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# OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research  
and Drafting

Legislative Budget  
Office

H.B. 4\*  
134<sup>th</sup> General Assembly

## Final Analysis

[Click here for H.B. 4's Fiscal Note](#)

**Primary Sponsors:** Reps. Plummer and Manchester

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## SUMMARY

### Youth and Family Ombudsman Office

- Establishes the Youth and Family Ombudsman Office under the Department of Job and Family Services (ODJFS) for investigating and resolving concerns and complaints from and on behalf of children and families involved with entities overseeing foster care or the placement of children.
- Requires the Office to do all of the following:
  - Receive, investigate, and attempt to resolve complaints related to government services regarding child protective services, foster care, and adoption;
  - Establish procedures for receiving and resolving complaints;
  - Provide an annual report to the Governor, Speaker of the House, Senate President, minority leadership of the House and Senate, the ODJFS Director, and representatives of the Overcoming Hurdles in Ohio Youth Advisory Board (OHIO YAB).
- Allows a representative of the Office to report any suspected violation of state law to appropriate authorities, to the extent permitted by state or federal law.
- Prohibits employees of the Office from holding any office of trust or profit, engaging in any business interfering with the duties of the Office, serving on any committee of a political party, or having any conflicting interests.

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\*The section numbering cited in this analysis reflects a recodification by the LSC Director, as authorized by R.C. 103.131. Specifically, R.C. 2151.4210 to 2151.4224 in the act as passed and presented to the Governor are recodified as R.C. 2151.4220 to 2151.4234. See the version of [H.B. 4 as filed with the Secretary of State's office](#), available on the Secretary of State's website, [ohiosos.gov](http://ohiosos.gov), under the "Legislation & Ballot Issues," then "Bill Effective Dates," links.

- Requires ODJFS to be responsible for all administrative undertakings for the Office, including the provision of offices, equipment, and supplies, as necessary.
- Defines the parameters for Office access to ODJFS records and entities that oversee foster care or the placement of children.
- Provides that Office records are not public records subject to inspection or copying.
- Requires OHIO YAB, no later than 60 days after the Office releases its annual report, to provide an evaluation of the report to the Governor and the Office's youth ombudsman.

### **Biennial memorandum of understanding (MOU) review**

- Requires every official who signed an MOU to biennially do the following to the MOU: (1) review for necessary updates, (2) update, as necessary, (3) sign, (4) submit to the board of county commissioners for approval.
- Requires the board of county commissioners, on receipt of the county's MOU, to review and evaluate if the MOU meets the act's requirements and do either of the following:
  - If the board determines the MOU meets the requirements, adopt a resolution to approve the MOU;
  - If the board determines the MOU does not meet those requirements, notify the responsible public children services agency (PCSA) that the MOU does not meet the requirements and must be reviewed in accordance with MOU review and update requirements.
- Requires the biennial MOU review by MOU officials and the biennial adoption of a resolution by the board of county commissioners to approve the MOU to be completed by December 31, 2024, and by December 31 every even-numbered year thereafter.

### **ODJFS duties**

- Requires ODJFS to biennially audit each PCSA's MOU to ensure compliance with the act's requirements.
- Requires ODJFS to determine that a PCSA is compliant regarding the MOU if the MOU meets all requirements under the law.
- Requires the PCSA, if ODJFS determines that it is not compliant, to develop and submit a compliance assurance plan to ODJFS, no later than 60 days following the determination, that describes the steps the PCSA and other concerned officials will take in order to become compliant.
- Requires ODJFS to create a model MOU to provide guidance to PCSAs and other concerned officials in creating a compliant MOU.
- Requires ODJFS to maintain on its website a current list of counties with MOUs and whether it has determined a county's MOU to be compliant or not compliant.

## MOU requirements

- Requires MOUs to include all of the following after May 30, 2022:
  - A statement that Ohio law requires a PCSA to disclose confidential information discovered during a child abuse or neglect investigation to any federal, state, or local government entity;
  - A description of the following:
    - ❖ The type of information that may be discovered during a child abuse or neglect investigation that a law enforcement agency may share with a PCSA;
    - ❖ How information is to be shared between a PCSA and a law enforcement agency;
    - ❖ Information that may be obtained from an investigation that a law enforcement agency and a PCSA is permitted to, or prohibited from, disclosing to the public.
- Requires a county's reviewed, signed, and updated, as applicable, MOU to take effect and supersede any previous MOU upon ODJFS' determination of compliance.
- Requires the county MOU that is in effect to be posted to the county's general website.

## Recodification

- Recodifies the section of law governing the creation of county MOUs.

## Report referral and notification changes

- Requires a PCSA that receives a report of child abuse, or a report of child neglect that alleges a type of neglect identified in ODJFS rules adopted under the act, to notify the appropriate law enforcement agency in accordance with the county's MOU requirements on sharing information between a PCSA and law enforcement agency.
- Requires the ODJFS Director to adopt rules by August 29, 2022, to identify the types of neglect of a child that a PCSA must notify law enforcement about.
- Specifies that the requirement that a peace officer must refer a report, upon receipt, to the PCSA must be done in accordance with the county's MOU requirements on sharing information between a PCSA and law enforcement agency.

## Reporters' right to information

- Requires, if a mandatory reporter provides the reporter's name and contact information on making the report, the PCSA that received the report to send both of the following written notices to the reporter, via U.S. mail or email, as the reporter prefers:
  - Not later than seven calendar days after receiving the report, a notice providing the status of the PCSA's investigation into the report made, whom the reporter may contact for further information, and a description of the reporter's rights;
  - Not later than seven calendar days after the PCSA closes the investigation into the case reported, a notice that the PCSA has closed the investigation.

## Foster care and adoption home study assessor qualifications

- Adds, as an individual qualified to perform foster care and adoption home studies: (1) a current or former PCSA caseworker, (2) a current or former PCSA caseworker supervisor, and (3) an individual with at least a bachelor's degree in any of the specified human services fields and has at least one year of experience working with families and children.

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## DETAILED ANALYSIS

### Youth and Family Ombudsman Office

#### Establishment and purpose

The act creates the Youth and Family Ombudsman Office under the Department of Job and Family Services (ODJFS). The Office consists of the following:

- A family ombudsman, to be appointed by the Governor, to investigate complaints made by adults;
- A youth ombudsman, to be appointed by the Governor with advice from the Overcoming Hurdles in Ohio Youth Advisory Board (OHIO YAB), to investigate complaints made by youth and to advocate for the best interests of children involved in concerns investigated by the Office;
- Not fewer than two regional ombudsmen;
- Any necessary support staff.

The Office must investigate and resolve concerns made by or on behalf of children and families involved with public children services agencies (PCSAs), Title IV-E agencies, or private provider agencies that administer or oversee foster care or placement services for the children services system. The Office must ensure the independent and impartial review of youth, family, and community complaints or concerns.<sup>1</sup>

The act defines the following terms:

- “Youth” is a person who is any of the following:
  - Less than 18 years of age;
  - An emancipated young adult;
  - Is in the temporary or permanent custody of a PCSA, a planned permanent living arrangement, or in the Title IV-E eligible care and placement responsibility of a juvenile court or other governmental agency that provides Title IV-E reimbursable placement services.
- “Emancipated young adult” is a person:
  - Who was in the temporary or permanent custody of a PCSA, a planned permanent living arrangement, or in the Title IV-E-eligible care and placement responsibility of a juvenile court or other governmental agency that provides Title IV-E reimbursable placement services;

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<sup>1</sup> R.C. 5101.891.

- Whose custody, arrangement, or care and placement was terminated on or after the person's 18<sup>th</sup> birthday; and
- Who has not yet attained the age of 21.<sup>2</sup>

## **Duties**

The act requires the Office to perform all of the following duties:

- Receive, investigate, and attempt to resolve complaints from citizens, including children in the custody of a PCSA or in the care and placement of a Title IV-E agency, related to government services regarding child protective services, foster care, and adoption;
- Establish procedures for receiving and resolving complaints, consistent with state and federal law;
- Provide an annual report to the Governor, Speaker of the House, President of the Senate, minority leadership of the House and Senate, the ODJFS Director, and OHIO YAB representatives.<sup>3</sup>

## **Reporting suspected violations**

Under the act, an Office representative is permitted to report to an appropriate authority any suspected violation of state law discovered during the course of a complaint review, to the extent permitted by state or federal law.<sup>4</sup>

## **Employee prohibitions**

No Office employee is allowed to do any of the following:

- Hold any office of trust or profit;
- Engage in any occupation or business interfering or inconsistent with the duties of the Office;
- Serve on any committee of any political party;
- Have any interest that is, or may be, in conflict with the interests and concerns of the Office.

For purposes of Office employee prohibitions, "office of trust or profit" is defined as any of the following:

- A federal or state elective office or an elective office of a political subdivision in Ohio;
- A position on an Ohio board or commission appointed by the Governor;

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<sup>2</sup> R.C. 5101.89.

<sup>3</sup> R.C. 5101.892.

<sup>4</sup> R.C. 5101.894.

- An office described in Ohio law governing administrative department heads appointed by the Governor, specified offices within those departments, and specified assistant directors for the departments;
- An office of the U.S. government appointed by the President of the United States.<sup>5</sup>

### **Access to ODJFS and PCSA records**

The act requires the Office to have access to only the ODJFS records that are necessary for the administration of the Office under the act and the performance of its official duties, including any records maintained in the Uniform Statewide Automated Child Welfare Information System (SACWIS). The Office has the right to request of the ODJFS Director the necessary information from any ODJFS work unit having information. The collection, compilation, analysis, and dissemination of information by the Office must be performed in a manner that protects complainants, individuals providing information about a complaint, public entities, and confidential records.

Additionally, the act requires the Office to have access to any necessary records in the control of a PCSA, a Title IV-E agency, or a private provider agency that administers or oversees foster care or placement services for the children services system.<sup>6</sup>

### **Record confidentiality**

The act specifies that Office files and any records contained in them are not public records subject to inspection or copying under Ohio's Public Records Law. Information contained in investigative and other files maintained by the Office can be disclosed only at the discretion of the Office or if disclosure is required by a court order.<sup>7</sup>

### **ODJFS administration**

The act requires ODJFS to be responsible for all administrative undertakings for the Office, including the provision of offices, equipment, and supplies, as necessary.<sup>8</sup>

### **OHIO YAB annual report evaluation**

The act requires OHIO YAB, no later than 60 days after release of the Office's annual report, to provide an evaluation of the report to the Governor and the Office's youth ombudsman.<sup>9</sup>

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<sup>5</sup> R.C. 5101.897.

<sup>6</sup> R.C. 5101.899(A) and (B).

<sup>7</sup> R.C. 5101.899(C).

<sup>8</sup> R.C. 5101.895.

<sup>9</sup> R.C. 5101.893.

## **Biennial memorandum of understanding (MOU) review**

The act establishes a biennial review process for each county's MOU, which governs how county officials handle child abuse and neglect reports for the county. Continuing law requires each PCSA to prepare an MOU that must be signed by various county officials, including, for example, a senior juvenile judge or juvenile judge or a juvenile judge's representative, the sheriff, chief municipal peace officers, and law enforcement handling child abuse and neglect cases. The act modifies very slightly from previous law the juvenile judge requirement by stating the signatory judge's representative must be reviewed and approved by the judge.<sup>10</sup>

### **MOU review and update**

The act requires every official who signed an MOU to biennially do the following regarding the MOU:

- Review and evaluate the MOU for necessary updates to terms and procedures;
- Update the MOU's terms and procedures, if the concerned officials determine an update is necessary;
- Sign the reviewed memorandum;
- Submit the memorandum to the board of county commissioners for approval.<sup>11</sup>

### **Review and approval by board of county commissioners**

The act requires each board of county commissioners, on receipt of the county's submitted MOU, to review and evaluate if the MOU meets the act's requirements (see below, "**MOU requirements**"). If the board determines the MOU meets those requirements, it must adopt a resolution to approve the memorandum. However, if the board determines the MOU does not meet those requirements, it must notify the responsible PCSA that the MOU does not meet requirements and must be reviewed in accordance with MOU review and update requirements (see above, "**MOU review and update**").<sup>12</sup>

### **Completion deadline**

Under the act, the biennial MOU review by MOU officials and the biennial adoption of a resolution by the board of county commissioners to approve the MOU must be completed by December 31, 2024, and by December 31 every even-numbered year thereafter.<sup>13</sup>

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<sup>10</sup> R.C. 2151.4220(A), 2151.4222, 2151.4226, and 2151.4229.

<sup>11</sup> R.C. 2151.4222.

<sup>12</sup> R.C. 2151.4225.

<sup>13</sup> R.C. 2151.4226.

## **ODJFS duties**

### **ODJFS audit**

The act requires ODJFS to biennially audit each MOU to ensure compliance with the act's requirements.<sup>14</sup>

Under the act, ODJFS must determine that a PCSA is compliant regarding the MOU if it finds all of the following:

- It meets the requirements under “**Biennial memorandum of understanding (MOU) review**” (see above) and “**MOU requirements**” (see below).
- It has been either (1) reviewed and signed or (2) reviewed, updated, and signed, as applicable, by MOU officials, and ODJFS is in agreement with the review and, if applicable, the update.
- It has been approved by the board of county commissioners' resolution.<sup>15</sup>

If ODJFS determines that it is not compliant, the PCSA must develop and submit to ODJFS a compliance assurance plan. The plan must describe the steps the PCSA and other concerned officials will take to become compliant. The PCSA must submit the plan within 60 days after ODJFS determines the PCSA is not compliant.<sup>16</sup>

### **MOU model**

Under the act, ODJFS must create a model MOU to provide guidance to PCSAs and other concerned officials in creating an MOU in compliance with the act's requirements. The model MOU must be updated as ODJFS determines is necessary.<sup>17</sup>

### **List of compliant counties**

The act requires ODJFS to maintain on its website a current list of counties with MOUs that ODJFS has determined to be compliant and those that ODJFS has determined not to be compliant.<sup>18</sup>

### **MOU requirements**

The act adds additional requirements to MOUs.

#### **New content**

MOUs must include all of the following new content after May 30, 2022:

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<sup>14</sup> R.C. 2151.4229.

<sup>15</sup> R.C. 2151.4230.

<sup>16</sup> R.C. 2151.4231.

<sup>17</sup> R.C. 2151.4228.

<sup>18</sup> R.C. 2151.4233.

- A statement that Ohio law requires a PCSA to disclose confidential information discovered during a child abuse or neglect investigation to any federal, state, or local government entity that needs the information to carry out its responsibilities to protect children from abuse or neglect;
- A description of the type of information that may be discovered during a child abuse or neglect investigation that a law enforcement agency may share with a PCSA in order for the PCSA to carry out its responsibilities to protect children from abuse or neglect;
- A description of how the information discovered during a child abuse or neglect investigation (above) is to be shared between a PCSA and a law enforcement agency;
- A description of information that may be obtained from a child abuse or neglect investigation that a law enforcement agency and a PCSA is permitted to, or prohibited from, disclosing to the public.<sup>19</sup>

### When MOU takes effect

Under the act, a county's reviewed and signed, or reviewed, updated, and signed, MOU, as applicable, goes into effect and supersedes any previous MOU upon ODJFS' determination of compliance.<sup>20</sup>

### County website

The act requires the county MOU that is in effect to be posted to the county's general website.<sup>21</sup>

### Recodification

The act recodifies R.C. 2151.421(K), the law that previously governed the creation of county MOUs. The table below gives a brief description of each recodified section and also each new provision of law enacted by the act, the section number under the act, and, with respect to recodified sections, the section number under previous law. **Please note:** The table reflects the act's reorganization plus a further renumbering by the LSC Director, as authorized by R.C. 103.131. Specifically, R.C. 2151.4210 to 2151.4224 in the act as passed and presented to the Governor are further renumbered as R.C. 2151.4220 to 2151.4234. See the version of [H.B. 4 as filed with the Secretary of State's office](#), available on the Secretary of State's website, [ohiosos.gov](http://ohiosos.gov), under the "Legislation & Ballot Issues," then "Bill Effective Dates," links.

Recodification of R.C. 2151.421(K)		
Subject	New section number	Previous section number
PCSA prepares MOU; signatory officials	R.C. 2151.4220	R.C. 2151.421(K)(1) and (5)

<sup>19</sup> R.C. 2151.4221(B)(4) to (7).

<sup>20</sup> R.C. 2151.4232.

<sup>21</sup> R.C. 2151.4234.

Recodification of R.C. 2151.421(K)		
Subject	New section number	Previous section number
MOU purpose	R.C. 2151.4221(A)	R.C. 2151.421(K)(2)
MOU required content	R.C. 2151.4221(B)	R.C. 2151.421(K)(3) and (4); new provision
Biennial review and other signatory official duties	R.C. 2151.4222	New provision
Savings provision: failure to follow MOU	R.C. 2151.4223	R.C. 2151.421(K)(2)
County review and resolution re: MOU	R.C. 2151.4225	New provision
Deadline for biennial review and resolution	R.C. 2151.4226	New provision
ODJFS model MOU	R.C. 2151.4228	New provision
ODJFS biennial audit	R.C. 2151.4229	New provision
ODJFS compliance determination	R.C. 2151.4230	New provision
ODJFS compliance assurance plan	R.C. 2151.4231	New provision
Effective MOU	R.C. 2151.4232	New provision
ODJFS compliant/noncompliant MOU lists	R.C. 2151.4233	New provision
MOU published on county website	R.C. 2151.4234	New provision

## Report referral and notification changes

### PCSA notification to law enforcement

The act requires a PCSA, in accordance with the county's MOU requirements on sharing information between a PCSA and law enforcement agency, to notify the appropriate law enforcement agency if it has received either of the following:

- A child abuse report;

- A child neglect report that alleges a type of neglect identified by ODJFS in rules adopted under the act.<sup>22</sup>

The report is not required if an arrest is made at the time of a report that results in the appropriate law enforcement agency being contacted concerning the possible child abuse or neglect or threat of child abuse or neglect.

The act requires the ODJFS Director, by August 29, 2022, to adopt rules under the Administrative Procedure Act (R.C. Chapter 119) to identify the types of neglect of a child that a PCSA is required to notify law enforcement about.<sup>23</sup>

### **Law enforcement referral to PCSA**

The act specifies that the continuing law requiring a peace officer to refer a report, on receipt, to the PCSA must be done in accordance with the county's MOU requirements on sharing information between a PCSA and law enforcement agency.<sup>24</sup>

### **Reporters' right to information**

Under the act, if a mandatory reporter provides the reporter's name and contact information on making the report, the PCSA that received or was referred the report must send both of the following written notices to the reporter, via U.S. mail or electronic mail, in accordance with the reporter's preference:

- Not later than seven calendar days after receiving the report, a notice providing the status of the PCSA's investigation into the report made, whom the reporter may contact at the PCSA for further information, and a description of the reporter's rights to make requests for information;
- Not later than seven calendar days after the PCSA closes the investigation into the case reported, a notice that the PCSA has closed the investigation.<sup>25</sup>

### **Foster care and adoption home study assessor qualifications**

The act adds professional or educational qualifications that, if met, qualify an individual to perform the duties of a foster care and adoption home assessor. The new qualifications require the individual to be one of the following:

- A former PCSA employee who, while so employed, conducted the duties of a PCSA caseworker or a PCSA caseworker supervisor;
- A PCSA caseworker or PCSA caseworker supervisor;

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<sup>22</sup> R.C. 2151.421(E)(2)(c).

<sup>23</sup> R.C. 2151.421(L)(2).

<sup>24</sup> R.C. 2151.421(E)(1).

<sup>25</sup> R.C. 2151.421(K).

- Hold at least a bachelor’s degree in any of the following fields and have at least one year of experience working with families and children:
  - Social work;
  - Sociology;
  - Psychology;
  - Guidance and counseling;
  - Education;
  - Religious education;
  - Business administration;
  - Criminal justice;
  - Public administration;
  - Child care administration;
  - Nursing;
  - Family studies; or
  - Any other human services field related to working with children and families.<sup>26</sup>

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## HISTORY

Action	Date
Introduced	02-03-21
Reported, H. Families, Aging & Human Services	05-25-21
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Reported, S. Judiciary	01-26-22
Passed Senate (31-0)	02-09-22
House concurred in Senate amendments (89-3)	02-09-22

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<sup>26</sup> R.C. 3107.014.