



**Senate Fiscal Agency**  
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BILL



ANALYSIS

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House Bill 4137 (as passed by the House)  
Sponsor: Representative Ben Frederick  
House Committee: Judiciary  
Senate Committee: Judiciary

Date Completed: 3-24-17

### **CONTENT**

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

- **Allow a parent or guardian of a child or youth with special health care needs to request that the child's or youth's fingerprints and photograph be taken and included in the automated fingerprint identification system (AFIS) and the statewide network of agency photographs.**
- **Require the Michigan Department of State Police (MSP) to provide on its website a form for these requests as well as a list of Department-approved entities for taking the fingerprints and photographs.**
- **Allow the MSP to charge a fee to cover its costs for processing a request, and require a Department-approved entity to collect the fee and forward it to the MSP.**
- **Require the MSP to forward fingerprints and photographs to the FBI for registration, storage, and use for identification purposes.**
- **Require the MSP to remove a child's or youth's fingerprints and photograph from AFIS and the statewide network of agency photographs, upon a parent's or guardian's request.**

The bill would take effect 90 days after its enactment.

### **Definitions**

The bill would define "child or youth with special health care needs" as 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.

"Department-approved entity" would mean an entity, including a local law enforcement agency or a private company, approved by the MSP to take the fingerprints and photograph of a child or youth with special health care needs.

"Guardian" would mean a person who has qualified as a guardian of a minor or child or youth with special health care needs under a parental or spousal nomination or a court order issued under the juvenile code, the Estates and Protected Individuals Code, or the Mental Health Code. The term also could include a person appointed by a tribal court under tribal code or custom. The term would not include a guardian ad litem.

As used in the bill, "parent" would mean the natural or adoptive parent of a child or youth with special health care needs who has either or both sole or joint legal or physical custody of the child, if a court order dictating custody is in place, or the natural or adoptive parent of a child or youth with special health care needs if there is no court order dictating custody.

#### Written Request

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 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, a parent or guardian of a child or youth with special health care needs could submit a written request to a Department-approved entity to take the fingerprints and photograph of the child or youth and add them to the AFIS database and the statewide network of agency photos maintained by the MSP.

A written request would have to be made on a form posted on the MSP website. Along with the form, the MSP would have to provide a list of Department-approved entities. At the time a child or youth with special health care needs was presented at a Department-approved entity to have his or her fingerprints and photograph taken, the entity would have to require the parent or guardian to execute a signed waiver allowing the child's fingerprints and digital image to be collected.

#### Fee

The MSP could charge a fee that was sufficient to reimburse it for the costs associated with processing a request of a parent or guardian under the bill. At the time the child or youth was presented at a Department-approved entity to have his or her fingerprints and photograph taken, the entity would have to require the parent or guardian to pay the required fee. The entity then would have to forward the fee to the MSP in the manner the Department prescribed.

#### Forwarding to the FBI

The MSP would have to forward the fingerprints and photographs taken under the bill to the FBI Director, on forms furnished by or in a manner he or she prescribed, for registration, storage, and use for identification purposes by the FBI.

#### Removal of Fingerprints & Photograph

A parent or guardian could 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 would have to remove them upon receiving the request.

MCL 722.772 & 722.774

Legislative Analyst: Patrick Affholter

## **FISCAL IMPACT**

The bill would have a moderate fiscal impact on the MSP, requiring it to incur \$25,000 in programming charges to implement the provisions of the bill and \$3,200 in additional ongoing annual costs to maintain the implementation.

The MSP would be required to create a special health care needs database to house data and images for the proposed system, provide capabilities to retrieve and edit data and images, update existing Android applications to accommodate searches against the special health care needs database and create reports, update existing system interfaces to extract records and import to the special health care needs database, and install applications and train personnel.

The MSP also would be required to accept fingerprints, which it would process, analyze, and store. Currently, the cost of each fingerprint processing, which includes a search of State and Federal fingerprint databases, is \$42 (\$30 State fee, \$12 Federal fee). Also under current law, a law enforcement agency or vendor that takes fingerprint impressions (or photos, in the case of the bill) from an individual for submission to the MSP may charge a nominal fee for doing so (often \$15 or less, if anything).

The cost of performing fingerprint processing by the MSP would be wholly covered by the fees required under the bill. Current law requires that the fee for fingerprint processing not exceed the actual and reasonable cost incurred by the Department for this activity.

Fiscal Analyst: Bruce Baker