, neglect	criminal statute of limitations
2919.21(C)	dependency, neglect	criminal nonsupport
2919.22(E)	physical abuse, neglect	child endangerment
2921.14(B)	abuse, neglect	false report of abuse or neglect
2945.42	neglect	competency of witnesses
3107.013, 3107.034(B) and (C), 3107.161(B)(11)	abuse, neglect	adoption

<b>R.C. Section</b>	<b>Current Term or Status</b>	<b>Subject</b>
3107.12(A)(8)	abuse	adoption
3109.04(C), (F)	abuse, neglect	allocation of parental rights
3109.051(D)(11) and (12), (G)	abuse, neglect	shared parenting
3109.052	abuse	parental rights
3109.13, 3109.15, 3109.16, 3109.17, 3109.171, 3109.172	abuse, neglect	Ohio Department of Job and Family Services (ODJFS) Children's Trust Fund Board
3109.18	abuse, neglect	county child abuse/neglect prevention advisory board
3109.46	dependency	termination of custody order
3109.53, 3109.66, 3109.74(C)(2)	abuse, neglect	grandparent power of attorney, caretaker affidavit
3109.77(C)(2)	dependency	grandparent power of attorney, caretaker affidavit
3113.31(A)(1)	abuse	civil protection order
3301.54(B), 3301.56(C)	abuse	preschool staff training
3321.22(A)	dependency	school attendance
5103.07	abuse, neglect	ODJFS child abuse/neglect prevention program
5103.18(B)	abuse, neglect	foster care agency reports
5104.011, 5104.06	abuse	child-care staff training
5104.11(A)(3)	abuse, neglect	day care certification
5120.173	abuse, neglect	reports of abuse or neglect
5122.39(A)	dependency, neglect	PCSA guardianship of mentally ill children
5153.122(L), 5153.123	abuse	PCSA caseworker training
5153.16(A)(16), 5153.171(A), 5153.172, 5153.175	abuse, neglect	PCSA duties
5153.52	neglect	county support for neglected children

Chart 2

Revised Code sections in which "child in need of protective services replaces a reference to "abused child, "neglected child," or "dependent child" or a reference to two of those terms and contains language that limits the application of the term "child in need of protective services"

<b>R.C. Section</b>	<b>Current Term or Status</b>	<b>Limiting Language</b>	<b>Subject</b>
2151.011(B)(28)(renumbered 2151.03(B)(28))	sexual or physical abuse	physically or sexually harmed child ("CNPS" not used)	out-of-home care child neglect
2151.28(L)	dependency	CNPS because lacking necessary care or supervision	juvenile court determinations
2151.31(F)	abuse under 2151.031 (victim of sexual activity)  physical injury, emotional harm, or neglect (2151.31(G))	CNPS because child was sexually harmed  CNPS	court order for child taken into custody
2151.3523(B)	abuse, neglect	wound, injury, disability, or condition ("CNPS" not used)	Safe Havens Law
2151.421(H)(5)	sexual abuse	sexually harmed ("CNPS" not used)	mandatory and voluntary reporters of abuse or neglect
2151.425, 2151.426, 2151.427, 2151.428	sexual abuse	CNPS because of sexual harm	children's advocacy centers
2919.21(C)	dependency, neglect	CNPS because lacking necessary health care, legally required education, or necessary care or supervision	abandonment
2921.14(A)	abuse, neglect	CNPS because of physical, sexual, or emotional harm or harm by exposure to substance misuse	making false report

<b>R.C. Section</b>	<b>Current Term or Status</b>	<b>Limiting Language</b>	<b>Subject</b>
2945.42	failure to provide for, neglect of, or cruelty to child	CNPS	competency of witness
3109.04(F)(2)(c)	abuse	CNPS because of physical, sexual, or emotional harm or harm by exposure to substance misuse	shared parenting
3113.31(A)(1)	abuse	CNPS because of physical, sexual, or emotional harm	civil protection order
3321.22(A)	dependent	CNPS because lacking necessary care or supervision	school nonattendance
5122.39(A)	neglect, dependency	CNPS because lacking necessary health care, legally required education, or necessary care or supervision	guardianship of mentally ill child
5153.52	neglect	CNPS because lacking necessary health care, legally required education, or necessary care or supervision	county support for neglected children

## **Duties of PCSA**

### **Notice to parents of report of child abuse or neglect**

Existing R.C. 2151.421(A)(1) requires that certain persons acting in an official or professional capacity, such as teachers, other specified school employees, attorneys, physicians, nurses, and other healthcare personnel, report suspected actual or threatened child abuse or neglect (under the bill, evidence that a child is in need of protective services) to the public children services agency (PCSA) or a municipal or county peace officer in the county in which the child resides or the abuse or neglect occurred. R.C. 2151.421(B) permits any person who knows or suspects that child abuse or neglect has occurred to make such a report. Under existing law, a PCSA that receives such a report must determine if the child is living in a homeless shelter or a shelter for victims of domestic violence and, if the child was brought there from another county, to

notify the PCSA of the other county (R.C. 2151.422, not in the bill). The bill retains this requirement and also requires that the PCSA provide written notice of the rights of and services available to a parent, legal guardian, or legal custodian of the child who is the subject of the report made under the above-described provisions (R.C. 2151.421(D)(2)(a)).

### **Children lacking legally required education**

The bill requires a PCSA that receives a report made pursuant to R.C. 2151.421(A)(1) or (B) to notify the appropriate school attendance officer or assistant if the PCSA discovers facts that may support an adjudication that a child is lacking legally required education (R.C. 2151.421(D)(2)(b)).

The bill authorizes any person responsible for reporting or investigating alleged violations of or enforcing the compulsory school attendance provisions of R.C. Ch. 3321. to provide written notice to an appropriate PCSA when that person believes that the PCSA's intervention may help a child obtain legally required education. The notice must specify both of the following (R.C. 2151.036(B)):

(1) All known steps taken to assure the child's compliance with R.C. Ch. 3321. (compulsory school attendance law);

(2) All known acts or omissions by the child's parent, legal guardian, or legal custodian that may have contributed to the child's alleged lack of legally required education.

The bill provides that a PCSA has no obligation under R.C. 2151.421 (child abuse and neglect reports) to assess or investigate whether a child is a child in need of protective services because the child is lacking legally required education if the notice fails to demonstrate that any steps have been taken to ensure compliance with the compulsory school attendance law or the notice does not provide the above-described required information. If no steps have been taken to ensure compliance with the compulsory school attendance law, the PCSA may seek an order from the juvenile court with jurisdiction, and the court may enter an order, directing that such efforts be made. (R.C. 2151.036(C).)

Under the bill, when any person responsible for reporting or investigating alleged violations of or enforcing the compulsory school attendance statutes knows or suspects that a child is in need of protective services for any reason other than that the child may be lacking legally required education, that person must immediately report that knowledge or suspicion to the appropriate PCSA for its standard assessment or investigation. If, in assessing or investigating a report that a child is in need of protective services, a PCSA discovers facts that may support an adjudication that a

child is lacking legally required education, the PCSA must notify the appropriate person or entity responsible for investigating violations of or enforcing the compulsory school attendance statutes. (R.C. 2151.036(D) and (E).)

The bill states that the refusal of a child's parent, guardian, or custodian to administer or permit the child to take behavior modifying medication is not to be considered an act or omission relevant to a report that the child is lacking legally required education but may be relevant to a report that the child is lacking necessary health care (R.C. 2151.036(F)).

Under existing law, unchanged by the bill, a school attendance officer or assistant may serve warrants, enter places where children are employed, and do other things necessary to the enforcement of the laws relating to compulsory education and the employment of minors. The attendance officer or assistant may also take school-age children who are not legally employed into custody and bring them to their schools. The bill adds that the attendance officer or assistant may provide written notice to an appropriate PCSA if the officer or assistant believes that the PCSA's intervention may help to assist a child who is lacking legally required education. (R.C. 3321.17.)

### **Investigations**

Under existing law, except as provided in R.C. 2151.422 (see the first paragraph under the preceding heading), a PCSA must investigate, within 24 hours, any report it receives of suspected actual or threatened child abuse or neglect (under the bill, evidence that a child is in need of protective services). The bill adds the condition that the PCSA may investigate the report only if there is a reason to believe that any alleged injury, harm, or risk of injury or harm to the child resulted from an act or omission by the child's parent, legal guardian, or legal custodian (R.C. 2151.421(F)(1)). However, the bill also states that nothing in R.C. 2151.421 precludes a PCSA from acting under the scope of its authority under other sections of the Revised Code to conduct an investigation regarding, or to provide services for, a child who has been injured or who is at substantial risk of harm due to an act or omission by a person other than the child's parent, legal guardian, or legal custodian (R.C. 2151.421(O)).

The bill provides that when there is no credible explanation for harm to a child or when the PCSA has a reasonable belief that the explanation given for any harm is at variance with the nature of the harm, the PCSA may presume, until a contrary credible explanation is presented, that the child is a child in need of protective services (R.C. 2151.421(F)(3)).

## Juvenile court proceedings

The bill expressly requires a juvenile court, in determining whether a child is in need of protective services, to comply with R.C. 2151.031 to 2151.037, which define "physical harm," "sexual harm," "emotional harm," "harmed by exposure to substance misuse," "lacking necessary health care," "lacking legally required education," and "lacking necessary care or supervision" and provide guidance to the court in making determinations regarding those matters (see "**New definitions**," above) (R.C. 2151.35(A)(1)).

The bill also expressly requires the juvenile court to comply with R.C. 2151.351 (R.C. 2151.35(A)(1)). That section does all of the following (R.C. 2151.351(A), (B), and (C)):

(1) Specifies that a juvenile court may adjudicate a child to be a child in need of protective services only if it finds from clear and convincing evidence that the physical, sexual, or emotional harm or substantial risk of physical, sexual, or emotional harm to a child, exposure to substance misuse, or lack of necessary health care, legally required education, or necessary care or supervision resulted from an act or omission by a parent, legal guardian, or legal custodian of the child;

(2) States that the evidence provided to support an allegation that a child is in need of protective services may be relevant to more than one category listed in the definition of "child in need of protective services" and may justify an adjudication of a child as a child in need of protective services regardless of the category or categories under which the case was initiated;

(3) Specifies that the court, if it finds that there is no credible explanation for harm to a child or that the explanation given for any harm is at variance with the nature of the harm, may hold that the finding, by itself, constitutes clear and convincing evidence sufficient to support an adjudication that the child is a child in need of protective services;

(4) Authorizes an adjudication that a child is in need of protective services due to one or more acts or omissions of a person other than the child's parent, legal custodian, or legal guardian, if the parent, legal guardian, or legal custodian has done any of the following: (a) required, directed, coerced, encouraged, or permitted the child to become a child in need of protective services, (b) knowingly or negligently failed to prevent the child from becoming a child in need of protective services, (c) knowingly or negligently placed the child at substantial risk of becoming a child in need of protective services, or (d) placed the child with a long-term caregiver through a legally recognized



mechanism, and the child became or was at substantial risk of becoming a child in need of protective services.

Under existing law, the juvenile court must appoint a guardian ad litem in any case involving an alleged or adjudicated abused or neglected child and in any case involving an alleged dependent child in which the parent of the child appears to be mentally incompetent or is under 18 years of age, there is a conflict of interest between the child and the child's parents, guardian, or custodian, or the court believes that the parent of the child is not capable of representing the best interest of the child. The bill requires the appointment of a guardian ad litem in any case involving an alleged or adjudicated child in need of protective services, eliminating the specific conditions that apply under existing law to cases involving alleged dependent children. (R.C. 2151.281(G).)

### **Taking child into custody**

Existing law allows a child to be taken into custody under various circumstances. Among the circumstances under which a law enforcement officer or duly authorized officer of the court may take a child into custody are those that give reasonable ground to believe any of the following (R.C. 2151.31(A)):

(1) That the child is suffering from illness or injury and is not receiving proper care and the child's removal is necessary to prevent immediate or threatened physical or emotional harm;

(2) That the child is in immediate danger from the child's surroundings and that the child's removal is necessary to prevent immediate or threatened physical or emotional harm;

(3) That a parent, guardian, custodian, or other household member of the child's household has abused or neglected another child in the household and that the child is in danger of immediate or threatened physical or emotional harm from that person.

The bill eliminates the specific conditions described above in paragraphs (1) and (2) and alters the conditions described above in paragraph (3). Under the bill, a law enforcement officer or officer of the court may take a child into custody "when there are reasonable grounds to believe that the child's parent, guardian, or custodian committed an act or omission that indicates that the child is a child in need of protective services or when a parent, guardian, custodian, or other household member of the child's household has caused another child in the household to become a child in need of protective services and to believe that the child is in danger of immediate or threatened physical or emotional harm from that person." (R.C. 2151.31(A)(3).)

The bill states that R.C. 2151.31 (taking a child into custody) is not intended to prevent any person from taking a child into custody if doing so is necessary in an emergency to prevent the (bill removes "physical injury, emotional harm, or neglect) child *from becoming a child in need of protective services* (italicized language added by the bill) (R.C. 2151.31(G)).

### **Grant of custody to PCSA or PCPA**

Under current law, when a PCSA or a private child placing agency (PCPA) that has temporary custody of a child asks the juvenile court for permanent custody, the court must schedule a hearing and determine whether the child cannot be placed with either parent within a reasonable period of time or should not be placed with the parents at all. If the court determines, by clear and convincing evidence, at a hearing held upon motion of the PCSA or PCPA or upon an adjudication that the child is an abused, neglected, or dependent child (under the bill, a child in need of protective services) and finds that one or more of several specified situations exist (such as the parents' inability to provide an adequate permanent home for the child due to mental illness or the parent's demonstrated lack of commitment toward the child), the court must enter a finding that the child cannot be placed with either parent within a reasonable time or should not be placed with either parent. One of the findings on which the determination may be based is that the parent committed *any abuse against the child, caused the child to suffer any neglect, or allowed the child to suffer any neglect* between the date that the original complaint alleging abuse or neglect was filed and the date of the filing of the motion for permanent custody. The bill changes this possible finding to a finding that the parent committed *an act or omission that indicates that the child is in need of protective services* and that either (1) the *act or omission* occurred between the date that the original complaint alleging the child to be a *child in need of protective services* was filed and the date of the filing of the motion for permanent custody or (2) *the act or omission was of such a seriousness, nature, or likelihood of recurrence that the court determines that the child's placement with the parent is a threat to the child's safety.* (R.C. 2151.414(E)(3).)

Existing law also sets forth the following as possible findings that will support a court's determination that a child cannot be placed with either parent within a reasonable time or should not be placed with either parent (R.C. 2151.414(E)(8), (14), and (15)):

(1) The parent has repeatedly withheld medical treatment or food from the child when the parent has the means to provide the treatment or food, and, in the case of withheld medical treatment, the parent withheld it for a purpose other than to treat the physical or mental illness or defect of the child by spiritual means through prayer alone in accordance with the tenets of a recognized religious body.

(2) The parent for any reason is unwilling to provide food, clothing, shelter, and other basic necessities for the child or to prevent the child from suffering physical, emotional, or sexual abuse or physical, emotional, or mental neglect.

(3) The parent has committed abuse against the child or caused or allowed the child to suffer neglect, and the seriousness, nature, or likelihood of recurrence of the abuse or neglect makes the child's placement with the parent a threat to the child's safety.

The bill deletes all three of the foregoing possible findings.

### **False reports of child abuse or neglect**

Current law prohibits a person who is required or allowed to report suspected child abuse or neglect from knowingly making or causing another person to make a false report alleging that someone has committed an act or omission that resulted in a child being an abused child or a neglected child. A violation of the prohibition is a misdemeanor of the first degree. The bill eliminates the references to "abused child" and "neglected child" and instead prohibits false allegations regarding acts or omissions that resulted in a child being "a child in need of protective services" due to physical harm, sexual harm, emotional harm, or harm by exposure to substance misuse." (See "**New definitions**" above.) (R.C. 2921.14.)

### **Endangering children**

The Revised Code prohibits various acts as the offense of endangering children. A person who is the parent, guardian, custodian, person having custody or control, or person in loco parentis of a child under 18 years of age or a mentally or physically handicapped child under 21 years of age commits the offense when he or she creates a substantial risk to the health or safety of the child by violating a duty of care, protection, or support. Any person commits the offense by abusing a child who is under 18 years of age or a mentally or physically handicapped child under 21 years of age. (There are other ways in which the offense may be committed, but they are unaffected by the bill.) Under existing law, whoever commits the offense in either of these ways is guilty of a misdemeanor of the first degree unless there are certain aggravating circumstances. One of the aggravating circumstances is that the offender previously has been convicted of endangering children or of any offense involving neglect, abandonment, contributing to the delinquency of, or physical abuse of a child. In that case, endangering children is a felony of the fourth degree, unless an even higher penalty applies because the child suffered serious physical harm. The bill retains these provisions and adds that endangering children is a felony of the fourth degree, unless a higher penalty applies because of serious physical harm to the child, if the previous offense involved

permitting or causing a child to become a child in need of protective services. (R.C. 2919.22(E)(2)(b).)

## **Miscellaneous changes**

### **Definition of "out-of-home care child neglect"**

The bill modifies the definition of "out-of-home care neglect" that applies to R.C. Ch. 2151. so that it means any of the following when committed by a person responsible for the care of a child in out-of-home care (R.C. 2151.011, renumbered R.C. 2151.03):

(1) Failure to provide reasonable supervision according to the standard of care appropriate to the age, mental and physical condition, or other special needs of the child (existing law);

(2) Failure to provide reasonable supervision according to the standards of care appropriate to the age, mental and physical condition, or other special needs of the child that results in (deleting "sexual or physical abuse of") *an act or omission committed against the child by any person that causes the child to become a physically or sexually harmed child in accordance with R.C. 2151.031 or 2151.032* (italicized language added by the bill).

### **Parental consent for marriage license of a minor**

Under existing law, before a minor may get married, the minor must obtain the consent of the minor's parents, surviving parent, parent who is the residential parent and legal custodian of the minor, or any of the following that has been awarded permanent custody of the minor: an adult person; the Department of Job and Family Services or a child welfare organization certified by the Department; or a PCSA. A minor does not have to obtain consent from a parent who resides in a foreign country, has neglected or abandoned the minor for a period of one year or longer immediately preceding the application for a marriage license, has been adjudged incompetent, is an inmate of a state mental or correctional institution, or has been deprived of parental rights and responsibilities by a court. (R.C. 3101.01(A) and (B).)

Under the bill, a minor does not have to obtain such consent from a parent who resides in a foreign country, has abandoned the minor *or caused the minor to be a child lacking necessary health care, legally required education, or necessary care or supervision* (italicized language added by the bill) for a period of one year or longer immediately preceding the minor's application for a marriage license, has been adjudged incompetent, is an inmate in a state mental or correctional institution, or has been deprived of parental rights and responsibilities by a court (R.C. 3101.01(B)).

## **State and local entities reporting abuse and maltreatment of child receiving public assistance**

Under existing law, to the extent possible, the Department of Job and Family Services, county departments of job and family services, and employees of the departments may report to a PCSA or other appropriate agency information on known or suspected "physical or mental injury, sexual abuse or exploitation, or negligent treatment or maltreatment, of" a child receiving public assistance if circumstances indicate that the child's health or welfare is threatened. Under the bill, such a report could be made on known or suspected *acts or omissions against* a child receiving public assistance *that indicate that the child is in need of protective services* if circumstances indicate that the child's health or welfare is threatened (the bill replaces language in quotes with the italicized language). (R.C. 5101.28(G).)

## **Goals of social services supplied by state and local entities under Title XX**

The Departments of Job and Family Services, Mental Health, and Developmental Disabilities, with their respective local agencies, must administer the provision of social services funded through Title XX grants. The social services furnished with Title XX funds must be directed at certain goals, including preventing or remedying neglect, abuse, or exploitation of "children" and adults unable to protect their own interests, or preserving, rehabilitating, or reuniting families. The bill changes this goal to preventing or remedying neglect, abuse, or exploitation of adults unable to protect their own interests, *preventing or remedying an act or omission that indicates that a child is a child in need of protective services*, or preserving, rehabilitating, or reuniting families. (R.C. 5101.46(B)(3).)

## **Technical and conforming changes**

The bill renumbers two Revised Code sections, changing R.C. 2151.011 to 2151.03 and changing current R.C. 2151.03 to R.C. 2151.45, and corrects references to the two original section numbers throughout the Revised Code (R.C. 307.021(A), 2151.86(I)(3), 2152.02, 2921.32, 2927.02, 2930.01, 3109.51, 3109.58, 3109.68, 3301.121, 3313.64, 3313.662, 3321.19, 3701.503(C), 3730.01(D), 5101.13, 5103.12, 5103.13(A)(2), 5103.161, 5107.02(C), 5111.88, and 5139.05(G)(5)).

The Revised Code currently contains numerous references to acts that result in a child being an abused, neglected, or dependent child. The bill, where appropriate, changes these references to acts *or omissions* that result in a child being a child in need of protective services.

R.C. 3321.22 uses the terms "delinquent child" and "unruly child." These terms are defined in R.C. 2152.02 and 2151.022, respectively, but the definitions are only for

purposes of the Revised Code chapters in which they are found. The bill incorporates these definitions into R.C. 3321.22 (R.C. 3321.22(C)).

## Uncodified law

The bill provides that a child may be adjudicated a child in need of protective services only in relation to acts and omissions committed on or after the bill's effective date and that the provisions relating to children in need of protective services apply only to acts or omissions that indicate that a child is a child in need of protective services that are committed on or after that date. In relation to acts and omissions committed before the bill's effective date, the law in effect before that date applies. (Section 3.)

The bill requires the Ohio Department of Job and Family Services, not later than the bill's effective date, to begin making any changes in the Uniform Statewide Automated Child Welfare Information System established under R.C. 5101.13 that may be necessary to accommodate the changes in terminology made by the bill. The Department must complete those changes within one year after the bill's effective date.

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## COMMENT

In the following sections or parts of sections "child in need of protective services" replaces all three of the terms "abused child," "neglected child," and "dependent child": R.C. 109.65(E)(3)(d), 121.37(C)(9) and (D), 121.38(B)(1), 307.86(K), 2151.011 renumbered 2151.03(B)(9) and (39), 2151.10, 2151.141(A), 2151.18(B), 2151.23(A)(1), 2151.24, 2151.27(A)(1) and (C), 2151.28, 2151.281(C), (E), (F), (H), and (I), 2151.282(A), 2151.31(D), 2151.312, 2151.314, 2151.33(B), 2151.331, 2151.35(A), (B), and (F), 2151.353, 2151.359, 2151.3514(B), 2151.36, 2151.40, 2151.412(A)(1), 2151.414(A)(1), 2151.44, 2151.54, 2151.65, 2152.19, 2152.71, 2301.03(V), 2317.01, 2317.02(B)(1)(b), (G)(1)(g), and (H), 2501.02, 2710.05(A)(9), 2919.23, 3109.051(A), 3109.052(C), 3109.11, 3109.12, 3127.01, 3127.23, 3127.28, 3321.22(A), 4501.21(B), 5103.04, 5107.10(E)(1), 5123.93, 5153.122(A) and (L), 5153.123, and 5153.16.

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## HISTORY

ACTION	DATE
Introduced	11-17-09

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