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## DEPARTMENT OF JOB AND FAMILY SERVICES

### Ohio's workforce development system (PARTIALLY VETOED)

- Replaces references to the Workforce Investment Act of 1998 with references to the federal Workforce Innovation and Opportunity Act (WIOA).
- Changes the membership of the Governor's Executive Workforce Board and modifies its duties with respect to Ohio's workforce development system.
- Requires the Governor's Office of Workforce Transformation (OWT) to undertake various tasks regarding the creation, collection, and display of data concerning Ohio's workforce development system and develop a uniform electronic application for adult training programs funded under WIOA.
- Would have required the Department of Veterans Services to establish and maintain a labor exchange and job placement website for veterans, and would have required the OhioMeansJobs website to include a link to that website instead of maintaining an independent veterans' labor exchange and job placement function (VETOED).
- Eliminates state law requirements for the membership and responsibilities of local workforce development boards, and instead requires those boards to carry out the functions described in and meet the membership requirements of WIOA.
- Modifies the requirements for written grant agreements for the allocation of funds under WIOA.
- Requires the chief elected official or officials of a local area to monitor all private and government entities that receive funds allocated under a grant agreement to ensure that the funds are used in accordance with state laws, policies, and guidance.
- Requires every local area to ensure the availability of a physical one-stop location called an "OhioMeansJobs center" in the local area for the provision of workforce development activities under WIOA.
- Requires an OhioMeansJobs center operator to enter into a memorandum of understanding with one or more public libraries to facilitate collaboration and coordination of workforce programs and education and job training resources.
- Changes the requirements for local workforce development plans and specifies that those plans must be four-year plans (as required under WIOA).



- Would have allowed the local boards to hold meetings by interactive video conference or by teleconference, regardless of the Open Meetings Act's requirements (VETOED).
- Requires the Governor, upon determining that there has been a substantial violation of a provision of WIOA, to take action to revoke approval of all or part of a local workforce development plan or to impose a reorganization plan.
- Permits OWT, in conjunction with the Ohio Library Council, to develop a brand for public libraries as "continuous learning centers."
- Requires the Director of Job and Family Services (JFS Director) to review and make any necessary changes to the criteria of workforce development programs to allow home health agency employees to participate in a program to the extent possible.

### **Comprehensive Case Management and Employment Program**

- Makes the Comprehensive Case Management and Employment Program an ongoing program, rather than one that expires July 1, 2017.
- Reduces the minimum age of participation in the Program from 16 to 14.
- Makes other revisions to the Program, including (1) permitting the JFS Director to specify in rules additional mandatory and voluntary participation groups and (2) clarifying that the Program may be funded by the TANF block grant or the Workforce Innovation and Opportunity Act.

### **Healthier Buckeye Grant pilot**

- Permits grants awarded under the Healthier Buckeye Grant Pilot Program to be expended through December 31, 2017.
- Requires the unexpended, unencumbered cash balance in the Healthier Buckeye Fund to be transferred to the General Revenue Fund on July 1, 2017, or as soon as possible thereafter.

### **Disability Financial Assistance**

- Beginning December 31, 2017, eliminates the Disability Financial Assistance Program within the Department of Job and Family Services (ODJFS).
- Requires the Executive Director of the Office of Health Transformation to ensure the establishment of a program to refer certain Medicaid recipients to services and assist certain Medicaid recipients to expedite applications for federal benefits.



## **Ohio Works First income disregard**

- Requires the JFS Director to specify in rules an initial amount of gross earned income that is to be disregarded in determining an assistance group's continued eligibility for Ohio Works First.

## **Healthy Food Financing Initiative**

- Requires the JFS Director to contract with the Finance Fund Capital Corporation to administer the Healthy Food Financing Initiative to support healthy food access in underserved communities in urban and rural areas with low and moderate income.
- Requires the JFS Director, by December 31, 2018, to provide a written progress report on the Initiative.

## **Kinship Permanency Incentive Program**

- Repeals the 48-month time limit under which a kinship caregiver may receive additional payments under the Kinship Permanency Incentive Program.
- Provides that an eligible caregiver may receive a maximum of eight payments per minor child.

## **Family and Children First Flexible Funding Pool**

- Permits a county family and children first council to create a flexible funding pool to assure access to services by families, children, and seniors in need of protective services.

## **Children's Trust Fund Board**

- Repeals the requirements that: (1) five of the members appointed to the Ohio Children's Trust Fund Board be residents of metropolitan statistical areas exceeding 400,000 in population and (2) no two of those five members be residents of the same metropolitan statistical area.

## **Child welfare applicant fitness**

- Requires the executive director of a public children services agency (PCSA), or designee, to review promptly any information relevant to evaluating an applicant's fitness before employing the applicant, including an applicant who is an intern or volunteer.



- Specifies that the information reviewed must include any child abuse and neglect reports made involving the applicant; the final disposition, or status of, the child abuse and neglect report investigations; and any underlying report documentation.
- Prohibits the name of the person or entity that made the report of child abuse or neglect or participated in making the report from being included in the information the PCSA reviews.
- Requires the JFS Director to adopt rules to implement the fitness review requirements.

### **Foster Care Advisory Group**

- Creates the Foster Care Advisory Group to advise and assist ODJFS in identifying and implementing best practices to recruit, retain, and support foster caregivers.
- Requires the Advisory Group to issue a report regarding matters affecting foster caregivers and that the Advisory Group will dissolve after the report is issued.

### **Adult protective services**

- Modifies the adult protective services statutes, effective September 29, 2018.
- Expands and modifies the list of persons required to report to a county department of job and family services (CDJFS) suspected abuse, neglect, or exploitation of certain older adults.
- Permits a county prosecutor to petition courts for orders related to the provision of adult protective services.
- Requires a CDJFS to notify a local law enforcement agency if it has reasonable cause to believe that the subject of a report of abuse, neglect, or exploitation is being or has been criminally exploited.
- Modifies provisions governing the release of information from the uniform statewide automated adult protective services information system.
- Creates the Elder Abuse Commission to formulate and recommend strategies on matters related to elder abuse and to issue a biennial report.
- Requires ODJFS to provide training for implementing the statutory provisions on adult protective services, to make educational materials available to mandatory reporters, and to facilitate interagency cooperation.

- Requires each entity that employs or is responsible for licensing or regulating mandatory reporters of abuse, neglect, or exploitation to ensure that the mandatory reporters have access to the relevant educational materials developed by ODJFS.
- Would have repealed a requirement that each CDJFS prepare a memorandum of understanding that establishes the procedures to be followed by local officials regarding cases of elder abuse, neglect, and exploitation (VETOED).
- Changes the definition of "home health agency" in the statute that shields certain entities from liability for the failure of a physician who is not an employee to obtain an informed consent from a patient prior to a surgical or medical procedure.
- Renumbers and rearranges portions of the statutes governing adult protective services and makes various technical and clarifying amendments to the law.

### **SNAP Employment and Training planning committee**

- Requires the JFS Director, in collaboration with the Chancellor of Higher Education, to convene a Supplemental Nutrition Assistance Program Employment and Training Program planning committee to develop a plan for the expansion of the program and to incorporate the plan into the annual state plan.

### **Ohio's workforce development system**

(R.C. 6301.01, 6301.02, 6301.03, 6301.04, 6301.05, 6301.06, 6301.061, 6301.07, 6301.08, 6301.09, 6301.11, 6301.12, 6301.18, 5101.20, 5101.201, 5101.214, 5101.23, and 5101.241; Section 763.10; conforming changes in numerous other R.C. sections)

#### **The federal Workforce Innovation and Opportunity Act**

(R.C. 6301.01 and 6301.02; conforming changes in numerous other R.C. sections)

Ohio's workforce development system is based, in part, on federal law. In 2014, Congress passed the "Workforce Innovation and Opportunity Act"<sup>95</sup> (WIOA). WIOA supersedes the federal "Workforce Investment Act of 1998,"<sup>96</sup> upon which much of Ohio's workforce development system is based. The act replaces references to the Workforce Investment Act of 1998 with references to WIOA throughout the Revised Code.

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<sup>95</sup> 29 United States Code (U.S.C.) 3101 *et seq.*

<sup>96</sup> Former 29 U.S.C. 2801 *et seq.*



## **Governor's Executive Workforce Board**

(R.C. 6301.04)

WIOA, like its predecessor, requires each state to have a state workforce development board.<sup>97</sup> The state board, along with Ohio's Department of Job and Family Services (ODJFS), largely oversees the implementation of WIOA and its predecessors in Ohio. Under continuing law, the Governor must establish the Governor's Executive Workforce Board and must appoint members to the Board who serve at the Governor's pleasure to perform duties under WIOA. The act requires that the following individuals be Board members:

- The Governor (required under WIOA);
- Two members of the House appointed by the Speaker;
- Two members of the Senate appointed by the Senate President (WIOA requires one member from each chamber);
- Other members required under WIOA (representing Ohio businesses, workforce, and government);
- Any additional members appointed by the Governor.<sup>98</sup>

The act also eliminates the Board's duties and instead requires the Board to do all of the following:

- Develop (as under former law), implement, and modify the state workforce development plan;
- Review statewide workforce policies and programs and recommendations on actions to be taken by the state to align workforce development programs to support a comprehensive and streamlined workforce development system;
- Recommend measures for the development and continuous improvement of the workforce development system in Ohio, including updating comprehensive state performance accountability measures;

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<sup>97</sup> 29 U.S.C. 3111.

<sup>98</sup> 29 U.S.C. 3111 and Governor's Executive Workforce Board, Board Roster, <http://workforce.ohio.gov/Portals/0/Public%20Board%20Roster%2012.9.16.pdf>.



- Continue to identify and disseminate information on promising practices in workforce development;
- Perform other work required under WIOA or requested by the Governor.

The Board's former law duties were more involved in the administration, rather than oversight as under the act, of Ohio's workforce development system.

## **Governor's Office of Workforce Transformation**

### **Ohio in-demand jobs list and employers survey**

(R.C. 6301.11, 6301.111, and 3701.916)

Under continuing law, the Governor's Executive Workforce Board, in conjunction with ODJFS and various public and private educational institutions, must develop a methodology for identifying jobs that are in demand by Ohio employers. The act requires that an analysis of jobs that pay a wage rate of 125% or more of the federal minimum wage be included in the methodology for identifying these jobs. The act additionally requires that direct care provided by a home health agency to be considered a targeted industry sector for purposes of identifying in-demand jobs in Ohio. The targeted industry sectors are identified by the Governor's Office of Workforce Transformation (OWT).

Continuing law also requires ODJFS and the public and private educational institutions, in consultation with the Board, to use the methodology to create and publish a list of in-demand jobs in Ohio and in each Ohio region and to periodically update the list.

The act requires OWT, in conjunction with ODJFS, to conduct an electronic survey of Ohio employers that identifies jobs that are in demand by those employers and use the survey results to update the in-demand jobs list. OWT must perform the initial survey and complete the first update by December 31, 2018, and subsequent surveys and updates by December 31 every two years thereafter. The act does not affect the continuing law requirement that the list be periodically updated.

### **OhioMeansJobs workforce supply tool**

(R.C. 6301.112)

The act requires OWT, in collaboration with ODJFS and the Department of Higher Education, to create and publish on the OhioMeansJobs website (see "**Electronic job placement system**," below) a workforce supply tool that uses real-time demand and supply data. OWT must provide all of the following through the tool:



- Businesses with historical information on graduates from high demand fields;
- Businesses with projections on future graduates; and
- The number of skilled workers available for work in occupations included on the list of in-demand jobs created under continuing law.

The workforce supply tool created under the act must include the entire in-demand jobs list maintained under continuing law not later than January 1, 2018.

The act requires OWT, by December 31, 2018, and in collaboration with the Departments of Higher Education and Education, to establish design teams to both:

- Identify emerging skill needs based on predictive analytics and analysis of the data from the workforce supply tool; and
- Periodically recommend innovations for responding to emerging in-demand jobs and skills.

#### **Evaluation of workforce programs**

(R.C. 107.35)

Continuing law requires ODJFS and the Departments of Higher Education and Education to provide staff support and assistance to OWT to establish criteria for evaluating the performance of state and local workforce programs. The act requires that the criteria include a measure that determines the effectiveness of a workforce program in transitioning individuals participating in any federal, state, or local means-tested public assistance program to unsubsidized employment. The act also requires the Opportunities for Ohioans with Disabilities Agency (OODA) to provide staff support and assistance to OWT.

Additionally, the act requires OWT to display metrics regarding the state's administration of the state vocational rehabilitation program administered under Title I of the federal Rehabilitation Act of 1973<sup>99</sup> on OWT's public dashboard available on the Internet in addition to metrics regarding the state's administration of primary workforce programs.

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<sup>99</sup> 29 U.S.C. 701 *et seq.*



## **Applications for WIOA programs**

(R.C. 6301.20)

The act requires OWT, in consultation with ODJFS, the Departments of Higher Education and Aging, and OODA, to develop and maintain a uniform electronic application for adult training programs funded under WIOA. The application must be developed by September 30, 2017, and be available for use by July 1, 2018.

## **Electronic job placement system**

(R.C. 6301.01 and 6301.03, with conforming changes in R.C. 3121.03, 3304.171, 3313.89, 3333.92, 4141.29, and 6301.18)

The act changes references to Ohio's electronic system for labor exchange and job placement activity, referring to the system as the "OhioMeansJobs website," rather than "OhioMeansJobs." Continuing law requires local areas to use OhioMeansJobs as the labor exchange and job placement system for the area. Under the act, no additional state or federal workforce funds may be used to build or maintain any labor exchange and job placement system that is duplicative to the OhioMeansJobs website. Former law prohibited only additional workforce funds from being used for that purpose.

## **Department of Veterans Services job placement website (VETOED)**

(R.C. 5902.09 and 6301.03)

The Governor vetoed a provision that would have required the Department of Veterans Services to maintain a website for labor exchange and job placement activity specifically for veterans. The OhioMeansJobs website would have been required to include a link to that Department of Veterans Services' website and would have been prohibited from including an independent veterans' labor exchange and jobs placement function.

## **Pilot programs**

(R.C. 6301.02)

The act allows the JFS Director to establish pilot programs to provide workforce development activities or services under federal law. Under former law, the JFS Director was allowed to establish pilot programs to provide workforce development activities or family services to individuals who did not meet eligibility criteria for those activities or services under federal law. The act also requires the JFS Director to advise the Governor's Executive Workforce Board of any pilot program, rather than requiring the Board to approve the program, as under former law.



## Local administration

### Local areas

(R.C. 6301.01; conforming changes in numerous other R.C. sections)

WIOA requires states to designate local areas through which workforce development activities under WIOA are administered.<sup>100</sup>

The act expands the definition of "local area" for purposes of Ohio's Workforce Development Law to remove references to specific local government types and instead to define "local area" broadly as a local workforce development area designated under WIOA, pursuant to Ohio's Workforce Development Law. The act also makes conforming changes to several sections outside of that Law that reference the definition.

Because of the elimination of the reference to specific types of local areas, certain provisions of the workforce development system appear to be expanded. For example, continuing law allows boards of county commissioners to enter into regional plans of cooperation to enhance the administration, delivery, and effectiveness of workforce development activities. The act allows the board to enter these plans with any local area, not just one that is a municipal corporation (see "**Written grant agreements with local areas**," below).

### Local boards

(R.C. 6301.06, 5101.214, 6301.01; repealed R.C. 330.04 and 763.05; conforming changes in numerous other R.C. sections)

Under continuing law, the chief elected official or officials (CEO) of a local area must create a local board for workforce development activities. The act eliminates state law requirements for the membership and responsibilities of that board and instead requires that the board carry out the functions described in and meet the membership requirements of WIOA (the local board must include representatives from the following areas: business, the workforce, entities administering training and educational activities, and government). The CEOs of a local area must adopt a process for appointing members to the local board for the local area. A "CEO" generally refers to the chief elected executive officer of a local government unit, rather than a specific individual based on the type of local area, as under former law. A local area may have more than one CEO; if so, those CEOs must be named in an agreement under WIOA.

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<sup>100</sup> 29 U.S.C. 3121.



The act also eliminates the authority of the CEOs of a local area to consolidate all boards and committees, including the county family services planning committee, into one board for purposes of workforce development activities.

CEOs may contract with the local board under the act. The parties must specify in the contract the workforce development activities that the local board must administer and must establish in the contract standards, including performance standards, for the local board's operation. The act eliminates the definition of "workforce development activity" and instead defines a "workforce development activity" as an activity carried out through a workforce development system.

Similarly, the act allows CEOs to contract with a government or private entity to enhance the administration of local workforce development activities for which the local board is responsible. The contracting entity need not be located in the local area in which the CEOs serve. The act additionally removes references to workforce development agencies as providers of workforce development activities throughout the Revised Code, and clarifies that the local board of a local area is the entity responsible for carrying out the workforce development activities in the local area. Under former law, a county that was a local area was allowed to designate certain entities to be its workforce development agency, or a local area that was a municipal corporation was allowed to contract with a private or government entity described above to act as the local area's workforce development agency.

The act allows the JFS Director to enter into a written agreement with one or more state agencies, state universities, and colleges to assist in the coordination, provision, or enhancement of the workforce development activities of a local board, rather than allowing it to enter into those written agreements to assist workforce development agencies.

#### **Written grant agreements with local areas**

(R.C. 5101.20, 6301.01, and 6301.05)

Under continuing law, the JFS Director must enter into written grant agreements with each local area under which allocated funds (formerly "financial assistance") are awarded for workforce development activities included in the agreements. These agreements must comply with applicable federal and state laws governing the administration of workforce development activities and, as added by the act, funding. The act requires the Director to award grants to local areas only through one of these grant agreements.

The act also modifies the required contents of these grant agreements. A written grant agreement under the act must identify as parties to the agreement the



representatives for the local area, including the CEOs, the local board, and the fiscal agent, rather than only the CEOs for the local area as under former law. Additionally, the grant agreement must provide for the incorporation of the planning region and local plan, instead of only providing for incorporation of the local workforce development plan. A "planning region" is an area consisting of two or more local areas that are collectively aligned to engage in the regional planning process as outlined in WIOA. As mentioned under "**Local areas**," above, continuing law permits these regional plans.

The act modifies certain assurances from the CEOs that must be included in a written grant agreement. It requires, the CEOs to ensure that the CEOs, subgrantees, or contractors of a local area utilize a financial management system and other accountability mechanisms that meet federal and state law requirements and, as added by the act, the policies and procedures adopted by ODJFS (rather than ODJFS requirements, as under former law).

Additionally, the act requires the CEOs to monitor all private and government entities that receive funds allocated under the grant agreement to ensure that the funds are utilized in accordance with all applicable federal and state laws and with policies and guidance issued by ODJFS and, under continuing law, to ensure compliance with the requirements of the grant agreement. Likewise, the act requires CEOs to take action to recover funds for expenditures that are unallowable under federal or state law or, under continuing law, are not used in accordance with the grant agreement.

The act also modifies slightly the assurance that the CEOs must provide with respect to amounts that the local area is responsible to reimburse because of an adverse audit or quality control finding, final disallowance of federal financial participation, or other sanction or penalty. It requires the CEOs to provide assurances that the local area or the CEOs, subgrantees, or contractors for the local area promptly remit funds to ODJFS that are payable to the state or federal government because of such an adverse finding or penalty. Under former law, the CEOs had to promptly reimburse any funds for which the local area was responsible.

And with respect to corrective action, the act requires the CEOs to provide assurances that the local area and any subgrantee or contractor of the local area will take prompt corrective action if ODJFS, the Auditor of State, or other state or federal agency determines noncompliance with state or federal law. Under former law, the parties required the CEOs to take corrective actions and only if an authorized entity determined that compliance with requirements for a workforce development duty contained in the agreement were not achieved.



## **Establishing a workforce development system**

(R.C. 6301.08, 6301.06, 5101.201, and 6301.01, with conforming changes in R.C. 4141.29 and 6301.061)

The act requires every local area to establish and administer a local workforce development system and ensure that at least one comprehensive OhioMeansJobs center is available in the local area. Under former law, each local area was required to participate in a one-stop system for workforce development activities delivered through either a physical location or by electronic means approved by the Governor's Executive Workforce Board. An "OhioMeansJobs center" is a physical one-stop center under WIOA.

A center may be supported by electronic means approved by the JFS Director. The act permits the JFS Director to enter into agreements with local boards and other OhioMeansJobs center partners to establish a workforce development system, rather than with one-stop operators and one-stop center partners as under former law.

The act eliminates the list of entities that were permitted to operate a one-stop center and instead requires that an OhioMeansJobs center be operated by an OhioMeansJobs center operator, which is an entity or consortium of entities designated or certified through a competitive process to operate an OhioMeansJobs center under WIOA. The act also eliminates a requirement that the workforce development system (formerly the local one-stop system) include a representative from a county department of job and family services.

An OhioMeansJobs center operator is required to enter into a memorandum of understanding with one or more public libraries by September 1, 2018, and every two years thereafter, to facilitate collaboration and coordination of workforce programs and education and job training resources. WIOA requires local boards to be the contracting entity.

### **Local plans**

(R.C. 6301.07)

Under continuing law, every local board must develop a plan for workforce development activities in the local area. The act eliminates the process used for plan development and approval. Instead, each local board, in partnership with the local area's CEOs, must develop a four-year local plan (as required under WIOA), and submit that plan to the Governor.



The local plan must support the strategy described in the state plan and contain descriptions of the activities of the local board as outlined in WIOA. The act requires that the local plan include the following information, in accordance with WIOA:

- Identification of strategic planning elements, including the local board's strategic vision, goals for preparing a skilled and educated workforce, and the knowledge and skills, including performance character, needed to meet the employment needs of employers in the planning region;
- A description of the workforce development system in the local area and how the local board, working with education programs and the entities that carry out core programs, will coordinate activities to expand access to employment, training, education, and supportive services to eligible individuals with barriers to employment to improve service delivery and avoid duplication;
- A determination of the local area's workforce development needs for adult and dislocated worker employment training activities, including the type and availability of activities needed;
- An assessment of the type and availability of youth workforce development activities carried out in the local area, including activities for youth with disabilities and youth receiving independent living services under continuing law;
- A description of any other information the CEOs of the local area require;
- A description of any other information the Governor requires.

Additionally, the act requires the local boards within a planning region and the CEOs of those local areas to prepare, submit to, and obtain approval from the state for a single regional plan that includes a description of the activities described in WIOA and that incorporates local plans for each local area in the region. The state must identify the regions, and designate each region as one of the following types:

- A region consisting of one local area;
- A planning region;
- An interstate planning region that is contained within two or more states and consists of labor market areas, economic development areas, or other appropriate contiguous subareas of those states.



Copies of these local plans must be made available to the public through electronic and other means and, similar to former law, members of the public must be allowed to submit comments on the proposed plan to the local board. Presentations to local news media and public hearings are examples of other means by which a local board may make a proposed plan available.

#### **Local board hearings (VETOED)**

(R.C. 6301.06)

The Governor vetoed a provision that would have allowed local boards to hold meetings by interactive video conference or by teleconference, regardless of the Open Meetings Act requirement that a member of a public body be present in person at a meeting open to the public in order to be part of a quorum or to vote. If the board wanted to hold meetings by interactive video conference or teleconference, the board would have had to adopt rules that, at a minimum, required the meetings to be conducted in a certain manner and established a minimum number of members who had to have been physically present at the primary meeting location.

#### **Gubernatorial action related to a WIOA violation**

(R.C. 5101.241)

The act requires the Governor to take action if the Governor determines that there has been a substantial violation of a specific WIOA provision and that corrective action has not been taken. In that case, the Governor must issue a notice of intent to revoke approval of all or part of the local plan affected by the violation or must impose a reorganization plan. A reorganization plan imposed may include any of the following:

- Decertifying the local board involved in the violation;
- Prohibiting the use of eligible providers;
- Selecting an alternative entity to administer the program for the local area involved;
- Merging the local area with one or more other local areas;
- Making other changes that the Governor determines to be necessary to secure compliance with the specific provision.

This corrective action is in lieu of the authority under former law that allowed the Governor, upon finding that access to basic WIOA services was not being provided in a local area, to declare an emergency and, in consultation with the CEOs of the local



area, to arrange for provision of those services through an alternative entity while the problem was pending. The former law authority was not subject to appeal, while the act's authority may be appealed and does not become effective until the time for appeal has expired or a final decision has been issued on the appeal.

### **"Continuous learning center" brand for public libraries**

(Section 763.10)

The act permits OWT, in conjunction with the Ohio Library Council or its successor organization, by June 30, 2019, to develop a brand for public libraries as "continuous learning centers" that serve as hubs for information about local in-demand jobs and relevant education and job training resources. Additionally, the act requires the State Library of Ohio to strengthen the Ohio Digital Library's online education resources to provide more accessible job training materials to adult learners. The State Library must make these changes by June 30, 2019.

### **Incentive awards**

(R.C. 5101.23)

The act allows ODJFS to provide annual incentive awards to local areas, rather than allowing it to provide those awards to workforce development agencies, as under former law. Under continuing law, ODJFS may provide these awards also to county family services agencies and the awards must be used for the purposes for which the funds are appropriated.

### **Payment for administration of local workforce development**

(R.C. 6301.03)

The act requires the JFS Director, in making allocations and payments of funds for the local administration of workforce development activities, to consult with the Governor's Executive Workforce Board, rather than allowing the Board to direct the JFS Director in these allocations and payments as under former law. Similarly, the JFS Director, rather than the Board, must adopt rules for fund administration.

### **Review of workforce development program criteria**

(R.C. 3701.916)

The act requires the JFS Director to review the criteria for any program that provides occupational training, adult education, or career pathway assistance through a grant or other source of funding to determine whether home health agency employees



may participate in the program. The JFS Director must make any necessary changes to the criteria to allow home health agency employees to participate in the program to the extent possible.

## **Comprehensive Case Management and Employment Program**

(R.C. 5116.02, 5107.10, 5116.01, 5116.03, 5116.06, 5116.10, 5116.11, 5116.12, 5116.20, 5116.21, 5116.22, 5116.23, 5116.24, and 5116.25; Section 307.210)

### **Program made ongoing**

The act makes the Comprehensive Case Management and Employment Program (CCMEP) an ongoing program, and requires ODJFS to coordinate and supervise its administration to the extent funds are available for it under the Temporary Assistance for Needy Families (TANF) block grant or WIOA. The Program's purpose is to make employment and training services available to its participants in accordance with an assessment of their needs.

Under prior law, CCMEP was to be operated only for a two-year period ending July 1, 2017. To maintain the Program, the act codifies it (i.e., places the Program in the Revised Code). The act also makes several revisions to the Program. The codification and revisions take effect September 29, 2017. Until then, the act requires that the Program continue to operate in its original form but with one immediate revision: the minimum age for participation is lowered from 16 to 14.

### **Local decision to use youth workforce investment activity funds**

Once the CCMEP codification takes effect (i.e., after September 29, 2017), each local workforce development board must decide whether to authorize the use of its federal youth workforce investment activity funds for the Program. The decision must be made for each state fiscal biennium (i.e., the two-year period that begins July 1 of an odd-numbered year) and in accordance with procedures, including procedures regarding timing, established in rules by the JFS Director. A board's decision applies to all of the counties it serves.

### **State to run Program in a county if use of funds not authorized**

If a local workforce development board decides against authorizing use of its youth workforce investment activity funds for CCMEP for a fiscal biennium, the board must use those funds in accordance with federal law governing the funds, and no TANF block grant funds are to be made available to the board or any county the board serves for the Program. ODJFS must use available TANF block grant funds to administer, or contract with a government or private entity to administer, the Program in the counties the board serves.



### **Local responsibilities if use of funds is authorized**

If a local workforce development board authorizes the use of its youth workforce investment activity funds for CCMEP for a fiscal biennium, the board, before the biennium begins, must enter into a written agreement with ODJFS that, to the extent permitted by federal law, requires the board and the counties it serves to operate the Program in accordance with the Program's requirements. Additionally, the board of county commissioners of each county the local workforce development board serves must designate either the county department of job and family services or workforce development agency to serve as the county's lead agency for the Program. The designation must be made before the biennium begins, but the board of county commissioners later may designate the other of those two entities to take over as the lead agency for the remainder of the biennium. The board of county commissioners must inform ODJFS of its designation before the biennium and of any redesignation within 60 days after the redesignation takes effect.

A lead agency is given several responsibilities regarding its administration of CCMEP in the county it serves. The responsibilities must be performed in consultation with the local workforce development board and in accordance with rules the JFS Director must adopt.

The lead agency must prepare and submit to the Department a plan containing standing procedures for determining and maintaining individuals' eligibility to participate in the Program. If the lead agency is redesignated, the new lead agency must prepare and submit to the Department a new plan within 60 days after the redesignation takes effect. The original and new plans must be included in the workforce development plan the local workforce development board must prepare under continuing law.

Additionally, the lead agency must partner with the other entity that may serve as the lead agency and subcontractors to (1) actively coordinate activities regarding the Program with the other entity and subcontractors and (2) help the lead agency, the other entity, and subcontractors use their expertise in administering the Program. A subcontractor is an entity with which the county department or workforce development agency contracts to perform, on behalf of the county department or agency, one or more of the county department's or agency's duties regarding the Program.

A lead agency is responsible for all funds received for CCMEP by the county it serves. It must use the funds in a manner consistent with federal and state law. It must coordinate this responsibility with any entity that has been designated to serve as a local grant subrecipient or a local fiscal agent under WIOA.



## Participants

The act specifies that certain groups must participate in CCMEP and certain other groups may volunteer to participate.

The following are the mandatory groups:

(1) Individuals who are considered to be work eligible for the purpose of Ohio Works First must participate as a condition of participating in Ohio Works First if they are at least 14 and not more than 24 years old. Ohio Works First is the state's cash assistance program for low-income families. It is funded with federal TANF block grant funds as well as state and county funds. A work-eligible individual is subject to work and other requirements under continuing law governing Ohio Works First.

(2) In-school youth and out-of-school youth must participate in the Program as a condition of enrollment in workforce development activities funded by WIOA. An individual is an in-school youth if the individual (a) attends school, (b) is between 14 and 21 (unless the individual has a disability), (c) has low income, and (d) meets one or more other requirements such as being basic skills deficient, an English language learner, homeless, or in foster care. An individual is an out-of-school youth if the individual (a) does not attend school, (b) is between 16 and 24, and (c) meets one or more other requirements such as being a school dropout, homeless, or in foster care.

The following are the voluntary groups:

(1) Ohio Works First participants who are not considered to be work eligible for the purpose of Ohio Works First may volunteer if they are between 14 and 24 years old.

(2) Individuals receiving benefits and services under the Prevention, Retention, and Contingency Program may volunteer if they are between 14 and 24. That Program provides short-term benefits and services (such as clothing, shelter, transportation, employment, and training) during a crisis or time of need. The benefits and services vary by county.

The act permits the JFS Director to adopt rules specifying one or more additional mandatory participation groups and one or more additional voluntary participation groups. The participation of the additional groups is subject to the availability of funds under the TANF block grant or WIOA.

If a lead agency fails to enroll in CCMEP an individual who is in a mandatory participation group and to take corrective action that ODJFS requires the agency to take as a consequence of that failure, the Department may perform, or contract with a government or private entity for the entity to perform, the agency's duties until satisfied



that the agency ensures that the duties will be performed satisfactorily. If the Department does this, it may spend funds in the county treasury appropriated by the board of county commissioners for the Program and withhold funds allocated, or reimbursements due, to the lead agency for the Program.

### **Assessments and services**

A lead agency must provide for an individual participating in CCMEP to undergo an assessment of the individual's employment and training needs. An individual opportunity plan must be created for each participant as part of the assessment. The plan must be reviewed, revised, and terminated as appropriate. The lead agency is to provide for all of these actions to occur in accordance with rules the JFS Director is to adopt.

A participant's individual opportunity plan must specify which of the following services, if any, the participant needs: (1) support to obtain a high school diploma or certificate of high school equivalence, (2) job placement, (3) job retention support, and (4) other services that aid the participant in achieving the plan's goals. The services a participant receives in accordance with the plan are inalienable by way of assignment, charge, or otherwise and exempt from execution, attachment, garnishment, and other similar processes.

### **Application of state laws**

The act provides that CCMEP is all of the following:

(1) A TANF program and therefore subject to all statutes that apply to TANF programs;

(2) A workforce development activity and therefore subject to all statutes that apply to workforce development activities;

(3) A family services duty (a duty state law requires or allows a county department of job and family services to assume) and therefore is subject to all statutes that apply to family services duties.

### **Rules**

In addition to the other rules discussed above, the act requires the JFS Director to adopt rules that are necessary to implement CCMEP. This includes rules that:

(1) Provide for the Program to help Ohio Works First participants considered to be work eligible satisfy federal work requirements; and



(2) Provide for the Program to help Ohio Works First participants satisfy other Ohio Works First requirements (including requirements in self-sufficiency contracts) and obtain other assistance or services that participants need according to assessments conducted under the Ohio Works First Law.

The rules adopted for the Program must be consistent with the plan the state files with the U.S. Secretary of Health and Human Services to receive TANF block grant funds, amendments to the plan, and any waivers regarding the plan granted by the Secretary. The rules also must be consistent with the combined workforce development plan filed with the U.S. Secretary of Labor, amendments to the plan, and any waivers regarding the plan granted by the Secretary. The rules that provide for the Program to help Ohio Works First participants satisfy federal work requirements may deviate from the state's Ohio Works First Law.

### **Healthier Buckeye Grant pilot**

(Sections 307.230 and 307.250)

The act requires the Director to permit individuals and organizations receiving grant awards under the preexisting Healthier Buckeye Grant Pilot Program to expend awards through December 31, 2017.<sup>101</sup> Under the Program, grants were awarded in FYs 2016 and 2017 to local healthier buckeye councils and other individuals and organizations based on criteria recommended by the Ohio Healthier Buckeye Advisory Council.

Regarding the cash balance in the Healthier Buckeye Fund, the act requires the unexpended, unencumbered balance to be transferred to the General Revenue Fund on July 1, 2017, or as soon as possible thereafter.

### **Disability Financial Assistance**

(Section 812.40 with conforming changes in numerous Revised Code sections; repealed Chapter 5115.)

The act eliminates the Disability Financial Assistance Program, an ODJFS program providing monthly cash benefits to low-income individuals with disabilities who do not satisfy eligibility requirements for other state or federal assistance programs, including Ohio Works First and Supplemental Security Income. The program will expire beginning December 31, 2017. The act preserves, until July 1, 2019, the authority of the Department, or a county department at the Department's request, to

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<sup>101</sup> This extension is also authorized by the recently enacted Transportation Budget. Section 610.13 of Sub. H.B. 26 of the 132nd General Assembly.



take any action to recover erroneous payments, including filing a lawsuit. Erroneous payments include payments made to a person who is not entitled to receive them, including payments made as a result of misrepresentation or fraud and payments made due to error by the recipient or the county department.

### **Winding down the program**

The act contains several provisions related to the winding down of the program, including all of the following:

(1) Beginning July 1, 2017, the Department will no longer accept any new application for disability financial assistance;

(2) Before July 31, 2017, the Department must notify recipients who have received, on or before July 1, 2017, a denial of reconsideration from the Social Security Administration for Supplemental Security Income or Social Security Disability Insurance benefits that disability financial assistance benefits will end on July 31, 2017;

(3) Beginning July 1, 2017 and ending October 1, 2017, the Department will provide disability financial assistance benefits only to recipients who have not received from the Administration a denial of reconsideration;

(4) After October 1, 2017, the Department will provide disability financial assistance benefits only to recipients who have applications for Supplemental Security Income or Social Security Disability Insurance benefits pending before the Administration and have not received a denial of reconsideration.

### **New program**

Beginning December 31, 2017, the act requires the Executive Director of the Governor's Office of Health Transformation, in cooperation with the JFS Director, the Director of Mental Health and Addiction Services, the Medicaid Director, and the Executive Director of the Opportunities for Ohioans with Disabilities Agency, to ensure the establishment of a program to both:

(1) Refer adult Medicaid recipients who have been assessed to have health conditions to employment readiness or vocational rehabilitation services;

(2) Assist adult Medicaid recipients who have been assessed to have disabling health conditions to expedite applications for Supplemental Security Income or Social Security Disability Insurance benefits.



## **Ohio Works First income disregard**

(R.C. 5107.05 and 5107.10)

The act requires the JFS Director to specify in rules an initial amount of gross earned income that is to be disregarded in determining an assistance group's continued eligibility for Ohio Works First. Prior law, in contrast, specified that the first \$250 was to be disregarded. The act maintains a requirement that 50% of the remainder of the assistance group's gross earned income also be disregarded. Ohio Works First is the state's cash assistance program for low-income families with children.

## **Healthy Food Financing Initiative**

(Section 307.35)

The act requires the JFS Director, in cooperation with the Director of Health and with the approval of the Director of the Governor's Office of Health Transformation, to contract with the Finance Fund Capital Corporation to administer the Healthy Food Financing Initiative. The Initiative is to support healthy food access in underserved communities in urban and rural low- and moderate-income areas, as defined either by the U.S. Department of Agriculture or through a methodology adopted by another governmental or philanthropic healthy food initiative.

The Finance Fund Capital Corporation must demonstrate a capacity to administer grant and loan programs in accordance with state and federal rules and accounting principles. It also must partner with one or more entities with demonstrable experience in healthy food access-related policy matters.

By December 31, 2018, the JFS Director must provide a progress report on the Initiative to the Governor, Speaker of the House, President of the Senate, and Minority Leaders of the House and Senate. The report must detail progress on (1) state funds granted or loaned, (2) the number of new or retained jobs associated with related projects, (3) the health impact of the Initiative, and (4) the number and location of healthy food access projects established or in development.

## **Kinship Permanency Incentive Program**

(R.C. 5101.802)

The act makes changes to the Kinship Permanency Incentive Program. Under law revised by the act, the Program provides incentive payments to a family member caring for a child whose parents are unable to provide care. Upon meeting certain



requirements, the eligible caregiver may receive payments at six-month intervals for a period of no more than 48 months to support the child's placement in the home.

The act repeals the 48-month time limit under which an eligible caregiver may receive payments and specifies that a caregiver may receive no more than eight total incentive payments per child.

## **Family and Children First Flexible Funding Pool**

(Section 337.160)

The act permits a county family and children first council (FCFC) to establish and operate a flexible funding pool to assure access to needed services by families, children, and older adults who need protective services. A county FCFC that desires such a pool must abide by all of the following:

- The Pool must be created and operate according to formal guidance issued by the Family and Children First Cabinet Council.
- The FCFC must produce an annual report on its use of the pooled funds. The report must conform to guidance issued by the Family and Children First Cabinet Council.
- Unless otherwise restricted, the Pool may receive transfers of state general revenues allocated to local entities to support services to families and children.
- The Pool may receive only transfers of amounts that can be redirected without hindering the objective for which the initial allocation is designated.
- The director of the local agency that originally received the allocation must approve the transfer to the Pool.

## **Children's Trust Fund Board**

(R.C. 3109.15)

The act repeals the following two requirements regarding membership on the Ohio Children's Trust Fund Board:

(1) That five of the members appointed to the board be residents of metropolitan statistical areas exceeding 400,000 in population; and



(2) That no two of those five members be residents of the same metropolitan statistical area.

## **Child welfare applicant fitness**

(R.C. 5153.113)

### **Fitness review**

The act requires the executive director of a public children services agency (PCSA), or the executive director's designee within the PCSA, to review promptly any information the PCSA determines is relevant to the evaluation of an applicant's fitness before employing the applicant. Under the act, "applicant" means a person under final consideration for appointment or employment with the PCSA as a person responsible for the care, custody, or control of a child.<sup>102</sup> An applicant also includes (1) an intern applicant or (2) a volunteer applicant. An "intern applicant" is an applicant who is a trainee who will work with or without monetary gain or compensation seeking to gain practical educational and career experience. A "volunteer applicant" is an applicant seeking to perform services voluntarily without monetary gain or compensation.

### **Review of any relevant information**

The act specifies that when evaluating an applicant's fitness, the PCSA executive director or designee must review any relevant information, including:

- Child abuse and neglect reports, if the applicant is the subject and it has been determined that abuse or neglect occurred;
- The final disposition of child abuse and neglect report investigations, or the status of the investigations if they have not been completed; and
- Any underlying documentation concerning the reports.

Under law unchanged by the act, ODJFS maintains a uniform statewide automated child welfare information system in accordance with federal law. The system includes records regarding investigations filed under Ohio law requiring the reporting and investigation of child abuse and neglect.<sup>103</sup> Presumably, the PCSA would search the system in order to complete the fitness evaluation under the act. However, the act does not expressly permit or require using the system.

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<sup>102</sup> R.C. 5153.111, not in the act.

<sup>103</sup> R.C. 5101.13, not in the act.



## **Confidentiality**

The fitness review added by the act is required notwithstanding any laws pertaining to confidentiality, including those under the county children's services law<sup>104</sup> and the law governing child abuse and neglect reporting.<sup>105</sup> In addition, the information reviewed by a PCSA executive director or designee may not include the name of the person or entity that made the child abuse or neglect report or participated in making the report.

## **Employment of applicants**

The act does not expressly state what happens if an applicant receives a negative fitness evaluation following a finding that the applicant has been the subject of a case in which it was determined that child abuse or neglect occurred. Neither does the act provide a procedure for an applicant to dispute a negative fitness evaluation. Presumably, a PCSA would not hire an applicant with a negative fitness evaluation.

## **Rules**

The act requires the JFS Director to adopt rules pursuant to the Administrative Procedure Act (R.C. Chapter 119.) to implement the requirements regarding fitness evaluations of PCSA applicants.

## **Foster Care Advisory Group**

(Section 751.10)

The act creates the Foster Care Advisory Group within ODJFS to advise and assist it in identifying and implementing best practices to recruit, retain, and support foster caregivers.

## **Membership**

The Advisory Group must consist of at least 12 members, which includes the JFS Director or the Director's designee, and the following, to be appointed by the JFS Director by September 1, 2017:

- Four foster caregivers holding valid foster home certification;
- Two representatives of two different public children services agencies;

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<sup>104</sup> R.C. 5153.17, not in the act.

<sup>105</sup> R.C. 2151.421, not in the act.



- Two representatives of two different private child placing agencies or private noncustodial agencies;
- A representative of the Ohio Family Care Association;
- A representative of the Ohio Association of Child Caring Agencies;
- A representative of the Public Children Services Association of Ohio.

The Advisory Group must have two co-chairpersons: the JFS Director or Director's designee, and another co-chairperson appointed by the other members. The Advisory Group must determine the frequency of meetings and any other administrative matters. Members serve without compensation, but must be reimbursed for necessary expenses.

### **Duties**

The Advisory Group must advise the JFS Director on matters affecting foster caregivers, which include:

- Current certification requirements;
- Ways to streamline certification requirements while maintaining quality, safety, and reliability;
- Ways to help foster caregivers best respond to children affected by parental drug use and how to deliver and sustain those supports;
- Best practices for identifying and recruiting foster caregivers.

By May 1, 2018, the Advisory Group must issue a report that addresses and makes recommendations regarding the above matters, with copies of the report going to the JFS Director, the Governor, the Speaker and Minority Leader of the House, and the President and Minority Leader of the Senate. Upon submitting the report, the Advisory Group ceases to exist.



## **Adult protective services (PARTIALLY VETOED)**

(R.C. 173.501, 173.521, 173.542, 1347.08, 2317.54, 4715.36, 5101.60, 5101.61, 5101.611, 5101.612, 5101.62, 5101.622, 5101.63, 5101.632, 5101.64 to 5101.69, 5101.691, 5101.692, 5101.70 to 5101.74, 5101.741, 5101.99, 5123.61, and 5126.31; repealed R.C. 5101.621; Section 130.33)

Effective September 29, 2018, the act makes several changes to the adult protective services statutes, including expansion of definitions, expansion of reporters of suspected abuse, neglect, or exploitation of older adults, notification of local law enforcement agencies of suspected subjects being criminally exploited, creation of the Elder Abuse Commission, and requiring ODJFS to provide training and educational materials for implementing the statutes.

### **Definitions related to abuse, neglect, or exploitation of older adults**

Under continuing law, the law covers any person age 60 or older within Ohio who is handicapped by the infirmities of aging or who has a physical or mental impairment that prevents the person from providing for the person's own care or protection and who resides in an independent living arrangement. An "independent living arrangement" is a domicile of a person's own choosing, including but not limited to a private home, apartment, trailer, or rooming house, and includes a licensed adult care facility but does not include any other state-licensed institution or facility or a facility in which a person resides as a result of voluntary, civil, or criminal commitment. The act retains these definitions but relocates the definition of "independent living arrangement."

The act retains the existing definition of abuse (the infliction upon an older adult by self or others of injury, unreasonable confinement, intimidation, or cruel punishment with resulting physical harm, pain, or mental anguish) but modifies the definitions of neglect and exploitation. Under continuing law, "neglect" means the failure of an older adult to provide for himself or herself the goods or services necessary to avoid physical harm, mental anguish, or mental illness or the failure of a caretaker to provide the goods or services. The act adds abandonment as another form of neglect, and defines "abandonment" to mean desertion of an older adult by a caretaker without having made provision for transfer of the older adult's care. It clarifies that to constitute abandonment, the abandonment must involve the older adult's primary caretaker. A "caretaker" is the person assuming responsibility for the care of an older adult on a voluntary basis, by contract, through receipt of payment for care, as a result of a family relationship, or by court order.



Prior law defined "exploitation" to mean the unlawful or improper act of a caretaker using an older adult or an older adult's resources for monetary or personal benefit, profit, or gain when the caretaker obtained or exerted control over the older adult or resources without the older adult's consent, beyond the scope of the older adult's consent, or by deception, threat, or intimidation. Under the act, "exploitation" means the unlawful or improper act of a *person* using, *in one or more transactions*, an older adult or an older adult's resources for monetary or personal benefit, profit, or gain when the person obtained or exerted control over the older adult or resources without the older adult's consent, beyond the scope of the older adult's consent, or by deception, threat, or intimidation.

The act modifies or adds other definitions for this area of law, and the modification and additions are discussed below when the relevant area of law is discussed.

### **Mandatory reporters of abuse, neglect, or exploitation**

Continuing law requires specific individuals who, having reasonable cause to believe that an older adult is being abused, neglected, or exploited, or is in a condition that is the result of abuse, neglect, or exploitation, to immediately report the belief to the county department of job and family services (CDJFS). The act changes the list of individuals who must make a report.

#### **Retained mandatory reporters**

With some changes in terminology, the act retains the following list of mandatory reporters (substantive changes are indicated in italics in the list or are discussed following the list):

- Attorneys *admitted to the practice of law in Ohio*;
- Physicians, osteopaths, podiatrists, chiropractors, dentists, psychologists, and *registered or licensed practical nurses authorized to practice in Ohio*;
- Employees of a hospital as defined in R.C. 3701.01 (changed by the act to employees of a hospital as defined in R.C. 3727.01);
- Employees of a home health agency *as defined in R.C. 3701.881*;
- Employees of a nursing home or residential care facility, as defined in R.C. 3721.01;
- Senior service providers, limited by the act to a person who provides care or *specialized* services to an adult. The act excludes the State Long-term



Care Ombudsman and each regional ombudsman from being considered a senior service provider who must report. However, in a separate but related provision of the act, effective September 29, 2017, the Ombudsman and any regional ombudsman certified as representative of the Ombudsman's Office are already excluded from mandatory reporting. (See "**State Long-term Care Ombudsman Program – Reports of abuse, neglect, or exploitation**," in the **DEPARTMENT OF AGING** section of this analysis.)

- Peace officers;
- Coroners;
- Clergy;
- Social workers, counselors, and therapists (although changed by the act from any person engaged in social work or counseling to an individual licensed as a social worker, independent social worker, professional counselor, professional clinical counselor, marriage and family therapist, or independent marriage and family therapist).

#### **Deleted mandatory reporters**

The act deletes three categories of individuals from the list of mandatory reporters: employees of an ambulatory health facility, employees of a community mental health facility, and employees of a home for the aging. However, it generally covers the same individuals under other designations.

*Ambulatory health facility and outpatient health facility.* The act replaces "ambulatory health facility" with "outpatient health facility," defined as a facility where medical care and preventive, diagnostic, therapeutic, rehabilitative, or palliative items or services are provided to outpatients by or under the direction of a physician or dentist. (The act makes the same change in the section of law that lists the mandatory reporters of reasonably suspected abuse or neglect of a person with a developmental disability.)

*Community mental health facility and community mental health agency.* The act replaces "community mental health facility" (a facility that provides community mental health services and is included in the comprehensive mental health plan for the alcohol, drug addiction, and mental health service district in which it is located) with "community mental health agency" (any agency, program, or facility with which a board of alcohol, drug addiction, and mental health services contracts to provide the mental health services listed in R.C. 340.09).



**Home for the aging.** The act repeals and does not replace "home for the aging." However, according to the Department of Health, "home for the aging" is an obsolete term.

**Home health agency.** The act uses the definition of "home health agency" given in R.C. 3701.881 rather than the one in former R.C. 5101.61.

As used in the act, "home health agency" means a person or government entity, other than a nursing home, residential care facility, or hospice care program, that has the primary function of providing any of the following services to a patient at a place of residence used as the patient's home: skilled nursing care, physical therapy, speech-language pathology, occupational therapy, medical social services, or home health aide services.

**Hospital.** The act replaces the definition of "hospital" as set forth in R.C. 3701.01 with the one used in R.C. 3727.01. R.C. 3701.01 defines "hospital" to include public health centers and general, mental, chronic disease, and other types of hospitals, and related facilities, such as laboratories, outpatient departments, nurses' home facilities, extended care facilities, self-care units, and central service facilities operated in connection with hospitals, and also includes education and training facilities for health professions personnel operated as an integral part of a hospital, but not to include any hospital furnishing primarily domiciliary care.

R.C. 3727.01 defines "hospital" as an institution classified as a hospital under R.C. 3701.07 (rules adopted by the Department of Health) in which diagnostic, medical, surgical, obstetrical, psychiatric, or rehabilitation care is provided to inpatients for a continuous period longer than 24 hours or a hospital operated by a health maintenance organization. "Hospital" does not include a facility licensed under R.C. Chapter 3721. (nursing homes and residential care facilities), a health care facility operated by the Department of Mental Health and Addiction Services or the Department of Developmental Disabilities, a health maintenance organization that does not operate a hospital, the office of any private licensed health care professional, whether organized for individual or group practice, or a clinic that provides ambulatory patient services and where patients are not regularly admitted as inpatients. "Hospital" also does not include an institution for the sick that is operated exclusively for patients who use spiritual means for healing and for whom the acceptance of medical care is inconsistent with their religious beliefs, accredited by a national accrediting organization, exempt from federal income taxation, and providing 24-hour nursing care pursuant to the exemption from licensing for the care of the sick when done in connection with the practice of religious tenets of any church and by or for its members.

## **New mandatory reporters**

In addition to the mandatory reporters described above, the act adds the following individuals:

- Pharmacists and dialysis technicians authorized to practice in Ohio;
- Employees of a hospital or public hospital, as defined in R.C. 5122.01. (*A hospital or inpatient unit licensed by the Department of Mental Health and Addiction Services, and any place established, controlled, or supervised by the department, or a facility that is tax-supported and under the jurisdiction of the Department*).
- Employees of a health department operated by city board of health or a general health district or the authority having the duties of a board of health;
- Employees of a community mental health agency as defined in R.C. 5122.01;
- Agents of a county humane society;
- Firefighters for a lawfully constituted fire department;
- Ambulance drivers for an emergency medical service organization;
- First responders, emergency medical technicians-basic, emergency medical technicians-intermediate, and paramedics;
- Officials employed by a local building department to conduct inspections of houses and other residential buildings;
- Certified public accountants and registered public accountants under R.C. Chapter 4701.;
- Licensed real estate brokers or real estate salespersons;
- Notaries public;
- Employees of a bank, savings bank, savings and loan association, or credit union;
- Investment advisors, as defined in R.C. 1707.01;
- Financial planners accredited by a national accreditation agency.



## **Voluntary reporters**

The act retains law that permits any person who, having reasonable cause to believe that an older adult has suffered abuse, neglect, or exploitation, to report it to the CDJFS. This continues to include the State Ombudsman and representatives of the Ombudsman's Office, to the extent permitted by federal law, as provided by the act, effective September 29, 2017 (see "**State Long-term Care Ombudsman Program – Reports of abuse, neglect, or exploitation**" in the **DEPARTMENT OF AGING** section of this analysis).

The law included a fine for anyone who violates either the mandatory or voluntary reporting provision. The act eliminates the penalty for voluntary reporters.

## **Reports to the CDJFS**

The act modifies the handling of reports of abuse, neglect, or exploitation of older adults, whether made by a mandatory or voluntary reporter. It retains the requirement that information contained in a report be made available, on request, to the older adult who is the subject of the report and to legal counsel for the older adult. It adds that if the CDJFS determines that there is a risk of harm to a person who makes a report or to the older adult who is the subject of the report, it may redact the name and identifying information related to the person who made the report.

## **Role of county prosecutors**

The act extends to county prosecutors the authority to petition courts for the following orders related to the provision of adult protective services:

(1) An order authorizing protective services for an older adult who the CDJFS determines is in need of protective services as a result of exploitation.

(2) If an older adult has consented to protective services but another person refuses to allow them, a temporary restraining order to prevent the interference with the services.

(3) An order authorizing emergency protective services and a renewal of such an order upon a showing that a continuation of the order is necessary to remove the emergency.

Under prior law, only a CDJFS was expressly authorized to petition courts for these orders.



## **Criminal exploitation**

The act requires a CDJFS to notify a local law enforcement agency if it has reasonable cause to believe that the subject of a report of abuse, neglect, or exploitation of an older adult, or of an investigation of such a report, is being or has been criminally exploited.

During the course of the local law enforcement agency's investigation of criminal exploitation, the county prosecutor may file a petition in court for a temporary restraining order against any person, including the alleged victim, who denies or obstructs access to the older adult's residence. The court must issue the temporary restraining order if it finds there is reasonable cause to believe that the older adult is being or has been abused, neglected, or exploited and access to the older adult's residence has been denied or obstructed. The act establishes that such a finding by the court is prima facie evidence that immediate and irreparable injury, loss, or damage will result, so no notice is required. After obtaining the temporary restraining order, a representative of the law enforcement agency may be accompanied to the residence by a peace officer.

## **Reimbursement for implementation (VETOED)**

The Governor vetoed a provision that would have permitted ODJFS to reimburse local law enforcement agencies and county prosecutors for all or part of the costs they incur in implementing the laws pertaining to adult protective services.

## **Adult protective services information system**

The act modifies provisions governing the release of information from ODJFS's uniform statewide automated adult protective services information system. In 2015, H.B. 64 of the 131st General Assembly required ODJFS to implement this system on a county-by-county basis. Under the act, ODJFS must release information in the system to a CDJFS that is investigating the need for protective services for an older adult and to local law enforcement agencies conducting criminal investigations, and ODJFS may release information in the registry to law enforcement agencies through the Ohio Law Enforcement Gateway.

The act repeals a provision specifying that the information contained in or obtained from the system is confidential, is not a public record, and is not subject to disclosure laws that apply to other state-implemented personal information systems. However, the act maintains a provision permitting information contained in the system to be accessed or used only in a manner, to the extent, and for the purposes authorized by law. Additionally, it does not amend a law that exempts the information in the system from public disclosure.



## **Notice of orders for protective services**

When a CDJFS petitions a court for an order authorizing the provision of protective services for an older adult, continuing law requires the CDJFS to give the older adult notice of the petition. Under prior law, that notice must have been given orally and in writing. The act permits notice to be given either orally or in writing.

### **Elder Abuse Commission**

The act creates the Elder Abuse Commission consisting of the following members:

(1) Eighteen members appointed by the Attorney General (two representatives of national organizations that focus on elder abuse or sexual violence, one person who represents the interests of elder abuse victims, one person who represents the interests of elderly persons, and one representative each of the AARP, the Buckeye State Sheriffs' Association, the County Commissioners' Association of Ohio, the Ohio Association of Area Agencies on Aging, the Board of Nursing, the Ohio Coalition for Adult Protective Services, the Ohio Domestic Violence Network, the Ohio Prosecuting Attorneys Association, the Ohio Victim Witness Association, the Ohio Association of Chiefs of Police, the Ohio Association of Probate Judges, the Ohio Job and Family Services Directors' Association, the Ohio Bankers League, and the Ohio Credit Union League); and

(2) The following ex officio members:

(a) One member of the House appointed by the Speaker, and one member of the Senate appointed by the Senate President;

(b) The following officials or their designees: the Attorney General, the Chief Justice of the Supreme Court, the Governor, the Director of Aging, the JFS Director, the Director of Health, the Director of Mental Health and Addiction Services, the Director of Developmental Disabilities, the Superintendent of Insurance, the Director of Public Safety, and the State Long-term Care Ombudsman.

Appointed members serve at the pleasure of the appointing authority. Vacancies are filled in the same manner as original appointments.

All members are voting members. The Attorney General selects the chairperson from the appointed members. The Commission meets at the call of the chairperson, but not less than four times per year. The chairperson may call special meetings and must call a special meeting at the Attorney General's request. The Commission may establish



its own quorum requirements and procedures regarding the conduct of meetings and other affairs.

Commission members serve without compensation, but they may be reimbursed for mileage and other actual and necessary expenses incurred in the performance of their official duties.

The sunset review statutes, which provide for the expiration of state public bodies unless they are renewed following a review, do not apply to the Commission.

The act requires the Commission to formulate and recommend strategies on all of the following:

- (1) Increasing awareness of and improving education on elder abuse;
- (2) Increasing research on elder abuse;
- (3) Improving policy, funding, and programming related to elder abuse;
- (4) Improving the judicial response to elder abuse victims;
- (5) Identifying ways to coordinate statewide efforts to address elder abuse.

The Commission must review current funding and report on the cost to ODJFS and the county departments of implementing its recommendations.

The Commission must issue a biennial report on a plan of action that may be used by local communities to aid in the development of efforts to combat elder abuse. The report must include the Commission's findings and recommendations described above.

The act authorizes the Attorney General to adopt rules under R.C. 111.15 as necessary for the Commission to carry out its duties.

### **Training, education, and cooperation**

The act requires ODJFS to:

- (1) Provide a program of ongoing, comprehensive, formal training on the implementation of the adult protective services statutes and require all caseworkers and their supervisors to undergo the training (*a change from the optional "ongoing, formal training" that ODJFS may provide to county departments and other agencies that implement the statutes*);



(2) Develop and make available educational materials for individuals who are required to report abuse, neglect, and exploitation; and

(3) Facilitate ongoing cooperation among state agencies on issues pertaining to the abuse, neglect, or exploitation of older adults.

The act requires each entity that employs or is responsible for licensing or regulating mandatory reporters of abuse, neglect, or exploitation of older adults to ensure that those individuals have access to the educational materials developed by ODJFS.

### **Memorandum of understanding (VETOED)**

The Governor vetoed a provision that would have repealed a law enacted in 2015 requiring each CDJFS to prepare a memorandum of understanding that establishes the procedures to be followed by local officials regarding cases of elder abuse, neglect, and exploitation.

### **Supplemental Nutrition Assistance Program, employment and training**

(Section 751.20)

Under federal law, each state participating in the Supplemental Nutrition Assistance Program (SNAP) must (1) implement an employment and training program to assist members of SNAP households gain the skills, training, and work experience necessary for obtaining regular employment and (2) prepare and submit an annual plan regarding the program to the U.S. Department of Agriculture's Food and Nutrition Service for approval.

The act requires the JFS Director, in collaboration with the Higher Education Chancellor, to do all of the following with respect to Ohio's SNAP Employment and Training Program:

(1) Convene a skills-based SNAP Employment and Training Program planning committee to develop a plan for the expansion of the Program, which must include representatives of community colleges, local workforce development boards, and nonprofit organizations providing employment and training services for low-income individuals;

(2) Identify workforce development, adult basic education, and higher education programs and resources that could serve as potential providers of education, training, and support services;



(3) Identify resources that could be reimbursed by funds from the U.S. Department of Agriculture;

(4) Develop guidance on leveraging eligible state, local, and philanthropic resources to qualify for SNAP Employment and Training Program federal match dollars that includes a description of the process to participate in the program and the system of tracking participant eligibility, enrollment, continued participation, and outcomes; and

(5) Incorporate the plan to expand a skills-based employment and training program into the annual state plan submitted to the U.S. Department of Agriculture.

