

## As Introduced

136th General Assembly

Regular Session

H. B. No. 649

2025-2026

Representatives Williams, Swearingen

**Cosponsors: Representatives Kishman, Miller, M., Hall, T., Willis, Thomas, D., Hiner, Miller, K., Workman, Click, Holmes, Odioso, Johnson, Ritter, Barhorst, Salvo, Lear, Schmidt, Deeter, Fischer, King, Santucci, Plummer, Creech, Gross, McClain, Stephens**

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To amend sections 5104.015 and 5104.04 and to enact	1
sections 5104.044, 5104.303, 5104.304, and	2
5104.361 of the Revised Code to require video	3
surveillance of child care centers, to establish	4
an online portal for tracking child care center	5
attendance, to require investigations of waste,	6
fraud, and abuse allegations relating to	7
providers of publicly funded child care, and to	8
name this act the Child Care Fraud Prevention	9
Act.	10

## BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

**Section 1.** That sections 5104.015 and 5104.04 be amended  
and sections 5104.044, 5104.303, 5104.304, and 5104.361 of the  
Revised Code be enacted to read as follows:

**Sec. 5104.015.** The director of children and youth shall  
adopt rules in accordance with Chapter 119. of the Revised Code  
governing the operation of child care centers, including parent  
cooperative centers, part-time centers, and drop-in centers. The  
rules shall reflect the various forms of child care and the

needs of children receiving child care or publicly funded child care and shall include specific rules for school-age child care centers that are developed in consultation with the department of education and workforce. The rules shall include the following:

(A) Submission of a site plan and descriptive plan of operation to demonstrate how the center proposes to meet the requirements of this chapter and rules adopted pursuant to this chapter for the initial license application;

(B) Standards for ensuring that the physical surroundings of the center are safe and sanitary including the physical environment, the physical plant, and the equipment of the center;

(C) Standards for the supervision, care, and discipline of children receiving child care or publicly funded child care in the center;

(D) Standards for a program of activities, and for play equipment, materials, and supplies, to enhance the development of each child; however, any educational curricula, philosophies, and methodologies that are developmentally appropriate and that enhance the social, emotional, intellectual, and physical development of each child shall be permissible. As used in this division, "program" does not include instruction in religious or moral doctrines, beliefs, or values that is conducted at child care centers owned and operated by churches and does include methods of disciplining children at child care centers.

(E) Admissions policies and procedures;

(F) Health care policies and procedures, including procedures for the isolation of children with communicable

diseases;	48
(G) First aid and emergency procedures;	49
(H) Procedures for discipline and supervision of children;	50
(I) Standards for the provision of nutritious meals and snacks;	51
(J) Procedures for screening children that may include any necessary physical examinations and shall include immunizations in accordance with section 5104.014 of the Revised Code;	53
(K) Procedures for screening employees that may include any necessary physical examinations and immunizations;	56
(L) Methods for encouraging parental participation in the center and methods for ensuring that the rights of children, parents, and employees are protected and that responsibilities of parents and employees are met;	58
(M) Procedures for ensuring the safety and adequate supervision of children traveling off the premises of the center while under the care of a center employee;	62
(N) Procedures for record keeping, organization, and administration;	65
(O) Procedures for issuing, denying, and revoking a license that are not otherwise provided for in Chapter 119. of the Revised Code;	67
(P) Inspection procedures;	70
(Q) Procedures and standards for setting initial license application fees;	71
(R) Procedures for receiving, recording, and responding to complaints about centers;	73
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(S) Procedures for enforcing <del>seetion</del> <u>sections</u> 5104.04 and 5104.044 of the Revised Code;	75 76
(T) Minimum qualifications for employment as an administrator or child care staff member, which shall not include requiring an administrator or child care staff member to hold or obtain a bachelor's, master's, or doctoral degree;	77 78 79 80
(U) Requirements for the training of administrators and child care staff members, including training in first aid, in prevention, recognition, and management of communicable diseases, and in child abuse recognition and prevention;	81 82 83 84
(V) Standards providing for the needs of children who have disabilities or who require treatment for health conditions while the child is receiving child care or publicly funded child care in the center;	85 86 87 88
(W) A procedure for reporting of injuries of children that occur at the center;	89 90
(X) Standards for licensing child care centers for children with short-term illnesses and other temporary medical conditions;	91 92 93
(Y) Minimum requirements for instructional time for child care centers rated through the step up to quality program established pursuant to section 5104.29 of the Revised Code;	94 95 96
(Z) Any other procedures and standards necessary to carry out the provisions of this chapter regarding child care centers.	97 98
<b>Sec. 5104.04.</b> (A) The department of children and youth shall establish procedures to be followed in investigating, inspecting, and licensing child care centers, type A family child care homes, and licensed type B family child care homes.	99 100 101 102

(B) (1) (a) The department shall, at least once during every twelve-month period of operation of a center, type A home, or licensed type B home, inspect the center, type A home, or licensed type B home. The department shall inspect a part-time center or part-time type A home at least once during every twelve-month period of operation. The department shall provide a written inspection report to the licensee within a reasonable time after each inspection. 103  
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Inspections may be unannounced. No person, firm, organization, institution, or agency shall interfere with the inspection of a center, type A home, or licensed type B home by any state or local official engaged in performing duties required of the state or local official by this chapter or rules adopted pursuant to this chapter, including inspecting the center, type A home, or licensed type B home, reviewing records, or interviewing licensees, employees, children, or parents. 111  
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(b) Upon receipt of any complaint that a center, type A home or licensed type B home is out of compliance with the requirements of this chapter or rules adopted pursuant to this chapter, the department shall investigate the center or home, and both of the following apply: 119  
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(i) If the complaint alleges that a child suffered physical harm while receiving child care at the center or home or that the noncompliance alleged in the complaint involved, resulted in, or poses a substantial risk of physical harm to a child receiving child care at the center or home, the department shall inspect the center or home. 124  
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(ii) If division (B) (1) (b) (i) of this section does not apply regarding the complaint, the department may inspect the center or home. 130  
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(c) Division (B)(1)(b) of this section does not limit, restrict, or negate any duty of the department to inspect a center, type A home, or licensed type B home that otherwise is imposed under this section, <del>or</del> any authority of the department to inspect a center, type A home, or licensed type B home that otherwise is granted under this section, <u>or any authority of the</u> <u>department to inspect a center that otherwise is granted under</u> <u>section 5104.044 of the Revised Code.</u>	133 134 135 136 137 138 139 140
(2) If the department implements an instrument-based program monitoring information system, it may use an indicator checklist to comply with division (B)(1) of this section.	141 142 143
(C) The department may deny an application or revoke a license of a center, type A home, or licensed type B home, if the applicant knowingly submits falsified information to the department or if the center or home does not comply with the requirements of this chapter or rules adopted pursuant to this chapter.	144 145 146 147 148 149
(D) If the department finds, after notice and hearing pursuant to Chapter 119. of the Revised Code, that any applicant, person, firm, organization, institution, or agency applying for licensure or licensed under section 5104.03 of the Revised Code is in violation of any provision of this chapter or rules adopted pursuant to this chapter, the department may issue an order of denial to the applicant or an order of revocation to the center, type A home, or licensed type B home revoking the license previously issued by the department. Upon the issuance of such an order, the person whose application is denied or whose license is revoked may appeal in accordance with section 119.12 of the Revised Code.	150 151 152 153 154 155 156 157 158 159 160 161
(E) The surrender of a center, type A home, or licensed	162

type B home license to the department or the withdrawal of an 163  
application for licensure by the owner or administrator of the 164  
center, type A home, or licensed type B home shall not prohibit 165  
the department from instituting any of the actions set forth in 166  
this section. 167

(F) Whenever the department receives a complaint, is 168  
advised, or otherwise has any reason to believe that a center or 169  
type A home is providing child care without a license issued 170  
pursuant to section 5104.03 and is not exempt from licensing 171  
pursuant to section 5104.02 of the Revised Code, the department 172  
shall investigate the center or type A home and may inspect the 173  
areas children have access to or areas necessary for the care of 174  
children in the center or type A home during suspected hours of 175  
operation to determine whether the center or type A home is 176  
subject to the requirements of this chapter or rules adopted 177  
pursuant to this chapter. 178

(G) The department, upon determining that the center or 179  
type A home is operating without a license, shall notify the 180  
attorney general, the prosecuting attorney of the county in 181  
which the center or type A home is located, or the city 182  
attorney, village solicitor, or other chief legal officer of the 183  
municipal corporation in which the center or type A home is 184  
located, that the center or type A home is operating without a 185  
license. Upon receipt of the notification, the attorney general, 186  
prosecuting attorney, city attorney, village solicitor, or other 187  
chief legal officer of a municipal corporation shall file a 188  
complaint in the court of common pleas of the county in which 189  
the center or type A home is located requesting that the court 190  
grant an order enjoining the owner from operating the center or 191  
type A home in violation of section 5104.02 of the Revised Code. 192  
The court shall grant such injunctive relief upon a showing that 193

the respondent named in the complaint is operating a center or 194  
type A home and is doing so without a license. 195

(H) The department shall prepare an annual report on 196  
inspections conducted under this section and section 5104.044 of 197  
the Revised Code. The report shall include the number of 198  
inspections conducted, the number and types of violations found, 199  
and the steps taken to address the violations. The department 200  
shall file the report with the governor, the president and 201  
minority leader of the senate, and the speaker and minority 202  
leader of the house of representatives on or before the first 203  
day of January of each year, beginning in 1999. 204

(I) While an investigation conducted by the department 205  
under this section remains ongoing, any of its investigative 206  
records are not public records for purposes of section 149.43 of 207  
the Revised Code. 208

**Sec. 5104.044.** (A) To the extent permitted by federal law, 209  
all of the following apply to each child care center: 210

(1) The center shall procure and maintain a camera, 211  
collection of cameras, or camera system at every entrance to and 212  
exit from the center. At each entrance and exit where such a 213  
camera, collection, or system is maintained, the camera, 214  
collection, or system shall have a clear line of sight to both 215  
the interior and exterior of that entrance and exit. 216

(2) The center shall procure and maintain a camera, 217  
collection of cameras, or camera system in the general areas of 218  
the center where children receive child care, except that this 219  
requirement does not apply to any of the following areas of the 220  
center: its administrative areas, including offices, and any 221  
private areas, including changing rooms and restrooms. 222

<u>(3) Each camera, collection, or system described in</u>	223
<u>divisions (A) (1) and (2) of this section shall record for each</u>	224
<u>day that the center operates and shall be capable of storing</u>	225
<u>either on the center's site or digitally the video from each day</u>	226
<u>of operation for the sixty-day period immediately following the</u>	227
<u>recording of the day of operation.</u>	228
<u>(4) To enable the department of children and youth, under</u>	229
<u>its authority described in division (B) (1) (a) of section 5104.04</u>	230
<u>of the Revised Code, to conduct unannounced inspections,</u>	231
<u>including visual inspections relating to attendance, other</u>	232
<u>administrative matters, and health and safety concerns, the</u>	233
<u>center shall provide the department on the department's request</u>	234
<u>access to every camera, collection, or system described in</u>	235
<u>divisions (A) (1) to (3) of this section, with such access to</u>	236
<u>include the video stored as described in division (A) (3) of this</u>	237
<u>section.</u>	238
<u>(B) Not later than twelve months after the effective date</u>	239
<u>of this section and to the extent permitted by federal law, all</u>	240
<u>of the following apply:</u>	241
<u>(1) To enable the department, under its authority</u>	242
<u>described in division (B) (1) (a) of section 5104.04 of the</u>	243
<u>Revised Code, to conduct unannounced inspections, including</u>	244
<u>visual inspections relating to attendance, other administrative</u>	245
<u>matters, and health and safety concerns, each child care center</u>	246
<u>shall provide the department on the department's request access</u>	247
<u>to every camera, collection, or system described in division (A)</u>	248
<u>of this section, with such access after that date to include</u>	249
<u>both live access, as well as the video stored and provided under</u>	250
<u>divisions (A) (3) and (4) of this section.</u>	251
<u>(2) The department shall develop and implement a system</u>	252

capable of surveilling the live and stored video provided by 253  
each center under this section. 254

(3) The department shall surveil and use the live and 255  
stored video to conduct visual attendance audits of child care 256  
centers. Such audits shall be logged into the department's 257  
system by noting the date, time, location, and individual who 258  
conducted the visual attendance audit. The department also shall 259  
surveil and use the live and stored video for any other lawful 260  
purpose, including to monitor the health and safety of the 261  
children receiving child care at the center and to conduct any 262  
other administrative matter. 263

(C) (1) The department shall immediately suspend or 264  
withhold any further state payments to any child care center if 265  
an inspection or audit conducted under this section indicates 266  
that the center has engaged in probable or suspected waste, 267  
fraud, and abuse, false attendance reporting, or other material 268  
misrepresentation, pending a full investigation and adjudication 269  
by the department. 270

(2) If a child care center fails to comply with the 271  
requirements of this section, the department may terminate the 272  
center's contract entered into under section 5104.32 of the 273  
Revised Code to provide publicly funded child care. 274

(D) The video described in this section, including both 275  
live access video and stored video, is not a public record for 276  
purposes of section 149.43 of the Revised Code. 277

**Sec. 5104.303.** (A) Immediately after receiving an 278  
allegation of probable or suspected waste, fraud, and abuse 279  
related to a provider of publicly funded child care that is a 280  
child care center, the department of children and youth shall 281

conduct a preliminary investigation of the allegation. If, as  
part of the investigation, the department determines that the  
allegation is substantiated and the director of children and  
youth reasonably believes that the provider engaged in probable  
or suspected waste, fraud, and abuse, including false attendance  
reporting, or made material misrepresentations to the  
department, then not later than forty-eight hours after that  
determination and belief have been reached, the department of  
children and youth shall refer the matter to the auditor of  
state. As soon as practicable after receiving the referral, the  
auditor of state shall conduct a full investigation of the  
allegation in accordance with Chapter 117. of the Revised Code.

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

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

(D) While an investigation conducted under this section 312  
remains ongoing, any of its investigative records are not public 313  
records for purposes of section 149.43 of the Revised Code. 314

**Sec. 5104.304.** (A) On a referral from the auditor of state 315  
described in section 5104.303 of the Revised Code, the attorney 316  
general may in the name of this state institute against the 317  
provider of publicly funded child care in a court of competent 318  
jurisdiction appropriate legal action, including criminal 319  
prosecution. 320

(B) In any other instance of probable or suspected waste, 321  
fraud, and abuse relating to the publicly funded child care 322  
program of which the department of children and youth becomes 323  
aware, the department of children and youth may request that the 324  
attorney general institute in the name of this state in a court 325  
of competent jurisdiction appropriate legal action, including 326  
criminal prosecution, against the person or governmental entity 327  
engaging in the probable or suspected waste, fraud, and abuse. 328  
On the department's request, the attorney general may institute 329  
such an action. 330

**Sec. 5104.361.** (A) Not later than twelve months after the 331  
effective date of this section and to the extent permitted by 332  
federal law, the department of children and youth shall 333  
establish and make available an online portal for the purpose of 334  
tracking child care center attendance through the automated 335  
child care system described in section 5104.32 of the Revised 336  
Code. The portal shall allow a caretaker parent of a child 337  
enrolled with a child care center to record the child's 338  
attendance upon the child's entry to and exit from the center. 339

(B) In making available the online portal and recording 340  
attendance through it, all of the following apply: 341

<u>(1) The department shall provide each child care center with appropriate software through which a child's caretaker parent shall record the child's attendance, with such software serving as the only method by which attendance is recorded through the portal.</u>	342 343 344 345 346
<u>(2) The child's caretaker parent shall be responsible for recording the child's attendance upon the child's entry to and exit from the child care center for each day the child attends the center. Such a record shall be completed only at the center or another location where the center is approved to provide child care to the child.</u>	347 348 349 350 351 352
<u>(3) The online portal shall close at eleven fifty-nine p.m. each day, except that, in the case of a child care center providing child care during nontraditional hours, the timeline may be adjusted with the approval of the department.</u>	353 354 355 356
<u>(4) The portal shall not permit a caretaker parent or child care center to backdate a child's attendance.</u>	357 358
<u>(5) The portal shall allow for the use of pins or quick response codes when recording attendance, with the pin or code uploaded each day attendance is recorded. If a caretaker parent uses a quick response code, the parent shall allow location data from the parent's registered cellular phone to be collected at the time of the code's use.</u>	359 360 361 362 363 364
<u>(6) Each attendance record submitted through the portal shall include a photograph with a clear picture of the face of the child's caretaker parent. If the record does not include such a picture, the department shall reject the record.</u>	365 366 367 368
<u>(C) The department shall use attendance records submitted through the online portal under this section when calculating a</u>	369 370

child care center's payments for publicly funded child care as 371  
described in division (C) (1) of section 5104.32 of the Revised 372  
Code. Records submitted to the department through the online 373  
portal are confidential and may be used by the department only 374  
as described in this division. 375

**Section 2.** That existing sections 5104.015 and 5104.04 of 376  
the Revised Code are hereby repealed. 377

**Section 3.** This act shall be known as the Child Care Fraud 378  
Prevention Act. 379