

Child In Need of Protective Services (CHIPS)
HB 371, sponsored by Reps Connie Pillich and Robin Belcher
Updated 03/22/10

Purpose – Child In Need of Protective Services (CHIPS) legislation focuses on what matters most in child protection cases: safe and healthy children and meeting the needs of children and their families. The State and child welfare advocates aim to make sure children don't fall through the cracks or come into care unnecessarily.

CHIPS legislation is one part of a broader philosophical and practice shift in how we approach and engage families. Children do best when they grow up safely in their own homes and with their families. We work to strengthen families and at the same time we have to ensure children are safe from maltreatment; thus there needs to be greater clarity in the law when we have to remove children to keep them safe.

Ohio's child protection definitions are the doorway through which families engage with the system – they set the parameters for when support is needed. Currently in Ohio law, child protection cases are looked at through the lens of abuse, neglect and dependency. These definitions are overbroad in some instances, too narrow in others, or just plain confusing or undefined; plus, in many instances they require flipping back and forth between the civil and criminal codes of law to get a simple definition of what constitutes abuse.

Here's a closer look at challenges we face under current law and the greater clarity established through HB 371 and the new categories of harm under the Child In Need of Protective Services model.

Current Law – Abuse, Neglect and Dependency (examples...)

Abused Child (2151.031) includes any child who “exhibits evidence of any physical or mental injury or death...” and “because of the acts of his parents, guardians, or custodians, suffers physical or mental injury that harms or threatens to harm the child's health or welfare.”

Neglected Child (2151.03) includes any child “who because of the omission of the child's parent, guardian, or custodian, suffers physical or mental injury that harms or threatens to harm the child's health or welfare.”

Dependent Child (2151.04) means any child “whose condition or environment is such as to warrant the state, in the interests of the child, in assuming the child's guardianship.”

HB 371 proposes to replace abuse, neglect and dependency definitions in ORC with seven new categories of Child In Need of Protective Services:

1. Physically Harmed
2. Sexually Harmed
3. Emotionally Harmed
4. Harmed by Exposure to Substance Misuse
5. Lacking Necessary Health Care
6. Lacking Legally Required Education
7. Lacking Necessary Care or Supervision

(Details of new categories on back...)

HB 371 CHIPS, Proposed Changes

http://www.legislature.state.oh.us/bills.cfm?ID=128_HB_371

link for actual legislative language

Philosophy (2151.02; 2151.021) – Affirms importance of bond between child, parents/guardians; parents responsible for their child and right to make decisions; preserve and keep child with family when possible; child-centered, family focused, strength based prevention/intervention efforts; health, safety and well-being of child paramount to agency intervention, with deference to constitutionally guaranteed parental rights; consider impact and additional trauma caused by removing child from family; efforts to ensure timely permanency.

SACWIS (Temp Law Sec 4) – all necessary changes to SACWIS to accommodate new definitions.

Physically Harmed (2151.031) – Requires an injury or substantial risk of injury to a child caused by intentional or negligent acts or inten/negl omissions. A determination of “substantial risk” shall take into account factors including age and condition of child, duration and strength of force used, etc. Includes a representative list of physical injuries and list of circumstances that could result in physical injury. Includes corporal discipline resulting in/causes substantial risk of physical injury. Exception for harm caused in effort to prevent greater harm to a child.

Sexually Harmed (2151.032) – This category is more specific to the type of conduct typically seen in home-based sexual abuse situations than the current criminal code definitions used. Covers circumstances in which a parent participates in a sexual act with a child or permits, intentionally or negligently, the child to participate in sexual act with another. Includes representative list of sexual acts, an exemption for a parent providing birth control, and exemptions for some voluntary sexual acts of older children.

Emotionally Harmed (2151.033) – Defined to include psychological, emotional or cognitive injury or the substantial risk of same. The term “psychological, emotional or cognitive injury” is defined and ~~types of evidence that would support a finding of such injury are listed.~~ *(Current proposal to delete evidence of emotional harm)*

Harmed By Exposure to Substance Misuse (2151.034) – Avoids use of term of art “abuse.” “Harm” may be physical or psychological, emotional, or cognitive, and arise through direct parental substance misuse, through a parent intentionally or negligently permitting child’s use of alcohol that results in harm or substantial risk of harm, through a parent intentionally or negligently permitting child’s use of illegal substance or illegally used legal substance, or through a parent intentionally or negligently permitting child’s exposure to illegal substance sale or manufacture. “Substance” is defined to include any mood or behavior altering product.

Lacking Necessary Health Care (2151.035) – Through act or omission of parent, child is not provided care required to treat a condition if such care will likely prevent death, serious impairment or disfigurement or substantially reduce pain or debilitation. Exemption for treatment not provided due to parental beliefs, with authority provided to the court to override parental decision-making when necessary for a child’s health and safety. Guidance on findings necessary for court to override parental authority is provided.

Lacking Legally Required Education (2151.036) – Intended to address overuse of PCSAs in situations more appropriately handled by school authorities, such as simple tardiness or absence issues. Does not attempt to define educational standards; rather, it speaks to requirements of compulsory school attendance law, and provides that intervention by a PCSA may be sought after appropriate school officer provides notice of steps taken to ensure compliance with school attendance laws and notice of all acts or omissions of the parents that contributed to the child allegedly lacking legally required education. It allows a PCSA to refuse to investigate if notice not provided by school and to seek order of court to compel school to provide such notice.

Lacking Necessary Care and Supervision (2151.037) – Includes parental acts placing child at substantial risk of becoming a child in need of protective services under all categories of harm and covers the failure to provide a child necessary food, shelter, clothing, supervision or living arrangements. It includes a “no-fault” provision.

Adjudication of CHIPS (2151.351) – Clear and convincing evidence standard; evidence can support more than one CHIPS category.