

OPPONENT TESTIMONY ON HOUSE BILL 647

Ohio House Children and Human Services Committee

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Chair White, Vice Chair Barhorst, Ranking Member Mohamed, and members of the committee: thank you for the opportunity to testify today in opposition to House Bill 647.

My name is Aaron Bohr. I own and operate Barrel of Monkeys Childcare and Preschool in Austintown, Ohio. I appreciate that the committee has amended this bill, including removing the summary license suspension provisions. But the core problems remain. Even as amended, HB 647 will destabilize child care providers and strip due process protections.

Attendance-Based Payment Is the Core Problem

The most damaging provision in HB 647 is the reversal of enrollment-based payment. Current law requires Ohio to move to paying providers based on enrollment by July 2028. This bill strikes that deadline and locks us into attendance-based payment permanently. The LSC's own fiscal note says this will save DCY "tens of millions of dollars annually." Those tens of millions come directly out of the 5,200 child care facilities serving over 141,000 Ohio children.

This is not a technical distinction. It is the difference between a business model that works and one that guarantees failure. Ohio law requires me to staff to fixed ratios regardless of daily attendance. If I enroll 20 toddlers, I must have three teachers every day. When four children stay home sick, I still pay three teachers—but I lose that day's revenue for those four children. The cost is the same. The revenue is not.

The damage goes far beyond losing a single day's pay. In November 2025, Ohio raised the full-time threshold from 25 hours to 33 hours per week. A child who attends six and a half hours a day, five days a week—32.5 hours—is now classified as part-time. That reclassification costs me over \$110 per preschooler per week—a 34 percent cut. For infants, it's over \$130 per child per week—more than a 32 percent loss. That single reclassification wipes out more than the entire weekly premium I earn for maintaining Gold-level quality through Step Up to Quality.

And Step Up to Quality makes these losses hit even harder. To maintain our Gold rating, we are required to operate at stricter staff-to-child ratios and smaller group sizes than state licensing minimums. That means more teachers per classroom and fewer children to spread revenue across. So when attendance-based payment cuts our income by a third per child, there is less room to absorb the loss. The very program the state asks us to participate in amplifies the financial damage of the payment system this bill locks into place.

Since 2020, 382 Ohio child care facilities have closed. Fifty-five percent of providers report that monthly revenue does not cover expenses under the current model. More than 20 states have already moved to enrollment-based payment because they understand this basic math. Ohio is choosing to move in the opposite direction.

Contract Termination and Due Process Concerns

The amendment removing license suspension was a positive step. But the bill still lets DCY suspend or terminate a provider's contract on "reason to suspect" fraud—and that decision is final. No appeal, no hearing, no review. For many of us, losing our contract is just as devastating as losing our license. It eliminates our ability to serve subsidized families, which can be the majority of our enrollment. A contract termination based on suspicion, with no right to appeal, is a due process problem this bill has not fixed.

The Fraud Premise Is Misplaced

This bill responds to the \$250 million Feeding Our Future case in Minnesota. But Ohio is not Minnesota. Ohio's own prosecutors told the LSC that child care fraud referrals have been "extremely rare." Yet this bill spends \$5 million on surveillance while gutting the Child Care Cred Program from \$10 million to \$600,000. If the General Assembly is serious about fraud, the most effective measure is enrollment-based payment. It eliminates the incentive to falsify attendance records. HB 647 does the opposite—it preserves the fraud-prone system and spends millions to police it.

Closing

I appreciate the amendments this committee has made. But the fundamental problems remain. I am asking you to reject HB 647 in its current form. We need a payment system that reflects how child care actually works, due process for contract actions, and investment in programs that help families—not surveillance of a sector where fraud has been, in the words of Ohio's own prosecutors, "extremely rare."

Thank you. I am happy to answer any questions.

OPPOSITION BRIEF

Ohio House Bill 647

Arguments Against HB 647 from the
Perspective of Ohio Child Care Providers

Prepared by Ohio Childcare Provider Coalition
March 2026

This bill does not fix child care. It punishes the providers keeping it alive.

Argument 1: Attendance-Based Payment Is Economically Illiterate

HB 647 codifies attendance-based payment and removes the existing statutory deadline for transitioning to enrollment-based payment by striking the July 9, 2028 date from current law. This is the single most damaging provision in the bill, and it betrays a fundamental misunderstanding of how child care businesses operate.

You Cannot Staff a Center Based on Who Shows Up

Ohio law requires fixed staff-to-child ratios: 1:5 for infants, 1:7 for toddlers, 1:12 for preschoolers, 1:18 for school-age. Providers must **staff to enrollment** because they cannot predict daily attendance. If 20 toddlers are enrolled, the center must schedule 3 toddler teachers every day. If 4 toddlers stay home sick on Tuesday, the center still has 3 teachers on the clock. The staff cost is identical whether 16 or 20 toddlers walk in the door. Under attendance-based payment, the center just lost 4 toddlers' worth of daily revenue while its cost structure didn't change by a single dollar.

No Other Industry Works This Way

Private-pay families pay for their child's spot, not for the days their child happens to attend. Tuition is tuition—just like a gym membership, a preschool, or a university. You pay for the seat whether you use it or not, because the facility, staff, and overhead exist regardless. The state's attendance-based model demands that providers hold spots open, maintain full staffing, and bear the full cost of operations—but only get paid when the child physically walks through the door. That's not a payment model. It's a setup for bankruptcy.

The Numbers Prove It

- **55% of Ohio providers** report that monthly revenue does not cover expenses under the current attendance-based model (Ohio DCY Market Rate Survey, 2024).
- **382 Ohio child care facilities** have closed since 2020.
- Providers have documented individual losses of **\$30,000–\$40,000 within two months** of the November 2025 hour-bucket changes under HB 96.
- **80% of child care center directors** say they would be more likely to serve subsidized families if the state paid based on enrollment rather than attendance (Child Care Aware national survey).
- **More than 20 states** have already moved to enrollment-based payment. Ohio is moving in the opposite direction.

HB 647 Eliminates the Enrollment-Based Transition

Current Ohio law (as amended by HB 184) requires the state to implement enrollment-based payments by July 9, 2028. HB 647 strikes that deadline entirely. It doesn't delay it. It **kills it**. This tells every child care provider in Ohio: we know the model is broken, and we have no intention of fixing it. The bill replaces a path toward financial stability with a permanent system of financial precarity—and then layers surveillance and punishment on top of it.

Argument 2: Suspension on “Suspicion” Violates Due Process

HB 647 allows the Department of Children and Youth to suspend a provider’s license without a prior hearing if it has “reason to suspect” that the provider engaged in misuse of public dollars or acted with intent to commit fraud (Sec. 5104.042). It also allows the department to suspend or terminate contracts based on the same “reason to suspect” standard (Sec. 5104.32(D)). And then Section 5104.32(F) makes those decisions **final and not subject to appeal, hearing, or further review**.

The Evidentiary Standard Is Alarmingly Low

“Reason to suspect” is not a recognized legal standard of proof. It is lower than:

- **Preponderance of the evidence** (civil standard)
- **Probable cause** (criminal investigation threshold)
- **Credible allegation** (Medicaid suspension standard under 42 CFR § 455.23)
- **Reasonable suspicion** (Terry stop standard in criminal law)

Even the federal Medicaid program—which has dealt with far larger fraud cases than Ohio child care—uses “credible allegation” and requires suspensions to be temporary, ending when evidence is found insufficient. HB 647 goes further than federal Medicaid enforcement while targeting a sector with far less fraud exposure.

No Appeal = No Due Process

Section 5104.32(F) eliminates all appeal rights. This provision will not survive constitutional scrutiny. The Fourteenth Amendment requires, at minimum, notice and an opportunity to be heard before the government deprives a person or entity of a property interest. A child care contract funded by the state is a property interest. A provider’s license is a property interest. Stripping all review of adverse decisions—including overpayment determinations that may be algorithmically generated—fundamentally violates the *Mathews v. Eldridge* framework.

Under *TWISM Enterprises, Inc. v. State Board of Registration* (2022), Ohio courts do not grant deference to agency interpretations. DCY decisions will face *de novo* review. The no-appeal provision doesn’t just raise constitutional concerns—it is incompatible with Ohio’s own administrative law framework.

What This Looks Like in Practice

Imagine you’re a provider with 15 years of clean operation. A data analytics algorithm flags your attendance records as “anomalous.” Maybe a parent’s check-in was glitchy on the portal. Maybe your attendance patterns are unusual because you serve shift workers. The department now has “reason to suspect.” Your license is suspended. You cannot operate. You must inform every parent. Children lose their care arrangements. Your staff goes unpaid or gets laid off. And you have no right to appeal. By the time the investigation clears you—if it clears you—your business is gone, your families have scattered, and your staff has moved on.

Argument 3: The Data Analytics System Is Unaccountable Surveillance

HB 647 appropriates \$5 million (\$2M in FY2026, \$3M in FY2027) for “enhanced data analytics in order to conduct automated attendance reviews of publicly funded child care providers.” This is a surveillance system aimed at the state’s most economically vulnerable providers and families, and the bill contains zero safeguards.

No Transparency Requirements

The bill does not require:

- Disclosure of how the algorithm works or what triggers a flag
- Accuracy testing or error rate reporting
- Bias auditing to determine if certain communities, geographies, or provider types are disproportionately flagged
- Human review of algorithmic flags before enforcement action
- Data security standards or breach notification requirements
- An appeals process for providers who believe they were incorrectly flagged

False Positives Will Destroy Businesses

Every fraud detection system generates false positives. The GAO has warned that AI tools in government require clean, reliable data to function effectively—and that many federal programs lack it. Ohio’s child care attendance tracking system is already plagued by portal glitches, login issues, and inconsistent data entry. Layering an AI fraud detection system on top of dirty data is a recipe for false accusations at scale. When a false positive means your license is suspended and you have no appeal, the system does not detect fraud—it manufactures harm.

\$5 Million for Surveillance, \$0 for Providers

This \$5 million comes from the Community Projects and Assistance line item—money originally intended to support child care access and affordability. The state is redirecting funds away from helping families access care and toward building a system to surveil and punish the providers who deliver that care. As Policy Matters Ohio has noted, this bill pours resources into untested surveillance systems that will further deepen the child care crisis instead of addressing real needs like adequate funding, affordable care, and options for families who work nontraditional hours.

Argument 4: The Bill Harms Working Families

Eliminates Nontraditional Hours Flexibility

HB 647 eliminates the existing provision that allows a parent to receive publicly funded child care from more than one provider when the child needs additional care during nontraditional hours. This directly harms nurses, construction workers, restaurant workers, and every parent working second shift, third shift, or irregular schedules. These are some of Ohio's most essential workers, and HB 647 tells them their child care needs don't matter.

Attendance-Based Payment Punishes Families

Under attendance-based payment, providers have a direct financial incentive to remove children who don't attend consistently. This disproportionately harms:

- **Children with disabilities:** Parents of children with disabilities are 3x more likely to experience childcare disruptions. More medical appointments and health-related absences mean more missed days—and under HB 647, less revenue for the provider.
- **Sick children:** Families face an impossible choice: keep a sick child home (provider loses revenue, spot is at risk) or send them to care (spreading illness). This conflicts with basic public health policy.
- **Transportation-insecure families:** Low-income families with unreliable transportation—the very population subsidized child care is supposed to serve—face attendance challenges through no fault of their own.
- **ADA implications:** Uniform attendance policies applied without accommodating disability-related absences may constitute illegal discrimination under the Americans with Disabilities Act.

Closures Caused by This Model Reduce Access

382 Ohio child care facilities have closed since 2020. Every closure creates a child care desert. When a provider goes under because attendance-based payment made their business unsustainable, the families they served don't magically find care elsewhere. They lose a parent's income, drop out of the workforce, or turn to unlicensed, unregulated arrangements. HB 647 will accelerate closures, not prevent fraud.

Argument 5: The Bill Creates Dangerous Safety Incentives

Attendance-based payment creates a structural conflict between a provider’s financial survival and their duty of care. This is not hypothetical. It was demonstrated during Winter Storm Fern (January 24, 2026) and during every weather emergency, school closure, and public health event that Ohio has experienced.

The Impossible Choice

Close for Safety	Stay Open for Revenue
Loses subsidy revenue for days closed	Maintains revenue but creates liability exposure
May not survive financially	If a child is injured, faces negligence lawsuit
Acts in children’s best interest	Financial motive may aggravate liability finding
Families lose care for the day	Insurance may deny coverage (“known hazard” exclusion)

When schools close for dangerous conditions, they make a safety determination that those conditions are unsafe for children. Child care providers serve *younger, more vulnerable children*. If conditions are too dangerous for a teenager, they are certainly too dangerous for a toddler. Yet attendance-based funding pressures providers to stay open anyway, because closing means losing money. HB 647 makes this structural negligence permanent.

Enrollment-Based Payment Solved This Problem

Massachusetts demonstrated this during COVID-19. When the state switched to enrollment-based reimbursement, providers could make safety-first decisions without facing financial ruin. When funding was decoupled from attendance, the duty-of-care conflict disappeared. The state retained 95% of its subsidized provider capacity. HB 647 does the opposite—it locks in the model that *forces providers to choose between children’s safety and their own survival*.

Argument 6: The Bill Moves Ohio Backward on Federal Policy

The 2024 CCDF Final Rule (45 CFR §98.45(m)), effective April 30, 2024, required states to pay providers based on enrollment, not attendance, and to pay prospectively before service delivery. Although the Trump administration proposed rescinding these provisions in January 2026, that rule is not finalized. The 2024 requirements remain binding federal law.

Ohio Is Already Non-Compliant

Ohio obtained a waiver from the enrollment-based payment requirement expiring August 1, 2026. HB 184 delayed implementation to 2028. HB 647 now proposes to **eliminate the implementation deadline entirely**. This creates open-ended federal non-compliance. HHS has already demonstrated willingness to enforce: \$2.4 billion in CCDF funds were frozen across 5 states in January 2026; Mississippi was required to return \$22.3 million; New York \$24.7 million. Ohio is making itself a target.

More Than 20 States Are Ahead of Ohio

More than 20 states have already implemented enrollment-based payment. Ohio's neighbors are paying at significantly higher percentiles:

State	Market Rate Percentile
Kentucky	92nd
Michigan	87th
West Virginia	80th
Indiana	75th
Ohio	50th (tied last of 45 states)

Ohio pays at the 50th percentile—tied for dead last among 45 states reporting. Instead of addressing the funding crisis, HB 647 doubles down on a broken model and adds punitive enforcement on top of it.

Argument 7: This Bill Solves a Problem That Barely Exists in Ohio

HB 647 was introduced in the shadow of national headlines about child care fraud in Minnesota (the \$250 million Feeding Our Future case) and the political momentum created by DOGE's focus on government waste. But Ohio is not Minnesota. The bill's sponsors have not presented evidence of systemic child care fraud in Ohio that would justify this level of enforcement infrastructure.

Where Is the Ohio Evidence?

- The bill's sponsors have not cited a specific dollar amount of fraud in Ohio's child care system.
- DCY Director Kara Wentz testified that the department's oversight is "ongoing" and "strong."
- Ohio already has existing fraud investigation and prosecution mechanisms through county prosecutors and the state auditor.
- The \$5 million data analytics appropriation is a solution in search of a problem—redirecting funds from child care access to surveillance without evidence that the surveillance is needed.

The Real Fraud Is Underfunding

While legislators focus on hypothetical provider fraud, there is well-documented, systemic harm being done to providers and families by the state's own policies: reimbursement rates at the bottom of the national scale, hour-bucket changes that cut pay while claiming neutrality, hundreds of closures, and over \$500 million in unallocated ARPA stabilization funds that were supposed to prevent exactly this crisis. The bill treats providers as suspects while the state fails to meet its own obligations.

Argument 8: The AG Centralization Creates Political Weaponization Risk

Section 109.44 gives the Attorney General exclusive authority over all investigations and prosecutions initiated under the new section. This means an elected political official—not a neutral administrative agency—controls who gets investigated, how aggressively, and whether it proceeds to prosecution. The AG receives all rights, privileges, and powers of a prosecuting attorney, including forfeiture powers.

- The AG can self-initiate investigations without a referral from anyone.
- Asset forfeiture provisions apply, creating a financial incentive to pursue cases regardless of merit.
- There is no independent oversight of the AG's exercise of these powers.
- County prosecutors retain concurrent jurisdiction, meaning a provider could face investigations from multiple political actors simultaneously.

In a political environment where fraud allegations make headlines and child care providers have no organized lobbying power, this structure invites abuse. A provider flagged by the data analytics system becomes a politically convenient target for an AG looking to demonstrate action on fraud—whether or not the flag was accurate.

What Providers Demand Instead

We do not oppose accountability. We oppose a bill that punishes providers for a system the state broke. If Ohio is serious about program integrity, here is what an honest bill would look like:

1. **Implement enrollment-based payment immediately.** Follow the more than 20 states that have already made this transition. This is the single most effective anti-fraud measure because it eliminates the incentive to falsify attendance. It also stabilizes providers financially, which reduces the desperation that breeds corner-cutting.
2. **Raise rates to at least the 75th percentile.** Ohio at the 50th percentile is a policy choice, not a budget constraint. Adequate rates mean providers can operate sustainably, serve subsidized families, and maintain quality without financial pressure.
3. **Require due process for all enforcement actions.** At minimum: a pre-suspension hearing (or immediate post-suspension hearing within 10 business days), a defined evidentiary standard higher than “reason to suspect,” meaningful appeal rights, and the right to know what evidence or algorithm triggered the action.
4. **Add transparency and accountability requirements for data analytics.** Mandate bias auditing, accuracy reporting, human review of all algorithmic flags before enforcement, and public disclosure of error rates. If the state is going to build a surveillance system, it must be accountable.
5. **Preserve the nontraditional hours flexibility.** Do not punish nurses, first responders, and shift workers by eliminating the multi-provider waiver for nontraditional hours.
6. **Create emergency closure protections.** Guarantee that providers do not lose funding for days when the governor declares a state of emergency, local schools close for safety, or public health events require closure.
7. **Release the unallocated ARPA stabilization funds.** Over \$500 million designated for child care stabilization remains unspent while 382 facilities have closed. Release these funds before spending \$5 million on surveillance.

Ohio’s child care providers are not the enemy. We are the workforce behind the workforce. Stop treating us like suspects and start treating us like partners.

Disclaimer: This opposition brief is intended for advocacy and informational purposes. It does not constitute legal advice. For specific legal questions, consult a qualified attorney.

OPPOSE Ohio House Bill 647

136th General Assembly | Reps. Plummer & Young | Ohio Childcare Provider Coalition | March 2026

WHAT HB 647 DOES

Locks in attendance-based payment and eliminates the 2028 deadline to transition to enrollment-based payment. Appropriates \$5M for algorithmic surveillance of providers. Allows license suspension on mere “suspicion” of fraud with no prior hearing. Makes department decisions on fund recovery and contract termination **final with no right to appeal**. Gives the Attorney General sweeping investigative and forfeiture powers. Eliminates the nontraditional hours multi-provider waiver.

382 OH Daycares Closed Since 2020	55% Providers: Revenue < Expenses	50th %ile OH Rate Ranking (Last of 45 States)	24 States Already on Enrollment-Based Pay
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8 REASONS TO OPPOSE

1. Attendance Pay Is Economically Broken Providers staff to enrollment, not attendance. Ratios are fixed by law. When a child stays home, costs don't drop—only revenue does. Private-pay families pay for the spot. The state should too. HB 647 kills the 2028 enrollment-based deadline entirely.	2. Suspension on “Suspicion” = No Due Process “Reason to suspect” is lower than probable cause, credible allegation, or even reasonable suspicion. Sec. 5104.32(F) makes decisions final with no appeal. This violates 14th Amendment due process under Mathews v. Eldridge and conflicts with Ohio's own TWISM precedent (2022).
3. Unaccountable AI Surveillance \$5M for a data analytics system with zero transparency: no bias auditing, no accuracy reporting, no human review before enforcement, no appeal for false positives. Built on a portal already plagued by glitches. A false flag = your license suspended, business destroyed.	4. Harms Working Families Eliminates nontraditional hours waiver—punishing nurses, first responders, and shift workers. Attendance-based pay pressures providers to remove kids with disabilities, sick children, and transportation-insecure families. Potential ADA violations.
5. Creates Dangerous Safety Incentives When schools close for blizzards or emergencies, attendance-based pay forces providers to choose: close and lose money, or stay open and risk children's safety. This duty-of-care conflict is textbook negligence exposure—and HB 647 makes it permanent.	6. Moves Ohio Backward on Federal Policy Federal CCDF rules still require enrollment-based pay. More than 20 states comply. Ohio's waiver expires Aug 2026. HB 647 eliminates the transition entirely. HHS froze \$2.4B across 5 states in Jan 2026 for non-compliance. Ohio is making itself a target.
7. Solves a Problem That Barely Exists Here Sponsors cite no evidence of systemic Ohio child care fraud. DCY Director Wente says oversight is “strong.” This is reactionary legislation driven by Minnesota headlines and DOGE politics—not Ohio data. The \$5M analytics spend is a solution in search of a problem.	8. AG Powers Invite Political Weaponization New Sec. 109.44 gives the AG self-initiated investigation authority with asset forfeiture powers and no independent oversight. Providers flagged by an algorithm become politically convenient targets. County prosecutors also retain jurisdiction—meaning dual investigations.

WHAT OHIO PROVIDERS NEED INSTEAD: Enrollment-based payment now • Rates at 75th percentile • Due process for all enforcement • AI transparency & human review • Emergency closure protections • Preserve nontraditional hours waiver • Release \$500M+ unspent ARPA funds

Ohio's child care providers are not the enemy. We are the workforce behind the workforce.

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