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SFA BILL ANALYSIS

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Senate Bill 603 (Substitute S-2 as passed by the Senate)
Sponsor: Senator Glenn D. Steil
Committee: Families, Mental Health and Human Services

Date Completed: 7-15-98

RATIONALE

When the Family Independence Agency (FIA) receives a report of suspected child abuse or neglect, the Agency's child protective services workers investigate and reach a conclusion that the report is either substantiated or unsubstantiated. The system does not include a classification for a situation in which a child has been abused but it is unclear who committed the abuse. Reportedly, over 40% of child abuse cases are closed not because abuse is not indicated, but because the perpetrator is unknown. In addition, the current system does not provide for recommended action when abuse is not indicated, but a child and his or her family are at risk of having problems. Some people feel that this system of categorizing cases of suspected child abuse is insufficient to provide the needed maximum effort to control child abuse and neglect in Michigan. The Office of Children's Ombudsman has recommended that a new classification system be adopted to provide for various levels of protection and intervention, depending on the circumstances surrounding an abuse or neglect investigation.

CONTENT

The bill would amend the Child Protection Law (CPL) to establish five categories and departmental responses for the Family Independence Agency's determination concerning a report of child abuse or neglect made under the CPL that was the subject of a field investigation. (The categories and responses would be determined according to the FIA's "structured decision-making tool", which would mean the FIA document labeled "DSS-4752 (P3) (3-95)" or a revision of that document that better measured the risk of future harm to a child.)

In addition, the CPL requires that a school or other institution cooperate with the FIA during an investigation of a report of child abuse or neglect and specifies that cooperation includes allowing access to the child, without parental consent, if access is necessary to complete the investigation or to prevent further abuse or neglect. Under the bill, it would be up to the FIA to determine whether that access was necessary.

Categories and Responses

The bill would require that the FIA enter each report of child abuse or neglect made under the CPL, that was the subject of a field investigation, into the child protective services information (CPSI) system (an internal data system within the FIA). After completing a field investigation, and based on its results, the FIA would have to determine in which single category, prescribed by the bill, to classify the allegation of child abuse or neglect. A report would have to be maintained in the CPSI system until the child was 18 years of age or until 10 years after the investigation began, whichever was later. A report would be confidential and not subject to the Freedom of Information Act.

Category V would mean that services were not needed. A case would be classified in this category if the FIA determined that the allegation did not amount to child abuse or neglect, and the structured decision-making tool indicated that there was no future risk of harm to the child. This would not require a further response by the FIA.

Category IV would mean that community services were recommended. A case would be classified in this category if the FIA determined that there was not evidence of child abuse or neglect, but the structured decision-making tool indicated a low or

moderate risk of future harm to the child. The FIA would have to assist the child's family in voluntarily participating in community-based services.

Category III would mean that community services were needed. A case would be classified in this category if the FIA determined that there was evidence of child abuse or neglect, and the structured decision-making tool indicated a low or moderate risk of future harm to the child. The FIA would have to assist the child's family in receiving community-based services. If the family did not voluntarily participate in the services, the FIA could reclassify the case as Category II.

Category II would mean that child protective services were required. A case would be classified in this category if the FIA determined that there was evidence of child abuse or neglect, and the structured decision-making tool indicated a high or intensive risk of future harm to the child. The FIA would have to open a protective services case and provide the services necessary under the Child Protection Law. The FIA also would have to list on its central registry the perpetrator of the child abuse or neglect, based on the report that was the subject of the field investigation, either by name or as "unknown" if the perpetrator had not been identified.

Category I would mean that a court petition was required. A case would be classified in this category if the FIA determined that there was evidence of child abuse or neglect and one or more of the following were true:

-- A court petition was required under another provision of the CPL.
-- The child was not safe and a petition for removal was needed.
-- The FIA previously classified the case as Category II and the child's family did not voluntarily participate in services.
-- There was a violation, involving the child, of assault with intent to commit criminal sexual conduct (CSC); conspiracy or attempt to commit CSC; felonious assault on a child; involvement in child sexually abusive material or activity; or child abuse in the first or second degree.

In response to a Category I classification, the FIA would have to do all of the following:

-- If a court petition were not required under another provision of the CPL, submit a petition for authorization by the court under Section 2(b) of the juvenile code. (Section 2(b) provides that the family division of circuit court has jurisdiction in proceedings concerning a juvenile under 18 years of age under certain circumstances, including neglect, a home unfit for a juvenile, a parent who has failed to comply with certain court plans, and some custody cases.)
-- Open a protective services case and provide the services necessary under the CPL.
-- List on the central registry the perpetrator of the child abuse or neglect, based on the report that was the subject of the field investigation, either by name or as "unknown" if the perpetrator had not been identified.

Notice of Case Disposition

The Child Protection Law requires that, if the person who made a report of child abuse or neglect was mandated by the CPL to make that report, the FIA inform him or her in writing as to the disposition of the case. The notice must include, among other things, whether the case was substantiated and the rationale for that decision. The bill specifies, instead, that the notice would have to include what determination the FIA made as to classifying the case in Categories I through V and the rationale for that decision. (The CPL mandates that certain medical professionals, social workers, educators, law enforcement officers, and child care providers who have reasonable cause to suspect child abuse or neglect immediately make an oral report to the FIA. Within 72 hours of making an oral report, the reporting person must file a written report.)

MCL 722.622 et al.

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

Protection of children is perhaps the most important role and highest calling of public servants. The current substantiated/unsubstantiated system of classifying child abuse and neglect investigations is inadequate. It does not take into account situations in which abuse or neglect may be indicated, but the perpetrator is not readily identifiable, nor does it provide for situations in which the child protective services investigator finds no indication that abuse

has occurred, but does find a child to be at risk for abuse or neglect. The five-category classification system proposed by the bill would better serve Michigan's children and families. It would provide for numerous child protective services options ranging from no services needed to a recommended court petition for the child's removal from the home. In addition, it would use an FIA-developed procedure for evaluating future risk to a child in order to assess whether services for the child and family were needed, even if no abuse or neglect had occurred at the time of the investigation. Children would be better protected under the bill's classification system than they are under the current substantiated/unsubstantiated system.

Opposing Argument

The bill could be a good first step toward protecting Michigan's children, but the FIA's child protective services function simply needs more staff. Without resources for new employees, the bill is inadequate. The Legislature should provide for the hiring and training of more child protective services workers.

Response: The FIA budget proposal for FY 1998-99 (enrolled House Bill 5590) provides for 56 new child protective services workers.

Legislative Analyst: P. Affholter

FISCAL IMPACT

The bill would have no fiscal impact on State or local government. If one assumes for comparative purposes that child protection Categories I through III fall within the current classification system of substantiated cases and Category IV and V are included in unsubstantiated cases, then it appears that a case classified as Category IV would require an FIA caseworker to provide assistance to a family that currently is not required by law. This change would require additional staff time. The FY 1998-99 FIA appropriation, enrolled House Bill 5590, includes an increase of $2,531,200 Gross, $1,837,000 GF/GP for 56 additional child protective services (CPS) workers. The legislative intent for additional CPS workers is specified in Section 629 of the appropriation bill. The staffing increase would allow the department to assist families in compliance with Category IV requirements.

Fiscal Analyst: C. Cole

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