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SFA**BILL ANALYSIS**

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Senate Bill 515 (as introduced 5-21-97)
Sponsor: Senator Joanne G. Emmons
Committee: Families, Mental Health and Human Services

Date Completed: 5-21-97

CONTENT

The bill would amend the Child Protection Law to:

- Specify circumstances under which the Family Independence Agency (FIA), or the Children's Ombudsman, could release otherwise confidential information in the FIA's central registry of child abuse and neglect cases.
- Require child fatality review teams to report to the FIA Director and the Children's Ombudsman if an act or omission contributed to a child's death.
- Require the FIA to use a risk assessment tool in determining if a child was abused or neglected.
- Require the FIA to involve law enforcement officials when a child was a victim of any Penal Code violation.
- Require prosecutors to implement coordinated investigative team approach to investigating child abuse.
- Provide that the person making a report would have to be informed of its disposition.
- Require prosecutors to review investigations in certain unsubstantiated cases.
- Limit the individuals who could interview an abused or neglected child.

Central Registry/Release of Information

The FIA is required to maintain a central registry in which the Agency must maintain records of substantiated reports of child abuse or neglect. The bill specifies that the FIA would have to maintain a "statewide, electronic" central registry.

A written report, document, or photograph filed with the FIA under the Law is confidential and may be disclosed only to specific individuals and entities. The bill would allow the FIA Director to release otherwise confidential information from the record regarding the abuse or neglect of a child if one or more of the following were true:

- The release was in the best interests of the child to whom it pertained.
- The release was in the best interests of the child's family.
- The release was of information from the record of a child who had died or from the record of that child's family.
- The release was necessary to preserve the integrity of the child protection system.

If the Director did not act under this provision, and one or more of these requirements were met, the Children's Ombudsman could release the otherwise confidential information.

The persons to whom information currently may be released include a person, agency, or organization engaged in a bona fide research or evaluation project, although information identifying a person named in the report or record may not be released without that person's written consent. The bill would require that the FIA review each project requesting information to assure that the research would not harm an individual who was a subject of the information.

The Law also allows the release of information to a child fatality review team. Under the bill, if a child fatality review team determined that an act or omission contributed to a child's death, the review team would have to report that determination to the FIA Director and to the Children's Ombudsman.

Investigations

Currently, within 24 hours after receiving a report under the Law, the FIA must refer it to the prosecuting attorney if the report involves criminal child abuse, child sexual abuse, criminal sexual conduct, or abuse or neglect not committed by someone responsible for the child's welfare, or the FIA must commence an investigation of the child. Under the bill, the FIA would have to report to the prosecuting attorney *and* commence a field investigation of the child.

The Law requires the FIA, in the course of its investigation, to determine if the child is abused or neglected. The FIA must cooperate with law enforcement officials, courts, and appropriate State agencies providing human services in relation to preventing, identifying, and treating child abuse and neglect, and must provide, enlist, and coordinate the necessary services. Under the bill, in determining if a child was abused or neglected, the FIA would have to use a risk assessment tool designed to determine level of risk for both substantiated and unsubstantiated cases. The FIA would have to provide, enlist, and coordinate the necessary services as determined by the level of risk identified by the risk assessment tool. The level of risk would have to be a factor in a determination of whether a petition was filed with the juvenile court.

In conducting its investigation, the FIA is required to seek the assistance of and cooperate with law enforcement officials within 24 hours after becoming aware that certain conditions exist, including that the child is the victim of suspected sexual abuse or sexual exploitation. Under the bill, if the child were the victim of any act that was a violation of the Michigan Penal Code, the FIA would have to involve law enforcement officials.

Currently, in each county the prosecuting attorney and the FIA must develop and establish procedures for involving law enforcement officials. The bill provides, instead, that the prosecuting attorney for each county would have to adopt and implement a coordinated investigative team approach to the investigation of child abuse within his or her county. This approach would have to be based upon the protocol published by the Governor's Task Force on Children's Justice entitled, "A model child abuse protocol, coordinated investigative team approach", DSS publication 794(8-93).

Currently, upon completing its investigation, a local law enforcement agency or the FIA may inform the person who made the report as to its disposition. The bill, instead, would require a local law enforcement agency or the FIA to inform the person in writing as to the disposition of the report, including whether the case was substantiated or not and the rationale for that decision.

Under the bill, if a child were the subject of an unsubstantiated case of child abuse or neglect, and the case involved the child's death or serious physical injury, or the suspicion of sexual abuse or exploitation, the prosecuting attorney for the county in which the child was located would have to review the investigation of the case to determine if it complied with the approach adopted under requirements of the Law.

Child Interviews

The bill provides that, during an investigation of suspected child abuse or neglect, the child reported to have been abused or neglected could not be interviewed in the presence of an individual reported to have perpetrated the abuse or neglect.

If the child abuse report included allegation of sexual abuse or exploitation, only an appropriately trained and qualified interviewer could interview the child. The interview would have to be conducted in a neutral location in a controlled setting.

MCL 722.627 et al.

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FISCAL IMPACT

Fiscal information is not available at this time.

Fiscal Analyst: J. Walker

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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.