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BILL



ANALYSIS

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House Bill 5121 (Substitute H-1 as passed by the House)
House Bill 5122 (Substitute H-1 as passed by the House)
House Bill 5123 (Substitute H-1 as passed by the House)
Sponsor: Representative Terry Sabo (H.B. 5121)
Representative Jim Runestad (H.B. 5122)
Representative Pamela Hornberger (H.B. 5123)
House Committee: Judiciary
Senate Committee: Families, Seniors and Human Services

Date Completed: 6-6-18

CONTENT

House Bill 5121 (H-1) would amend the Foster Care and Adoption Services Act to do all of the following:

- Require the Department of Health and Human Services or a child placing agency to develop and maintain a specific policy, known as the Children's Assurance of Quality Foster Care Policy, to provide to children placed in foster care.
- Require the Policy to ensure that children placed in foster care had access to or received certain treatment, placement, access, and other items.
- Require the Department to maintain a written policy describing the grievance procedure for a child in foster care to address any perceived noncompliance with the items listed in the Policy, including information on how and where to file a grievance.

House Bill 5122 (H-1) would amend the Foster Care and Adoption Services Act to require the Department to draft and maintain a specific policy to address the access of a child in foster care to his or her advocates, relevant information related to his or her case and plan for placement, and other items.

House Bill 5123 (H-1) would amend the Foster Care and Adoption Services Act to require the Department to prepare and distribute to each child placed in foster care, as age-appropriate, information describing the Children's Assurance of Quality Foster Care Policy and the process to follow if a child in foster care had concerns regarding a violation of the Policy.

The bills are tie-barred to each other. Each bill would take effect 90 days after it was enacted.

House Bill 5121 (H-1)

The Foster Care and Adoption Services Act lists the purposes of the statute. The bill would include, "To ensure that the department develops and maintains a specific policy of the provisions described in sections 8b, 8c, and 8d to provide to children placed in foster care." The specific policy would be known as the Children's Assurance of Quality Foster Care Policy.

(House Bills 5121 (H-1), 5122 (H-1), and 5123 (H-1) would enact Sections 8b, 8c, and 8d, respectively.)

The bill would require the Department to ensure that the children's Assurance of Quality Foster Care Policy was developed, implemented by the supervising agency, and made available to the public. (Under the Act, "supervising agency" means the Department of Health and Human Services if a child is placed in the Department's care for foster care, or a child placing agency in whose care a child is placed for foster care.)

The Department would be required to promote the participation of current and former children in foster care in developing the Policy.

The bill would require the Policy to ensure that children placed in foster care were provided with the following:

- Fair, equal, and respectful treatment, including treatment that did not violate State and Federal law.
- Placement with relatives and siblings, when appropriate.
- Inventory and security of the child's personal belongings.
- Transition planning, including housing, workforce preparation, financial education, access to personal documents, information regarding secondary education and postsecondary education, and independent living preparation, as age-appropriate.
- Ongoing contact and visits with parents, relatives, and friends, if permitted by the court.
- Access to advocacy services for children in foster care with disabilities.
- Timely enrollment in school with consistent placement in the same school, when possible.
- Participation in extracurricular activities consistent with the child's age and developmental level, as allowed by the supervising agency's resources, taking into consideration the foster parent's schedule and resources.
- Access to and receipt of information and services, including necessary medical, emotional, psychological, psychiatric, and educational evaluations and treatment, as soon as practicable after identifying the need for services by the screening and assessment process.
- Access to and participation in religious activities, cultural activities, or both, taking into consideration the foster parent's schedule and resources.
- Adequate food, necessities, and shelter, including special dietary needs, school supplies, clothing, and hygiene products.
- Information regarding proposed placement, as age-appropriate.
- A permanency plan, as required by State and Federal law, designed to facilitate the permanent placement or return home of the child in foster care in a timely manner.

The Policy also would have to ensure placement in the least restrictive setting, appropriate to the child's needs in accordance with Administrative Rule 400.12313 (which governs an agency's behavior management policy). If discipline were required, and physical restraint had been used by a child caring institution, the child caring institution would have to provide a detailed report of the incident to the Department.

The bill would require the Department to maintain a written policy describing the grievance procedure for a child in foster care to address any perceived noncompliance with the items listed in the Policy. The grievance procedure would have to include information on how and where to file a grievance, including contact information for the Office of the Children's Ombudsman and the Department's Office of Family Advocate, on a form approved by the Department.

A child in foster care would be allowed to file a grievance with the supervising agency regarding the perceived noncompliance with any of the items listed in the Children's Assurance of Quality Foster Care Policy as outlined in the supervising agency's grievance policy. Within 30 days after receiving the grievance, the supervising agency would have to respond with a written statement of how the grievance would be addressed. If the supervising agency did not provide a written response within 30 days after the grievance was filed with the agency or if the child did not agree with the findings in the written response, the child could contact the Office of Family Advocate.

If the grievance were not resolved with the assistance of the Office of Family Advocate, the child in foster care could request that his or her lawyer-guardian ad litem petition the court for the appropriate relief.

The sole remedy that could be provided would be limited to injunctive relief.

The bill would require the Department to implement the Children's Assurance of Quality Foster Care Policy within 90 days after the bill's effective date.

House Bill 5122 (H-1)

The bill would require the Department to draft and maintain a specific policy for children in foster care, in addition to the policy described in sections 8b and 8d (proposed by House Bills 5121 (H-1) and 5123 (H-1), respectively). The specific policy would have to be implemented within 90 days of the bill's effective date and would have to address access of a child in foster care to the following, as age-appropriate and as mandated by the court:

- Regular contact with all of the child's caseworkers, attorneys, and advocates.
- Relevant information regarding a change in the child's caseworker or attorney.
- Reasonable notification of hearings.
- At 14 or older, involvement in the child's own case plan development and development of a plan for his or her future and aging out of the foster care system.
- Help with understanding the services available to children in foster care and how to access those services.
- A permanent plan for placement and the child's participation in the development of the plan.
- Protection of the child's privacy and confidentiality regarding his or her case.

House Bill 5123 (H-1)

The bill would require the Department to prepare and distribute to each child placed in foster care, as age-appropriate, information describing the Children's Assurance of Quality Foster Care Policy and the process to follow if a child in foster care had concerns regarding a violation of the Policy. This information would have to include information regarding the child's caseworker, lawyer guardian ad litem, the Office of the Children's Ombudsman, the Department's Office of Family Advocate, and the Foster Care Review Board.

The Department would have to implement the provisions of the bill within 90 days after its effective date.

MCL 722.953 et al. (H.B. 5121)
Proposed MCL 722.958c (H.B. 5122)
Proposed MCL 722.958d (H.B. 5123)

Legislative Analyst: Nathan Leaman

FISCAL IMPACT

The bills could have an uncertain, but likely small cost to State government and would have no fiscal impact on local government. As many of the proposed changes reflect current Michigan Department of Health and Human Services policy, to the extent that there would be any new requirements, the State could incur an implementation cost.

Fiscal Analyst: John Maxwell

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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.