



**House
Legislative
Analysis
Section**

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**NOTIFY DCIS IN CERTAIN CHILD
ABUSE ALLEGATIONS**

**House Bill 5372 as enrolled
Public Act 661 of 2002
Second Analysis (12-30-02)**

**Sponsor: Rep. Mary Ann Middaugh
House Committee: Family and Children
Services
Senate Committee: Families, Mental
Health, and Human Services**

THE APPARENT PROBLEM:

Under the Child Protection Law (Public Act 238 of 1975), any individual mandated to report suspected child abuse or neglect must file an oral report and written report with the Family Independence Agency (FIA). The FIA is the recipient of all child abuse or neglect complaints, though individuals may file complaints directly with local law enforcement agencies. The FIA investigates cases when an individual suspected of abuse is responsible for the health and welfare of a child. In other cases, the FIA refers complaints to other departments, local prosecuting attorneys, or law enforcement agencies, depending on the facts of a particular case.

The Bureau of Family Services (BFS) - formerly the Bureau of Regulatory Services (BRS) - within the Department of Consumer and Industry Services (DCIS) licenses child care organizations pursuant to the child care licensing act (Public Act 116 of 1973). According to the FIA policy, the DCIS has the responsibility for investigating abuse or neglect allegations that occur in child care facilities, group day care homes, family day care homes, and other child caring institutions subject to the licensure provisions of the child care licensing act.

Since 1996, when the BRS moved from the FIA to the DCIS by an Executive Order, a memorandum of understanding between the FIA and the DCIS has dictated how child abuse allegations are investigated. Prior to the executive reorganization in 1996, the child care licensure responsibilities fell upon the Department of Social Services.

The Child Protection Law requires, in certain instances, the FIA to notify the local prosecuting attorney of abuse allegations. The law also requires local law enforcement agency to notify the FIA of any abuse allegations. The law does not, however,

require the DCIS (which is responsible for the licensure of child care organizations) to be notified of abuse allegations. Legislation has been introduced that would require that the DCIS be notified in certain abuse cases.

THE CONTENT OF THE BILL:

House Bill 5372 would amend the Child Protection Law to require that the child care regulatory agency, which is currently the Department of Consumer and Industry Services, be notified if an individual accused of child abuse or neglect is a child care provider.

Under current law, any individual mandated to report suspected child abuse or neglect must file an oral report and written report to the Family Independence Agency (FIA). The bill would require that if the written report or subsequent investigation by FIA indicates that the individual who committed the suspected abuse or neglect is a child care provider and the FIA believes the report to be factual, the FIA would send a copy of the report or the results of the investigation to the DCIS.

In addition, if a law enforcement agency receives a written report of suspected child abuse from a mandated reporter or the FIA, and the report or subsequent investigation by the law enforcement agency indicated that the person who committed the suspected abuse or neglect is a child care provider, and the law enforcement agency believes the report to be factual, the law enforcement agency would send a copy of the written report or the results of the investigation to the DCIS.

Under current law, any written report, document, or photograph filed with the FIA pertaining to a

House Bill 5372 (12-30-02)

suspected child abuse case, unless made public, remains confidential. The law does, however, list several individuals and entities that may obtain this confidential information. The bill would add to the list a child care regulatory agency.

In addition, the bill states that if an individual suspected of child abuse or neglect is a child care provider, the prosecuting attorney would notify the FIA, the owner or operator of the child care organization or adult foster care location (authorized by the DCIS to care for a child) who employs the suspected individual, and the DCIS.

Finally, the bill states that the FIA would not be required to use the structured decision-making tool (the FIA's system for assessing risk, safety needs, and strengths in child welfare cases) for a nonparent adult who resides outside of the home of a child who is the victim or alleged victim of child abuse or neglect, or for an owner, operator, volunteer, or employee of a licensed or registered child care organization or licensed or unlicensed adult foster care family home or adult foster care small group home. However, following an investigation, if the FIA determined that there was a preponderance of evidence that any of those individuals listed above was the perpetrator of child abuse or neglect, the FIA would be required to list him or her on the central registry.

MCL 722.622 et al.

FISCAL IMPLICATIONS:

According to the Senate Fiscal Agency, the bill would have an indeterminate fiscal impact on the state. The Family Independence Agency would incur additional administrative costs associated with more investigations and reports. Further, the bill would have no fiscal impact on local government. (10-28-02)

ARGUMENTS:

For:

The bill addresses a concern that arose after the responsibility for licensing child care organizations moved from the Department of Social Services (Family Independence Agency) to the Department of Consumer and Industry Services. The Child Protection Law does not refer to the DCIS because, at the time of its enactment, the Department of Social Services investigated abuse cases and licensed child care organizations. There was no need to require the

DSS/FIA to notify the department that licensed child care organizations.

Though the bill appears to address a technical problem in current law, there is a rather significant and practical need for the bill. Currently, the DCIS licenses child care organizations. If an allegation of abuse were to originate from a facility subject to the licensure requirements of the child care licensing act, it is not required that the department receive notification of any allegation (suspected or confirmed). Indeed, DCIS policy states when an allegation of child abuse or neglect involves a licensed facility, it is presumed that the licensing requirements have been violated. A lack of adequate notification and knowledge of any abuse allegation greatly impedes the department's ability to carry out its duty to ensure that the health and welfare of children are protected when in the care of licensed child care facilities under the department's watch.

For:

The bill also adds that the FIA would not be required to use the structured decision making tool (SDM) for cases of alleged child abuse involving an adult who does not reside with the alleged victim or involving persons associated with a child care provider. The SDM, which includes a safety assessment, a risk assessment, a family needs and strengths assessment, and a treatment plan, is used for assessing a child's home environment, and is not applicable for instances out of the home. As such, it becomes necessary to state in statute that the SDM is not required in instances where the alleged perpetrator is not in the home of the alleged victim.

Analyst: M. Wolf

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