

As Reported by the House Children and Human Services Committee

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Sub. H. B. No. 647

Representatives Plummer, Young

Cosponsors: Representatives White, A., Fowler Arthur

To amend sections 5104.01, 5104.30, 5104.32,
5104.34, 5104.38, and 5104.53 and to enact
sections 5104.321 and 5104.45 of the Revised
Code to revise the law governing the publicly
funded child care program.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 5104.01, 5104.30, 5104.32,
5104.34, 5104.38, and 5104.53 be amended and sections 5104.321
and 5104.45 of the Revised Code be enacted to read as follows:

Sec. 5104.01. As used in this chapter:

(A) "Administrator" means the person responsible for the
daily operation of a center, type A home, or approved child day
camp. The administrator and the owner may be the same person.

(B) "Approved child day camp" means a child day camp
approved pursuant to section 5104.22 of the Revised Code.

(C) "Authorized representative" means an individual
employed by a center, type A home, or approved child day camp
that is owned by a person other than an individual and who is
authorized by the owner to do all of the following:

(1) Communicate on the owner's behalf;	19
(2) Submit on the owner's behalf applications for licensure or approval;	20 21
(3) Enter into on the owner's behalf provider agreements for publicly funded child care.	22 23
(D) "Border state child care provider" means a child care provider that is located in a state bordering Ohio and that is licensed, certified, or otherwise approved by that state to provide child care funded by the child care block grant act.	24 25 26 27
(E) "Career pathways model" means an alternative pathway to meeting the requirements to be a child care staff member or administrator that does both of the following:	28 29 30
(1) Uses a framework approved by the director of children and youth to document formal education, training, experience, and specialized credentials and certifications;	31 32 33
(2) Allows the child care staff member or administrator to achieve a designation as an early childhood professional level one, two, three, four, five, or six.	34 35 36
(F) "Caretaker parent" means the father or mother of a child whose presence in the home is needed as the caretaker of the child, a person who has legal custody of a child and whose presence in the home is needed as the caretaker of the child, a guardian of a child whose presence in the home is needed as the caretaker of the child, and any other person who stands in loco parentis with respect to the child and whose presence in the home is needed as the caretaker of the child.	37 38 39 40 41 42 43 44
(G) "Chartered nonpublic school" means a school that meets standards for nonpublic schools prescribed by the director of	45 46

education and workforce for nonpublic schools pursuant to 47
section 3301.07 of the Revised Code. 48

(H) "Child" includes an infant, toddler, preschool-age 49
child, or school-age child. 50

(I) "Child care block grant act" means the "Child Care and 51
Development Block Grant Act of 2014," 128 Stat. 1971 (2014), 42 52
U.S.C. 9858, as amended. 53

(J) "Child day camp" means a program in which only school- 54
age children attend or participate, that operates for no more 55
than twelve hours per day and no more than fifteen weeks during 56
the summer. For purposes of this division, the maximum twelve 57
hours of operation time does not include transportation time 58
from a child's home to a child day camp and from a child day 59
camp to a child's home. 60

(K) "Child care" means all of the following: 61

(1) Administering to the needs of infants, toddlers, 62
preschool-age children, and school-age children outside of 63
school hours; 64

(2) By persons other than their parents, guardians, or 65
custodians; 66

(3) For part of the twenty-four-hour day; 67

(4) In a place other than a child's own home, except that 68
an in-home aide provides child care in the child's own home; 69

(5) By a provider required by this chapter to be licensed 70
or approved by the department of children and youth, certified 71
by a county department of job and family services, or under 72
contract with the department to provide publicly funded child 73
care as described in section 5104.32 of the Revised Code. 74

(L) "Child care center" and "center" mean any place that 75
is not the permanent residence of the licensee or administrator 76
in which child care or publicly funded child care is provided 77
for seven or more children at one time. "Child care center" and 78
"center" do not include any of the following: 79

(1) A place located in and operated by a hospital, as 80
defined in section 3727.01 of the Revised Code, in which the 81
needs of children are administered to, if all the children whose 82
needs are being administered to are monitored under the on-site 83
supervision of a physician licensed under Chapter 4731. of the 84
Revised Code or a registered nurse licensed under Chapter 4723. 85
of the Revised Code, and the services are provided only for 86
children who, in the opinion of the child's parent, guardian, or 87
custodian, are exhibiting symptoms of a communicable disease or 88
other illness or are injured; 89

(2) A child day camp; 90

(3) A place that provides care, if all of the following 91
apply: 92

(a) An organized religious body provides the care; 93

(b) A parent, custodian, or guardian of at least one child 94
receiving care is on the premises and readily accessible at all 95
times; 96

(c) The care is not provided for more than thirty days a 97
year; 98

(d) The care is provided only for preschool-age and 99
school-age children. 100

(M) "Child care resource and referral service 101
organization" means a community-based nonprofit organization 102

that provides child care resource and referral services but not	103
child care.	104
(N) "Child care resource and referral services" means all	105
of the following services:	106
(1) Maintenance of a uniform data base of all child care	107
providers in the community that are in compliance with this	108
chapter, including current occupancy and vacancy data;	109
(2) Provision of individualized consumer education to	110
families seeking child care;	111
(3) Provision of timely referrals of available child care	112
providers to families seeking child care;	113
(4) Recruitment of child care providers;	114
(5) Assistance in developing, conducting, and	115
disseminating training for child care professionals and	116
provision of technical assistance to current and potential child	117
care providers, employers, and the community;	118
(6) Collection and analysis of data on the supply of and	119
demand for child care in the community;	120
(7) Technical assistance concerning locally, state, and	121
federally funded child care and early childhood education	122
programs;	123
(8) Stimulation of employer involvement in making child	124
care more affordable, more available, safer, and of higher	125
quality for their employees and for the community;	126
(9) Provision of written educational materials to	127
caretaker parents and informational resources to child care	128
providers;	129

(10) Coordination of services among child care resource 130
and referral service organizations to assist in developing and 131
maintaining a statewide system of child care resource and 132
referral services if required by the department of children and 133
youth; 134

(11) Cooperation with the county department of job and 135
family services in encouraging the establishment of parent 136
cooperative child care centers and parent cooperative type A 137
family child care homes. 138

(O) "Child care staff member" means an employee of a child 139
care center, type A family child care home, licensed type B 140
family child care home, or approved child day camp who is 141
primarily responsible for the care and supervision of children. 142
The administrator, authorized representative, or owner may be a 143
child care staff member when not involved in other duties. 144

(P) "Drop-in child care center," "drop-in center," "drop- 145
in type A family child care home," and "drop-in type A home" 146
mean a center or type A home that provides child care or 147
publicly funded child care for children on a temporary, 148
irregular basis. 149

(Q) "Early learning and development program" has the same 150
meaning as "licensed child care program." 151

(R) "Employee" means a person who either: 152

(1) Receives compensation for duties performed in a child 153
care center, type A family child care home, licensed type B 154
family child care home, or approved child day camp; 155

(2) Is assigned specific working hours or duties in a 156
child care center, type A family child care home, licensed type 157
B family child care home, or approved child day camp. 158

(S) "Employer" means a person, firm, institution, 159
organization, or agency that operates a child care center, type 160
A family child care home, licensed type B family child care 161
home, or approved child day camp subject to licensure or 162
approval under this chapter. 163

(T) "Federal poverty line" means the official poverty 164
guideline as revised annually in accordance with section 673(2) 165
of the "Omnibus Budget Reconciliation Act of 1981," 95 Stat. 166
511, 42 U.S.C. 9902, as amended, for a family size equal to the 167
size of the family of the person whose income is being 168
determined. 169

(U) "Fraud against the publicly funded child care program" 170
means an intentional deception or misrepresentation made by a 171
person with the knowledge that the deception could result in 172
some unauthorized benefit under the publicly funded child care 173
program to the person or some other person, including a child 174
care provider. "Fraud against the publicly funded child care 175
program" includes any act that constitutes fraud under federal 176
law or the laws of this state. 177

(V) "Head start program" means a school-readiness program 178
that satisfies all of the following: 179

(1) Is for children from birth to age five who are from 180
low-income families; 181

(2) Receives funds distributed under the "Improving Head 182
Start for School-Readiness Act of 2007," 42 U.S.C. 9831, as 183
amended; 184

(3) Is licensed as a child care program. 185

~~(V)~~ (W) "Home education" has the same meaning as in section 186
3321.042 of the Revised Code. 187

~~(W)~~(X) "Home education learning pod" means a voluntary 188
association of parents who direct their children's education 189
through home education and includes the following 190
characteristics: 191

(1) The parents choose to group their children together in 192
a home or other location at various times, which may include 193
hours when home education is not provided. 194

(2) The pod includes only the parents' children who are 195
receiving home education, except that it also may include 196
siblings of those children, or other children who are under the 197
care of the parents, regardless of age. 198

(3) At least one parent of any of the children 199
participating in the pod must be on the premises while the pod 200
is meeting. 201

~~(X)~~(Y) "Homeless child care" means child care provided to 202
a child who satisfies any of the following: 203

(1) Is homeless as defined in 42 U.S.C. 11302; 204

(2) Is a homeless child or youth as defined in 42 U.S.C. 205
11434a; 206

(3) Resides temporarily with a caretaker in a facility 207
providing emergency shelter for homeless families or is 208
determined by a county department of job and family services to 209
be homeless. 210

~~(Y)~~(Z) "Income" means gross income, as defined in section 211
5107.10 of the Revised Code, less any amounts required by 212
federal statutes or regulations to be disregarded. 213

~~(Z)~~(AA) "Indicator checklist" means an inspection tool, 214
used in conjunction with an instrument-based program monitoring 215

information system, that contains selected licensing 216
requirements that are statistically reliable indicators or 217
predictors of a child care center's, type A family child care 218
home's, or licensed type B family child care home's compliance 219
with licensing requirements. 220

~~(AA)~~(BB) "Infant" means a child who is less than eighteen 221
months of age. 222

~~(BB)~~(CC) "In-home aide" means a person who does not reside 223
with the child but provides care in the child's home and is 224
certified by a county director of job and family services 225
pursuant to section 5104.12 of the Revised Code to provide 226
publicly funded child care to a child in a child's own home 227
pursuant to this chapter and any rules adopted under it. 228

~~(CC)~~(DD) "Instrument-based program monitoring information 229
system" means a method to assess compliance with licensing 230
requirements for child care centers, type A family child care 231
homes, and licensed type B family child care homes in which each 232
licensing requirement is assigned a weight indicative of the 233
relative importance of the requirement to the health, growth, 234
and safety of the children that is used to develop an indicator 235
checklist. 236

~~(DD)~~(EE) "License capacity" means the maximum number in 237
each age category of children who may be cared for in a child 238
care center, type A family child care home, or licensed type B 239
family child care home at one time as determined by the director 240
of children and youth considering building occupancy limits 241
established by the department of commerce, amount of available 242
indoor floor space and outdoor play space, and amount of 243
available play equipment, materials, and supplies. 244

(EE) <u>(FF)</u> "Licensed child care program" means any of the	245
following:	246
(1) A child care center licensed by the department of	247
children and youth pursuant to this chapter;	248
(2) A type A family child care home or type B family child	249
care home licensed by the department of children and youth	250
pursuant to this chapter;	251
(3) A licensed preschool program or licensed school child	252
program.	253
(FF) <u>(GG)</u> "Licensed preschool program" or "licensed school	254
child program" means a preschool program or school child	255
program, as defined in section 3301.52 of the Revised Code, that	256
is licensed by the department of children and youth pursuant to	257
sections 3301.52 to 3301.59 of the Revised Code.	258
(GG) <u>(HH)</u> "Licensed type B family child care home" and	259
"licensed type B home" mean a type B family child care home for	260
which there is a valid license issued by the director of	261
children and youth pursuant to section 5104.03 of the Revised	262
Code.	263
(HH) <u>(II)</u> "Licensee" means the owner of a child care	264
center, type A family child care home, or type B family child	265
care home that is licensed pursuant to this chapter and who is	266
responsible for ensuring compliance with this chapter and rules	267
adopted pursuant to this chapter.	268
(II) <u>(JJ)</u> "Misuse of public funds" means intentional or	269
<u>repeated improper billing, expenditure, receipt, or retention of</u>	270
<u>publicly funded child care payments in violation of this chapter</u>	271
<u>or rules adopted under it.</u>	272

<u>(KK)</u> "Operate a child day camp" means to operate,	273
establish, manage, conduct, or maintain a child day camp.	274
(JJ) <u>(LL)</u> "Owner" includes a person, as defined in section	275
1.59 of the Revised Code, or government entity.	276
(KK) <u>(MM)</u> "Parent cooperative child care center," "parent	277
cooperative center," "parent cooperative type A family child	278
care home," and "parent cooperative type A home" mean a	279
corporation or association organized for providing educational	280
services to the children of members of the corporation or	281
association, without gain to the corporation or association as	282
an entity, in which the services of the corporation or	283
association are provided only to children of the members of the	284
corporation or association, ownership and control of the	285
corporation or association rests solely with the members of the	286
corporation or association, and at least one parent-member of	287
the corporation or association is on the premises of the center	288
or type A home during its hours of operation.	289
(LL) <u>(NN)</u> "Part-time child care center," "part-time	290
center," "part-time type A family child care home," and "part-	291
time type A home" mean a center or type A home that provides	292
child care or publicly funded child care for not more than four	293
hours a day for any child or not more than fifteen consecutive	294
weeks per year, regardless of the number of hours per day.	295
(MM) <u>(OO)</u> "Place of worship" means a building where	296
activities of an organized religious group are conducted and	297
includes the grounds and any other buildings on the grounds used	298
for such activities.	299
(NN) <u>(PP)</u> "Preschool-age child" means a child who is three	300
years old or older but is not a school-age child.	301

~~(OO)~~ (QQ) "Protective child care" means publicly funded 302
child care for the direct care and protection of a child to whom 303
all of the following apply: 304

(1) A case plan has been prepared and maintained for the 305
child pursuant to section 2151.412 of the Revised Code. 306

(2) The case plan indicates a need for protective care. 307

(3) The child resides with a parent, stepparent, guardian, 308
or another person who stands in loco parentis as defined in 309
rules adopted under section 5104.38 of the Revised Code. 310

~~(PP)~~ (RR) "Publicly funded child care" means administering 311
to the needs of infants, toddlers, preschool-age children, and 312
school-age children under age thirteen during any part of the 313
twenty-four-hour day by persons other than their caretaker 314
parents for remuneration wholly or in part with federal or state 315
funds, including funds available under the child care block 316
grant act, Title IV-A, and Title XX, distributed by the 317
department of children and youth. 318

~~(QQ)~~ (SS) "Religious activities" means any of the 319
following: worship or other religious services; religious 320
instruction; Sunday school classes or other religious classes 321
conducted during or prior to worship or other religious 322
services; youth or adult fellowship activities; choir or other 323
musical group practices or programs; meals; festivals; or 324
meetings conducted by an organized religious group. 325

~~(RR)~~ (TT) "School-age child" means a child who is enrolled 326
in or is eligible to be enrolled in a grade of kindergarten or 327
above but is less than fifteen years old or, in the case of a 328
child who is receiving special needs child care, is less than 329
eighteen years old. 330

~~(SS)~~ (UU) "Serious risk noncompliance" means a licensure or 331
certification rule violation that leads to a great risk of harm 332
to, or death of, a child, and is observable, not inferable. 333

~~(TT)~~ (VV) "Special needs child care" means child care 334
provided to a child who is less than eighteen years of age and 335
either has one or more chronic health conditions or does not 336
meet age appropriate expectations in one or more areas of 337
development, including social, emotional, cognitive, 338
communicative, perceptual, motor, physical, and behavioral 339
development and that may include on a regular basis such 340
services, adaptations, modifications, or adjustments needed to 341
assist in the child's function or development. 342

~~(UU)~~ (WW) "Title IV-A" means Title IV-A of the "Social 343
Security Act," 110 Stat. 2113 (1996), 42 U.S.C. 601, as amended. 344

~~(VV)~~ (XX) "Title XX" means Title XX of the "Social Security 345
Act," 88 Stat. 2337 (1974), 42 U.S.C. 1397, as amended. 346

~~(WW)~~ (YY) "Toddler" means a child who is at least eighteen 347
months of age but less than three years of age. 348

~~(XX)~~ (ZZ) "Type A family child care home" and "type A home" 349
mean the permanent residence of the administrator in which child 350
care or publicly funded child care is provided for eight to 351
fourteen children at one time or a permanent residence of the 352
administrator in which child care is provided for four to 353
fourteen children at one time if four or more children at one 354
time are under two years of age, provided that if the number of 355
children under the age of two years at one time is greater than 356
three or the total number of children at one time is greater 357
than seven, an additional adult shall be present. In counting 358
children for the purposes of this division, any children under 359

six years of age who are related to a licensee, administrator, 360
or employee and who are on the premises of the type A home shall 361
be counted. "Type A family child care home" and "type A home" do 362
not include any child day camp. 363

~~(YY)~~ (AAA) "Type B family child care home" and "type B 364
home" mean a permanent residence of the provider in which care 365
is provided for one to seven children at one time and in which 366
no more than three children are under two years of age at one 367
time. In counting children for the purposes of this division, 368
any children under six years of age who are related to the 369
provider and who are on the premises of the type B home shall be 370
counted. "Type B family child care home" and "type B home" do 371
not include any child day camp. 372

Sec. 5104.30. (A) The department of children and youth is 373
hereby designated as the state agency responsible for 374
administration and coordination of federal and state funding for 375
publicly funded child care in this state. Publicly funded child 376
care shall be provided to the following: 377

(1) Recipients of transitional child care as provided 378
under section 5104.34 of the Revised Code; 379

(2) Participants in the Ohio works first program 380
established under Chapter 5107. of the Revised Code; 381

(3) Individuals who would be participating in the Ohio 382
works first program if not for a sanction under section 5107.16 383
of the Revised Code and who continue to participate in a work 384
activity, developmental activity, or alternative work activity 385
pursuant to an assignment under section 5107.42 of the Revised 386
Code; 387

(4) A family receiving publicly funded child care on 388

October 1, 1997, until the family's income reaches one hundred 389
fifty per cent of the federal poverty line; 390

(5) Subject to available funds, other individuals 391
determined eligible in accordance with rules adopted under 392
section 5104.38 of the Revised Code. 393

The department shall apply to the United States department 394
of health and human services for authority to operate a 395
coordinated program for publicly funded child care, if the 396
director of children and youth determines that the application 397
is necessary. For purposes of this section, the department of 398
children and youth may enter into agreements with other state 399
agencies that are involved in regulation or funding of child 400
care. The department shall consider the special needs of migrant 401
workers when it administers and coordinates publicly funded 402
child care and shall develop appropriate procedures for 403
accommodating the needs of migrant workers for publicly funded 404
child care. 405

(B) The department of children and youth shall distribute 406
state and federal funds for publicly funded child care, 407
including appropriations of state funds for publicly funded 408
child care and appropriations of federal funds available under 409
the child care block grant act, Title IV-A, and Title XX. The 410
department may use any state funds appropriated for publicly 411
funded child care as the state share required to match any 412
federal funds appropriated for publicly funded child care. 413

(C) In the use of federal funds available under the child 414
care block grant act, all of the following apply: 415

(1) The department may use the federal funds to hire staff 416
to prepare any rules required under this chapter and to 417

administer and coordinate federal and state funding for publicly funded child care.	418 419
(2) Not more than five per cent of the aggregate amount of the federal funds received for a fiscal year may be expended for administrative costs.	420 421 422
(3) The department shall allocate and use at least four per cent of the federal funds for the following:	423 424
(a) Activities designed to provide comprehensive consumer education to parents and the public;	425 426
(b) Activities that increase parental choice;	427
(c) Activities, including child care resource and referral services, designed to improve the quality, and increase the supply, of child care;	428 429 430
(d) Establishing the step up to quality program pursuant to section 5104.29 of the Revised Code.	431 432
(4) The department shall ensure that the federal funds will be used only to supplement, and will not be used to supplant, federal, state, and local funds available on the effective date of the child care block grant act for publicly funded child care and related programs. If authorized by rules adopted by the department pursuant to section 5104.42 of the Revised Code, county departments of job and family services may purchase child care from funds obtained through any other means.	433 434 435 436 437 438 439 440
(D) The department shall encourage the development of suitable child care throughout the state, especially in areas with high concentrations of recipients of public assistance and families with low incomes. The department shall encourage the development of suitable child care designed to accommodate the	441 442 443 444 445

special needs of migrant workers. On request, the department, 446
through its employees or contracts with state or community child 447
care resource and referral service organizations, shall provide 448
consultation to groups and individuals interested in developing 449
child care. The department of children and youth may enter into 450
interagency agreements with the department of education and 451
workforce, the chancellor of higher education, the department of 452
development, and other state agencies and entities whenever the 453
cooperative efforts of the other state agencies and entities are 454
necessary for the department of children and youth to fulfill 455
its duties and responsibilities under this chapter. 456

The department shall develop and maintain a registry of 457
persons providing child care. The director shall adopt rules in 458
accordance with Chapter 119. of the Revised Code establishing 459
procedures and requirements for the registry's administration. 460

(E) (1) The director shall adopt rules in accordance with 461
Chapter 119. of the Revised Code establishing both of the 462
following: 463

(a) Payment rates for providers of publicly funded child 464
care not later than the first day of July in each odd-numbered 465
year; 466

(b) A procedure for paying providers of publicly funded 467
child care. 468

(2) In establishing payment rates under division (E) (1) (a) 469
of this section, the director shall do all of the following: 470

(a) Use the information obtained from the market rate 471
survey developed and conducted in accordance with 45 C.F.R. 472
98.45; 473

(b) Establish an enhanced payment rate for providers who 474

enroll children whose <u>provide child care for caretaker parents</u>	475
<u>who work nontraditional hours;</u>	476
(c) With regard to the step up to quality program	477
established pursuant to section 5104.29 of the Revised Code,	478
establish enhanced payment rates for child care providers that	479
participate in the program.	480
(3) In establishing payment rates under division (E) (1) (a)	481
of this section, the director may establish different payment	482
rates based on any of the following:	483
(a) Geographic location of the provider;	484
(b) Type of care provided;	485
(c) Age of the child served;	486
(d) Special needs of the child served;	487
(e) Whether the expanded hours of service are provided;	488
(f) Whether weekend service is provided;	489
(g) Whether the provider has exceeded the minimum	490
requirements of state statutes and rules governing child care;	491
(h) Any other factors the director considers appropriate.	492
Sec. 5104.32. (A) All purchases of publicly funded child	493
care shall be made under a contract entered into by a licensed	494
child care center, licensed type A family child care home,	495
licensed type B family child care home, certified in-home aide,	496
approved child day camp, licensed preschool program, licensed	497
school child program, or border state child care provider and	498
the department of children and youth. All contracts for publicly	499
funded child care shall be contingent upon the availability of	500
state and federal funds. The department shall prescribe a	501

standard form to be used for all contracts for the purchase of 502
publicly funded child care, regardless of the source of public 503
funds used to purchase the child care. To the extent permitted 504
by federal law and notwithstanding any other provision of the 505
Revised Code that regulates state contracts or contracts 506
involving the expenditure of state or federal funds, all 507
contracts for publicly funded child care shall be entered into 508
in accordance with the provisions of this chapter and are exempt 509
from any other provision of the Revised Code that regulates 510
state contracts or contracts involving the expenditure of state 511
or federal funds. 512

(B) Each contract for publicly funded child care shall 513
specify at least the following: 514

(1) That the provider of publicly funded child care agrees 515
to be paid at the rate established pursuant to section 5104.30 516
of the Revised Code; 517

(2) Whether the county department of job and family 518
services, the provider, or a child care resource and referral 519
service organization will make eligibility determinations, 520
whether the provider or a child care resource and referral 521
service organization will be required to collect information to 522
be used by the county department to make eligibility 523
determinations, and the time period within which the provider or 524
child care resource and referral service organization is 525
required to complete required eligibility determinations or to 526
transmit to the county department any information collected for 527
the purpose of making eligibility determinations; 528

(3) That the provider, other than a border state child 529
care provider, shall continue to be licensed, approved, or 530
certified pursuant to this chapter and shall comply with all 531

standards and other requirements in this chapter and in rules 532
adopted pursuant to this chapter for maintaining the provider's 533
license, approval, or certification; 534

(4) That, in the case of a border state child care 535
provider, the provider shall continue to be licensed, certified, 536
or otherwise approved by the state in which the provider is 537
located and shall comply with all standards and other 538
requirements established by that state for maintaining the 539
provider's license, certificate, or other approval; 540

(5) Whether the provider will be paid by the department of 541
children and youth or in some other manner as prescribed by 542
rules adopted under section 5104.42 of the Revised Code; 543

(6) That the contract is subject to the availability of 544
state and federal funds. 545

(C) (1) The department shall establish an automated child 546
care system to track child attendance and enrollment and 547
calculate payments for publicly funded child care. ~~Not later~~ 548
~~than July 9, 2028, and thereafter, the~~ Subject to section 549
5104.321 of the Revised Code, the department shall calculate 550
payments for publicly funded child care based on a child's 551
~~enrollment, as described in 45 C.F.R. 98.45(m), rather than on a~~ 552
~~child's attendance.~~ 553

(2) Each eligible provider that provides publicly funded 554
child care shall participate in the automated child care system. 555
A provider participating in the system shall not do any of the 556
following: 557

(a) Use or have possession of a personal identification 558
number or password issued to a caretaker parent under the 559
automated child care system; 560

(b) Falsify child attendance or enrollment records;	561
(c) Knowingly seek or accept payment for publicly funded child care for a child not enrolled <u>in attendance</u> with the provider or for which the provider was not eligible;	562 563 564
(d) Knowingly seek or accept payment for child care for a child who resides in the provider's own home.	565 566
<u>(3) Unless evidence demonstrates and the department has reason to suspect waste, fraud, or abuse on the part of a provider or caretaker parent, the department may do the following:</u>	567 568 569 570
<u>(a) Except as provided in division (C) (3) (b) of this section, allow each provider participating in the automated child care system and each caretaker parent to backdate a child's attendance record only within ten business days or fourteen calendar days of the date that publicly funded child care was provided. If the tenth business day and fourteenth calendar day do not fall on the same date, the later of the two dates shall be the date within which the department shall allow the child's attendance record to be backdated.</u>	571 572 573 574 575 576 577 578 579
<u>(b) Grant approval to the provider or caretaker parent to backdate a child's attendance record within thirty days of the date that publicly funded child care was provided or scheduled to be provided if the backdating relates to either of the following:</u>	580 581 582 583 584
<u>(i) A documented emergency or extenuating circumstance beyond the provider's or caretaker parent's control, such as a system outage, natural disaster, or other serious event as the department determines;</u>	585 586 587 588
<u>(ii) The thirty-day period described in division (L) of</u>	589

section 5104.38 of the Revised Code. 590

In the event backdating is allowed or approved under 591
division (C) (3) of this section, the department shall pay the 592
provider for the child's backdated attendance. 593

(D) The department may withhold any money due under this 594
chapter and may, recover through any appropriate method any 595
money erroneously paid under this chapter, or suspend or 596
terminate a contract to provide publicly funded child care 597
entered into under this section if evidence demonstrates that a 598
provider of publicly funded child care failed to comply with 599
either any of the following: 600

(1) The That a provider of publicly funded child care 601
failed to comply with the terms of the contract entered into 602
under this section; 603

(2) This That a provider of publicly funded child care 604
failed to comply with this chapter or any rules adopted under 605
it; 606

(3) That a provider of publicly funded child care engaged 607
in the misuse of public funds or committed fraud against the 608
publicly funded child care program. 609

(E) In addition to the authority granted in division (D) 610
of this section, the department may withhold from a provider of 611
publicly funded child care any money due for a child or children 612
in the provider's care if evidence demonstrates that, in the 613
case of the child or children, the provider engaged in the 614
misuse of public funds or committed fraud against the publicly 615
funded child care program. 616

(F) If the department has evidence that a provider has 617
employed an individual who is ineligible for employment under 618

section 5104.013 of the Revised Code and the provider has not 619
released the individual from employment upon notice that the 620
individual is ineligible, the department may terminate 621
immediately the contract ~~entered into under this section~~ to 622
provide publicly funded child care entered into under this 623
section. 624

~~(F)~~(G) Any decision by the department concerning publicly 625
funded child care, including the recovery of funds, overpayment 626
determinations, and contract suspensions or terminations is 627
final and is not subject to appeal, hearing, or further review 628
under Chapter 119. of the Revised Code. 629

Sec. 5104.321. Beginning July 1, 2027, in calculating 630
payments for publicly funded child care based on a child's 631
attendance under division (C)(1) of section 5104.32 of the 632
Revised Code, all of the following apply: 633

(A) Unless evidence demonstrates and the department of 634
children and youth has reason to suspect waste, fraud, or abuse 635
on the part of a provider of publicly funded child care or 636
caretaker parent, the department may recognize the following as 637
an absent day: any day that the child is authorized and 638
scheduled to be in the care of a provider but does not receive 639
the care as authorized. Any such recognition depends on the 640
child's caretaker parent first having been notified of, and 641
giving approval for, the provider's use of the absent day. 642

(B) The department shall not pay a provider for an absent 643
day before the child's actual, initial attendance with the 644
provider. 645

(C) The department shall not recognize a full-time plus 646
authorization. 647

(D) Unless evidence demonstrates and the department has 648
reason to suspect waste, fraud, or abuse on the part of a 649
provider or caretaker parent, the department may allow a 650
provider to use an eligible absent day when care cannot be 651
provided due to an emergency or other circumstance beyond the 652
provider's control, which prevented the provider from operating 653
on a day that the child was authorized and scheduled to receive 654
care. 655

Sec. 5104.34. (A) (1) Each county department of job and 656
family services shall implement procedures for making 657
determinations of eligibility for publicly funded child care. 658
Under those procedures, the eligibility determination for each 659
applicant shall be made no later than thirty calendar days from 660
the date the county department receives a completed application 661
for publicly funded child care. Each applicant shall be notified 662
promptly of the results of the eligibility determination. An 663
applicant aggrieved by a decision or delay in making an 664
eligibility determination may appeal the decision or delay to 665
the department of children and youth in accordance with section 666
5101.35 of the Revised Code. The due process rights of 667
applicants shall be protected. 668

To the extent permitted by federal law, the county 669
department may make all determinations of eligibility for 670
publicly funded child care, may contract with child care 671
providers or child care resource and referral service 672
organizations for the providers or resource and referral service 673
organizations to make all or any part of the determinations, and 674
may contract with child care providers or child care resource 675
and referral service organizations for the providers or resource 676
and referral service organizations to collect specified 677
information for use by the county department in making 678

determinations. If a county department contracts with a child 679
care provider or a child care resource and referral service 680
organization for eligibility determinations or for the 681
collection of information, the contract shall require the 682
provider or resource and referral service organization to make 683
each eligibility determination no later than thirty calendar 684
days from the date the provider or resource and referral 685
organization receives a completed application that is the basis 686
of the determination and to collect and transmit all necessary 687
information to the county department within a period of time 688
that enables the county department to make each eligibility 689
determination no later than thirty days after the filing of the 690
application that is the basis of the determination. 691

The county department may station employees of the 692
department in various locations throughout the county to collect 693
information relevant to applications for publicly funded child 694
care and to make eligibility determinations. The county 695
department, child care provider, and child care resource and 696
referral service organization shall make each determination of 697
eligibility for publicly funded child care no later than thirty 698
days after the filing of the application that is the basis of 699
the determination, shall make each determination in accordance 700
with any relevant rules adopted pursuant to section 5104.38 of 701
the Revised Code, and shall notify promptly each applicant for 702
publicly funded child care of the results of the determination 703
of the applicant's eligibility. 704

The director of children and youth shall adopt rules in 705
accordance with Chapter 119. of the Revised Code for monitoring 706
the eligibility determination process. In accordance with those 707
rules, the state department shall monitor eligibility 708
determinations made by county departments of job and family 709

services and shall direct any entity that is not in compliance 710
with this division or any rule adopted under this division to 711
implement corrective action specified by the department. 712

(2) (a) All eligibility determinations for publicly funded 713
child care shall be made in accordance with rules adopted 714
pursuant to division (A) of section 5104.38 of the Revised Code. 715
Except as otherwise provided in this section, all of the 716
following apply: 717

(i) Publicly funded child care may be provided only to 718
eligible infants, toddlers, preschool-age children, school-age 719
children under age thirteen, or children receiving special needs 720
child care. 721

(ii) For an applicant to be eligible for publicly funded 722
child care, the caretaker parent must be employed or 723
participating in a program of education or training for an 724
amount of time reasonably related to the time that the parent's 725
children are receiving publicly funded child care. This 726
restriction does not apply to families whose children are 727
eligible for protective child care. 728

(iii) The eligibility period for publicly funded child 729
care shall be at least twelve months. 730

(b) If a caretaker parent who has been determined eligible 731
to receive publicly funded child care no longer meets the 732
requirements of division (A) (2) (a) (ii) of this section, the 733
caretaker parent may continue to receive publicly funded child 734
care for a period of at least three but not more than four 735
months not to extend beyond the caretaker parent's eligibility 736
period. 737

(c) If a child turns thirteen, or if a child receiving 738

special needs child care turns eighteen, during the eligibility 739
period, the caretaker parent may continue to receive publicly 740
funded child care until the end of that eligibility period. 741

Subject to available funds, the department of children and 742
youth shall allow a family to receive publicly funded child care 743
unless the family's income exceeds the maximum income 744
eligibility limit. Initial and continued eligibility for 745
publicly funded child care is subject to available funds unless 746
the family is receiving child care pursuant to division (A) (1), 747
(2), (3), or (4) of section 5104.30 of the Revised Code. If the 748
department must limit eligibility due to lack of available 749
funds, it shall give first priority for publicly funded child 750
care to an assistance group whose income is not more than the 751
maximum income eligibility limit that received transitional 752
child care in the previous month but is no longer eligible 753
because the eligibility period has expired. Such an assistance 754
group shall continue to receive priority for publicly funded 755
child care until its income exceeds the maximum income 756
eligibility limit. 757

(3) An assistance group that ceases to participate in the 758
Ohio works first program established under Chapter 5107. of the 759
Revised Code is eligible for transitional child care at any time 760
during the immediately following twelve-month period that both 761
of the following apply: 762

(a) The assistance group requires child care due to 763
employment; 764

(b) The assistance group's income is not more than one 765
hundred fifty per cent of the federal poverty line. 766

An assistance group ineligible to participate in the Ohio 767

works first program pursuant to section 5101.83 or section 768
5107.16 of the Revised Code is not eligible for transitional 769
child care. 770

(B) To the extent permitted by federal law, the department 771
of children and youth may require a caretaker parent determined 772
to be eligible for publicly funded child care to pay a fee 773
according to the schedule of fees established in rules adopted 774
under section 5104.38 of the Revised Code. The department shall 775
make protective child care services and homeless child care 776
services available to children without regard to the income or 777
assets of the caretaker parent of the child. 778

(C) A caretaker parent receiving publicly funded child 779
care shall report to the entity that determined eligibility any 780
changes in status with respect to employment or participation in 781
a program of education or training not later than ten calendar 782
days after the change occurs. 783

(D) If the department of children and youth determines 784
that available resources are not sufficient to provide publicly 785
funded child care to all eligible families who request it, the 786
department may establish a waiting list. The department may 787
establish separate waiting lists within the waiting list based 788
on income. 789

(E) A caretaker parent shall ~~not~~ receive publicly funded 790
child care only from ~~more than~~ one child care provider per child 791
during a week, unless ~~a county department grants~~ the family is 792
granted an exemption on a temporary basis for one of the 793
following reasons: 794

(1) ~~The child needs additional care during non-traditional~~ 795
~~hours;~~ 796

~~(2)~~—The child needs to change providers in the middle of the week, for a period not more than one week, and the hours of care provided by the providers do not overlap;

~~(3)~~(2) The child's provider is closed on scheduled school days off or on calamity days;

(3) The child's need cannot be met by one provider without impacting the family's education, employment, or training schedule.

The department is responsible for granting exemptions under this division, except that the department may authorize a county department of job and family services to do so in place of the department. The department shall not authorize a person or government entity other than a county department to grant exemptions in the department's place.

An exemption described in division (E) (3) of this section shall be valid for a period not to exceed thirty days, except that the department may, on the request of a child's caretaker parent, extend the thirty-day period to a period not to exceed six months.

Before such an extension expires, the caretaker parent may request an additional extension not to exceed a six-month period. If the department authorizes the additional extension, the caretaker parent may request one or more such extensions before each expires.

To be eligible for one or more such extensions from the thirty-day limit, the caretaker parent shall demonstrate to the department that the family's education, training, or employment schedule continues to be impacted, as described in division (E) (3) of this section.

(F) As used in this section, "maximum income eligibility limit" means the amount of income specified in rules adopted under division (A) of section 5104.38 of the Revised Code.

Sec. 5104.38. In addition to any other rules adopted under this chapter, the director of children and youth shall adopt rules in accordance with Chapter 119. of the Revised Code governing financial and administrative requirements for publicly funded child care and establishing all of the following:

(A) Procedures and criteria to be used in making determinations of eligibility for publicly funded child care that give priority to children of families with lower incomes and procedures and criteria for eligibility for publicly funded protective child care or homeless child care. The rules shall specify the maximum amount of income a family may have for initial and continued eligibility. The maximum amount shall not exceed three hundred per cent of the federal poverty line. The rules may specify exceptions to the eligibility requirements in the case of a family that previously received publicly funded child care and is seeking to have the child care reinstated after the family's eligibility was terminated.

(B) A schedule of fees requiring all eligible caretaker parents to pay a fee for publicly funded child care according to income and family size, which shall be uniform for all types of publicly funded child care, except as authorized by rule, and, to the extent permitted by federal law, shall permit the use of state and federal funds to pay the customary deposits and other advance payments that a provider charges all children who receive child care from that provider.

(C) A formula for determining the amount of state and federal funds appropriated for publicly funded child care that

may be allocated to a county department to use for	856
administrative purposes;	857
(D) Procedures to be followed by the department and county	858
departments in recruiting individuals and groups to become	859
providers of child care;	860
(E) Procedures to be followed in establishing state or	861
local programs designed to assist individuals who are eligible	862
for publicly funded child care in identifying the resources	863
available to them and to refer the individuals to appropriate	864
sources to obtain child care;	865
(F) Procedures to deal with fraud and abuse committed by	866
either recipients or providers of publicly funded child care;	867
(G) Procedures for establishing a child care grant or loan	868
program in accordance with the child care block grant act;	869
(H) Standards and procedures for applicants to apply for	870
grants and loans, and for the department to make grants and	871
loans;	872
(I) A definition of "person who stands in loco parentis"	873
for the purposes of division (00) (3) of section 5104.01 of the	874
Revised Code;	875
(J) Procedures for a county department of job and family	876
services to follow in making eligibility determinations and	877
redeterminations for publicly funded child care available	878
through telephone, computer, and other means at locations other	879
than the county department;	880
(K) If the director establishes a different payment rate	881
under division (E) (3) (d) of section 5104.30 of the Revised Code,	882
standards and procedures for determining the amount of the	883

higher payment that is to be issued to a child care provider 884
based on the special needs of the child being served; 885

(L) To the extent permitted by federal law, procedures for 886
enrolling and paying for up to thirty days of child care for a 887
child whose caretaker parent is seeking employment, taking part 888
in employment orientation activities, or taking part in 889
activities in anticipation of enrolling in or attending an 890
education or training program or activity, if the employment or 891
the education or training program or activity is expected to 892
begin within the thirty-day period; 893

(M) Any other rules necessary to carry out sections 894
5104.30 to 5104.43 of the Revised Code. 895

Sec. 5104.45. (A) Upon the written request of the director 896
of children and youth or upon the attorney general's becoming 897
aware of criminal or improper activity related to Chapter 5104. 898
and the publicly funded child care program described in section 899
5104.30 of the Revised Code, the attorney general shall 900
coordinate with the director to determine an appropriate course 901
of action in the matter, which may include an investigation 902
conducted by the attorney general. If it is determined that an 903
investigation is appropriate, the attorney general shall 904
investigate the matter, which investigation may be conducted 905
with the assistance of the superintendent of the bureau of 906
criminal identification and investigation. 907

(B) As soon as practicable after the attorney general 908
completes an investigation into the matter as described in 909
division (A) of this section and that investigation yields 910
credible findings of criminal or improper activity, which may 911
relate to waste, fraud, and abuse, the attorney general shall 912
share the investigation's findings with the prosecuting attorney 913

having jurisdiction of the matter. 914

(C) Not later than sixty days after the findings are 915
shared, the prosecuting attorney shall indicate to the attorney 916
general whether the prosecuting attorney intends to initiate and 917
prosecute in any court or tribunal of competent jurisdiction in 918
this state any necessary criminal or civil action relating to 919
the matter. If the prosecuting attorney so indicates, the 920
prosecuting attorney may initiate and prosecute any necessary 921
criminal or civil action. 922

If the prosecuting attorney notifies the attorney general 923
before the sixty days have elapsed that such a time period is 924
not sufficient for determining whether to initiate and prosecute 925
any necessary criminal or civil action, then not later than one 926
hundred twenty days after the findings are shared, the 927
prosecuting attorney shall indicate to the attorney general 928
whether the prosecuting attorney intends to initiate and 929
prosecute any necessary criminal or civil action. If the 930
prosecuting attorney so indicates, the prosecuting attorney may 931
initiate and prosecute any necessary criminal or civil action. 932

(D) If the prosecuting attorney indicates to the attorney 933
general by either time period described in division (C) of this 934
section that the prosecuting attorney will not initiate and 935
prosecute any necessary criminal or civil action, then, as part 936
of such indication, the prosecuting attorney shall share with 937
the attorney general any information that the prosecuting 938
attorney gathered when determining whether to initiate and 939
prosecute an action. 940

(E) The attorney general may initiate and prosecute any 941
necessary criminal or civil action after either of the 942
following: 943

<u>(1) The prosecuting attorney shares the findings and</u>	944
<u>information as described in division (D) of this section;</u>	945
<u>(2) The prosecuting attorney never indicates to the</u>	946
<u>attorney general by a time period described in division (C) of</u>	947
<u>this section whether the prosecuting attorney intends to</u>	948
<u>initiate and prosecute an action.</u>	949
<u>When proceeding under this division, the attorney general,</u>	950
<u>and any assistant or special counsel designated by the attorney</u>	951
<u>general for that purpose, has all rights, privileges, and powers</u>	952
<u>of prosecuting attorneys. The attorney general has exclusive</u>	953
<u>supervision and control of all investigations and prosecutions</u>	954
<u>initiated by the attorney general under this section. The</u>	955
<u>forfeiture provisions of Chapter 2981. of the Revised Code apply</u>	956
<u>in relation to any such criminal action initiated and prosecuted</u>	957
<u>by the attorney general.</u>	958
Sec. 5104.53. (A) As used in this section:	959
(1) "Family services program" has the same meaning as in	960
section 5101.35 of the Revised Code.	961
(2) "IEP" has the same meaning as in section 3323.01 of	962
the Revised Code.	963
(3) "Resource caregiver" has the same meaning as in	964
section 5103.02 of the Revised Code.	965
(B) The early childhood education grant program is created	966
in the department of children and youth. Subject to available	967
funds, the program shall support and invest in early learning	968
and development programs operating in this state by awarding	969
grants to programs that meet the conditions of this section in	970
an amount that corresponds to the number of eligible children	971
served by the programs.	972

(C) To be eligible for a grant under this section, an 973
early learning and development program shall meet each of the 974
following conditions: 975

(1) The program is rated through the step up to quality 976
program established under section 5104.29 of the Revised Code at 977
the tiered rating specified by the department in rules adopted 978
under this section. 979

(2) The program provides early learning and development 980
services to one or more preschool-age children described in 981
division (D) of this section. 982

(3) The program meets any other eligibility condition 983
specified by the department in rules adopted under this section. 984

(D) A preschool-age child who meets all of the following 985
conditions, as determined by a county department of job and 986
family services, is eligible to participate in the early 987
childhood education grant program if a slot is available: 988

(1) Either the amount of the child's family income does 989
not exceed two hundred per cent of the federal poverty line or 990
the child meets one of the following conditions: 991

(a) An IEP has been developed for the child; 992

(b) The child is placed with a resource caregiver as 993
described in Chapter 5103. of the Revised Code, with such 994
placement documented by either a family case plan or kinship 995
permanency incentive payments; 996

(c) The child is homeless as described in ~~division (V) of~~ 997
section 5104.01 of the Revised Code. 998

(2) The child is a citizen of the United States or a 999
qualified alien. 1000

(3) The child meets any other eligibility condition	1001
specified by the department in rules adopted under this section.	1002
(E) Any funds appropriated to the department for purposes	1003
of the early childhood education grant program shall be used as	1004
follows:	1005
(1) In each fiscal year, not more than two per cent of	1006
appropriated funds shall be used for program support and	1007
technical assistance.	1008
(2) Appropriated funds other than those described in	1009
division (E) (1) of this section shall be distributed to grant	1010
recipients.	1011
(F) In accordance with Chapter 119. of the Revised Code,	1012
the director shall adopt rules to implement this section and	1013
administer the early childhood education grant program,	1014
including rules addressing all of the following topics:	1015
(1) Eligibility conditions and other requirements for	1016
participation in the grant program by early learning and	1017
development programs, including the tiered rating at which a	1018
program becomes eligible to participate;	1019
(2) Eligibility conditions for children participating in	1020
the early childhood education grant program if a slot is	1021
available;	1022
(3) Standards, procedures, and requirements to apply for	1023
and distribute funds to participating early learning and	1024
development programs;	1025
(4) In the event funds are distributed in error under the	1026
program, methods by which the department may recover those	1027
funds.	1028

(G) The award of an early childhood education grant under 1029
this section shall not be considered publicly funded child care 1030
or a family services program. 1031

Section 2. That existing sections 5104.01, 5104.30, 1032
5104.32, 5104.34, 5104.38, and 5104.53 of the Revised Code are 1033
hereby repealed. 1034