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H.B. 583*
135th General Assembly

Bill Analysis

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Version: As Reported by House Families and Aging

Primary Sponsors: Reps. White and Plummer

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SUMMARY

Residential facilities for foster children

- Enacts several provisions that generally apply to residential facilities for foster children that are operated by public children services agencies (PCSAs), private child placing agencies (PCPAs), private noncustodial agencies, or superintendents of county or district children's homes for the placement of foster children and the children who are under the care and supervision of these facilities.

Notifications re: medical care and law enforcement interactions

- Requires all of the following, if a child under a residential facility's care and supervision presents to an emergency department or is admitted to a hospital for an injury or mental health crisis:
 - For the emergency department or hospital to communicate with the PCSA or PCPA with custody of the child about the visit and to notify the PCSA or PCPA of the child's discharge;
 - For the PCSA or PCPA to respond to the emergency department or hospital's communication regarding the child within four hours after initial contact;
 - For the emergency department or hospital to report the visit to the Ohio Resilience Through Integrated Systems and Excellence (OhioRISE) Program, if the child is participating in the program, and the Department of Children and Youth (DCY).
- Requires a law enforcement officer who has an investigative interaction with a child who is under the care and supervision of a residential facility to notify the facility operator and

* This analysis was prepared before the report of the House Families and Aging Committee appeared in the House Journal. Note that the legislative history may be incomplete.

the PCSA or PCPA with custody of the child of the interaction, regardless of whether a police report is generated.

- Requires, if a child has an interaction with a law enforcement officer that results in the generation of a police report, a residential facility providing care and supervision to the child to report the interaction and provide a copy of the police report to DCY.
- Requires DCY to adopt rules to establish all of the following:
 - A standardized procedure under which an emergency department or hospital or law enforcement officer provides notifications as specified above;
 - Timeframes for an emergency department, hospital, or residential facility to provide reports to DCY as specified above;
 - Standards for DCY to track the reports it receives from an emergency department, hospital, or residential facility.

24-hour emergency on-call procedure

- Requires a PCSA or PCPA and a residential facility operator to establish a 24-hour emergency on-call procedure to respond to contact from emergency departments, hospitals, law enforcement officers, and first responders regarding emergencies involving a child in the agency's custody or under the care and supervision of the facility, respectively.

Monthly PCSA and PCPA visits

- Requires a PCSA or PCPA with custody of a child who is in a residential facility's care and supervision to conduct a monthly in-person visit to the facility to determine the child's well-being, and to report concerns about the child to DCY in accordance with rules that DCY must adopt.

Mandatory review of child's placement

- Requires a PCSA or PCPA to conduct a mandatory review of a child's placement, which must include a determination of whether the residential facility is an appropriate setting and is providing a satisfactory level of care for the child, if any of the following occur:
 - The child presents to an emergency department or is admitted to a hospital for an injury or mental health crisis;
 - A police report is generated with regard to the child;
 - During a monthly visit, the agency has determined that a review is necessary pursuant to DCY rules.
- Requires DCY to adopt rules to establish guidelines for reviewing a child's placement, including review criteria, circumstances that would require a change in the child's placement, and a timeline for conducting the review and taking appropriate action.

Services from community organizations

- Requires a residential facility operator to notify a PCSA or PCPA with custody of a child of any service that a community organization provides or seeks to provide to a child under a facility's care and supervision and a PCSA or PCPA to provide prior approval of such services.

Delinquent children

- Requires a PCSA or PCPA to inform a residential facility operator of any charges for which a child placed in the facility was adjudicated a delinquent child either before placement or within 96 hours after the child's placement as a result of an emergency placement or a change in the child's case plan.
- Establishes the Study Committee to Evaluate the Placement of Delinquent Children in Residential Facilities to evaluate, make recommendations, and issue a report to the Governor and General Assembly regarding the placement in residential facilities of children who are alleged to be or have been adjudicated delinquent children.

Residential facility certification

- Requires a residential facility operator to demonstrate in its application for a certificate that the proposed facility meets all applicable local planning and zoning requirements, and for the facility to maintain compliance to remain in good standing.
- Requires a residential facility operator to provide the following to the board of township trustees or the legislative authority of the municipal corporation where the facility will be located:
 - Before the facility begins operations, notice that the facility will be in operation;
 - Written notice of the facility location and contact information and copies of the facility's procedures for emergencies and disasters, medical emergency plan, and community engagement plan.
- Establishes a procedure for a county, township, or municipal corporation to revoke a conditional use permit for a residential facility if: (1) the facility operator fails to comply with permit requirements or (2) the facility operator has failed to fulfill the requirements of a corrective action plan that DCY issued for a finding of noncompliance.
- Requires DCY to conduct a site visit of a residential facility at least annually to ensure certification compliance.
- Requires DCY to adopt rules to establish criteria for more than one site visit per year upon surpassing a threshold, to be determined by the Director, of the following reports that DCY receives regarding a residential facility:
 - When a child under a facility's care and supervision presents to the emergency department or is admitted to a hospital for an injury or mental health crisis;

- When a child under a facility's care and supervision has an interaction with a law enforcement officer that results in the generation of a police report;
 - When concerns about a child arise out of the required monthly visit by a PCSA or PCPA to determine the well-being of a child;
 - When a resident of a community in which a facility is located communicates concerns and complaints related to the facility.
- Requires, if DCY determines that a residential facility has violated a requirement for certification and issues a corrective action plan for the facility to remedy the violation, the operator of the facility to provide documentary evidence of the correction.

Criminal records check requirements

- Requires the appointing or hiring officer of a residential facility to request the Superintendent of the Bureau of Criminal Identification and Investigation to conduct a criminal records check for any person who is under final consideration for appointment or employment in the residential facility.
- Requires the Director of DCY to seek a federal waiver for the conditional appointment or employment of a person in a residential facility while a criminal records check is pending.
- Establishes provisions regarding the conditional appointment or employment of a person in a residential facility, including a restriction on direct contact with or access to children during the period of conditional appointment or employment and conditions for termination.
- Requires DCY, to the extent permitted under federal law, to adopt rules to implement the bill's criminal records check requirements, including conditional appointment or employment terms.

DCY review and reporting requirements

- Requires DCY to adopt rules to divide the state into regions, determine an ideal number of residential facilities in each region, and establish incentives to attract residential facilities to regions that are below the ideal number of facilities.
- Requires DCY to adopt rules to establish a procedure for an individual to communicate concerns, complaints, or other pertinent information to DCY regarding a residential facility in the individual's community.
- Requires DCY to annually survey the staff of all residential facilities and of PCSAs and PCPAs working with children under the care and supervision of residential facilities regarding the status of these children.
- Requires DCY to do the following annually:
 - Review the results of the above staff survey;
 -

- Review all reports that DCY receives regarding emergency department and hospital visits, interactions with law enforcement resulting in the generation of a police report, concerns arising out of a monthly PCSA or PCPA visit, and complaints or concerns from a resident of a community in which a residential facility related to the facility.
- Review the Ohio Administrative Code to determine whether the training requirements are adequately responsive to the needs of residential facilities in the state, based on the above review, and adopt or modify rules accordingly.

Educational stability of foster children

- Requires the Department of Education and Workforce (DEW) to provide all school districts with best practices to help ensure the educational stability of students who are in a PCSA or PCPA’s custody.
- Requires the school district in which a foster child is enrolled after being placed in a residential facility to assess the needs of the child for appropriate services and interventions and to use the results to make recommendations regarding the child.
- Requires DCY and DEW to create a standard form for PCSAs and PCPAs to convey information necessary to support the education of children in their custody.
- Requires a PCSA or PCPA to convey the information on the form to the foster care liaison in the student’s new school district.

Peace officer training

- Requires the Attorney General, in consultation with the Ohio Peace Officer Training Commission, to adopt rules governing the training of peace officers in identifying and interacting with at-risk youth.

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DETAILED ANALYSIS

Residential facilities for foster children

The bill enacts provisions that generally apply to residential facilities for foster children and the children who are under the care and supervision of these facilities. Existing law defines a residential facility as a group home for children, children’s crisis care facility, children’s residential center, residential parenting facility that provides 24-hour child care, county children’s home, or district children’s home.¹ The bill’s provisions are limited to a residential facility that is operated by a public children services agency (PCSA), private child placing agency (PCPA), private noncustodial agency, or superintendent of a county or district children’s home for the placement of foster children.²

The bill’s provisions include: notification requirements when a child under a residential facility’s care and supervision presents to an emergency department or hospital for an injury or mental health crisis or has an interaction with a law enforcement officer, a requirement for residential facilities and PCSAs and PCPAs to have 24-hour emergency on-call procedures, mandatory monthly visits by a PCSA or PCPA to check on the well-being of a child under a facility’s care and supervision, circumstances requiring PCSA or PCPA review of a child’s placement in a residential facility, PCSA and PCPA oversight of services that community organizations provide to

¹ R.C. 5103.05(A)(8).

² R.C. 2151.46(F), 109.71(M), 5103.05(D) and (G), and 5103.052.

a child under a facility's care and supervision, notification requirements for delinquent children placed in a residential facility, the creation of a study committee regarding the placement of delinquent children in residential facilities, provisions related to a residential facility's certification (including zoning provisions), criminal records check provisions for employment or appointment in a residential facility, and various review and reporting requirements for the Department of Children and Youth (DCY) to oversee the status of residential facilities in Ohio.

Notifications regarding medical care and law enforcement interactions

Medical care notifications

The bill enacts notification and response requirements when a child is under a residential facility's care and supervision and presents to an emergency department or is admitted to a hospital for an injury or mental health crisis.

First, the bill requires the emergency department or hospital to communicate with the PCSA or PCPA with custody of the child about the visit. This includes discussion of the child's medical treatment and a request to authorize care for the child but does not apply to medical services that a child may receive without parental consent under existing law and for which the child has given consent.³ The emergency department or hospital also must notify the PCSA or PCPA when the child is discharged from its care.⁴

Second, the bill requires a PCSA or PCPA to respond to the emergency department or hospital's communication regarding medical care within four hours after initial contact.⁵

Third, notwithstanding existing law regarding protected health information and to the extent permitted by federal law, an emergency department or hospital must report a visit to the Ohio Resilience Through Integrated Systems and Excellence (OhioRISE) Program, if the child is participating in the program, and DCY.⁶ Under existing law, OhioRISE is a Medicaid managed care program that provides specialized services for children with complex behavioral health needs in order to keep children and families together.⁷

³ These medical services include: (1) blood donation, (2) emergency medical care for a sexual abuse victim, (3) abortion if the minor has applied to the local juvenile court and the court finds good cause to bypass parental consent, (4) HIV testing, (5) venereal disease diagnosis and treatment, (6) drug and alcohol abuse diagnosis and treatment, (7) medical care for a minor prosecuted as an adult and confined to a state correctional institution, and (8) outpatient mental health services. R.C. 2108.31, 2151.85, 2907.29, 3701.242, 3709.241, 3719.012, 5120.172, and 5122.04, not in the bill.

⁴ R.C. 2151.461(A)(1) and (2).

⁵ R.C. 2151.461(B).

⁶ R.C. 2151.462.

⁷ See "[About OhioRISE](#)," which can be accessed under the "Learn About Managed Care" section on the Department of Medicaid's website at: managedcare.medicaid.ohio.gov.

The bill defines an “emergency department” to include a hospital emergency department and a freestanding emergency department, which is defined under existing law as a facility that provides emergency care and is structurally separate and distinct from a hospital.⁸

Law enforcement notifications

The bill specifies that if a child that is under the care and supervision of a residential facility has an investigative interaction with a law enforcement officer, regardless of whether a police report is generated regarding the child, the law enforcement officer must notify the residential facility operator and the PCSA or PCPA with custody of the child of the interaction.⁹ If a police report is generated as a result of such an interaction, the residential facility must report the interaction and provide a copy of the police report to DCY.¹⁰

The bill defines a “law enforcement officer” as a sheriff, deputy sheriff, constable, police officer of a township or joint police district, marshal, deputy marshal, municipal police officer, or state highway patrol trooper.¹¹

Rulemaking

Within 90 days after the bill’s effective date, the DCY Director must adopt rules in accordance with the Administrative Procedure Act regarding these notification requirements. Specifically, the rules must establish the following:

- A standardized procedure under which an emergency department or hospital notifies a PCSA or PCPA about a child that presents to an emergency department or is admitted to a hospital;
- A standardized procedure under which a law enforcement officer notifies a PCSA or PCPA and residential facility about a child’s interaction with law enforcement;
- Time frames for an emergency department or hospital or residential facility to provide reports to DCY, as well as standards for DCY to track such reports.¹²

24-hour emergency on-call procedure

The bill requires each PCSA, PCPA, and residential facility to establish a 24-hour emergency on-call procedure to respond to contact from emergency departments, hospitals, law enforcement officers, and first responders regarding emergencies involving a child in the agency’s custody or under the care and supervision of the residential facility, respectively.¹³

⁸ R.C. 2151.46(B) and (C); R.C. 3727.49, not in the bill.

⁹ R.C. 2151.463.

¹⁰ R.C. 2151.464.

¹¹ R.C. 2151.46(E) and 5103.05(A)(7).

¹² R.C. 2151.465.

¹³ R.C. 2151.469 and 5103.0510.

Under the bill a “first responder” includes an EMT, EMT-basic, AEMT, EMTI, paramedic, firefighter, or volunteer firefighter. A “volunteer firefighter” is generally defined under existing law as a duly appointed member of a fire department on either a nonpay or part-pay basis who is ineligible to be a member of the Ohio Police and Fire Pension Fund or whose employment does not qualify for a public pension, or a firefighter drafted, requisitioned, or appointed to serve in an emergency.¹⁴

Monthly PCSA and PCPA visits

The bill requires a PCSA or PCPA with custody of a child who is under a residential facility’s care and supervision to conduct a monthly in-person visit to the facility to determine the child’s well-being. The agency must maintain documentation of each visit and report concerns to DCY. Within 90 days after the bill’s effective date, DCY must adopt rules in accordance with the Administrative Procedure Act to establish: (1) criteria for determining whether an agency must report a concern to DCY and (2) criteria for determining whether an agency must conduct a mandatory review of the child’s placement (see “**Mandatory review of child’s placement**,” below).¹⁵

Mandatory review of child’s placement

The bill requires a PCSA or PCPA with custody of a child who is under a residential facility’s care and supervision to review the child’s placement if any of the following occur:

- The child presents to an emergency department or is admitted to a hospital for an injury or mental health crisis;
- A police report is generated with regard to the child;
- During a monthly visit, the agency has determined that a review is necessary in accordance with rules that DCY adopts (see “**Monthly PCSA and PCPA visits**,” above).¹⁶

A review must include a determination of whether the residential facility is an appropriate setting and is providing a satisfactory level of care to the child. The agency must notify the residential facility operator of the review results and any action that the agency plans to take regarding the child.¹⁷

The bill requires DCY, within 90 days after the bill’s effective date, to adopt rules in accordance with the Administrative Procedure Act to establish guidelines for review, including review criteria, circumstances that would require a change in the child’s placement, and a timeline for conducting review and taking appropriate action.¹⁸

¹⁴ R.C. 2151.46(D) and (G) and 5103.05(A)(5) and (11); R.C. 146.01(B), not in the bill.

¹⁵ R.C. 2151.467.

¹⁶ R.C. 2151.468(A).

¹⁷ R.C. 2151.468(B) and (C).

¹⁸ R.C. 2151.468(D).

Services from community organizations

The bill requires a residential facility operator to notify a PCSA or PCPA with custody of a child of any service that a community organization provides or seeks to provide to a child under the facility's care and supervision. The PCSA or PCPA must provide prior approval for such services and document the services in the child's case plan.¹⁹

The bill defines a "community organization" as an organization that provides services, including recreation, mental health care, and academic support, for a child placed in foster care.²⁰

Delinquent children

Notification regarding placement of delinquent children

The bill requires a PCSA or PCPA with custody of a child to inform the residential facility operator of any charges for which the child was adjudicated a delinquent child, including any former adjudication and any adjudication that resulted in the agency's current custody of the child. The agency must do this before the child's placement in the facility or within 96 hours after placement as a result of an emergency placement or a change in the child's case plan.²¹

Study Committee to Evaluate the Placement of Delinquent Children in Residential Facilities

The bill establishes the Study Committee to Evaluate the Placement of Delinquent Children in Residential Facilities. The Committee must do all of the following regarding children who are alleged to be or have been adjudicated delinquent and are in the custody of a PCSA or PCPA:

- Evaluate the placement of such children in residential facilities;
- Evaluate the existing system, resources, and services used to support such children;
- Identify gaps in the availability of appropriate residential facilities, resources, and services to serve such children;
- Make recommendations for changes to meet the needs of such children.

Within nine months after all members are appointed, the Committee must issue a report of its findings and recommendations to the Governor and the General Assembly. The Committee will cease to exist upon submitting the report.

The Committee must include the following members, to be appointed within 30 days after the bill's effective date:

1. The DCY Director or the Director's designee;
2. The Department of Youth Services Director or the Director's designee;

¹⁹ R.C. 2151.4610.

²⁰ R.C. 2151.46(A).

²¹ R.C. 2151.466.

3. The Department of Mental Health and Addiction Services Director or the Director's designee;
4. A public defender from the Office of the Public Defender appointed by the State Public Defender;
5. Two directors of PCSAs, one appointed by the Speaker of the House of Representatives and one appointed by the President of the Senate;
6. Two juvenile court judges, one appointed by the Speaker of the House of Representatives and one appointed by the President of the Senate;
7. A county commissioner appointed by the President of the Senate;
8. A city council or township trustee member appointed by the Speaker of the House of Representatives;
9. A representative of a residential facility serving six or fewer children who are alleged to be or have been adjudicated delinquent children appointed by the Speaker of the House of Representatives;
10. A representative of a residential facility serving more than six children who are alleged to be or have been adjudicated delinquent children appointed by the President of the Senate;
11. A representative of the Overcoming Hurdles in Ohio Youth Advisory Board appointed by the Speaker of the House of Representatives;
12. A county sheriff or chief of police appointed by the President of the Senate;
13. Three members of the Senate, with no more than two members from the same political party, appointed by the President of the Senate;
14. Three members of the House of Representatives, with no more than two members from the same political party, appointed by the Speaker of the House of Representatives.

The President of the Senate and Speaker of the House of Representatives must each appoint one of the members of the Senate and House, respectively, to serve as the co-chairpersons of the Committee. Vacancies must be filled in the same manner as the original appointment. Members must serve on the Committee without compensation.²²

Residential facility certification

The bill enacts several provisions related to the certification of a residential facility by DCY and requirements to maintain certification. These include: demonstration of compliance with all applicable zoning requirements in an application for certification, providing specific notifications to local government entities, allowing a local government entity to revoke a facility's conditional use permit for noncompliance with permit requirements or DCY's corrective action plan to remedy a certificate violation, requiring DCY to conduct site visits to ensure compliance, and

²² Section 3.

requiring documentary evidence of fulfilling the requirements of a corrective action plan for noncompliance.

Application must demonstrate zoning compliance

The bill requires that in a residential facility's application for a certificate from DCY, the facility operator must demonstrate, to DCY's satisfaction, that the proposed facility meets all applicable local planning and zoning requirements. The facility must maintain compliance for the certificate to remain in good standing.²³

Notifications to local government entities

The bill requires a residential facility to provide certain notifications to the board of township trustees or the legislative authority of the municipality where the facility will be located. First, before the residential facility begins operations, the operator must provide notification that the facility will be in operation.²⁴

Second, the bill expands existing law notification requirements for residential facilities to the board of township trustees or the legislative authority of the municipality where the facility will be located. Under existing law, within ten days after operations commence at *any* residential facility (not just those operated by a PCSA, PCPA, private noncustodial agency, or superintendent of a county or district children's home for the placement of children), the facility must provide the following to all county, municipal, or township law enforcement agencies, emergency management agencies, and fire departments with jurisdiction over the facility:

- Written notice that the facility is located and will be operating in the agency's or department's jurisdiction, including the facility's address, identification of the type of residential facility, and the facility's contact information;
- A copy of the facility's procedures for emergencies and disasters, medical emergency plan, and community engagement plan, in accordance with requirements that DCY has established by rule.²⁵

In addition, existing law requires a facility to provide any updated copies of the information in the second bullet to these entities within ten days of any changes to them.²⁶ Under the bill, a residential facility operated by a PCSA, PCPA, private noncustodial agency, or superintendent of a county or district children's home for the placement of foster children also must provide the above information, as well as any changes, to the board of township trustees or the legislative authority of the municipal corporation where the facility will be located.²⁷

²³ R.C. 5103.05(B).

²⁴ R.C. 5103.05(C).

²⁵ R.C. 5103.05(E).

²⁶ R.C. 5103.05(F).

²⁷ R.C. 5103.05(G).

Revocation of conditional use permit

The bill allows a county, township, or municipal corporation to revoke any conditional use permit that the local government entity issued regarding the real property used as a residential facility under two circumstances: (1) if the facility operator fails to comply with the permit requirements or (2) if the facility operator has failed to fulfill the requirements of a corrective action plan that DCY issued for a finding of noncompliance. The bill allows DCY to notify a county, township, or municipal corporation of the facility's failure to fulfill the requirements of a corrective action plan.²⁸

The county, township, or municipal corporation must notify the permit holder of its intent to revoke a permit by certified mail or, if the local government entity has record of an internet identifier or record associated with the holder, by ordinary mail and that internet identifier of record. Under existing law, "internet identifier of record" means an email address, or any other designation used for self-identification or routing in internet communication or posting, provided for the purpose of receiving communication. The notice must also inform the holder of the right to a hearing before the local government entity within 30 days of the mailing of the notice if the holder requests one.

If a holder requests a hearing, the county, township, or municipal corporation must set a time and place and notify the holder. At the hearing, the holder may appear in person, by the holder's attorney, or by other representative, or the holder may present the holder's position in writing. The holder may present evidence and examine witnesses appearing for or against the holder. If the holder does not request a hearing, the local government entity may revoke a permit without a hearing. The authority to revoke a permit is in addition to any other means of zoning enforcement provided under existing law.²⁹

DCY site visits

The bill requires DCY to conduct a site visit of a residential facility at least annually to ensure certification compliance. The bill also requires DCY to adopt rules in accordance with the Administrative Procedure Act within 90 days after the bill's effective date to establish criteria for requiring more than one site visit per year. The criteria must specify that a facility is subject to more than one site visit after surpassing a threshold, to be determined by the Director, of the following reports that DCY receives regarding a residential facility:

- When a child under the facility's care and supervision presents to the emergency department or is admitted to a hospital for an injury or mental health crisis (see "**Medical care notifications**," above);
- When a child under the facility's care and supervision has an interaction with a law enforcement officer that results in the generation of a police report (see "**Law enforcement notification**," above);

²⁸ R.C. 5103.057(A).

²⁹ R.C. 5103.057(B) and (C); R.C. 9.312, not in the bill.

- When concerns about a child arise out of the mandatory monthly visit by a PCSA or PCPA to determine the child’s well-being (see “**Monthly PCSA and PCPA visits**,” above);
- When a resident in a community in which a residential facility is located communicates concerns and complaints related to the facility (see “**Allow communications regarding a residential facility**,” below).³⁰

Corrective action plan proof of remedy

The bill specifies that if DCY has determined that a residential facility has violated a requirement for certification and issues a corrective action plan for the facility to remedy the violation, the facility operator must provide documentary evidence of the correction. Self-attestation without documentary evidence is insufficient proof of correction of the violation.³¹

Criminal records check for employment or appointment

The bill enacts several provisions regarding criminal records checks for a person who is under final consideration for appointment or employment in a residential facility, many of which are similar to existing requirements that apply to persons responsible for a child’s care in out-of-home care.³² The appointing or hiring officer that appoints or employs any person in the residential facility must request the Superintendent of the Bureau of Criminal Identification and Investigation (BCII) to conduct a criminal records check for a person who is under final consideration. The officer must make this request at the time of the initial application and every four years thereafter.³³

The appointing or hiring officer must inform each applicant, at the time of the person’s initial application, that the person must provide a set of fingerprint impressions and that a criminal records check must be satisfactorily completed.³⁴ The officer must provide each person subject to a criminal records check a copy of a form as well as a standard impression sheet to obtain fingerprints, both of which are prescribed by the BCII Superintendent under existing law. The officer must forward the completed form and impression sheet to the BCII Superintendent at the time the criminal records check is requested.³⁵ A person who is subject to a criminal records check must complete the form (or provide all the information necessary to complete the form) and provide the fingerprint impressions. An officer cannot appoint or employ a person who fails to do this.³⁶

³⁰ R.C. 5103.058.

³¹ R.C. 5103.056.

³² R.C. 5103.053; conforming changes in R.C. 109.57 and 109.572; R.C. 2151.011(B)(34) and 2151.86, not in the bill.

³³ R.C. 5103.053(A).

³⁴ R.C. 5103.053(G).

³⁵ R.C. 5103.053(B)(2).

³⁶ R.C. 5103.053(B)(3).

At the time of initial application, the appointing or hiring officer must request that the BCII Superintendent obtain information from the Federal Bureau of Investigation (FBI), including fingerprint-based checks of federal national crime information databases, for the person subject to the check. After the initial check, this request is optional.³⁷

The appointing or hiring officer must pay BCII a fee prescribed under existing law for each criminal records check. The officer may charge the person subject to the check an amount that is no more than the cost of the fees for the records check. If a fee is charged, the officer must notify the applicant at the time of the initial application of the amount and that, unless the fee is paid, the applicant will not be considered for appointment or employment.³⁸

Offenses that result in disqualification

The bill prohibits an appointing or hiring officer from appointing or employing a person if the person previously has been convicted of or pleaded guilty to various offenses specified under existing BCII law, unless the person meets rehabilitation standards that the bill requires DCY to adopt (see “**Rulemaking**,” below). These offenses include: cruelty to animals, failure to report child abuse or neglect when required to do so, various violations related to children, various forms of murder or manslaughter, various forms of assault and other violent crimes (including domestic violence), various forms of menacing, patient abuse or neglect, kidnapping or abduction, human trafficking, sexual crimes, arson, traffic and vehicular crimes, crimes related to terrorism, various forms of robbery and burglary, identity fraud, violations involving weapons, and various violations related to drugs and harmful intoxicants.³⁹

Conditional employment

The bill requires the DCY Director to seek a federal waiver to authorize the conditional appointment or employment of a person in a residential facility while a criminal records check for the person is pending.⁴⁰ If the waiver is approved, an appointing or hiring officer may appoint or employ a person conditionally before obtaining the results of a criminal records check, as long as the officer requested the check before conditional employment commences and the person has no direct contact with, or access to, children during the period of conditional employment.⁴¹

The appointing or hiring officer must terminate the appointment or employment if the results of the criminal records check are not obtained within 60 days after the request is made (other than the results of any request for information from the FBI) or if the results indicate that a person has been convicted of or pleaded guilty to an offense that results in disqualification (see “**Offenses that result in disqualification**,” above). If the results of a criminal records check indicate that a person who is employed conditionally has been convicted of or pleaded guilty to one of these offenses, the officer must terminate the person’s appointment or

³⁷ R.C. 5103.053(B)(1).

³⁸ R.C. 5103.053(D).

³⁹ R.C. 5103.053(C)(1) and 109.572(A)(4).

⁴⁰ Section 4.

⁴¹ R.C. 5103.053(C)(2).

employment, unless the person meets rehabilitation standards that the bill requires DCY to adopt (see “**Rulemaking**,” below). This termination is not considered just cause for discharge for purposes of receiving unemployment benefits if the person attempts to deceive the officer about the person’s criminal record.⁴²

Criminal records checks are not public records

The bill specifies that the report of any criminal records check that BCII conducts is not a public record and is only available to the following individuals:

- The person who is the subject of the criminal records check or the person’s representative;
- The appointing or hiring officer requesting the criminal records check or the officer’s representative;
- DCY, a county department of job and family services, or a PCSA;
- Any court, hearing officer, or other necessary individual involved in a case dealing with the denial of employment.⁴³

Rulemaking

The bill requires DCY to adopt rules in accordance with the Administrative Procedure Act within 90 days of the bill’s effective date to implement these criminal records check provisions. The rules must include rehabilitation standards that a person who has been convicted of or pleaded guilty to a specified offense must meet for an appointing or hiring officer to appoint or employ the person in a residential facility and, to the extent permitted under federal law, guidelines regarding conditional appointment or employment while the check is pending.⁴⁴

DCY review and reporting requirements

The bill imposes various review and reporting requirements related to DCY’s oversight of residential facilities in Ohio.

Review of residential facility locations

The bill requires DCY, within 180 days after the bill’s effective date, to adopt rules in accordance with the Administrative Procedure Act to do the following:

- Divide the state into regions;
- Determine an ideal number of residential facilities in each region by reviewing the total number of children in foster care in the region requiring care in a residential facility in the past three years;

⁴² R.C. 5103.053(C)(3).

⁴³ R.C. 5103.053(E).

⁴⁴ R.C. 5103.053(F).

- Establish incentives to attract residential facilities to regions in the state that are below the ideal number of residential facilities, as determined in the second bullet.

The purpose of this provision is to enable a child to remain within, or close to, the county in which the child resided before the child's placement in foster care.⁴⁵

Communications regarding a residential facility

The bill requires DCY, within 90 days after the bill's effective date, to adopt rules pursuant to the Administrative Procedure Act to establish:

- A procedure for individuals in a community in which a residential facility is located to communicate concerns, complaints, or other pertinent information to DCY regarding the facility; and
- Standards for tracking and retaining such communications.⁴⁶

Annual survey and review

The bill requires DCY, within one year after the bill's effective date and annually thereafter, to survey the staff of all residential facilities and of PCSAs and PCPAs working with children under a residential facility's care and supervision regarding the status of these children. The survey must examine concerns regarding residential facility operations, the children residing in the facility, and the staff working within and overseeing the facility.⁴⁷

The DCY Director must do all of the following annually:

- Review the results of the staff survey;
- Review various reports that DCY is required to receive under the bill, including when: (1) a child presents to the emergency department or is admitted to a hospital for an injury or mental health crisis, (2) a child under a facility's care has an interaction with a law enforcement officer that results in the generation of a police report, and (3) concerns about a child arise out of the mandatory monthly visit by a PCSA or PCPA to determine the child's well-being;
- Review the Ohio Administrative Code to determine whether the existing training requirements are adequately responsive to the needs of residential facilities in the state, based on the above review, and adopt or modify rules accordingly pursuant to the Administrative Procedure Act.⁴⁸

⁴⁵ R.C. 5103.054.

⁴⁶ R.C. 5103.055.

⁴⁷ R.C. 5103.0512(A).

⁴⁸ R.C. 5103.0512(B) and (C).

Educational stability of foster children

The bill enacts several provisions regarding the educational stability of foster children. First, the bill requires the Department of Education and Workforce (DEW) to provide all school districts with best practices to help ensure the educational stability of students who are in a PCSA's or PCPA's custody.⁴⁹

Second, the bill requires a school district in which a child who is under a residential facility's care and supervision is enrolled to assess the child's needs for appropriate services and interventions. To avoid any duplicative assessments and minimize the potential negative impact of an assessment on a child, the bill requires the school district to utilize all available existing assessments regarding the child. The school district must use the assessment results to make recommendations to the PCSA or PCPA with custody of the child and for services and interventions for the child. To the extent permitted by state and federal law, the school district must share the recommendations for services and interventions for the school to implement with the PCSA or PCPA with custody of the child and to the residential facility.⁵⁰

Third, within 30 days after the bill's effective date, the bill requires DCY, in conjunction with DEW, to create a standard form to be used by a PCSA and PCPA with custody of a child placed in a residential facility to convey information necessary to support the child's education. A PCSA or PCPA with custody of a child must complete this form for each child the agency places in a residential facility outside the county of the child's school district of residence. The agency must verbally convey the information to the foster care liaison in the student's new school district when the child is enrolled and must submit the written form to the district's foster care liaison within five days after the child's enrollment.⁵¹

Peace officer training

The bill requires the Attorney General, in consultation with the Ohio Peace Officer Training Commission and DCY, to adopt rules governing the training of peace officers in identifying and interacting with at-risk youth. The rules may be adopted in accordance with the Administrative Procedure Act or existing provisions that specifically authorize the Attorney General to adopt and promulgate rules and regulations. The Ohio Peace Officer Training Academy must provide this training to peace officers.⁵²

The bill defines "at-risk youth" as an individual who: (1) is under 21 years of age, (2) resides in a state correctional institution, a Department of Youth Services institution, or a residential facility, and (3) is an abused, neglected, or dependent child; delinquent or unruly child; or juvenile traffic offender; or is at risk of becoming one of those.⁵³

⁴⁹ R.C. 3301.95.

⁵⁰ R.C. 3313.6414.

⁵¹ R.C. 5103.0513.

⁵² R.C. 109.7411.

⁵³ R.C. 109.71(L).

HISTORY

Action	Date
Introduced	05-15-24
Reported, H. Families & Aging	--
