

CHILD PROTECTION LAW AMENDMENTS

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House Bill 4893

Sponsor: Rep. Margaret E. O'Brien

Committee: Families, Children, and Seniors

Complete to 10-7-13

A SUMMARY OF HOUSE BILL 4893 AS INTRODUCED 7-8-13

The bill would amend the Child Protection Law (MCL 722.622 et al.) to do the following:

- Include the term "court-operated facility" as approved under Section 14 of the Social Welfare Act within the definition of a "person responsible for child's health or welfare."
- Require the Department of Human Services to send notice of suspected child abuse or neglect to each person named in the record as a perpetrator by registered or certified mail, return receipt requested, and delivery restricted to the addressee. The underlined language is new.
- Rewrite a provision that allows a written report, document, or photograph filed with the department (which would otherwise be confidential) to be available to a labor union representative of the department employee's bargaining unit actively representing the employee in a disciplinary action, or to an arbitrator or administrative law judge conducting a hearing involving the employee's dereliction, malfeasance, or misfeasance of duty, to be used solely in connection with that action or hearing. Current language allows an agency obtaining a confidential record to seek a court order allowing it to disseminate to a recognized labor union representative. The current language would be struck and replaced with the language described above.

Under the bill, a person to whom information is disclosed under this provision could not further disclose information and would be required to return any written information within 10 days of the conclusion of the action or hearing. A labor union that fails to properly return written information forfeits the authority to receive information until the previously provide information is returned.

- Allow a person who is the subject of a report or record to request the department to hold a hearing to review the request for amendment or expunction of a report or record. The request must be made within 90 days of the service of notice of the right to a hearing. If the request is made within the deadline, the department would have to hold a hearing to determine by a preponderance of the evidence whether the report in whole or in part should be amended or expunged from the central registry. (This replaces the current two-step process whereby a person

requests an amendment or expungement and then, if denied, can request a hearing.)

- Allow the department, for good cause, to hold a hearing if it determines that the person who is the subject of the report or record submitted the request for a hearing within 60 days after the 90-day notice period expired.
- Specify that information in a report be expunged from the central registry if the investigation of a report does not show abuse or neglect by a preponderance of the evidence, or if the court dismisses a petition based on the merits of the petition under the Probate Code because the petitioner failed to establish that the child comes within the jurisdiction of the court. This replaces a current provision that currently says information in a record would be expunged if the investigation fails to disclose evidence of abuse or neglect.
- Require the department to maintain information in the central registry for ten years (rather than until the death of the perpetrator) for a person listed as a perpetrator under Category I (court petition required) or Category II (child protective services required) perpetrator under Section 8D of the act, with certain exceptions.
- Retain the requirement that some information be retained until a perpetrator's death. This would apply to offenses involving circumstances listed in Sections 17(1) or 18(1). Section 17(1) deals with children who str severely physically injured, sexually abused, or allowed to be exposed to or have contact with methamphetamine production. Section 18(1) deals with, among other things, abandonment; criminal sexual conduct involving penetration, attempted penetration, or assault with intent to penetrate; battering, torture, or other severe physical abuse; loss or serious impairment of an organ or limb; life threatening injury; and murder or attempted murder.
- Remove obsolete language requiring the department furnish written reports from 2005 through 2008 to the legislative committees.

FISCAL IMPACT:

House Bill 4893 could have a small fiscal cost to the state and no fiscal impact to local units of government. The bill could increase postage costs as current DHS policy allows the notification of a central registry case to be delivered in person. The bill could also increase the number of administrative hearings for requests that are resolved by the local DHS office as permitted by current law. House Bill 4893 would also generate one-time information technology and personnel costs to create the new 10-year central registry.

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