

SFA

BILL ANALYSIS

Senate Fiscal Agency

Lansing, Michigan 48909

(517) 373-5383

House Bill 4366 (as reported without amendment)

House Bill 4367 (Substitute H-3)

House Bill 4368 (Substitute H-1)

Sponsor: Representative Glenn Oxender

House Committee: Judiciary (H.B. 4366)

House Committee: Public Health (H.B. 4367)

House Committee: Education (H.B. 4368)

Senate Committee: Education and Mental Health

Date Completed: 6-3-87

RECEIVED**JUL 20 1987**

Mich. State Law Library

RATIONALE

Reportedly, although most missing children are runaways, a significant number of missing children are kidnapped by their noncustodial parents: estimates of the number of kidnapped children range from 25,000 to 700,000 a year nationwide. A program established in Illinois, called "I Search", has found that the result of parental abduction often is physical or sexual abuse on child neglect that leads to immediate and long-term psychological problems. While recovery of these missing children is essential to their health and well being, tracing children kidnapped by their noncustodial parents often is difficult. Currently in Michigan, reports of a missing child are entered into the Law Enforcement Information Network. There is no requirement, however, that identifying information and notice of a missing child be forwarded to the State registrar (who administers the State system of vital statistics) and the last known school district of the child. Illinois' "I Search" program tracks missing children by tagging certain vital records, such as birth certificates and school records, so that authorities are alerted when the records of a child reported as missing are requested for an official purpose, such as a parent's enrolling a kidnapped child in a new school district. If the birth or school records were tagged as belonging to a missing child, a request for records would be a valuable clue for law enforcement officials. Some people believe a program of tagging vital birth and school records as well as forwarding information on a missing child to the State Registrar and the child's last known school district would be an important step in the efforts to locate the approximately 15 children reported daily as missing in the State.

CONTENT

House Bill 4366 would amend Public Act 319 of 1968, which provides for a uniform crime reporting system, to provide that when a child is reported missing to a law enforcement agency, the agency would be required to enter information into the Law Enforcement Information Network (LEIN) on the child's birth date, place of birth, and mother's maiden name in addition to data already required by the Act. If 14 days elapsed since the law enforcement agency received the report of a missing child, the agency would be required to notify the State registrar and the child's last known local school district, if there were reason to believe that the child was enrolled in a school district in the State. The bill also would

provide for notification of the registrar and school district for children missing prior to the effective date of the bill.

House Bill 4367 (H-3) would amend the Public Health Code to:

- Require State and local registrars to tag a birth certificate, or appropriate document, of a person under 17 years of age who was born in the State and was reported missing.
- Provide for the issuance of a copy of a tagged certificate and notification of the State Police upon receipt of a request for a copy of a tagged document.
- Provide for removal of the tag upon cancellation of information regarding a missing person, who was under 17 years of age.

House Bill 4368 (H-1) would amend the School Code to:

- Require a local or intermediate school district to tag the record of a missing student, who was under 17 years of age, upon notification by a law enforcement agency.
- Provide for the removal of the tag upon cancellation of information regarding a missing student or after a student became 18 years of age.
- Require that a copy of a birth certificate or other "reliable proof" be supplied to the school district after enrollment of a student for the first time in that district, and provide for notification of a local law enforcement agency, if this requirement were not met.
- Require a school to request the records of a transfer student from that student's previous school and require the school to notify a local law enforcement agency if the record were tagged pursuant to the bill.
- Prohibit a school district from disclosing certain information to a law enforcement agency, except in compliance with the Federal Family Education Rights and Privacy Act.

House Bills 4366, 4367 (H-3), and 4368 (H-1) are tie-barred.

House Bill 4366Reporting a Missing Child

If a person is reported missing, the law enforcement agency receiving the report currently is required immediately to enter certain information, outlined in the Act, to the Law Enforcement Information Network and the

H.B. 4366-4368 (6-3-87)

OVER

National Crime Information Center. That information includes, among other data, the vital statistics and physical description of the person. If the missing person were a child, the bill would require the child's date of birth, place of birth, and mother's maiden name also to be included.

Notifying the Registrar, School District

If 14 days elapsed since the law enforcement agency received a report that a child born in the State was missing and the agency had not been notified of the child's return, the agency would be required to broadcast certain information to the registrar through the registrar's restricted access LEIN terminal. "Registrar" would mean the State registrar as defined in the Public Health Code.

If 14 days elapsed since the law enforcement agency received a report of a missing child, and the agency had not been notified of the child's return, the agency, if it had reason to believe that a missing child could be enrolled in a school district in the State, would be required to give written notice to the child's last known local or intermediate school district that the child was missing, and to provide the school district with the information required in the bill.

A parent or legal guardian of a child who was missing prior to the effective date of the bill could notify a law enforcement agency that he or she wanted the registrar and school district notified pursuant to notification provisions in the bill. Upon receiving the request, the law enforcement agency would be required to proceed with the bill's provisions on notification of the registrar and the child's last known school district.

If the information on a missing child were entered into LEIN, the law enforcement agency that entered the information would be required to inform the registrar and school district of the cancellation.

MCL 28.258

House Bill 4367 (H-3)

Tagging Birth Certificates

The bill would amend the Public Health Code to require that upon notification that a person less than 17 years of age who was born in the State was missing, the State registrar would be required immediately to tag the birth certificate of that person in a manner that would alert the registrar that the birth certificate was that of a missing child. The State registrar would be required immediately to notify the appropriate local registrars to tag similarly the birth certificate, or appropriate document, of the missing child. The State registrar also would be required to check to see if a request for a copy of the missing child's birth certificate had been received within 14 days preceding the tagging of the birth certificate. If a request had been received, the State registrar would be required immediately to notify the State Police of the request.

The State registrar could access LEIN to obtain from the law enforcement agency reporting the missing person information necessary to provide a positive match between the missing person's LEIN entry and the missing person's certificate. Upon notification by the State registrar pursuant to the bill, the local registrar would be required immediately to tag the birth certificate, or appropriate document, of a missing child in a manner that would alert the registrar that the birth certificate was that of a missing child.

Upon notification that the information entered into LEIN regarding a missing child had been canceled, the State registrar would be required to remove the tag from the child's birth certificate no later than seven days after receiving the notice. Upon removal of the tag, the State registrar would be required to notify immediately the local

registrar who would be required to remove the tag from the missing child's birth certificate, or appropriate document, no later than seven days after receiving notice from the State registrar.

Requests for Copies

If a missing child's birth certificate were tagged, the State and local registrar would only be able to issue by mail a copy of the missing child's birth certificate, certificate of registration, or otherwise verify, certify, or provide information concerning the items indicated in the Code. The mailed document would be required to have the phrase "missing person" marked on the face of the document and could not be mailed until at least 72 hours had passed from the time the registrar notified the Department of State Police.

A local registrar would be required to telephone immediately the State registrar upon receipt of a request for a tagged record and would be required to provide to the State registrar, as soon as possible, a copy of the written request and any pertinent information such as the requester's name, address, and, if requested in person, the requester's driver's license number. If the State registrar received a request for a record that was tagged or the local registrar notified the State registrar of the receipt of a request for a tagged record, the State registrar would be required immediately to telephone the State Police and would be required to provide to the State Police, as soon as possible, a copy of the written request and any pertinent information such as the requester's name, address, and, if requested in person, the requester's driver's license number. The State Police would be required to notify immediately the appropriate law enforcement agency of a request for a tagged record and would be required to forward to that agency the information received from the registrar.

Proposed MCL 333.2889 and 333.2890

House Bill 4368 (H-1)

Tagging School Records

The bill would amend the School Code to require that upon notification by a law enforcement agency that a student less than 17 years of age was missing, a local or intermediate school district would be required to tag the record of the missing student in a manner that would alert the local or intermediate school district to the fact that the record was that of a missing person. (A "local school district" would mean a local school district or local act school district that required records to be compiled for each student in the district. An "intermediate school district" would mean an intermediate school district that served a student who did not have a record at the local school district, but did have a record at the intermediate school district.)

Upon notification by a law enforcement agency that the information entered into LEIN regarding a missing student had been canceled, the local or intermediate school district would be required to remove the tag from the student's school record no later than seven days after receiving the notice from the law enforcement agency. The local or intermediate school district would be required to remove the tag on a missing student's school record as soon as possible after the student became 18 years of age.

Transfer Students

Upon enrollment of a student for the first time in a local or intermediate school district, the district would be required to notify in writing the person enrolling the student that within 30 days he or she would be required to provide to the local or intermediate school district either a certified copy of the student's birth certificate, or "other reliable

MORE

proof", as determined by the school district, of the student's identity and age, and an affidavit that explained the inability to produce a copy of the birth certificate.

If a person enrolling a student failed to comply with this provision, the local or intermediate school district would be required to notify in writing the person enrolling the student that unless he or she complied within 30 days of notification, the case would be referred to the local law enforcement agency for investigation. If the person enrolling the person failed to comply within the 30-day period, the local or intermediate school district would be required to notify the local law enforcement agency. The local or intermediate school district would be required to report immediately to the local law enforcement agency any affidavit that appeared inaccurate or suspicious in form or content.

Within 14 days after enrolling a transfer student, the school would be required to request in writing directly from the student's previous school a copy of his or her school record. Any school that compiled records for each student in the school and that was requested to forward a copy of a transferring student's record to the new school would be required to comply within 30 days after receipt of the request unless the record had been tagged. If a student record had been tagged, a copy of the record could not be forwarded, and the requested school would be required to notify the law enforcement agency that notified the school district of the missing child.

Disclosure of Information

A local or intermediate school district would not be allowed to disclose any "personally identifiable information" contained in a student record to a law enforcement agency, except in compliance with the Federal Family Educational Rights and Privacy Act.

Proposed MCL 380.1134 and 380.1135

FISCAL IMPACT

House Bill 4366

The bill would have an indeterminate fiscal impact on State and local government.

Any costs that were incurred by a local law enforcement agency by requiring notification in writing to last known school district or State registry would be a mandated cost and require State reimbursement. The total costs would be dependent on the number of children reported missing annually. This cannot be estimated at this time.

House Bill 4367 (H-3)

This bill would result in an increase of at least \$35,000 in State costs and an indeterminate increase in local costs.

The Office of State Registrar indicates that additional costs to hire a clerk and install and maintain a Law Enforcement Information Network (LEIN) terminal would be incurred. These costs are estimated at \$35,000 per year.

Local registrars, especially those in large urban areas, would have increased responsibilities. It is not possible to estimate the level of costs associated with the additional responsibilities. Given the tax limitation provisions of the Michigan Constitution (Article 1X Section 29), these additional costs may need to be assumed by the State.

House Bill 4368 (H-1)

House Bill 4368 would have no fiscal impact on State government. Local and intermediate school districts should be able to accommodate most of the record keeping provisions of the bill with a minimum of new cost. However,

the bill's requirement that a transfer student's prior school records be forwarded to the student's new school within 30 days of a records request, could result in some school districts' having to expedite their records transfer process, with indeterminate effects on school districts' record transfer costs.

ARGUMENTS

Supporting Argument

The problem of missing children is serious Statewide as well as nationally. Missing children — whether runaways, "throwaways" (children abandoned by their parents), or kidnapped — are at significant risk of being harmed, physically and psychologically. The sooner a missing child can be located and appropriately helped, especially when runaways are fleeing abusive homes, the better the chance that damage to the child can be minimized.

Although missing child reports are entered into the Law Enforcement Information Network (LEIN), there is no State requirement that notification of a missing child be forwarded to the State registrar or that this information be included on copies of the birth certificates of these children. If birth certificates of missing children were tagged, requests for copies of these certificates could provide valuable information for locating the child in question. Under the bills, requests for official information (such as birth certificates or school records) would automatically alert authorities, who could then try to trace the child by tracing the requestor.

Similar record keeping requirements are part of Illinois' missing children program which has been credited with enabling authorities to find a number of missing children within the past several years. Michigan, too, should establish such record keeping so as to protect the best interests of its children.

Supporting Argument

House Bill 4368 (H-1) proposes a method of alerting school officials and law enforcement agencies when requests are made for certain records of children who have been reported as missing, by requiring the tagging of the school records of missing children and the notification of law enforcement officials when requests were made for the records. This would not be a cumbersome requirement for school officials, since a school district is not likely to have many missing children reports. Missing children, whether runaways, abandoned children, or those kidnapped, face the risk of serious physical and psychological harm, and the sooner a missing child can be located and helped the better. The record tracing requirements in this bill and in House Bills 4366 and 4367 (H-3) are similar to those found in Illinois' missing children program.

Opposing Argument

More information is needed concerning the benefits of the proposed record keeping requirements, relative to the time and expense of transferring information between various State and local departments. For example, the State Police estimate that if they held all missing children reports for two weeks and then transmitted those that had not been canceled, this still would involve transmitting 30 messages a day. Even if transfers were done by computer, provided that the State registrar obtained a restricted LEIN terminal, there would be additional costs of computer rental and time. In addition, the amount of telephoning required of city and county clerks could be considerable in relation to the benefit of this approach to locating missing children.

Opposing Argument

A similar system, as proposed in House Bill 4367, is in place in Illinois. At present, officials in that state tag and untag approximately 34,000 records per year. To date, only two children have been located through the tagging process. The Illinois State Police reportedly estimate that between 70% to 90% of the cases reported to them each month are resolved through other means within three weeks. It may be more efficient to tag records only for children reported and not located within three to four weeks, instead of the proposed two weeks.

Opposing Argument

Some school officials have questioned whether House Bill 4368 (H-1) could conflict with Federal privacy laws by requiring the release of the name of a student, which is information from a student's record, without parental consent. A similar concern has been voiced about the transmission of student records from one school district to another, as the bill would require.

Legislative Analyst: L. Arasim

Fiscal Analyst: G. Owen (H.B. 4366)

C. DeRose (H.B. 4367)

N. Johnson (H.B. 4368)

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.