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## ESTABLISH CPS PROCEDURES

### House Bill 6081

Sponsor: Rep. Laura Baird

### House Bill 6082

Sponsor: Rep. Martha Scott

Committee: Human Services and Children

Complete to 9-21-98

## A SUMMARY OF HOUSE BILLS 6081 AND 6082 AS INTRODUCED 9-16-98

House Bills 6081 and 6082 would amend the Child Protection Law and Chapter XIAA of the Probate Code, respectively, to require, among other things, that the FIA have legal representation in each case in which a judicial proceeding was required under the provisions of the acts, and to modify certain requirements for record-keeping and investigations.

FIA Investigations. Under the Child Protection Law (MCL 722.627 et al.), the Family Independence Agency( FIA) must maintain a central registry of cases involving child abuse or neglect. The reports in the registry are confidential, available only to certain individuals who are involved in the investigation of a crime, such as law enforcement or child protective agency employees, physicians, or the children's ombudsman. The statute specifies that the department must conduct an investigation of a report, in cooperation with other law enforcement officials, courts, and other state agencies. House Bill 6081 would amend the statute to establish additional procedures, as follows:

Under the act, if an investigation of a report fails to disclose evidence of abuse or neglect, evidence in the report that identifies the subject (i.e., the person suspected of child abuse or neglect) must be expunged from the registry. However, if a report of suspected abuse or neglect is substantiated, the law specifies that the FIA must maintain a record in the central registry. House Bill 6081 would amend the statute to add, that, in addition, a record of substantiated abuse or neglect would have to include the reason an individual named as a perpetrator was included in the registry. The reason for substantiating a report would have to be consistent with the reason for placing an individual on the registry. If the reasons were inconsistent, the record would have to include an explanation of the inconsistencies.

In addition, House Bill 6081 would require that the investigation of a report would have to include, when available, documentation of background information indicating violent behavior by a parent, guardian, or person responsible for the child's health or welfare that placed a child at risk. The source of information indicating violent behavior could include, but would not be limited to, one or more of the following: an FIA investigation; a recorded entry in the central registry; a recorded entry under the Sex Offenders Registration Act (MCL 28.721 et al.); or documentation of criminal history.

House Bill 6081 would also specify that inconsistent explanations of a child's injuries would weigh heavily as a major risk factor in an investigation of a report on abuse or neglect, and would require that the FIA follow the following procedures:

\*\* Include in an investigation report all documentation of medical evidence concerning physical abuse or neglect.

\*\* In the case of an unsubstantiated allegation of abuse or neglect, make a referral to Prevention Services within five days after making the determination that the referral was necessary.

\*\* Substantiate a report of parental neglect if the parent, guardian, or person responsible for the child's health or welfare was aware of intra-familial sibling violence and failed to protect the abused child.

\*\* Make the appropriate referrals for both the child victim and the child perpetrator within 24 hours after determining that a child was either severely physically injured, as defined under the act, or sexually abused by a sibling.

Grounds for Hearing. The act also specifies that, under certain circumstances, a hearing must be held by the FIA to determine by a preponderance of the evidence whether the report or record should be amended or expunged from the central registry on the grounds that either the report or the record is not relevant or accurate evidence of abuse or neglect. House Bill 6081 would amend the law to specify, instead, that the grounds for a hearing would have to be that a report or record did not constitute both relevant *and* accurate evidence.

House Bill 6082 would amend Chapter XIIA of the Probate Code (MCL 712A.17) which regulates the juvenile division of probate court (renamed the "family division of circuit court" under the provisions of Public Act 409 of 1996), to require that, in judicial proceedings if the prosecuting attorney did not appear on the agency's behalf, the FIA would be required to contract with an attorney of its choice.

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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.