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# OHIO LEGISLATIVE SERVICE COMMISSION

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H.B. 681  
134<sup>th</sup> General Assembly

## Bill Analysis

**Version:** As Introduced

**Primary Sponsor:** Rep. Weinstein

Paul Luzzi, Attorney

### SUMMARY

- Requires a health care setting employer to develop, implement, and periodically review and adjust a plan to prevent and protect employees from workplace violence.
- Requires a health care setting employer, on completing the plan, to submit it to the Director of Health and to resubmit it to the Director after making any significant change to it.
- Requires, no later than 90 days after implementing the required plan, and on a regular basis thereafter as determined by the plan, a health care setting employer to provide workplace violence prevention training to employees, volunteers, and certain contractors.
- Requires a health care setting employer to make a record of any incident of workplace violence or any violent act against a patient or a visitor and submit the record to the Director within 72 hours after the employer is made aware of the incident or act.
- Prohibits a health care setting employer from discriminating against an employee because the employee reported workplace violence to the employer, the Director, or law enforcement or testified, assisted, or participated in an investigation, proceeding, or hearing under the bill.
- Requires the Director to investigate alleged violations of the bill and specifies penalties for violations.

### DETAILED ANALYSIS

#### Health care setting workplace violence prevention plan

Not later than six months after the bill's effective date, a health care setting employer must, under the bill, develop and implement a plan to prevent and protect employees from workplace violence. The employer must review and make necessary updates to the plan at least

every three years.<sup>1</sup> A “health care setting employer” is an employer that owns or operates any of the following:

- An ambulatory surgical facility or health care facility;
- A maternity unit or newborn care nursery (but only until September 30, 2024);
- A maternity home;
- A hospice care program or pediatric respite care program;
- A nursing home or residential care facility;
- A hospital;
- A plasmapheresis center;
- A home health agency.<sup>2</sup>

A health care setting employer’s plan must outline strategies aimed at addressing security considerations and factors that may contribute to or prevent the risk of workplace violence. The bill includes the following nonexhaustive list of considerations and factors the plan must address:

- The physical attributes of the health care setting, including security systems, alarms, emergency response, and security personnel available;
- Staffing, including staffing patterns, patient classifications, and procedures to mitigate employee time spent working in areas at high risk for workplace violence;
- Job design, equipment, and facilities;
- First aid and emergency procedures;
- The reporting of workplace violence;
- Employee education and training requirements and implementation strategy;
- Security risks associated with specific units, areas of the facility with uncontrolled access, late night or early morning shifts, and employee security in areas surrounding the facility such as employee parking areas;
- Processes and expected interventions to provide assistance to an employee directly affected by workplace violence.

Not later than one year after implementing the plan, and annually thereafter, a health care setting employer must review the frequency of its workplace violence incidents. The

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<sup>1</sup> R.C. 4107.02(A).

<sup>2</sup> R.C. 4107.01(A), by reference to R.C. 3702.30, 3711.01, 3712.01, 3721.01, 3722.01, 3725.01, and 3740.01, not in the bill.

review must include identifying the causes for and consequences of workplace violence at the setting and any emerging issues contributing to workplace violence. The employer must adjust its prevention plan as necessary based on the annual review.<sup>3</sup>

### **Consultations and guidelines**

In developing a workplace violence prevention plan required by the bill, a health care setting employer must consider any applicable guidelines issued by the Ohio Department of Health (ODH), the Bureau of Workers' Compensation, the U.S. Occupational Safety and Health Administration, the U.S. Department of Health and Human Services, and health care setting accrediting organizations. The employer also must consult with and consider the views of the following individuals when developing, reviewing, and updating the plan:

- Employees;
- Management;
- Security personnel who work on the premises, if applicable.<sup>4</sup>

### **Plan submission**

On completion of the plan, the bill requires a health care setting employer to submit the plan to the Director of Health. An employer must resubmit the plan to the Director after making any significant changes to it.<sup>5</sup>

### **Workplace violence prevention training**

No later than 90 days after implementing the required plan, and on a regular basis as determined by the plan thereafter, a health care setting employer must provide workplace violence prevention training to all of the following individuals:

- Employees;
- Volunteers;
- Contracted security personnel;
- Individuals who are employed by a health care staffing agency and who perform services for the health care setting employer.

The training must occur no later than 90 days after an individual's initial start date. The method and frequency of training may vary according to the information and strategies identified in the plan. However, an employee must receive training at least annually. The training may include any of the following:

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<sup>3</sup> R.C. 4107.02(B) and (C).

<sup>4</sup> R.C. 4107.02(D) and (E).

<sup>5</sup> R.C. 4107.02(F).

- Classes that provide an opportunity for interactive questions and answers;
- Hands-on training;
- Video training;
- Brochures;
- Verbal training;
- Other verbal or written training determined to be appropriate under the plan.

If the training consists of video training or brochures, the training also must include at least one of the other listed training methods.

A health care setting employer must address the following topics in the training, as appropriate to the particular setting and to the trainee's duties and responsibilities, based on hazards identified in the plan:

- The health care setting's workplace violence prevention plan;
- General safety procedures;
- Violence predicting behaviors and factors;
- The violence escalation cycle;
- De-escalation techniques to minimize violent behavior;
- Strategies to prevent physical harm with hands-on practice or role play;
- Response team processes;
- Proper application and use of restraints, both physical and chemical;
- Documentation and reporting incidents;
- The debrief process for affected individuals following workplace violence;
- Resources available to individuals for coping with the effects of workplace violence;
- Information about the legal remedies available to victims of workplace violence.<sup>6</sup>

## **Recordkeeping and reporting**

The bill requires a health care setting employer to document workplace violence or any violent act against a patient or a visitor occurring at the setting. The employer must submit the documentation to the Director within 72 hours after the employer is made aware of the act. The employer must keep the record for at least five years following the reported violence. During the five-year period, the documentation must be available for inspection at the Director's request.

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<sup>6</sup> R.C. 4107.03.

At a minimum, the employer must document all of the following information:

- The employer's name and address;
- The date, time, and specific location where the violence occurred;
- The job title and department or ward assignment of the victim if the victim is an employee;
- A description of both the individual who committed the violence and the individual against whom the violence was committed as one of the following: a patient, a visitor, an employee, or other.
- A description of the type of violence, which may be one of the following: (1) a threat of assault with no physical contact, (2) a physical assault with contact but no physical injury, (3) a physical assault with mild soreness, surface abrasions, scratches, or small bruises, (4) a physical assault with major soreness, cuts, or large bruises, (5) a physical assault with severe lacerations, a bone fracture, or a head injury, or (6) a physical assault with loss of limb or death.
- An identification of any injured body part;
- A description of any weapon used;
- The number of employees in the vicinity when the violence occurred;
- A description of action taken by any employee and the employer in response to the violence.

An employee may report incidents of workplace violence and violations of the bill to the Director.<sup>7</sup>

## Prohibitions

The bill prohibits a health care setting employer from discriminating in any manner against an employee because the employee does either of the following:

- Reports workplace violence to the employer, the Director, or any law enforcement agency;
- Testifies, assists, or participates in any manner in an investigation, proceeding, or hearing under the bill.<sup>8</sup>

## Enforcement

The bill requires the Director to enforce its requirements and investigate alleged violations by a health care setting employer. The Director must adopt necessary administrative

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<sup>7</sup> R.C. 4107.04 and 4107.05.

<sup>8</sup> R.C. 4107.06.

rules to carry out the bill, including rules governing investigations and hearings related to potential violations.<sup>9</sup>

If, after an investigation, the Director determines that there is reasonable evidence that a covered employer that holds a license or certificate issued by ODH violated the bill, the Director may do both of the following in accordance with the Administrative Procedure Act<sup>10</sup> (APA):

- Impose a reasonable fine against the licensee;
- For a second or subsequent violation, revoke, suspend, or refuse to renew the employer's license.

If the Director determines that there is reasonable evidence that a covered employer that does not hold a license or certificate issued by ODH committed a violation, the bill requires the Director to send a written notice to that employer and hold a hearing regarding the alleged violation in the same manner as prescribed in the APA. After the hearing, if the Director determines that a violation has occurred, the Director may impose a reasonable fine on the employer. The Director's determination is an order under the APA and may be appealed to a court in accordance with continuing law.

When an employer fails to pay a penalty assessed by the Director within 30 days after the Director imposes it, the Director must forward the employer's name and the penalty amount to the Attorney General for collection. In addition to the penalty, the employer also must pay any collection fee assessed by the Attorney General.<sup>11</sup>

## Director's additional duties

The bill requires the Director to perform the following additional duties:

- Establish and maintain a system for a health care setting employer to electronically submit the records described under "**Recordkeeping and reporting**," above;
- Establish and maintain a system for employees to electronically submit reports of workplace violence and violations of the bill's prohibitions;
- Prepare an annual statistical report that summarizes the records and reports received by the Director from the past year, and make it available to the public on ODH's website;
- Beginning five years after the bill's effective date, and every five years thereafter, submit the statistical reports from the preceding five years to the chairpersons of the

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<sup>9</sup> R.C. 4107.07(A).

<sup>10</sup> R.C. Chapter 119.

<sup>11</sup> R.C. 4107.08 and 4107.09, by reference to R.C. 119.09 and 119.12, not in the bill.

standing committees of the Senate and the House of Representatives responsible for hearing health care-related legislation.

The statistical report prepared by the Director may not contain any personally identifiable information about an employee, victim, or any other individual. As soon as practicable after receiving the statistical reports, the members of the standing committees must review the reports and consider potential legislative solutions to reduce violence in health care settings.<sup>12</sup>

### **Additional definitions**

The bill also defines the following terms:

- “Health care staffing agency” means a person that is engaged in the business of providing or procuring, for a fee, temporary staff for a health care setting employer.
- “Employee” means any individual who performs a service for wages or other remuneration for a health care setting employer.
- “Workplace violence” means any physical assault or verbal threat of physical assault against an employee at any location where the employee is performing services for the health care setting employer.<sup>13</sup>

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## **HISTORY**

Action	Date
Introduced	05-23-22

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<sup>12</sup> R.C. 4107.07.

<sup>13</sup> R.C. 4107.01.