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**SFA**



**BILL ANALYSIS**

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House Bill 5144 (Substitute H-1 as passed by the House)  
House Bill 5145 (Substitute H-1 as passed by the House)  
Sponsor: Representative Ruth Johnson (House Bill 5144)  
Representative Joanne Voorhees (House Bill 5145)  
House Committee: Family and Children Services  
Senate Committee: Families, Mental Health and Human Services

Date Completed: 3-1-00

## **CONTENT**

**House Bills 5144 (H-1) and 5145 (H-1) would amend the Child Protection Law (CPL) and the juvenile code, respectively, to provide for citizen review panel access to confidential information pertaining to child abuse and neglect cases; modify certain report requirements; revise permanency planning hearing schedules and parental rights termination provisions; and include the Michigan Children's Institute in several foster care provisions.**

### **House Bill 5144 (H-1)**

#### **Overview**

The bill would do all of the following:

- Grant a citizen review panel access to confidential information in the Family Independence Agency's (FIA's) central registry for child protective services.
- Modify the descriptions of FIA categories and departmental responses for each category of determinations reached in child abuse and neglect investigations.
- Change the requirements for the FIA's report to the Legislature regarding child abuse and neglect investigations.

#### **Central Registry**

The Child Protection Law requires that the FIA maintain a statewide, electronic central registry regarding child abuse and neglect complaints and investigations. Unless made public under the CPL, a written report, document, or photograph filed with the FIA pertaining to child protection is a confidential record and is available only to certain specified parties. The bill would add a "citizen review panel" established by the FIA to the list of entities to whom central registry information is available. Access

under that provision would be limited to information the FIA determined was necessary for the panel to carry out its prescribed duties. "Citizen review panel" would mean a panel established as required by Section 106 of Title I of the Federal Child Abuse Prevention and Treatment Act (42 USC 5106a).

The bill specifies that a member or staff member of a citizen review panel could not disclose identifying information about a specific child protection case to an individual, partnership, corporation, association, governmental entity, or other legal entity. Information obtained by a citizen review panel would not be subject to the Freedom of Information Act.

Under the bill, a member or staff member of a citizen review panel would be a member of a board, council, commission, or statutorily created task force of a governmental agency for the purposes of Section 7 of Public Act 170 of 1964, which grants immunity from tort liability to governmental agencies.

#### **Child Protection and Determinations**

The Child Protection Law requires that the FIA enter each report that is a subject of a field investigation into the child protective service information (CPSI) system (an internal data system maintained within the FIA that is separate from the central registry and not subject to release of information, as is the central registry). The FIA must maintain a report entered on the CPSI system until the child in question is made is 18 years old or until 10 years after the beginning of the investigation, whichever is later. Alternatively, under the bill, if the case were classified as a central registry case, the FIA would have to maintain a report entered on the CPSI system until it received reliable information that the perpetrator of the abuse or neglect was dead.

After completing a field investigation and based on its results, the FIA must determine in which single

category--I through V, with I being the most serious--to classify the allegation of child abuse or neglect.

A Category V determination means services are not needed. Currently, the description of Category V is that the FIA determines that the allegation does not amount to child abuse or neglect and that the FIA's "structured decision-making tool" indicates that there is no future risk of harm to the child, and no further response by the FIA is required. ("Structured decision-making tool" refers to the FIA document labeled "DSS-4752 (P3) (3-95)" or a revision of that document that better measures the risk of future harm to a child.) Under the bill, Category V would continue to mean services were not needed, but the description would be that, following a field investigation, the FIA determined that there was no evidence of child abuse or neglect.

A Category IV determination means community services are recommended. Currently, the description of a Category IV determination is that the FIA determines that there is not evidence of child abuse or neglect, but the structured decision-making tool indicates a low or moderate risk of future harm to the child. The FIA must assist the child's family in voluntarily participating in community-based services. Under the bill, Category IV would continue to mean that community services were needed, but the description would be that, following a field investigation, the FIA determined that there was not a preponderance of evidence of child abuse or neglect, but the FIA's structured decision-making tool indicated that there was future risk of harm to the child. The FIA would have to assist the child's family in voluntarily participating in community-based services commensurate with the risk to the child.

A Category III determination means community services are needed. Currently, the description of a Category III determination is that the FIA determines there is evidence of child abuse or neglect, and the structured decision-making tool indicates a low or moderate risk of future harm to the child. The bill would change that statement to refer to a preponderance of evidence. In addition, under a Category III determination, the FIA must assist the child's family in receiving community-based services. The bill would refer to community-based services commensurate with the risk to the child. Also, under the current Category III description, if the family does not voluntarily participate in services, the FIA may reclassify the case as Category II. Under the bill, if the family did not voluntarily participate in services, or the family voluntarily participated but did not progress toward alleviating the child's risk level, the FIA would be required to consider reclassifying the case as Category II.

Category II means child protective services are

required and Category I means that a court petition is required. The bill would not change the description of services for those determinations.

#### Report to the Legislature

The Child Protection Law requires that the FIA identify all of the families classified in Category II at any time during the period from October 1, 1999, to October 1, 2000, and report to the appropriate legislative standing committees and the Senate and House Appropriations subcommittees for the FIA all of the following regarding those families:

- The number and percentage classified in Category III that voluntarily participated in services and that did not participate in services.
- The number for which the FIA entered more than one determination that there was evidence of child abuse or neglect.
- The number the FIA reclassified from Category III to Category II.

The bill, instead, would require that the FIA furnish a written report to the appropriate legislative standing committees and the Senate and House Appropriations subcommittees for the FIA within four months after fiscal year (FY) 1999-2000, FY 2000-01, and FY 2001-02. The FIA would have to include in a report at least all of the information currently required for a legislative report as well as the total number of families classified in Category III for the period covered by the report.

#### House Bill 5145 (H-1)

##### Overview

The bill would do all of the following:

- Revise permanency planning hearing provisions for foster children.
- Modify some parental rights termination provisions.
- Include the Michigan Children's Institute (MCI) in several foster care provisions.

##### Permanency Planning Hearing

The juvenile code provides that, if a child remains in foster care and parental rights to the child have not been terminated, the court must conduct a permanency planning hearing not more than 364 days after an original petition has been filed. Under the bill, that hearing would have to be held within one year after the original petition had been filed.

In addition, the bill would require the court to conduct a permanency planning hearing within 28 days after

a petition was adjudicated and the parent was found to have abused the child or a sibling of the child and the abuse included one or more of the following:

- Abandonment of a young child.
- Criminal sexual conduct (CSC) involving penetration, attempted penetration, or assault with intent to penetrate.
- Battering, torture, or other severe physical abuse.
- Loss or serious impairment of an organ or limb.
- Life-threatening injury.
- Murder or attempted murder.
- Voluntary manslaughter.
- Aiding, abetting, attempting, conspiring, or soliciting the commission of murder or voluntary manslaughter.

In addition, the bill would require that, if a child remained in foster care and parental rights to the child had not been terminated, the court would have to conduct a permanency planning hearing within one year after an initial hearing and within one year after each subsequent hearing.

#### Termination of Parental Rights

Parental Abuse. The code specifies the conditions under which a court may terminate a parent's parental rights to a child, if it reaches certain findings by clear and convincing evidence. One of those conditions is that the parent abused the child or a sibling of the child and the abuse included one or more of the following: abandonment of a young child; CSC involving penetration, attempted penetration, or assault with intent to penetrate; battering, torture, or other physical abuse; loss or serious impairment of an organ or limb; life-threatening injury; or murder or attempted murder. The bill would add to that list voluntary manslaughter and aiding and abetting, attempting to commit, conspiring to commit, or soliciting murder or voluntary manslaughter.

Guardianships. Other conditions under which a court may terminate parental rights involve guardianships under the Revised Probate Code and the parent's failure to meet certain standards under those guardianships. The bill would include in those provisions guardianships under the Estates and Protected Individuals Code.

Review Hearings. If a child remains in foster care following the termination of parental rights, the court must conduct a hearing within 91 days after the termination of parental rights and at least every 91 days after that hearing to review the child's placement in foster care and the progress being made toward the child's adoption or other permanent placement. Under the bill, at a hearing, the court

would have to review all of the following:

- The appropriateness of the permanency planning goal for the child.
- The appropriateness of the child's placement in foster care.
- The reasonable efforts being made to place the child for adoption or in other permanent placement in a timely manner.

The code specifies that this review hearing schedule applies as long as the child is subject to the jurisdiction, control, or supervision of the court or of the Michigan Children's Institute or other agency. The bill also provides that the hearing schedule would apply only to a child's case in which parental rights to the child were either terminated as the result of a proceeding for abuse or neglected or terminated voluntarily following the initiation of such a proceeding.

#### Michigan Children's Institute

The juvenile code provides that, if a child under the family court's jurisdiction for parental abuse or neglect is placed in foster care, the agency may not change the child's placement except under certain circumstances. The bill would extend this provision to a child under the jurisdiction, control, or supervision of the MCI.

The code requires that a foster care review board, upon receiving an appeal from foster parents regarding a change in foster placement, investigate the change in foster care placement and report its findings and recommendations, within three days, to the court, the foster parents, the parents, and the agency. Under the bill, the board would have to report to the family court or to the MCI superintendent, if the child were under MCI jurisdiction, control, or supervision (as well as to the parents, foster parents, and agency).

If after investigating, the foster care review board determines that the move is not in the child's best interest, the agency must maintain the current placement until a finding and order by the family court. The bill would refer to a finding and order of the court or a decision by the MCI superintendent, if the child were under the MCI jurisdiction, control, or supervision. If a child was removed from a placement because the agency had reasonable cause to believe that the child suffered from sexual abuse or nonaccidental physical injury, or that there was substantial risk of harm to the child's emotional well-being, the agency may not return the child to that placement unless the court orders restoration of the placement. The bill also would allow the return

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of such a child if the MCI superintendent approved the restoration of the placement.

The code requires the foster care review board to notify the court about the board's and the agency's disagreement. The bill would require notice to the court or to the MCI superintendent, if the child were under MCI jurisdiction, control, or supervision. The family court must set a hearing date and provide notice to the foster parents, each interested party, and the prosecuting attorney if he or she has appeared in the case. The court must set the hearing not sooner than seven and not later than 14 days after receiving the notice from the foster care review board. The bill would add that, within 14 days after notification, the MCI superintendent would have to make a decision regarding the child's placement and inform each interested party of the decision.

MCL 722.622 et al. (H.B. 5144)  
712A.1 et al. (H.B. 5145)

Legislative Analyst: P. Affholter

## **FISCAL IMPACT**

### **House Bill 5144 (H-1)**

The bill would have an indeterminate fiscal impact on State government. The citizen review panel provisions are mandated by Federal guidelines that were finalized in February 2000. Making the technical changes would avoid possible Federal fund penalties.

### **House Bill 5145 (H-1)**

The bill would have an indeterminate impact on family courts resulting from the shortened time frames for permanency planning hearings in certain cases. The bill also would have an indeterminate fiscal impact on Family Independence Agency administrative costs from implementing the increased frequency in permanency planning hearings.

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