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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 an investigation of the allegation in accordance 20  
with sections 121.41 to 121.50 of the Revised Code. At any point 21  
during the inspector general's investigation, the inspector 22  
general may request additional evidence from the department and 23  
may pause the investigation until that evidence is made 24  
available to the inspector general. 25

(B) After the inspector general determines that there is 26  
sufficient evidence to proceed with a full investigation, the 27  
inspector general shall notify the speaker of the house of 28  
representatives and president of the senate that the inspector 29  
general received a referral from the department and has begun an 30  
investigation. 31

(C) When a full investigation conducted by the inspector 32  
general demonstrates that a provider of publicly funded child 33  
care engaged in probable or suspected waste, fraud, and abuse or 34  
made material misrepresentations to the department of children 35  
and youth, the inspector general shall refer the matter to the 36  
office of the attorney general. 37

(D) While an investigation conducted under this section 38  
remains ongoing, any of its investigative records are not public 39  
records for purposes of section 149.43 of the Revised Code. 40

**Sec. 5104.304.** (A) On a referral from the inspector 41  
general described in section 5104.303 of the Revised Code, the 42  
attorney general may in the name of this state institute against 43  
the provider of publicly funded child care in a court of 44  
competent jurisdiction appropriate legal action, including 45  
criminal prosecution. 46

(B) In any other instance of probable or suspected waste, 47  
fraud, and abuse relating to the publicly funded child care 48

program of which the department of children and youth becomes 49  
aware, the department of children and youth may request that the 50  
attorney general institute in the name of this state in a court 51  
of competent jurisdiction appropriate legal action, including 52  
criminal prosecution, against the person or governmental entity 53  
engaging in the probable or suspected waste, fraud, and abuse. 54  
On the department's request, the attorney general may institute 55  
such an action. 56

**Sec. 5104.361.** (A) As used in this section, "absent day" 57  
means any day that a child is authorized or scheduled to receive 58  
publicly funded child care from a child care provider 59  
participating in the publicly funded child care program, but 60  
does not receive that care as authorized or scheduled. 61

(B) This section establishes standards and procedures for 62  
recording and verifying the attendance of a child who is 63  
receiving publicly funded child care from a child care provider 64  
participating in the publicly funded child care program. In 65  
complying with the standards and procedures described in this 66  
section, the department of children and youth shall not store or 67  
capture any photograph or video and may use only the video 68  
capabilities from the camera system contained in the electronic 69  
tablet provided by the department under division (D) of this 70  
section to collect necessary data points to verify attendance. 71  
The prohibition against storing and capturing any photograph or 72  
video does not apply to a photograph or video stored or captured 73  
before the enactment of this section. 74

(C) At the time a caretaker parent applies for publicly 75  
funded child care, the department of children and youth or 76  
county department of job and family services shall collect data 77  
points of the parent's child that are necessary to confirm the 78

child's attendance. The family shall not receive publicly funded 79  
child care until such time as data points are collected. At 80  
least every six months while the family continues to be eligible 81  
for publicly funded child care, the department or county 82  
department shall collect updated data points of the child. 83

(D) (1) The department shall provide each child care 84  
provider participating in the publicly funded child care program 85  
an electronic tablet that contains any necessary hardware and 86  
software for recording a child's attendance and for collecting, 87  
at the time the child's attendance is recorded, data points 88  
necessary to confirm attendance. 89

(2) Each participating child care provider shall use the 90  
electronic tablet provided by the department for recording a 91  
child's attendance and for collecting data points of the child 92  
necessary to confirm attendance. This requirement applies only 93  
to the children who are enrolled with the provider and receiving 94  
publicly funded child care. Such collection shall occur not 95  
later than one hour after the child's initial arrival for the 96  
day has been recorded as described in division (D) (4) of this 97  
section. 98

(3) (a) When recording a child's attendance, a 99  
participating provider may use the child's absent day but only 100  
under one of the following circumstances and with the approval 101  
of the department as described in division (D) (3) (b) of this 102  
section: 103

(i) In the case of a school-age child who attends the 104  
provider outside of school hours, when the child missed a day or 105  
portion of a day for an extracurricular activity associated with 106  
the child's enrollment in school and the child's caretaker 107  
parent was notified of, and gave approval for, the provider's 108

<u>use of the absent day;</u>	109
<u>(ii) When a weather event or natural disaster occurs on that day;</u>	110 111
<u>(iii) When the child leaves early for the day due to illness and the child's caretaker parent was notified of, and gave approval for, the provider's use of the absent day.</u>	112 113 114
<u>(b) The department has full and complete discretion to approve or deny the use of absent days by providers.</u>	115 116
<u>(4) The caretaker parent of a child enrolled with a participating child care provider, the provider's administrator or owner, or a child care staff member employed by the provider shall record a child's attendance using the electronic tablet provided by the department as long as the tablet collects data points of the child not later than one hour after the child's initial attendance for the day is recorded. This requirement applies only in the case of a child who is receiving publicly funded child care from the participating provider.</u>	117 118 119 120 121 122 123 124 125
<u>(5) The department shall utilize the video capabilities from the camera system contained in the electronic tablet provided by the department to collect data points to be used in verifying a child's attendance.</u>	126 127 128 129
<u>(E) When recording a child's attendance, the caretaker parent of a child enrolled with a participating child care provider, the administrator or owner of a participating child care provider, or a child care staff member employed by a participating child care provider shall use a password or personal identification number that is unique to the parent, administrator, owner, or child care staff member.</u>	130 131 132 133 134 135 136
<u>(F) A participating child care provider shall submit all</u>	137

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

- (6) The department shall begin processing the payment on the Sunday following the submission of the attendance data; 165  
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- (7) If the attendance has not been submitted pursuant to the timeline of this section, the department shall automatically process any complete attendance data for payment. No new attendance data shall be submitted after this date. 167  
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- (8) The department shall not pay for a child's attendance submitted by more than one provider for the same date and time. 171  
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- (G) Notwithstanding division (F) of this section, a caretaker parent or participating child care provider shall not backdate a child's attendance record unless either of the following is the case: 173  
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- (1) The department approves such backdating due to a documented emergency or extenuating circumstance beyond the parent's or provider's control, including a system outage, natural disaster, or other serious event. 177  
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- (2) The backdating is necessary during the thirty-day period described in division (L) of section 5104.38 of the Revised Code. 181  
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- (H) (1) A participating child care provider may use digital versions of any attendance compliance that is required. 184  
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- (2) A participating child care provider shall not be required to use paper sign-in sheets to record attendance. 186  
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- (I) The department, each participating child care provider, and any third-party vendor under contract with the department shall delete data points described in division (B) of this section as soon as practicable after they have been used to verify a child's attendance and the reimbursement period has 188  
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<u>expired.</u>	193
<u>The department, provider, and vendor shall not use data</u>	194
<u>points collected under this section for any purpose other than</u>	195
<u>recording or verifying a child's attendance under the publicly</u>	196
<u>funded child care program.</u>	197
<u>Data points collected as described in this section are not</u>	198
<u>public records for purposes of section 149.43 of the Revised</u>	199
<u>Code.</u>	200
<b>Section 2.</b> This act shall be known as the Child Care Fraud	201
Prevention Act.	202