

AN ACT

To amend sections 2950.11, 3301.50, 3301.52, 3301.53, 3301.54, 3301.541, 3301.55, 3301.57, 3301.58, 3313.61, 3325.08, and 5104.02 and to enact section 3301.581 of the Revised Code to permit the "home" school districts of students receiving high school diplomas from the State School for the Blind or State School for the Deaf also to grant these students high school diplomas and to require "home" districts to grant diplomas to such students if they meet the graduation requirements of the district; to require Head Start programs to be licensed by the Department of Education instead of the Department of Human Services; to require the Department of Education to issue annual reports concerning its inspections of preschool and school child programs; to eliminate provisions that permit exempt child day-care entities to elect to be licensed by the Department of Human Services and that make the election irrevocable; and to maintain the provisions of this act on and after July 1, 1998, by amending the version of section 3313.61 of the Revised Code that takes effect on that date.

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. That sections 2950.11, 3301.50, 3301.52, 3301.53, 3301.54, 3301.541, 3301.55, 3301.57, 3301.58, 3313.61, 3325.08, and 5104.02 be amended and section 3301.581 of the Revised Code be enacted to read as follows:

Sec. 2950.11. (A) As used in this section, "specified geographical notification area" means the geographic area or areas within which the attorney general, by rule adopted under section 2950.13 of the Revised

Code, requires the notice described in division (B) of this section to be given to the persons identified in divisions (A)(2) to (8) of this section. If a person is convicted of or pleads guilty to, or has been convicted of or pleaded guilty to, a sexually oriented offense, and if the offender has been adjudicated as being a sexual predator relative to the sexually oriented offense and the court has not subsequently determined pursuant to division (D) of section 2950.09 of the Revised Code that the offender no longer is a sexual predator or the offender has been determined pursuant to division (C) of section 2950.09 of the Revised Code to be a habitual sex offender and the court has imposed a requirement under that division subjecting the habitual sex offender to this section, the sheriff with whom the offender has most recently registered under section 2950.04 or 2950.05 of the Revised Code, within the period of time specified in division (C) of this section, shall provide a written notice containing the information set forth in division (B) of this section to all of the following persons:

(1) All occupants of residences adjacent to the offender's place of residence that are located within the county served by the sheriff and all additional neighbors of the offender who are within any category that the attorney general by rule adopted under section 2950.13 of the Revised Code requires to be provided the notice and who reside within the county served by the sheriff;

(2) The executive director of the public children services agency, as defined in section 2151.011 of the Revised Code, that has jurisdiction within the specified geographical notification area and that is located within the county served by the sheriff;

(3) The superintendent of each board of education of a school district that has schools within the specified geographical notification area and that is located within the county served by the sheriff;

(4) The appointing or hiring officer of each chartered nonpublic school located within the specified geographical notification area and within the county served by the sheriff or of each other school located within the specified geographical notification area and within the county served by the sheriff and that is not operated by a board of education described in division (A)(3) of this section;

(5) The director, head teacher, ~~or~~ elementary principal, or site administrator of each preschool program governed by Chapter 3301. of the Revised Code that is located within the specified geographical notification area and within the county served by the sheriff;

(6) The administrator of each child day-care center or type A family day-care home that is located within the specified geographical notification

area and within the county served by the sheriff, and the provider of each certified type B family day-care home that is located within the specified geographical notification area and within the county served by the sheriff. As used in this division, "child day-care center," "type A family day-care home," and "certified type B family day-care home" have the same meanings as in section 5104.01 of the Revised Code.

(7) The president or other chief administrative officer of each institution of higher education, as defined in section 2907.03 of the Revised Code, that is located within the specified geographical notification area and within the county served by the sheriff, and the chief law enforcement officer of the state university law enforcement agency or campus police department established under section 3345.04 or 1713.50 of the Revised Code, if any, that serves that institution;

(8) The sheriff of each county that includes any portion of the specified geographical notification area;

(9) If the offender resides within the county served by the sheriff, the chief of police, marshal, or other chief law enforcement officer of the municipal corporation in which the offender resides or, if the offender resides in an unincorporated area, the constable or chief of the police department or police district police force of the township in which the offender resides.

(B) The notice required under division (A) of this section shall include all of the following information regarding the subject offender:

(1) The offender's name;

(2) The address or addresses at which the offender resides;

(3) The sexually oriented offense of which the offender was convicted or to which the offender pleaded guilty;

(4) A statement that the offender has been adjudicated as being a sexual predator and that, as of the date of the notice, the court has not entered a determination that the offender no longer is a sexual predator, or a statement that the sentencing judge has determined that the offender is a habitual sex offender.

(C) If a sheriff with whom an offender registers under section 2950.04 or 2950.05 of the Revised Code is required by division (A) of this section to provide notices regarding an offender and if, pursuant to that requirement, the sheriff provides a notice to a sheriff of one or more other counties in accordance with division (A)(8) of this section, the sheriff of each of the other counties who is provided notice under division (A)(8) of this section shall provide the notices described in divisions (A)(1) to (7) and (A)(9) of this section to each person or entity identified within those divisions that is

located within the geographical notification area and within the county served by the sheriff in question.

(D)(1) A sheriff required by division (A) or (C) of this section to provide notices regarding an offender shall provide the notice to the neighbors that is described in division (A)(1) of this section and the notices to law enforcement personnel that are described in divisions (A)(8) and (9) of this section no later than seventy-two hours after the offender registers with the sheriff or, if the sheriff is required by division (C) to provide the notices, no later than seventy-two hours after the sheriff is provided the notice described in division (A)(8) of this section.

(2) A sheriff required by division (A) or (C) of this section to provide notices regarding an offender shall provide the notices to all other specified persons that are described in divisions (A)(2) to (7) of this section not later than seven days after the offender registers with the sheriff or, if the sheriff is required by division (C) to provide the notices, no later than seventy-two hours after the sheriff is provided the notice described in division (A)(8) of this section.

(E) All information that a sheriff possesses regarding a sexual predator or a habitual sex offender that is described in division (B) of this section and that must be provided in a notice required under division (A) or (C) of this section is a public record that is open to inspection under section 149.43 of the Revised Code.

(F) The notification provisions of this section do not apply regarding a person who is convicted of or pleads guilty to, or has been convicted of or pleaded guilty to, a sexually oriented offense, who has not been adjudicated as being a sexual predator relative to that sexually oriented offense, and who is determined pursuant to division (F) of section 2950.09 of the Revised Code to be a habitual sex offender unless the sentencing court imposes a requirement in the offender's sentence and in the judgment of conviction that contains the sentence that subjects the offender to the provisions of this section.

(G) The department of human services shall compile, maintain, and update in January and July of each year, a list of all agencies, centers, or homes of a type described in division (A)(2) or (6) of this section that contains the name of each agency, center, or home of that type, the county in which it is located, its address and telephone number, and the name of an administrative officer or employee of the agency, center, or home. The department of education shall compile, maintain, and update in January and July of each year, a list of all boards of education, schools, or programs of a type described in division (A)(3), (4), or (5) of this section that contains the

name of each board of education, school, or program of that type, the county in which it is located, its address and telephone number, the name of the superintendent of the board or of an administrative officer or employee of the school or program, and, in relation to a board of education, the county or counties in which each of its schools is located and the address of each such school. The Ohio board of regents shall compile, maintain, and update in January and July of each year, a list of all institutions of a type described in division (A)(7) of this section that contains the name of each such institution, the county in which it is located, its address and telephone number, and the name of its president or other chief administrative officer. A sheriff required by division (A) or (C) of this section to provide notices regarding an offender, or a designee of a sheriff of that type, may request the department of human services, department of education, or Ohio board of regents, by telephone, in person, or by mail, to provide the sheriff or designee with the names, addresses, and telephone numbers of the appropriate persons and entities to whom the notices described in divisions (A)(2) to (7) of this section are to be provided. Upon receipt of a request, the department or board shall provide the requesting sheriff or designee with the names, addresses, and telephone numbers of the appropriate persons and entities to whom those notices are to be provided.

Sec. 3301.50. Except as otherwise provided under division (B) of section 3301.54 of the Revised Code, the issuing of any educator license designated for teaching in a preschool setting pursuant to section 3319.22 of the Revised Code shall not be construed as requiring any person who does not hold such a license to obtain one in order to be employed as a teacher in a pre-kindergarten program ~~except that~~. However, a person hired after July 1, 1988, to direct a preschool program regulated by the state board of education under sections 3301.52 to 3301.57 of the Revised Code, other than a program operated by a nontax-supported eligible nonpublic school, shall hold a valid educator license designated as appropriate for teaching or being an administrator in a preschool setting issued pursuant to section 3319.22 of the Revised Code ~~plus coursework~~ the four courses required by division (A)(1) of section 3301.54 of the Revised Code, unless division (A)(4) of that section applies to the person.

Sec. 3301.52. As used in sections 3301.52 to 3301.59 of the Revised Code:

(A) "Preschool program" means either of the following:

(1) A child day-care program for preschool children that is operated by a school district board of education ~~or~~, an eligible nonpublic school, a head start grantee, or a head start delegate agency.

(2) A child day-care program for preschool children age three or older that is operated by a county MR/DD board.

(B) "Preschool child" or "child" means a child who has not entered kindergarten and is not of compulsory school age.

(C) "Parent, guardian, or custodian" means the person or government agency that is or will be responsible for a child's school attendance under section 3321.01 of the Revised Code.

(D) "Superintendent" means the superintendent of a school district or the chief administrative officer of an eligible nonpublic school.

(E) "Director" means the director, head teacher, ~~or~~ elementary principal, or site administrator who is the individual on site and responsible for supervision of a preschool program.

(F) "Preschool staff member" means a preschool employee whose primary responsibility is care, teaching, or supervision of preschool children.

(G) "Nonteaching employee" means a preschool program or school child program employee whose primary responsibilities are duties other than care, teaching, and supervision of preschool children or school children.

(H) "Eligible nonpublic school" means a nonpublic school chartered as described in division (B)(8) of section 5104.02 of the Revised Code or chartered by the state board of education for any combination of grades one through twelve, regardless of whether it also offers kindergarten.

(I) "County MR/DD board" means a county board of mental retardation and developmental disabilities.

(J) "School child program" means a child day-care program for only school children that is operated by a school district board of education, county MR/DD board, or eligible nonpublic school.

(K) "School child" and "child day-care" have the same meanings as in section 5104.01 of the Revised Code.

(L) "School child program staff member" means an employee whose primary responsibility is the care, teaching, or supervision of children in a school child program.

(M) "Head start" means a program operated in accordance with subchapter II of the "Community Economic Development Act," 95 Stat. 489 (1981), 42 U.S.C. 9831, and amendments thereto.

Sec. 3301.53. (A) Not later than July 1, 1988, the state board of education, in consultation with the director of human services, shall formulate and prescribe by rule adopted under Chapter 119. of the Revised Code minimum standards to be applied to preschool programs operated by school district boards of education, county MR/DD boards, ~~and by~~ eligible

nonpublic schools, head start grantees, and head start delegate agencies. The rules shall include the following:

(1) Standards ensuring that the preschool program is located in a safe and convenient facility that accommodates the enrollment of the program, is of the quality to support the growth and development of the children according to the program objectives, and meets the requirements of section 3301.55 of the Revised Code;

(2) Standards ensuring that supervision, discipline, and programs will be administered according to established objectives and procedures;

(3) Standards ensuring that preschool staff members and nonteaching employees are recruited, employed, assigned, evaluated, and provided inservice education without discrimination on the basis of age, color, national origin, race, or sex; and that preschool staff members and nonteaching employees are assigned responsibilities in accordance with written position descriptions commensurate with their training and experience;

(4) A requirement that boards of education intending to establish a preschool program on or after March 17, 1989, demonstrate a need for a preschool program that is not being met by any existing program providing child day-care, prior to establishing the program;

(5) Requirements that children participating in preschool programs have been immunized to the extent considered appropriate by the state board to prevent the spread of communicable disease;

(6) Requirements that the parents of preschool children complete the emergency medical authorization form specified in section 3313.712 of the Revised Code.

(B) The state board of education in consultation with the director of human services shall ensure that the rules adopted by the state board under sections 3301.52 to 3301.58 of the Revised Code are consistent with and meet or exceed the requirements of Chapter 5104. of the Revised Code with regard to child day-care centers. The state board and the director of human services shall review all such rules at least once every five years.

(C) On or before January 1, 1992, the state board of education, in consultation with the department of human services, shall adopt rules for school child programs that are consistent with and meet or exceed the requirements of the rules adopted for school child day-care centers under Chapter 5104. of the Revised Code.

Sec. 3301.54. (A)(1) Each preschool program shall be directed and supervised by a director, a head teacher, ~~or an elementary principal, or a site administrator who is on site and responsible for supervision of the program.~~

Except as otherwise provided in ~~this~~ division (A)(2), (3), or (4) of this section, this person shall hold a valid educator license designated as appropriate for teaching or being an administrator in a preschool setting issued pursuant to section 3319.22 of the Revised Code and have completed at least four courses in child development or early childhood education from an accredited college, university, or technical college. ~~¶~~

(2) If the person was employed prior to July 1, 1988, by a school district board of education or an eligible nonpublic school to direct a preschool program, the person shall be considered to meet the requirements of this section if the person holds a valid kindergarten-primary certificate described under former division (A) of section 3319.22 of the Revised Code as it existed on January 1, 1996. ¶

(3) If the person is employed to direct a preschool program operated by an eligible, nontax-supported, nonpublic school, the person shall be considered to meet the requirements of this section if the person holds a valid teaching certificate issued in accordance with section 3301.071 of the Revised Code.

(4) If the person is a site administrator for a head start grantee or head start delegate agency, the person shall be considered to meet the requirements of this section if the person provides evidence that the person has attained at least a high school diploma or certification of high school equivalency issued by the state board of education or a comparable agency of another state, and that the person meets at least one of the following requirements:

(a) Two years of experience working as a child-care staff member in a child day-care center or preschool program and at least four courses in child development or early childhood education from an accredited college, university, or technical college, except that a person who has two years of experience working as a child-care staff member in a particular day-care center or preschool program and who has been promoted to or designated director shall have one year from the time the person was promoted or designated to complete the required four courses;

(b) Two years of training in an accredited college, university, or technical college that includes at least four courses in child development or early childhood education;

(c) A child development associate credential issued by the national child development associate credentialing commission;

(d) An associate or higher degree in child development or early childhood education from an accredited college, university, or technical college.

(B) Each preschool staff member shall be at least eighteen years of age and have a high school diploma or a certification of high school equivalency issued by the state board of education or a comparable agency of another state, except that a staff member may be less than eighteen years of age if the staff member is a graduate of a two-year vocational child-care training program approved by the state board of education, or is a student enrolled in the second year of such a program that leads to high school graduation, provided that the student performs duties in the preschool program under the continuous supervision of an experienced preschool staff member and receives periodic supervision from the vocational child-care training program teacher-coordinator in the student's high school.

A preschool staff member shall annually complete fifteen hours of inservice training in child development or early childhood education, child abuse recognition and prevention, and first aid, and in the prevention, recognition, and management of communicable diseases, until a total of forty-five hours has been completed, unless the staff member holds an associate or higher degree in child development or early childhood education from an accredited college, university, or technical college, or any type of educator license designated as appropriate for teaching in an associate teaching position in a preschool setting issued by the state board of education pursuant to section 3319.22 of the Revised Code.

Sec. 3301.541. (A)(1) The director, head teacher, ~~or~~ elementary principal, or site administrator of a preschool program shall request the superintendent of the bureau of criminal identification and investigation to conduct a criminal records check with respect to any applicant who has applied to the preschool program for employment as a person responsible for the care, custody, or control of a child. If the applicant does not present proof that the applicant has been a resident of this state for the five-year period immediately prior to the date upon which the criminal records check is requested or does not provide evidence that within that five-year period the superintendent has requested information about the applicant from the federal bureau of investigation in a criminal records check, the director, head teacher, or elementary principal shall request that the superintendent obtain information from the federal bureau of investigation as a part of the criminal records check for the applicant. If the applicant presents proof that the applicant has been a resident of this state for that five-year period, the director, head teacher, or elementary principal may request that the superintendent include information from the federal bureau of investigation in the criminal records check.

(2) Any director, head teacher, ~~or~~ elementary principal, or site

administrator required by division (A)(1) of this section to request a criminal records check shall provide to each applicant a copy of the form prescribed pursuant to division (C)(1) of section 109.572 of the Revised Code, provide to each applicant a standard impression sheet to obtain fingerprint impressions prescribed pursuant to division (C)(2) of section 109.572 of the Revised Code, obtain the completed form and impression sheet from each applicant, and forward the completed form and impression sheet to the superintendent of the bureau of criminal identification and investigation at the time the person requests a criminal records check pursuant to division (A)(1) of this section.

(3) Any applicant who receives pursuant to division (A)(2) of this section a copy of the form prescribed pursuant to division (C)(1) of section 109.572 of the Revised Code and a copy of an impression sheet prescribed pursuant to division (C)(2) of that section and who is requested to complete the form and provide a set of fingerprint impressions shall complete the form or provide all the information necessary to complete the form and provide the impression sheet with the impressions of the applicant's fingerprints. If an applicant, upon request, fails to provide the information necessary to complete the form or fails to provide impressions of the applicant's fingerprints, the preschool program shall not employ that applicant for any position for which a criminal records check is required by division (A)(1) of this section.

(B)(1) Except as provided in rules adopted by the department of education in accordance with division (E) of this section, no preschool program shall employ a person as a person responsible for the care, custody, or control of a child if the person previously has been convicted of or pleaded guilty to any of the following:

(a) A violation of section 2903.01, 2903.02, 2903.03, 2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 2905.01, 2905.02, 2905.05, 2907.02, 2907.03, 2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 2911.12, 2919.12, 2919.22, 2919.24, 2919.25, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.04, 2925.05, 2925.06, or 3716.11 of the Revised Code, a violation of section 2905.04 of the Revised Code as it existed prior to July 1, 1996, a violation of section 2919.23 of the Revised Code that would have been a violation of section 2905.04 of the Revised Code as it existed prior to July 1, 1996, had the violation occurred prior to that date,; a violation of section 2925.11 of the Revised Code that is not a minor drug possession offense, or felonious sexual penetration in violation of former section 2907.12 of the Revised

Code;

(b) A violation of an existing or former law of this state, any other state, or the United States that is substantially equivalent to any of the offenses or violations described in division (B)(1)(a) of this section.

(2) A preschool program may employ an applicant conditionally until the criminal records check required by this section is completed and the preschool program receives the results of the criminal records check. If the results of the criminal records check indicate that, pursuant to division (B)(1) of this section, the applicant does not qualify for employment, the preschool program shall release the applicant from employment.

(C)(1) Each preschool program shall pay to the bureau of criminal identification and investigation the fee prescribed pursuant to division (C)(3) of section 109.572 of the Revised Code for each criminal records check conducted in accordance with that section upon the request pursuant to division (A)(1) of this section of the director, head teacher, ~~or~~ elementary principal, or site administrator of the preschool program.

(2) A preschool program may charge an applicant a fee for the costs it incurs in obtaining a criminal records check under this section. A fee charged under this division shall not exceed the amount of fees the preschool program pays under division (C)(1) of this section. If a fee is charged under this division, the preschool program shall notify the applicant at the time of the applicant's initial application for employment of the amount of the fee and that, unless the fee is paid, the applicant will not be considered for employment.

(D) The report of any criminal records check conducted by the bureau of criminal identification and investigation in accordance with section 109.572 of the Revised Code and pursuant to a request under division (A)(1) of this section is not a public record for the purposes of section 149.43 of the Revised Code and shall not be made available to any person other than the applicant who is the subject of the criminal records check or the applicant's representative, the preschool program requesting the criminal records check or its representative, and any court, hearing officer, or other necessary individual in a case dealing with the denial of employment to the applicant.

(E) The department of education shall adopt rules pursuant to Chapter 119. of the Revised Code to implement this section, including rules specifying circumstances under which a preschool program may hire a person who has been convicted of an offense listed in division (B)(1) of this section but who meets standards in regard to rehabilitation set by the department.

(F) Any person required by division (A)(1) of this section to request a

criminal records check shall inform each person, at the time of the person's initial application for employment, that the person is required to provide a set of impressions of the person's fingerprints and that a criminal records check is required to be conducted and satisfactorily completed in accordance with section 109.572 of the Revised Code if the person comes under final consideration for appointment or employment as a precondition to employment for that position.

(G) As used in this section:

(1) "Applicant" means a person who is under final consideration for appointment or employment in a position with a preschool program as a person responsible for the care, custody, or control of a child, except that "applicant" does not include a person already employed by a board of education or chartered nonpublic school in a position of care, custody, or control of a child who is under consideration for a different position with such board or school.

(2) "Criminal records check" has the same meaning as in section 109.572 of the Revised Code.

(3) "Minor drug possession offense" has the same meaning as in section 2925.01 of the Revised Code.

(H) If the board of education of a local school district adopts a resolution requesting the assistance of the educational service center in which the local district has territory in conducting criminal records checks of substitute teachers under this section, the appointing or hiring officer of such educational service center governing board shall serve for purposes of this section as the appointing or hiring officer of the local board in the case of hiring substitute teachers for employment in the local district.

Sec. 3301.55. (A) A school district, county MR/DD board, ~~or~~ eligible nonpublic school, head start grantee, or head start delegate agency operating a preschool program shall house the program in buildings that meet the following requirements:

(1) The building is operated by the district, county MR/DD board, ~~or~~ eligible nonpublic school, head start grantee, or head start delegate agency and has been approved by the division of industrial compliance in the department of commerce or a certified municipal, township, or county building department for the purpose of operating a program for preschool children. Any such structure shall be constructed, equipped, repaired, altered, and maintained in accordance with applicable provisions of Chapters 3781. and 3791. and with rules adopted by the board of building standards under Chapter 3781. of the Revised Code for the safety and sanitation of structures erected for this purpose.

(2) The building is in compliance with fire and safety laws and regulations as evidenced by reports of annual school fire and safety inspections as conducted by appropriate local authorities.

(3) The school is in compliance with rules established by the state board of education regarding school food services.

(4) The facility includes not less than thirty-five square feet of indoor space for each child in the program. Safe play space, including both indoor and outdoor play space, totaling not less than sixty square feet for each child using the space at any one time, shall be regularly available and scheduled for use.

(5) First aid facilities and space for temporary placement or isolation of injured or ill children are provided.

(B) Each school district, county MR/DD board, ~~or~~ eligible nonpublic school, head start grantee, or head start delegate agency that operates, or proposes to operate, a preschool program shall submit a building plan including all information specified by the state board of education to the board not later than the first day of September of the school year in which the program is to be initiated. The board shall determine whether the buildings meet the requirements of this section and section 3301.53 of the Revised Code, and notify the superintendent of its determination. If the board determines, on the basis of the building plan or any other information, that the buildings do not meet those requirements, it shall cause the buildings to be inspected by the department of education. The department shall make a report to the superintendent specifying any aspects of the building that are not in compliance with the requirements of this section and section 3301.53 of the Revised Code and the time period that will be allowed the district, county MR/DD board, ~~or~~ school, grantee, or agency to meet the requirements.

Sec. 3301.57. (A) For the purpose of improving programs, facilities, and implementation of the standards promulgated by the state board of education under section 3301.53 of the Revised Code, the state department of education shall provide consultation and technical assistance to school districts, county MR/DD boards, ~~and~~ eligible nonpublic schools, head start grantees, and head start delegate agencies operating preschool programs or school child programs, and inservice training to preschool staff members, school child program staff members, and nonteaching employees.

(B) The department and the school district board of education, county MR/DD board, ~~or~~ eligible nonpublic school, head start grantee, or head start delegate agency shall jointly monitor each preschool program and each school child program.

If the program receives any grant or other funding from the state or federal government, the department annually shall monitor all reports on attendance, financial support, and expenditures according to provisions for use of the funds.

(C) The department of human services and the department of education shall enter into a contract pursuant to which the department of education inspects preschool programs and school child programs in accordance with sections 3301.52 to 3301.59 of the Revised Code, the rules adopted under those sections, and any applicable procedures in Chapter 5104. of the Revised Code and investigates any complaints filed pursuant to those sections or rules. The contract shall require the department of human services to pay the department of education for conducting the inspections and investigations an amount equal to the amount that the department of human services would expend conducting the same number of inspections and investigations with its employees under Chapter 5104. of the Revised Code.

(D) The department of education, at least twice during every twelve-month period of operation of a preschool program or a licensed school child program, shall inspect the program and provide a written inspection report to the superintendent of the school district, county MR/DD board, ~~or eligible nonpublic school,~~ head start grantee, or head start delegate agency. At least one inspection shall be unannounced and all inspections may be unannounced. No person shall interfere with any inspection conducted pursuant to this division or to the rules adopted pursuant to sections 3301.52 to 3301.59 of the Revised Code.

Upon receipt of any complaint that a preschool program or a licensed school child program is out of compliance with the requirements in sections 3301.52 to 3301.59 of the Revised Code or the rules adopted under those sections, the department shall investigate and may inspect the program.

(E) If a preschool program or a licensed school child program is determined to be out of compliance with the requirements of sections 3301.52 to 3301.59 of the Revised Code or the rules adopted under those sections, the department of education shall notify the appropriate superintendent, county MR/DD board, ~~or eligible nonpublic school,~~ head start grantee, or head start delegate agency in writing regarding the nature of the violation, what must be done to correct the violation, and by what date the correction must be made. If the correction is not made by the date established by the department, it may commence action under Chapter 119. of the Revised Code to close the program or to revoke the license of the program. If a program does not comply with an order to cease operation

sued in accordance with Chapter 119. of the Revised Code, the department shall notify the attorney general, the prosecuting attorney of the county in which the program is located, or the city attorney, village solicitor, or other chief legal officer of the municipal corporation in which the program is located that the program is operating in violation of sections 3301.52 to 3301.59 of the Revised Code or the rules adopted under those sections and in violation of an order to cease operation issued in accordance with Chapter 119. of the Revised Code. Upon receipt of the notification, the attorney general, prosecuting attorney, city attorney, village solicitor, or other chief legal officer shall file a complaint in the court of common pleas of the county in which the program is located requesting the court to issue an order enjoining the program from operating. The court shall grant the requested injunctive relief upon a showing that the program named in the complaint is operating in violation of sections 3301.52 to 3301.59 of the Revised Code or the rules adopted under those sections and in violation of an order to cease operation issued in accordance with Chapter 119. of the Revised Code.

(F) The department of education shall prepare an annual report on inspections conducted under this section. The report shall include the number of inspections conducted, the number and types of violations found, and the steps taken to address the violations. The department shall file the report with the governor, the president and minority leader of the senate, and the speaker and minority leader of the house of representatives on or before the first day of January of each year, beginning in 1999.

Sec. 3301.58. (A) The department of education is responsible for the licensing of preschool programs and school child programs and for the enforcement of sections 3301.52 to 3301.59 of the Revised Code and of any rules adopted under those sections. No school district board of education, county MR/DD board, ~~or~~ eligible nonpublic school, head start grantee, or head start delegate agency shall operate, establish, manage, conduct, or maintain a preschool program without a license issued under this section. A school district board of education, county MR/DD board, or eligible nonpublic school may obtain a license under this section for a school child program. The school district board of education, county MR/DD board, ~~or~~ eligible nonpublic school, head start grantee, or head start delegate agency shall post the current license for each preschool program and licensed school child program it operates, establishes, manages, conducts, or maintains in a conspicuous place in the preschool program or licensed school child program that is accessible to parents, custodians, or guardians and employees and staff members of the program at all times when the program is in operation.

(B) Any school district board of education, county MR/DD board, ~~or~~ eligible nonpublic school, head start grantee, or head start delegate agency that desires to operate, establish, manage, conduct, or maintain a preschool program ~~or to obtain a license for a school child program~~ shall apply to the department of education for a license on a form that the department shall prescribe by rule. Any school district board of education, county MR/DD board, or eligible nonpublic school that desires to obtain a license for a school child program shall apply to the department for a license on a form that the department shall prescribe by rule. The department shall provide at no charge to each applicant for a license under this section a copy of the requirements under sections 3301.52 to 3301.59 of the Revised Code and any rules adopted under those sections. The department shall mail application forms for the renewal of a license at least one hundred twenty days prior to the date of the expiration of the license, and the application for renewal of a license shall be filed with the department at least sixty days before the date of the expiration of the existing license. The department may establish application fees by rule adopted under Chapter 119. of the Revised Code, and all applicants for a license shall pay any fee established by the department at the time of making an application for a license. All fees collected pursuant to this section shall be paid into the state treasury to the credit of the general revenue fund.

(C) Upon the filing of an application for a license, the department of education shall investigate and inspect the preschool program or school child program to determine the license capacity for each age category of children of the program and to determine whether the program complies with sections 3301.52 to 3301.59 of the Revised Code and any rules adopted under those sections. When, after investigation and inspection, the department of education is satisfied that sections 3301.52 to 3301.59 of the Revised Code and any rules adopted under those sections are complied with by the applicant, the department of education shall issue the program a provisional license as soon as practicable in the form and manner prescribed by the rules of the department. The provisional license shall be valid for six months from the date of issuance unless revoked.

(D) The department of education shall investigate and inspect a preschool program or school child program that has been issued a provisional license at least once during operation under the provisional license. If, after the investigation and inspection, the department of education determines that the requirements of sections 3301.52 to 3301.59 of the Revised Code and any rules adopted under those sections are met by the provisional licensee, the department of education shall issue a license

that is effective for two years from the date of the issuance of the provisional license.

(E) Upon the filing of an application for the renewal of a license by a preschool program or school child program, the department of education shall investigate and inspect the preschool program or school child program. If the department of education determines that the requirements of sections 3301.52 to 3301.59 of the Revised Code and any rules adopted under those sections are met by the applicant, the department of education shall renew the license for two years from the date of the expiration date of the previous license.

(F) The license or provisional license shall state the name of the school district board of education, county MR/DD board, ~~or~~ eligible nonpublic school, head start grantee, or head start delegate agency that operates the preschool program or school child program and the license capacity of the program. The license shall include any other information required by section 5104.03 of the Revised Code for the license of a child day-care center.

(G) The department of education may revoke the license of any preschool program or school child program that is not in compliance with the requirements of sections 3301.52 to 3301.59 of the Revised Code and any rules adopted under those sections.

(H) If the department of education revokes a license or refuses to renew a license to a program, the department shall not issue a license to the program within two years from the date of the revocation or refusal. All actions of the department with respect to licensing preschool programs and school child programs shall be in accordance with Chapter 119. of the Revised Code.

Sec. 3301.581. Each head start grantee, head start delegate agency, and eligible nonpublic school operating a head start program shall be licensed by the department of education as a preschool program under sections 3301.52 to 3301.59 of the Revised Code, and does not have the option of being licensed by the department of human services under Chapter 5104. of the Revised Code. Before the expiration of any grantee's, agency's, or school's license under that chapter, or within six months after the effective date of this section, whichever is earlier, the agency or school shall apply for a license for a preschool program under section 3301.58 of the Revised Code. Notwithstanding division (C) of section 3301.58 of the Revised Code, a grantee, agency, or school applying for a license for a head start program during the six months following the effective date of this section need not first obtain a provisional license under that division.

Sec. 3313.61. (A) A diploma shall be granted by the board of education

of any city, exempted village, or local school district that operates a high school to any person to whom all of the following apply:

(1) The person has successfully completed the curriculum in any high school or the individualized education program developed for the person by any high school pursuant to section 3323.08 of the Revised Code;

(2) The person has attained at least the applicable scores designated under division (B) of section 3301.0710 of the Revised Code on all the tests required by that division unless the person was excused from taking any such test pursuant to division (C)(1) of section 3301.0711 or section 3313.532 of the Revised Code or unless division (H) of this section applies to the person;

(3) The person is not eligible to receive an honors diploma granted pursuant to division (B) of this section.

~~No~~ Except as provided in divisions (C), (E), and (J) of this section, no diploma shall be granted under this division to anyone except as provided under this division.

(B) In lieu of a diploma granted under division (A) of this section, an honors diploma shall be granted, in accordance with rules of the state board of education, by any such district board to anyone who successfully completes the curriculum in any high school or the individualized education program developed for the person by any high school pursuant to section 3323.08 of the Revised Code, who has attained at least the applicable scores designated under division (B) of section 3301.0710 of the Revised Code on all the tests required by that division, and who has met additional criteria established by the state board for the granting of such a diploma. ~~No~~ Except as provided in division (J) of this section, no honors diploma shall be granted to anyone failing to comply with this division and no more than one honors diploma shall be granted to any student under this division.

The state board shall adopt rules prescribing the granting of honors diplomas under this division. These rules may prescribe the granting of honors diplomas that recognize a student's achievement as a whole or that recognize a student's achievement in one or more specific subjects or both. In any case, the rules shall designate two or more criteria for the granting of each type of honors diploma the board establishes under this division and the number of such criteria that must be met for the granting of that type of diploma. The number of such criteria for any type of honors diploma shall be at least one less than the total number of criteria designated for that type and no one or more particular criteria shall be required of all persons who are to be granted that type of diploma.

(C) Any such district board administering any of the tests required by

section 3301.0710 of the Revised Code to any person requesting to take such test pursuant to division (B)(4)(b) of section 3301.0711 of the Revised Code shall award a diploma to such person if ~~he~~ the person attains at least the applicable scores designated under division (B) of section 3301.0710 of the Revised Code on all the tests administered and if ~~he~~ the person has previously attained the applicable scores on all the other tests required by division (B) of that section or has been exempted or excused from any such test pursuant to division (H) of this section or division (C)(1) of section 3301.0711 or section 3313.532 of the Revised Code.

(D) Each diploma awarded under this section shall be signed by the president and treasurer of the issuing board, the superintendent of schools, and the principal of the high school. Each diploma shall bear the date of its issue, be in such form as the district board prescribes, and be paid for out of the district's general fund.

(E) A person who is a resident of Ohio and is eligible under state board of education minimum standards to receive a high school diploma based in whole or in part on credits earned while an inmate of a correctional institution operated by the state or any political subdivision thereof, shall be granted such diploma by the correctional institution operating the programs in which such credits were earned, and by the board of education of the school district in which the inmate resided immediately prior to ~~his~~ the inmate's placement in the institution. The diploma granted by the correctional institution shall be signed by the director of the institution, and by the person serving as principal of the institution's high school and shall bear the date of issue.

(F) Persons who are not residents of Ohio but who are inmates of correctional institutions operated by the state or any political subdivision thereof, and who are eligible under state board of education minimum standards to receive a high school diploma based in whole or in part on credits earned while an inmate of the correctional institution, shall be granted a diploma by the correctional institution offering the program in which the credits were earned. The diploma granted by the correctional institution shall be signed by the director of the institution and by the person serving as principal of the institution's high school and shall bear the date of issue.

(G) The state board of education shall provide by rule for the administration of the tests required by section 3301.0710 of the Revised Code to inmates of correctional institutions.

(H) Any person to whom all of the following apply shall be exempted from attaining the applicable score on the test in citizenship designated

under division (B) of section 3301.0710 of the Revised Code:

- (1) The person is not a citizen of the United States;
- (2) The person is not a permanent resident of the United States;
- (3) The person indicates ~~he does not intend~~ no intention to reside in the United States after the completion of high school.

(I) Notwithstanding division (D) of section 3311.19 and division (D) of section 3311.52 of the Revised Code, this section and section 3311.611 of the Revised Code do not apply to the board of education of any joint vocational school district or any cooperative education school district established pursuant to divisions (A) to (C) of section 3311.52 of the Revised Code.

(J) Upon receipt of a notice under division (D) of section 3325.08 of the Revised Code that a student has received a diploma under that section, the board of education receiving the notice may grant a high school diploma under this section to the student, except that such board shall grant the student a diploma if the student meets the graduation requirements that the student would otherwise have had to meet to receive a diploma from the district. The diploma granted under this section shall be of the same type the notice indicates the student received under section 3325.08 of the Revised Code.

(K) This is an interim section effective until July 1, 1998.

Sec. 3325.08. (A) A diploma shall be granted by the superintendent of the state school for the blind and the superintendent of the state school for the deaf to any student enrolled in one of these state schools to whom all of the following apply:

(1) The student has successfully completed the individualized education program developed for ~~him~~ the student for ~~his~~ the student's high school education pursuant to section 3323.08 of the Revised Code;

(2) The student has attained at least the applicable scores designated under division (B) of section 3301.0710 of the Revised Code on all the tests prescribed by that division unless the student was excused from taking any such test pursuant to division (L)(3) of section 3301.0711 of the Revised Code;

(3) The student is not eligible to receive an honors diploma granted pursuant to division (B) of this section.

No diploma shall be granted under this division to anyone except as provided under this division.

(B) In lieu of a diploma granted under division (A) of this section, the superintendent of the state school for the blind and the superintendent of the state school for the deaf shall grant an honors diploma, in the same manner

that the boards of education of school districts grant such diplomas under division (B) of section 3313.61 of the Revised Code, to any student enrolled in one of these state schools who successfully completes the individualized education program developed for ~~him~~ the student for ~~his~~ the student's high school education pursuant to section 3323.08 of the Revised Code, who has attained at least the applicable scores designated under division (B) of section 3301.0710 of the Revised Code on all the tests prescribed under that division, and who has met additional criteria for granting such a diploma. These additional criteria shall be the same as those prescribed by the state board under division (B) of section 3313.61 of the Revised Code for the granting of such diplomas by school districts. No honors diploma shall be granted to anyone failing to comply with this division and not more than one honors diploma shall be granted to any student under this division.

(C) A diploma or honors diploma awarded under this section shall be signed by the superintendent of public instruction and the superintendent of the state school for the blind or the superintendent of the state school for the deaf, as applicable. Each diploma shall bear the date of its issue and be in such form as the school superintendent prescribes.

(D) Upon granting a diploma to a student under this section, the superintendent of the state school in which the student is enrolled shall provide notice of receipt of the diploma to the board of education of the school district where the student is entitled to attend school under section 3313.64 or 3313.65 Of the Revised Code when not residing at the state school for the blind or the state school for the deaf. The notice shall indicate the type of diploma granted.

Sec. 5104.02. (A) The director of human services is responsible for the licensing of child day-care centers and type A family day-care homes, and for the enforcement of this chapter and of rules promulgated pursuant to this chapter. No person, firm, organization, institution, or agency shall operate, establish, manage, conduct, or maintain a child day-care center or type A family day-care home without a license issued under section 5104.03 of the Revised Code. The current license shall be posted in a conspicuous place in the center or type A home that is accessible to parents, custodians, or guardians and employees of the center or type A home at all times when the center or type A home is in operation.

(B) A person, firm, institution, organization, or agency operating any of the following programs is exempt from the provisions of this chapter:

- (1) A program of child day-care that operates for two or less consecutive weeks;
- (2) Child day-care in places of worship during religious activities during

which children are cared for while at least one parent, guardian, or custodian of each child is participating in such activities and is readily available;

(3) Religious activities which do not provide child day-care;

(4) Supervised training, instruction, or activities of children in specific areas, including, but not limited to: art; drama; dance; music; gymnastics, swimming, or another athletic skill or sport; computers; or an educational subject conducted on an organized or periodic basis no more than one day a week and for no more than six hours duration;

(5) Programs in which the director determines that at least one parent, custodian, or guardian of each child is on the premises of the facility offering child day-care and is readily accessible at all times, except that child day-care provided on the premises at which a parent, custodian, or guardian is employed more than two and one-half hours a day shall be licensed in accordance with division (A) of this section;

(6)(a) Programs that provide child day-care funded and regulated or operated and regulated by state departments other than the department of human services or the state board of education when the director of human services has determined that the rules governing the program are equivalent to or exceed the rules promulgated pursuant to this chapter.

Notwithstanding any exemption from regulation under this chapter, each state department shall submit to the director of human services a copy of the rules that govern programs that provide child day-care and are regulated or operated and regulated by the department. Annually, each state department shall submit to the director a report for each such program it regulates or operates and regulates that includes the following information:

(i) The site location of the program;

(ii) The maximum number of infants, toddlers, preschool children, or school children served by the program at one time;

(iii) The number of adults providing child day-care for the number of infants, toddlers, preschool children, or school children;

(iv) Any changes in the rules made subsequent to the time when the rules were initially submitted to the director.

The director shall maintain a record of the child day-care information submitted by other state departments and shall provide this information upon request to the general assembly or the public.

(b) Child day-care programs conducted by boards of education or by chartered nonpublic schools that are conducted in school buildings and that provide child day-care to school children only shall be exempt from meeting or exceeding rules promulgated pursuant to this chapter.

(7) Any preschool program or school child program that is subject to

licensure by the department of education under sections 3301.52 to 3301.59 of the Revised Code.

(8) Any program providing child day-care that meets all of the following requirements and, on October 20, 1987, was being operated by a nonpublic school that holds a charter issued by the state board of education for kindergarten only:

(a) The nonpublic school has given the notice to the state board and the director of human services required by Section 4 of Substitute House Bill No. 253 of the 117th general assembly;

(b) The nonpublic school continues to be chartered by the state board for kindergarten, or receives and continues to hold a charter from the state board for kindergarten through grade five;

(c) The program is conducted in a school building;

(d) The program is operated in accordance with rules promulgated by the state board under sections 3301.52 to 3301.57 of the Revised Code.

~~(C) A person, firm, organization, institution, or agency operating a child day care center or type A family day care home that is exempt under division (B) of this section from licensure under division (A) of this section may apply for a license under division (A) of this section. All requirements of this chapter and of rules promulgated pursuant to this chapter shall apply to any exempt child day care center or type A home that applies for a license under division (A) of this section. Licensure pursuant to this division constitutes an irrevocable waiver of the exempt status of the applicant under division (B) of this section.~~

SECTION 2. That existing sections 2950.11, 3301.50, 3301.52, 3301.53, 3301.54, 3301.541, 3301.55, 3301.57, 3301.58, 3313.61, 3325.08, and 5104.02 of the Revised Code are hereby repealed.

SECTION 3. Section 3301.541 of the Revised Code is presented in this act as a composite of the section as amended by both Am. Sub. H.B. 445 and Am. Sub. S.B. 269 of the 121st General Assembly, with the new language of neither of the acts shown in capital letters. Section 3313.61 of the Revised Code is presented in Section 1 of this act as a composite of the section as amended by both Am. Sub. H.B. 552 and Am. Sub. H.B. 571 of the 120th General Assembly, with the new language of neither of the acts shown in capital letters. This is in recognition of the principle stated in division (B) of section 1.52 of the Revised Code that such amendments are to be harmonized where not substantively irreconcilable and constitutes a

ative finding that such is the resulting version in effect prior to the effective date of this act.

SECTION 4. That section 3313.61 of the Revised Code, as amended by Am. Sub. S.B. 55 of the 122nd General Assembly, be amended to read as follows:

Sec. 3313.61. (A) A diploma shall be granted by the board of education of any city, exempted village, or local school district that operates a high school to any person to whom all of the following apply:

(1) The person has successfully completed the curriculum in any high school or the individualized education program developed for the person by any high school pursuant to section 3323.08 of the Revised Code;

(2) The person has attained at least the applicable scores designated under division (B) of section 3301.0710 of the Revised Code on all the tests required by that division unless the person was excused from taking any such test pursuant to division (C)(1) of section 3301.0711 or section 3313.532 of the Revised Code or unless division (H) of this section applies to the person;

(3) The person is not eligible to receive an honors diploma granted pursuant to division (B) of this section.

~~No~~ Except as provided in divisions (C), (E), and (J) of this section, no diploma shall be granted under this division to anyone except as provided under this division.

(B) In lieu of a diploma granted under division (A) of this section, an honors diploma shall be granted, in accordance with rules of the state board of education, by any such district board to anyone who successfully completes the curriculum in any high school or the individualized education program developed for the person by any high school pursuant to section 3323.08 of the Revised Code, who has attained at least the applicable scores designated under division (B) of section 3301.0710 of the Revised Code on all the tests required by that division, and who has met additional criteria established by the state board for the granting of such a diploma. ~~No~~ Except as provided in divisions (C), (E), and (J) of this section, no honors diploma shall be granted to anyone failing to comply with this division and no more than one honors diploma shall be granted to any student under this division.

The state board shall adopt rules prescribing the granting of honors diplomas under this division. These rules may prescribe the granting of honors diplomas that recognize a student's achievement as a whole or that recognize a student's achievement in one or more specific subjects or both. In any case, the rules shall designate two or more criteria for the granting of

each type of honors diploma the board establishes under this division and the number of such criteria that must be met for the granting of that type of diploma. The number of such criteria for any type of honors diploma shall be at least one less than the total number of criteria designated for that type and no one or more particular criteria shall be required of all persons who are to be granted that type of diploma.

(C) Any such district board administering any of the tests required by section 3301.0710 of the Revised Code to any person requesting to take such test pursuant to division (B)(5)(b) of section 3301.0711 of the Revised Code shall award a diploma to such person if the person attains at least the applicable scores designated under division (B) of section 3301.0710 of the Revised Code on all the tests administered and if the person has previously attained the applicable scores on all the other tests required by division (B) of that section or has been exempted or excused from any such test pursuant to division (H) of this section or division (C)(1) of section 3301.0711 or section 3313.532 of the Revised Code.

(D) Each diploma awarded under this section shall be signed by the president and treasurer of the issuing board, the superintendent of schools, and the principal of the high school. Each diploma shall bear the date of its issue, be in such form as the district board prescribes, and be paid for out of the district's general fund.

(E) A person who is a resident of Ohio and is eligible under state board of education minimum standards to receive a high school diploma based in whole or in part on credits earned while an inmate of a correctional institution operated by the state or any political subdivision thereof, shall be granted such diploma by the correctional institution operating the programs in which such credits were earned, and by the board of education of the school district in which the inmate resided immediately prior to the inmate's placement in the institution. The diploma granted by the correctional institution shall be signed by the director of the institution, and by the person serving as principal of the institution's high school and shall bear the date of issue.

(F) Persons who are not residents of Ohio but who are inmates of correctional institutions operated by the state or any political subdivision thereof, and who are eligible under state board of education minimum standards to receive a high school diploma based in whole or in part on credits earned while an inmate of the correctional institution, shall be granted a diploma by the correctional institution offering the program in which the credits were earned. The diploma granted by the correctional institution shall be signed by the director of the institution and by the person

serving as principal of the institution's high school and shall bear the date of issue.

(G) The state board of education shall provide by rule for the administration of the tests required by section 3301.0710 of the Revised Code to inmates of correctional institutions.

(H) Any person to whom all of the following apply shall be exempted from attaining the applicable score on the test in citizenship designated under division (B) of section 3301.0710 of the Revised Code:

- (1) The person is not a citizen of the United States;
- (2) The person is not a permanent resident of the United States;
- (3) The person indicates no intention to reside in the United States after the completion of high school.

(I) Notwithstanding division (D) of section 3311.19 and division (D) of section 3311.52 of the Revised Code, this section and section 3311.611 of the Revised Code do not apply to the board of education of any joint vocational school district or any cooperative education school district established pursuant to divisions (A) to (C) of section 3311.52 of the Revised Code.

(J) Upon receipt of a notice under division (D) of section 3325.08 of the Revised Code that a student has received a diploma under that section, the board of education receiving the notice may grant a high school diploma under this section to the student, except that such board shall grant the student a diploma if the student meets the graduation requirements that the student would otherwise have had to meet to receive a diploma from the district. The diploma granted under this section shall be of the same type the notice indicates the student received under section 3325.08 of the Revised Code.

SECTION 5. That all existing versions of section 3313.61 of the Revised Code are hereby repealed.

SECTION 6. Sections 4 and 5 of this act shall take effect July 1, 1998.

SECTION 7. On the effective date of this act and on July 1, 1998, the Department of Human Services shall transfer by intrastate transfer voucher to the Department of Education an amount at least equivalent to the amount the Department of Human Services would spend in fiscal years 1998 and 1999, respectively, to license and enforce Chapter 5104. of the Revised Code with respect to Head Start grantees and Head Start delegate agencies.

Speaker _____ of the House of Representatives.

President _____ of the Senate.

Passed _____, 20____

Approved _____, 20____

Governor.

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

Director, Legislative Service Commission.

Filed in the office of the Secretary of State at Columbus, Ohio, on the
____ day of _____, A. D. 20____.

Secretary of State.

File No. _____ Effective Date _____