



Senate Fiscal Agency
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BILL



ANALYSIS

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Senate Bill 383 (as enrolled)
Sponsor: Senator Rick Jones
Senate Committee: Judiciary
House Committee: Judiciary

Date Completed: 6-28-17

RATIONALE

Since 1985, the Child Protection and Identification Act has authorized the fingerprinting of children, with the consent of their parent or guardian, to provide a way to identify missing or injured children who may not be able to give their name or other identifying information. The Act formerly applied only to children under 17 years old. Effective August 2, 2017, the Act will allow the parent or guardian of a child or youth with special health care needs (up to 21 years of age) to request law enforcement officials to take the youth's photograph and fingerprints, under amendments made by Public Act 24 of 2017.

Public Act 24 also requires the Department of Michigan State Police (MSP) to forward the fingerprints and photographs taken of children under the Child Protection and Identification Act to the Federal Bureau of Investigation (FBI). Some contend that the forwarding of all of these materials to the FBI is unnecessary. Thus, it was suggested that the Act require the forwarding of only those photographs and fingerprints taken of children and youths with special health care needs.

CONTENT

The bill would amend the Child Identification and Protection Act to do the following:

- **Provide that certain conditions that govern fingerprinting a child would not apply to the fingerprinting of a child or youth with special health care needs.**
- **Require fingerprints to be forwarded to the FBI only in the case of a child or youth with special health care needs.**

The bill would take effect on August 2, 2017.

Fingerprinting of a Child

Section 4 of the Act governs the conditions under which a governmental unit is permitted or required to fingerprint a child. A governmental unit may fingerprint a child if a parent or guardian has given written authorization for the taking of the fingerprints for use in the future if the child becomes a runaway or a missing child. A governmental unit also may take fingerprints if they are voluntarily given with the written permission of the child and parent or guardian, upon request of a law enforcement officer, to aid in a specific criminal investigation. A governmental unit must fingerprint a child if fingerprints are required to be taken under certain provisions of law or if fingerprinting is required by court order.

Under the bill, these conditions would apply except for fingerprints taken from a child or youth with special health care needs under the process provided for fingerprinting those individuals (described below).

Submission of Photos & Fingerprints to the FBI

Beginning August 2, 2017, the MSP must forward the fingerprints and photographs taken under

Section 4 to the Director of the Federal Bureau of Investigation for registration, storage, and use for identification purposes by the FBI.

Under the bill, this requirement would apply only to the fingerprints and photographs taken of a child or youth with special health care needs.

MCL 722.774

BACKGROUND

Public Act 24 of 2017 amends the Child Identification and Protection Act to allow the parent or guardian of a child or youth with special health care needs to request an entity approved by the Michigan Department of State Police to take the child's or youth's fingerprints or photograph and add them to the automated fingerprint identification system (AFIS) database and the statewide network of agency photos maintained by the MSP. Public Act 24 will take effect on August 2, 2017.

"Child or youth with special health care needs" means a single or married individual under 21 years of age whose activity is or may become so restricted by disease or specified medical condition as to reduce his or her normal capacity for education and self-support.

A written request must be made on a form posted on the MSP website. Along with the form, the MSP must provide a list of Department-approved entities. When a child or youth with special health care needs is presented at an approved entity to have his or her fingerprints and photograph taken, the entity must require the parent or guardian to execute a signed waiver.

The Act also allows a parent or guardian to make a written request to the MSP to have the fingerprints and photograph of a child or youth with special health care needs removed from the AFIS database and the statewide network of agency photos. The MSP must remove them upon receiving the request.

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

Generally, the forwarding of photographs and fingerprints to the FBI implies a need to perform a criminal background check or satisfy other requirements that pertain to the enforcement of criminal law. The Act is designed, however, to provide a parent or guardian with a voluntary way to identify a missing or injured child. In most cases, the appropriate place for the photographs and fingerprints is with the State for use by local police departments.

On the other hand, if a child and youth with special health care needs wanders too far from home, he or she may be unable to articulate his or her address or name, regardless of whether the individual is injured. If the child's or youth's fingerprints and photograph have been submitted to the FBI for inclusion in the AFIS database, and the individual goes missing, the authorities can conduct a search across state lines with greater ease.

Legislative Analyst: Jeff Mann

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

Fiscal Analyst: Bruce Baker

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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.