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H.B. 408  
133<sup>rd</sup> General Assembly

## Bill Analysis

**Version:** As Introduced

**Primary Sponsors:** Reps. G. Manning and Patton

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### SUMMARY

#### Family preservation centers

- Requires the Department of Job and Family Services (ODJFS) to certify a children's crisis care facility as a family preservation center (FPC) under requirements imposed by the bill and rules adopted under it.
- Defines an FPC as a children's crisis care facility that has as its primary purpose the preservation of families through preteen foster care diversion practices and programs.
- Requires a certified FPC to meet accreditation and certification standards and operate family preservation programs.

#### Residential infant care centers

- Requires ODJFS to certify a children's crisis care facility as a residential infant care center (RICC) under requirements imposed by the bill and rules adopted under it.
- Defines an RICC as a children's crisis care facility that has as its primary purpose the provision of all of the following:
  - Medical assistance for infants affected by addiction;
  - Residential services;
  - Preservation of families through preteen foster care diversion practices and programs.
- Provides that an infant is eligible for placement at an RICC if one of the following applies:
  - The infant was born drug exposed and requires additional care.
  - The infant's parent or caretaker requires additional education and support services regarding care for the infant.

- A public children services agency (PCSA) or private child placing agency (PCPA) requires additional time to determine placement of the infant.
- Imposes requirements regarding infant medical treatment, staffing, infant safe care plan development, and the provision of parenting education and family services.
- Permits an RICC to provide residential care to an infant for up to 90 consecutive days if a PCSA or PCPA placed the infant in the center.

### **Children’s crisis care facilities**

- Requires a certified children’s crisis care facility to meet specified staff, medical service and space, parental education, transfer, and admissions-privacy requirements.
- Permits a facility to count administrative staff, interns, and volunteers toward required staff ratios in emergency situations and to use volunteers and contracted transportation providers to transport preteens when necessary.
- Requires a PCSA or PCPA employee who has placed a preteen in a facility to enter the placement as a respite or transition stay in the Uniform Statewide Automated Child Welfare Information System (SACWIS).
- Prohibits a person who is or has been convicted of or who pleads or pleaded guilty to a sexually oriented offense or child-victim oriented offense from living within 1,000 feet of facility premises.

### **ODJFS**

- Prohibits the ODJFS Director from issuing a compliance waiver for any requirements for children’s crisis care facility, FPC, or RICC certification.
- Provides that the ODJFS Director may suspend or revoke FPC or RICC certification if a center violates or fails to comply with requirements imposed by the bill and by rules adopted under the bill.
- Provides that the ODJFS Director may suspend or revoke a children’s crisis care facility certification if the facility violates or fails to comply with the requirements imposed by the bill or by the rules adopted under continuing law.
- Requires ODJFS, not later than 90 days after the bill’s effective date, to adopt rules for FPC and RICC certification.
- Permits ODJFS to apply for a federal grant under the Family First Preservation Services Act to assist certified children’s crisis care facilities.

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## **DETAILED ANALYSIS**

### **Overview**

Under the bill, a person who holds an active license for a children’s crisis care facility may be additionally certified as a family preservation center (FPC) or residential infant care center (RICC). The Department of Job and Family Services (ODJFS) Director must certify the person if the person complies with all FPC or RICC requirements imposed by the bill and by

ODJFS rules adopted under it. The bill also amends certain requirements for certified children's crisis care facilities.

## **Family preservation centers**

The bill creates a certification for FPCs, defined as a certified children's crisis care facility that has as its primary purpose the preservation of families through preteen (under 13 years old) foster care diversion practices and programs. A person who holds an active license to operate a children's crisis care facility may apply to the ODJFS Director to obtain a certificate as an FPC. The Director must certify an FPC if the center complies with all FPC requirements imposed by the bill and by the rules adopted by ODJFS under the bill.

A certified FPC must do all of the following:<sup>1</sup>

- Obtain and maintain accreditation under the Commission on Accreditation of Rehabilitation Facilities or the Council on Accreditation for Children and Family Services;
- Obtain and maintain certification by the Department of Mental Health and Addiction Services;
- Provide family preservation programs using evidence-based practices, including the following:
  - Family case management;
  - Service referral and linkage;
  - Parent education;
  - Trauma screening and healing-centered interventions.

## **Residential infant care centers**

### **Certification**

The bill creates a certification for RICCs, defined as a certified children's crisis care facility that has as its primary purpose the provision of all of the following:

- Medical assistance for infants affected by addiction;
- Residential services;
- Preservation of families through preteen foster care diversion practices and programs.

A person who holds an active license to operate a children's crisis care facility may apply to the ODJFS Director to obtain a certificate as an RICC. The Director must certify an RICC if the center complies with the all RICC requirements imposed by the bill and by the rules adopted by ODJFS under the bill.<sup>2</sup>

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<sup>1</sup> R.C. 5103.13(A)(3) and 5103.131(A), (B)(1) and (2)(a), and (C).

<sup>2</sup> R.C. 5103.132(A)(2), (B)(1), and (B)(2)(a).

## Infant placement eligibility

The bill provides that an infant, defined as a child who is less than one year old, is eligible to be placed in an RICC if one of the following applies:<sup>3</sup>

- The infant was born drug exposed and requires additional care.
- The infant's parent or caretaker requires additional education and support services regarding care for the infant.
- A public children services agency (PCSA) or private child placing agency (PCPA) requires additional time to determine placement of the infant.

## Operational requirements

An RICC must do the following:<sup>4</sup>

- If using medication to treat drug exposed infants, both:
  - Hold a terminal distributor of dangerous drugs license issued by the State Board of Pharmacy; and
  - Employ a pediatrician or neonatologist as a medical director who is qualified and authorized by the State Medical Board to prescribe necessary medications.
- Comply with all ODJFS rules imposing staffing requirements for children's residential centers, group homes, and residential parenting facilities, except as otherwise provided under the laws governing operational requirements for RICCs and children's crisis care facilities;<sup>5</sup>
- Develop a plan of safe care for an infant born drug exposed, as follows:
  - Assist with the health and substance use disorder treatment needs of the infant and affected family or caregiver; and
  - Develop and implement a program to monitor, support, and connect affected families or caregivers through the provision of and referral to appropriate services for the infant and affected family or caregiver.
- Develop and implement a program for parents and caregivers that, either individually or in a group setting, both:
  - Teaches parenting skills, bonding, and caring for the infant's special needs; and
  - Allows for the program to be completed prior to the infant's discharge.
- Require all child-care staff, interns, and volunteers to do the following:

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<sup>3</sup> R.C. 5103.132(A)(1) and (C).

<sup>4</sup> R.C. 5103.132(E).

<sup>5</sup> R.C. 5103.13 and 5103.132, not in the bill; Ohio Administrative Code (O.A.C.) 5101:2-9-02.

- Complete training for infant care and the provision of nonjudgmental care to affected families and caregivers;
- Provide to the center the following health records:
  - ❖ Immunization records or the results of a blood titer test proving immunity to measles, mumps, rubella, and pertussis;
  - ❖ For proof of immunity to chickenpox, provide to the center the following:
    - Immunization records;
    - The results of a blood titer test proving immunity to chickenpox;
    - A signed statement from a physician verifying the occurrence of past chickenpox infection.
  - ❖ The negative results of a tuberculin test taken at the RICC's request prior to commencing employment, volunteering, or internship at the center.
- Require both of the following:
  - Child-care staff to be age 21 or older with a high school diploma or a certificate of high school equivalence;
  - Volunteers and interns to be age 18 or older.
- Request a criminal records check for volunteers and interns;
- Employ registered nurses, patient care assistants, or licensed professional nurses to meet required child staff ratios;
- Require the center's licensed social worker, licensed independent social worker, licensed professional counselor, or licensed professional clinical counselor to do the following:
  - Provide wraparound services to affected family and caregivers;
  - Coordinate and cooperate with any transferring hospital, PCSA, or PCPA;
  - Refer affected families or caregivers to appropriate services for support and aftercare;
  - Follow up with affected families and caregivers following the infant's discharge.

### **PCSA or PCPA placement in RICC up to 90 days**

An RICC may provide residential care to an infant for up to 90 consecutive days if a PCSA or PCPA placed the infant in the RICC.<sup>6</sup>

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<sup>6</sup> R.C. 5103.132(D).

## Children's crisis care facilities

A children's crisis care facility is a facility that provides as its primary purpose residential and other care to one or more preteens either voluntarily placed by a parent or caretaker facing a crisis, or placed by a PCSA or PCPA with legal or permanent custody in an emergency, requiring the placement.<sup>7</sup> The facility must be certified by the ODJFS Director in order to operate or hold itself out as such a facility.<sup>8</sup>

### Certification requirements and allowances

Under the bill, a certified children's crisis care facility must do the following:<sup>9</sup>

- Employ a licensed social worker, a licensed independent social worker, a licensed professional counselor, or a licensed professional clinical counselor;
- Require, if pediatric medical service is provided at the facility, the following:
  - Medical service to be provided by a qualified, licensed, and insured medical professional;
  - All staff, volunteers, and interns to comply with the privacy requirements of the federal Health Insurance Portability and Accountability Act (HIPAA);
  - If a preteen is admitted by the preteen's parent or caretaker, and if the preteen requires ongoing medical care following discharge from the facility, a medical professional or licensed social worker to ensure the parent or caretaker is competent to provide the ongoing care;
  - The facility to have a dedicated and private enclosed space for a medical professional to receive and treat patients, and that contains a sink or tub, medical exam table, medical record system, and pediatric medical equipment.
- Require, if a preteen is admitted by the preteen's parent or caretaker, the facility's licensed social worker, licensed independent social worker, licensed professional counselor, or licensed professional clinical counselor to ensure the parent or caretaker is competent in the basic parenting skills needed to care for the preteen;
- Require only a transfer summary for the transfer of a preteen from one certified facility location to another, if the facility has more than one location and the receiving location is licensed under the same license as the transferring location;
- Require the facility to have a dedicated and private enclosed space for completing required admission paperwork and medical forms.

Additionally, the bill permits a facility to do the following:<sup>10</sup>

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<sup>7</sup> R.C. 5103.13(A)(1).

<sup>8</sup> R.C. 5103.13(B).

<sup>9</sup> R.C. 5103.13(E).

<sup>10</sup> R.C. 5103.13(F).

- Count administrative staff, interns, and volunteers toward required child staff ratios in an emergency situation for up to three hours, if they meet the following requirements:
  - Completed training in the mission of the children’s crisis care facility;
  - Completed the required staff development and evaluation training under ODJFS rules;<sup>11</sup>
  - Are supervised by facility staff;
  - Participate in at least monthly face-to-face supervisory conferences.
- Use volunteers and contracted transportation providers, on whom criminal records checks have been conducted in accordance with Ohio’s criminal background check law, to transport preteens, if necessary for the facility to maintain required child staff ratios.

### Residential care length of stay

The bill changes how long a child may be placed in a certified children’s crisis care facility and, as a result, applies the changes to the new FPCs and RICCs. The following table shows the periods of time, under the bill and current law, for which a facility may provide residential care to a preteen, as applicable:<sup>12</sup>

H.B. 408	Current law
Up to 120 days in a calendar year.	Up to 120 days in a calendar year.
Up to 90 consecutive days.	Up to 60 consecutive days, except: <ul style="list-style-type: none"> <li>▪ If placed by a PCSA or PCPA (in such case it is 14 consecutive days – see below); or</li> <li>▪ If not placed by a PCSA or PCPA and if the preteen’s parent or caretaker has mental or physical health issues or is incarcerated (in such case it is 90 consecutive days – see below).</li> </ul> Up to 90 consecutive days, if not placed by a PCSA or PCPA and if the preteen’s parent or caretaker has mental or physical health issues or is incarcerated.

<sup>11</sup> O.A.C. 5101:2-9-03.

<sup>12</sup> R.C. 5103.13(D) and 5103.132(D).

H.B. 408	Current law
Up to 14 consecutive days for a PCSA or PCPA placement, unless an <i>infant</i> is placed, in which case the limit is the 90-consecutive-day limit regarding infants placed in an RICC by a PCSA or PCPA (see above, “ <b>Residential infant care centers</b> ”).	Up to 14 consecutive days for a PCSA or PCPA placement.

## Statewide automated child welfare information system (SACWIS)

Under the bill, a PCSA or PCPA employee who has placed a preteen in a certified children’s crisis care facility must enter the placement as a respite or transitional stay, as applicable, in the Uniform Statewide Automated Child Welfare Information System (SACWIS).<sup>13</sup>

## Sex Offender Registration and Notification Law restriction

The bill prohibits a person who is convicted of, was convicted of, pleads guilty to, or pleaded guilty to a sexually oriented offense or a child-victim oriented offense from living within 1,000 feet of children’s crisis care facility premises. If an offender violates this prohibition, an owner or lessee of real property that is located within 1,000 feet of those premises, or the local prosecuting authority that has jurisdiction over the place at which the person establishes the residence or occupies the residential premises, has a cause of action for injunctive relief against the person. The plaintiff cannot be required to prove irreparable harm in order to obtain the relief.

“Children’s crisis care facility premises” means both:

- The parcel of real property on which any children’s crisis care facility is situated; and
- Any grounds, play areas, and other facilities of a children’s crisis care facility that are regularly used by the children served by the facility.<sup>14</sup>

## ODJFS

### Certification responsibilities

Under the bill, the ODJFS Director cannot issue a waiver to a person for compliance with any of the children’s crisis care facility, FPC, or RICC requirements imposed by the bill and by ODJFS rules adopted under it.<sup>15</sup> The Director may suspend or revoke FPC or RICC certification if the FPC or RICC violates or fails to comply with requirements imposed by the bill or the rules.<sup>16</sup> The bill also permits the Director to suspend or revoke a children’s crisis care facility

<sup>13</sup> R.C. 5101.136.

<sup>14</sup> R.C. 2950.034.

<sup>15</sup> R.C. 5103.13(C)(2)(b), 5103.131(B)(2)(b), and 5103.132(B)(2)(b).

<sup>16</sup> R.C. 5103.131(D) and 5103.132(F).



certification if, in addition to violating the length of residential care and criminal background check prohibitions imposed under continuing law, the facility violates or fails to comply with the requirements imposed by the bill or by rules adopted under continuing law.<sup>17</sup>

### **Rule adoption**

The bill requires the ODJFS Director to adopt rules for FPC and RICC certification not later than 90 days after the bill's effective date.<sup>18</sup>

### **Federal grant application**

The bill permits ODJFS to apply, for the purpose of assisting certified children's crisis care facilities, to the U.S. Secretary of Health and Human Services for a federal grant under the "Family First Prevention Services Act."<sup>19</sup>

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## **HISTORY**

Action	Date
Introduced	11-12-19

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H0408-I-133/ar

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<sup>17</sup> R.C. 5103.13(G).

<sup>18</sup> R.C. 5103.131(E) and 5103.132(G).

<sup>19</sup> R.C. 5103.133, not in the bill; "Family First Prevention Services Act," 42 U.S.C. 50711, 50723, and 50741.