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# OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research  
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Office

H.B. 210  
133<sup>rd</sup> General Assembly

## Bill Analysis

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**Version:** As Passed by the House

**Primary Sponsor:** Rep. Carruthers

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### SUMMARY

- Requires licensed preschool programs and child day-care centers to screen prospective employees for tuberculosis.
- Requires a prospective employee who meets certain criteria to be tested for the disease and, if hired, to be tested on an annual basis for a five-year period.
- Prohibits a program or center from employing a person infected with active tuberculosis until he or she submits evidence of having completed treatment and being free of the disease.
- Requires the Ohio Department of Job and Family Services to promptly release information regarding public assistance recipients to local boards of health or the Ohio Department of Health for purposes of public health investigations.

### DETAILED ANALYSIS

#### **Tuberculosis – preschool programs and child day-care centers**

##### **Screening**

The bill requires each preschool program licensed by the Ohio Department of Education (ODE) and each child day-care center licensed by the Ohio Department of Job and Family Services (ODJFS) to screen prospective employees for tuberculosis.<sup>1</sup> Before employing a person as a director, administrator, staff member, or other employee, the program or center must determine if the person meets the following criteria:

<sup>1</sup> R.C. 3301.531 and 5104.037.

- Resided in a country identified by the World Health Organization as having a high burden of tuberculosis; and
- Arrived in the United States within the five years immediately preceding the date of application for employment.<sup>2</sup>

### **Testing requirements**

If the program or center determines that the person meets the foregoing criteria, the program or center must require the person to undergo a tuberculosis test.<sup>3</sup> If the test result is negative, the program or center may employ the person.

If the program or center then employs the person, he or she must undergo a tuberculosis test every year thereafter for a period of five years. If the result of any required test – either on initial screening or during the five-year period – is positive, the program or center must require the person to undergo additional testing for tuberculosis, which may include a chest radiograph or the collection and examination of specimens.<sup>4</sup>

### **Prohibition on employment**

If additional testing indicates active tuberculosis, the program or center is prohibited from employing the person or, if already employed, from allowing the person to be physically present at its location.<sup>5</sup> Upon submitting evidence that the person completed an entire tuberculosis treatment regimen as prescribed by a licensed health professional and is free of the disease, the program or center may employ the person or allow his or her return to work.

For purposes of the bill, a written statement signed by a physician, physician assistant (PA), or advanced practice registered nurse other than a certified registered nurse anesthetist (APRN) constitutes evidence that a person has completed treatment and is free of the disease. To be eligible to sign such a statement, the physician, PA, or APRN must have overseen the person's treatment.<sup>6</sup>

### **Types of testing**

The bill requires the prospective employee or current employee during the five-year period to undergo either a two-step Mantoux tuberculin skin test or a blood assay for m. tuberculosis.<sup>7</sup>

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<sup>2</sup> R.C. 3301.531(B) and 5104.037(B).

<sup>3</sup> R.C. 3301.531(C) and 5104.037(C).

<sup>4</sup> R.C. 3301.531(D) and 5104.037(D).

<sup>5</sup> R.C. 3301.531(D) and 5104.037(D).

<sup>6</sup> R.C. 3301.531(D) and 5104.037(D).

<sup>7</sup> R.C. 3301.531(A) and 5104.037(A).

A tuberculin skin test requires two visits with a health care provider.<sup>8</sup> On the first visit, a small amount of tuberculin is injected into the skin on the lower part of the person's arm. The person must return to the provider within 48 to 72 hours so that the provider can look for a reaction indicating an infection. A blood assay is a blood test, in which a health care provider draws a person's blood and sends it to a laboratory for analysis and results.

A positive skin test or positive blood assay means that the person has been infected with tuberculosis bacteria and that additional testing is needed to determine if the person has a latent infection or active tuberculosis.<sup>9</sup> The bill does not require specific methods for additional testing, but does provide that it may include a chest radiograph or the collection and examination of specimens.

## **Rulemaking**

Under the bill, the State Board of Education and ODJFS, in collaboration with the Director of the Ohio Department of Health (ODH), must adopt rules establishing standards and procedures for the tuberculosis screening, testing, and treatment required by the bill.<sup>10</sup> The Board, ODJFS, and Director of Health also may adopt any other rules necessary to implement the bill's provisions. In adopting rules, the Board, ODJFS, and Director must comply with the Administrative Procedure Act.<sup>11</sup> And, they must consider any recommendations or guidance regarding tuberculosis screening, testing, or treatment issued by the federal Centers for Disease Control and Prevention, the American Thoracic Society, and the Infectious Diseases Society of America, or their successor organizations.

## **Tuberculosis background**

Tuberculosis is an infectious disease caused by the bacterium *Mycobacterium tuberculosis*.<sup>12</sup> It mainly affects the lungs, but also may affect the kidney, spine, and brain. The disease spreads through the air when a person with tuberculosis of the lungs coughs, sneezes, or speaks. Symptoms may include a bad cough that lasts three weeks or longer, pain in the chest, coughing up blood or sputum, weakness or fatigue, chills, fever, night sweats, loss of appetite, and weight loss. If not treated properly, tuberculosis can be fatal.

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<sup>8</sup> See Centers for Disease Control and Prevention, Tuberculosis (TB), Testing & Diagnosis, *Testing for TB Infection*, available at <https://www.cdc.gov/tb/topic/testing/tbtesttypes.htm>.

<sup>9</sup> See Centers for Disease Control and Prevention, Tuberculosis (TB), Testing & Diagnosis, *Testing for TB Infection*, available at <https://www.cdc.gov/tb/topic/testing/tbtesttypes.htm>.

<sup>10</sup> R.C. 3301.531(E) and 5104.037(E).

<sup>11</sup> R.C. Chapter 119, not in the bill.

<sup>12</sup> See Centers for Disease Control and Prevention, Tuberculosis (TB), *Basic Facts*, available at <https://www.cdc.gov/tb/topic/basics/default.htm>. See also National Institutes of Health, U.S. National Library of Medicine, Medline Plus, Health Topics, *Tuberculosis*, available at <https://medlineplus.gov/tuberculosis.html>.

According to the federal Centers for Disease Control and Prevention, not everyone infected with tuberculosis becomes sick. Accordingly, two tuberculosis-related conditions exist – latent tuberculosis infection and active tuberculosis disease.

A person with a latent tuberculosis infection does not feel sick and does not experience any symptoms. The only sign of a tuberculosis infection is a positive tuberculin skin test or blood test. Such a person is not infectious and cannot spread tuberculosis infection to others. However, treatment with medication is recommended in order to prevent active tuberculosis disease.<sup>13</sup>

A person with active tuberculosis disease is considered infectious and may spread tuberculosis bacteria to others. Treatment with medication is necessary to prevent death and the spread of the disease.<sup>14</sup>

## Release of information

The bill requires ODJFS, to the extent permitted by federal law, to release – in an emergency – information about a public assistance recipient when authorization for the release of that information cannot be timely obtained.<sup>15</sup> The bill also establishes conditions when the release is made to ODH or a local board of health. These include all of the following:

- That ODH or the board has initiated an investigation related to the public health;
- That ODH or the board has informed ODJFS that it has initiated the investigation;
- That ODH or the board has requested ODJFS to release the information for purposes of the investigation.

If ODJFS releases the information to ODH or a local board, ODJFS must immediately notify the public assistance recipient of that release.<sup>16</sup>

Under current law, a public assistance recipient is an applicant for or a recipient or former recipient of public assistance. Public assistance means financial assistance or social services that are provided under a program administered by ODJFS or a county agency and includes publicly funded child care. Public assistance does not mean medical assistance provided under a medical assistance program like Medicaid.<sup>17</sup>

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<sup>13</sup> See Centers for Disease Control and Prevention, Tuberculosis (TB), Fact Sheets, *The Difference Between Latent TB Infection and TB Disease*, available at <https://www.cdc.gov/tb/publications/factsheets/general/ltbiandactivetb.htm>.

<sup>14</sup> See Centers for Disease Control and Prevention, Tuberculosis (TB), Fact Sheets, *The Difference Between Latent TB Infection and TB Disease*, available at <https://www.cdc.gov/tb/publications/factsheets/general/ltbiandactivetb.htm>.

<sup>15</sup> R.C. 5101.27(B)(4).

<sup>16</sup> R.C. 5101.27(B)(4) and 5101.27(E).

<sup>17</sup> R.C. 5101.26, not in the bill and 5160.01, not in the bill.

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## HISTORY

Action	Date
Introduced	04-18-19
Reported, H. Health	10-30-19
Passed House (59-33)	11-13-19

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