

FIA: CHILD ABUSE INTERVIEWS

House Bill 4117 as enrolled
Public Act 59 of 1997
Second Analysis (9-12-97)

Sponsor: Rep. Kirk Profit
House Committee: Human Services and
Children
Senate Committee: Families, Mental Health
and Human Services

THE APPARENT PROBLEM:

When a child is the victim of abuse or neglect, the child's school teacher is often the first to raise suspicions. Under current law, schools must cooperate with the Family Independence Agency (FIA) by reporting such suspicions. Cooperation includes allowing the FIA access to the child without parental consent if access is necessary to complete the investigation. Upon arrival at a school, the FIA investigator advises that he or she is investigating an allegation of abuse or neglect regarding a particular child, and states that the child must be interviewed. When given this information, the school has a statutory responsibility to cooperate in the investigation. However, the FIA investigator is under no obligation to provide additional information as a condition for access to the child. Neither is the investigator obliged to allow a school employee to be present during the interview with the child. Since school personnel are a vital link in the protective process for children, some people believe that they should be given some role in this investigative process. Accordingly, legislation has been introduced that would have the FIA review its procedures before and after contact with a child on school premises and that would require that the agency discuss its response as a result of that contact.

THE CONTENT OF THE BILL:

The Child Protection Law specifies that schools and other institutions are required to cooperate with the Family Independence Agency (FIA) during an investigation of a report on child abuse or neglect. House Bill 4117 would amend the law to specify additional actions that would have to be undertaken by the FIA during an investigation of child abuse or neglect, and to clarify that the FIA would be the agency responsible for notifying the person answerable for the child's health or welfare about its contact with the child. The bill would also add that the

FIA could delay this notification if it would compromise the child's safety or the safety of the child's siblings or the integrity of the investigation. This exception could only continue during the time one of those conditions existed. The bill would also delete language that gives a prosecuting attorney permission to proceed under certain criminal statutes.

School Notification. If the FIA had contact with a child on school premises, then the following would apply:

- Before contact with the child, the FIA investigator would have to review with the designated school staff person the investigation procedure and the department's responsibilities under the provisions of the act.
- After contact with the child, the FIA investigator would have to meet with the designated school staff person and the child about the response the agency would take as a result of contact with the child. The agency could also meet with the designated school staff person without the child present and share additional information that the investigator had determined could be shared, subject to the confidentiality provisions of the act.
- Lack of cooperation by the school would not relieve or prevent the FIA from proceeding with its responsibilities, as specified under the act.

Effective Date. The bill would take effect October 1, 1997.

MCL 722.628

FISCAL IMPLICATIONS:

The House Fiscal Agency estimates that the bill would have no impact on state funds. (8-21-97).

ARGUMENTS:

For:

The bill would allow designated school staff persons to be brought up to date on situations involving investigations of the abuse or neglect of a child in their schools. Often, FIA interviews with these children are conducted before the child's parents are notified. In these cases, parents almost always call the school the next day to discuss the matter; the designated school staff person must be able to answer the parents' questions. Moreover, school personnel are an important link in the investigative process involving such incidents. Often, they are familiar with a child's family background, and, in small towns, may even know a child's extended family. Given their role, they should remain a part of the investigative process.

these circumstances are more likely to turn to schools for help than to the FIA.

The bill would also clarify other questions: currently, the act specifies only that a child's parent, or "the person responsible for the child's health or welfare," must be notified of the Family Independence Agency's contact with the child to investigate a suspected case of child abuse or neglect. This must be done at the time, or after the child has been interviewed by the FIA. School administrators have pointed out that the act does not specify whether the FIA or the school must make this notification. The bill would clarify that the FIA would be the agency responsible for making this communication. The bill would also delete language that gives a prosecuting attorney permission to proceed under certain criminal statutes. This provision is superfluous; prosecuting attorneys already have this authority.

Against:

As introduced, House Bill 4117 would have allowed a school principal to be present and to participate during a Family Independence Agency investigation involving suspected child abuse or neglect. Attendance by a school principal during such an interview could be a supportive presence for a child. In circumstances involving young children especially, school personnel are apt to be viewed as reassuring, while FIA interviewers may be viewed as cold and investigative. School personnel are often the persons -- other than a child's family -- in closest contact with a child, and, as such, can play supportive roles.

Further, in a situation involving child abuse or neglect, the after effects must be handled by the affected school. For example, the FIA often delays informing a child's parents that they're being investigated if it has reason to fear that doing so might compromise the child or the child's siblings. In testimony before the committee, school administrators attested to the fact that families in

Response:

The Children's Protective Service (CPS) investigators employed by the FIA to interview children in suspected cases of abuse or neglect are trained and experienced in investigating this type of complaint; school personnel are not. Further, evidence has shown that children in these situations hope, at first, that no one will ever know or discover their circumstances, and that it is difficult for children to tell the truth to a person -- such as a school administrator -- who controls a major part of their lives and who knows their parents. Therefore, it is more important that the children not suspect that the school did, in fact, report their circumstances.

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.