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



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the inspector general shall conduct a full investigation of the 20  
allegation in accordance with sections 121.41 to 121.50 of the 21  
Revised Code. 22

(B) At the beginning of the investigation described in 23  
division (A) of this section, the inspector general shall report 24  
to the speaker of the house of representatives and president of 25  
the senate that the inspector general received a referral 26  
seeking a full investigation of a provider of publicly funded 27  
child care. At the conclusion of the required investigation, the 28  
inspector general shall provide to the speaker of the house of 29  
representatives and senate president a summary of the 30  
investigation, with the summary to indicate whether or not the 31  
name of the provider under investigation has been referred to 32  
the office of attorney general for prosecution as described in 33  
division (C) of this section. 34

(C) When a full investigation conducted by the inspector 35  
general demonstrates that a provider of publicly funded child 36  
care that is a child care center engaged in probable or 37  
suspected waste, fraud, and abuse or made material 38  
misrepresentations to the department of children and youth, the 39  
inspector general shall refer the matter to the office of the 40  
attorney general. 41

(D) While an investigation conducted under this section 42  
remains ongoing, any of its investigative records are not public 43  
records for purposes of section 149.43 of the Revised Code. 44

**Sec. 5104.304.** (A) On a referral from the inspector 45  
general described in section 5104.303 of the Revised Code, the 46  
attorney general may in the name of this state institute against 47  
the provider of publicly funded child care in a court of 48  
competent jurisdiction appropriate legal action, including 49

criminal prosecution. 50

(B) In any other instance of probable or suspected waste, 51  
fraud, and abuse relating to the publicly funded child care 52  
program of which the department of children and youth becomes 53  
aware, the department of children and youth may request that the 54  
attorney general institute in the name of this state in a court 55  
of competent jurisdiction appropriate legal action, including 56  
criminal prosecution, against the person or governmental entity 57  
engaging in the probable or suspected waste, fraud, and abuse. 58  
On the department's request, the attorney general may institute 59  
such an action. 60

**Sec. 5104.361.** (A) Not later than twelve months after the 61  
effective date of this section and to the extent permitted by 62  
federal law, the department of children and youth shall adopt 63  
rules establishing standards and procedures for recording and 64  
verifying child care center attendance for purposes of the 65  
publicly funded child care program, including rules that do all 66  
of the following: 67

(1) Require the department to provide each center an 68  
electronic tablet that contains any necessary software for 69  
recording a child's attendance and for taking a photograph or 70  
video of the child at the time the child's attendance is 71  
recorded; 72

(2) Authorize a center to use the tablet described in 73  
division (A)(1) of this section for recording a child's 74  
attendance and for taking a photograph or video of the child at 75  
the time the child's attendance is recorded; 76

(3) Allow the parent of a child enrolled in a child care 77  
center or administrator or child care staff member of the center 78

in which a child is enrolled to record a child's attendance 79  
using a tablet as described in division (A) (1) of this section 80  
so long as the tablet takes a photograph or video of the child 81  
at the time the child's attendance is recorded; 82

(4) When recording a child's attendance, require an 83  
administrator or child care staff member described in division 84  
(A) (3) of this section to use a password or pin that is unique 85  
to the administrator or staff member; 86

(5) Prohibit a parent or child care center from backdating 87  
a child's attendance record unless either of the following is 88  
the case: the department expressly permits such backdating or 89  
the backdating is necessary during the thirty-day period 90  
described in division (L) of section 5104.38 of the Revised 91  
Code; 92

(6) Require the department and each child care center to 93  
destroy any photograph or video described in this section as 94  
soon as practicable after the photograph or video has been used 95  
to verify a child's attendance and the reimbursement period has 96  
expired; 97

(7) Specify that photographs and videos taken as described 98  
in this section are not public records for purposes of section 99  
149.43 of the Revised Code; 100

(8) With respect to a school-age child who attends a child 101  
care center outside of school hours, when recording the child's 102  
attendance, authorize the child care center to use the child's 103  
absentee day in a half-day segment but only if the child missed 104  
half of the day for an extracurricular activity associated with 105  
the child's enrollment in school; 106

(9) Authorize a center to use digital versions of any 107

attendance compliance that is required. 108

(B) The rules described in division (A) of this section 109

shall not require a child care center to use paper sign-in 110

sheets to record attendance and shall be adopted in accordance 111

with Chapter 119. of the Revised Code. 112

**Section 2.** This act shall be known as the Child Care Fraud 113

Prevention Act. 114