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SFA



BILL ANALYSIS

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Senate Bill 503 (as passed by the Senate)
Sponsor: Senator Jon Cisky
Committee: Families, Mental Health and Human Services

Date Completed: 5-16-97

RATIONALE

The Child Protection Law (CPL) requires various professionals, such as teachers, health care workers, and child care providers, to report suspected cases of child abuse or neglect to the Family Independence Agency (FIA). Within 24 hours, the FIA must begin an investigation or, in certain cases, send a copy of the report to the prosecuting attorney. The FIA also must seek the assistance of law enforcement officials in cases involving a child's death, suspected sexual abuse or exploitation, severe physical injury, or the need to protect the child or another person, or if the alleged perpetrator is not a person responsible for the child's health or welfare. The CPL requires the cooperation of law enforcement officials, and requires the prosecuting attorney in each county and the FIA to develop and establish procedures for involving law enforcement officials.

In 1992, the Governor's Task Force on Children's Justice was created pursuant to Federal legislation to respond to challenges involved with child abuse cases in Michigan. Subsequently, the Task Force developed and adopted a model protocol for the handling of these cases. The protocol applies to the situations in which the FIA is required to seek the assistance of law enforcement officials when conducting an investigation. According to a report of the Task Force's Policy and Training Committee, "This protocol is designed to be adapted at the local level, county by county, applying...guidelines for developing community-based interagency child abuse protocols... It is intended that this protocol shall serve as a minimum standard for investigations and should be expanded at the local level."

The implementation of the model protocol in each county was among the priority recommendations of the Lieutenant Governor's Children's Commission, which was created by Executive Order 1995-12. This recommendation was made to effect the

Commission's goal of "ensur[ing] the coordination of investigation between Protective Services and law enforcement for the further protection of children in suspected sexual abuse, or abuse and/or neglect resulting in physical injury."

CONTENT

The bill would amend the Child Protection Law to require that the Family Independence Agency, county child protection officials, prosecuting attorneys, and local law enforcement officials adopt and implement standard child abuse and neglect investigation and interview protocol, using as a model the protocol developed by the Governor's Task Force on Children's Justice. Also, the CPL requires that, in each county, the prosecuting attorney and the FIA "develop and establish procedures" for involving law enforcement officials in a child abuse and neglect investigation. The bill provides, instead, that in each county, the prosecuting attorney and the FIA would have to adopt and implement the protocol developed by the Governor's Task Force on Children's Justice for involving law enforcement officials in an investigation.

In addition, the CPL requires schools and other institutions to cooperate with the FIA during an investigation of a report of child abuse or neglect, and specifies that cooperation includes allowing access to the child without parental consent "if access is necessary to complete the investigation or to prevent abuse or neglect of the child". The bill specifies that the question of whether access to the child without parental consent was necessary to complete the investigation or prevent abuse or neglect would be determined by the FIA.

MCL 722.628

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

According to the model protocol's statement of purpose, "The development of this protocol grew out of the increased awareness among professionals that children are 'special' and require a different approach from adults. It is also recognized that there is a greater need for coordination of services for physically and sexually abused children and their families." The protocol further states, "...the overriding philosophy of this protocol is to consider first and foremost *what is best for the child* while ensuring the rights of the accused". The listed goals of the protocol are: 1) to ensure that child abuse cases are properly and efficiently investigated and prosecuted; 2) to provide protection, treatment, and continuing support for abused victims and their family members; 3) to gain improved cooperation among professionals and agencies to develop a common goal of improved management of child abuse cases; 4) to increase awareness and reporting of child abuse cases; and 5) to reduce trauma to the child victim by ensuring that all professionals covered by the protocol are properly trained. The model protocol also contains separate sections on reporting child sexual abuse and physical abuse; coordinated investigative team approach; prosecutors; child protective services and police investigations; medical personnel; mental health personnel; school personnel; and general principles.

The Lieutenant Governor's Children's Commission reported that, although the Child Protection Law mandates the FIA to seek the assistance of law enforcement officials, this joint investigation often does not occur, and even when it does, protocol regarding roles and responsibilities is not in place in many counties. The Commission also heard testimony that some child protective service workers, while charged with investigating cases, have not been properly trained to do so. In addition, the Commission found that the CPL's requirement that prosecutors and the FIA develop and establish procedures for involving law enforcement officials, is not implemented uniformly across the State. To address these and other issues, the Commission recommended the adoption of the model child abuse protocol developed by the Governor's Task Force on Children's Justice.

Statutorily mandating the adoption and implementation of investigation and interview protocols would provide consistency and direction to local communities. According to the FIA, the model protocol already has been offered statewide through Task Force funding in cooperation with the Prosecuting Attorneys Association of Michigan.

Opposing Argument

As the FIA has pointed out, there might be concerns that including a specific model in statute could limit the use of other models as research and practice develop improved models in the future.

Legislative Analyst: S. Margules

FISCAL IMPACT

State Government

The bill could have an indeterminate fiscal impact on State government. The Family Independence Agency developed, established, and implemented at the local level the model several years ago and currently encourages the other agencies to adopt and implement the protocol at the local level. However, the FIA could incur the cost of increased complaint investigations. In FY 1994-95, the number of child abuse and neglect complaints was 124,000. Complaints investigated totaled 57,914, and 12,194 were substantiated.

Local Government

The bill would have an indeterminate impact on local government. Certain activities would be required of local government agencies and therefore possibly result in an increase in local expenditures. There could be more cases reported to FIA children's protective services workers and local law enforcement agencies. This would increase local law enforcement and prosecutors' staff time, as well as the medical examinations or hospital admissions at county and city facilities that would be required upon suspicion or identification of the occurrence of abuse. Local agencies would be under a State mandate to provide services and possibly bear the increased costs.

Fiscal Analyst: C. Cole

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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.