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Bill Analysis

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SUMMARY

Public benefits for immigrants, generally

- Requires each person administering a state or local public benefit to comply with federal law by refraining from providing those benefits to any person who is ineligible to receive them based on the person's immigration status.

Ohio Access to Justice Foundation

- Requires the Ohio Access to Justice Foundation's (OAJF's) board of directors to include at least one voting member who is the chief executive officer of a legal aid society.
- Prohibits the OAJF, a legal aid society, and any other person who receives money from the Legal Aid Fund or the Access to Justice Foundation Fund from using that money to provide legal services or assistance to any individual who is unlawfully present in the U.S.
- Requires a person who violates that prohibition to pay back the funds and prohibits the person from receiving state funds for four years.

Gender transition services for minors

- Prohibits the use of state funds to provide gender transition services to minors.
- Requires an entity that violates that prohibition to pay back the funds and prohibits the entity from receiving state funds or other state services for four years.

DETAILED ANALYSIS

Public benefits for immigrants, generally

The bill adds a requirement in Ohio law that each person administering a state or local public benefit refrain from providing those benefits to any person who is ineligible to receive

them under federal law based on the person's immigration status.[1] Agencies currently must follow that requirement, but the Revised Code does not mention it. Under the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), a person must be a U.S. citizen or national or a "qualified alien" to be eligible for federal, state, or local public benefits.

"Public benefits" are defined broadly to include public assistance programs, as well as contracts, occupational and business licenses, and other government programs, including:

- Medicaid or Medicare;
- Supplemental Nutrition Assistance Program (SNAP) benefits (formerly known as food stamps);
- Temporary Assistance for Needy Families (TANF);
- Unemployment compensation;
- Housing assistance; and
- Supplemental Security Income.

"Qualified alien" generally includes lawful permanent residents and certain persons with temporary lawful presence under humanitarian programs. A person who is unlawfully present in the U.S. is ineligible for benefits. Government agencies have access to a database called SAVE (Systematic Alien Verification for Entitlements) operated by U.S. Citizenship and Immigration Services to confirm a noncitizen's eligibility for benefits.[2]

However, PRWORA does allow a person who is unlawfully present in the U.S. or who is otherwise ineligible for benefits to receive the following federal, state, or local public benefits:[3]

- Health care services necessary for the treatment of an emergency medical condition not related to an organ transplant procedure;
- Short-term, noncash, in-kind emergency disaster relief;
- Public health assistance for immunizations and for testing and treatment of symptoms of communicable diseases;
- Services or assistance, such as food from soup kitchens, crisis counseling and intervention, and short-term shelter, that deliver in-kind services at the community level, are available regardless of the recipient's income or resources, and are necessary for the protection of life or safety;

[1] R.C. 9.631.

[2] U.S. Citizenship and Immigration Services, *About SAVE*, available at uscis.gov under "SAVE."

[3] 8 United States Code 1611, 1621, and 1641.

- Other benefits specifically authorized by a state's laws. In Ohio, the only such benefit is workers' compensation.[4]

Ohio Access to Justice Foundation

Background on the OAJF

The Ohio Access to Justice Foundation (OAJF) is a charitable foundation established by the State Public Defender under the Revised Code to provide civil legal services to low income persons, such as assistance with landlord-tenant issues, divorce, child custody, and taxes. The OAJF provides most of those services by awarding grants to nonprofit legal aid societies. In addition to funding from the OAJF, legal aid societies also receive grants and donations from other sources, such as the federal government.[5]

OAJF board membership

The bill requires the OAJF's board of directors to include at least one voting member who is the chief executive officer of a legal aid society. Existing law requires that the board include one other member: the Director of Commerce or the Director's designee.[6] As a nonprofit corporation, the OAJF's bylaws generally set the composition of its board. Currently, the board consists of 38 directors, with several appointed by public officials.[7]

Use of legal aid funds to assist unlawfully present persons

The bill prohibits the OAJF, a legal aid society, and any other person who receives money from the Legal Aid Fund or the Access to Justice Foundation Fund from using that money to provide legal services or assistance to any individual who is unlawfully present in the U.S.

The OAJF administers both of those funds to support civil legal aid services. The Legal Aid Fund is housed in the state treasury and receives money collected by the state from certain court fees, the interest earned on the trust accounts in which attorneys keep client funds (IOLTA), and the interest on escrow trust accounts held by title insurance agencies (IOTA). This fund is used to make annual grants to qualifying legal aid societies according to a statutory process.

The Access to Justice Foundation Fund is in the custody of the OAJF. The Foundation Fund receives a portion of the revenue of the Legal Aid Fund along with money from other sources, such as donations and grants. The OAJF uses the Foundation Fund to cover its operational expenses, as well as to provide additional grants or assistance to legal aid societies and more generally to enhance or improve the delivery of civil legal services to indigents. The bill specifies that the money in the Foundation Fund is public money for purposes of the Auditor of State's authority, although the Foundation Fund is not part of the state treasury.

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[4] R.C. 4123.01(A)(1)(b), not in the bill. See also *Rajeh v. Steel City Corp.,* 2004-Ohio-3211 (7th Dist. Ct. App. 2004).

[5] R.C. 120.521.

[6] R.C. 120.521(C). See also R.C. 169.052, not in the bill.

[7] Ohio Access to Justice Foundation, *Board,* available at ohiojusticefoundation.org under "About Us."

Continuing law allows the Auditor of State, under certain circumstances, to conduct financial audits of private entities that receive public money. If the Auditor discovers a violation of the bill's prohibition against providing services or assistance to unlawfully present persons, the bill requires the Auditor to make a finding for recovery against the violator for both of the following:

- The full amount the violator used for a prohibited purpose;
- Any additional amount of financial assistance the violator received from the relevant fund on or after the first date on which the violator used funds for that prohibited purpose.

Under continuing law, when the Auditor makes a finding for recovery, the agency to which the money is owed may bring a civil action against the violator to recover the money. If the agency does not do so within 120 days after receiving the Auditor's report, the Attorney General may intervene and pursue the action in court.

Further, under the bill, the violator is ineligible to receive any future financial assistance from the Legal Aid Fund or the Foundation Fund, or to receive any grant of state funds for any other reason, for four years after the date of the audit report.[8]

Federal grants to legal aid societies come with similar, but not identical, restrictions. As laid out in federal regulations, those funds may be used in certain circumstances to assist a person who is unlawfully present in the U.S., such as when the person or the person's child is a victim of battery, extreme cruelty, sexual assault, or human trafficking.[9]

Gender transition services for minors

The bill prohibits a state agency or any other entity that receives state funds from providing grants, loans, or other services to any entity that uses federal, state, or local funds to provide gender transition services to minors.[10] Gender transition services are any medical or surgical service provided to assist someone with gender transition, including puberty-blocking drugs, cross-sex hormones, and gender reassignment surgery.[11]

If the Auditor of State conducts an audit and determines that an entity receiving state funds has used federal, state, or local funds to provide gender transition services to minors, the Auditor must make a finding for recovery against the entity for both of the following:

- The full amount of state funds used to provide gender transition services to minors;
- Any additional amount of state funds the entity received on or after the first day the gender transition services were provided.

[8] R.C. 117.01, 120.521, and 120.54. See also R.C. 117.10, 117.28, 120.52, and 120.53, not in the bill.

[9] 45 Code of Federal Regulations 1626.

[10] R.C. 3129.07(A).

[11] R.C. 3129.01(F), not in the bill.

As described above with regard to Legal Aid funds, a recovery finding allows the Attorney General or the agency to which the money is owed to bring a civil action in court against the violator to recover the funds.

An entity that violates the bill also is ineligible to receive any state funds or other state services for four years after the date of the audit report.[12]

HISTORY

Action	Date
Introduced	02-17-26

ANHB0700IN-136/ks

[12] R.C. 3129.07(B).