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INCREASE PENALTIES FOR FAILURE TO REPORT CHILD ABUSE

House Bill 5009 with committee amendment First Analysis (10-25-01)

Sponsor: Rep. Mary Ann Middaugh
**Committee: Family and Children
Services**

THE APPARENT PROBLEM:

Child abuse and neglect are serious crimes that can have a detrimental affect on the child. The Child Protection Law makes it a misdemeanor for any person who is required by law to report suspected child abuse or neglect to fail to do so. At the time that the Child Protection Law was enacted in 1975, the penalty for this misdemeanor was set at imprisonment for not more than 90 days and/or a fine not exceeding \$100. In 1996, Public Act 309 increased the possible imprisonment to 93 days. The financial penalty for knowingly failing to report has not changed since 1975. Adjusted for inflation, the \$100 in 1975 would be about \$30 in today's dollars, according to committee testimony. As a result, legislation has been introduced that would increase the fine for mandated reporters who knowingly fail to report suspected child abuse or neglect.

THE CONTENT OF THE BILL:

House Bill 5009 would increase the maximum allowable fine for failing to report suspected child abuse or neglect from \$100 to \$500. This bill would retain the current maximum prison sentence of 93 days.

MCL 722.633

BACKGROUND INFORMATION:

According to the FIA, there have been very few prosecutions of mandated reporters, and that most of those were of counselors working with children. Under the Child Protection Law, those required to report suspected child abuse or neglect are physicians, coroners, dentists, registered dental hygienists, medical examiners, licensed persons who provide emergency medical care, audiologists, psychologists, marriage and family therapists,

licensed professional counselors, certified social workers, social workers, social work technicians, school administrators, schools counselors or teachers, law enforcement officers, and regulated child care providers. In addition, Senate Bill 434, introduced by Senator Beverly Hammerstrom, which is currently before the Family and Children Services Committee, would add physician's assistants to the list of mandated reporters.

The majority of states impose penalties for mandated reporters who knowingly fail to report suspected child abuse or neglect. Nearly every state allows for imprisonment and/or a fine. In general, the maximum imprisonment permitted ranges from no jail time at all to one year, while the maximum fine allowable ranges from \$100 to \$1,000.

Under Colorado law, knowingly failing to report is a Class 3 misdemeanor punishable by a minimum fine of \$50 to a maximum penalty of 6 months imprisonment and/or a \$750 fine. In Virginia, the first offense is subject a fine not exceeding \$500 with each subsequent offense resulting in a fine between \$100 and \$1,000. West Virginia sets only a penalty of imprisonment for up to 10 days and/or a fine not exceeding \$100. Mississippi, on the other hand, sets a penalty of up to one year imprisonment and/or up to a fine of \$5,000. Illinois law is unique in the fact that, in addition to being subject to a Class A misdemeanor, any physician who willfully fails to report suspected child abuse or neglect is referred to the Illinois State Medical Disciplinary Board, while any dentist or dental hygienist who fails to report is referred to the Department of Professional Regulation.

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FISCAL IMPLICATIONS:

According to the House Fiscal Agency, the bill would have no impact on state costs or revenues. However, the bill would result in an indeterminate increase in revenues for local governments. The bill would increase the amount of fine revenue that goes to local libraries, which are constitutionally designated recipients of that revenue. (10-24-01)

ARGUMENTS:***For:***

Child abuse is a serious crime that can have a detrimental effect on any child involved. The penalties for mandated reporters who knowingly fail to report it are not nearly strict enough. It is asserted that if the penalties were increased, these mandated reporters might better recognize and become more aware of the possible consequences for failing to report, thereby helping to reduce the likelihood that the abuse will continue.

Response:

While increasing the penalties for failing to report suspected child abuse or neglect may be appropriate, attention should also be given to educating mandated reporters about their responsibilities. Increasing the fine may result in an increase in the number of suspected abuse cases reported to the FIA. However, this increase may inundate the FIA with unnecessary calls and investigations that are the result of uninformed suspicions.

POSITIONS:

The Family Independence Agency supports the bill.
(10-24-01)

Analyst: M. Wolf

■ 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.