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Final Analysis

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SUMMARY

Family preservation centers

- Requires the Department of Job and Family Services (ODJFS) to certify a children's crisis care facility or residential infant care center (RICC) as a family preservation center (FPC) under requirements imposed by the act and rules adopted under it.
- Defines an FPC as a children's crisis care facility or an RICC that has as its primary purpose the preservation of families.
- Requires a certified FPC to meet accreditation and certification standards and operate family preservation programs.

Residential infant care centers

- Requires ODJFS to certify an RICC under requirements imposed by the act and rules adopted under it.
- Defines an RICC as a facility that as its primary purpose provides residential services for any infant (child under one year old) affected by substance use and preservation of families through infant diversion practices and programs.
- Provides that an infant is eligible for placement at an RICC if one of the following applies:
 - The infant was born substance exposed and requires additional care.
 - The infant's parent or caretaker requires additional education and support services regarding care for the infant;
 - A public children services agency (PCSA) or private child placing agency (PCPA) requires additional time to determine placement of the infant.

- Imposes requirements regarding infant medical treatment, staffing, infant safe care plan development, the provision of parenting education and family services, and dyad care and rooming-in.
- Permits an RICC that regularly maintains on its premises schedule II controlled substances to (1) maintain firearms at the facility, and (2) permit security personnel to bear firearms while on the facility's grounds.
- Specifies that an RICC does not have to (1) provide toilets or potty chairs, (2) comply with certain ODJFS rules, including, for example, those that regulate use of physical restraint and isolation and disciplinary procedures, and (3) require RICC-employed nurses to comply with ODJFS rules on first aid and cardiopulmonary resuscitation.
- Specifies that the RICC compliance exclusions do not apply on and after the date that ODJFS adopts rules under the act.
- Permits an RICC to provide residential care to an infant placed by one of the following, having legal custody of the infant, for up to 90 consecutive days: (1) a parent, guardian, or legal custodian or (2) a PCSA or PCPA.

Children's crisis care facilities

- Requires a certified children's crisis care facility to meet specified staff, medical service and space, parental education, transfer, and admissions-privacy requirements.
- Permits a facility to count administrative staff, interns, and volunteers toward required staff ratios in accordance with ODJFS rules for up to three hours and to use contracted transportation providers to transport preteens when necessary.
- Repeals the provision permitting a children's crisis care facility that regularly maintains on its premises schedule II controlled substances to (1) maintain firearms at the facility, and (2) permit security personnel to bear firearms while on the facility's grounds.
- Permits a preteen to be placed in a children's crisis care facility for up to 90 consecutive days.

Sex Offender Registration and Notification Law restriction

- Prohibits a person who is or has been convicted of or who pleads or pleaded guilty to a sexually oriented offense or child-victim oriented offense from living within 1,000 feet of children's crisis care facility premises or RICC premises.
- Regarding residential premises located within 1,000 feet of children's crisis care facility premises or RICC premises:
 - Specifies that a registered sex offender for a sexually oriented or child-victim oriented criminal offense who resides in or occupies, or any tenant who permits a registered sex offender to occupy, the residential premises, is subject to an action for forcible entry and detainer and rental agreement termination;

- Permits a landlord to bring an action for possession of residential premises if the tenant or occupant is a registered sex offender for a sexually oriented or child-victim oriented criminal offense;
- Prohibits a residential premises' tenant from permitting any person to occupy the residential premises, and authorizes the landlord to evict a tenant that violates the prohibition, if the person is a registered sex offender for a sexually oriented or child-victim oriented criminal offense.

ODJFS

- Prohibits the ODJFS Director from issuing a compliance waiver for any requirements for children's crisis care facility or FPC certification.
- Authorizes the Director to suspend or revoke FPC or RICC certification if a center violates or fails to comply with requirements imposed by the act and by rules adopted by the Director.
- Authorizes the Director to suspend or revoke a children's crisis care facility certification if the facility violates or fails to comply with the requirements imposed by the act or the rules adopted by the Director.
- Requires ODJFS to adopt rules for (1) FPC certification, by September 12, 2022, and (2) RICC certification.
- Permits ODJFS to apply for a federal grant under (1) the Family First Preservation Services Act to assist certified children's crisis care facilities and RICCs and (2) the Child Abuse Prevention and Treatment Act to assist RICCs.

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DETAILED ANALYSIS

Overview

The act creates a certification for family preservation centers (FPCs) and residential infant care centers (RICCs). Further, a person who holds an active license for a children’s crisis care facility or an RICC may be additionally certified as an FPC. The Department of Job and Family Services (ODJFS) Director must certify the person if the person complies with all FPC or RICC requirements imposed by the act and by ODJFS rules adopted under it. The act also (1) amends certain requirements for certified children’s crisis care facilities and (2) restricts registered sex offenders for sexually oriented or child-victim oriented criminal offenses from living within 1,000 feet of children’s crisis care facility premises or RICC premises.

Family preservation centers

The act creates a certification for FPCs, defined as a certified children’s crisis care facility or RICC that has as its primary purpose the preservation of families. A person who holds an active license to operate a children’s crisis care facility or an RICC may apply to the ODJFS Director to obtain a certificate as an FPC. The Director must certify an FPC if the center complies with all FPC requirements imposed by the act and by the rules adopted by ODJFS under it.

Under the act, a certified FPC must do all of the following:

- Obtain and maintain accreditation under the Commission on Accreditation of Rehabilitation Facilities, the Joint Commission on Accreditation of Healthcare Organizations, or the Council on Accreditation for Children and Family Services;
- Obtain and maintain certification by the Department of Mental Health and Addiction Services;
- Provide family preservation programs informed by evidence-based or promising practices, including:
 - Family case management;
 - Service referral and linkage;

- Parent education;
- Trauma screening and healing-centered interventions.¹

Residential infant care centers

Certification

The act creates certification as an RICC, defined as a facility that as its primary purpose provides residential services for infants affected by substance use and the preservation of families through infant (a child under one year old) diversion practices and programs.²

Applied-for RICC certification

A person who seeks to operate an RICC after June 13, 2022, must apply to the ODJFS Director to obtain a certificate for the facility. The Director must issue a certificate to the person if the center complies with all RICC requirements imposed by the act (see below, “**Infant placement eligibility**” and “**RICC operational requirements**”) and, if applicable, requirements imposed by the rules adopted by ODJFS under the act (see below “**Rule adoption**”).³

Deemed RICC certification

A person who, on June 13, 2022, is operating a children’s crisis care facility that as its primary purpose provides residential services for infants affected by substance use and the preservation of families through infant diversion practices and programs, must be deemed an RICC by the Director if it meets certain requirements under the act. The Director must issue the person a certificate to operate an RICC, if the center is in compliance with (1) all RICC requirements imposed by the act (see below, “**Infant placement eligibility**” and “**RICC operational requirements**”) and (2) all rules governing certification of children’s crisis care facilities in effect on June 13, 2022, until ODJFS adopts rules governing certification of RICCs (see below “**Rule adoption**”).

Once the Director adopts the RICC certification rules, the deemed RICC facility issued a certificate must comply with the new rules rather than the existing children’s crisis care facility certification rules.⁴

Infant placement eligibility

The act provides that an infant is eligible to be placed in an RICC if one of the following applies:⁵

¹ R.C. 5103.61, 5103.611, 5103.612(A), and 5103.614.

² R.C. 5103.60.

³ R.C. 5103.602(A) and 5103.603(A).

⁴ R.C. 5103.602(B) and 5103.603(B); see, R.C. 5103.13(H).

⁵ R.C. 5103.608.

- The infant was born substance exposed and requires additional care.
- The infant's parent or caretaker requires additional education and support services regarding care for the infant.
- A public children services agency (PCSA) or private child placing agency (PCPA) requires additional time to determine placement of the infant.

RICC operational requirements

Requirements

Under the act, an RICC must do the following:⁶

- If using medication to treat infants, hold a terminal distributor of dangerous drugs license issued by the State Board of Pharmacy;
- Comply with all ODJFS rules imposing staffing requirements for children's residential centers, group homes, and residential parenting facilities, except those rules from which the act exempts RICCs;⁷
- Develop a plan of safe care, in accordance with the federal "Comprehensive Addiction and Recovery Act of 2016,"⁸ for an infant born substance exposed, as follows:
 - Assist with the health and substance use disorder treatment needs of the infant and affected family or caregiver;
 - Develop and implement a program to monitor, support, and connect affected families or caregivers through provision of and referral to appropriate services for the infant and affected family or caregiver.
- Develop and implement a program for parents and caregivers that, either individually or in a group setting, teaches parenting skills, bonding, and caring for the infant's special needs.
- Require both:
 - Child-care staff, volunteers, and interns in positions responsible for the daily direct care or supervision of children to be at least 18 years old with a high school diploma or a certificate of high school equivalence; and
 - Volunteers and interns who are under age 21 to be supervised.
- Request a criminal records check for volunteers and interns;

⁶ R.C. 5103.6010.

⁷ R.C. 5103.6011; Ohio Administrative Code (O.A.C.) 5101:2-9-02.

⁸ "Comprehensive Addiction and Recovery Act of 2016," Pub. L. No. 114-198.

- Employ registered nurses, patient care assistants, or licensed professional nurses to meet required child-to-staff ratios;
- Require the center's peer supporter, family advocate, licensed social worker, licensed independent social worker, licensed professional counselor, or licensed professional clinical counselor to do the following:
 - Provide wraparound services to affected family and caregivers;
 - Coordinate and cooperate with any transferring hospital, PCSA, or PCPA;
 - Refer affected families or caregivers to appropriate services for support and aftercare;
 - Follow up with affected families and caregivers following the infant's discharge.
- Encourage employee-supervised dyad care and permit one of the infant's parents or caregivers to room-in with the infant for bonding and education;
- Regarding dyad care and rooming-in:
 - Provide all of the following:
 - ❖ A single bed and all necessary bed sheets, pillow cases, pillows, and blankets;
 - ❖ All meals and snacks, which must be provided in a designated family kitchen area if the center has such an area;
 - ❖ A minimum of one private shower and toilet for the use of the parents or caregivers who are rooming-in.
 - Notify the parent or caregiver that the RICC's rules and policies must be followed or rooming-in may be restricted or canceled.
- Have one bathing room for every six infants that includes a minimum of one hip level bathtub with hot and cold water, one changing station, and a door with a full-length glass window for safety and observation;
- Meet the child-to-staff ratio of at least one awake child-case staff on duty at all times for every five infants;
- Use cribs and other infant sleep products that meet the U.S. Consumer Product Safety Commission's safety standards for safe sleep;
- Follow the Ohio Department of Health's Safe Sleep Education Program recommendations.

Additionally, an RICC is prohibited from counting volunteers and interns to meet child-to-staff ratios, except in emergency situations, including an extremely ill staff member.⁹

⁹ R.C. 5103.6012.

Firearm allowance

The act permits an RICC that regularly maintains on its premises schedule II controlled substances to both:

- Maintain firearms at the facility; and
- Permit security personnel to bear firearms while on the facility's grounds.¹⁰

Compliance exclusions

The act specifies than an RICC cannot be required to do the following:

- Provide toilets or potty chairs for infants;
- Comply with ODJFS rules that regulate the following:
 - Use of physical restraint and isolation of a child by a child care staff;
 - Disciplinary procedures;
 - The provision, acquisition, and control of a child's personal belongings, including clothing, footwear, and personal toiletry supplies;
 - Instruction on good habits of personal care, hygiene, and grooming;
 - Activities applicable to noninfant children, including assigning a child appropriate daily tasks or work assignments and making school arrangements;
 - Providing foods and meals according to the dietary requirements of noninfant children;
 - Facility dining areas, bathrooms, and certain bedroom requirements, including, for example, regarding same-sex children sleeping arrangements, restrictions on nonambulatory children from sleeping above a building's entry level, live-in staff bedrooms, and use of bunk beds;
 - Completion of an "ODJFS Medical Statement for Child Care Staff in Residential Facilities" by a specified health care professional within six months prior to employing any person who will have direct contact with children;
 - Community engagement plans;
 - Private, nonprofit therapeutic wilderness camps.
- Require registered nurses and licensed professional nurses employed by the RICC to comply with ODJFS rules requiring child care staff to possess a current American Red Cross, American Heart Association, or equivalent first aid and cardiopulmonary resuscitation (CPR) certification that is applicable to the age and size of the children able to be served in the facility.

¹⁰ R.C. 5103.6016.

These exclusions do not apply on and after the date that ODJFS adopts rules under the act (see below, “**Rule adoption**”).¹¹

Placement in RICC up to 90 days

An RICC may provide residential care to an infant for up to 90 consecutive days if the infant was placed by any of the following with legal custody of the infant:

- A parent, guardian, or legal custodian;
- A PCSA;
- A PCPA.¹²

Children’s crisis care facilities

Exclusion of entities deemed RICCs

The act amends the definition of a children’s crisis care facility to expressly exclude any RICCs, because an entity deemed an RICC can no longer be licensed as a children’s crisis care facility.¹³

Certification requirements and allowances

Under the act, a certified children’s crisis care facility must do the following:¹⁴

- Employ a licensed social worker, a licensed independent social worker, a licensed professional counselor, or a licensed professional clinical counselor;
- Require the following if pediatric medical service is provided at the facility:
 - Medical service to be provided by a qualified, licensed, and insured medical professional;
 - All staff, volunteers, and interns to comply with the privacy requirements of the federal Health Insurance Portability and Accountability Act (HIPAA);
 - If a preteen is admitted by the preteen’s parent or caretaker, and if the preteen requires ongoing medical care following discharge from the facility, a medical professional or licensed social worker to make their best effort to ensure the parent or caretaker is competent to provide the ongoing care;
 - The facility to have a dedicated and private enclosed space for a medical professional to receive and treat patients, and that contains a sink or tub, medical exam table, medical record system, and pediatric medical equipment.

¹¹ R.C. 5103.6011.

¹² R.C. 5103.609.

¹³ R.C. 5103.13(A)(1)(b)(iii).

¹⁴ R.C. 5103.13(E).

- Require, if a preteen is admitted by the preteen’s parent or caretaker, the facility’s licensed social worker, licensed independent social worker, licensed professional counselor, or licensed professional clinical counselor to make their best efforts to ensure the parent or caretaker is competent in the basic parenting skills needed to care for the preteen;
- Require only a transfer summary for the transfer of a preteen from one certified facility location to another, if the facility has more than one location;
- Require the facility to have a dedicated and private enclosed space for completing required admission paperwork and medical forms;
- Require the facility to develop a visitation plan for the preteen’s parent or caretaker while residential care is being provided, which must occur during awake hours and not include overnight visits, for the parent or caretaker with the parent’s or caretaker’s preteen.

The act defines “pediatric medical service” as medical service required to be provided by, or with oversight from, a licensed medical professional, including prescribing medication, administering rectal or intravenous medication, and outpatient laboratory service, and providing for sick visits, on-site well child exams, and children assisted by medical technology.¹⁵

Additionally, the act permits a facility to do the following:¹⁶

- Count administrative staff, interns, and volunteers toward child staff ratios required under ODJFS rules (see “**Child staff ratio rules**,” below) for up to three hours, if they meet the following requirements:
 - Completed training in the mission of the children’s crisis care facility;
 - Completed training required under ODJFS rules governing staff development and evaluation;¹⁷
 - Are supervised by facility staff.
- Use contracted transportation providers, on whom criminal records checks have been conducted in accordance with Ohio law, to transport preteens, if necessary for the facility to maintain required child staff ratios.

Child staff ratio rules

ODJFS rules require an agency operating a children’s crisis care facility to reasonably assure that child care staff persons are assigned to care for the same group of children each day and must adhere to the following child staff ratios (which include staff persons’ children):

¹⁵ R.C. 5103.13(A)(3).

¹⁶ R.C. 5103.13(F).

¹⁷ O.A.C. 5101:2-9-03.

- For children under the age of six years, at least one child care staff person on duty during awake hours for every five children or fraction thereof;
- For children over the age of six years, at least one child care staff person on duty during awake hours for every six children or fraction thereof;
- For children ages zero to 12, at least one awake child care staff person on duty during sleeping hours for every eight children or fraction thereof;
- When a group of children includes children from more than one of the above listed age groups, the staff-to-child ratio must be determined according to the age of the youngest child within any group of children;
- There must be at least two staff members on duty at all times when children are present in a facility.¹⁸

Repeal of firearm allowance

The act repeals the provision permitting a children’s crisis care facility that regularly maintains on its premises schedule II controlled substances to both:

- Maintain firearms at the facility; and
- Permit security personnel to bear firearms while on the facility’s grounds.¹⁹

Residential care length of stay

The following table shows the periods of time, under the act and previous law, for which a facility may provide residential care to a preteen:²⁰

H.B. 265	Previous law
Up to 120 days in a calendar year.	Up to 120 days in a calendar year.
Up to 90 consecutive days, which must include the aggregate of days spent at different facility locations if a preteen is transferred.	Up to 60 consecutive days, except: <ul style="list-style-type: none"> ▪ If placed by a PCSA or PCPA (in which case it is 14 consecutive days – see below); or ▪ If not placed by a PCSA or PCPA and if the preteen’s parent or caretaker has mental or physical health issues or is incarcerated (in which case it is 90 consecutive days – see below).

¹⁸ O.A.C. 5101:2-9-36(G).

¹⁹ R.C. 5103.6016.

²⁰ R.C. 5103.13(D).

H.B. 265	Previous law
	Up to 90 consecutive days, if not placed by a PCSA or PCPA and if the preteen's parent or caretaker has mental or physical health issues or is incarcerated.
Up to 14 consecutive days for a PCSA or PCPA placement.	Up to 14 consecutive days for a PCSA or PCPA placement.

Sex Offender Registration and Notification Law restriction

The act prohibits a person who is convicted of, was convicted of, pleads guilty to, or pleaded guilty to a sexually oriented offense or a child-victim oriented offense from living within 1,000 feet of children's crisis care facility premises or RICC premises. If an offender violates this prohibition, an owner or lessee of real property that is located within 1,000 feet of those premises or the local prosecuting authority has a cause of action for injunctive relief against the person. The plaintiff cannot be required to prove irreparable harm in order to obtain the relief.

Further, under the act, regarding residential premises located within 1,000 feet of children's crisis care facility premises or RICC premises:

- A registered sex offender for a sexually oriented or child-victim oriented criminal offense who resides in or occupies, or any tenant who permits such a registered sex offender to occupy, residential premises located within 1,000 feet of those premises, is subject to an action for forcible entry and detainer and rental agreement termination.
- A landlord is permitted to bring an action for possession of residential premises if the tenant or occupant is a registered sex offender for a sexually oriented or child-victim oriented criminal offense, unless the dwelling unit is occupied by a student tenant.
- Prohibits a residential premises' tenant from permitting any person to occupy the residential premises, and authorizes the landlord to evict a tenant that violates the prohibition, if the person is a registered sex offender for a sexually oriented or child-victim oriented criminal offense.

"Children's crisis care facility premises" means both:

- The parcel of real property on which any children's crisis care facility is situated; and
- Any grounds, play areas, and other facilities of a children's crisis care facility that are regularly used by the children served by the facility.

"Residential infant care center premises" means both:

- The parcel of real property on which any RICC is situated; and

- Any grounds, play areas, and other facilities of a RICC that are regularly used by the children served by the center.²¹

ODJFS

Certification responsibilities

Under the act, the ODJFS Director cannot issue a waiver to a person for compliance with any of the children’s crisis care facility or FPC requirements imposed by the act and by ODJFS rules adopted under it.²² The Director may suspend or revoke FPC or RICC certification if the FPC or RICC violates or fails to comply with requirements imposed by the act or the rules.²³ The act also permits the Director to suspend or revoke a children’s crisis care facility certification if, in addition to violating the length of residential care prohibitions and certification requirements imposed under continuing law, the facility violates or fails to comply with the requirements imposed by the act or by rules adopted under continuing law by the Director.²⁴

Rule adoption

The act requires the Director to adopt rules for (1) FPC certification by September 12, 2022, and (2) RICC certification.²⁵

Federal grant application

The act permits ODJFS to apply, for the purpose of assisting certified children’s crisis care facilities and RICCs, for a federal grant under the “Family First Prevention Services Act.” It also permits ODJFS to apply, for the purpose of assisting RICCs, for a federal grant under the “Child Abuse Prevention and Treatment Act.”²⁶

²¹ R.C. 1923.02, 2950.034, 5321.03, and 5321.051.

²² R.C. 5103.13(C)(2)(b) and 5103.612(B).

²³ R.C. 5103.6017 and 5103.615.

²⁴ R.C. 5103.13(G).

²⁵ R.C. 5103.6018 and 5103.617.

²⁶ R.C. 5103.131 and 5103.6015; “Family First Prevention Services Act,” 42 United States Code (U.S.C.) 50711, 50723, and 50741 and “Child Abuse Prevention and Treatment Act,” 42 U.S.C. 5116.

HISTORY

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