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RELEASE OF CHILD ABUSE INFO.

House Bill 4595 as enrolled
Second Analysis (2-11-94)

Sponsor: Rep. Jack Horton
House Committee: Human Services and
Children
Senate Committee: Family Law, Criminal
Law, and Corrections

THE APPARENT PROBLEM:

The Department of Social Services (DSS) is required by the Child Protection Law to maintain a central registry of information on reports and investigations of suspected incidents of child abuse and neglect. While the law explicitly allows a number of entities (such as child placing agencies) access to central registry information, it does not provide for access by legislative committees. This has been perceived as problematic in several respects.

For one thing, the legislature has responsibility for oversight of state government programs and enacting child welfare laws. Although general information and collective data is made available, many feel that the legislature's ability to evaluate programs and make policy is impaired by the lack of access to central registry information.

A related concern periodically receives fresh attention each time it appears that the protective services system has seriously failed in its mission. On several occasions, legislators have been hampered in their efforts to investigate the deaths of abused children because of the confidentiality restrictions surrounding central registry information. When these situations occur and the department is reluctant to divulge information, it carries the appearance of a cover-up. Without specific information, it is difficult to determine whether protective services was doing its job properly. When such information is denied, there is an erosion of public and legislative confidence in the department.

It has been proposed that certain legislative committees be given access to central registry information with appropriate confidentiality safeguards.

THE CONTENT OF THE BILL:

The bill would amend the Child Protection Law to require the DSS to honor certain legislative committee requests for reports and records made under the Child Protection Law and for information contained in the central registry. The information would be provided to a standing or select committee or appropriations subcommittee having jurisdiction over protective services matters for children, providing committee members agreed by a supermajority (2/3 of the members elected and serving) on a roll call vote that the information was essential for the protection of Michigan children or for legislative oversight of the protective services program, and that the confidential information would only be considered by a closed session of the committee. (The supermajority roll call vote would serve to exempt the session from the Open Meetings Act.)

Recording equipment and other electronic equipment for documenting the proceedings would be banned. Attendance at the meeting would be limited to committee members and director-designated department staff, except that other members of the legislature and legislative staff would be allowed at the discretion of the committee chair.

Disclosure of confidential information acquired at such a meeting would be a misdemeanor. It also would be a misdemeanor to keep a confidential record or file, or a copy of a confidential record or file, if that record or file was obtained at the meeting.

MCL 722.622 and 722.627

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FISCAL IMPLICATIONS:

The Senate Fiscal Agency says that the bill would have no fiscal impact on state or local government. (10-4-93)

workers. Such errors may cause a child to be inadequately protected, or they may cause an adult to suffer unfair damage to his or her reputation.

ARGUMENTS:***For:***

Thorough legislative oversight of the state's child protective services programs is appropriate and necessary to ensure that those programs are operating effectively. To properly evaluate those programs and discharge their oversight responsibilities, legislative committees must have at least limited access to the DSS's child abuse and neglect records. The bill would provide the means by which certain legislators and selected staff could review records under strict conditions of confidentiality.

Against:

The confidentiality of central registry information protects children. If details of department investigations were to be "leaked," child abusers could be put on guard and investigations could be ruined. Children already harmed by abuse or neglect could be further harmed by publicity.

Response:

Although the confidentiality of central registry information is supposed to protect the children on whose behalf it is maintained, that confidentiality may actually have the opposite effect. Extreme secrecy may reinforce misinformation and discourage action that would promote the best interest of a particular child or of children in general. By allowing records to be examined by the appropriate legislative committees, the bill would protect the integrity of children's protective services and ensure that protective services units were doing their jobs properly.

Against:

Central registry information is widely acknowledged to be of uncertain accuracy. To broaden access to central registry information could be to compound the errors.

Response:

Outside review provided by legislators and staff should serve to remove erroneous and unfounded entries. Without such review, the law could function to prevent discovery of errors in judgment or procedure committed by protective services