

Legislative Analysis



AMEND CHILDREN'S OMBUDSMAN'S ACT

Mary Ann Cleary, Director
Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

House Bill 5039 (Substitute H-2)

Sponsor: Rep. Kenneth Kurtz

Committee: Families, Children, and Seniors

(Enacted as Public Act 243 of 2014)

Complete to 2-25-14

A SUMMARY OF HOUSE BILL 5039 AS REPORTED FROM COMMITTEE

House Bill 5039 would amend the Children's Ombudsman Act (MCL 722.924 et al.) in the following ways:

- Require the Ombudsman notify the Department of Human Services of any immediate safety concerns regarding a child or children who are part of an active or open protective services or foster care case. The notice would need to occur as soon as possible, but no later than one business day after the ombudsman became aware of the concerns.
- Allow the ombudsman to request substance use disorder records if a valid consent or court order were obtained under 42 CFR Part 2.
- Specify that the ombudsman has the authority, in the course of a child fatality investigation, to request records from the court of jurisdiction, attorney general, prosecuting attorney, or any attorney retained by the DHS, and reports from a county child fatality review team to the same extent and in the same manner as provided to DHS under state law.

The bill would specifically require the ombudsman to investigate all child fatality cases that occurred or were alleged to have occurred due to child abuse or child neglect in any of the following situations:

- A child died during an active Child Protective Services (CPS) investigation or open services case, or there was an assigned or rejected CPS complaint within 24 months immediately preceding the child's death.
- A child died while in foster care, unless the death resulted from natural causes and there were no prior CPS or licensing complaints concerning the foster home.
- A child was returned home from foster care and there was an active foster care case.
- The foster care case involving the deceased child or sibling was closed within 24 months immediately preceding the child's death.

Under the bill, subject to state appropriations, an investigation described above would have to be completed within 12 months after the ombudsman opened a child fatality case for investigation.

With respect to the investigation of a child fatality case of the kind described above and upon review of records or other information received under the act, if there is no ongoing child protection proceeding involving a sibling of the child who died, the ombudsman would be required to provide any necessary recommendations for improving systemic issues that are discovered during the investigation of a child fatality. The recommendations could be provided to the court of jurisdiction, the State Court Administrative Office, the county child fatality review team, medical professionals, and attorneys or other legal professionals involved with the child who died. Recommendations would have to be summarized and included in the annual report required under the act.

FISCAL IMPACT:

The requirement of completing child fatality investigations within 12 months would most likely require additional staffing in the Office of Children's Ombudsman. The Ombudsman's annual reports notes that each year the Ombudsman receives 210 to 260 child death alerts and opens 40 to 70 investigations. The current FY 2013-14 Ombudsman budget provides \$1.2 million for 10.0 FTEs.

POSITIONS:

Office of Children's Ombudsman supports the bill. (2-19-14)

Michigan Catholic Conference supports the bill. (2-19-14)

Michigan County Social Service Association has expressed a number of concerns with language in the H-2 Substitute. (2-21-14)

Legislative Analyst: E. Best
Fiscal Analyst: Kevin Koorstra

■ 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.