

Legislative Analysis



REPORTING SUSPECTED CHILD ABUSE OR NEGLECT

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House Bill 5984 as introduced

Sponsor: Rep. Kate Ebli

Committee: Judiciary

First Analysis (4-16-08)

BRIEF SUMMARY: The bill would allow workers at agencies that receive federal funding under the Violence Against Women Act to report cases of suspected child abuse or neglect without violating conditions of the VAWA that would make the agency ineligible to receive the funding.

FISCAL IMPACT: According to the Department of Human Services, the bill would respond to recent amendments to federal law which prohibit grant recipients of any federal Violence Against Women Act (VAWA) funding from revealing personal information about clients who are survivors of abuse unless required to by statute or court order. The new provisions added by the bill would add these organizations to the list of mandated reporters for suspected abuse or neglect. Since these organizations were voluntarily reporting this information until recently, the bill should not have a significant impact on reports of abuse/neglect, and therefore should not have a significant impact on State or local costs or workloads in terms of investigating these reports.

THE APPARENT PROBLEM:

Workers at domestic violence shelters and other agencies that provide services to women and children may on occasion suspect that a child had been or was currently being abused or neglected. Though members of some professions, such as physicians, nurses, and social workers are required by state law to report suspected cases of child abuse or neglect, other persons may do so voluntarily. Recent changes in federal law, however, have created obstacles to reporting by persons not currently mandated to do so.

According to information supplied by the Michigan Domestic Violence Prevention and Treatment Board, amendments to the federal Violence Against Women Act (VAWA) that took effect in January, 2006, condition eligibility for VAWA grant funding "on compliance with confidentiality requirements that disqualify grantees and subgrantees who disclose personally identifying information about their clients without client consent, a court order, or a statutory mandate to disclose."

The result is that if a worker at an agency which receives a grant under VAWA suspects abuse or neglect of a child is occurring, unless the worker is a member of one of the listed professions for which reporting is mandated, he or she cannot make a report to the Michigan Department of Human Services without jeopardizing the agency's funding. Legislation is needed to resolve the situation.

THE CONTENT OF THE BILL:

The state Child Protection Law requires numerous categories of professionals to report suspected cases of child abuse or neglect. However, a recently enacted federal statute, the Violence Against Women Act, prohibits recipients of grants issued under the act from revealing personal identifying information about clients or their children who are survivors of domestic violence, sexual assault, and stalking unless specifically required to do so under the law of the state in which the agency is located. Michigan law does not currently mandate reporting by a person who works at an agency funded under the federal law unless he or she is also a member of one of the listed professions.

House Bill 5984 would amend Section 3 of the Child Protection Law (MCL 722.623), which requires certain professionals to report suspected cases of child abuse or neglect, to also require any employee of an organization or entity that, as result of federal funding statutes, regulations, or contracts, would be prohibited from reporting in the absence of a state mandate or court order to report suspected child abuse or neglect. These employees would be required to report in the same manner as physicians, social workers, nurses, school personnel, members of the clergy, and other listed professionals currently do.

ARGUMENTS:

For:

The federal Violence Against Women Act prohibits workers at agencies receiving grants under its provisions from revealing certain personally identifiable information without a client's consent or a state mandate to release the information. Currently, the list of professionals required under state law to report all suspected cases of child abuse or neglect include some but not all of the types of people who work or volunteer at these agencies. Once enacted, the bill will provide the statutory mandate that is necessary under the VAWA so that any employee could make a report without jeopardizing the funding for his or her agency.

For:

Workers at agencies funded under the VAWA (who may, among other duties, serve as domestic violence advocates, counselors, or sexual assault nurse examiners) come from many backgrounds. Those who are members of the professions already required to report child abuse and neglect have not been affected by the confidentiality provisions of the VAWA. Others, however, may come from backgrounds in business, accounting, retail, computers, and so forth. Rather than guess at all the types of additional professionals who could be working at a VAWA-funded agency, the bill would take a more general approach and simply apply the mandate to "employees."

Further, many workers at domestic violence shelters and other agencies are volunteers. Reportedly, the general policy at these types of agencies is for volunteers to report suspected cases of child abuse or neglect to paid staff members, and for those staff to make the reports to the appropriate authorities. Therefore, the bill would extend the reporting mandate only to agency employees.

POSITIONS:

The Michigan Domestic Violence Prevention and Treatment Board supports the bill. (4-16-08)

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