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# OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research  
and Drafting

Legislative Budget  
Office

H.B. 649  
(1\_136\_2560-9)  
136<sup>th</sup> General Assembly

## Fiscal Note & Local Impact Statement

[Click here for H.B. 649's Bill Analysis](#)

**Version:** In House Children and Human Services

**Primary Sponsors:** Reps. Williams and Swearingen

**Local Impact Statement Procedure Required:** No

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### Highlights

- The Department of Children and Youth (DCY) will realize costs to adopt rules. The total costs associated with recording and verifying publicly funded child care (PFCC) attendance will depend on how the rules adopted align with DCY's existing process. Existing statutory law requires DCY to establish an automated child care system to track child attendance and enrollment and to calculate PFCC payments, which has many similarities with the bill's requirements.
- DCY may also realize costs if more investigations are conducted. The costs will depend on the number and scope of the investigations.
- The Inspector General would incur costs for investigating any referrals made by DCY concerning probable or suspected waste, fraud, abuse, or misrepresentations on the part of a PFCC provider. The cost for these investigations would be covered under existing GRF appropriations.
- The Attorney General (AGO) will incur unbudgeted costs to establish a new operational section to institute appropriate legal action on the Inspector General's (IG) referral or at DCY's request. The magnitude will depend on staffing levels, case volume, and complexity, and will be funded through a mix of operating funds from both GRF and non-GRF.
- Local courts may experience additional case filings if the AGO files enforcement actions related to referrals from the IG or DCY.

## Detailed Analysis

### Rulemaking for recording and verifying attendance

Beginning not later than 12 months after the bill's effective date, the bill requires the Department of Children and Youth (DCY) to adopt rules establishing standards and procedures for recording and verifying child care center attendance for purposes of the publicly funded child care (PFCC) program. The bill states that the rules are to: require DCY to provide electronic tablets to centers for purposes of recording attendance, authorize centers and caretaker parents to use the tablets to record attendance and take photographs or videos of children at the time attendance is recorded, require unique passwords or pins, prohibit backdating attendance except in certain circumstances, require DCY and centers to destroy photographs and videos after they have been used to verify attendance, and specify that photographs and videos taken under the bill are not public records. Lastly, the bill prohibits rules from requiring a center to use paper sign-in sheets to record attendance.

#### Fiscal effect

DCY will realize costs to adopt rules. However, the total costs associated with recording and verifying attendance will depend on how the rules adopted align with DCY's existing process. Existing statutory law requires DCY to establish an automated child care system to track child attendance and enrollment and to calculate PFCC payments. As part of this system, centers receive tablets, which caretaker parents use, to help track and log attendance. Caretaker parents must use a secure pin number and provide photo verification to sign a child in and out of care. The existing system also allows child care providers to send attendance to DCY for payment. Thus, the existing system appears to have very similar requirements and capabilities in regards to the bill's requirements.

### Waste, fraud, and abuse investigations

Under the bill, immediately after receiving an allegation of probable or suspected waste, fraud, and abuse related to a provider of PFCC, DCY must conduct a preliminary investigation. The bill also requires DCY to refer the matter to the Inspector General not later than 48 hours after determining, as part of DCY's preliminary investigation, that (1) the allegation is substantiated and (2) the DCY Director believes that the provider engaged in probable or suspected waste, fraud, and abuse, including false attendance reporting, or made material misrepresentations to DCY. Upon a referral, the Inspector General must conduct a full investigation and report the matter to specified members of the General Assembly. If the Inspector General finds that the provider engaged in these activities, the matter must be referred to the Attorney General (AGO). The AGO may institute appropriate legal action, including criminal prosecution, against a provider of PFCC that is the subject of the referral. The AGO may also institute appropriate legal action against a person or government entity on DCY's request in any other instance of probable or suspected waste, fraud, and abuse relating to the PFCC program. Such an action may include criminal prosecution and is to be brought against the person or entity engaging in the probable or suspected waste, fraud, and abuse.

#### Fiscal impact

Assuming the bill's provisions result in additional allegations and investigations, DCY will realize costs, including possible personnel costs depending on the number and scope of

inspections. The Inspector General would also incur costs for conducting full PFCC investigations, as well as some minor administrative costs for providing reports required by the bill and for referring cases to the AGO. Representatives of the AGO anticipate creating a new operational section within the office dedicated to this work. Actual costs will depend on the new case volume and complexity of those cases. Costs will be funded through a mix of operating funds from both GRF and non-GRF sources. The bill does not provide supplemental appropriations to cover these expenses. Staffing needs will be commensurate to case volume, which is uncertain.

As a matter of practice, it is uncertain how current caseloads for local courts and investigating agencies could be impacted by the bill. The Ohio Prosecuting Attorneys' Association (OPAA) notes that criminal prosecutions under current law have been "extremely rare," and if filed, the criminal charges could encompass theft, telecommunications fraud, tampering with records, identity fraud, or more general licensing violations. Presumably, the AGO would pursue similar charges under the authority given to them by the bill. Such cases will likely be filed in Franklin County, consistent with common practice for Medicaid fraud, even though the statute does not specify a venue. Overall, the number of additional court cases will likely be minimal in comparison to current caseloads. To the extent that any criminal cases are currently being filed by local prosecutors, it is possible that counties could experience minimal savings if the AGO instead assumes responsibility for prosecuting persons and entities engaging in waste, fraud, and abuse relating to the PFCC program.

If the bill results in more convictions for certain offenses, it is possible that additional offenders could be sentenced to jail (misdemeanors) or prison (felonies). Such increases in detention costs would likely be marginal for any individual county or for the Department of Rehabilitation and Correction (DRC). The average cost per bed for full-service jails as reported in July 2024, is \$93.70 per day. The marginal cost for DRC to add a small number of offenders to its inmate population is \$13.47 per day, or approximately \$4,917 per year. Marginal costs are those that change directly on a per-person basis with fluctuations in prison population and include expenses such as medical care, food service, clothing and bedding, and mental health services.

## Synopsis of Fiscal Effect Changes

The substitute bill (I\_136\_2560-9) removes the following requirements from the As Introduced version of the bill (regarding camera surveillance and an online attendance portal) that:

- Require each child care center to procure and maintain a camera at specified locations.
- Establish conditions regarding the camera's usage.
- Require the Department of Children and Youth (DCY) to immediately suspend or withhold state payments to a center if an inspection or audit indicates that the center engaged in specified actions.
- Require DCY to establish an online portal for tracking child care center attendance through the automated child care system and to provide each center with appropriate software that allows a caretaker parent to record attendance.
- Establish conditions on the portal's use.

- Require DCY to use attendance records submitted through the portal when calculating a child care center's publicly funded child care (PFCC) payments.

Instead, the substitute bill requires DCY to adopt rules establishing the standards and procedures for recording and verifying child care center PFCC attendance. The substitute bill states what the rules should specify, including that DCY provide electronic tablets to centers for purposes of recording attendance and authorizing centers and parents to use tablets to record attendance and take photographs or video when attendance is recorded, etc. These changes would result in a reduction in anticipated costs. Under the As Introduced version of the bill, costs for camera surveillance and the online portal were estimated to be in the millions of dollars for both one-time and ongoing costs. Under the substitute version, there will be costs to adopt rules. DCY currently provides tablets to child care centers and these tablets are able to take photographs and require the use of pins. As a result, it appears that the current process is similar to at least some requirements in the substitute bill. However, the total costs will ultimately depend on the rules adopted and how the rules adopted align with DCY's current process.

The substitute bill also makes changes to the As Introduced version of the bill's waste, fraud, and abuse investigation provisions. Generally, the substitute bill allows DCY to refer these matters to the Inspector General instead of the Auditor as under the As Introduced version of the bill. Additionally, the substitute bill establishes duties that the Inspector General must take regarding actions after DCY's referral and authorizes the Inspector General to institute appropriate legal action, instead of the Auditor and Attorney General (AGO), respectively, as under the As Introduced version. Due to these changes, the Inspector General will realize these costs instead of the Auditor and AGO.