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SFA**BILL ANALYSIS**

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House Bill 5372 (Substitute H-2 as passed by the House)
Sponsor: Representative Mary Ann Middaugh
House Committee: Family and Children Services
Senate Committee: Families, Mental Health and Human Services

Date Completed: 9-18-02

CONTENT

The bill would amend the Child Protection Law (CPL) to require that the Department of Consumer and Industry Services (DCIS) be notified when suspected child abuse or child neglect was committed by a child care provider and when a child care provider was bound over to circuit court for certain crimes. The bill also would include the DCIS in the list of entities to which confidential records in the central registry may be made available.

DCIS Notification

The CPL requires that certain professionals (such as physicians, dentists, psychologists, social workers, teachers, law enforcement officers, and regulated child care providers) who have reasonable cause to suspect child abuse or neglect, immediately make an oral report of the suspected abuse or neglect to the Family Independence Agency (FIA). Within 72 hours after making an oral report, the reporting person must file a written report. Certain FIA employees who have a reasonable cause to suspect child abuse or neglect also must report that suspicion.

The Law also requires the FIA to transmit to the prosecuting attorney a report of suspected child abuse or neglect that indicates an occurrence of first-, second-, third-, or fourth-degree child abuse, involvement in child sexually abusive activity, or first-, second-, third-, or fourth-degree criminal sexual conduct (CSC) or assault with intent to commit CSC, or that indicates that the suspected child abuse or neglect was not committed by someone who is a "person responsible for the child's health or welfare". The CPL similarly requires a local law enforcement agency to refer an allegation or provide a copy of a written report and the results of an investigation to the county FIA, if the local law enforcement agency receives a report of suspected child abuse or neglect that indicates abuse or neglect committed by a person who is responsible for the child's health or welfare. ("Person responsible for the child's health or welfare" means a parent, legal guardian, person 18 years of age or older who resides in the same house as the child; or an owner, operator, volunteer, or employee of a child care organization, adult foster care family home, or adult foster care small group home.)

The bill would add to those provisions that, if a written report or subsequent investigation indicated that the individual who committed the suspected abuse or neglect was a child care provider and the FIA or law enforcement agency believed that the report had basis in fact, the FIA or law enforcement agency would have to transmit a copy of the written report or the results of the investigation to the child care regulatory agency with authority over the provider's child care organization or adult foster care location authorized to care for a child.

In addition, under the CPL, the prosecuting attorney must give notice to certain people if an individual is bound over to circuit court for first-, second-, third-, or fourth degree CSC, assault with intent to commit CSC, a felonious attempt or conspiracy to commit CSC, an assault on a child that is punishable as a felony, first-, second-, or third-degree child abuse, or involvement in child sexually abusive material or activity. If the individual is an employee of a child care organization, the prosecuting attorney must notify the FIA and the owner or operator of that child care organization. The bill specifies, instead, that if the individual were a child care provider, the prosecuting attorney would have to notify the FIA, the owner or operator of the provider's child care organization or adult foster care location authorized to care for a child, and the child care regulatory agency with authority over that child care organization or adult foster care location.

"Child care provider" would mean an owner, operator, employee, or volunteer of a child care organization or of an adult foster care location authorized to care for a child. "Child care regulatory agency" would mean the Department of Consumer and Industry Services or a successor State department that was responsible for the licensing or registration of child care organizations or the licensing of adult foster care locations authorized to care for a child. "Child care organization" would mean that term as defined in the child care licensing Act. Under that Act, "child care organization" means a governmental or nongovernmental organization having as its principal function the receiving of minor children for care, maintenance, training, and supervision, but does not include an organization that provides care to emancipated minors. "Adult foster care location authorized to care for a child" would mean an adult foster care family home or adult foster care small group home in which a child was placed in accordance with the child care licensing Act.

Central Registry

The CPL requires that the FIA maintain a statewide electronic central registry to carry out the intent of the Law. ("Central registry" is defined as the system maintained by the FIA that is used to keep a record of all reports filed with the FIA in which relevant and accurate evidence of child abuse or neglect is found to exist.) Unless made public as specified information allowed to be released under the CPL, a written report, document, or photograph filed with the FIA under the CPL is a confidential record and is available only to individuals and organizations listed in the Law. The bill would add a child care regulatory agency to that list.

MCL 722.622 et al.

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

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.

The bill would have no fiscal impact on local government.

Fiscal Analyst: Maria Tyszkiewicz
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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.