

Legislative Analysis



KINSHIP CAREGIVER NAVIGATOR PROGRAM AND KINSHIP CAREGIVER ADVISORY COUNCIL

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House Bill 5443 (H-1) as reported from committee
Sponsor: Rep. Kathy Crawford

Analysis available at
<http://www.legislature.mi.gov>

House Bill 5444 as reported from committee
Sponsor: Rep. Frank Liberati

1st Committee: Families, Children and Seniors
2nd Committee: Ways and Means
Complete to 3-3-20

SUMMARY:

House Bills 5443 and 5444 would create new acts called, respectively, the Kinship Caregiver Advisory Council Act and the Kinship Caregiver Navigator Act. Both bills would employ the following defined terms:

Kinship family would mean a ***kinship caregiver*** and the child with whom he or she has taken on the caregiving role.

Kinship caregiver would mean a ***relative*** who is 18 years of age or older and has fully undertaken an unequivocal, committed, and responsible parental and caregiving role for a child who is not his or her own, whether informally arranged among relatives or formally supported by the child welfare system.

Relative would mean an individual who is 18 years of age or older and is related to the child within the fifth degree by marriage, blood, or adoption, including step relationships and the spouse of an individual related to the child within the fifth degree, even after the marriage has ended by death or divorce, or an individual who has a close family-like relationship with the child.

House Bill 5443 would create the Kinship Caregiver Advisory Council within Department of Health and Human Services (DHHS). The council would consist of the following members:

- The director of the Children Services Agency in DHHS or his or her designee.
- The director of Aging and Adult Services in DHHS or his or her designee.
- The superintendent of public instruction or his or her designee.
- The state court administrator or his or her designee.
- Nineteen public members with experience and knowledge in kinship caregiver issues, appointed by the governor with the advice and consent of the Senate as follows:
 - Three who are kinship caregivers (one representing caregivers over 60 years old, one representing caregivers in the formal child welfare system, and one representing caregivers who had children informally placed with them).
 - One who is an adult who was raised by a kinship caregiver.
 - Two representing nonprofit child advocacy organizations.
 - Four representing private agencies that contract with the state to provide child welfare services (one each representing agencies that make foster care placements,

provide postadoption or postguardianship services, provide adoption services, and provide prevention and family preservation services).

- Two representing mental health professionals (one with expertise in adverse childhood experiences and one with expertise in substance use disorder). One member would have to be a licensed psychologist or psychiatrist, and the other would have to be a licensed master's social worker.
- Two who are licensed attorneys.
- One representing local Area Agencies on Aging.
- One representing all the federally recognized tribes in this state.
- One representing an agency that provides kinship navigation services.
- One parent who previously had a child in a kinship care arrangement but has since been reunited with that child.
- One who has demonstrated expertise in domestic violence victim services and advocacy.

Members would be first appointed to the council within 90 days after the act took effect. To the extent practicable, the council would have to be composed of geographic, ethnic, age, and gender diversity and represent the demographic composition of this state.

Public members of the council would serve for three years or until a successor was appointed, whichever is later. Of those first appointed, six would serve for one year, six for two years, and five for three years. If a vacancy occurred on the council, the governor would make an appointment for the unexpired term in the same manner as the original appointment.

The governor would designate a chairperson of the council, who would serve in that position at the pleasure of the governor. The council could elect other officers and establish committees as it considered appropriate.

The council could remove a member for misfeasance, malfeasance, or nonfeasance in office, after hearing. Missing three or more consecutive meetings would be malfeasance and grounds for removal.

Council members could be reimbursed for actual and necessary expenses incurred in the performance of their official duties. The compensation, reimbursement, and all actual and necessary operating expenses of the council would need to be appropriated by the legislature.

Council Meetings

The council would have to meet at least four times per year and would have to hold at least two public meetings across the state to address local issues regarding kinship caregiving and to provide a process that incorporates the public in the development of the council's recommendations. The council would establish its own procedures and requirements with respect to quorum, place, and conduct of its meetings and other matters.

The council would have to conduct its business at a public meeting held in compliance with the Open Meetings Act. A writing prepared, owned, used, possessed, or retained by the council in the performance of an official function would be subject to the Freedom of Information Act.

Council Powers and Duties

The council could do all of the following:

- Establish a public awareness campaign to educate the public about kinship caregivers.

- Consult and coordinate with the kinship caregiver navigator program (proposed by HB 5444) to collect aggregate data on individuals being served by the kinship caregiver navigator program.
- Consult and collaborate with the provider of the kinship caregiver navigator program on the design and administration of that program.
- Establish, maintain, and update a list of local support groups and programs that provide services to kinship families, and devise a plan of action for engaging with the groups and programs on the list to better understand issues facing kinship families.
- Develop methods to promote and improve collaboration between state, county, and local governments and agencies and private stakeholders.

To carry out its duties, the council could accept federal money and gifts, grants, bequests, or donations from individuals, private organizations, or foundations. It could also conduct a campaign to solicit gifts, bequests, grants, or donations of money or property or pledges of gifts, bequests, grants, or donations. Money received in this manner would have to be transmitted to the state treasurer for deposit in the general fund and made available only to the council for carrying out its duties under the act.

Assessment on Kinship Caregivers

Subject to receiving grants from nonprofit entities or other third parties or appropriations from the legislature, the council would have to conduct an assessment on kinship caregivers and children being raised by them. The council could contract with a third party to conduct the assessment. The assessment would have to be submitted to the council within 12 months after the date of the council's first meeting and would have to do all of the following:

- Address the prevalence, challenges, and needs of kinship families.
- Identify and evaluate current state and federal policies, programs, and services for kinship caregivers in this state and other states.
- Investigate the benefits of creating a program dedicated to providing support and assistance to kinship families utilizing child placing agencies or similar agencies.
- Provide policy options for supporting and empowering kinship caregivers.

Reports

Within 18 months after the council's first meeting, subject to receiving grants from nonprofit entities or other third parties or appropriations from the legislature, the council would have to provide an initial report to the legislature, the governor, DHHS, the Foster Care Review Board Program, the Children's Trust Fund, and the Governor's Task Force on Child Abuse and Neglect that includes all of the following:

- The findings of the assessment.
- Barriers that block access to services for kinship families, best practices, or other challenges identified that kinship caregivers and kinship families encounter.
- Concerns or public comments from kinship caregivers.
- Identification of applicable policy areas, including federal and state guidelines.
- Recommendations on how to improve services, systems, programs, state law, executive policy, and administrative rules.

The council would have to provide an annual follow-up report to the same parties that includes all of the following:

- A summary of previous report recommendations, including action taken to implement the recommendations.

- An update on the status and characteristics of kinship families.
- An update on the public awareness campaign and the kinship caregiver navigator program.
- A description of ongoing projects regarding local support groups.
- New recommendations.

DHHS would have to provide support and coordinated services to the council sufficient to carry out its duties, powers, and responsibilities and would have to promulgate rules to implement the act.

House Bill 5444 would require DHHS to establish and maintain the Kinship Caregiver Navigator Program. Before participating in the program, DHHS would have to submit to the United States Department of Health and Human Services Administration on Children, Youth and Families an attachment to the state Title IV-E Plan that included at least all of the following:

- The kinship navigator model DHHS will utilize to create the navigator program. The department would be required to provide an assurance that this model meets the requirements of federal law.
- The date the program began or will begin.
- Information describing the program target population and service area.
- Information on how the department will implement the program.

DHHS would have to enter into a contract with a third party to provide ***navigator*** services to kinship caregivers.

Navigator would mean an individual who is knowledgeable about the social and child welfare system and who is hired by the navigator services provider to provide support services to kinship caregivers.

Navigator Service Provider Powers and Duties

In addition to providing navigator services, the navigator services provider would have to establish a website regarding local support groups, resources, and services for kinship caregivers. The website would need to provide information on at least all of the following:

- Outreach.
- Educational information.
- Training materials.
- Financial assistance.
- Legal services, including pro bono and “low bono” legal aid providers, forms needed to file a petition in court, guides to kinship care legal issues, and any other information the provider considers necessary.
- Health care, mental health, and substance use disorder services.
- Child and respite care.
- Support groups.
- Parenting tips.
- Resources for caring for children with special needs.

The bill would require the navigator service provider to do all of the following:

- Establish and maintain a single statewide toll-free number for kinship caregivers to call for information or services.

- Consult with the advisory council (proposed by HB 5443, described below) on the design and continuation of the navigator program.
- Consult with the advisory council on developing outreach and educational material for kinship families.
- Promote partnerships between public and private agencies to increase knowledge of the needs of kinship families and to increase responsiveness to those needs, including working with other navigation systems for foster care and adoption and for general information and referral systems.
- Develop training material for navigators that is based on industry best practices.
- Share aggregate data with the advisory council regarding who is being served under the navigator program and what services are being provided. (The provider could not share information on individual identification.)

The bill would allow the navigator service provider to do any of the following:

- Identify and maintain relationships with the State Bar of Michigan, law school clinics, and other nonprofit legal services agencies that facilitate developing a county or regional pro bono or “low bono” legal representation referral program.
- Develop and maintain training materials and training programs designed to educate pro bono and/or “low bono” attorneys on how to provide legal advice, assistance, and representation specific to kinship caregivers.
- Apply for and accept grants from other public or private entities to develop legal services initiatives.

Navigator Program Requirements

The bill would require the navigator program to do all of the following:

- Assist kinship caregivers in learning about, finding, and using programs and services to meet the needs of the children they are raising.
- Work with state, local, and nonprofit agencies that promote service coordination or provide information and referral services.
- Establish information and referral systems that link, by toll-free access, kinship caregivers, kinship support group facilitators, and kinship caregiver service providers to each other. The systems would have to include at least the following:
 - Eligibility and enrollment information.
 - Relevant training to assist kinship caregivers in caregiving.
 - Connections to legal aid and assistance providers.
- Comply with all federal regulations and statutes, including 42 USC 627 and 671, to qualify for reimbursement of 50% of the costs for the navigator program.

Kinship Caregiver Navigator Fund

The bill would create the Kinship Caregiver Navigator Fund in the state treasury. The state treasurer could receive money or other assets from any source for deposit into the fund and would direct the investment of the fund and credit to the fund interest and earnings from fund investments. Money in the fund at the close of the fiscal year would remain in the fund and not lapse to the general fund. The Children's Services Agency would be the administrator of the fund for auditing purposes and could expend money from the fund, upon appropriation, only to implement the new act.

Tie-bars and effective date: The bills are tie-barred to each other, which means that neither could take effect unless both were enacted. The bills would take effect October 1, 2020.

FISCAL IMPACT:

The bills would likely increase costs to DHHS. Any increased costs to DHHS from these bills would be dependent upon additional administrative, staffing, and contractual costs that would be incurred under the bills' provisions. There would be no significant fiscal impact to local units of government.

House Bill 5443 would require the Kinship Caregiver Advisory Council to be created and for DHHS to provide support and services to the council, as well as the possible reimbursement of council members' expenses. According to DHHS, these costs are estimated to be between \$150,000 and \$200,000 annually and would include the costs of one DHHS staff member. Depending upon the decisions of the council concerning activities and projects, these costs could be higher.

House Bill 5444 would require DHHS to create the Kinship Caregiver Navigator Program and would require the department to enter into a contract with a third party to provide services to kinship caregivers. According to DHHS, Michigan currently has a contract with a third party, Michigan State University, to provide kinship caregiver navigator services. The current contract will end soon. In FY 2019-20, this program receives \$427,658 in funding. The department estimates that under the bill's provisions, establishing the Kinship Caregiver Navigator Program and continuing similar level of services as the current contract, the program would cost approximately \$450,000 to \$500,000—which could be an annual increase of \$50,000 to \$75,000 over current expenditures.

POSITIONS:

A representative of Michigan State University Kinship Care Resource Center testified in support of the bills. (2-19-20)

The following entities indicated support for the bills:

- Department of Health and Human Services (3-3-20)
- AARP Michigan (3-3-20)
- Area Agency on Aging Association (2-19-20)
- Elder Law of Michigan (2-19-20)
- Michigan's Children (2-19-20)
- Michigan Family Forum (3-3-20)
- Michigan Federation for Children and Families (2-19-20)

The Michigan Poverty Law Program indicated a neutral position on the bills. (2-28-20)

The Michigan Coalition to End Domestic and Sexual Violence indicated opposition to the bills as introduced. (2-19-20)

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.