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# OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research  
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Office

H.B. 65  
133<sup>rd</sup> General Assembly

## Bill Analysis

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**Version:** As Passed by the House

**Primary Sponsor:** Rep. Carfagna

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### SUMMARY

- Requires a child care provider licensed by the Ohio Department of Job and Family Services to notify parents if the Department determines that an act or omission of the provider constitutes a serious risk noncompliance.

### DETAILED ANALYSIS

#### Notice to parents

The bill requires a child care provider licensed by the Ohio Department of Job and Family Services (ODJFS) to notify the caretaker parent of each child receiving care from the provider of a determination made by ODJFS that an act or omission of the provider constitutes a serious risk noncompliance.<sup>1</sup> Existing law defines serious risk noncompliance as “a licensure or certification rule violation that leads to a great risk of harm to, or death of, a child, and is observable, not inferable.”<sup>2</sup> All of the following apply to the notice required by the bill:

1. It must be given to caretaker parents not later than 15 business days after ODJFS informs the provider of its determination, or, if the provider requests a review of the determination, within five business days after ODJFS completes its review.
2. It may be furnished in writing or electronically.
3. It must include a statement informing each caretaker parent of ODJFS’s website and the location of more information about the determination.

<sup>1</sup> R.C. 5104.043(A).

<sup>2</sup> R.C. 5104.01(PP), not in the bill.

4. A copy of the notice furnished to caretaker parents must also be provided to ODJFS.<sup>3</sup>

### Summary suspension

The bill specifies that its requirements for parental notice do not apply in the event that ODJFS suspends the provider's license without a prior hearing, sometimes referred to as a summary suspension.<sup>4</sup> Existing law authorizes ODJFS to issue a summary suspension in specified circumstances, including if it determines that the licensed provider created a serious risk to the health or safety of a child receiving care that resulted or could have resulted in a child's death or injury.<sup>5</sup> When a summary suspension order is issued, the licensee is prohibited from providing child care and must inform the caretaker parent of each child receiving care of the suspension.<sup>6</sup>

### Rulemaking

The bill requires the ODJFS Director to adopt rules to enforce its provisions.<sup>7</sup>

### Types of child care providers affected

The providers subject to the bill are as follows: child day-care centers, type A family day-care homes, and licensed type B family day-care homes.<sup>8</sup> The bill does not apply to family day-care homes that do not offer publicly funded child care and, therefore, are not required to be licensed, or to in-home aides, regardless of whether they are certified to provide publicly funded child care. The table below briefly describes each type of regulated child care provider.

Child Care Providers		
Type	Description/Number of children served	Regulatory system
<b>Child day-care center</b>	Any place in which child care is provided as follows: <ul style="list-style-type: none"> <li>--For 13 or more children at one time; or</li> <li>--For 7-12 children at one time if the place is not the permanent residence of the licensee or administrator (which is, instead, a type A home).</li> </ul>	Each child day-care center must be licensed by ODJFS, regardless of whether it provides publicly funded child care.

<sup>3</sup> R.C. 5104.043(B).

<sup>4</sup> R.C. 5104.043(D).

<sup>5</sup> R.C. 5104.042(A), not in the bill.

<sup>6</sup> R.C. 5104.042(D), not in the bill.

<sup>7</sup> R.C. 5104.043(C).

<sup>8</sup> R.C. 5104.043(A).

Child Care Providers		
Type	Description/Number of children served	Regulatory system
<b>Family day-care home</b>	<p><b>Type A home</b> – a permanent residence of an administrator in which child care is provided as follows:</p> <ul style="list-style-type: none"> <li>--For 7-12 children at one time; or</li> <li>--For 4-12 children at one time if 4 or more are under age 2.</li> </ul> <p><b>Type B home</b> – a permanent residence of the provider in which child care is provided as follows:</p> <ul style="list-style-type: none"> <li>--For 1-6 children at one time; and</li> <li>--No more than 3 children at one time under age 2.</li> </ul>	<p>Each type A home must be licensed by ODJFS, regardless of whether it provides publicly funded child care.</p> <p>To be eligible to provide publicly funded child care, a type B home must be licensed by ODJFS.</p>
<b>In-home aide</b>	A person who provides child care in a child’s home but does not reside with the child.	To be eligible to provide publicly funded child care, an in-home aide must be certified by a county department of job and family services.

### Caretaker parent definition

“Caretaker parent” is defined by current law as any of the following whose presence in the home is needed as the caretaker of a child: a father, mother, person who has legal custody, guardian, or person who stands in loco parentis with respect to the child.<sup>9</sup>

## HISTORY

Action	Date
Introduced	02-12-19
Reported, H. Health	05-15-19
Passed House (89-1)	10-23-19

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<sup>9</sup> R.C. 5104.01(F), not in the bill.