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H.B. 649
(1_136_2560-11)
136th 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 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

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 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_2560-11, makes various changes that primarily codify procedures for recording and verifying publicly funded child care (PFCC) attendance. The previous substitute bill, I_136_2560-9, required the Department of Children and Youth (DCY) to adopt rules regarding PFCC attendance instead. The new substitute bill also requires data points to be used to verify a child's attendance, instead of with photographs or live feed as provided in the previous substitute bill. The new substitute bill also specifies recognized absence days,

requires attendance to be recorded within one hour of a child's arrival, and generally requires attendance to be submitted for payment within 14 days of the last day of the service week. The new substitute bill prohibits changes to attendance data to be submitted with caretaker approval except under specified circumstances and permits the provider until the following Saturday to recall attendance data to make changes until the following Saturday. The new substitute 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. 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. The new substitute bill also applies the bill's provisions to all PFCC providers, whereas the previous substitute bill applied to child care centers. Thus, any impacts will now also apply to other providers, such as family child care homes.