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House Bill 5198 (as passed by the House)  
Sponsor: Representative Michael D. McCready  
House Committee: Families, Children, and Seniors  
Senate Committee: Families, Seniors and Human Services

Date Completed: 4-30-14

### **CONTENT**

**The bill would amend the Child Protection Law to do the following:**

- **Allow a confidential record to be made available to a Department of Human Services (DHS) employee, a labor union representative of a DHS employee, or an arbitrator or administrative law judge, in connection with a disciplinary action for alleged dereliction, misfeasance, or malfeasance of duty.**
- **Eliminate language allowing an agency to seek a court order to disclose confidential child protective services or foster care information for disciplinary purposes.**

The DHS is required to maintain an electronic central registry of all reports filed with the Department under the Law in which evidence of child abuse or neglect has been found. Unless a written report, document, or photograph filed with the DHS is made public under Section 7d (described below), it is considered a confidential record that is available only to certain individuals or agencies. These include:

- A police or other law enforcement agency investigating a report of known or suspected child abuse.
- A person legally authorized to place a child in protective custody.
- A person named in the report as a perpetrator.
- A child placing agency for the purpose of determining suitability of a home for adoption or foster care.
- A lawyer-guardian ad litem or other attorney appointed to represent a child.
- A legally mandated public or private child protective agency or foster care agency prosecuting a disciplinary action against its own employee involving child protective services or foster records.

The bill would include in this list a DHS employee actively representing himself or herself in a disciplinary action, a labor union representative actively representing a DHS employee in a disciplinary action, or an arbitrator or administrative law judge conducting a hearing involving a DHS employee's dereliction, malfeasance, or misfeasance of duty, for use solely in connection with that action or hearing. The disclosed information would have to be returned within 10 days after the hearing or action concluded. A recipient could not receive further disclosures while he or she retained disclosed information beyond the deadline specified for return.

The Law allows an agency obtaining a confidential record to seek an order from a court having jurisdiction over the child, or from the Family Division of the Ingham County Circuit

Court that allows the agency to disclose confidential foster care or child protective services information to pursue sanctions for alleged malfeasance, misfeasance, or dereliction of duty against an employee of the agency, to a labor union representative, or to an arbitrator or administrative law judge for a hearing involving the employee's alleged misconduct, to be used only for the purposes of such a hearing. The bill would eliminate this language.

(Section 7d allows the Director of the DHS to release certain information if there is clear and convincing evidence that either of the following is true: a) the release is in the best interest of the child to whom the information pertains, or b) the release would not conflict with the best interests of the child and one of the following is true: i) the release is in the best interests of the child's family, ii) the release clarifies DHS action on a case, iii) the release concerns a child who has died or a member of that child's family, iv) the information has been publicly disclosed by judicial proceeding, v) the information relates to an investigation that has been part of a broadcast or published media story, or vi) the information concerns a substantiated report of sexual abuse, life-threatening harm, or serious injury to the child or a sibling of the child.)

MCL 722.627

Legislative Analyst: Jeff Mann

### **FISCAL IMPACT**

The bill could result in minimal savings for the State and local courts, depending on the extent to which Department employees would request the information for the purposes described in the bill in a given fiscal year.

Fiscal Analyst: Frances Carley

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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.