

CHILDREN'S IMPACT STATEMENT

House Bills 5815 and 5816 as introduced First Analysis (5-27-98)

**Sponsor: Rep. Edward LaForge
Committee: Human Services and Children**

THE APPARENT PROBLEM:

As legislation is introduced and makes its way through the system to become law, it is the subject of much discussion and consideration. However, in spite of this, sometimes some important consequences are overlooked. One way of making certain that the potential consequences and/or benefits of legislation are considered is to require the preparation of an impact statement before the proposed legislation is acted upon. It is believed that the preparation of these impact statements provides thorough and accurate information regarding the potential consequences of actions with regard to a specific subject. For example, environmental impact statements are required before certain actions are taken that would affect the environment.

Many believe that one subject that deserves the sort of consideration provided by the preparation of an impact statement is the interests of children. In February of 1998, the Children's Agenda (a report issued biannually by the Michigan Coalition for Children and Families) included a suggestion to require the preparation of a children's impact statement before rules or legislation that would affect children are acted upon. The purpose of the impact statement would be to specifically assess the possible consequences or benefits that the rules or laws might have for Michigan's children. The idea was first offered by the Michigan League of Women Voters as way of creating a lasting program that would "influence the way our communities look at our most vulnerable citizens, our children . . . (sic) and make our concern for their future become a more universal concern." It is suggested that it would be in the best interests of Michigan's children to have analyses of the potential effect of state governmental actions on children and families performed on both proposed rules and legislation whenever they might have impact on Michigan's children.

THE CONTENT OF THE BILLS:

The bills would amend the Administrative Procedures Act (APA) and the Children's Ombudsman Act to require that a "children's impact statement" be prepared when rules or legislation that would affect children are proposed.

House Bill 5815 would add a new section to the Children's Ombudsman Act (MCL 722.926a) to require that the ombudsman prepare a preliminary "children's impact statement" when requested to do so by a standing House or Senate committee to which a bill affecting children had been referred. The statement would have to be prepared and delivered to the committee members no later than 30 days after the request was received. In addition, the ombudsman would have to prepare and deliver a preliminary children's impact statement no later than 30 days after a bill affecting children had passed the first house of the legislature. The statement would have to be delivered to the Senate Majority Leader, Senate Minority Leader, Speaker of the House, and House Minority Leader. The following information would have to be included in the statement: the change to current law or additional law being proposed in the bill; the effect the proposed law would have on children and their families; and any other information relating to that bill that the ombudsman considered appropriate.

House Bill 5816. The APA (MCL 24.245) requires that, after the Legislative Service Bureau and the attorney general have approved a rule and it has been published in the Michigan Register, the agency proposing the rule must submit a letter of transmittal, together with a regulatory impact statement, to the Joint Committee on Administrative Rules that provides estimates of the rule's impact upon that agency and any other entity that it might affect. Rules promulgated under the Michigan Occupational Safety

and Health Act (MIOSHA) are exempt from this requirement. House Bill 5816 would amend the act to specify that the regulatory impact statement include an estimate of its impact upon children and their families in the state who might be affected by the proposed rule.

Children's Impact Statement. The bill would also specify that if the regulatory impact statement disclosed an impact on children, a "children's impact statement" would have to be included with the letter of transmittal in a form prescribed by the committee. The statement would have to contain the purpose of the proposed rule, the effect it would have on children and their families, and any other information the agency considered appropriate. The agency would also have to transmit a copy of the "children's impact statement" to the Office of Children's Ombudsman. The ombudsman would be required to review the statement and to notify the committee of any additional information pertinent to the committee's review within 30 days. These provisions would not apply to rules promulgated under the MIOSHA.

FISCAL IMPLICATIONS:

Fiscal information is not available.

ARGUMENTS:

For:

The impact of a law on Michigan's children is often overlooked. For example, some would argue that changes in the welfare system were enacted without proper concern for the potential consequences those changes might have on children. These bills would require that those making decisions be informed and have an opportunity to reflect upon how a potential law or rule might improve or harm conditions for Michigan's children. Fuller consideration of the potential impacts would be required because they would be contained in a single statement provided by an agency that would be concerned entirely with children's issues.

It is hoped that the impact statements will encourage a different way of thinking about and approaching issues -- a way that gives careful consideration of the possible consequences that decisions will have on the children of this state. Just as the use of environmental impact statements have served to improve the level of concern given to environmental consequences, it is hoped that the use of the children's impact statement

will improve the level of consideration of the effects that laws have on children.

Against:

The bill is unnecessary; many agencies already perform both general and issue specific analyses of legislation. Analyses are performed by both House and Senate nonpartisan and caucus staffs as legislation goes through the House and Senate and, finally, to the governor's office. Proposed rules are subject to review by the Legislative Service Bureau and the attorney general. Different agencies also often provide their own analysis of particular pieces of legislation and are also required to provide a regulatory impact statement when proposing rules; these impact statements are required to identify groups that the proposed rule will affect.

Against:

The bills place a burden on the Office of Children's Ombudsman that it simply cannot meet without more funds, or without redirecting its efforts away from its primary responsibilities -- investigating public complaints regarding experiences with protective services, foster care and adoptions. Furthermore, because of the vague and potentially overreaching nature of the bills, the ombudsman could conceivably end up having to prepare a children's impact statement on almost every piece of legislation that is taken up by a committee. This could bog down the legislative process, particularly if groups or individuals opposed to certain legislation found this as an effective means of slowing down things that they opposed.

Finally, the impact statements themselves will likely be used as a tool for certain factions to drive their own agendas. The children's impact statement would likely be loaded with the biases and ideology of its preparers. For example, the mere decision as to whether a particular piece of legislation would affect children is based on the viewpoint of the person making that decision -- does gun control legislation impact children? Arguments could be made to support either position. It would come down to how far-reaching the impact statement is intended to be, and to how indirect a consequence should warrant an impact statement. The bill doesn't include any restrictions in that regard.

Response:

Maybe slowing down the process isn't such a bad idea; many complicated issues come before the House and Senate and action is taken so quickly that it often appears that there isn't adequate time for as full and

careful consideration as many might expect the issue to receive. So, if this bill helps to slow the process for some important issues involving children and as a result they receive the consideration that they deserve, that hardly seems like good reason to oppose it.

Furthermore, it is anticipated that the children's impact statement would simply be a note similar to the fiscal notes created by the House and Senate fiscal agencies; therefore, it would be far less subject to the prejudices and agendas of those who create it. Furthermore, if the agency is asked to do these not acting as advocates for a certain result, but to inform, then there should not be any problem with misuse of the impact statements to "drive an agenda".

POSITIONS:

The Michigan League of Woman Voters supports the bills. (5-26-98)

The Michigan Association for the Education of Young Children supports the bills. (5-26-98)

The Michigan Catholic Conference supports the bills. (5-26-98)

The Michigan League for Human Services supports the bills. (5-26-98)

The Michigan Head Start Association supports the bills. (5-26-98)

The Michigan Coalition for Children and Families supports the concept of the bills. (5-27-98)

The Office of Children's Ombudsman opposes the bills. (5-27-98)

The Department of Management and Budget opposes the bills. (5-27-98)

Analyst: W. Flory

■ 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.