

As Introduced

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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**

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	11
and sections 5104.044, 5104.303, 5104.304, and 5104.361 of the	12
Revised Code be enacted to read as follows:	13

Sec. 5104.015. The director of children and youth shall	14
adopt rules in accordance with Chapter 119. of the Revised Code	15
governing the operation of child care centers, including parent	16
cooperative centers, part-time centers, and drop-in centers. The	17
rules shall reflect the various forms of child care and the	18

needs of children receiving child care or publicly funded child 19
care and shall include specific rules for school-age child care 20
centers that are developed in consultation with the department 21
of education and workforce. The rules shall include the 22
following: 23

(A) Submission of a site plan and descriptive plan of 24
operation to demonstrate how the center proposes to meet the 25
requirements of this chapter and rules adopted pursuant to this 26
chapter for the initial license application; 27

(B) Standards for ensuring that the physical surroundings 28
of the center are safe and sanitary including the physical 29
environment, the physical plant, and the equipment of the 30
center; 31

(C) Standards for the supervision, care, and discipline of 32
children receiving child care or publicly funded child care in 33
the center; 34

(D) Standards for a program of activities, and for play 35
equipment, materials, and supplies, to enhance the development 36
of each child; however, any educational curricula, philosophies, 37
and methodologies that are developmentally appropriate and that 38
enhance the social, emotional, intellectual, and physical 39
development of each child shall be permissible. As used in this 40
division, "program" does not include instruction in religious or 41
moral doctrines, beliefs, or values that is conducted at child 42
care centers owned and operated by churches and does include 43
methods of disciplining children at child care centers. 44

(E) Admissions policies and procedures; 45

(F) Health care policies and procedures, including 46
procedures for the isolation of children with communicable 47

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 52
(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 54 55
(K) Procedures for screening employees that may include any necessary physical examinations and immunizations;	56 57
(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 59 60 61
(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 63 64
(N) Procedures for record keeping, organization, and administration;	65 66
(O) Procedures for issuing, denying, and revoking a license that are not otherwise provided for in Chapter 119. of the Revised Code;	67 68 69
(P) Inspection procedures;	70
(Q) Procedures and standards for setting initial license application fees;	71 72
(R) Procedures for receiving, recording, and responding to complaints about centers;	73 74

(S) Procedures for enforcing section <u>sections 5104.04 and 5104.044</u> 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
Sec. 5104.04. (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 103
twelve-month period of operation of a center, type A home, or 104
licensed type B home, inspect the center, type A home, or 105
licensed type B home. The department shall inspect a part-time 106
center or part-time type A home at least once during every 107
twelve-month period of operation. The department shall provide a 108
written inspection report to the licensee within a reasonable 109
time after each inspection. 110

Inspections may be unannounced. No person, firm, 111
organization, institution, or agency shall interfere with the 112
inspection of a center, type A home, or licensed type B home by 113
any state or local official engaged in performing duties 114
required of the state or local official by this chapter or rules 115
adopted pursuant to this chapter, including inspecting the 116
center, type A home, or licensed type B home, reviewing records, 117
or interviewing licensees, employees, children, or parents. 118

(b) Upon receipt of any complaint that a center, type A 119
home or licensed type B home is out of compliance with the 120
requirements of this chapter or rules adopted pursuant to this 121
chapter, the department shall investigate the center or home, 122
and both of the following apply: 123

(i) If the complaint alleges that a child suffered 124
physical harm while receiving child care at the center or home 125
or that the noncompliance alleged in the complaint involved, 126
resulted in, or poses a substantial risk of physical harm to a 127
child receiving child care at the center or home, the department 128
shall inspect the center or home. 129

(ii) If division (B) (1) (b) (i) of this section does not 130
apply regarding the complaint, the department may inspect the 131
center or home. 132

(c) Division (B)(1)(b) of this section does not limit, 133
restrict, or negate any duty of the department to inspect a 134
center, type A home, or licensed type B home that otherwise is 135
imposed under this section, ~~or~~ any authority of the department 136
to inspect a center, type A home, or licensed type B home that 137
otherwise is granted under this section, or any authority of the 138
department to inspect a center that otherwise is granted under 139
section 5104.044 of the Revised Code. 140

(2) If the department implements an instrument-based 141
program monitoring information system, it may use an indicator 142
checklist to comply with division (B)(1) of this section. 143

(C) The department may deny an application or revoke a 144
license of a center, type A home, or licensed type B home, if 145
the applicant knowingly submits falsified information to the 146
department or if the center or home does not comply with the 147
requirements of this chapter or rules adopted pursuant to this 148
chapter. 149

(D) If the department finds, after notice and hearing 150
pursuant to Chapter 119. of the Revised Code, that any 151
applicant, person, firm, organization, institution, or agency 152
applying for licensure or licensed under section 5104.03 of the 153
Revised Code is in violation of any provision of this chapter or 154
rules adopted pursuant to this chapter, the department may issue 155
an order of denial to the applicant or an order of revocation to 156
the center, type A home, or licensed type B home revoking the 157
license previously issued by the department. Upon the issuance 158
of such an order, the person whose application is denied or 159
whose license is revoked may appeal in accordance with section 160
119.12 of the Revised Code. 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

(3) Each camera, collection, or system described in 223
divisions (A) (1) and (2) of this section shall record for each 224
day that the center operates and shall be capable of storing 225
either on the center's site or digitally the video from each day 226
of operation for the sixty-day period immediately following the 227
recording of the day of operation. 228

(4) To enable the department of children and youth, under 229
its authority described in division (B) (1) (a) of section 5104.04 230
of the Revised Code, to conduct unannounced inspections, 231
including visual inspections relating to attendance, other 232
administrative matters, and health and safety concerns, the 233
center shall provide the department on the department's request 234
access to every camera, collection, or system described in 235
divisions (A) (1) to (3) of this section, with such access to 236
include the video stored as described in division (A) (3) of this 237
section. 238

(B) Not later than twelve months after the effective date 239
of this section and to the extent permitted by federal law, all 240
of the following apply: 241

(1) To enable the department, under its authority 242
described in division (B) (1) (a) of section 5104.04 of the 243
Revised Code, to conduct unannounced inspections, including 244
visual inspections relating to attendance, other administrative 245
matters, and health and safety concerns, each child care center 246
shall provide the department on the department's request access 247
to every camera, collection, or system described in division (A) 248
of this section, with such access after that date to include 249
both live access, as well as the video stored and provided under 250
divisions (A) (3) and (4) of this section. 251

(2) The department shall develop and implement a system 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 282
part of the investigation, the department determines that the 283
allegation is substantiated and the director of children and 284
youth reasonably believes that the provider engaged in probable 285
or suspected waste, fraud, and abuse, including false attendance 286
reporting, or made material misrepresentations to the 287
department, then not later than forty-eight hours after that 288
determination and belief have been reached, the department of 289
children and youth shall refer the matter to the auditor of 290
state. As soon as practicable after receiving the referral, the 291
auditor of state shall conduct a full investigation of the 292
allegation in accordance with Chapter 117. of the Revised Code. 293

(B) At the beginning of the investigation described in 294
division (A) of this section, the auditor shall report to the 295
speaker of the house of representatives and president of the 296
senate that the auditor received a referral seeking a full 297
investigation of a provider of publicly funded child care. At 298
the conclusion of the required investigation, the auditor shall 299
provide to the speaker of the house of representatives and 300
senate president a summary of the investigation, with the 301
summary to indicate whether or not the name of the provider 302
under investigation has been referred to the office of attorney 303
general for prosecution as described in division (C) of this 304
section. 305

(C) When a full investigation conducted by the auditor 306
demonstrates that a provider of publicly funded child care that 307
is a child care center engaged in probable or suspected waste, 308
fraud, and abuse or made material misrepresentations to the 309
department of children and youth, the auditor shall refer the 310
matter to the office of the attorney general. 311

(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

(1) The department shall provide each child care center 342
with appropriate software through which a child's caretaker 343
parent shall record the child's attendance, with such software 344
serving as the only method by which attendance is recorded 345
through the portal. 346

(2) The child's caretaker parent shall be responsible for 347
recording the child's attendance upon the child's entry to and 348
exit from the child care center for each day the child attends 349
the center. Such a record shall be completed only at the center 350
or another location where the center is approved to provide 351
child care to the child. 352

(3) The online portal shall close at eleven fifty-nine 353
p.m. each day, except that, in the case of a child care center 354
providing child care during nontraditional hours, the timeline 355
may be adjusted with the approval of the department. 356

(4) The portal shall not permit a caretaker parent or 357
child care center to backdate a child's attendance. 358

(5) The portal shall allow for the use of pins or quick 359
response codes when recording attendance, with the pin or code 360
uploaded each day attendance is recorded. If a caretaker parent 361
uses a quick response code, the parent shall allow location data 362
from the parent's registered cellular phone to be collected at 363
the time of the code's use. 364

(6) Each attendance record submitted through the portal 365
shall include a photograph with a clear picture of the face of 366
the child's caretaker parent. If the record does not include 367
such a picture, the department shall reject the record. 368

(C) The department shall use attendance records submitted 369
through the online portal under this section when calculating a 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