Ohio Legislative Service Commission

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(As Introduced)

Rep. Amstutz

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Within each agency and category, a summary of the items appears first (in the form of dot points), followed by a discussion of their content and operation. Items generally are presented in the order in which they appear in the Revised Code.

DEPARTMENT OF ADMINISTRATIVE SERVICES

Publication of notices and advertisements

- Renames the state public notice website the official public notice website.
- Revises or eliminates some of the requirements for establishing, maintaining, and operating the official public notice website.
- Authorizes the Office of Information Technology or its contractor to charge a newspaper or daily law journal publisher a reasonable, uniform fee to post notices and advertisements on the official public notice website.

- Requires legal notices and advertisements to be posted on the official public notice website, in their entirety, by the publisher of a daily law journal.

- Requires legal advertisements, notices, or proclamations that are published in a newspaper or daily law journal to also be posted by the newspaper or journal publisher for no charge on the publisher's Internet website, if there is one.

- Changes or eliminates some of the second, abbreviated notice or advertisement publication requirements that a state agency or political subdivision must meet to eliminate further newspaper publications.

- Requires newspaper publishers to post a second, abbreviated notice or advertisement on the official public notice website at no additional cost.

Other provisions

- Increases the deadline for the reinstatement, of a person holding an office or position in the classified service, who has been separated from the service due to injury or disability, to within 60 days after the person submits a written application for reinstatement.

- Permits the Director of Administrative Services to dispose of excess or surplus supplies to the general public by sale, in addition to the current authority to dispose of those supplies to the general public by auction, sealed bid, or negotiation.

- Removes construction managers from the definition of "principal contractor" for purposes of the public construction "prompt pay" law.

Publication of notices and advertisements

Official public notice website

(R.C. 125.182)

The bill renames the state public notice website the official public notice website. The website is operated by the Office of Information Technology (OIT) or by a contractor. The bill adds requirements with which OIT or its contractor must comply.

OIT or its contractor must provide access to the website to the publisher of any Ohio newspaper or daily law journal that qualifies under the Revised Code to publish notices and advertisements, for the posting of notices and advertisements at no cost, or for a reasonable, uniform fee for the service.

OIT or its contractor also must provide, if requested, a regularly scheduled feed or similar data transfer to the Department of Administrative Services of notices and advertisements posted on the website, provided that OIT or its contractor cannot be required to provide the feed or transfer more often than once every business day.

The website must be maintained on the Internet.

The bill modifies a requirement that OIT or its contractor cannot charge a fee to a person who accesses, searches, or otherwise uses the website. Instead, a fee may be charged for enhanced search and customized content delivery features.

The bill also modifies a requirement that the website be fully accessible at all times by making an exception that the website may not be fully accessible during maintenance or acts of God outside the OIT's or its contractor's control.

The bill provides that an error in a notice or advertisement posted on the official public notice website, or a temporary website outage or service interruption preventing the posting or display of a notice or advertisement on the website, does not constitute a defect in making legal publication of the notice or advertisement, and publication requirements are to be considered met if the notice or advertisement published in the newspaper or daily law journal is correct.

The bill eliminates the requirement that OIT bear the expense of maintaining the public notice website domain name. The bill also eliminates the requirements that OIT devise and display on the website a form that may be downloaded and used to request publication of a notice on the website, enable responsible parties to submit notices and requests for their publication, maintain the website so that it will not infringe legally protected interests, and submit a status report to the Secretary of State twice annually that demonstrates compliance with statutory requirements governing public notices.

The bill requires the publisher of a newspaper or of a daily law journal that maintains a website to include on its website a link to the official public notice website.

Daily law journals

(R.C. 2701.09)

Under continuing law, in a county in which a daily law journal is printed for the county's courts of record, the journal must publish abstracts of legal notices or advertisements once a week on the same day of the week. The bill requires such a legal notice and advertisement to be posted by the journal's publisher in its entirety on the journal's website, if the journal has one, and on the official public notice website at no additional cost.

Publication of advertisements, notices, and proclamations

(R.C. 7.10)

The bill requires all legal advertisements, notices, or proclamations that public officers of the state or of political subdivisions are required under continuing law to print in a newspaper of general circulation to also be posted by the newspaper publisher on the newspaper's Internet website, if the newspaper has one. The bill prohibits a newspaper publisher from charging for posting those advertisements, notices, and proclamations on the newspaper's Internet website.

Second, abbreviated form of publication of notices or advertisements

(R.C. 7.16)

The bill revises the requirements for a state agency or political subdivision to publish a second, abbreviated form of a notice or advertisement in a newspaper. Under continuing law, if a section of the Revised Code or an administrative rule requires publication of a notice or advertisement two or more times in a newspaper of general circulation and the section or rule refers to R.C. 7.16, the state agency or political subdivision may choose to eliminate any further newspaper publications by making the first publication of the notice or advertisement in its entirety in the newspaper, and by making the second publication in the newspaper in an abbreviated form that meets certain requirements. The bill eliminates the requirements that (1) the second, abbreviated notice or advertisement be published on the newspaper's Internet website, if the newspaper has one, and (2) the notice or advertisement include the newspaper's and state agency's or political subdivision's Internet addresses if the notice or advertisement is posted on those websites.

The bill requires the newspaper publisher to post the second, abbreviated notice or advertisement on the official public notice website at no additional cost. The Internet address of the state agency's or political subdivision's website must be included in the second, abbreviated notice or advertisement.

Disability separation reinstatement

(R.C. 124.32)

The bill increases the deadline for the reinstatement of a person holding an office or position in the classified service, who has been separated from the service due to injury or physical or psychiatric disability, to within 60 days after the person submits a written application for reinstatement. Under current law, an appointing authority must reinstate the person within 30 days after the person submits the application.

Continuing law requires that a person who has been separated from service due to injury or physical or psychiatric disability must be reinstated in the same office held or in a similar position to that held at the time of separation if the application for reinstatement is filed within two years from the date of separation, and if the person passes an examination made by certain specified medical professionals.

Sale of excess or surplus supplies

(R.C. 125.13)

The bill permits the Director of Administrative Services to dispose of state agencies' excess or surplus supplies to the general public by sale, in addition to the current authority to dispose of those supplies to the general public by auction, sealed bid, or negotiation. Under continuing law, when supplies have been determined to be excess or surplus and the Director takes control of the supplies, the Director must generally dispose of those supplies in a specific order of priority as follows: (1) to state agencies, (2) to state-supported or state-assisted institutions of higher education, (3) to tax-supported agencies, municipal corporations, or other political subdivisions, private fire companies, or private, nonprofit emergency medical service organizations, (4) to nonpublic elementary and secondary schools chartered by the State Board of Education, and (5) to the general public.

The bill also specifies that the Director can adopt rules governing the disposal of surplus and excess supplies in the Director's control by sale, in addition to the current law authority to adopt rules regarding disposing of those supplies by public auction, sealed bid, or negotiation.

Public construction "prompt pay" law

(R.C. 153.56)

With respect to public improvement projects of the state or any political subdivision, district, institution, or other agency of the state (other than the Department of Transportation), existing law provides a process to be followed by any person that has performed work or furnished materials but has not been paid after completion of the contract by the principal contractor or design-build firm. The bill modifies the definition of "principal contractor" for purposes of this law by removing construction managers from the definition.

- Increases the annual inspection and reinspection fee for a roller coaster from $950 to $1,200.
- Requires the Department of Agriculture to charge an annual inspection and reinspection per-ride fee of $105 for inflatable rides, both kiddie and adult, and defines "kiddie ride."
- Clarifies that the annual inspection and reinspection fee for go karts is calculated per kart.

Amusement ride inspection fees

(R.C. 1711.50 and 1711.53)

The bill increases the annual inspection and reinspection fee that the Department of Agriculture must charge for a roller coaster from $950 to $1,200. It requires the Department to charge an annual inspection and reinspection per-ride fee of $105 for inflatable rides, both kiddie and adult. Additionally, the bill defines "kiddie ride" for the purposes of the Amusement Rides Law to mean an amusement ride designed for use by children 13 years of age who are unaccompanied by another person. It specifies that a kiddie ride includes a roller coaster that is not more than 40 feet in elevation at any point on the ride. Accordingly, the bill removes the requirement that "kiddie rides" be defined by rule. The bill also clarifies that the annual inspection and reinspection fee for go karts is calculated per kart.

- Extends the use of the Bureau of Criminal Identification and Investigation's retained applicant fingerprint database to private parties and entities in connection with employment and licensure and criminal record checks.

- Permits the Director of Budget and Management to authorize expenditures to pay for costs associated with the administration of the Medicaid program, including the development and operation of the retained applicant fingerprint database, in response to authorized requests from participating public offices and participating private parties for information from the retained applicant fingerprint database.

Private parties' use of fingerprint database

(R.C. 109.5721)

The bill grants any "participating private party," defined as any person or private entity that is allowed to request a criminal records check from the Bureau of Criminal Identification and Investigation (BCII),[1] access to information from the BCII's retained applicant fingerprint database. The retained applicant fingerprint database was established and maintained for the use of participating public offices that require a fingerprint background check to determine eligibility for employment with, licensure by, or approval for adoption by the public office. The bill grants a participating private party the same access to and use of the retained applicant fingerprint database as a participating public office and makes a participating private party subject to the rules adopted by the Attorney General governing the operation and maintenance of the database.

Under continuing law, the Superintendent of BCII is required to notify a participating public office that employs, licenses, or approves an individual whose name is in the retained applicant fingerprint database if the individual has been arrested for, convicted of, or pleaded guilty to any criminal offense. The participating public office must use the information in the notification to determine the individual's eligibility for continued employment or licensure. The bill requires the Superintendent to provide the same notification to a participating private party and requires the participating private party to use the information in the notification to determine the

[1] Under R.C. 109.572(A)(2) or (3). These parties include, but are not limited to, the chief administrator of a hospice care program, pediatric respite program, or home or adult day-care program, a home health agency, or a Medicaid provider.

individual's eligibility for continued employment with or licensure by the participating private party.

Authority to operate the retained applicant fingerprint database

(Section 503.20)

The bill authorizes the Superintendent of BCII to operate the retained applicant fingerprint database, in addition to any authority granted under ongoing law, and to take any other actions that the Superintendent determines is necessary, in response to a criminal record check request made by a participating private party. In connection with the request, a participating private party may take any action permitted to be taken by a participating public office and is required to take any action required to be taken by a participating public office.

The bill permits the Director of Budget and Management to authorize expenditures to pay for costs associated with the administration of the Medicaid program, including the development of the retained applicant fingerprint database, in response to authorized requests from participating public offices and participating private parties for information from the retained applicant fingerprint database.

OFFICE OF BUDGET AND MANAGEMENT

Shared services

- Authorizes the Director of Budget and Management to operate a shared services center to consolidate common business functions and transactional processes.
- Specifies that the shared services center may offer services to state agencies and political subdivisions of the state.
- Authorizes the Director to administer a payment card program under which political subdivisions may use a payment card to purchase equipment, materials, supplies, or services in accordance with guidelines issued by the Director.
- Requires that the services provided by the Director be supported by charges to defray the expense of those services.
- Permits a political subdivision to enter into an agreement with a state agency under which the state agency is to perform a function or render a service for the political subdivision that the political subdivision is otherwise legally authorized to perform or render, and permits a state agency to enter into an agreement with a political subdivision under which the political subdivision is to perform a function or render a service for the state agency that the state agency is otherwise legally authorized to perform or render.

Appropriations related to grant reconciliation and close-out

- Permits the director of an agency to request the OBM Director to authorize additional expenditures in order to return unspent cash to a grantor when, as a result of the reconciliation and close-out process for a grant, an amount of money is identified as unspent and requiring remittance to the grantor.
- Appropriates the additional amounts upon the approval of the Director.

Shared services

(R.C. 9.482, 126.21, and 126.25)

Under the bill, the Director of Budget and Management is authorized to operate a shared services center within the Office of Budget and Management (OBM) for the purpose of consolidating common business functions and transactional processes. The

services offered by the shared services center may be provided to any state agency or political subdivision.[2] The Director may also establish and administer payment card programs, similar to those currently provided for state agencies, that enable political subdivisions to use the card to purchase equipment, materials, supplies, or services in accordance with guidelines issued by the Director. All of these services are to be supported by charges that defray the expense of the services.

Additionally, the bill permits a political subdivision to enter into an agreement with a state agency whereby the state agency agrees to exercise any power, perform any function, or render any service for the political subdivision that the political subdivision is otherwise legally authorized to exercise, perform, or render. It also permits a state agency to enter into an agreement with a political subdivision whereby the political subdivision agrees to exercise any power, perform any function, or render any service for the state agency that the state agency is otherwise legally authorized to exercise, perform, or render. Political subdivisions and state agencies may enter into such agreements only when they are otherwise legally authorized to do so.

Appropriations related to grant reconciliation and close-out

(Section 503.10)

If, pursuant to the reconciliation and close-out process for a grant received by a state agency, an amount is identified as both unspent and requiring remittance to the grantor, the director of the agency may request the OBM Director to authorize additional expenditures to return the unspent cash to the grantor. Upon approval of the Director, the additional amounts are considered appropriated.

[2] With respect to the bill's provisions on shared services, "state agency" means any organized body, office, agency, institution, or other entity established by the laws of the state for the exercise of any function of state government, including a state institution of higher education as defined in R.C. 3345.011. "Political subdivision" has the same meaning as in the Political Subdivision Tort Liability Law (R.C. 2744.01). (R.C. 9.482(A) and 126.21(F).)

CHEMICAL DEPENDENCY PROFESSIONALS BOARD

- Enables a chemical dependency counselor to achieve a pathological and problem gambling endorsement on the counselor's license to enable the counselor to address gambling addiction disorders.

- Defines "pathological and problem gambling" as a persistent and recurring maladaptive gambling behavior that is classified in accepted nosologies.

- Modifies the Chemical Dependency Professionals Board's rule-making authority to include rules regarding the endorsement.

- Requires the Board to establish and adjust fees to be charged for issuing an initial endorsement and for renewing the endorsement.

- Prohibits the Board from discriminating against any endorsement holder or applicant for an endorsement because of the individual's race, color, religion, gender, national origin, disability, or age.

- Requires an individual seeking an endorsement to be one or more of certain listed counselors and other medical professionals and to have training in pathological and problem gambling and work or internship experience, with certain exceptions.

- Permits the Board to refuse to issue an endorsement, refuse to renew an endorsement, suspend, revoke, or otherwise restrict an endorsement, or reprimand an individual holding an endorsement for certain enumerated reasons.

- Requires each individual who holds an endorsement to complete continuing education.

- Based on the individual's license, allows an individual holding a valid license issued under the Chemical Dependency Professionals Law and the endorsement to diagnose and treat pathological and problem gambling conditions, and to perform treatment planning.

- Prohibits an individual holding a chemical dependency counselor II license or a chemical dependency counselor III license from practicing as an individual practitioner.

- Updates the Chemical Dependency Professionals Law to account for the ability of a chemical dependency counselor to receive a pathological and problem gambling endorsement.

Chemical dependency counselors – pathological and problem gambling endorsement

(R.C. 4758.01, 4758.02, 4758.06, 4758.16, 4758.20, 4758.21, 4758.23, 4758.24, 4758.26, 4758.28, 4758.29, 4758.30, 4758.31, 4758.35, 4758.36, 4758.48, 4758.50, 4758.51, 4758.60, 4758.62, 4758.63, 4758.64, and 4758.71)

General

The bill generally enables a chemical dependency counselor to achieve a pathological and problem gambling endorsement on the counselor's license to enable the counselor to address gambling addiction disorders, and prohibits a person from representing to the public that the person holds a pathological and problem gambling endorsement unless the person holds a valid endorsement.

To that end, the bill defines "pathological and problem gambling" as a persistent and recurring maladaptive gambling behavior that is classified in accepted nosologies.

Chemical Dependency Professionals Board rules

The bill modifies the rule-making authority of the Chemical Dependency Professionals Board to include rules regarding the endorsement that establish, specify, or provide for all of the following:

(1) Codes of ethical practice and professional conduct for individuals who hold an endorsement;

(2) Good moral character requirements for an individual who seeks or holds an endorsement;

(3) Documents that an individual seeking an endorsement must submit to the Board;

(4) Requirements to obtain the endorsement that are in addition to the other requirements established in the Chemical Dependency Professionals Law;

(5) Requirements for approval of continuing education courses for individuals who hold an endorsement;

(6) The intervention for and treatment of an individual holding an endorsement whose abilities to practice are impaired due to abuse of or dependency on alcohol or other drugs or other physical or mental conditions;

(7) Requirements governing reinstatement of a suspended or revoked endorsement;

(8) Standards for pathological and problem gambling-related compensated work or supervised internship direct clinical experience;

(9) Continuing education requirements for individuals who hold an endorsement;

(10) The number of hours of continuing education that an individual must complete to have an expired endorsement restored; and

(11) The duties of a licensed independent chemical dependency counselor who holds the endorsement who supervises a chemical dependency counselor III having the endorsement.

The bill prohibits the Board from discriminating against any endorsement holder or applicant for an endorsement because of the individual's race, color, religion, gender, national origin, disability, or age.

Under the bill, in accordance with the Board's rules, the Board must establish and adjust fees to be charged for issuing an initial endorsement and for renewing the endorsement. Under ongoing law amended in part by the bill to allow for the endorsement, the fees for an endorsement and the renewal of an endorsement may differ for the various types of licenses, certificates, or endorsements, but must not exceed $175 each, unless the Board determines that additional amounts are needed and are approved by the Controlling Board.

Issuance of endorsement

Application

An individual seeking an endorsement must file with the Chemical Dependency Professionals Board a written application on a form the Board prescribes.

Requirements

The bill requires the Board to issue an endorsement to an individual who meets certain requirements as follows:

(1) Is of good moral character as determined in accordance with rules;

(2) Submits a properly completed application and all other documentation specified in rules;

(3) Pays the fee established for the endorsement;

(4) Meets the requirements to obtain the endorsement as specified in the Chemical Dependency Professionals Law; and

(5) Meets any additional requirements specified in the Board's rules.

In reviewing an application, the Board must determine if an applicant's command of the English language and education or experience meet required standards.

Additionally, the bill requires an individual seeking an endorsement to be one or more of the following:

(1) A licensed independent chemical dependency counselor, chemical dependency counselor III, or chemical dependency counselor II;

(2) An individual authorized under the Physicians Licensing Law to practice medicine and surgery or osteopathic medicine and surgery;

(3) A licensed psychologist;

(4) A licensed registered nurse if the endorsement is consistent with the individual's scope of practice; or

(5) A professional clinical counselor, professional counselor, independent social worker, social worker, independent marriage and family therapist, or licensed marriage and family therapist if the endorsement is consistent with the individual's scope of practice.

An individual seeking an endorsement must have at least 30 hours of training in pathological and problem gambling that meets requirements prescribed in the Board's rules. Also, an individual seeking an endorsement must have at least 100 hours of compensated work or supervised internship in pathological and problem gambling direct clinical experience.

Initial endorsement

A licensed independent chemical dependency counselor, chemical dependency counselor III, or chemical dependency counselor II may be issued an initial endorsement without having complied with the 100 hours of compensated work or the supervised internship requirement, but the individual must comply with the requirement before expiration of the initial endorsement. An individual who fails to comply with this provision is not entitled to renewal of the initial endorsement.

Renewal

An endorsement expires two years after its issuance. The Board must renew an endorsement under the standard renewal procedure if the individual seeking the renewal pays the renewal fee and satisfies the continuing education requirements. The bill permits an expired endorsement to be restored if the individual seeking the restoration, not later than two years after the endorsement expires, applies for restoration of the endorsement. The Board then must issue a restored endorsement to the individual if the individual pays the renewal fee and satisfies the continuing education requirements. The Board must not require an individual to take an examination as a condition of having an expired endorsement restored.

Refusal to issue, suspension, or revocation

The Board, in accordance with the Administrative Procedure Act, may refuse to issue an endorsement; refuse to renew an endorsement; suspend, revoke, or otherwise restrict an endorsement; or reprimand an individual holding an endorsement for one or more of the following reasons:

(1) Violation of any provision of the Chemical Dependency Professionals Law or rules;

(2) Knowingly making a false statement on an application for an endorsement or for renewal, restoration, or reinstatement of an endorsement;

(3) Acceptance of a commission or rebate for referring an individual to a person who holds a license or certificate issued by, or who is registered with, an entity of state government, including persons practicing chemical dependency counseling, alcohol and other drug prevention services, pathological and problem gambling counseling, or fields related to chemical dependency counseling, pathological and problem gambling counseling, or alcohol and other drug prevention services;

(4) Conviction in Ohio or any other state of any crime that is a felony in Ohio;

(5) Conviction in Ohio or any other state of a misdemeanor committed in the course of practice as a pathological and problem gambling endorsee;

(6) Inability to practice as a pathological and problem gambling endorsee due to abuse of or dependency on alcohol or other drugs or another physical or mental condition;

(7) Practicing outside the individual's scope of practice;

(8) Practicing without complying with the supervision requirements;

(9) Violation of the code of ethical practice and professional conduct for pathological and problem gambling counseling services adopted by the Board; or

(10) Revocation of an endorsement or voluntary surrender of an endorsement in another state or jurisdiction for an offense that would be a violation of the Chemical Dependency Professionals Law.

An individual whose endorsement has been suspended or revoked may apply to the Board for reinstatement after an amount of time the Board determines in rules. The Board may accept or refuse an application for reinstatement. The Board may require an examination for reinstatement of an endorsement that has been suspended or revoked.

Investigations

The Board must investigate alleged irregularities in the delivery of pathological and problem gambling counseling services. As part of an investigation, the Board may issue subpoenas, examine witnesses, and administer oaths. The Board may receive any information necessary to conduct an investigation that has been obtained in accordance with federal laws and regulations. If the Board is investigating the provision of pathological and problem gambling counseling services to a couple or group, it is not necessary for both members of the couple or all members of the group to consent to the release of information relevant to the investigation.

Continuing education

The bill requires each individual who holds an endorsement to complete during the period that the endorsement is in effect not less than six hours of continuing education as a condition of receiving a renewed endorsement. Additionally, an individual whose endorsement has expired must complete the specified continuing education as a condition of receiving a restored endorsement. The Board may waive the continuing education requirements for individuals who are unable to fulfill them because of military service, illness, residence outside the United States, or any other reason the Board considers acceptable.

Authority to diagnose and treat

Based on the individual's license, the bill allows an individual holding a valid license issued under the Chemical Dependency Professionals Law and the endorsement to diagnose and treat pathological and problem gambling conditions, and to perform treatment planning.

An individual who holds an *independent chemical dependency counselor license* and an endorsement can: (1) diagnose and treat pathological and problem gambling

conditions, (2) perform treatment planning, assessment, crisis intervention, individual and group counseling, case management, and educational services insofar as those functions relate to pathological and problem gambling, (3) supervise pathological and problem gambling treatment counseling, and (4) refer individuals with nonpathological and nonproblem gambling conditions to appropriate sources of help.

An individual who holds a *chemical dependency counselor III license* and an endorsement can do all of the following: (1) treat pathological and problem gambling conditions, (2) diagnose pathological and problem gambling conditions under supervision, (3) perform treatment planning, assessment, crisis intervention, individual and group counseling, case management, and educational services insofar as those functions relate to pathological and problem gambling, (4) supervise pathological and problem gambling treatment counseling under supervision, and (5) refer individuals having nonpathological and nonproblem gambling conditions to appropriate sources of help.

The supervision required above must be provided by a licensed independent chemical dependency counselor; an individual authorized to practice medicine and surgery or osteopathic medicine and surgery; a licensed psychologist; a registered nurse; or a professional clinical counselor, independent social worker, or independent marriage and family therapist. A registered nurse or a professional clinical counselor, independent social worker, or independent marriage and family therapist is not qualified to provide supervision unless the individual holds a pathological and problem gambling endorsement.

An individual holding a chemical dependency counselor III license must not practice as an individual practitioner.

An individual who holds a *chemical dependency counselor II license* and an endorsement can: (1) treat pathological and problem gambling conditions, (2) perform treatment planning, assessment, crisis intervention, individual and group counseling, case management, and educational services insofar as those functions relate to pathological and problem gambling, and (3) refer individuals having nonpathological and nonproblem gambling conditions to appropriate sources of help.

An individual holding a chemical dependency II license must not practice as an individual practitioner.

Updates to Chemical Dependency Professionals Law

The bill updates the Chemical Dependency Professionals Law to account for the ability of a chemical dependency counselor to receive a pathological and problem gambling endorsement, including updates to the following provisions:

(1) The definition of "scope of practice" to include the services, methods, and techniques in which and the areas for which a person who holds an endorsement is trained and qualified;

(2) The requirements regarding confidential information to prohibit an individual who holds or has held an endorsement from disclosing any information regarding the identity, diagnosis, or treatment of any of the individual's clients or consumers except for expressly authorized purposes;

(3) The requirement that the Board must comply with a notice of child support default with respect to an endorsement;

(4) The requirement for posting the endorsement at an individual's place of employment;

(5) The ability of a prevention specialist II or prevention specialist I to engage in the practice of prevention services as specified in rules; and

(6) The hospital admitting prohibition under the Chemical Dependency Professionals Law, which states that the Law does not authorize an individual who holds an endorsement to admit a patient to a hospital or requires a hospital to allow the individual to admit a patient.

DEPARTMENT OF COMMERCE

Mortgage brokers and loan originators

Testing requirements

- Requires a designated business operations manager of a mortgage broker business to pass a written test developed and approved by the Nationwide Mortgage Licensing System and Registry (NMLS) instead of a written test approved by the Superintendent of Financial Institutions.

- Removes the requirement that a mortgage loan originator license applicant or a loan originator license applicant do the following:

  --Answer at least 75% of questions relating to state mortgage lending laws and the Ohio Consumer Sales Practices Act correctly in order to pass the test;

  --Pass a written test acceptable to the Superintendent before the NMLS has a testing process in place.

NMLS reports

- Permits the Superintendent to accept call reports and other reports of condition submitted to the NMLS in lieu of the annual report currently required under the Second Mortgage Loan Law and Mortgage Brokers Law.

- Requires the Superintendent, instead of the Division of Financial Institutions, to annually publish an analysis of information submitted from second mortgage loan registrants, mortgage broker registrants, and loan originator licensees to the Superintendent and the NMLS.

Underground Storage Tank Revolving Loan Fund; Underground Storage Tank Administration Fund

- Creates the Underground Storage Tank Revolving Loan Fund in the state treasury to be used by the State Fire Marshal to make underground storage tank revolving loans in accordance with existing law.

- Specifies that the Fund is to consist of:

  (1) Amounts repaid for underground storage tank revolving loans; and

(2) Under certain circumstances, fines and penalties collected for violations related to petroleum releases and other moneys received by the State Fire Marshal for enforcement actions.

- Permits the transfer of unobligated moneys in the Fund to the Underground Storage Tank Administration Fund if the cash balance in the Underground Storage Tank Administration Fund is insufficient to implement the underground storage tank, corrective action, and installer certification programs.

Mortgage brokers and loan originators

Testing requirements

(R.C. 1321.535 and 1322.051; conforming changes in R.C. 1322.03, 1322.031, 1322.04, and 1322.041)

Continuing law requires a mortgage loan originator applicant, loan originator applicant, and mortgage broker business operations manager to pass a test in order for an applicant or broker to obtain a license or certificate of registration. The bill makes changes to these testing requirements.

Continuing law requires a mortgage loan originator applicant or a loan originator applicant to pass a written test developed and approved by the Nationwide Mortgage Licensing System and Registry (NMLS) as a condition of obtaining licensure. Current law directs the Superintendent of Financial Institutions, if such an NMLS test is not in place, to require an applicant to pass a written test acceptable to the Superintendent. The bill removes this provision. Also, under current law, an applicant is considered to have passed the NMLS test if the applicant correctly answers at least (1) 75% of all the questions and (2) 75% of all questions relating to Ohio mortgage lending laws and the Ohio Consumer Sales Practices Act. The bill removes (2) above, meaning an applicant is considered to pass the test if the applicant correctly answers 75% of all questions.

The bill requires that each person designated to act as operations manager for a mortgage broker business pass the written NMLS test described above as a condition of the mortgage broker obtaining a certificate of registration. An applicant is considered to pass the test if the applicant correctly answers 75% of all questions. Current law requires an operations manager to correctly answer 75% of all questions on a test approved by the Superintendent.

NMLS reports

(R.C. 1321.55 and 1322.06)

Continuing law requires a person who holds a second mortgage loan certificate of registration, a mortgage broker certificate of registration, or a loan originator license to submit call reports and other reports of condition to the NMLS. Under current law, these registrants and licensees must also file with the Division of Financial Institutions an annual report concerning their business and operation for the preceding calendar year. The bill allows the Superintendent to accept the NMLS-submitted reports in lieu of submitting the annual report to the Superintendent.

Continuing law requires a yearly analysis of registrant and broker information to be published. The bill requires the Superintendent to annually publish an analysis including the information gathered from both the NMLS reports and the annual report to the Superintendent. Current law requires the Division to annually publish an analysis of the information gathered from the annual report to the Superintendent. Additionally, the bill specifies that regardless of whether an individual report is filed with the Superintendent or the NMLS, the report is not a public record and not open to public inspection.

Underground Storage Tank Revolving Loan Fund; Underground Storage Tank Administration Fund

(R.C. 3737.02; Section 241.10 of H.B. 59 of the 130th General Assembly)

The bill creates the Underground Storage Tank Revolving Loan ("Revolving Loan") Fund in the state treasury. Money in the Revolving Loan Fund is to be used by the State Fire Marshal to make Underground Storage Tank Revolving Loans in accordance with existing law. The Revolving Loan Fund is to consist of the following:

(1) Amounts repaid for the loans; and

(2) Fines and penalties collected for violations related to petroleum releases and other moneys, including corrective action enforcement case settlements or bankruptcy case awards or settlements, received by the State Fire Marshal for enforcement actions, ***if*** such moneys are transferred from the existing Underground Storage Tank Administration ("Administration") Fund to the Revolving Loan Fund as provided in the bill.

Transfers from the Administration Fund to the Revolving Loan Fund

The bill authorizes the Director of Commerce, if the Director determines that the cash balance in the Administration Fund is in excess of the amount needed for

implementation and enforcement of the existing underground storage tank, corrective action, and installer certification programs, to certify the excess amount to the Director of Budget and Management. Upon certification, the Director of Budget and Management may transfer from the Administration Fund to the Revolving Loan Fund any amount up to, but not exceeding, the amount certified by the Director of Commerce, ***provided*** the amount transferred consists only of moneys described in (2), above.

Transfers from the Revolving Loan Fund to the Administration Fund

If the Director of Commerce determines that the cash balance in the Administration Fund is insufficient to implement and enforce the underground storage tank, corrective action, and installer certification programs, the Director may certify the amount needed to the Director of Budget and Management. Upon certification, the Director of Budget and Management may transfer from the Revolving Loan Fund to the Administration Fund any amount up to, but not exceeding, the amount certified by the Director of Commerce.

- Eliminates, with respect to the grants awarded by the Director of Development Services to local organizing committees, counties, and municipalities to support the selection of a site for certain national and international sports competitions, the requirement that the Director of Budget and Management establish a schedule for the disbursement of the grant payments and that the disbursements be made from the GRF.

Sports incentive grants

(R.C. 122.121)

The bill addresses the disbursement of grants currently awarded by the Director of Development Services to local organizing committees, counties, and municipalities to support the selection of a site for a national or international competition of football, auto racing, rugby, cricket, horse racing, mixed martial arts, or any sport that is governed by an international federation and included in the Olympic games, Pan American games, or Commonwealth games. Existing law requires (1) that the Director of Budget and Management establish a schedule to disburse the grant payments to a local organizing committee, county, or municipality and (2) that the disbursements be made from the GRF. The bill eliminates both of these requirements.

DEPARTMENT OF DEVELOPMENTAL DISABILITIES

Meaning of "developmental disability" and eligibility for services

- Provides that an individual under age three may have a developmental disability if the individual has a diagnosed physical or mental condition that has a high probability (rather than an established risk) of resulting in a developmental delay.

- Removes established risk as a factor in determining whether an individual at least age three but under age six has a developmental disability.

- Eliminates a requirement that the Director of the Ohio Department of Developmental Disabilities (ODODD) adopt a rule defining "substantial functional limitation" and instead requires the Director to adopt a rule specifying how to determine whether a person age six or older has a substantial functional limitation in a major life activity as appropriate for the person's age.

- Eliminates a requirement that the ODODD Director adopt rules defining "established risk," "biological risk," and "environmental risk."

- Eliminates (1) ODODD's express authority to adopt rules establishing eligibility for programs and services for individuals under age six who have a biological risk or environmental risk of a developmental delay and (2) county boards of developmental disabilities' express authority to establish such individual's eligibility for programs and services.

- Requires that the ODODD Director's rules regarding programs and services offered by county boards include standards and procedures for making eligibility determinations.

Certification and registration of county board employees

- Provides that the ODODD Director, rather than the superintendent of a county board of developmental disabilities, is responsible for the certification or registration of early intervention supervisors and early intervention specialists who seek employment with, or are employed by, a county board or an entity that contracts with a county board to operate programs and services for individuals with mental retardation or developmental disabilities.

Supported living providers

- Revises who is a related party of a supported living provider for the purpose of existing law that makes a provider and related party temporarily ineligible to apply

for a supported living certificate if the Director of Developmental Disabilities denies an initial or renewed certificate or revokes a certificate.

- Makes consistent the procedures that ODODD must follow after completing surveys of supported living providers and residential facilities, including requiring survey reports and plans of correction for both to be made available on ODODD's website.

ICF/IID

- Revises (1) the reduction made to the Medicaid rate paid to an intermediate care facility for individuals with intellectual disabilities (ICF/IID) that fails to file a timely cost report or files an incomplete or inadequate cost report and (2) the period for which the reduction is made.

- Provides that the efficiency incentive paid to an ICF/IID under the Medicaid program for indirect care costs is to be the lesser of (1) the amount current law provides or (2) the difference between the ICF/IID's per diem indirect care costs as adjusted for inflation and the maximum rate established for the ICF/IID's peer group.

- Eliminates prohibitions against (1) more than 600 beds converting from providing ICF/IID services to providing home and community-based services available under Medicaid waiver programs administered by ODODD and (2) the Medicaid Director seeking federal approval for more than 600 slots for such home and community-based services for the purpose of the bed conversions.

- Revises a requirement that ODODD strive to reduce the number of ICF/IID beds in the state by (1) removing the limit of 600 beds applicable to the reduction achieved by downsizing ICFs/IID with 16 or more beds, (2) removing the limit of 600 beds applicable to the reduction achieved by converting ICF/IID beds to providing home and community-based services under ODODD-administered Medicaid waiver programs, and (3) requiring ODODD to strive to achieve a reduction of at least 1,200 ICF/IID beds through a combination of the downsizing and bed conversion methods.

County board duties

- Requires a county board of developmental disabilities, when the superintendent position becomes vacant, to first consider obtaining the services of a superintendent of another county board of developmental disabilities.

- Requires a superintendent of a county board of developmental disabilities, when a management employee position becomes vacant, to first consider obtaining the services of personnel of another county board of developmental disabilities.

- Eliminates requirements that each county board of developmental disabilities (1) establish an advisory council to provide ongoing communication among all persons concerned with non-Medicaid-funded supported living services and (2) develop and implement a provider selection system for non-Medicaid-funded supported living services.

- Provides that "adult services" available through county boards of developmental disabilities no longer expressly includes adult day care, sheltered employment, or community employment services.

- Provides that "adult day habilitation services," which are part of adult services, no longer expressly includes training and education in self-determination designed to help an individual do one or more specified activities.

Other provisions

- Requires ODODD to establish a voluntary training and certification program for individuals who provide evidence-based interventions to individuals with an autism spectrum disorder.

- Authorizes disclosure of records and certain other confidential documents relating to a resident, former resident, or person whose institutionalization was sought if disclosure is needed for treatment or the payment of services.

Meaning of "developmental disability" and eligibility for services

(R.C. 5123.01, 5123.011, 5123.012, 5126.01, 5126.041, and 5126.08)

Individuals with developmental disabilities may receive a number of governmental services. Current law defines "developmental disability" as a severe, chronic disability that is characterized by all of the following:

(1) It is attributable to a mental or physical impairment or a combination of mental and physical impairments, other than a mental or physical impairment solely caused by mental illness.

(2) It is manifested before age 22.

(3) It is likely to continue indefinitely.

(4) It results in one of the following:

(a) In the case of a person under three years of age, at least one developmental delay or an established risk;

(b) In the case of a person at least three years of age but under six years of age, at least two developmental delays or an established risk;

(c) In the case of a person six years of age or older, a substantial functional limitation in at least three of the following areas of major life activity, as appropriate for the person's age: self-care, receptive and expressive language, learning, mobility, self-direction, capacity for independent living, and, if the person is at least 16 years of age, capacity for economic self-sufficiency.

(5) It causes the person to need a combination and sequence of special, interdisciplinary, or other type of care, treatment, or provision of services for an extended period of time that is individually planned and coordinated for the person.

Whereas current law provides that, in the case of a person under age three, the disability results in at least one developmental delay or an established risk, the bill provides that the disability results in at least one developmental delay or a diagnosed physical or mental condition that has a high probability of resulting in a developmental delay. In the case of a person at least age three but under age six, the bill provides that the disability results in at least two developmental delays rather than, as under current law, at least two developmental delays or an established risk. These changes to the definition of "developmental disability" remove the operative uses of the term "established risk" from the laws governing the Ohio Department of Developmental Disabilities (ODODD) and county boards of developmental disabilities (county DD boards). Accordingly, the bill eliminates a requirement for the ODODD Director to adopt rules defining "established risk."

Regarding persons age six or older, continuing law provides that a severe, chronic disability results in a substantial functional limitation in at least three of certain areas of major life activity, as appropriate for the person's age. Whereas current law requires the ODODD Director to adopt rules defining "substantial functional limitation," the bill instead requires the Director to adopt rules specifying how to determine whether a person age six or older has a substantial functional limitation in a major life activity as appropriate for the person's age.

The bill eliminates a requirement that ODODD adopt rules establishing the eligibility for programs and services of individuals under age six who have a biological

risk or environmental risk of a developmental delay. The bill also eliminates current law that permits a county DD board to establish the eligibility of such individuals for programs and services. This removes the operative uses of the terms "biological risk" and "environmental risk" from the laws governing ODODD and county DD boards. The bill therefore eliminates a requirement for the ODODD Director to adopt rules defining "biological risk" and "environmental risk."

Current law requires that rules the ODODD Director adopts regarding programs and services offered by county DD boards include standards for determining eligibility for service and support administration. The bill broadens this by requiring that the rules establish standards and procedures for making eligibility determinations for all programs and services county DD boards offer.

Certification and registration of county board employees

(R.C. 5126.25)

Continuing law requires the ODODD Director to adopt rules establishing uniform standards and procedures for the certification and registration of persons who are seeking employment with or are employed by a county DD board or an entity that contracts with a county board to operate programs and services for individuals with mental retardation or developmental disabilities. No person may be employed in a position for which certification or registration is required without the certification or registration. Nor may a person be employed or continue to be so employed if the required certification or registration is denied, revoked, or not renewed. The certification and registration requirements do not apply to (1) persons who hold a valid license or certificate issued under state law regarding superintendents, teachers, and other school employees and perform no duties other than teaching or supervising a teaching program or (2) persons who hold a valid license or certificate issued under state law governing occupational licensure and perform only those duties governed by the license or certificate.

Under current law, the superintendent of each county board is responsible for taking all actions regarding the certifications and registrations, other than the certifications and registrations of superintendents and investigative agents.[3] The ODODD Director is responsible for the certification and registration actions for superintendents and investigative agents. The bill makes the ODODD Director also responsible for the certification or registration of early intervention supervisors and early intervention specialists.

[3] A county board superintendent may contract with another entity under which the entity becomes responsible for all or part of the superintendent's certification and registration duties.

Supported living providers

Supported living provider certificates

(R.C. 5123.16)

Definition of "related party"

Continuing law prohibits a person or government entity from reapplying for a certain period of time for a certificate to be a provider of supported living services if the ODODD Director issues an adjudication order refusing to issue a supported living certificate to the provider, refusing to renew the provider's supported living certificate, or revoking the provider's supported living certificate. In the case of an order refusing to issue or renew a certificate, the provider may not reapply earlier than one year after the date the order is issued. In the case of an order revoking a certificate, the provider may not reapply earlier than five years after the date the order is issued.[4]

The prohibition also applies to a related party of a provider. Who is a related party depends on whether a provider is an individual, legal person other than an individual (i.e., a corporation, partnership, association, trust, or estate),[5] or government entity. The bill revises the definition of "related party."

In the case of a provider who is an individual, the bill provides that an employee or employer of the provider or provider's spouse is no longer a related party unless the employee or employer is a related party for another reason.

In the case of a provider that is a legal person other than an individual:

(1) An employee of the provider is no longer a related party unless the employee is a related party for another reason.

(2) Current law provides that a person or government entity that has control over the provider's day-to-day operations is a related party. The bill provides that this includes a general manager, business manager, financial manager, administrator, and director and that such a person or government entity is a related party regardless of whether the person or government entity exercises the control pursuant to a contract or other arrangement and regardless of whether the person or government entity is required to file an Internal Revenue Code form W-2 for the provider.

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[4] R.C. 5123.167, not in the bill.

[5] R.C. 1.59(C), not in the bill.

(3) Current law provides that a person owning a financial interest of 5% or more in the provider is a related party. The bill provides that this includes a direct, indirect, security, and mortgage financial interest.

(4) The bill provides that an individual is a related party if the individual is a spouse, parent, stepparent, child, sibling, half sibling, stepsibling, grandparent, or grandchild of another individual who is a related party because the other individual (a) directly or indirectly controls the provider's day-to-day operations, (b) is an officer of the provider, (c) is a member of the provider's board of directors or trustees, or (d) owns a financial interest of 5% or more in the provider.

In the case of a provider that is a government entity, current law provides that a government entity that has control over the provider's day-to-day operation is a related party. Under the bill, any person or government entity that directly or indirectly controls the provider's day-to-day operations (including as a general manager, financial manager, administrator, or director) is a related party and that this is the case regardless of whether the person or government entity exercises the control pursuant to a contract or other arrangement.

Definition of "business"

Continuing law prohibits the ODODD Director from issuing or renewing a supported living certificate if the chief executive officer of the business applying for issuance or renewal fails to comply with criminal records check requirements or is found by a criminal records check to be ineligible for the certificate. Under current law, a business is (1) an association, corporation, nonprofit organization, partnership, trust, or other group or persons or (2) an individual who employs, directly or through contract, one or more other individuals to provide supported living. An individual who employs one or more other individuals to provide supported living is no longer a business under the bill.

Surveys of supported living providers and residential facilities

(R.C. 5123.162 and 5123.19)

Background and overview

Under existing law, the ODODD Director is permitted to conduct surveys of persons and government entities that seek to be supported living providers. For the purpose of determining whether providers continue to meet certification standards, ODODD may also conduct surveys of existing providers. The surveys must be

conducted in accordance with rules adopted by the ODODD Director.[6] Those rules refer to surveys as "compliance reviews," and specify that there are three types: routine, special, and abbreviated.[7] In general, routine compliance reviews are conducted annually. Special compliance reviews are conducted as necessary: (1) when there is a circumstance pertaining to the health, safety, or welfare of an individual, (2) based on a complaint or allegation, or (3) based on a major unusual incident that may indicate the provider's failure to comply with applicable requirements. Abbreviated compliance reviews are conducted when ODODD has accepted a provider's accreditation by a national accrediting entity as demonstration that the provider is meeting applicable requirements.[8] The rules specify post-compliance review procedures, and include a requirement that a county board of developmental disabilities or ODODD provide a written compliance review summary to the provider not later than seven days after the compliance review's conclusion.[9]

Regarding residential facilities, the ODODD Director is required by statute to conduct a survey of a facility prior to issuing a license and at least once during the licensure period. Additional inspections are permitted on an "as needed" basis. A survey includes an on-site examination and evaluation of the residential facility, its personnel, and the services provided there. Rules adopted by the ODODD Director specify additional procedures for residential facility surveys, as well as post-survey procedures.[10] Among post-survey procedures specified in rules is a requirement that a survey report be provided to the residential facility not later than 20 working days following ODODD's exit interview. The report must be made available to any person who requests it in accordance with applicable statutes and regulations regarding individual confidentiality.[11]

In the case of supported living providers, the bill specifies in the Revised Code the procedures that the ODODD Director must follow after a survey is conducted. In the case of residential facilities, the bill modifies existing post-survey procedures specified in the Revised Code. In general, the bill makes post-survey procedures consistent for both.

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[6] R.C. 5123.1610, not in the bill.

[7] O.A.C. 5123:2-2-04

[8] O.A.C. 5123:2-2-04(C).

[9] O.A.C. 5123:2-2-04(D) and (F).

[10] O.A.C. 5123:2-3-02(I), authorized by R.C. 5123.19(H)(4).

[11] O.A.C. 5123:2-3-02(J)(2).

Survey reports

The bill requires the ODODD Director, following each survey of a supported living provider or residential facility, to issue a report listing the date of the survey and any citations issued as a result of the survey. Except when the ODODD Director initiates a proceeding to revoke a provider's certification, the Director must do all of the following:

--Specify a date by which the provider may appeal any of the citations;

--Specify a timetable within which the provider must submit a plan of correction describing how the problems specified in citations will be corrected; and

--When appropriate, specify a timetable within which the provider must correct the problems specified in the citations.

If the ODODD Director initiates a proceeding to revoke a provider's certification, the bill requires the Director to include the report described above with the notice of the proposed revocation that the Director sends the provider. In this circumstance, the provider may not appeal the citations or submit a plan of correction.

After a plan of correction is submitted, the bill requires the ODODD Director to approve or disapprove the plan. If the plan of correction is approved, a copy of the approved plan must be provided, not later than five business days after it is approved, to any person or government entity that requests it and must be made available on ODODD's website. If the plan of correction is not approved and the ODODD Director initiates a proceeding to revoke the provider's certification, a copy of the survey report must be provided to any person or government entity that requests it and must be made available on ODODD's website.[12]

Regarding surveys of supported living providers, the bill clarifies that survey reports and records associated with them are public records under Ohio's public records law[13] and must be made available on the request of any person or government entity. Current law specifies that records of surveys are public records, but it is not clear whether such records include survey reports.[14]

[12] R.C. 5123.162(D) and 5123.19(I)(5).

[13] R.C. 149.43.

[14] R.C. 5123.162(E).

Conforming changes

(R.C. 5123.19, 5123.191, 5123.21, 5123.61, 5123.75, and 5123.76)

The bill eliminates references to a "designee" of the ODODD Director in sections of the Revised Code that require or authorize the Director to take certain actions.[15] This change does not appear to have a substantive effect since the ODODD Director's authority to delegate duties to ODODD staff is implied in current law. The bill does not eliminate references to "designee" in two provisions governing probable cause hearings for involuntary institutionalization of the mentally retarded, but instead cross-references the existing provision that authorizes the ODODD Director's designee to act on the Director's behalf.[16]

ICF/IID

ICF/IID Medicaid rate reduction due to cost report

(R.C. 5124.106)

With certain exceptions, continuing law requires each intermediate care facility for individuals with intellectual disabilities (ICF/IID) to file an annual cost report with ODODD. The cost report is used in setting Medicaid payment rates. The cost report is due not later than 90 days after the end of the calendar year, or portion of the calendar year, that the cost report covers. However, ODODD may grant a 14-day extension if the ICF/IID provides ODODD a written request for an extension and ODODD determines there is good cause for the extension.[17]

ODODD must notify an ICF/IID that its Medicaid provider agreement will be terminated if the ICF/IID fails to file a cost report by the due date, including an extended due date, or files an incomplete or inadequate report. The termination is to occur in 30 days unless the ICF/IID submits a complete and adequate cost report within those 30 days. Under current law, the termination notice must be provided immediately. The bill eliminates the requirement that the notice be provided immediately. The bill also revises the reduction that is made in the ICF/IID's Medicaid rate paid and the period for which the reduction is made.

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[15] R.C. 5123.19(U), 5123.191(H), 5123.21, and 5123.61(G)(1).

[16] See specifically R.C. 5123.75(C) and 5123.76(A)(6) and (10).

[17] R.C. 5124.10, not in the bill. Exceptions to the requirement to file an annual cost report include when a new ICF/IID begins operation after the first day of October of a year.

Under current law, an ICF/IID is to be paid, during the 30-day termination period or any additional time allowed for an appeal of the proposed termination, the ICF/IID's then current per Medicaid day payment rate, minus the dollar amount by which the per Medicaid day payment rates of ICFs/IID were reduced during fiscal year 2013 because of late, incomplete, or inadequate cost reports, adjusted for inflation. The bill requires instead that ODODD reduce an ICF/IID's rate by the following:

(1) In the case of a reduction made during the period beginning on the effective date of this provision of the bill and ending on the first day of the first fiscal year beginning after that effective date, $2;

(2) In the case of a reduction made during the first fiscal year beginning after the effective date of this provision of the bill and each fiscal year thereafter, the amount of the reduction in effect on the last day of the fiscal year immediately preceding the fiscal year in which the reduction is made adjusted by the rate of inflation during that immediately preceding fiscal year.

Under the bill, an ICF/IID's Medicaid rate reduction is to begin the day immediately following the date the ICF/IID's cost report is due or to which the due date is extended, as applicable, if the reduction is made because the ICF/IID fails to file a timely cost report. If the reduction is made because the ICF/IID files an incomplete or inadequate cost report, the reduction is to begin the day that ODODD gives the ICF/IID written notice of the proposed provider agreement termination. A rate reduction is to end on the last day of the 30-day period specified in the termination notice or any additional period allowed for an appeal of the proposed termination.

ICF/IID efficiency incentive for indirect care costs

(R.C. 5124.21)

For each fiscal year, ODODD is required to determine the per Medicaid day payment rate for indirect care costs for each ICF/IID. The rate for indirect care costs is part of an ICF/IID's total Medicaid payment rate for that fiscal year.

An ICF/IID's Medicaid payment rate for indirect care costs for a fiscal year is the lesser of (1) the maximum rate ODODD determines for the ICF/IID's peer group or (2) the sum of (a) the ICF/IID's per diem indirect care costs from the immediately preceding calendar year adjusted for inflation and (b) an efficiency incentive. The bill revises the method by which the efficiency incentive is calculated.

Under current law, the efficiency incentive for an ICF/IID with more than eight beds equals the following:

(1) For fiscal year 2014, 7.1% of the maximum Medicaid payment rate for the ICF/IID's peer group;

(2) For fiscal year 2015, the following:

- The same amount as the ICF/IID's efficiency incentive for fiscal year 2014 if the ICF/IID obtains ODODD's approval to downsize and the approval is conditioned on the downsizing being completed not later than July 1, 2018.

- One half of the ICF/IID's 2014 efficiency incentive if the ICF/IID does not obtain such approval.

(3) For fiscal year 2016 and each fiscal year thereafter ending in an even-numbered calendar year, the following:

- 7.1% of the maximum Medicaid payment rate for the ICF/IID's peer group if the ICF/IID obtains the downsizing approval discussed above;

- 3.55% of the maximum Medicaid payment rate for the ICF/IID's peer group if the ICF/IID does not obtain such approval.

(4) For fiscal year 2017 and each fiscal year thereafter ending in an odd-numbered calendar year, the same amount as the ICF/IID's efficiency incentive for the immediately preceding fiscal year.

Current law provides that the efficiency incentive for an ICF/IID with eight or fewer beds equals the following:

(1) For each fiscal year ending in an even-numbered calendar year, 7% of the maximum Medicaid payment rate for the ICF/IID's peer group;

(2) For each fiscal year ending in an odd-numbered calendar year, the same amount as the ICF/IID's efficiency incentive for the immediately preceding fiscal year.

Under the bill, an ICF/IID's efficiency incentive is to be the lesser of (1) the amount current law provides or (2) the difference between the ICF/IID's per diem indirect care costs as adjusted for inflation and the maximum rate for indirect care costs established for the ICF/IID's peer group.

Conversion and reduction of ICF/IID beds

(R.C. 5124.63 (primary and repealed), 5124.01, 5124.60, 5124.61, 5124.62, 5124.64 (repealed), and 5124.67)

Continuing law includes provisions aimed at increasing the number of slots for home and community-based services that are available under Medicaid waiver programs administered by ODODD. First, an ICF/IID is permitted to convert some or all of its beds from providing ICF/IID services to providing such home and community-based services to providing if a number of requirements are met. For example, the ICF/IID must provide its residents certain notices, provide the Director of Health and ODODD Director at least 90 days' notice of the intent to convert the beds, and receive the ODODD Director's approval. Second, an individual who acquires, through a request for proposals issued by the ODODD Director, an ICF/IID for which a residential facility license was previously surrendered or revoked may convert all or some of its beds if similar requirements are met. Third, the ODODD Director is permitted to request that the Medicaid Director seek federal approval to increase the number of slots available for such home and community-based services by a number not exceeding the number of beds that were part of the licensed capacity of a residential facility that had its license revoked or surrendered if the residential facility was an ICF/IID at the time of the license revocation or surrender.

Current law limits the number of beds that may be so converted and the number of such home and community-based services slots for which the Medicaid Director may seek federal approval under these provisions. Not more than a total of 600 beds may be so converted and the Medicaid Director may not seek federal approval for more than 600 such slots. The bill eliminates these restrictions.

ODODD is required to strive to achieve, not later than July 1, 2018, a reduction in the number of ICF/IID beds available in the state. Current law requires ODODD to strive to achieve (1) a reduction of at least 500 and not more than 600 beds in ICFs/IID that, before the reductions, have 16 or more beds and (2) a reduction of at least 500 and not more than 600 beds in ICFs/IID with any number of beds that convert some or all of their beds from providing ICF/IID services to providing home and community-based services under the provisions discussed above. The bill eliminates the 600-bed cap on these reductions and conversions. It also requires ODODD to strive to achieve a reduction of at least 1,200 ICF/IID beds through a combination of these reductions and conversions.

County board duties

Superintendent vacancy

(R.C. 5126.0219)

The bill specifies that, if a vacancy occurs in the position of superintendent of a county board of developmental disabilities, the county board must first consider entering into an agreement with another county board under which the superintendent of the other county board acts also as the superintendent of the county board. If the county board determines it is impractical or not significantly efficient to share a superintendent, the county board may employ a superintendent to fill the vacancy.[18]

Under continuing law, a county board of developmental disabilities must either employ a superintendent or obtain the services of a superintendent of another county board.[19] If the superintendent position becomes vacant, it must be filled using either of these two methods.[20] Current law does not require that either method be given first consideration. The bill adds a requirement that the county board first consider sharing a superintendent with another county board. The county board may employ an individual as superintendent, instead, only after the county board determines it is impractical or not significantly efficient to share a superintendent.[21]

Management employee vacancy

(R.C. 5126.21)

The bill specifies that, if a vacancy occurs in a management employee position of a county board of developmental disabilities, the superintendent of the county board must first consider entering into an agreement with another county board under which the two county boards share personnel. Only once the superintendent determines it is impractical or not significantly efficient to share personnel, the superintendent may employ a management employee to fill the vacancy.[22]

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[18] R.C. 5126.0219.

[19] R.C. 5126.0219(A).

[20] R.C. 5126.0219(C).

[21] R.C. 5126.0219(A).

[22] R.C. 5126.21(F).

Continuing law allows county boards of developmental disabilities to either employ management employees or share personnel with another county board.[23] Current law does not specify how a county board must fill its management employee vacancy. The bill adds a requirement that, to fill a vacancy, the superintendent first consider sharing personnel with another county board. The superintendent may employ an individual as a management employee, instead, only after the superintendent determines it is impractical or not significantly efficient to share personnel.[24]

Supported living duties

(R.C. 5162.42 (primary), 5126.046, 5126.43, and 5126.45)

The bill eliminates a requirement that county boards of developmental disabilities establish advisory councils to provide ongoing communication among all persons concerned with non-Medicaid-funded supported living. Current law requires that such councils consist of members or employees of the boards, supported living providers, supported living recipients, and advocates for supported living recipients.

The bill also eliminates a requirement that county boards develop and implement provider selection systems for non-Medicaid-funded supported living. Current law requires a county board's system to do all of the following:

(1) Enable an individual to choose to continue receiving non-Medicaid-funded supported living from the same providers, to select additional providers, or to choose alternative providers;

(2) Include a pool of providers that consists of either all certified providers on record with the board or all certified providers approved by the board through a request for proposals process;

(3) Permit an individual to choose a certified provider not included in the pool.

The bill maintains continuing law that (1) gives an individual with mental retardation or other developmental disability who is eligible for non-Medicaid-funded supported living the right to obtain the services from any supported living provider that is willing and qualified to provide the services, (2) requires ODODD to make available to the public on its website an up-to-date list of all providers, and (3) requires

[23] R.C. 5126.21 and 5126.02(B), not in the bill.

[24] R.C. 5126.21(F).

county boards to assist such individuals and their families access the list from ODODD's website.[25]

Adult services for persons with developmental disabilities

(R.C. 5126.01 and 5126.051)

Continuing law requires county boards of developmental disabilities, to the extent that resources are available, to provide or arrange for the provision of adult services to individuals with mental retardation or other developmental disabilities who are (1) age 18 or older and not enrolled in a program or service available under state law governing the education of children with disabilities or (2) age 16 or 17 and eligible for adult services under rules adopted by the ODODD Director. The bill revises the law governing adult services.

Adult services are to support learning and assistance in the areas of self-care, daily living skills, communication, community living, social skills, or vocational skills. Current law provides that adult services includes adult day habilitation services, prevocational and supported employment services (i.e., employment services), sheltered employment, educational experiences and training obtained through entities and activities that are not expressly intended for individuals with mental retardation and developmental disabilities, and community employment services. The bill provides that adult services no longer expressly include adult day care, sheltered employment, and community employment services. Additionally, the bill provides that adult day habilitation services no longer expressly include training and education in self-determination designed to help an individual (1) develop self-advocacy skills, (2) exercise the individual's civil rights, (3) acquire skills that enable the individual to exercise control and responsibility over services received, and (4) acquire skills that enable the individual to become more independent, integrated, or productive in the community.

Other provisions

Autism intervention training and certification program

(R.C. 5123.0420)

The bill requires ODODD to establish a voluntary training and certification program for individuals who provide evidence-based interventions to individuals with

[25] The bill corrects a reference to the Ohio Department of Job and Family Services by replacing that reference with one to the Department of Medicaid, which was recently created to administer the Medicaid program.

an autism spectrum disorder. ODODD must administer the program itself or contract with a person or other entity to administer the program. The program cannot conflict with any other state-administered certification or licensure process. The bill permits the ODODD Director to adopt rules to implement the program.

The bill defines "evidence-based intervention" as a prevention or treatment service that has been demonstrated through scientific evaluation to produce a positive outcome.

Permitted disclosure of records pertaining to residents of institutions for the mentally retarded

(R.C. 5123.89)

The bill authorizes the disclosure of records and certain other confidential documents relating to a resident, former resident, or person who institutionalization was sought under law administered by ODODD[26] if disclosure is needed for the person's treatment or the payment of services provided to the person. The bill defines the following terms:

--"Treatment" is the provision of services to a person, including the coordination or management of services provided to the person.

--"Payment" encompasses activities undertaken by a service provider or government entity to obtain or provide reimbursement for services provided to a person.

The records and confidential documents subject to the bill's authorization include all certificates, applications, records, and reports made for purposes of the law administered by ODODD, other than court journal entries or court docket entries, that directly or indirectly identify a resident or former resident of an institution for the mentally retarded or person whose institutionalization has been sought under that law.

Under the "permitted disclosure provision" of the federal Health Insurance Portability and Accountability Act (HIPAA) Privacy Rule and existing Ohio law that incorporates that provision, protected health information[27] in such records and

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[26] R.C. Chapter 5123.

[27] In general, "protected health information" is individually identifiable health information that is transmitted or maintained in electronic media or any other form or medium. "Individually identifiable health information" is health information, including demographic information collected from an individual, that meets all of the following criteria: (1) it is created or received by a health care provider, a health plan, an employer, or a health care clearinghouse, (2) it relates to (a) the past, present, or future

documents may already be disclosed for treatment and payment purposes.[28] The permitted disclosure provision of the HIPAA Privacy Rule permits a health care provider (a "covered entity") to disclose a patient's protected health information, without the patient's authorization, for treatment, payment, and health care operations activities as described in the Rule.[29]

physical or mental health or condition of an individual, (b) the provision of health care to an individual, or (c) the past, present, or future payment for the provision of health care to an individual, and (3) it identifies the individual, or there is a reasonable basis to believe it could be used to identify the individual. (45 C.F.R. 164.501.)

[28] 45 C.F.R. 164.506; R.C. 3798.04.

[29] 45 C.F.R. 164.506.

Pre-apprenticeship programs

- Permits the lead district of a career-technical planning district offering a pre-apprenticeship program to enter into an agreement with a private entity to provide students with the opportunity to begin an apprenticeship program prior to graduating from high school.

- Provides that the lead district is eligible to apply to the Department of Education for additional funds to assist with paying for the cost of the apprenticeship program provided by the private entity if its agreement with the private entity satisfies specified conditions.

Funding for city, local, and exempted village school districts

- Adds to a city, local, or exempted village school district's "formula ADM" (the student count used to calculate a district's payments under the school funding formula) 20% of the number of students who are entitled to attend school in the district and are enrolled in another school district under a career-technical education compact.

- For purposes of the calculation of targeted assistance funding for city, local, and exempted village school districts, specifies that the "net formula ADM" used to calculate the payment does not include 75% of the number of the district's students that are attending a science, technology, engineering, and mathematics (STEM) school.

Funding for community schools

- Requires the Department to pay to each community school, including each Internet- or computer-based community school, 20% of the formula amount for each of the school's students who are not taking career-technical education classes provided by the school but who are enrolled in career-technical education programs or classes at a joint vocational school district or another district in the career-technical planning district to which the school is assigned.

- For each student for whom a payment is made under the bill's provisions, requires the Department to make a corresponding deduction from the state education aid of the student's resident district.

Adult Career Opportunity Pilot Program

- Permits the Superintendent of Public Instruction to award planning grants in fiscal year 2015 of up to $500,000 to no more than five eligible institutions (community colleges, technical colleges, state community colleges, or Ohio Technical Centers) geographically dispersed across the state for the purpose of building capacity to implement the Adult Career Opportunity Pilot Program.

- Requires the Superintendent, in consultation with the Chancellor, the Governor's Office of Workforce Transformation, the Ohio Association of Community Colleges, Ohio Technical Centers, Adult Basic and Literacy programs, and other interested parties to develop recommendations for the method of funding and other associated requirements for the Adult Career Opportunity Pilot Program and to provide a report of these recommendations to the Governor, the President of the Senate, and the Speaker of the House of Representatives by December 31, 2014.

Pre-apprenticeship programs offered by career-technical planning districts

(R.C. 3313.90, 3313.91, and 3317.162; Sec. 263.230 of Am. Sub. H.B. 59 of the 130th General Assembly, amended by Sections 610.20 and 610.21 of the bill)

The bill permits the lead district of a career-technical planning district offering a pre-apprenticeship program to enter into an agreement with a private entity to provide students with the opportunity to begin an apprenticeship program prior to graduating from high school.[30] If a lead district enters into such an agreement, it may apply to the Department of Education for additional funds to assist with paying for the cost of the apprenticeship program of the private entity, if its agreement with the private entity specifies both of the following:

(1) A process for students to receive at least one year of credit toward completion of the private entity's apprenticeship program;

(2) The amount that the district will pay the private entity for each student that participates in the private entity's apprenticeship program.[31]

The bill specifies that, upon submission of an application for the funds and a copy of the contract with the required provisions, the lead district is eligible to receive,

[30] R.C. 3313.90(C)(1) and 3313.91.

[31] R.C. 3317.162(A).

and the Department must pay to the lead district, an additional payment for each full-time equivalent student participating in the private entity's program. The amount of the additional payment is equal to the lesser of (1) the amount specified in the contract or (2) the appropriate career-technical education amount for the student.[32] Current law specifies per-pupil career-technical education amounts that are based on the type of career-technical education program in which a student is enrolled.[33]

The bill also requires the Department to pay $125 to a career-technical planning district for each full-time equivalent student who successfully completes the portion of an apprenticeship program offered by a private entity as specified in the entity's agreement with the district. A career-technical planning district must apply to the Department in order to receive this funding.[34]

Funding for city, local, and exempted village school districts

Formula ADM

(R.C. 3317.02)

The bill adds to a city, local, or exempted village school district's "formula ADM," which is the student count used to calculate state payments to the district under the funding formula, 20% of the number of students who are entitled to attend school in the district and are enrolled in another school district under a career-technical education compact. Currently, a district's formula ADM is equal to the enrollment reported by a district, as verified by the Superintendent of Public Instruction, and adjusted to count only 20% of the number of the district's career-technical education students who are enrolled in a joint vocational school district (JVSD).[35] (JVSDs are separate taxing districts that provide career-technical education classes and courses for the students of member city, exempted village, and local school districts.) The fractional student counts provided for in current law and under the bill account for career-technical education students who are educated elsewhere but for whom their resident city, exempted village, and local school districts continue to be responsible for their curriculum completion and high school diplomas.

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[32] R.C. 3317.162(B).

[33] R.C. 3317.014, not in the bill.

[34] Sec. 263.230 of Am. Sub. H.B. 59 of the 130th General Assembly, amended by Sections 610.20 and 610.21 of the bill.

[35] This number excludes students entitled to attend school in the district who are enrolled in another school district through an open enrollment policy and then enroll in a joint vocational school district or under a career-technical education compact. R.C. 3317.03(A)(3), not in the bill.

Targeted assistance funding

(R.C. 3317.0217)

The bill specifies that, for purposes of the calculation of targeted assistance funding for city, local, and exempted village school districts (which is based on a district's property value and income), the "net formula ADM" used to calculate that payment does not include 75% of the number of the district's students that are attending a science, technology, engineering, and mathematics (STEM) school. Under continuing law, for each student enrolled in a STEM school, 25% of the per-pupil amount of targeted assistance computed for the student's resident school district are deducted from the state education aid of that district's account and paid to the STEM school.[36] Thus, the bill's change to the calculation of a district's targeted assistance payment appears to align with the current STEM school payment provision.

Funding for community schools

(R.C. 3314.08)

The bill requires the Department to pay to each community school, including each Internet- and computer-based community school, 20% of the formula amount ($5,800 for fiscal year 2015) for each of the school's students who are not taking career-technical education classes provided by the school but who are enrolled in career-technical education programs or classes at a joint vocational school district or another district in the career-technical planning district to which the school is assigned. For each student for whom a payment is made under the bill's provisions, the Department must make a corresponding deduction from the state education aid of the student's resident district. This payment is similar to a payment that was made to community schools under previous school funding formulas, in effect prior to the enactment of the current funding system in H.B. 59.

Adult Career Opportunity Pilot Program

(Sections 263.10 and 263.270 of Am. Sub. H.B. 59 of the 130th General Assembly, amended in Sections 610.20 and 610.21 of the bill)

H.B. 486 of the 130th General Assembly proposes the establishment of the Adult Career Opportunity Pilot Program to permit an eligible institution (community college, state community college, technical college, or Ohio Technical Center) to offer a program of study that allows an eligible student (an individual who is at least 22 years old and has not received a high school diploma or a certificate of high school equivalence) to

[36] R.C. 3326.33, not in the bill.

obtain a high school diploma. This bill separately appropriates funds for incentives for that proposed program and requires the Superintendent of Public Instruction to make further recommendations.

Planning grants

The bill permits the state Superintendent to award planning grants in fiscal year 2015 of up to $500,000 to no more than five eligible institutions geographically dispersed across the state and appropriates funds for this purpose. These grants must be used to build capacity to implement the program beginning in the 2015-2016 academic year. The Superintendent and the Chancellor, or their designees, must develop an application process for awarding these grants.

The bill specifies that any amount of the appropriation that remains after providing grants to eligible institutions may be used to provide technical assistance to the eligible institutions that receive grants under the bill's provisions.[37]

Report of recommendations

The bill requires the state Superintendent, in consultation with the Chancellor, the Governor's Office of Workforce Transformation, the Ohio Association of Community Colleges, Ohio Technical Centers, Adult Basic and Literacy programs, and other interested parties as deemed necessary, or their designees, to develop recommendations for the method of funding and other associated requirements for the Adult Career Opportunity Pilot Program. The Superintendent must provide a report of the recommendations to the Governor, the President of the Senate, and the Speaker of the House of Representatives by December 31, 2014.[38]

[37] Sections 263.10 and 263.270 of Am. Sub. H.B. 59 of the 130th General Assembly, amended in Sections 610.20 and 610.21 of the bill.

[38] Section 263.270 of Am. Sub. H.B. 59 of the 130th General Assembly, amended in Sections 610.20 and 610.21 of the bill.

- Requires the Director of Environmental Protection, for the purpose of reducing emissions from diesel engines, to administer, in part, a Clean Diesel School Bus Program rather than a Diesel Emissions Reduction Revolving Loan Program as in current law.

- Accordingly, eliminates the Diesel Emissions Reduction Revolving Loan Fund, which consists of state and federal money and contributions and is used for making loans for projects relating to certified engine configurations and verified technologies in a manner consistent with federal requirements.

Clean Diesel School Bus Program

(R.C. 122.861)

The bill revises the Director of Environmental Protection's authority regarding reducing emissions from diesel engines by requiring the Director, in part, to administer a Clean Diesel School Bus Program rather than a Diesel Emissions Reduction Revolving Loan Program as in current law. The Director must apply to the Administrator of the U.S. Environmental Protection Agency for federal funding for the Clean Diesel School Bus Program. Currently, the Director applies to the Administrator for funding for the Diesel Emissions Reduction Revolving Loan Program.

The bill then eliminates the Diesel Emissions Reduction Revolving Loan Fund. The Fund consists of money appropriated to it by the General Assembly, any federal grants made under the Energy Policy Act of 2005, and any other grants, gifts, or other contributions. It is used for making loans for projects relating to certified engine configurations and verified technologies in a manner consistent with federal requirements.

DEPARTMENT OF HEALTH

Certificate of need

- Eliminates a requirement to obtain a certificate of need (CON) for any change in the bed capacity or site of a long-term care facility or any other failure to conduct an activity in substantial accordance with a previously granted CON when the change is made within five years after the activity's implementation.

- Specifies that the Director of Health, when monitoring the activities of a person granted a CON, is to determine whether the activity for which the CON was granted is conducted in substantial accordance with the CON and specifies that no activity is to be determined to be not in substantial accordance due to a decrease in bed capacity.

- Provides that the Director may accept an application for a replacement CON only if it is requested so that an activity can be implemented in a manner that is not in substantial accordance with the CON being replaced.

- Provides that a long-term care bed that was proposed to be relocated in an approved CON remains eligible to be recategorized in an application for a replacement CON.

- Requires the Director to review, approve, or deny an application for a replacement CON in the same manner as the application for the approved CON application.

- Changes the deadline by which an affected person may submit written comments about a CON application to the Director.

Physician and Dentist Loan Repayment programs

- Permits participation in the Physician Loan Repayment Program and the Dentist Loan Repayment Program on a part-time basis.

- Requires program participants to provide services in settings approved by the Department of Health.

- Permits teaching activities to count towards service hours to the extent specified in the contract between the physician or dentist and the Director.

- Requires that the contract specify the required length of service, weekly hours, maximum amount of repayment, and the extent to which teaching activities may be counted towards practice hours.

- Repeals restrictions that limit loan repayment to $25,000 per year for the first and second years of service and $35,000 for the third and fourth years of service.

- Repeals a requirement that the Department mail to each participating physician or dentist a statement showing the amount repaid by the Department in the preceding year.

Other provisions

- Requires the Ohio Public Health Advisory Board to review and make recommendations regarding proposed changes to policies that apply to WIC program vendors.

- Eliminates the Alcohol Testing Program Fund and transfers the cash balance to the GRF.

- Requires tattoo parlor operators to ensure invasive tattooing and body piercing equipment is disinfected and sterilized instead of requiring the individual performing the procedure to disinfect and sterilize the equipment.

Certificate of need

(R.C. 3702.511, 3702.52, and 3702.526)

Requirements to obtain and monitor certificates of need

Continuing law requires persons seeking to engage in an activity regarding long-term care facilities to obtain a certificate of need (CON) from the Director of Health if the activity is a reviewable activity.[39] A long-term care facility is a nursing home, the portion of any facility certified as a skilled nursing facility or nursing facility under federal Medicare or Medicaid law, and the portion of any hospital that contains skilled nursing beds or long-term care beds.[40] Reviewable activities requiring a CON include the following:

(1) Establishment, development, or construction of a new long-term care facility;

(2) Replacement of an existing long-term care facility;

[39] R.C. 3702.53, not in the bill.

[40] R.C. 3702.51, not in the bill.

(3) Renovation of, or addition to, a long-term care facility that involves a capital expenditure of $2 million or more, excluding expenditures for equipment, staffing, or operational costs;

(4) An increase in long-term care bed capacity;

(5) A relocation of long-term care beds from one physical facility or site to another, excluding relocation of beds within a long-term care facility or among buildings of a long-term care facility at the same site;

(6) Expenditure of more than 110% of the maximum expenditure specified in a CON.

The bill eliminates a requirement to obtain a CON for any change in the bed capacity or site, or any other failure to conduct a reviewable activity in substantial accordance with the approved application for which a CON is granted, if the change is made within five years after the implementation of the reviewable activity for which the CON was granted. However, the bill maintains a requirement that a person granted a CON carry out the reviewable activity the CON authorizes in substantial accordance with the approved CON application and revises a requirement that the Director of Health monitor the activities of persons granted CONs.[41] Under current law, the Director must monitor the activities of a person granted a CON during the period beginning with the granting of the CON and ending five years after implementation of the activity for which the CON is granted. The bill requires the Director, during that period, to monitor the activities of a person granted a CON to determine whether the reviewable activity for which the CON is granted is conducted in substantial accordance with the CON. The bill provides that a reviewable activity is not to be determined to be not in substantial accordance with the CON due to a decrease in bed capacity.

Replacement CON

The bill revises the law governing replacement CONs. If certain requirements are met, the Director of Health is required by current law to accept an application to replace an approved CON if the replacement is sought because of a change in the bed capacity or site, or any other failure to conduct a reviewable activity in substantial accordance with the approved CON, within five years after the implementation of the reviewable activity for which the approved CON was granted. Under the bill, the Director is to accept a replacement CON for any reviewable activity requiring a CON if (1) the applicant requests the replacement CON so that the activity for which the approved

[41] R.C. 3702.53, not in the bill.

CON was granted can be implemented in a manner that is not in substantial accordance with the approved CON and (2) the requirements of continuing law are met. The continuing requirements are that (1) the applicant must be the same person who applied for the approved CON or a person affiliated with or related to the original applicant, (2) the source of any long-term care beds to be relocated must be the same as in the approved CON, (3) the application for the approved CON cannot have been subject to a comparative review, and (4) the application for the replacement CON cannot propose to increase the number of long-term care beds to be relocated as specified in the application for the approved CON.

Current law provides that any long-term care beds approved in a CON remain approved in the application for a replacement CON. The bill provides instead that any long-term care beds that were proposed to be relocated in an approved CON remain eligible to be recategorized as a different category of long-term care beds in the application for a replacement CON.

The Director is required by the bill to review, approve, or deny an application for a replacement CON in the same manner as the application for the approved CON.

Written comments from affected persons

Continuing law permits an affected person to submit written comments regarding a CON application. An affected person is (1) an applicant for a CON, including an applicant whose application is reviewed comparatively with the application in question, (2) the person who requested the reviewability ruling in question, (3) any person who resides in, or regularly uses long-term care facilities, within the service area served or to be served by the long-term care services that would be provided under the CON or reviewability ruling in question, (4) any long-term care facility that is located in the service area where the long-term care services would be provided under the CON or reviewability ruling in question, and (5) third-party payers that reimburse long-term care facilities for services in the service area where the long-term care services would be provided under the CON or reviewability ruling in question.

The bill revises the deadline by which an affected person must submit written comments. Under current law, the Director must consider all written comments received by the 30th day after the notice that the CON application is complete is mailed or, in the case of CON applications under comparative review, by the 30th day after the Director mails the last notice of completeness. The bill provides instead that the Director must consider all written comments received by the 45th day after the CON application is submitted to the Director.

Physician and Dentist Loan Repayment programs

The bill makes various changes to the Physician Loan Repayment Program and the Dentist Loan Repayment Program, which offer funds to repay some or all of the educational loans of physicians and dentists who agree to provide primary care or dental services in a health resource shortage area.

Participation requirements

(R.C. 3702.71, 3702.74(B), and 3702.91(B))

The bill permits physicians and dentists to participate in the loan repayment programs on a part-time basis. The bill defines part-time practice as working between 20 and 39 hours per week for at least 45 weeks per year and full-time practice as working at least 40 hours per week for at least 45 weeks per year. Under current law, participating physicians must provide primary care services and participating dentists must provide dental services for a minimum of 40 hours per week.

The bill specifies that the outpatient or ambulatory setting in which a participating physician provides primary care services and the service site in which a participating dentist provides dental services must be approved by the Department of Health. Under current law, the Department need not approve the specific sites in which the services are to be provided.

The bill also permits a physician or dentist to count teaching activities towards the physician's or dentist's full-time or part-time practice. The extent to which teaching activities can count towards a physician's or dentist's full-time or part-time practice must be specified in the participation contract (see below).

Participation contract

(R.C. 3702.74(C) and 3702.91(C))

The bill specifies terms that must be included in the participation contract between the physician or dentist and the Director. Those terms include:

(1) The physician's or dentist's required length of service, which must be at least two years;

(2) The number of weekly hours the physician or dentist will be engaged in part-time or full-time practice;

(3) The maximum amount that the Department will repay on behalf of the physician or dentist;

(4) The extent to which the physician's or dentist's teaching activities will be counted towards the full-time or part-time practice hours.

Repayment amounts

(R.C. 3702.75 and 3702.93)

The bill repeals restrictions on the amounts of repayment that will be made on behalf of a participating physician or dentist. Under current law, the repayment made on behalf of a physician or dentist may not exceed $25,000 for the first two years of service and may not exceed $35,000 for the third and fourth years of service. Instead, the bill leaves the amount of repayment to the discretion of the Department and requires that the amount be specified in the participation contract (see above).

The bill also repeals a provision that requires the Department to mail to each participating physician and dentist an annual statement showing the amount of repayment made on behalf of the physician or dentist in the preceding year.

Other provisions

Ohio Public Health Advisory Board review of WIC program vendor policies

(R.C. 3701.34 (primary) and 3701.132)

The bill requires the Ohio Public Health Advisory Board to review and make recommendations to the Director regarding any proposed changes to departmental policies that apply to entities serving or seeking to serve as vendors under the Special Supplemental Nutrition Program for Women, Infants, and Children, also known as the WIC program.

The Department is responsible for administering the WIC program. Existing law authorizes the Director to contract with grocer and pharmacy vendors to provide supplemental foods and infant formula to WIC program participants. A grocer or pharmacy seeking to serve as a vendor must submit an application to the Department. The Director may then enter into a contract with an applicant if certain criteria outlined in Department rules are satisfied.[42]

Current law requires the Advisory Board to review and make recommendations to the Director on all of the following:

[42] Ohio Administrative Code Chapter 3701-42.

(1) Developing and adopting proposed rules concerning programs administered by the Department;

(2) Prescribing proposed fees for services provided by the Office of Vital Statistics and the Bureau of Environmental Health;

(3) Issues to improve public health and increase awareness of public health issues at the state level, local level, or both;

(4) Any other public health issues the Director requests the Board to consider.

The bill requires that the Advisory Board also review and make recommendations on any proposed policy changes that (1) pertain to entities serving or seeking to serve as vendors under the WIC program and (2) are not already subject to Board review as proposed rules. The bill specifies that, when making recommendations on any proposed WIC program policy changes, the proposed policy change is to be treated as a proposed rule, and the Advisory Board may follow all or part of the procedures that currently govern recommendations concerning proposed Department rules.

Elimination of Alcohol Testing Program Fund

(R.C. 3701.83; Section 512.20)

The bill eliminates the Alcohol Testing Program Fund and requires the Director of Budget and Management, on July 1, 2014, or as soon as possible thereafter, to transfer the cash balance in the Fund to the GRF. This Fund is used by the Director of Health to administer and enforce the Alcohol Testing and Permit Program.

Tattoo parlor operators ensure equipment disinfected and sterilized

(R.C. 3730.09)

The bill requires tattoo parlor operators to ensure all equipment used to apply tattoos or body piercings is disinfected and sterilized according to Ohio law and regulations. Currently, the operator must require the individual who performs the tattoo or piercing to disinfect and sterilize the equipment.

DEPARTMENT OF JOB AND FAMILY SERVICES

Unemployment

- Beginning July 1, 2015, requires an individual to electronically file an application and weekly claims for unemployment benefits in a manner prescribed by the Director of Job and Family Services, except in specified circumstances.

- Breaks an individual's unemployment benefit registration period if the individual fails to report to the Director or reopen an existing claim as required under continuing law, thus allowing the Director to immediately cease benefit payments until the requirement is satisfied.

- Expands the current law list of the types of compensation that are not considered "remuneration" for purposes of Ohio's Unemployment Compensation Law, thus matching the federal exclusions.

- Allows the Director to waive the assigned delinquency rate if the failure to timely furnish the required wage information was a result of circumstances beyond the control of the employer or the employer's agent.

- Requires penalties recovered for fraudulent payments and deposited into the Unemployment Compensation Fund under continuing law to be credited to the Mutualized Account within that Fund.

- Eliminates a $500 forfeiture that currently is required to be assessed against any employer who fails to furnish information to the Director as required by the Unemployment Compensation Law.

- Excludes unemployment repayments made pursuant to unclaimed fund recoveries, lottery award offsets, and state tax refund offsets, from the continuing law order by which the Director must credit employer accounts for amounts repaid.

Child care

- Permits a government or private nonprofit entity with which the Director has contracted to inspect type B family day-care homes to subcontract that duty to another government or private nonprofit entity.

- Eliminates the Director's authority to contract with a government or private nonprofit entity to license type B homes.

Child support

- Requires the Department of Job and Family Services to develop and implement a data match program with the State Lottery Commission or its lottery sales agents to identify obligors who are subject to a final and enforceable determination of default of a child support order in accordance with ongoing Lottery Law procedures.

- Requires the Department to develop and implement a data match program with each casino facility's casino operator or management company to identify obligors who are subject to a final and enforceable determination of default made under a support order.

Other provisions

- Authorizes a county public children services agency to submit to the county records commission applications for one-time disposal, or schedules of records retention and disposition, of paper case records that have been entered into the state automated child welfare information system or other electronic files.

- Allows a county records commission to dispose of the paper case records pursuant to continuing law's record retention and disposal procedure.

- Requires the Director of Budget and Management to transfer the balances of certain ODJFS funds to ODJFS's Administration and Operating Fund or the General Revenue Fund and abolishes the funds after the transfers are made.

- Provides for all money (received from the sale of real property) that is no longer needed for the operations of the ODJFS Director under the state's Labor and Industry law to be deposited into the Unemployment Compensation Special Administrative Fund.

Unemployment

Requirements to receive unemployment benefits

Electronic filing of application

(R.C. 4141.28)

Continuing law requires an individual generally to file an application for determination of benefit rights and weekly claims for unemployment benefits with the

Director of Job and Family Services. Under current practice that is not codified, these applications and claims must be filed by electronic means or by telephone.

Beginning July 1, 2015, the bill requires an individual to electronically file an application for determination of benefit rights and weekly claims for benefits in a manner prescribed by the Director, except under the following circumstances:

(1) The individual is prohibited by law from using a computer;

(2) The individual has a physical or visual impairment that makes the individual unable to use a computer;

(3) The individual has limited ability to read or write effectively in a language in which the electronic application or claim is available;

(4) A disaster or emergency declared by the Governor prevents electronic filing.

Break in unemployment registration

(R.C. 4141.29(A))

The bill defines what constitutes a "break" in an individual's unemployment registration. To be eligible for unemployment benefits, continuing law requires an individual, in addition to satisfying other requirements, to register with an employment office or other registration place maintained or designated by the Director. The individual is considered registered upon (1) filing an application for benefit rights, (2) making a weekly claim for benefits, or (3) reopening an existing claim following a period of employment or nonreporting.

Registration continues for a period of three calendar weeks, including the week during which the applicant registered. Under the bill, an individual is not registered during any period in which the individual fails to report (defined under continuing law as contacting by phone, accessing electronically, or being present for an in-person appointment, as designated by the Director), as instructed by the Director, or fails to reopen an existing claim following a period of employment. This allows the Director to immediately cease benefit payments until the requirement is satisfied, rather than, as under current law, continuing to issue payments during the three-week registration period and then determining the requirement was not satisfied, resulting in an overpayment the Director must collect.

Definition of remuneration

(R.C. 4141.01(H) and R.C. 4123.56, not in the bill)

The bill expands the current law list of types of compensation that are not considered "remuneration" for purposes of Ohio's Unemployment Compensation Law (thus matching federal exclusions):

(1) Payments made to a health savings account or an Archer medical savings account, if it is reasonable to believe the employee will be able to exclude the payments from income;

(2) Remuneration on account of a stock transfer through an incentive stock option plan or employee stock purchase plan, or disposition of that stock;

(3) Any benefit or payment that is excluded from an employee's gross income if the employee is a qualified volunteer for an emergency response organization.

Remuneration is examined to determine the amount of contributions an employer must make to the Unemployment Compensation Fund, as well as the amount of unemployment benefits an individual may receive.

As a result of this change, the bill also excludes the types of compensation listed above from an employee's "net take-home weekly wage" for purposes of determining the amount of the employee's temporary total disability compensation under Ohio's Workers' Compensation Law. The definition of that term in the Workers' Compensation Law cross-references to the definition of "remuneration" under Ohio's Unemployment Compensation Law.

Penalty changes

Waiver of delinquency rate

(R.C. 4123.26 and R.C. 5101.09, not in the bill)

The bill allows the Director to waive the delinquency unemployment contribution rate under specified circumstances. Currently, if an employer fails to timely furnish to the Director the wage information needed to determine the employer's contribution rate, the employer is assigned a rate that is 125% of the maximum rate identified in the contribution rate schedule. The delinquency rate for 2014 is 10.6%.[43]

[43] Ohio Department of Job and Family Services, Contribution Rates, http://jfs.ohio.gov/ouc/uctax/rates.stm (accessed March 14, 2014).

The bill allows the Director to waive the delinquency rate assigned under continuing law if the failure to timely furnish the required wage information was a result of circumstances beyond the control of the employer or the employer's agent. The Director must adopt rules to prescribe requirements and procedures for requesting this waiver. The rules must be adopted under the Administrative Procedure Act.

Fraudulent payment penalty

(R.C. 4141.25 and 4141.35)

In addition to other continuing law penalties, with respect to any fraudulent misrepresentation made with the object of obtaining unemployment benefits, the Director must reject or cancel an individual's entire weekly claim for benefits that were fraudulently claimed, or in some cases, the individual's entire benefit rights. Additionally, the Director must assess a mandatory penalty on that individual in an amount equal to 25% of the total amount of benefits rejected or canceled. Of amounts collected, the first 60% of this penalty must be deposited into the Unemployment Compensation Fund. The bill requires that the amount deposited in the Unemployment Compensation Fund be credited to the Mutualized Account within that Fund.

Quarterly reporting and forfeiture

(R.C. 4141.20)

Continuing law requires every employer, including those employers not otherwise subject to the Unemployment Compensation Law, to furnish the Director upon request all information required by the Director to carry out the requirements of that Law. The Director also may examine under oath any employer for the purpose of ascertaining any information that the employer is required by the Law to furnish to the Director. The bill eliminates the current law requirement that an employer who fails to furnish information required by the Director must forfeit $500. Under that eliminated provision, the amount must be collected in a lawsuit brought against the employer in the name of the state.

The bill also eliminates several apparently expired requirements for quarterly reporting and forfeiture amounts.

Application of repayments within the Unemployment Compensation Fund

(R.C. 4141.35)

The bill excludes unemployment repayments made pursuant to unclaimed fund recoveries, lottery award offsets, and state tax refund offsets, from the continuing law order by which the Director must credit employer accounts in the Unemployment

Compensation Fund for amounts repaid. Current law, from which these fund recoveries are excluded under the bill, requires the Director to apply any repayment of improperly paid unemployment benefits first to the accounts of the individual's base period employers (employers with whom the claimant was employed for purposes of determining unemployment compensation benefits) that previously have not been credited for the amount of those improperly paid benefits that were charged against their accounts. If the amount of repayment is less than the amount of improperly paid benefits, the amount repaid must be split among these employer accounts based on the proportion of improperly paid benefits that were charged to each employer's account. The remaining is paid to the Mutualized Account. It is unclear how improperly paid benefits recovered pursuant to unclaimed fund recoveries, lottery award offsets, and state tax refund offsets will be applied to employer accounts under the bill.

Child care

Regulation of child care: background

(R.C. Chapter 5104.)

The Ohio Department of Job and Family Services (ODJFS) and county departments of job and family services (CDJFSs) are responsible for the regulation of child care providers, other than preschool programs and school child programs, which are regulated by the Ohio Department of Education.[44] Child care can be provided in a facility, the home of the provider, or the child's home. Not all child care providers are subject to regulation, but a provider must be licensed or certified to be eligible to provide publicly funded child care. The distinctions among the types of providers are described in the table below.

Child Care Providers		
Type	**Description/Number of children served**	**Regulatory system**
Child day-care center	Any place in which child care is provided as follows: --For 13 or more children at one time; or --For 7-12 children at one time if the place is not the permanent residence of the licensee or administrator (which is, instead, a type A home).	A child day-care center must be licensed by ODJFS, regardless of whether it provides publicly funded child care.

[44] R.C. 3301.51 to 3301.59, not in the bill.

Child Care Providers		
Type	**Description/Number of children served**	**Regulatory system**
Family day-care home	**Type A home** – a permanent residence of an administrator in which child care is provided as follows: --For 7-12 children at one time; or --For 4-12 children at one time if 4 or more are under age 2. **Type B home** – a permanent residence of the provider in which child care is provided as follows: --For 1-6 children at one time; and --No more than 3 children at one time under age 2.	A type A home must be licensed by ODJFS, regardless of whether it provides publicly funded child care. To be eligible to provide publicly funded child care, a type B home must be licensed by ODJFS.
In-home aide	A person who provides child care in a child's home but does not reside with the child.	To be eligible to provide publicly funded child care, an in-home aide must be certified by a CDJFS.

Inspections and licensure of type B homes

(R.C. 5104.03)

As described above, a type B home that seeks to provide publicly funded child care must be licensed by ODJFS. When a license application is filed, the Director must investigate and inspect the type B home to determine the license capacity for each age category of children of the type B home and to determine whether the type B home complies with the child care law (Chapter 5104. of the Revised Code) and rules adopted under that law. The Director is permitted to contract with a government or private nonprofit entity to inspect and license type B homes.

The bill eliminates the Director's authority to contract with a government or private nonprofit entity to license type B homes. Additionally, it permits a government or private nonprofit entity with which the Director has contracted to inspect type B homes to subcontract that duty to another government or private nonprofit entity.

Intercept child support from lottery prize awards and casino winnings

(R.C. 3123.89 and 3123.90)

Lottery prize awards

Under the bill, ODJFS must develop and implement a data match program with the State Lottery Commission or its lottery sales agents to identify obligors who are subject to a final and enforceable determination of default under the Support Order Default Law in accordance with continuing Lottery Law provisions regarding deducting child support arrearages from a lottery prize award.

Under continuing law, if the amount of a lottery prize award is $600 or more, the Director of the State Lottery Commission or the Director's designee must require the prize winner to affirm whether or not the person is in default under a support order. The Director or the Director's designee also can take any additional steps to determine default. If the prize winner affirms or if the Director or the Director's designee determines that the person is in default, the Director or the Director's designee must temporarily withhold payment of the prize award and notify the child support enforcement agency (CSEA) that administers the support order. The CSEA is required to conduct an investigation to determine whether the prize winner is subject to a final and enforceable determination of default made under the Support Order Default Law. If the CSEA determines that the person is so subject, it must issue an intercept directive to the Director requiring a deduction from any unpaid prize award. A CSEA must issue an intercept directive within 30 days from receiving the notice. Within 30 days after the date on which the CSEA issues the intercept directive, the Director or the Director's designee must pay the amount specified in the intercept directive to the Office of Child Support in ODJFS.

Casino winnings

The bill requires ODJFS to develop and implement a data match program with each casino facility's casino operator or management company to identify obligors who are subject to a final and enforceable determination of default made under the Support Order Default Law. Upon the data match program's implementation, if a person's winnings at a casino facility are $600 or more, the casino operator or management company must determine if the person entitled to the winnings is in default under a support order. If the casino operator or management company determines that the person is in default, the casino operator or management company must withhold from the person's winnings an amount sufficient to satisfy any past due support owed by the obligor identified in the data match up to the amount of the winnings.

Not later than seven days after withholding the amount, the casino operator or management company must transmit any amount withheld to ODJFS as payment on the support obligation.

ODJFS can adopt rules under the Administrative Procedure Act as are necessary for implementation of the data match program.

Other provisions

Disposal of county public children services agency's paper records

(R.C. 149.38)

The bill authorizes a county public children services agency to submit to the county records commission applications for one-time disposal, or schedules of records retention and disposition, of paper case records that have been entered into permanently maintained and retrievable fields in the state automated child welfare information system established by ODJFS, or entered into other permanently maintained and retrievable electronic files. The county records commission may dispose of those paper case records pursuant to continuing law's record retention and disposal procedure. Under part of that procedure, the county records commission provides rules for the retention and disposal of records of the county, and reviews applications for one-time disposal of obsolete records and schedules of records retention and disposition submitted by county offices.

Under the bill, "paper case records" means written reports of child abuse or neglect, written records of investigations, or other written records required to be prepared under continuing law. These records include records of investigations of children and families, of children's care in out-of-home care, and of abused, neglected, or dependent children; records of care and treatment provided to children and families; records of investigations of families, children, and foster homes, and of the care, training, and treatment afforded children; and any other information related to children and families that state or federal law, regulation, or rule requires ODJFS or a public children services agency to maintain.[45]

ODJFS funds abolished

(R.C. 3125.191 (repealed), 4141.09, 4141.11, and 4141.131; Section 512.30)

The bill requires the Director of Budget and Management to transfer all cash in the following ODJFS funds to ODJFS's Administration and Operating Fund:

[45] R.C. 2151.421, 5101.13, 5153.166, or 5153.17.

(1) The ABD Managed Care – Federal Fund;

(2) The ABD Managed Care – State Fund;

(3) The Adoption Connection Fund;

(4) The Banking Fees Fund;

(5) The BCII Service Fees Fund;

(6) The BES Automation Administration Fund;

(7) The BES Building Consolidation Fund;

(8) The BES Building Enhancement Fund;

(9) The Child & Adult Protective Services Fund;

(10) The Children's Hospitals – Federal Fund;

(11) The Child Support Activities Fund;

(12) The Child Support Operating Fund;

(13) The Child Support Special Payment Fund;

(14) The Child Support Supplement Fund;

(15) The Commission on Fatherhood Fund;

(16) The County Technologies Fund;

(17) The EBT Contracted Services Fund;

(18) The Federal Fiscal Relief Fund;

(19) The Ford Foundation Fund;

(20) The Ford Foundation Reimbursement Fund;

(21) The Health Care Grants Fund;

(22) The HIPPY Program Fund;

(23) The Income Maintenance Reimbursement Fund;

(24) The Interagency Programs Fund;

(25) The Job Training Program Fund;

(26) The Medicaid Admin Reimbursement Fund;

(27) The OhioWorks Supplement Fund;

(28) The Private Child Care Agencies Training Fund;

(29) The Public Assistance Reconciliation Fund;

(30) The State and Local Training Fund;

(31) The State Option Food Stamp Program Fund;

(32) The TANF Child Welfare Fund;

(33) The TANF – Employment & Training Fund;

(34) The TANF QC Reinvestment Fund;

(35) The Third Party Recoveries Fund;

(36) The Training Activities Fund;

(37) The Welfare Overpayment Intercept Fund;

(38) The Wellness Block Grant Fund.

The Director of Budget and Management is required to transfer to the General Revenue Fund all cash in the OhioCare Fund, Human Services Stabilization Fund, and Managed Care Assessment Fund.

All of the transfers are to be completed within 90 days of the effective date of this provision of the bill or as soon as possible thereafter. The funds from which the transfers are to be made are abolished on the transfers' completion.

Only four of the funds to be abolished are currently established in the Revised Code: the Banking Fees Fund, BES Building Consolidation Fund, BES Building Enhancement Fund, and Child Support Operating Fund.[46] As part of the elimination of these funds, the bill repeals the laws establishing them. The rest of the funds were established administratively.

[46] Currently, the BES Consolidation Fund and BES Building Enhancement Fund are called the ODJFS Building Consolidation Fund and ODJFS Building Enhancement Fund, respectively, in the Revised Code.

Under current law, earnest money from the sale of real property no longer needed for the ODJFS Director's operations under Title 41 of the Revised Code (Labor and Industry) must be deposited into the BES Consolidation Fund and the balance of the purchase price must be deposited into the BES Building Enhancement Fund (other than amounts needed to reimburse the Unemployment Compensation Special Administrative Fund for all costs associated with the sales). As part of the elimination of the BES Consolidation Fund and BES Enhancement Fund, the bill requires that all money received from such sales be deposited into the Unemployment Compensation Special Administration Fund.

- Requires a reviewing court to determine whether a public children services agency (PCSA) or private child placing agency (PCPA) made reasonable efforts to finalize the permanency plan for a child.

- Requires a reviewing court that determines that a PCSA or PCPA has not made reasonable efforts to finalize the permanency plan, to issue an order finalizing a permanency plan requiring the PCSA or PCPA to use reasonable efforts to permanently place the child and to finalize that placement.

Permanency plan approval and finalization

(R.C. 2151.417)

The bill requires a juvenile court, when it is required to conduct a review hearing to approve a permanency plan for a child, to determine whether the responsible public children services agency (PCSA) or private child placing agency (PCPA) has made reasonable efforts to finalize it. If the court determines reasonable efforts were not made, the court must issue an order finalizing a permanency plan that requires the PCSA or PCPA to use reasonable efforts to permanently place the child in a timely manner and take whatever steps are necessary to finalize that placement. Under continuing law, such review hearings are required: (1) regarding further disposition of a child under an expiring temporary custody order or expiring extension of such an order when the hearing takes the place of an administrative review hearing (R.C. 2151.415), (2) regarding the yearly review of a child's placement, custody arrangement, and case plan (R.C. 2151.417), and (3) when a PCSA or PCPA is relieved of meeting the requirement to use reasonable efforts to prevent the removal of a child from the child's home, eliminate the continued removal of a child from the child's home, and return the child to the child's home, and the court does not return the child to the child's home (R.C. 2151.417 and 2151.419).

- Expands what constitutes a person's violation of rules adopted by the Manufactured Homes Commission (MHC) for purposes of investigations and civil penalties to include all rules adopted by the MHC.

- Expands what constitutes failure to comply with statutory provisions and rules adopted by the MHC for purposes of refusal to grant, suspension, or revocation of licenses to include all statutory provisions and all rules adopted under the MHC Law.

Violations and failure to comply

(R.C. 4781.121 and 4781.29)

The bill expands what constitutes a person's violation of rules adopted by the Manufactured Homes Commission (MHC) for purposes of investigations and civil penalties to include all rules adopted by the MHC. Continuing law sets out a procedure for the MHC to investigate any person who allegedly has committed a violation. This procedure includes a hearing and, if the MHC determines a violation has occurred after that hearing, an imposition of a fine on the person in violation. Current law defines "violation" as a violation of (1) listed statutory provisions regarding manufactured homes installers and (2) rules adopted under the provision directing the MHC to adopt rules for the installation of manufactured housing. The bill provides that instead of (2) above, "violation" includes any rule adopted under the MHC Law, including rules adopted for manufactured housing dealers, brokers, and salespersons and manufactured homes parks.

The bill also expands what constitutes failure to comply with statutory provisions and rules adopted by the MHC for purposes of refusal to grant, suspension, or revocation of licenses to include all statutory provisions and all rules adopted under the MHC Law. Current law allows for any of these administrative actions to be taken against manufactured home park operators that fail to comply with (1) statutory provisions regarding park operators and (2) rules adopted under the provision directing the MHC to adopt rules governing the review of plans, issuance of flood plain management permits, and issuance of licenses for manufactured home parks; the location, layout, density, construction, drainage, sanitation, safety, and operation of those parks; and notices of flood events concerning, and flood protection at, those parks. The bill changes both (1) and (2) above to allow the administrative actions to be

taken against any person for failure to comply with the entire MHC Law or rules adopted under it.

- Establishes requirements for long-term care facilities regarding residents who are identified as sex offenders in the Attorney General's Internet-based sex offender and child-victim offender database.

Long-term care facility admitting sexual offender

(R.C. 3721.122)

The bill requires the administrator of a long-term care facility (nursing home, residential care facility, veteran's home, skilled nursing facility, nursing facility, county home, and district home) to search for an individual's name in the Attorney General's Internet-based sex offender and child-victim offender database before admitting the individual as a resident of the facility. If the search results identify the individual as a sex offender and the individual is admitted as a resident to the long-term care facility, the administrator must provide for the facility to do all of the following:

(1) Develop a plan of care to protect the other residents' rights to a safe environment and to be free from abuse;

(2) Notify all of the facility's other residents and their sponsors that a sex offender has been admitted as a resident to the facility and include in the notice a description of the plan of care;

(3) Direct the individual in updating the individual's address under state law governing the registration of sex offenders with county sheriffs and, if the individual is unable to do so without assistance, provide the assistance the individual needs to update the individual's address.

DEPARTMENT OF MENTAL HEALTH AND ADDICTION SERVICES

ADAMHS board members

- Modifies the criteria to be considered when appointing members of a board of alcohol, drug addiction, and mental health services who must be recipients of mental health or addiction services by eliminating a provision requiring that those services were publicly funded.

Charge-backs

- Requires that the expenses of returning a mentally ill person to the person's county of legal residence be charged to the county of residence, that a transcript of proceedings be sent to the probate court of the county of residence, and that if the person's residence cannot be established, the matter be referred to the Ohio Department of Mental Health and Addiction Services (ODMHAS).

Other provisions

- Corrects a reference to ODMHAS.

- Excludes ODMHAS records from the general medical records production requirement, if release of the record is covered by ODMHAS Law.

ADAMHS board member qualifications

(R.C. 340.02 and 340.021)

Under existing law, each board of alcohol, drug addiction, and mental health services (ADAMHS board) must include at least one person who has received or is receiving mental health services paid for by public funds and at least one person who has received or is receiving addiction services paid for by public funds. The bill eliminates the requirement that the qualifying services be publicly funded. As a result, each ADAMHS board must include at least one person who has received or is receiving mental health services, whether publicly funded or not, and at least one person who has received or is receiving addiction services, whether publicly funded or not.

Similarly, under existing law, each community mental health board that serves the function of an ADAMHS board with regard to mental health services must include at least one person who has received or is receiving mental health services paid for by public funds, and each alcohol and drug addiction services board that serves the

function of an ADAMHS board with regard to addiction services must include at least one person who has received or is receiving addiction services paid for by public funds. For both community mental health board and an alcohol and drug addiction services board, the bill eliminates the requirement that qualifying services be publicly funded.

Charge-back to mentally ill person's county of residence

(R.C. 5122.36)

The bill provides that if the legal residence of a person suffering from mental illness is in another county of the state, the necessary expense of the person's return is a proper charge against the county of legal residence. If an adjudication and order of hospitalization by the probate court of the county of temporary residence are required, the regular probate court fees and expenses incident to the order of hospitalization and any other expense incurred on the person's behalf must be charged to and paid by the county of the person's legal residence upon the approval and certification of the probate judge of that county. The ordering court must send to the probate court of the person's county of legal residence a certified transcript of all proceedings had in the ordering court. The receiving court must enter and record the transcript. The certified transcript is prima facie evidence of the person's residence. If the person's residence cannot be established as represented by the ordering court, the matter of residence must be referred to the Ohio Department of Mental Health and Addiction Services (ODMHAS) for investigation and determination.

Other provisions

Correction of agency name

(R.C. 2945.402)

Corrects a reference to ODMHAS.

ODMHAS medical records

(R.C. 3701.74)

General records release law

The bill excludes ODMHAS medical records from the general provision requiring the production of medical records upon request, if the release of those records is covered by ODMHAS Law.

That general provision permits a patient, a patient's personal representative, or an authorized person (requestor) to examine or obtain a copy of part or all of a medical

record in the possession of a health care provider. To be proper, the request must meet all of the following criteria:

- Be submitted to the health care provider;
- Be a written request, signed by the requestor, and dated not more than one year before the date on which it is submitted;
- Include sufficient information to identify the record requested;
- Indicate whether the copy is to be sent to the requestor, physician or chiropractor, or held for the requestor at the office of the health care provider.

Within a reasonable time after receiving a proper request, the health care provider that has the patient's medical records must permit the patient to examine the record during regular business hours without charge or, on request, provide a copy of the record. But, if a physician or chiropractor who has treated the patient determines for clearly stated treatment reasons that disclosure of the requested record is likely to have an adverse effect on the patient, the health care provider must provide the record to a physician or chiropractor designated by the patient.

The health care provider must take reasonable steps to establish the identity of the person making the request to examine or obtain a copy of the patient's record. If a health care provider fails to furnish a medical record as required, the requestor may bring a civil action to enforce the patient's right of access to the record.

ODMHAS records release law

ODMHAS Law contains a provision that generally make records for mental health treatment confidential and a separate provision that makes records relating to drug treatment confidential.

Generally, all records and reports identifying a person and pertaining to the person's mental health condition, assessment, provision of care or treatment, or payment for assessment, care or treatment that are maintained in connection with any services certified by ODMHAS or specified providers licensed or operated by ODMHAS must be kept confidential and not be disclosed. The ODMHAS Mental Health Records Release Law contains exceptions to the general confidentiality provisions. Those exceptions are as follows:

- If the person identified in the record, or the person's guardian or parent if the person is a minor, consents.

- When disclosure is permitted by other state and federal laws.

- Hospitals, boards of alcohol, drug addiction, and mental health services, licensed facilities, and community mental health services providers may release information to insurers or other third-party payers.

- Pursuant to a court order.

- A person may be granted access to their own medical records unless otherwise restricted.

- ODMHAS may exchange records with specified entities for limited purposes.

- A family member involved in the provision, planning, and monitoring of services to the person may receive certain information.

- The executor or an administrator of the estate of a deceased person.

- Information may be disclosed to the staff of the appropriate board or ODMHAS to determine the quality, effectiveness, and efficiency of care. Such information must not have any person's name on it.

- Records pertaining to a person's diagnosis, course of treatment, treatment needs, and prognosis must be disclosed to the appropriate prosecuting attorney or attorney retained for involuntary commitment proceedings.

The custodian of the records must attempt to get a person's consent prior to disclosure of certain records.

Similarly, records or information pertaining to the identity, diagnosis, or treatment of any person seeking or receiving services that are maintained in connection with the performance of any drug treatment program or services licensed by, or certified by, ODMHAS must be kept confidential. This confidentiality provision is subject to the following exceptions:

- If the person with respect to whom the record is maintained consents or is deemed to have consented.

- Disclosure of a person's record may be made without the person's consent to qualified personnel for specified purposes.

- Upon the request of a prosecuting attorney or the Director of ODMHAS if certain criteria are met.

DEPARTMENT OF NATURAL RESOURCES

Oil and Gas Well Fund

- Authorizes the Chief of the Division of Oil and Gas Resources Management to spend money credited to the Oil and Gas Well Fund to develop infrastructure as a solution to problems directly attributable to historic production operations in accordance with rules adopted under the bill.

- Retains the Chief's authority to use money in the Fund for activities related to idle and orphaned wells, but eliminates the requirement in current law that the Chief spend not less than 14% of the revenue credited to the Fund the previous fiscal year for those purposes.

Deer permits; hunting licenses

- Revises existing law requiring the procurement of a $23 deer permit to hunt deer by establishing a nonresident deer permit, the fee for which is $99, and a resident deer permit, the fee for which is $23.

- Retains existing law providing either half-price or free deer permits for Ohio residents who are at least 66 years old, and specifies that the fee for the existing youth deer permit remains ½ of the regular resident deer permit fee regardless of residency.

- Revises existing law requiring a person on active military duty who is either stationed in Ohio or on leave or furlough to obtain a deer permit by requiring such a person to obtain a resident deer permit and specifying that the person is eligible to obtain a resident deer permit regardless of residency.

- Increases the nonresident hunting license fee and the apprentice nonresident hunting license fee from $124 to $149.

Oil and Gas Well Fund

(R.C. 1509.071)

The bill authorizes the Chief of the Division of Oil and Gas Resources Management to spend money credited to the Oil and Gas Well Fund, in accordance with rules adopted under the bill, to develop infrastructure as a solution to problems directly attributable to historic production operations. It requires the Chief to adopt

rules regarding the development of such infrastructure and establishing criteria for determining the types of infrastructure for which money credited to the Fund may be used.

The bill retains the Chief's authority to use money credited to the Fund for the following purposes:

--To plug idle and orphaned wells or to restore land surface properly as required in current law; and

--To correct conditions that the Chief reasonably has determined are causing imminent health or safety risks at an idle and orphaned well or a well for which the owner cannot be contacted in order to initiate a corrective action within a reasonable period of time as determined by the Chief.

However, it eliminates the requirement in current law that the Chief spend not less than 14% of the revenue credited to the Fund the previous fiscal year for purposes.

Establishment of resident and nonresident deer permits; hunting license fees

(R.C. 1533.10, 1533.11, and 1533.12)

The bill revises existing law requiring the procurement of a $23 deer permit to hunt deer by establishing a nonresident deer permit, the fee for which is $99, and a resident deer permit, the fee for which is $23. It retains and slightly revises existing law under which an Ohio resident who is at least 66 years old, unless the person was born on or before December 31, 1937, may obtain a senior resident deer permit, the fee for which is ½ of the resident deer permit fee. The bill similarly retains existing law that allows an Ohio resident who was born on or before December 31, 1937, to be issued a free deer permit. Under the bill, a nonresident who is at least 66 years old must obtain the nonresident deer permit established by the bill rather than the general deer permit required in existing law. The bill also specifies that the fee for a youth deer permit established in current law is ½ of the regular resident deer permit fee regardless of residency.

In addition, the bill revises existing law requiring a person on active duty in the U.S. Armed Forces who is either stationed in Ohio or on leave or furlough to obtain a deer permit by requiring such a person to obtain a resident deer permit and specifying that the person is eligible to obtain a resident deer permit regardless of whether the person is a resident of Ohio. It retains existing law under which such a person need not obtain a hunting license in order to obtain a deer permit.

Finally, the bill increases the fee for a nonresident hunting license and an apprentice nonresident hunting license from $124 to $149.

OPPORTUNITIES FOR OHIOANS WITH DISABILITIES AGENCY

- Includes the Opportunities for Ohioans with Disabilities Agency within the scope of the Office of Health Transformation Law.
- Creates a workforce integration task force within the Agency.
- Requires the task force to collect specified employment information regarding individuals who are deaf or blind in Ohio.
- Requires the task force to issue a report to the Governor by January 1, 2015, using data that it collected and containing findings and recommendations regarding how individuals who are deaf or blind in Ohio may be more fully integrated into the workforce.

Office of Health Transformation

(R.C. 191.01)

The bill includes the Opportunities for Ohioans with Disabilities Agency within the scope of the Office of Health Transformation Law.

Workforce integration task force

(Section 751.20)

The bill creates a workforce integration task force within the Agency. It requires the task force to collect data on all of the following regarding Ohioans who are deaf or blind: the average income levels for those individuals who are employed compared to those who are not, the number of those individuals, where they are geographically located, the number of those individuals who are employed and in what job categories, and whether barriers to employment exist for them.

The task force must issue a report to the Governor by January 1, 2015, using the data that it collected and any other necessary information and containing findings and recommendations regarding how Ohioans who are deaf or blind may be more fully integrated into the workforce to increase employability and income parity based on the data collected by the vendor. Upon issuance of the report, the task force sunsets.

The bill requires the Executive Director of the Agency and the Director of Job and Family Services, as co-chairs of the task force, to appoint the members of the task force.

- Removes the requirement that the Executive Director of the State Board of Pharmacy be an Ohio licensed pharmacist in good standing.
- Changes to April 1 (from January 1) the beginning date of the 12-month licensing period that applies to terminal distributors of dangerous drugs.
- Extends the expiration date of existing licenses to correspond with the new licensing period.
- Eliminates a provision prohibiting the Board from imposing a charge on terminal distributors of dangerous drugs, pharmacists, and prescribers to establish or maintain the Ohio Automated Rx Reporting System (OARRS).

Executive director qualifications

(R.C. 4729.03)

The bill removes this requirement that that the Executive Director of the State Board of Pharmacy be an Ohio licensed pharmacist in good standing. The executive director of a licensing board is the administrative head of the board, overseeing day-to-day operations and licensing. The executive director is not a voting member of the board.

Licensing period for terminal distributors of dangerous drugs

(R.C. 4729.54; Section 747.10)

The bill changes the beginning date of the 12-month licensing period that applies to terminal distributors of dangerous drugs to April 1. Under current law, the beginning date of the licensing period is January 1. The bill also changes the due date for an application for renewal of the license to March 31. Under current law, the due date is December 31. Similarly, the bill changes the date after which a $55 penalty fee must be paid in addition to the renewal fee for license reinstatement from February 1 to May 1.

To correspond with the new licensing period, the bill specifies that a license that is valid on the effective date of the bill will remain effective until April 1, 2015, unless earlier revoked or suspended.

Imposing charges for the establishment and maintenance of OARRS

(R.C. 4729.83)

The bill eliminates a provision prohibiting the Board from imposing a charge on terminal distributors of dangerous drugs, pharmacists, and prescribers to establish or maintain the Ohio Automated Rx Reporting System (OARRS).

- Clarifies the purposes for which moneys in county indigent drivers alcohol treatment funds, county juvenile indigent drivers alcohol treatment funds, and municipal indigent drivers alcohol treatment funds may be used.

- Authorizes surplus moneys in the aforementioned funds to be used for additional purposes.

- Authorizes surplus moneys in county indigent drivers interlock and alcohol monitoring funds, county juvenile indigent drivers interlock and alcohol monitoring funds, and municipal indigent drivers interlock and alcohol monitoring funds to be used for additional purposes.

- Creates the Infrastructure Protection Fund and specifies that the following fees are to be deposited into the Fund instead of the Security, Investigations, and Policing Fund: (1) scrap metal and bulk merchandise container dealer registration fees and (2) impoundment fees relating to a vehicle used in the theft or illegal transportation of metal.

Use of county and municipal indigent drivers alcohol treatment funds and indigent drivers interlock and alcohol monitoring funds

(R.C. 4511.191)

Indigent drivers alcohol treatment funds

The bill modifies the purposes for which moneys in a county indigent drivers alcohol treatment fund, a county juvenile indigent drivers alcohol treatment fund, or a municipal indigent drivers alcohol treatment fund may be used. Under current law, a county, juvenile, or municipal court judge may make expenditures from those funds for the payment of the cost of an assessment or the cost of attendance at an alcohol and drug addiction treatment program for a person who meets all of the following requirements: (1) the person is convicted of, or found to be a juvenile traffic offender by reason of, a violation of the law that prohibits any person from operating a vehicle while under the influence of alcohol, drugs, or both, (2) the person is ordered by the court to attend an alcohol and drug addiction treatment program, and (3) the person is determined by the court, in accordance with indigent client eligibility guidelines and the standards of indigency established by the public defender, to be unable to pay the cost of the assessment or treatment program. Under the bill, a judge may make

expenditures from those funds for any of the following purposes with regard to an indigent person:

- To pay the cost of an assessment conducted by an appropriately licensed clinician at either a driver intervention program or a community addiction services provider;

- To pay the cost of alcohol addiction services, drug addiction services, or integrated alcohol and drug addiction services at a community addiction services provider; or

- To pay the cost of transportation to attend an assessment or services as provided above.

The bill defines "indigent person" as a person who meets all of the requirements set out in current law above.

The bill also expands the permissible uses of moneys from such funds in the event a surplus is declared. Under current law unchanged by the bill, if a county, juvenile, or municipal court determines, in consultation with the alcohol and drug addiction services board or the board of alcohol, drug addiction, and mental health services that serves the alcohol, drug addiction, and mental health district in which the court is located, that the moneys in the fund are more than sufficient to satisfy the purpose of the fund, the court may declare a surplus. Once a surplus is declared, the court may use any of the surplus amount for either alcohol and drug abuse assessment and treatment of persons who are charged with committing a criminal offense or with being a delinquent child or juvenile traffic offender under specified circumstances; or to pay all or part of the cost of purchasing alcohol monitoring devices upon exhaustion of moneys in the indigent drivers interlock and alcohol monitoring fund.

The bill expands the permissible uses of the surplus moneys to include: (1) paying the cost of transportation related to drug abuse assessment and treatment of persons who are charged with committing a criminal offense or with being a delinquent child or juvenile traffic offender under specified circumstances, (2) transferring the funds to another court in the same county to be used in accordance with any authorized use of indigent drivers alcohol treatment funds, or (3) transferring the funds to the alcohol and drug addiction services board or the board of alcohol, drug addiction, and mental health services that serves the alcohol, drug addiction, and mental health service district in which the court is located to be used in accordance with any authorized use of indigent drivers alcohol treatment funds.

Indigent drivers interlock and alcohol monitoring funds

The bill authorizes a county, juvenile, or municipal court to declare a surplus in a county indigent drivers interlock and alcohol monitoring fund, a county juvenile indigent drivers interlock and alcohol monitoring fund, or a municipal indigent drivers interlock and alcohol monitoring fund under the control of the court. A surplus may be declared if the moneys in the fund are more than sufficient to satisfy the purpose for which the fund was established. If the court declares a surplus, the court then may order a transfer of a specified amount of money into the county indigent drivers alcohol treatment fund, the county juvenile indigent drivers alcohol treatment fund, or the municipal indigent drivers alcohol treatment fund.

Under current law, unchanged by the bill, the moneys in those indigent drivers interlock and alcohol monitoring funds generally must be used only to pay the cost of an immobilizing or disabling device or an alcohol monitoring device that will be used by an offender or juvenile offender who is ordered by the court to use such a device and is determined not to have the means to pay for the device.

Infrastructure Protection Fund

(R.C. 4737.045)

The bill creates the Infrastructure Protection Fund and requires all (1) scrap metal and bulk merchandise container dealer registration fees and (2) impoundment fees relating to a vehicle used in the theft or illegal transportation of metal to be deposited into the Fund. Current law requires these fees to be deposited into the Security, Investigations, and Policing Fund.

PUBLIC UTILITIES COMMISSION

Intermodal equipment

- Grants the Public Utilities Commission (PUCO) the authority to regulate intermodal equipment providers and requires the PUCO to adopt rules applicable to the use and interchange of intermodal equipment.

- Broadens PUCO subpoena power, currently limited to the production of documents and other materials relating to hazardous materials transportation, by expanding its application to the production of all books, contracts, records, and documents relating to compliance with motor carrier law and rules.

- Defines the terms "interchange," "intermodal equipment," and "intermodal equipment provider" to have the same meanings as in federal motor carrier safety rules.

Recovery of environmental remediation costs

- Permits the PUCO to authorize a natural gas company or gas company to recover environmental remediation costs that are prudently incurred before 2025 and related to real property that was formerly the site of a manufactured gas plant (and meets other specified criteria).

- Requires an application and an evidentiary hearing in which the applicant bears the burden of proof.

- Requires that the costs to be recovered were incurred under the Voluntary Action Program, ordered by an environmental agency or a court, or the subject of a previously authorized regulatory asset.

- Requires, if recovery is authorized, the company to, upon the sale of the real property, return to customers the difference between the sale price, minus reasonable sale expenses, and the property's fair market value prior to remediation.

- Declares that certain rate-making provisions do not preclude recovery of the environmental remediation costs.

Other provisions

- Increases maximum pipeline safety forfeitures to $200,000 per day and $2 million in the aggregate for a related series of violations or noncompliances.

- Specifies that certain persons exempt from the motor carrier law shall not be construed to be relieved from complying with the existing law and rules governing the uniform registration and permitting for transportation of hazardous materials and the duty to pay related fees.

- Repeals a provision that prohibits an electric distribution utility (EDU) from applying more than the total annual percentage of the EDU's industrial-customer load, relative to the EDU's total load, to the annual energy efficiency savings requirement for purposes of a waste energy recovery or combined heat and power system.

Intermodal equipment

(R.C. 4905.01, 4905.81, 4923.01, and 4923.04)

Providers

The bill expressly authorizes the Public Utilities Commission (PUCO) to regulate the safety of operation of each intermodal equipment provider in addition to regulating the safety of operation of each motor carrier as required in current law.

Rules

The bill also requires the PUCO to adopt rules applicable to the use and interchange of intermodal equipment.

Definitions

"Interchange," "intermodal equipment" and "intermodal equipment provider" are defined in the bill to mirror federal rules. Intermodal equipment means trailing equipment, including trailers and chassis, that is used in the intermodal transportation of containers over public highways in interstate commerce. An intermodal equipment provider is any person that interchanges intermodal equipment with a motor carrier pursuant to a written interchange agreement or has a contractual responsibility for the maintenance of the intermodal equipment. Interchange is the act of providing intermodal equipment to a motor carrier pursuant to an intermodal equipment exchange agreement for the purpose of transporting the equipment for loading or unloading by any person or repositioning the equipment for the benefit of the

equipment provider. Interchange does not include the leasing of equipment to a motor carrier for primary use in the motor carrier's freight hauling operations.[47]

PUCO subpoena power

The bill broadens the PUCO's subpoena power. Under the bill, the PUCO may issue a subpoena to compel the production of all books, contracts, records, and documents that relate to compliance with the state's motor carrier laws and rules. Current law limits the power to compelling the production of all books, contracts, records, and documents that relate to the transportation and offering for transportation of hazardous materials.

Recovery of environmental remediation costs

(R.C. 4909.157)

The bill permits the PUCO to authorize a natural gas company or gas company to recover environmental remediation costs that are prudently incurred before January 1, 2025, and related to real property that was formerly the site of a manufactured gas plant. The bill defines a manufactured gas plant as a plant that produced, for sale to customers, manufactured gas from coal gas process, carbureted water gas process, or oil gas process. The plant must have been operational prior to 1970. The real property that is the former site of the manufactured gas plant must also have been owned by the natural gas or gas company or a predecessor in interest before July 1, 2014. And the property must, at the time recovery is authorized, be used or have been used for the provision of public utility service. The costs to be recovered also must fall into one of the following categories:

- They were incurred under the Voluntary Action Program, governed by the Director of Environmental Protection, under continuing law;
- They were ordered by an environmental agency with jurisdiction or a court with jurisdiction;
- They were the subject of a previously authorized regulatory asset.

The recovery of the environmental remediation costs may be provided for through the establishment of a mechanism by the PUCO. The mechanism must set forth the specific terms of the recovery. The mechanism must also include an application and an evidentiary hearing in which the applicant bears the burden of proof.

[47] 49.C.F.R. 390.5.

In determining whether to authorize recovery, and in determining any amount of recovery, the bill directs the PUCO to consider, in its prudency review, any or all of the following:

- The potential liability of third parties for the environmental remediation costs, and whether and to what extent those parties should share in payment of those costs;
- To the extent that it can be ascertained, whether and to what extent the contamination associated with the environmental remediation costs occurred prior to the date that the company was first subject to the regulatory authority of the PUCO;
- Whether the remediation obligation initially arose during a time when the company was subject to the regulatory authority of the PUCO.

The bill declares that the following required rate-making determinations do not preclude recovery of these environmental remediation costs:

(1) The valuation of the utility's property used and useful in rendering the public utility service;

(2) The cost to the utility of rendering the public utility service.

If the PUCO authorizes recovery, the bill requires the company, upon the sale of the real property, to return to the company's customers the difference between the sale price of the property (minus any reasonable expenses related to the sale) and the fair market value of the property prior to remediation.

Other provisions

Pipeline safety forfeitures

(R.C. 4905.95)

Updates the maximum forfeitures for pipeline safety violation or noncompliance consistent with federal law: $200,000 limit for each day of a violation or noncompliance and $2 million limit for a related series of violations or noncompliances. The limits in existing law are $100,000 and $1 million, respectively.

Limitation on motor carrier law compliance exemptions

(R.C. 4923.02)

The bill provides that existing law exempting certain persons from the motor carrier law is not to be construed as relieving those persons from complying with (1) PUCO rules applicable to the uniform registration and permitting of persons engaged in the highway transportation of hazardous materials into, through, or within Ohio, (2) other provisions of Ohio law governing uniform registration and permitting, such as, for example the prohibition against falsifying or failing to submit data reports, records, and other information required regarding uniform registration and permitting, or (3) the duty to pay any fees related to uniform registration and permitting.

Energy savings requirement

(R.C. 4928.66; R.C. 4928.01, not in the bill)

The bill repeals a provision that prohibits an electric distribution utility (EDU) from applying more than the total annual percentage of the EDU's industrial-customer load, relative to the EDU's total load, to the annual energy efficiency savings requirement for purposes of a waste energy recovery or combined heat and power system. Under continuing law, an EDU must comply with energy efficiency benchmarks and may do so by implementing an energy efficiency program that may include a combined heat and power system or a waste energy recovery system, either of which must meet certain in-service dates. A "combined heat and power system" means the coproduction of electricity and useful thermal energy from the same fuel source designed to achieve thermal-efficiency levels of at least 60%, with at least 20% of the system's total useful energy in the form of thermal energy. A "waste energy recovery system" means either of the following:

(1) A facility that generates electricity through the conversion of energy from either of the following:

(a) Exhaust heat from engines or manufacturing, industrial, commercial, or institutional sites, except for exhaust heat from a facility whose primary purpose is the generation of electricity;

(b) Reduction of pressure in gas pipelines before gas is distributed through the pipeline, provided that the conversion of energy to electricity is achieved without using additional fossil fuels.

(2) A facility at a state institution of higher education that recovers waste heat from electricity-producing engines or combustion turbines and that simultaneously

uses the recovered heat to produce steam, provided that the facility was placed into service between January 1, 2002, and December 31, 2004.

- Requires that any repayment of a Clean Ohio Conservation grant be deposited into the Clean Ohio Conservation Fund for return to the natural resource assistance council that approved the original grant application.

- Requires that grant repayments be used for the same purpose as the grant was originally approved for.

- Requires the Ohio Public Works Commission to establish policies that provide for "proper liquidated damages and grant repayment" rather than "proper penalties, including grant repayment," for entities that fail to comply with long-term ownership or control requirements.

Clean Ohio Conservation grants

(R.C. 164.26 and 164.261)

The bill requires that any repayment of a Clean Ohio Conservation grant must be deposited into the Clean Ohio Conservation Fund for return to the natural resource assistance council that approved the original grant application. The bill also requires that the repayment be used for the same purpose as the grant was originally approved for. Under continuing law, grants may be required to be repaid when entities fail to comply with long-term ownership or control requirements, established by the Ohio Public Works Commission, for real property that is the subject of a grant application.

The bill also changes language regarding policies that the Commission is required to establish. Under current law, the policies are required to provide for "proper penalties, including grant repayment" for the entities that fail to comply with the long-term ownership or control requirements. The bill changes this to "proper liquidated damages and grant repayment."

Under continuing law, Clean Ohio Conservation grants may be awarded for a variety of purposes, including wetland preservation, the protection of habitats for endangered species, and the protection and enhancement of streams, rivers, and lakes.[48]

[48] R.C. 164.22, not in the bill.

- Requires the Superintendent of Real Estate and Professional Licensing to adopt administrative rules governing the qualifications of mass appraisal project managers.

- Temporarily authorizes holders of a historic rehabilitation tax credit certificate to claim a credit against the commercial activity tax (CAT) if the holder cannot claim the credit against another tax.

- Authorizes limited pass-through treatment of the CAT historic rehabilitation tax credit for corporate owners of a pass-through entity eligible to claim the credit.

Rules governing the approval of mass appraisal project managers

(R.C. 5713.012)

Under continuing law, a county auditor must contract with at least one "qualified project manager" to plan and manage each reappraisal, triennial update, or other county-wide property valuation initiated by the auditor's office after September 10, 2014. To qualify as a project manager, a person must attend a 30-hour course approved by the Superintendent of Real Estate and Professional Licensing and pass the final exam given at the end of the course. The person must also complete at least seven hours of continuing education courses in mass appraisal every two years, beginning with the two-year period after the year in which the person completes the 30-hour course.

The bill requires the Superintendent to adopt certain administrative rules governing the qualifications of project managers. The rules must specify:

(1) Standards to be used by the Superintendent in approving each 30-hour and continuing education course;

(2) Standards for determining when a person has successfully completed a continuing education course or an exam required at the end of a 30-hour course;

(3) The manner in which a person may apply to offer a 30-hour or continuing education course;

(4) The method and deadlines for transmitting information about qualified project managers to the Tax Commissioner. (The Commissioner must approve each contract between an auditor and qualified project manager.)

Temporary historic rehabilitation CAT credit

(Section 757.20)

The bill temporarily authorizes the holder of a historic rehabilitation tax credit certificate to claim that credit against the commercial activity tax (CAT) if the holder receives the certificate after 2013 but before July 2015 and is not able to claim the credit against another tax ("qualifying certificate owner").

Continuing law establishes the historic building rehabilitation tax credit, which is a refundable credit equal to 25% of the qualified expenditures made for rehabilitating a building of historical significance in accordance with preservation criteria as determined by the State Historic Preservation Officer. A person seeking the credit is required to apply to the Director of Development Services, who evaluates the application and may approve a credit by issuing a tax credit certificate. Continuing law authorizes the certificate holder to claim the credit against the personal income tax, financial institutions tax, or foreign or domestic insurance company premiums tax.

A qualifying certificate holder may claim the credit against the CAT for the calendar year specified in the certificate, but only for CAT tax periods ending before July 1, 2015. The amount of the CAT credit equals the lesser of 25% of the holder's rehabilitation costs listed on the certificate or $5 million. Although the credit is refundable, if an amount would be refunded to the holder in a calendar year, the holder may not claim more than $3 million of the credit for that year. However, the holder may carry forward any unused credit for up to the five following calendar years. The bill requires the certificate holder to retain the tax credit certificate for four years after the last year the holder claims the CAT credit for possible inspection by the Tax Commissioner.

The bill authorizes corporate owners of a qualifying certificate holder that is a pass-through entity that are not themselves pass-through entities to claim the credit against the owners' CAT according to mutually agreed-upon proportions if the owners are either of the following:

- Expressly authorized to claim the credit in that proportion on the tax credit certificate.

- Part of the same consolidated elected or combined taxpayer as the pass-through entity. (Continuing law allows a group of commonly owned or controlled persons to elect to file and pay the CAT on a consolidated basis as "consolidated elected taxpayers" in exchange for excluding otherwise taxable gross receipts from transactions with other members of the group. Commonly owned or controlled persons that do not make that election

are treated, together with their common owners, as "combined taxpayers." A combined taxpayer reports and pays CAT as a single taxpayer, but members of a combined taxpayer may not exclude receipts arising from transactions between members.)

Additionally, the bill authorizes a qualifying certificate holder that is not a CAT taxpayer to file a CAT return for the purpose of claiming the historic rehabilitation tax credit. This enables a business with less than $150,000 in taxable gross receipts that is not a sole proprietor or a pass-through entity composed solely of individual owners, or a nonprofit organization, to claim a tax "credit" as if the business or organization were a CAT taxpayer.

- Authorizes the Director of Transportation to allow regional planning commissions, regional councils of government, and other associations of local governments to participate in Department of Transportation contracts for the purchase of machinery, materials, supplies, or other articles, and exempts those purchases from competitive bidding requirements.

Local government participation in Department contracts

(R.C. 5513.01)

The bill allows the Director of Transportation to permit regional planning commissions, regional councils of government, or other specified associations of local governments to participate in a contract that the Director has entered into for the purchase of machinery, materials, supplies, or other articles. Any such purchase made by those local government entities is exempt from any competitive bidding requirements otherwise required by law. Additionally, the bill makes technical changes to the statute governing contracts entered into by the Director for the purchase of machinery, materials, supplies, and other articles.

Under current law, the Director may permit the Ohio Turnpike and Infrastructure Commission, any political subdivision, and any state university or college to participate in such contracts. Purchases made by those entities also are exempt from competitive bidding requirements. For purposes of this statute, "political subdivision" means any county, township, municipal corporation, conservancy district, township park district, park district, port authority, regional transit authority, regional airport authority, regional water and sewer district, county transit board, or school district.

DEPARTMENT OF YOUTH SERVICES

Child abuse or neglect

- Requires a person who reports the abuse or neglect or threat of abuse or neglect of a child under 18 years of age or a mentally retarded, developmentally disabled, or physically impaired child under 21 years of age to direct the report to the State Highway Patrol if the child is a delinquent child in the custody of an institution under the management and control of the Department of Youth Services (DYS) or a private entity under contract with DYS.

- Requires the Patrol, upon finding probable cause of the abuse, neglect, or threat, to report its findings to DYS, the court that ordered the delinquent child's custody to DYS, the public children services agency in the county of the child's residence or where the abuse, neglect, or threat occurred, and the Correctional Institution Inspection Committee.

- Adds a superintendent or regional administrator employed by DYS to the list of persons prohibited from failing to make reports of abuse or neglect or threat of abuse or neglect of a child under 18 years of age or a mentally retarded, developmentally disabled, or physically impaired child under 21 years of age.

Quality Assurance Program

- Establishes the Office of Quality Assurance and Improvement within DYS.

- Provides that quality assurance records are confidential and are not public records.

- Provides circumstances for when quality assurance records may be disclosed and testimony may be provided concerning those records.

Other provisions

- Permits DYS to place a felony delinquent child in the custody of DYS directly into a community corrections facility without notifying the committing court.

- Amends a provision pertaining to the formula for DYS's division of county juvenile program allocations among county juvenile courts.

Child abuse or neglect

Report to State Highway Patrol

(R.C. 5139.12)

The bill requires any person who is required to report the person's knowledge of or reasonable cause to suspect abuse or neglect or threat of abuse or neglect of a child under 18 years of age or a mentally retarded, developmentally disabled, or physically impaired child under 21 years of age or any person who is permitted to report or cause such a report to be made and who makes or causes the report to be made, to direct that report to the State Highway Patrol if the child is a delinquent child in the custody of an institution under the management and control of the Department of Youth Services (DYS) or a private entity with which DYS has contracted for the institutional care and custody of felony delinquents. If the State Highway Patrol determines after receipt of the report that there is probable cause that abuse or neglect or threat of abuse or neglect of the delinquent child occurred, the Patrol must report its findings to DYS, to the court that ordered the disposition of the delinquent child for the act that would have been an offense if committed by an adult and for which the delinquent child is in the custody of DYS, to the public children services agency in the county in which the child resides or in which the abuse or neglect or threat of abuse or neglect occurred, and to the chairperson and vice-chairperson of the Correctional Institution Inspection Committee.

Mandatory reporters

(R.C. 2151.421)

The bill adds a superintendent or regional administrator employed by DYS to the list of persons who are required to report known or suspected child abuse or neglect. Under continuing law, a number of other persons, such as doctors, teachers, and social workers, who are acting in an official or professional capacity and know, or have reasonable cause to suspect based on facts that would cause a reasonable person in a similar position to suspect, that a child under 18 years of age or a mentally retarded, developmentally disabled, or physically impaired child under 21 years of age has suffered or faces a threat of suffering any physical or mental wound, injury, disability, or condition of a nature that reasonably indicates abuse or neglect of the child are prohibited from failing to immediately report that knowledge or reasonable cause to suspect. Generally, the person making the report must make it to the public children services agency or a municipal or county peace officer in the county in which the child resides or in which the abuse or neglect is occurring or has occurred.

Quality Assurance Program

(R.C. 5139.45)

The bill creates within DYS the Office of Quality Assurance and Improvement (Office). The Director of DYS must appoint a managing officer to carry out quality assurance program activities, which means the activities of the institution and the Office, of persons who provide, collect, or compile information and reports required by the Office, and of persons who receive, review, or implement the recommendations made by the Office. Quality assurance program activities include credentialing, infection control, utilization review including access to patient care, patient care assessments, medical and mental health records, medical and mental health resource management, mortality and morbidity review, and identification and prevention of medical or mental health incidents and risks, whether performed by the Office or by persons who are directed by the Office.

Under the bill, a "quality assurance program" is a comprehensive program within DYS to systematically review and improve the quality of programming, operations, education, medical and mental health services within DYS and DYS's institutions, and the efficiency and effectiveness of the utilization of staff and resources in the delivery of services within DYS and DYS's institutions. An institution is a state facility that is created by the General Assembly and that is under the management and control of DYS or a private entity with which DYS has contracted for the institutional care and custody of felony delinquents.

The bill defines a "quality assurance record" as the proceedings, records, minutes, and reports that result from quality assurance program activities. It does not include aggregate statistical information that does not disclose the identity of persons receiving or providing services in institutions. Quality assurance records generally are confidential and are not public records under the Public Records Law and must be used only in the course of the proper functions of a quality assurance program. The bill prohibits a person who possesses or has access to quality assurance records and who knows that the records are quality assurance records from willfully disclosing the contents of the records to any person or entity. The bill also provides that a quality assurance record is generally not subject to discovery and is not admissible as evidence in any judicial or administrative proceeding. Under the bill, no employee of the Office or a person who is performing a function that is part of a quality assurance program is permitted or required to testify in a judicial or administrative proceeding with respect to a quality assurance record or with respect to any finding, recommendation, evaluation, opinion, or other action taken by the Office or program or by the person within the scope of the quality assurance program.

The bill provides that information, documents, or records otherwise available from original sources cannot be unavailable for discovery or inadmissible as evidence in a judicial or administrative proceeding merely because they were presented to the Office. A person who is an employee of the Office cannot be prohibited from testifying as to matters within the person's knowledge, but the person cannot be asked about an opinion formed by the person as a result of the person's quality assurance program activities.

Under the bill, quality assurance records may be disclosed, and testimony may be provided concerning quality assurance records, only to the following persons or entities or under the following circumstances:

- Persons who are employed or retained by DYS and who have the authority to evaluate or implement the recommendations of an institution or the Office;

- Public or private agencies or organizations if needed to perform a licensing or accreditation function related to institutions or to perform monitoring of institutions as required by law;

- A governmental board or agency, a professional health care society or organization, or a professional standards review organization, if the records or testimony are needed to perform licensing, credentialing, or monitoring of professional standards with respect to medical or mental health professionals employed or retained by DYS;

- A criminal or civil law enforcement agency or public health agency charged by law with the protection of public health or safety, if a qualified representative of the agency makes a written request stating that the records or testimony are necessary for a purpose authorized by law;

- In a judicial or administrative proceeding commenced by an entity described in the two preceding dot points for a purpose described in those dot points but only with respect to the subject of the proceedings.

A disclosure of quality assurance records does not otherwise waive the confidential and privileged status of the disclosed quality assurance records. The name and other identifying information regarding individual patients or employees of the Office contained in a quality assurance record must be redacted from the record prior to the disclosure of the record unless the identity of an individual is necessary for the purpose for which disclosure is being made and does not constitute a clearly warranted invasion of personal privacy.

The bill provides that a person who, without malice and in the reasonable belief that the information is warranted by the facts known to the person, provides information to a person engaged in quality assurance program activities is not liable for damages in a civil action for injury, death, or loss to person or property as a result of providing the information. An employee of the Office, a person engaged in quality assurance program activities, or an employee DYS is not liable in damages in a civil action for injury, death, or loss to person or property for any acts, omissions, decisions, or other conduct within the scope of the functions of the quality assurance program.

The bill states that nothing in the above-described provisions relieves any institution from liability arising from the treatment of a patient.

Other provisions

Placement of delinquents in a community corrections facility

(R.C. 5139.36(E), 2152.19(A)(8), 5139.05(A), and 5139.34(C)(4))

Subject to specified conditions pertaining to a child's age and the nature of a child's delinquent act (see "**Conditions**," below), the bill provides that any juvenile court order committing a delinquent child to DYS as authorized under the Juvenile Court Law, R.C. Chap. 2152., has the effect of ordering DYS to either: (1) assign the child to an institution under the control and management of DYS, or (2) place the child in a community corrections facility. Under current law, the court order has the effect of ordering DYS to assign the child to an institution under the control and management of DYS, but does not authorize DYS to place the child in a community corrections facility.

The bill eliminates a provision in the Revised Code that prohibits DYS from placing a delinquent child in a community corrections facility without notifying the committing court of DYS's intent to place the child in a community corrections facility and either receiving the consent of the court or the court failing to respond within 30 days after receiving the notice. The bill also eliminates a provision in Juvenile Court Law that prohibits a juvenile court, in the case of a child who is adjudicated a delinquent child, from making an order of disposition that places the child in a community corrections facility, if the court has committed the child to the legal custody of DYS for institutionalization or institutionalization in a secure facility and the child would be covered by the definition of a public safety beds in provisions of the Revised Code concerning the felony delinquent care and custody program.

Conditions

Under ongoing law, a Juvenile Court cannot commit a child to DYS unless the child is at least 10 years of age at the time of the child's delinquent act, and, if the child

is 10 or 11 years, the delinquent act is a violation of the offense of arson or would be aggravated murder, murder, or a first or second degree felony offense of violence if committed by an adult.

County juvenile program allocations

(R.C. 5139.41)

The bill amends a provision pertaining to the formula for DYS's division of county juvenile program allocations among county juvenile courts that administer programs and services for prevention, early intervention, diversion, treatment, and rehabilitation for alleged or adjudicated unruly or delinquent children and children who are at risk of becoming unruly or delinquent children. Ongoing law requires DYS to subtract a credit for a specified portion of chargeable bed days from the allocations determined under the formula. Under the bill, this includes a credit for every chargeable bed day *while a youth is in DYS custody*. The language in the bill would replace current language that requires DYS to subtract a credit for every chargeable bed day *a youth stays in a DYS institution*.

MISCELLANEOUS

Agency criminal records checks, hiring and retention, and conditional hiring

Department of Aging

- Removes provisions that specify that a finding of eligibility for intervention in lieu of conviction of certain offenses is a disqualifying offense with respect to positions with the Office of the State Long-Term Care Ombudsman program or a regional long-term care ombudsman program that provide ombudsman services to residents and recipients or with respect to direct-care positions with an area agency on aging, a PASSPORT administrative agency, a provider, or a subcontractor (i.e., a direct care "responsible party").

- Clarifies a distinction between initially hiring a person and retaining a person employed in a specified position, and clarifies provisions regarding the conditional hiring of a person, with respect to positions with the Office of the State Long-Term Care Ombudsman program or a regional long-term care ombudsman program that provide ombudsman services to residents and recipients or with respect to a direct care "responsible party."

- In the provisions that require a direct care "responsible party" to conduct a review and obtain a criminal records check before hiring an applicant or retaining an employee in a direct-care position, expands the definition of "responsible party" to include a consumer who, as the employer of record, directs a consumer-directed provider, and revises procedures for the conduct of criminal records checks regarding self-employed providers so that the involved area agency on aging or PASSPORT administrative agency has the responsibility for the records checks.

Department of Health

- Removes provisions that specify that a finding of eligibility for intervention in lieu of conviction of certain offenses is a disqualifying offense with respect to positions with a home health agency that involve providing direct care to an individual.

- Clarifies a distinction between initially hiring a person and retaining a person employed in a specified position, and clarifies provisions regarding the conditional hiring of a person, with respect to positions with a home health agency that involves providing direct care to an individual.

Department of Developmental Disabilities

- Removes provisions that specify that a finding of eligibility for intervention in lieu of conviction of certain offenses is a disqualifying offense with respect to positions with the Department of Developmental Disabilities (DDD) or a county board of developmental disabilities, or with respect to direct services positions with a provider or subcontractor.

- Clarifies a distinction between initially hiring a person and retaining a person employed in a specified position, and clarifies provisions regarding the conditional hiring of a person, with respect to positions with the DDD, a county board of developmental disabilities, a provider, or a subcontractor.

- Removes provisions that specify that a finding of eligibility for intervention in lieu of conviction of certain offenses is a disqualifying offense with respect to the issuance or renewal of a supported living certificate by the DDD.

Department of Medicaid

- Clarifies a distinction between initially hiring a person and retaining a person employed in a specified position, and clarifies provisions regarding the conditional hiring of a person, with respect to positions with a Medicaid provider or positions with a waiver agency that involve providing home and community-based service.

- Removes language that refers to a finding of "eligibility for intervention in lieu of conviction" in a provision regarding the adoption of rules allowing continuation of a Medicaid provider agreement that no longer is needed.

Emergency rules

- Increases the period of time during which an emergency rule remains operative from 90 to 120 days.

Criminal records checks, hiring and retention, and conditional hiring

Department of Aging

Positions that provide ombudsman services to residents and recipients

(R.C. 109.572(A)(3) and 173.27)

Currently, as a condition of employment with the Office of the State Long-Term Care Ombudsman (OSLTCO) program or a regional long-term care ombudsman

(RLTCO) program in a full-time, part-time, or temporary position that provides ombudsman services to residents and recipients, an applicant under final consideration for such a position must undergo a database review and, unless the individual fails the database review and therefore cannot be employed, a criminal records check. An existing employee in any such position must undergo a database review and criminal records check as a condition of continuing the employment if so required by Department of Aging (ODA) rules. Currently, if an applicant or employee undergoes such a criminal records check, unless the applicant or employee meets "rehabilitation standards" adopted by rule by ODA's Director, the OSLTCO program or a RLTCO program may not *employ* the applicant or *continue to employ* the employee in the position that provides ombudsman services to residents and recipients if the records check results indicate that the person has been convicted of, pleaded guilty to, *or been found eligible for intervention in lieu of conviction for a* disqualifying offense (disqualifying offenses are listed in R.C. 109.572(A)(3)). Other related provisions also refer to *employing* an applicant or *continuing to employ* an employee.

Currently, the OSLTCO program or a RLTCO program may *employ* conditionally an applicant for a position that provides ombudsman services to residents and recipients and for whom a criminal records check is required, prior to obtaining the results of the records check, if certain specified conditions are satisfied, including that a records check is requested for the applicant within a specified period of time and that the applicant's *employment is terminated* if the results of the records check are not obtained within a specified period of time or, unless the applicant meets ODA's "rehabilitation standards," the results of the records check indicate that the person has been convicted of, pleaded guilty to, *or been found eligible for intervention in lieu of conviction for a* disqualifying offense.

Currently, if a person is serving in a position with the OSLTCO program or a RLTCO program based on the person's satisfaction of ODA's "rehabilitation standards," the program has a qualified civil immunity, so that the program may not be found negligent for the person's conduct solely because the person has been convicted of, pleaded guilty to, *or been found eligible for intervention in lieu of conviction for a* disqualifying offense.

The bill modifies the provisions regarding employment with the OSLTCO program or a RLTCO program in a full-time, part-time, or temporary position that provides ombudsman services to residents and recipients by:

(1) Removing all language in the service, conditional service, and qualified immunity provisions that equates "a finding of eligibility for intervention in lieu of conviction" for a disqualifying offense with a conviction of or plea of guilty to a disqualifying offense.

(2) Clarifying the distinction between initially hiring a person and retaining a person employed in such a position by replacing all provisions that currently refer to "employing an applicant" with provisions that refer to "hiring an applicant" and replacing all provisions that currently refer to "continuing to employ" an employee with references to "retaining" an employee.

(3) Clarifying the provisions that pertain to conditional service of a person in such a position by replacing current references to "conditionally employing" a person or the "conditional employment" of a person with references to "conditionally hiring" a person or the "conditional hiring" of a person, and by generally replacing the references to "termination of the applicant's conditional employment" with references to "removal of the conditionally hired applicant from any job duties that require a criminal records check."

Direct care positions with an area agency on aging, PASSPORT administrative agency, or provider

(R.C. 109.572(A)(3) and 173.38)

Existing law

Currently, as a condition of employment with a "responsible party" in a full-time, part-time, or temporary direct-care position, an "applicant" must undergo a database review and, unless the individual fails the database review and therefore cannot be employed, a criminal records check. An existing "employee" in any such position must undergo a database review and criminal records check as a condition of continuing the employment if so required by ODA rules (see below for definitions of the terms above in quotation marks). These provisions do not apply regarding an applicant or employee who is referred to a responsible party by an employment service that supplies staff for direct-care positions and the service confirms that a database review was conducted of the applicant or employee and sends the responsible party a report of the results of a criminal records check of the applicant or employee conducted within a specified one-year period. Currently, if an applicant or employee undergoes such a criminal records check, unless the applicant or employee meets "rehabilitation standards" adopted by rule by ODA's Director, a responsible party may not *employ* the applicant or *continue to employ* the employee if the records check results indicate that the person has been convicted of, pleaded guilty to, *or been found eligible for intervention in lieu of conviction for a* disqualifying offense (disqualifying offenses are listed in R.C. 109.572(A)(3)). Other related provisions also refer to *employing* an applicant or *continuing to employ* an employee.

Currently, a responsible party may *employ* conditionally an applicant for whom a criminal records check is required, prior to obtaining the results of the records check, if

certain specified conditions are satisfied, including that a records check is requested for the applicant within a specified period of time (or that a referring employment agency has requested a records check, has not received the results, and will send a copy of the results upon receipt of them) and that the applicant's *employment is terminated* if the results of the records check are not obtained within a specified period of time or, unless the applicant meets ODA's "rehabilitation standards," the results of the records check indicate that the person has been convicted of, pleaded guilty to, *or been found eligible for intervention in lieu of conviction for a* disqualifying offense.

Currently, if a person is serving in a position with a responsible party based on the person's satisfaction of ODA's "rehabilitation standards," the responsible party has a qualified civil immunity, so that the responsible party may not be found negligent for the person's conduct solely because the person has been convicted of, pleaded guilty to, *or been found eligible for intervention in lieu of conviction for a* disqualifying offense.

As used in the provisions described above:

"**Applicant**" means a person who is under final consideration for employment with a responsible party in a full-time, part-time, or temporary direct-care position or is referred to a responsible party by an employment service for such a position, but not a person being considered for a volunteer direct-care position.

"**Employee**" means a person who is employed by a responsible party in full-time, part-time, or temporary direct-care position or who works in such a position due to being referred to a responsible party by an employment service, but not a volunteer who works in a direct-care position.

"**Responsible party**" means: (1) an area agency on aging (AAA) in the case of a person who is an applicant under final consideration for employment with the agency in a full-time, part-time, or temporary direct-care position or is referred to the agency by an employment service for such a position, or in the case of a person who is an employee of the agency in such a position or works in such a position due to being referred to the agency by an employment service, (2) a PASSPORT administrative agency (PAA) in the case of a person who is under final consideration for employment with the agency in a full-time, part-time, or temporary direct-care position or is referred to the agency by an employment service for such a position, or in the case of a person who is an employee of the agency in such a position or works in such a position due to being referred to the agency by an employment service, (3) a "provider" (defined in R.C. 173.39) in the case of a person who is under final consideration for employment with the provider in a full-time, part-time, or temporary direct-care position or is referred to the provider by an employment service for such a position, or in the case of a person who is an employee of the agency in such a position or works in such a position due to

being referred to the agency by an employment service, or (4) a subcontractor in the case of a person who is under final consideration for employment with the subcontractor in a full-time, part-time, or temporary direct-care position or is referred to the subcontractor by an employment service for such a position, or in the case of a person who is an employee of the subcontractor in such a position or works in such a position due to being referred to the subcontractor by an employment service.

Operation of the bill

The bill modifies the provisions regarding employment with a responsible party in a full-time, part-time, or temporary direct-care position by:

(1) Removing all language in the service, conditional service, and qualified immunity provisions that equates "a finding of eligibility for intervention in lieu of conviction" for a disqualifying offense with a conviction of or plea of guilty to a disqualifying offense.

(2) Clarifying the distinction between initially hiring a person and retaining a person employed in such a position by replacing all provisions that currently refer to "employing an applicant" with provisions that refer to "hiring an applicant" and replacing all provisions that currently refer to "continuing to employ" an employee with references to "retaining" an employee (a similar replacement also is made with respect to existing terminology that refers to employment of an applicant or employee, but uses somewhat different phraseology).

(3) Clarifying the provisions that pertain to conditional service of a person in such a position by replacing current references to "conditionally employing" a person or the "conditional employment" of a person with references to "conditionally hiring" a person or the "conditional hiring" of a person, and by generally replacing the references to "termination of the applicant's conditional employment" with references to "removal of the conditionally hired applicant from any job duties that require a criminal records check."

(4) Expanding the definition of "applicant" so that it also includes a "self-employed" (see below) provider bidding on a contract or grant with an AAA to provide community-based long-term care services, and a self-employed provider applying under R.C. 173.391 for certification to provide community-based long-term care services. As a result, the existing provisions described above that apply with respect to "applicants" also apply with respect to these self-employed providers.

(5) Expanding the definition of "employee" so that it also includes a "self-employed" (see below) provider who has a contract or grant with an AAA to provide community-based long-term care services, and a self-employed provider certified under

R.C. 173.391 to provide community-based long-term care services. As a result, the existing provisions described above that apply with respect to "employees" also apply with respect to these self-employed providers.

(6) Expanding the definition of "responsible party" so that it also includes: (a) an AAA in the case of a self-employed provider who is an applicant bidding on a contract or grant with the AAA to provide community-based long-term care services, or in the case of a self-employed provider who is an employee because the provider has a contract with the AAA to provide community-based long-term care services, (b) a PAA in the case a self-employed provider who is an applicant applying under R.C. 173.391 for certification to provide community-based long-term care services and intends to provide the services in the area served by the PAA, or in the case of a self-employed provider who is an employee because the provider is certified under R.C. 173.391 to provide community-based long-term care services and provides the services in the area served by the PAA, and (c) a subcontractor in the case of a consumer who, as the employer of record, directs a consumer-directed provider. As a result of these changes, the existing provisions described above that apply with respect to "responsible parties" also apply with respect to AAAs, PAAs, and subcontractors in the specified circumstances.

(7) Defining "self-employed" for purposes of the provisions described above as the state of working for one's self with no employees; a consumer-directed provider is not self-employed because the consumer is the employer of record.

Department of Health

(R.C. 109.572(A)(3) and 3701.881)

Currently, as a condition of employment with a home health agency in a full-time, part-time, or temporary position that involves providing direct care to an individual, an applicant under final consideration for such a position or who is referred to a home health agency by an employment service for such a position must undergo a database review and, unless the individual fails the database review and therefore cannot be employed, a criminal records check. An existing employee in any such position must undergo a database review and criminal records check as a condition of continuing the employment if so required by Department of Health (ODH) rules. These provisions do not apply regarding an applicant or employee who is referred to a home health agency by an employment service that supplies staff for positions that involve providing direct care to an individual and the service confirms that a database review was conducted of the applicant or employee and sends the agency a report of the results of a criminal records check of the applicant or employee conducted within a specified one-year period. Currently, if an applicant or employee undergoes such a criminal

records check, unless the applicant or employee meets "rehabilitation standards" adopted by rule by ODH's Director, the home health agency may not *employ* the applicant or *continue to employ* the employee in the position that involves providing direct care to an individual if the records check results indicate that the person has been convicted of, pleaded guilty to, *or been found eligible for intervention in lieu of conviction for a* disqualifying offense (disqualifying offenses are listed in R.C. 109.572(A)(3)). Other related provisions also refer to *employing* an applicant or *continuing to employ* an employee.

Currently, a home health agency may *employ* conditionally an applicant for a position that involves providing direct care to an individual and for whom a criminal records check is required, prior to obtaining the results of the records check, if certain specified conditions are satisfied, including that a records check is requested for the applicant within a specified period of time and that the applicant's *employment is terminated* if the results of the records check are not obtained within a specified period of time or, unless the applicant meets ODH's "rehabilitation standards," the results of the records check indicate that the person has been convicted of, pleaded guilty to, *or been found eligible for intervention in lieu of conviction for a* disqualifying offense.

Currently, if a person is serving in a position with a home health agency based on the person's satisfaction of ODH's "rehabilitation standards," the program has a qualified civil immunity, so that the program may not be found negligent for the person's conduct solely because the person has been convicted of, pleaded guilty to, *or been found eligible for intervention in lieu of conviction for a* disqualifying offense.

The bill modifies the provisions regarding employment with a home health agency in a full-time, part-time, or temporary position that involves providing direct care to an individual by:

(1) Removing all language in the service, conditional service, and qualified immunity provisions that equates "a finding of eligibility for intervention in lieu of conviction" for a disqualifying offense with a conviction of or plea of guilty to a disqualifying offense.

(2) Clarifying the distinction between initially hiring a person and retaining a person employed in such a position by replacing all provisions that currently refer to "employing an applicant" with provisions that refer to "hiring an applicant" and replacing all provisions that currently refer to "continuing to employ" an employee with references to "retaining" an employee.

(3) Clarifying the provisions that pertain to conditional service of a person in such a position by replacing current references to "conditionally employing" a person or

the "conditional employment" of a person with references to "conditionally hiring" a person or the "conditional hiring" of a person, and by generally replacing the references to "termination of the applicant's conditional employment" with references to "removal of the conditionally hired applicant from any job duties that require a criminal records check."

Department of Developmental Disabilities

(R.C. 109.572(A)(3), 5123.081, and 5123.169)

Positions with DDD or a county board of developmental disabilities and direct services position with a provider or subcontractor

Currently, as a condition of employment with the Department of Developmental Disabilities (DDD) or a county board of developmental disabilities (a county board), or a condition of employment in a direct services position with a "provider" (a defined term) or a "subcontractor" (a defined term), an applicant under final consideration for such a position, who is being transferred to the Department or a board, or who is an employee being recalled or reemployed by the Department or a board generally must undergo a criminal records check. An existing employee in any such position must undergo a database review and criminal records check as a condition of continuing the employment if so required by DDD rules. Currently, if an applicant or employee undergoes such a criminal records check, unless the applicant or employee meets "rehabilitation standards" adopted by rule by DDD's Director, DDD, a county board, a provider, or a subcontractor may not *employ* the applicant or *continue to employ* the employee if the records check results indicate that the person has been convicted of, pleaded guilty to, *or been found eligible for intervention in lieu of conviction for a* disqualifying offense (disqualifying offenses are listed in R.C. 109.572(A)(3)). Other related provisions also refer to *employing* an applicant or *continuing to employ* an employee.

Currently, DDD, a county board, a provider, or a subcontractor may *employ* conditionally an applicant for a position described above and for whom a criminal records check is required pending receipt of a report regarding the applicant. DDD, the county board, the provider, or the subcontractor must *terminate the applicant's employment* if it is determined from a report that the applicant failed to inform DDD, the county board, the provider, or the subcontractor that the applicant had been convicted of, pleaded guilty to, *or been found eligible for intervention in lieu of conviction for a* disqualifying offense.

The bill modifies the provisions regarding employment with DDD, a county board, a provider, or a subcontractor by:

(1) Removing all language in the service and conditional service provisions that equates "a finding of eligibility for intervention in lieu of conviction" for a disqualifying offense with a conviction of or plea of guilty to a disqualifying offense.

(2) Clarifying the distinction between initially hiring a person and retaining a person employed in such a position by replacing all provisions that currently refer to "employing an applicant" with provisions that refer to "hiring an applicant" and replacing all provisions that currently refer to "continuing to employ" an employee with references to "retaining" an employee.

(3) Clarifying the provisions that pertain to conditional service of a person in such a position by replacing current references to "conditionally employing" a person or the "conditional employment" of a person with references to "conditionally hiring" a person or the "conditional hiring" of a person, and by generally replacing the references to "termination of the applicant's conditional employment" with references to "removal of the conditionally hired applicant from any job duties that require a report."

Supported living certificates

Currently, as a condition of receiving or renewing a supported living certificate, an applicant must undergo a criminal records check, must submit a statement to DDD's Director attesting that the applicant has not been convicted of, pleaded guilty to, *or been found eligible for intervention in lieu of conviction for a* disqualifying offense (disqualifying offenses are listed in R.C. 109.572(A)(3)), and must sign an agreement under which the applicant agrees to notify the Director within 14 days if, while holding such a certificate, the applicant is formally charged with, is convicted of, pleads guilty to, *or is found eligible for intervention in lieu of conviction for a* disqualifying offense. Except as provided in "rehabilitation standards" adopted by DDD's Director, the Director may not issue a supported living certificate to an applicant or renew an applicant's certificate if the applicant is found by a criminal records check to have been convicted of, pleaded guilty to, *or been found eligible for intervention in lieu of conviction for a* disqualifying offense

The bill modifies the provisions regarding issuance or renewal of a supported living certificate by removing all language in the provisions that equates "a finding of eligibility for intervention in lieu of conviction" for a disqualifying offense with a conviction of or plea of guilty to a disqualifying offense.

Department of Medicaid

(R.C. 5164.34 and 5164.342)

Employees of Medicaid providers

Currently, the Department of Medicaid (ODM) may require specified persons involved in the provision of Medicaid services to submit to a criminal records check as a condition of being permitted to be so involved. In relevant part, ODM may require that any Medicaid provider conduct a database review of any employee or prospective employee and, unless the review prohibits hiring employing the employee or hiring the prospective employee, require the employee or prospective employee to submit to a criminal records check as a condition of being an employee. Currently, if a person is subject to a criminal records check, subject to "rehabilitation standards" adopted by DDD's Director, no Medicaid provider may *employ* the person if the person is found by the records check to have been convicted of or pleaded guilty to a disqualifying offense, regardless of the date of the conviction or guilty plea. Other related provisions also refer to *employing* a person.

Currently, a Medicaid provider may *employ* conditionally a person for whom a criminal records check is required prior to obtaining the results of the records check if certain specified conditions are satisfied, including that a records check is requested for the person within a specified period of time and that the provider *terminate the person's employment* if the results of the records check are not obtained within a specified period of time or, unless the applicant meets ODH's "rehabilitation standards," the results of the records check indicate that the person has been convicted of or pleaded guilty to a disqualifying offense.

The bill modifies the provisions regarding employment with a Medicaid provider by:

(1) Clarifying the distinction between initially hiring a person and retaining a person employed in such a position by replacing all provisions that currently refer to "employing a person" with provisions that refer to "retaining as an employee or hiring a person."

(2) Clarifying the provisions that pertain to conditional service of a person in such a position by replacing current references to "conditionally employing" a person or the "conditional employment" of a person with references to "conditionally hiring" a person or the "conditional hiring" of a person, and by generally replacing the references to "termination of the applicant's conditional employment" with references to "removal of the conditionally hired applicant from any job duties that require a criminal records check."

(3) Removing language that refers to a finding of "eligibility for intervention in lieu of conviction" in a provision regarding the adoption of rules allowing continuation of a Medicaid provider agreement in circumstances in which a provider has been convicted of, pleaded guilty to, or been found eligible for intervention in lieu of conviction (all other "intervention in lieu of conviction" language in the section was removed in Am. Sub. H.B. 59 of the 130th General Assembly).

Positions with a waiver agency that involve providing home and community-based services

Currently, as a condition of employment with a "waiver agency" (a defined term) in a full-time, part-time, or temporary position that involves providing home and community-based service, an applicant under final consideration for the position must submit to a criminal records check. An existing employee in any such position must undergo a criminal records check as a condition of continuing the employment if so required by ODM rules. Currently, if an applicant or employee is subject to a criminal records check, subject to "rehabilitation standards" adopted by ODM's Director, no waiver agency may *employ* the applicant or *continue to employ* in a position that involves providing home and community-based services if the applicant or employee is found by the records check to have been convicted of or pleaded guilty to a disqualifying offense, regardless of the date of the conviction or guilty plea. Related provisions also refer to *employing* or *continuing to employ* a person.

Currently, a waiver agency may *employ* conditionally an applicant for whom a criminal records check is required prior to obtaining the results of the records check if certain specified conditions are satisfied, including that a records check is requested for the person within a specified period of time and that the waiver agency *terminate the applicant's employment* if the results of the records check are not obtained within a specified period of time or, unless the applicant meets ODH's "rehabilitation standards," the results of the records check indicate that the applicant has been convicted of or pleaded guilty to a disqualifying offense.

The bill modifies the provisions regarding employment with a waiver agency in a position that involves providing home and community-based services by:

(1) Clarifying the distinction between initially hiring a person and retaining a person employed in such a position by replacing all provisions that currently refer to "employing an applicant" with provisions that refer to "hiring an applicant" and replacing all provisions that currently refer to "continuing to employ" an employee with references to "retaining" an employee.

(2) Clarifying the provisions that pertain to conditional service of an applicant person in such a position by replacing current references to "conditionally employing"

an applicant or the "conditional employment" of an applicant with references to "conditionally hiring" an applicant or the "conditional hiring" of an applicant, and by generally replacing the references to "termination of the applicant's conditional employment" with references to "removal of the conditionally hired applicant from any job duties that require a criminal records check."

Operational duration of emergency rules increased

(R.C. 111.15 and 119.03)

The bill increases the period of time during which an emergency rule remains operative from 90 to 120 days. Emergency rules are adopted short-cutting the regular, nonemergency rule-making procedure. For example, emergency rules are exempt from business and legislative review, which nonemergency rules must be put through. But emergency rules remain operational for only a limited period of time. During this operational period, the agency must readopt the emergency rule under the regular, nonemergency rule-making procedure if it wants the rule to remain in effect upon expiration of the operative period.

EFFECTIVE DATES

(Section 812.20)

The bill provides that specified provisions are not subject to the referendum and go into immediate effect.

HISTORY

ACTION	DATE
Introduced	03-18-14

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