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# OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research  
and Drafting

Legislative Budget  
Office

H.B. 649  
(1\_136\_2560-12)  
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's (DCY) total costs associated with recording and verifying publicly funded child care (PFCC) attendance will depend on how the bill's provisions 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.
- PFCC reimbursements could be decreased due to provisions in the bill such as modifying when attendance data must be submitted or recalled and generally prohibiting backdating attendance except under specified circumstances.
- The Inspector General (IGO) would incur additional GRF costs up to \$500,000 for investigating any referrals made by DCY concerning probable or suspected waste, fraud, abuse, or misrepresentations on the part of a PFCC provider. No appropriation is made by the bill for this purpose.
- The Attorney General (AGO) will incur unbudgeted costs to establish a new operational section to institute appropriate legal action on the Inspector General's 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 IGO or DCY.

## Detailed Analysis

### Recording and verifying attendance

The bill establishes standards and procedures for recording and verifying child care attendance for purposes of the publicly funded child care (PFCC) program. The bill prohibits the Department of Children and Youth (DCY) from storing or capturing any photograph or video and may only use the video capabilities from the camera system in the provided tablet to collect necessary data points to verify attendance. At the time a caretaker parent applies for PFCC, the bill requires DCY or the county department of job and family services to collect data points of the parent's child that are necessary to confirm a child's attendance. At least every six months while the family continues to be eligible for PFCC, the bill requires DCY or county departments to collect updated data points on the child. The bill requires DCY to provide electronic tablets to providers for purposes of recording PFCC attendance, authorizes providers and caretaker parents to use the tablets to record attendance and collect data points of the child necessary to confirm attendance, requires attendance to be recorded within one hour of the child's arrival, requires unique passwords or pins, and prohibits backdating attendance except in certain circumstances. The bill also specifies recognized absent days. The bill prohibits a provider from being required to use paper sign-in sheets to record attendance. Lastly, the bill generally requires attendance data to be submitted for payment not later than 14 calendar days from the last day of the service week.

#### Fiscal effect

DCY's total costs associated with recording and verifying attendance will depend on how the bill's provisions 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, providers 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. The bill's provisions may reduce PFCC payments by an unknown magnitude, as attendance is currently permitted to be submitted no later than four weeks from the last day of the service week. Additionally, publicly operated child care providers could experience an increase in costs to inform caretaker parents that attendance for the day must be submitted within one hour of a child's arrival and to ensure prompt attendance recording.

### 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 (IGO) 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 IGO must conduct an investigation and, if there is sufficient evidence to proceed with a full investigation, notify specified members of the General Assembly. If the IGO 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 IGO would also incur costs for conducting PFCC investigations, as well as some minor administrative costs for providing reports required by the bill and for referring cases to the AGO. The IGO anticipates approximately 20 to 25 cases each year being referred for evaluation. If all referred cases proceed to a full investigation, the IGO could incur up to \$500,000 in additional annual GRF operating costs to hire and retain sufficient staffing and meet the demands of these investigations.

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 latest substitute bill, I\_136\_2560-12, makes various changes related to waste, fraud, and abuse investigations. These changes are procedural in nature and are not expected to

dramatically affect the number of full investigations conducted by the Inspector General (IGO) or the Office's duties under the bill. Generally, these changes allow an investigation to be paused if the IGO requests additional evidence from the Department of Children and Youth (DCY), and requires a "full" investigation only when the IGO determines there is sufficient evidence to proceed. It also removes the requirement for the IGO to provide a summary of any concluded investigation to specified members of the General Assembly, including whether the publicly funded child care (PFCC) provider's name was referred to the Attorney General (AGO) for prosecution, but still requires notification that a full investigation has begun – and still requires the IGO to refer the AGO when a full investigation finds that the provider engaged in probable or suspected waste, fraud, or abuse. As such, the fiscal effect on the AGO is unchanged.