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Bill Analysis

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Version: As Reported by Senate Health, Human Services, and Medicaid^{*}

Primary Sponsors: Sens. Coley and Hottinger

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Summary

Host family child placement

- Permits a child to be hosted by a host family only when the following conditions are satisfied:
 - Hosting is done on a temporary basis (which is a period of time not to exceed one year unless, upon the request of the child's parent, guardian, legal custodian, host family, or the qualified organization that arranged the host family agreement, it is altered by a juvenile court that determines there are extenuating circumstances).
 - Hosting is done under a host family agreement entered into with a qualified organization's assistance.
 - Either one or both of the child's parents, or the child's guardian or legal custodian, are incarcerated, incapacitated, receiving medical, psychiatric, or psychological treatment, on active military service, or subject to other circumstances under which hosting is appropriate.
 - The host family provides care only to that child or only to a single-family group, in addition to the host family's own child or children, if applicable.
- Prohibits a qualified organization from authorizing hosting with a host family if any adult residing with a prospective host family has been convicted of or pleaded guilty to specified crimes (including, for example, murder, aggravated murder, and rape), unless all the following conditions are satisfied:

^{*} This analysis was prepared before the report of the Senate Health, Human Services, and Medicaid Committee appeared in the Senate Journal. Note that the legislative history may be incomplete.

- For a misdemeanor, at least three years have elapsed from the date the person was fully discharged from any imprisonment or probation arising from the conviction.
- For a felony, at least 10 years have elapsed since the person was fully discharged from imprisonment or probation arising from the conviction.
- The victim of the offense was not: under 18 years old, a functionally impaired person, developmentally disabled, suffering from a mental illness, or 60 years of age or older.
- Hosting in the host family's home will not jeopardize the child's health, safety, or welfare, as determined by the consideration of several factors specified in the bill, that include, for example, the person's age at the time of the offense, the nature and seriousness of the offense, the circumstances of the offense, and any other relevant factors.

"Host family" and "qualified organization" defined

- Defines "host family" as any individual who provides care in the individual's private residence for a child or single-family group at the request of the child's custodial parent, guardian, or legal custodian, under a host family agreement, in addition to the host family's own child or children, if applicable.
- Specifies that "host family" excludes a foster home.
- Defines "qualified organization" as a private association, organization, corporation, nonprofit, or other entity that is not a Title IV-E reimbursable setting and that has established a program that does all of the following:
 - Provides resources and services to assist, support, and educate parents, host families, children, or any person hosting a child;
 - Requires a criminal records check and requests a check in Ohio's central registry of abuse and neglect on the intended host family and all adults residing in the host family's household;
 - Ensures the host family is trained on their rights, duties, responsibilities, and limitations;
 - Conducts in-home supervision of a child who is the subject of the host family agreement while the agreement is in force as follows:
 - ❖ For hostings of fewer than 30 days, within two business days of placement and then at least once a week thereafter;
 - ❖ For hostings of 30 days but less than 90 days, within two business days of placement and then twice a month;
 - ❖ For hostings of ninety days or more, within two business days of placement and then an option for less frequent supervision, as determined in accordance with the child's best interests.
 - Plans for the return of the child to the child's parents, guardian, or legal custodian.

Host family background check

- Requires, before a qualified organization provides for hosting of a child, and every four years thereafter, a prospective host family and all other persons 18 years or older residing in the host family's home to request, and provide to the qualified organization the results of, the following:
 - A criminal records check and information from the Federal Bureau of Investigation (FBI) as part of the criminal records check, including fingerprint-based checks of the national crime information databases;
 - A background check in Ohio's central registry of abuse and neglect.
- Permits a person subject to the records check and FBI information requirement to request the records check and information from either of the following:
 - The superintendent of the Bureau of Criminal Identification and Investigation (BCII);
 - Any entity authorized, on behalf of the person, to request the superintendent to conduct the criminal records check and provide the information.
- Requires the BCII, on receipt of a request for criminal records check and information required under the bill, to conduct a criminal records check in accordance with Ohio law.
- Prohibits an organization from authorizing hosting with a host family if a person subject to the checks and information required fails to provide the results of the checks and the information required to the organization.
- Specifies that the BCII check is not a public record and is not available to anyone except the person subject to the check or his or her representative, the qualified organization's administrative director, or any court, hearing officer, or other necessary individual involved regarding a decision not to authorize hosting with the host family.

Policies, procedures, and host family training

- Requires a qualified organization to develop and implement written policies and procedures for employees, including policies and procedures specified in the bill, such as, for example, emergency and safety procedures, child care principles and practices, and the organization's administrative structure, procedures, and overall program goals.
- Requires a qualified organization to develop and implement written policies and procedures for host family training, including training specified in the bill, such as, for example, the host families' legal rights and responsibilities, the organization's policies and procedures regarding host families, and behavior management techniques.

Child abuse, neglect, and dependency

- Makes an employee of a qualified organization a mandatory reporter of child abuse and neglect.
- Prohibits a public children services agency (PCSA) from filing a complaint that a hosted child is an unruly, abused, neglected, or dependent child if the child is hosted in

compliance with the bill, unless the agency determines that other factors warrant filing the complaint.

- Provides that a presumption that a hosted child is abandoned maybe rebutted if the child is hosted in compliance with the bill.

ODJFS regulation of qualified organizations

- Amends the definitions of "association" and "institution" to include "qualified organizations," which has the effect of subjecting the organizations to the Ohio Department of Job and Family Services (ODJFS) requirements imposed on associations and institutions.

Certification exemption

- Exempts host families from ODJFS certification requirements or supervision.

Detailed Analysis

Host family child placement

When a child may be placed

The bill permits a child to be hosted by a host family only when the all the following conditions are satisfied:¹

- Hosting is done on a temporary basis (which is a period of time not to exceed one year, unless, upon the request of the child's parent, guardian, legal custodian, host family, or the organization that arranged the host family agreement, the time period is altered by a juvenile court if the court determines there are extenuating circumstances).
- Hosting is done under a host family agreement entered into with a qualified organization's assistance.
- Either one or both of the child's parents, or the child's guardian or legal custodian, are incarcerated, incapacitated, receiving medical, psychiatric, or psychological treatment, on active military service, or subject to other circumstances under which hosting is appropriate.
- The host family provides care only to that child or only to a single-family group, in addition to the host family's own child or children, if applicable.

When child placement prohibited

A qualified organization is prohibited from authorizing hosting with a host family if any person 18 years of age or older who resides with the prospective host family previously has been convicted of or pleaded guilty to specified crimes (including, for example, murder, aggravated murder, and rape), unless all the following conditions are satisfied:²

¹ R.C. 2151.90(B) and 2151.901.

² R.C. 2151.906.

- If the offense was a misdemeanor, or would be a misdemeanor if the conviction occurred at the time that hosting is being considered, at least three years have elapsed from the date the person was fully discharged from any imprisonment or probation arising from the conviction.
- If the offense was a felony, at least ten years have elapsed since the person was fully discharged from imprisonment or probation arising from the conviction.
- The victim of the offense was not: under 18 years old, a functionally impaired person, developmentally disabled, suffering from a mental illness, or 60 years of age or older.
- Hosting in the host family's home will not jeopardize in any way the child's health, safety, or welfare, as determined by the consideration of the following factors:
 - The person's age at the time of the offense;
 - The nature and seriousness of the offense;
 - The circumstances under which the offense was committed;
 - The degree of participation of the person involved in the offense;
 - The time elapsed since the person was fully discharged from imprisonment or probation;
 - The likelihood that the circumstances leading to the offense will recur;
 - Whether the person is a repeat offender;
 - The person's employment record;
 - The person's efforts at rehabilitation and the results of those efforts;
 - Whether any criminal proceedings are pending against the person;
 - Any other factors the qualified organization considers relevant.

"Host family" and "qualified organization" defined

Host family

The bill defines "host family" as any individual who provides care in the individual's private residence for a child or single-family group, at the request of the child's custodial parent, guardian, or legal custodian, under a host family agreement. The individual also may provide care for the individual's own child or children. The term "host family" excludes a foster home.³

Qualified organization

Under the bill, a "qualified organization" means a private association, organization, corporation, nonprofit, or other entity that is not a Title IV-E reimbursable setting and that has established a program that does all of the following:⁴

³ R.C. 2151.90(A)(1).

⁴ R.C. 2151.90(A)(2).

- Provides resources and services to assist, support, and educate parents, host families, children, or any person hosting a child under a host family agreement on a temporary basis;
- Requires a criminal background check on the intended host family and all adults residing in the host family's household;
- Requires a background check in Ohio's central registry of abuse and neglect from the Ohio Department of Job and Family Services (ODJFS) for the intended host family and all adults residing in the host family's household;
- Ensures that the host family is trained on their rights, duties, responsibilities, and limitations as outlined in the host family agreement;
- Conducts in-home supervision of a child who is the subject of the host family agreement while the agreement is in force as follows:
 - For hostings of fewer than 30 days, within two business days of placement and then at least once a week thereafter;
 - For hostings of 30 days but less than 90 days, within two business days of placement and then twice a month;
 - For hostings of 90 days or more, within two business days of placement and then an option for less frequent supervision, as determined in accordance with the child's best interests.
- Plans for the return of the child who is the subject of the host family agreement to the child's parents, guardian, or legal custodian.

Host family background check

The bill requires, before a qualified organization provides for hosting of a child, and every four years thereafter, a prospective host family and all other persons 18 years of age or older who reside in the host family's home to request, and provide to the qualified organization the results of, the following for the host family and all other persons eighteen years of age or older who reside in the home:

- A criminal records check and information from the Federal Bureau of Investigation (FBI) as part of the criminal records check, including fingerprint-based checks of the national crime information databases;
- A background check in Ohio's central registry of abuse and neglect from ODJFS.

Any person subject to the criminal records check and information required may request the criminal records check and information required from either of the following:

- The superintendent of the Bureau of Criminal Identification and Investigation (BCII);
- Any entity authorized, on behalf of the person, to request the superintendent to conduct the criminal records check and provide the information.

If the person fails to provide the results of the criminal records check and information and the background check to the organization, the organization is prohibited from authorizing hosting with the host family.

The superintendent of BCII, on receipt of a request for a criminal records check and FBI information required under the bill, must conduct a criminal records check in accordance with Ohio law.⁵

The bill specifies that the report of any criminal records check conducted by the BCII in accordance with the bill is not a public record and cannot be made available to anyone except the following:⁶

- The person subject to the criminal records check or the person's representative;
- The qualified organization's administrative director who requested the criminal records check or the administrative director's representative;
- Any court, hearing officer, or other necessary individual involved in a case regarding an organization's decision not to authorize hosting with the host family if the host family either (1) was subject to the criminal records check, or (2) resided with the person subject to the criminal records check.

Policies, procedures, and host family training

Employee policy and procedures

The bill requires a qualified organization to develop and implement written policies and procedures for employees, including policies and procedures on all of the following topics:⁷

- Familiarization of the employee with emergency and safety procedures;
- The principles and practices of child care;
- Administrative structure, procedures, and overall program goals of the organization;
- Appropriate techniques of behavior management;
- Techniques and methodologies for crisis management;
- Familiarization of the employee with the disciplinary procedures and the discipline and behavior intervention policies required by ODJFS rules and any other similar requirements;⁸
- Procedures for reporting suspected child abuse or neglect;
- An emergency medical plan;
- Universal precautions;

⁵ R.C. 109.572 and 2151.904.

⁶ R.C. 2151.907.

⁷ R.C. 2151.908.

⁸ Ohio Administrative Code 5101:2-5-13 and 5101:2-9-21, not in the bill.

- Knowledge and skills to understand and address the issues confronting adolescents.

Host family training

The bill also requires a qualified organization to develop and implement written policies and procedures for host family training, including training on all the following topics:⁹

- The host family's legal rights and responsibilities;
- The organization's policies and procedures regarding host families;
- The effects that separation and attachment issues have on children and their families;
- The effects of physical abuse, sexual abuse, emotional abuse, neglect, and substance abuse on normal human growth and development, as well as information on reporting child abuse and neglect;
- Behavior management techniques;
- Cultural competence;
- Prevention, recognition, and management of communicable diseases;
- Community health and social services available to children and their families;
- Training on appropriate and positive behavioral intervention techniques;
- Education advocacy training.

Child abuse, neglect, and dependency

The bill makes an employee of a qualified organization a mandatory reporter of child abuse or neglect.¹⁰

The bill prohibits a public children services agency (PCSA) from filing a complaint that a hosted child is an abused, neglected, or dependent child because the child is hosted by a host family in compliance with the bill, unless the PCSA determines that factors other than hosting warrant filing the complaint. This prohibition also covers children who may be unruly, juvenile traffic offenders, or habitually truant, or who violated the prohibition against a child possessing, using, purchasing, or receiving cigarettes or other tobacco products.¹¹

The bill also provides that a presumption that a child hosted under a host family is abandoned may be rebutted if the hosting complies with the bill.¹²

⁹ R.C. 2151.909.

¹⁰ R.C. 2151.421(A)(1)(b).

¹¹ R.C. 2151.902; R.C. 2151.27 and 2151.87, not in the bill.

¹² R.C. 2151.903; A corrective amendment is needed to clarify that a child must be hosted by a host family *agreement* in order to rebut the presumption.

ODJFS regulation of qualified organizations

The bill amends the definitions of "association" and "institution" to include "qualified organizations" for the purpose of Ohio's laws governing the placement of children.¹³ This has the effect of subjecting qualified organizations to ODJFS rules for the adequate and competent management of institutions or associations. Further, ODJFS must biennially pass upon the fitness of an organization and revoke certification if an organization is in violation of a rule or law.¹⁴

Certification exemption

Under the bill, host families are exempt from certification or supervision requirements under ODJFS rules for management of institutions or associations.¹⁵

History

Action	Date
Introduced	02-12-19
Reported, S. Health, Human Services, & Medicaid	---

S0006-RS-133/ec

¹³ R.C. 5103.02(A)(1)(d).

¹⁴ R.C. 5103.03(A), (B)(1), and (C), not in the bill.

¹⁵ R.C. 2151.9010.