



Ohio Legislative Service Commission

Bill Analysis

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Sub. H.B. 352

130th General Assembly
(As Reported by H. Health and Aging)

Reps. Hayes and Thompson, McClain, Derickson, Amstutz, Wachtmann

BILL SUMMARY

- Exempts private, nonprofit therapeutic wilderness camps from certification by the Department of Job and Family Services required for child caring institutions and associations.
 - Requires the Director of Job and Family Services to license a private, nonprofit therapeutic wilderness camp that meets specified minimum standards.
 - Prohibits the operation of a private, nonprofit therapeutic wilderness camp without a license.
 - Permits the Director to inspect private, nonprofit therapeutic wilderness camps and to access their records or written policies.
 - Specifies that persons responsible for a child's care in a private, nonprofit therapeutic wilderness camp are subject to existing criminal records check requirements.
 - Requires that administrators and employees of private, nonprofit therapeutic wilderness camps report suspected child abuse or neglect.
 - Declares an emergency.
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CONTENT AND OPERATION

Exemption from certification

The bill exempts private, nonprofit therapeutic wilderness camps from a requirement that they be certified by the Ohio Department of Job and Family Services

(ODJFS).¹ It defines "private, nonprofit therapeutic wilderness camp" as a structured, alternative residential setting for children who are experiencing emotional, behavioral, moral, social, or learning difficulties at home or school in which (1) the children are placed by their parents or another relative with custody, (2) the children spend the majority of their time either outdoors or in a primitive structure, and (3) the camp accepts no public funds for use in its operations.

Under current law, with limited exceptions, any institution or association that receives or desires to receive and care for children for two or more consecutive weeks must be certified by ODJFS. It is likely that a private, nonprofit therapeutic wilderness camp is considered an institution or association and classified as a children's residential center under rules adopted by ODJFS.² Extensive ODJFS regulations establish the certification process for children's residential centers and the specific criteria that those centers must meet.³ The bill exempts private, nonprofit therapeutic wilderness camps from ODJFS certification by excluding them from the definitions of "association" and "institution" in the certification law.⁴

Regulation of private, nonprofit therapeutic wilderness camps

License requirement

The bill requires the ODJFS Director to issue a license to a private, nonprofit therapeutic wilderness camp that applies for such a license on a form prescribed by the Director and meets certain minimum standards.⁵ Those minimum standards are as follows:

- The camp must develop and implement a written policy that establishes (1) standards for hiring, training, and supervising staff, (2) standards for behavioral intervention, including standards prohibiting the use of prone restraint and governing the use of other restraints or isolation, (3) standards for recordkeeping, including specifying information that must be included in each child's record, who may access records, confidentiality, maintenance, security, and disposal of records, (4) a procedure for handling complaints about the camp from the children

¹ R.C. 5103.02.

² Ohio Administrative Code (O.A.C.) 5101:2-1-01(B)(47).

³ O.A.C. 5101:2-9-02 through 5101:2-9-36.

⁴ R.C. 5103.02.

⁵ R.C. 5103.50.



attending the camp, their families, staff, and the public, (5) standards for emergency and disaster preparedness, including procedures for emergency evacuation and standards requiring that a method of emergency communication be accessible at all times, (6) standards that ensure the protection of children's civil rights, and (7) standards for the admission and discharge of children attending the camp, including standards for emergency discharge.

- The camp must cooperate with any request from the Director for an inspection or access to the camp's records or written policies.

A license issued pursuant to the bill is valid for five years (unless earlier revoked). A private, nonprofit therapeutic wilderness camp seeking license renewal must apply to the Director. If the camp meets the minimum standards described above, the Director must renew the license.⁶

It appears that therapeutic wilderness camps will also have to comply with current rules for "resident camps." Under existing law, resident camps must meet requirements that the Ohio Department of Health (ODH) adopts under its general authority to regulate the public health.⁷ Under ODH rules, "resident camp" is a facility primarily utilized for the purpose of camping that requires overnight residence.⁸ The rules require that a resident camp receive an annual permit from the local board of health, that the camp be inspected by the local health commissioner before the permit is issued and annually thereafter, and that the camp meet various other health and safety requirements.⁹

Prohibition against operating without a license

The bill prohibits a private, nonprofit therapeutic wilderness camp from operating without a license.¹⁰ If the ODJFS Director determines that a camp is operating without a license, the Director may petition the court of common pleas of the county in which the camp is located for an order enjoining its operation. The bill requires the court to grant the injunction upon a showing that the camp is operating without a license.

⁶ R.C. 5103.51.

⁷ R.C. 3701.13 and 3701.34, not in the bill.

⁸ O.A.C. 3701-25-01.

⁹ O.A.C. 3701-25-01 through 3701-25-22.

¹⁰ R.C. 5103.53.



Failure to meet minimum standards

If a licensed private, nonprofit therapeutic wilderness camp fails to meet the minimum standards for such a camp (see "**License requirement**," above), the ODJFS Director must notify the camp that the Director intends to revoke the license.¹¹ Unless the violation poses an imminent risk to the life, health, or safety of one or more children attending the camp, the Director must give the camp 90 days to come into compliance. If the violation does pose such an imminent risk or the camp fails to meet the minimum standards within 90 days after notice, the bill requires the Director to revoke the license. An order of revocation may be appealed pursuant to the Administrative Procedure Act (R.C. Chapter 119.).

Inspections

The bill authorizes the ODJFS Director to inspect a private, nonprofit therapeutic wilderness camp at any time and to delegate this authority to a county department of job and family services. The Director may request access to the camp's records or its policies adopted under the bill. This authority also may be delegated to a county department.¹²

Criminal records check requirements

Existing law requires a person responsible for a child's care in out-of-home care to undergo a criminal records check.¹³ Out-of-home care includes residential camps. The law regarding out-of-home care defines "residential camp" as a program that accepts children overnight for recreational purposes or for both recreational and educational purposes, but it is not entirely clear whether a private, nonprofit therapeutic wilderness camp is a residential camp under the definition.¹⁴ The bill adds private, nonprofit therapeutic wilderness camps to the settings that are considered to be out-of-home care, thereby expressly subjecting their employees and others who care for children there to criminal records check requirements.¹⁵

¹¹ R.C. 5103.54.

¹² R.C. 5103.52.

¹³ R.C. 2151.86, not in the bill.

¹⁴ R.C. 2151.011(B)(45).

¹⁵ R.C. 2151.011(B)(29).

Mandatory child abuse reporting

The bill adds administrators and employees of private, nonprofit therapeutic wilderness camps to the list of persons who are required to report suspected child abuse to a public children services agency or law enforcement official.¹⁶ Existing law includes this requirement for residential camps.

Compulsory school attendance

The bill specifies that a parent of a child attending a private, nonprofit therapeutic wilderness camp is not relieved of the parent's legal obligations regarding compulsory school attendance.¹⁷

HISTORY

ACTION	DATE
Introduced	11-14-13
Reported, H. Health & Aging	02-19-14

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¹⁶ R.C. 2151.421.

¹⁷ R.C. 5103.55 and 3321.04, not in the bill.

