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House Bill 5443 (Substitute H-1 as passed by the House)
House Bill 5444 (as passed by the House)
Sponsor: Representative Kathy Crawford (H.B. 5443)
Representative Frank Liberati (H.B. 5444)
House Committee: Families, Children, and Seniors
Ways and Means
Senate Committee: Families, Seniors, and Veterans

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CONTENT

House Bill 5443 (H-1) would enact the "Kinship Caregiver Advisory Council Act" to do the following:

- Create the Kinship Caregiver Advisory Council within the Department of Health and Human Services (DHHS).
- Specify the membership of the Council, including the Director of the DHHS, the Superintendent of Public Instruction, the State Court Administrator, and 19 public members appointed by the Governor and representing interests related to kinship caregiving.
- Specify that the purpose of the Council would be to study the prevalence and needs of kinship caregivers and the children they care for and advocate for reform that would contribute to a better coordinated, consumer friendly, and family-centered system, among other things.
- Allow the Council to establish a public awareness campaign to educate the public about kinship caregivers and the State's efforts to better serve them and to accept to Federal money granted for the bill's purposes as well as gifts, grants, bequests, or donations from individuals, private organizations, or foundations.
- Subject to receiving funds as prescribed by the bill, require the Council to conduct an assessment on kinship caregivers and children being raised by kinship caregivers.
- Not later than 18 months after the date of the Council's first meeting, require the Council to provide an initial report to the Legislature, the Governor, the DHHS, and other entities listed in the bill.
- Require the Council to provide a follow-up report each year to the same entities that received its initial report.
- Require the DHHS to promulgate rules to implement the proposed Act.

House Bill 5444 would enact the Kinship Caregiver Navigator Act to do the following:

- Require the DHHS to establish and maintain the Kinship Caregiver Navigator Program.
- Require the DHHS to enter into a contract with a third party to provide navigator services to kinship caregivers.

- **Specify the requirements that the navigator services provider would have to meet, including consulting with the Kinship Caregiver Advisory Council on the design and continuation of the navigator program and promoting partnerships between public and private agencies to increase knowledge of the needs of kinship families, among other things.**
- **Specify the requirements that the Program would have to meet, including assisting kinship caregivers in learning about, finding, and using programs and services to meet the needs of the children they were raising and working with State, local, and nonprofit agencies that promote service coordination or provide information and referral services, among other things.**
- **Create the "Kinship Caregiver Navigator Fund" within the State Treasury and allow the State Treasurer to receive money or other assets from any source for deposit into the Fund.**

The bills are tie-barred. House Bill 5444 would take effect on October 1, 2020.

House Bill 5443 (H-1)

Definitions

Under the bill, "kinship caregiver" would mean a relative, 18 years of age or older, who 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.

"Kinship caregiver program: would mean the program created in the Kinship Caregiver Navigator Act to provide resources and services to kinship caregivers.

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

"Relative" would mean an individual, 18 years of age or older, who 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.

Membership

Under the bill, the Kinship Caregiver Advisory Council would be created within the DHHS. The Department would have to provide support and coordinated services to the Council sufficient to carry out the Council's duties, powers, and responsibilities. The Council would consist of all the following members:

- The Director of the DHHS's Children Services Agency or his or her designee.
- The Director of the DHHS's Aging and Adult Services or his or her designee.
- The Superintendent of Public Instruction, or his or her designee.
- The State Court Administrator or his or her designee.

In addition, the Council would be composed of 19 public members appointed by the Governor with the advice and consent of the Senate as follows:

- Three members who were kinship caregivers, one of whom represented kinship caregivers over 60 years old, one representing kinship caregivers in the formal child welfare system, and one representing kinship caregivers who had children informally placed with them.
- One member who was an adult and was raised by a kinship caregiver.
- Two members representing nonprofit child advocacy organizations.
- Four members representing private agencies that contract with the State to provide child welfare services, with at least one member representing agencies that make foster care placements, one member representing agencies that provide postadoption or post guardianship services, one member representing agencies that provide adoption services, and one member representing agencies that provide prevention and family preservation services.
- Two members who were licensed attorneys.
- One member representing local Area Agencies on Aging.
- One member representing all the Federally recognized tribes in the State.
- One member representing an agency that provided kinship navigation services.
- One parent who previously had a child in a kinship care arrangement but had since been reunited with that child.
- One member who had demonstrated expertise in domestic violence victim services and advocacy.

The Council also would have to consist of two members representing mental health professionals with at least one member who had expertise in dealing with adverse childhood experiences and at least one member who had expertise in substance use disorder. One member appointed as described above would have to be a licensed psychologist or psychiatrist and the other would have to be a licensed master's social worker.

The bill would require the members first appointed to the Council to be appointed within 90 days after the effective date of the Act. Public members of the Council would have to serve for terms of three years or until a successor was appointed, whichever was later, except that of the public members first appointed, six would have to serve for one year, six would have to serve for two years, and five would have to serve for three years. If a vacancy occurred on the Council, the Governor would have to make an appointment for the unexpired term in the same manner as the original appointment.

The bill would require the Governor to designate a chairperson of the Council who would have to serve in that position at the pleasure of the Governor. The Council could elect other officers and establish committees as it considered appropriate.

To the extent practicable, the Council would have to be composed of geographic, ethnic, age, and gender diversity and represent the demographic composition of the State. Every public member would have to have experience and knowledge in kinship caregiver issues.

Members of the Council could be reimbursed for actual and necessary expenses incurred in the performance of their official duties as Council members. The actual and necessary expenses and the schedule for reimbursement of those expenses would have to be the same as established annually by the Legislature for similar councils or boards that were reimbursed from the General Fund. The compensation, reimbursement, and all actual and necessary operating expenses of the Council would have to be appropriated by the Legislature.

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 would be grounds for removal.

Purpose & Powers of the Council

Under the bill, the purpose of the Council would be to do all the following:

- Study the prevalence and needs of kinship caregivers and the children they care for.
- Advocate for reform and system changes to contribute to a better coordinated, consumer friendly, and family-centered system that was responsive to the needs of kinship caregivers, the children they care for, and the legal parents of those children with an emphasis on legal issues, custody, State services, community supports and resources, and overall system changes.
- Prevent child abuse and child neglect through empowering and supporting kinship caregivers in the formal child welfare system, as well as children informally placed with kinship caregivers by relatives.

The Council could do all the following:

- Establish a public awareness campaign to educate the public about kinship caregivers and the State's efforts to better serve them.
- Consult and coordinate with the Kinship Caregiver Navigator Program to collect aggregate data on individuals served by the Program, including information on what services these individuals need.
- Consult and collaborate with the provider of the Kinship Caregiver Navigator Program on the design and administration of the 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 obtain a better understanding of the issues facing kinship families.
- Develop methods to promote and improve collaboration between State, county, and local governments and agencies, and private stakeholders to obtain a broad understanding of the characteristics and prevalence of kinship caregiving, to improve service delivery, and to include these in the Council's recommendations.

For the purposes of carrying out its duties, the bill would allow the Council to accept Federal money granted for the purposes of the bill as well as gifts, grants, bequests, or donations from individuals, private organizations, or foundations. The bill specifies that accepting or using Federal money would not commit State money and would not place an obligation on the Legislature to continue the purposes for which the Federal money was made available. The Council also could plan, manage, or conduct a campaign to solicit gifts, bequests, grants, or donations. Money received as described above 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 bill.

Kinship Caregiver Assessment

Subject to receiving funds that could be obtained through grants from nonprofit entities or other third parties or appropriations from the Legislature, the bill would require the Council to conduct an assessment on kinship caregivers and children being raised by kinship caregivers. The Council could contract with a third party to fulfill this requirement. The bill also would require the assessment to be submitted to the Council not more than 12 months after the date of its first meeting.

The assessment would have to do all 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 the 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.

Under the bill, by no later than 18 months after the date of the Council's first meeting, subject to receiving funds for the assessment as described above, the Council would have to provide an initial report to the Legislature, the Governor, the DHHS, the Foster Care Review Board Program, the Children's Trust Fund, and the Governor's Task Force on Child Abuse and Neglect. The report would have to include all the following:

- The findings of the assessment.
- Items not listed in the assessment, such as 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, related to kinship caregivers and kinship families.
- Recommendations on how to improve services, systems, programs, State law, executive policy, and administrative rules to become more responsive to kinship caregivers.

The Council would have to provide a follow up report each year to the same entities that received its initial report. The annual follow-up report would have to include all the following:

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

Meeting Requirements

The bill would require the Council to meet at least four times per year. The Council 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 its development of the Council's recommendations.

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Definitions

Under the bill, "kinship caregiver", "kinship family", and "relative" would mean those terms as defined in the proposed "Kinship Caregiver Advisory Council Act".

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

"Navigator services provider" or "provider" would mean the entity with whom the DHHS contracts under the bill to provide navigator services to kinship caregivers.

Kinship Caregiver Navigator Program

Under the bill, the DHHS would have to establish and maintain the Kinship Caregiver Navigator Program. Before participating in the Program, the DHHS would have to submit to the United State Department of Health and Human Services Administration on Children, Youth and Families an attachment to the State Title IV-E plan. The attachment would have to include, at a minimum, all the following:

- The kinship navigator model the DHHS would have to USE to create the Program; the DHHS would have to provide assurance that the model met the requirements of Federal law.
- The date the Program began or would begin.
- Information describing the Program target population and service area.
- Information on how the DHHS would implement the Program.

(Title IV-E of the Social Security Act authorizes the Federal Foster Care Program. States participating in the Program must submit and receive approval for a Title IV-E plan to be awarded funding through the Program.)

The bill would require the DHHS to enter into a contract with a third party to provide the navigator services to kinship caregivers. In addition to providing the 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 have to provide, at a minimum, information on 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 considered 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 navigator services provider would have to establish and maintain a single statewide toll-free telephone number for kinship caregivers to call for information or services.

Navigator Service Provider

Under the bill, the navigator services provider would have to do all the following:

- Consult with the Kinship Caregiver Advisory Council on the design and continuation of the navigator program.
- Consult with the Council on developing outreach and educational material to provide to 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, which would include working with other navigation systems for foster care and adoption, as well as for general information and referral systems.
- Develop training material for navigators that was based on industry best practices.

In addition, the navigator services provider would have to share aggregate data with the Council regarding who was being served under the Program and what services were being provided. The provider could not share information on individual identification.

The bill would allow the navigator services provider to do all the following:

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

Navigator Program

Under the bill, the navigator program would have to do all the following:

- Assist kinship caregivers in learning about, finding, and using programs and services to meet the needs of the children they were raising.
- Work with State, local, and nonprofit agencies that promote service coordination or provide information and referral services.
- Comply with all Federal regulations and statutes to qualify for reimbursement of 50% of the costs for the kinship caregiver navigator program.

In addition, the program would have to 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 information and referral systems would have to include eligibility and enrollment information, relevant training to assist kinship caregivers in caregiving, and connection to legal aid and assistance providers.

Kinship Caregiver Navigator Fund

The bill would create the Kinship Caregiver Navigator Fund within the State Treasury and allow the State Treasurer to receive money or other assets from any source for deposit into the Fund. The Treasurer would have to direct the investment of the Fund and credit to it interest and earnings from Fund investments. The DHHS's Children's Services Agency would be the administrator of the Fund for auditing purposes and would have to spend money from the Fund, upon appropriation, only for the purpose of carrying out the bill's provisions.

Money in the Fund at the close of the fiscal year would have to remain in the Fund and could not lapse to the General Fund.

Legislative Analyst: Tyler VanHuyse

FISCAL IMPACT

House Bill 5443 (H-1)

The bill would have a negative fiscal impact on the DHHS and no fiscal impact on local units of government.

The bill would require the DHHS to provide support and coordinated services to the Council sufficient to carry out its duties, powers, and responsibilities. As the bill lists several areas of purpose that the proposed Council would have to act upon, the cost to provide support and coordinated services is uncertain but could be significant depending on the extent to which the DHHS interpreted providing support and coordinated services. The DHHS has estimated the initial cost of the Council at up to \$200,000 of Gross appropriations for incremental staffing costs.

Additionally, the bill would allow members to be reimbursed for actual and necessary expenses in the performance of their official duties. The bill would require those actual and necessary expenses and the schedule for reimbursement of those expenses to be the same as established annually by the Legislature for similar councils or boards. The amount that would be available for these reimbursements is uncertain as no schedule for reimbursement established by the Legislature is available.

For reference, the table below shows a selection of councils, boards, and commissions under the DHHS umbrella.

<u>DHHS Board, Commission, Councils, and Task Forces</u>
Behavioral Health Advisory Council
Cancer Genomics Program Steering Committee
Certificate of Need Commission
Child Abuse, Neglect and Prevention Board (Children's Trust Fund)
Child Lead Exposure Elimination Commission
Child Welfare Partnership Council
Community Action & Economic Opportunity
Coronavirus Task Force on Racial Disparities
Crime Victim Services Commission
Developmental Disabilities Council
Disability Health Advisory Council
Domestic and Sexual Violence Prevention and Treatment Board
Emergency Medical Services Coordination Committee
Governor's Task Force on Child Abuse and Neglect
Guy Thompson Parent Advisory Council (GTPAC)
Health Information Technology Commission
Human Trafficking Health Advisory Board
Institutional Review Board
Medical Care Advisory Council
Mental Health Diversion Council
Michigan Commission on Services to the Aging
Michigan Committee on Juvenile Justice
Michigan Community Service Commission
Michigan County Social Services Association
Michigan Health Equity Steering Committee
Michigan Health Information Technology Commission
Michigan Interagency Migrant Services Committee
Michigan Pharmacy and Therapeutic Committee
Michigan State Council for Interstate Juvenile Supervision
Michigan Stroke Systems of Care Committee
Michigan Suicide Prevention Commission
Public Health Advisory Council
Recipient Rights Advisory Committee
Sexual Assault Evidence Kit Tracking and Reporting Commission

This is believed to be a comprehensive list of all boards, commissions, councils, and task forces that are housed within the DHHS.

The total annual costs for the operation of these boards, commissions, and councils is not available; however, the DHHS did provide information for a possible comparison for the proposed Council: the Governor's Task Force on Child Abuse and Neglect. The Task Force is estimated to spend \$400,000 of Gross appropriations annually to convene a conference and other forums, underwrite systems training provided by the State Court Administrative Office, conduct surveys, staff support, and reimbursement for food and mileage for members.

The bill also would require an assessment on kinship caregivers and children being raised by kinship caregivers to be completed. The DHHS estimates that this assessment would cost approximately \$500,000 in Gross appropriations for a longitudinal study of children in care. The bill would allow funding for the assessment to be provided by grants from nonprofit entities, other third parties, or appropriations from the Legislature.

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The bill would have a modest fiscal cost on the State and no fiscal impact on local units of government. Since the Michigan Department of Health and Human Services has an existing contract with a kinship caregiver navigator program, the bill would codify an existing DHHS program. The existing contract for the Kinship Navigator Program with the Kinship Care Resource Center at Michigan State University School of Social work is approximately \$427,700 of Gross appropriations for fiscal year 2019-2020. The DHHS estimates that under the requirements of the bill, a Kinship Caregiver Navigator Program would cost between \$400,000 and \$500,000 in Gross appropriations for future fiscal years.

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.