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136th General Assembly  
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Sub. H. B. No. 649

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To enact sections 5104.303, 5104.304, and 5104.361 1  
of the Revised Code to enact the Child Care 2  
Fraud Prevention Act. 3

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

**Section 1.** That sections 5104.303, 5104.304, and 5104.361 4  
of the Revised Code be enacted to read as follows: 5

**Sec. 5104.303.** (A) Immediately after receiving an 6  
allegation of probable or suspected waste, fraud, and abuse 7  
related to a provider of publicly funded child care, the 8  
department of children and youth shall conduct a preliminary 9  
investigation of the allegation. If, as part of the 10  
investigation, the department determines that the allegation is 11  
substantiated and the director of children and youth reasonably 12  
believes that the provider engaged in probable or suspected 13  
waste, fraud, and abuse, including false attendance reporting, 14  
or made material misrepresentations to the department, then not 15  
later than forty-eight hours after that determination and belief 16  
have been reached, the department of children and youth shall 17  
refer the matter to the inspector general. As soon as 18  
practicable after receiving the referral, the inspector general 19



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shall conduct a full investigation of the allegation in 20  
accordance with sections 121.41 to 121.50 of the Revised Code. 21

(B) At the beginning of the investigation described in 22  
division (A) of this section, the inspector general shall report 23  
to the speaker of the house of representatives and president of 24  
the senate that the inspector general received a referral 25  
seeking a full investigation of a provider of publicly funded 26  
child care. At the conclusion of the required investigation, the 27  
inspector general shall provide to the speaker of the house of 28  
representatives and senate president a summary of the 29  
investigation, with the summary to indicate whether or not the 30  
name of the provider under investigation has been referred to 31  
the office of attorney general for prosecution as described in 32  
division (C) of this section. 33

(C) When a full investigation conducted by the inspector 34  
general demonstrates that a provider of publicly funded child 35  
care engaged in probable or suspected waste, fraud, and abuse or 36  
made material misrepresentations to the department of children 37  
and youth, the inspector general shall refer the matter to the 38  
office of the attorney general. 39

(D) While an investigation conducted under this section 40  
remains ongoing, any of its investigative records are not public 41  
records for purposes of section 149.43 of the Revised Code. 42

**Sec. 5104.304.** (A) On a referral from the inspector 43  
general described in section 5104.303 of the Revised Code, the 44  
attorney general may in the name of this state institute against 45  
the provider of publicly funded child care in a court of 46  
competent jurisdiction appropriate legal action, including 47  
criminal prosecution. 48

(B) In any other instance of probable or suspected waste, fraud, and abuse relating to the publicly funded child care program of which the department of children and youth becomes aware, the department of children and youth may request that the attorney general institute in the name of this state in a court of competent jurisdiction appropriate legal action, including criminal prosecution, against the person or governmental entity engaging in the probable or suspected waste, fraud, and abuse. On the department's request, the attorney general may institute such an action. 49  
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**Sec. 5104.361.** (A) As used in this section, "absent day" means any day that a child is authorized or scheduled to receive publicly funded child care from a child care provider participating in the publicly funded child care program, but does not receive that care as authorized or scheduled. 59  
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(B) This section establishes standards and procedures for recording and verifying the attendance of a child who is receiving publicly funded child care from a child care provider participating in the publicly funded child care program. In complying with the standards and procedures described in this section, the department of children and youth shall not store or capture any photograph or video and may use only the video capabilities from the camera system contained in the electronic tablet provided by the department under division (D) of this section to collect necessary data points to verify attendance. The prohibition against storing and capturing any photograph or video does not apply to a photograph or video stored or captured before the enactment of this section. 64  
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(C) At the time a caretaker parent applies for publicly funded child care, the department of children and youth or 77  
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county department of job and family services shall collect data 79  
points of the parent's child that are necessary to confirm the 80  
child's attendance. The family shall not receive publicly funded 81  
child care until such time as data points are collected. At 82  
least every six months while the family continues to be eligible 83  
for publicly funded child care, the department or county 84  
department shall collect updated data points of the child. 85

(D) (1) The department shall provide each child care 86  
provider participating in the publicly funded child care program 87  
an electronic tablet that contains any necessary hardware and 88  
software for recording a child's attendance and for collecting, 89  
at the time the child's attendance is recorded, data points 90  
necessary to confirm attendance. 91

(2) Each participating child care provider shall use the 92  
electronic tablet provided by the department for recording a 93  
child's attendance and for collecting data points of the child 94  
necessary to confirm attendance. This requirement applies only 95  
to the children who are enrolled with the provider and receiving 96  
publicly funded child care. Such collection shall occur not 97  
later than one hour after the child's initial arrival for the 98  
day has been recorded as described in division (D) (4) of this 99  
section. 100

(3) (a) When recording a child's attendance, a 101  
participating provider may use the child's absent day but only 102  
under one of the following circumstances and with the approval 103  
of the department as described in division (D) (3) (b) of this 104  
section: 105

(i) In the case of a school-age child who attends the 106  
provider outside of school hours, when the child missed a day or 107  
portion of a day for an extracurricular activity associated with 108

the child's enrollment in school and the child's caretaker 109  
parent was notified of, and gave approval for, the provider's 110  
use of the absent day; 111

(ii) When a weather event or natural disaster occurs on 112  
that day; 113

(iii) When the child leaves early for the day due to 114  
illness and the child's caretaker parent was notified of, and 115  
gave approval for, the provider's use of the absent day. 116

(b) The department has full and complete discretion to 117  
approve or deny the use of absent days by providers. 118

(4) The caretaker parent of a child enrolled with a 119  
participating child care provider, the provider's administrator 120  
or owner, or a child care staff member employed by the provider 121  
shall record a child's attendance using the electronic tablet 122  
provided by the department as long as the tablet collects data 123  
points of the child not later than one hour after the child's 124  
initial attendance for the day is recorded. This requirement 125  
applies only in the case of a child who is receiving publicly 126  
funded child care from the participating provider. 127

(5) The department shall utilize the video capabilities 128  
from the camera system contained in the electronic tablet 129  
provided by the department to collect data points to be used in 130  
verifying a child's attendance. 131

(E) When recording a child's attendance, the caretaker 132  
parent of a child enrolled with a participating child care 133  
provider, the administrator or owner of a participating child 134  
care provider, or a child care staff member employed by a 135  
participating child care provider shall use a password or 136  
personal identification number that is unique to the parent, 137

<u>administrator, owner, or child care staff member.</u>	138
<u>(F) A participating child care provider shall submit all</u>	139
<u>data for the calculation of payments as follows:</u>	140
<u>(1) Attendance data shall be submitted for payment after</u>	141
<u>the close of the service week and not later than fourteen</u>	142
<u>calendar days from the last day of the service week or fourteen</u>	143
<u>calendar days from the last day of the week the authorization is</u>	144
<u>provided to the automated child care system as described in</u>	145
<u>section 5104.32 of the Revised Code, whichever is later;</u>	146
<u>(2) Only complete data, meaning days with both an in and</u>	147
<u>out time for the child receiving care, shall be submitted;</u>	148
<u>(3) Changes to attendance data shall be submitted with</u>	149
<u>caretaker parent approval;</u>	150
<u>(4) The provider may track attendance or make changes to</u>	151
<u>attendance data in the automated child care system without</u>	152
<u>caretaker parent approval if all of the following apply:</u>	153
<u>(a) There has been a loss of contact with the caretaker</u>	154
<u>for five consecutive calendar days from the last day of</u>	155
<u>attendance.</u>	156
<u>(b) The provider has notified the county department of job</u>	157
<u>and family services of the loss of contact.</u>	158
<u>(c) The authorization to the provider has been ended.</u>	159
<u>(d) Any new or changed attendance is limited to not more</u>	160
<u>than five consecutive days.</u>	161
<u>(5) Once attendance has been submitted, the provider has</u>	162
<u>until the following Saturday to recall the submitted attendance</u>	163
<u>in order to make a change to the attendance data. Any changes</u>	164

made require caretaker approval prior to resubmitting the 165  
attendance. 166

(6) The department shall begin processing the payment on 167  
the Sunday following the submission of the attendance data; 168

(7) If the attendance has not been submitted pursuant to 169  
the timeline of this section, the department shall automatically 170  
process any complete attendance data for payment. No new 171  
attendance data shall be submitted after this date. 172

(8) The department shall not pay for a child's attendance 173  
submitted by more than one provider for the same date and time. 174

(G) Notwithstanding division (F) of this section, a 175  
caretaker parent or participating child care provider shall not 176  
backdate a child's attendance record unless either of the 177  
following is the case: 178

(1) The department approves such backdating due to a 179  
documented emergency or extenuating circumstance beyond the 180  
parent's or provider's control, including a system outage, 181  
natural disaster, or other serious event. 182

(2) The backdating is necessary during the thirty-day 183  
period described in division (L) of section 5104.38 of the 184  
Revised Code. 185

(H) (1) A participating child care provider may use digital 186  
versions of any attendance compliance that is required. 187

(2) A participating child care provider shall not be 188  
required to use paper sign-in sheets to record attendance. 189

(I) The department, each participating child care 190  
provider, and any third-party vendor under contract with the 191  
department shall delete data points described in division (B) of 192

this section as soon as practicable after they have been used to 193  
verify a child's attendance and the reimbursement period has 194  
expired. 195

The department, provider, and vendor shall not use data 196  
points collected under this section for any purpose other than 197  
recording or verifying a child's attendance under the publicly 198  
funded child care program. 199

Data points collected as described in this section are not 200  
public records for purposes of section 149.43 of the Revised 201  
Code. 202

**Section 2.** This act shall be known as the Child Care Fraud 203  
Prevention Act. 204