



Senate Fiscal Agency  
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BILL ANALYSIS



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Senate Bill 1116 (as enrolled)  
House Bills 5843, 5844, and 5930 (as enrolled)  
Sponsor: Senator Bill Hardiman (S.B. 1116)  
Representative Tom Casperson (H.B. 5843)  
Representative Rick Baxter (H.B. 5844)  
Representative Tonya Schuitmaker (H.B. 5930)  
Senate Committee: Families and Human Services  
House Committee: Family and Children Services

**PUBLIC ACT 256 of 2006**  
**PUBLIC ACTS 263, 264, & 266 of 2006**

Date Completed: 8-16-06

### **RATIONALE**

Methamphetamine, or meth, is a synthetic stimulant that has become a problem in Michigan and across the country. The drug reportedly has effects similar to those of cocaine, but much longer lasting, since meth is not as easily broken down by the body. Depending on the method of ingestion, a meth high can last as long as three days. In some cases, meth addicts have been known to neglect their children, sometimes forgetting to feed, clothe, or bathe them for days at a time or longer.

One of the primary ingredients in meth is pseudoephedrine, commonly found in over-the-counter cold medicines, but other hazardous chemicals are used in manufacturing the drug, including benzene, ether, toluene, anhydrous ammonia, red phosphorous, iodine, and reactive metals. The chemical processes used to make meth can create hazardous fumes and dangerous byproducts that can contaminate an entire building, including the walls, ceilings, floors, and furnishings. Groundwater or drinking water can be contaminated as well. Since the process is illegal and most meth producers are not trained to handle such dangerous chemicals, they rarely take adequate precautions or use the proper safety equipment to contain fumes or the hazardous waste products. Children living in homes where meth is produced often are exposed to a highly toxic environment, where their clothes, blankets, and toys may be contaminated.

The Child Protection Law (CPL) requires certain professionals (including physicians, nurses, psychologists, social workers, teachers, members of the clergy, and regulated child care providers) to report to the Department of Human Services (DHS) if they have reasonable cause to suspect child abuse or neglect. When a report is made, the DHS and law enforcement agencies are subject to various reporting and investigative requirements, including requirements that they report to each other if a report or investigation involves evidence of criminal child abuse or sexual misconduct. Some believe that the CPL also should require such communication in cases involving children who may have been exposed to methamphetamine production. Reportedly, the DHS and law enforcement agencies often notify each other in these cases, but there was no statutory requirement to do so. It also was suggested that the CLP should require referral to a prosecuting attorney and medical evaluations in cases involving children who have been exposed to meth production.

### **CONTENT**

**The bills amended the Child Protection Law to do the following:**

**-- Require reporting and investigation by the Department of Human Services and law enforcement agencies if a report or investigation of child abuse indicates a drug lab violation involving meth, or if there is**

**evidence that a child has been exposed to meth production.**

- Require the DHS to submit a petition for family court jurisdiction over a child who was allowed to be exposed to or have contact with meth production.**
- Require the DHS to refer a central registry case to the prosecuting attorney if it involves a child's exposure to meth production, and require the prosecutor to review the investigation of the case.**
- Require the DHS to have a medical evaluation made without a court order if a child is suspected of being exposed to meth production.**

The bills took effect on July 6, 2006.

### **House Bill 5844**

Under the CPL, if an allegation, written report, or subsequent investigation of suspected child abuse or child neglect indicates that a violation of the Michigan Penal Code involving child abuse and child sexually abusive activity, or criminal sexual conduct (CSC), has occurred, the DHS must transmit a copy of the allegation or written report and the results of any investigation to a law enforcement agency in the county where the incident occurred.

Under the bill, this requirement also applies if an allegation, written report, or subsequent investigation indicates that a violation of Section 7401c of the Public Health Code involving methamphetamine has occurred. (Section 7401c prescribes criminal penalties for owning, possessing, or using a vehicle, building, or place used to manufacture a controlled substance, counterfeit substance, or controlled substance analogue in violation of the Code; owning or possessing any chemical or laboratory equipment used for that purpose; or providing any chemical or lab equipment to another person who intends to use it for that purpose.)

The bill also requires the DHS immediately to contact the law enforcement agency in the county in which the incident occurred, if the Department, in conducting an investigation of child abuse or neglect, suspects that a child has been exposed to or has had contact with meth production.

Under the CPL, if a local law enforcement agency receives an allegation or written report of suspected child abuse or child neglect and the allegation, report, or subsequent investigation indicates that the abuse or neglect was committed by a person responsible for the child's health or welfare, the law enforcement agency must refer the allegation or provide a copy of the written report and the results of any investigation to the DHS. The bill requires a law enforcement agency to do the same if it discovers evidence of or receives a report of an individual allowing a child to be exposed to or to have contact with meth production, and the allegation, report, or investigation indicates that a person responsible for the child's health or welfare allowed the child to be exposed to or have contact with meth production.

The CPL also requires the law enforcement agency to send a copy of the report or the results of the investigation to the child care regulatory agency having authority over a child care provider, if the allegation, report, or investigation indicates that the individual who committed the suspected abuse or neglect is a child care provider and the law enforcement agency believes that the report has basis in fact. Under the bill, this also applies if a child care provider is suspected of allowing a child to be exposed to or have contact with meth production.

### **Senate Bill 1116**

Under the CPL, within 24 hours after receiving a report under the Law, the DHS must refer the report to the prosecuting attorney if it indicates that a violation of the Michigan Penal Code involving child abuse and child sexually abusive activity, or CSC, has occurred, or that the suspected child abuse or neglect was committed by an individual who is not a person responsible for the child's health or welfare. Also, within 24 hours after receiving such report from either the reporting person or the DHS, the local law enforcement must refer it to the Department or begin an investigation.

Under the bill, these requirements also apply if a report indicates that a violation of Section 7401c of the Public Health Code involving methamphetamine has occurred, or that a child has been exposed to or has had contact with meth production.

The CPL requires the DHS or law enforcement agency to inform the child's parent or guardian of the investigation, if the child suspected of being abused is not in the physical custody of the parent or legal guardian and informing the parent or guardian would not endanger the child's health or welfare. Under the bill, this also applies to a child who is suspected of being exposed to, or who has had contact with, meth production.

Under the CPL, within 24 hours of determining that a child was severely physically injured or sexually abused, the DHS must submit a petition requesting that the Family Division of the Circuit Court (family court) take jurisdiction over the case under Section 2(b) of the juvenile code. The bill extends this requirement to cases in which a child was allowed to be exposed to or have contact with meth production.

(Section 2(b) grants the family court jurisdiction in proceedings involving a juvenile under the age of 18 whose parent or legal guardian neglects to provide proper or necessary support, education, medical, surgical or other necessary care; who is subject to a substantial risk of harm to his or her mental well-being; who is abandoned by his or her parents or guardian; or who is without proper custody or guardianship. The court also has jurisdiction over a juvenile whose home or environment is an unfit place to live in because of a parent's or guardian's neglect, cruelty, drunkenness, criminality, or depravity; or whose parent has substantially failed, without good cause, to comply with a limited guardianship plan or a court-structured plan.)

### **House Bill 5843**

The CPL requires the Department of Human Services to maintain a statewide, electronic central registry to carry out the intent of the Law. "Central registry" means the system maintained by the DHS that is used to keep a record of all reports filed with the Department pursuant to the CPL in which relevant and accurate evidence of child abuse or neglect is found to exist. "Central registry case" means a child protective services case that the DHS classifies as Category I or Category II.

(A Category I case is one in which the DHS determines that there is evidence of child

abuse or neglect and one or more of the following are true: a court petition is required under another provision of the CPL; the child is not safe and a petition for removal is needed; the DHS previously classified the case as Category II and the child's family does not voluntarily participate in services; or there is a violation, involving the child, of a crime specified in the Law. A Category II case is one in which the DHS determines that there is evidence of child abuse or neglect and there is a high or intensive risk of future harm to the child.)

Under the bill, if a central registry case involves a child's exposure to or contact with methamphetamine production, the DHS must refer the case to the prosecuting attorney for the county in which the child is located. The prosecuting attorney must review the investigation of the case to determine whether it complied with the protocol adopted as required by Section 8.

(Section 8 requires the prosecuting attorney and the DHS, in each county, to adopt and implement standard child abuse and neglect investigation and interview protocols, as well as procedures for involving law enforcement officials.)

### **House Bill 5930**

Under the CPL, when a child suspected of being abused or neglected is seen by a physician, the physician must make the necessary examinations of the child and summarize the results in the physician's written report to the DHS. If the report is incomplete or if a report is made by someone other than a physician, the DHS may request a court order for a medical evaluation of the child. The Law requires the DHS to have a medical evaluation made without a court order if the child's health is seriously endangered and a court order cannot be obtained.

The bill also requires the DHS to have a medical evaluation made if the child is displaying symptoms suspected to be the result of exposure to or contact with methamphetamine production.

MCL 722.628 & 722.637 (S.B. 1116)  
722.628b (H.B. 5843)  
722.623 (H.B. 5844)  
722.626 (H.B. 5930)

## **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**

A meth lab in a home can have many harmful effects on children, both physical and emotional. Children exposed to meth production reportedly can develop respiratory ailments, brain or organ damage, or other serious health conditions. Children, who are still growing, are more susceptible than adults are to the harmful health effects of these substances. The poisonous chemicals from meth production can contaminate the air, water, and everything in a house, creating a toxic environment for children. Many of the materials used to produce meth are highly flammable. If they are heated too quickly during the cooking process, the meth lab can catch fire or explode, potentially burning down the house or building where the lab is located. Children living where meth is produced also are subjected to the risks that come from being near firearms and the violent encounters that can be an aspect of daily life of meth makers and users.

In addition, parents using or cooking meth may not be in the proper frame of mind to care for their children. Meth can induce paranoia, anxiety, and psychotic episodes, and in some cases can cause parents to neglect their children altogether. Because of the multiple dangers to children living in homes where meth is being produced, law enforcement agencies and the DHS should be notified and work together when children are discovered in these situations. Clear and effective communication between agencies is necessary to protect the best interests of the children and to pursue the appropriate legal action. Under the bills, the DHS must notify law enforcement agencies when investigations of abuse uncover evidence of a meth lab in a home, and law enforcement agencies must notify the DHS if they uncover a meth lab where children are present. Although such communication generally occurs in these circumstances, the bills put a requirement into statute, to ensure that children are safeguarded and emphasize the importance of protecting children exposed to meth production.

The bills also will ensure that children who have been exposed to meth production receive a medical evaluation, that these cases are brought before the family court, and that prosecutors are informed of abuse and neglect cases involving meth exposure or meth lab offenses.

Legislative Analyst: Suzanne Lowe

## **FISCAL IMPACT**

### **Senate Bill 1116 and House Bills 5843 and 5844**

The bills will have no fiscal impact on State or local government. The changes apparently codify existing practice of the Department of Human Services.

### **House Bill 5930**

The bill will lead to an indeterminate increased cost for State government. The requirement will increase the number of children subject to physical examinations under the protective services program. In the majority of cases, the child will receive a Medicaid (Medical Services) card and the cost will be directly billed to Medicaid. The State is responsible for about 43% of Medicaid costs.

Fiscal Analyst: Constance 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.