

Legislative Analysis



VIDEO TESTIMONY OF CHILD ABUSE VICTIM

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House Bill 5270

Sponsor: Rep. Tom McMillin

House Bill 5271

Sponsor: Rep. Robert L. Kosowski

House Bill 5272

Sponsor: Rep. Thomas B. Hooker

Committee: Judiciary

Complete to 3-12-14

A SUMMARY OF HOUSE BILLS 5270-5272 AS INTRODUCED 1-30-14

Taken together, the bills would amend various acts to:

- Require an electronic recording of an interview of a child in a child abuse or neglect investigation. "Electronic recording" refers to a videorecording of a witness statement.
- Allow that statement to be considered in a probation violation hearing or hearing to expunge irrelevant or inaccurate evidence from the Central Registry.
- Specify who may view a videorecorded statement.
- Increase the penalty for unauthorized disclosure of a statement.
- Specify how long a court must retain a videorecorded statement.

The bills are tie-barred to each other, meaning that a single bill could not become law unless all are enacted.

House Bill 5270 would add a new section to the Child Protection Law (MCL 722.638f), which pertains to complaints of child abuse or child neglect made to Children's Protective Services (CPS) and how complaints are handled. The bill would require a department investigator or law enforcement officer who interviews a child in an accredited or an creditable child assessment center (or arranges an interview of a child in one of those locations, also known as child advocacy centers) to make an electronic recording of the interview in its entirety. The recording would have to be started at the beginning of the interview and not be turned off until the interview was completed.

The Department of Human Services (DHS) would have to allow access to and retain electronic recordings in the same manner as provided by House Bill 5271.

House Bills 5271 and 5272 would make similar revisions to the Revised Judicature Act (MCL 600.2163a) and Juvenile Code (MCL 712A.17b), respectively.

Provisions in each of those two acts allow special accommodations for a witness who is under 16 years old or developmentally disabled and who is an alleged victim of abuse or

criminal sexual conduct. The special accommodations apply to criminal prosecutions and juvenile proceedings and include, among other things, videotaping witness statements.

The bills would allow a videorecorded statement to be considered in a hearing or in a proceeding held to determine if a report or record in the Central Registry should be amended or expunged on the grounds that it is not relevant or accurate evidence of abuse or neglect. ("Central Registry" is the system maintained at DHS that is used to keep a record of all reports filed with the department under the Child Protection Act in which relevant and accurate evidence of child abuse or neglect is found to exist.)

In a child abuse or neglect proceeding, a court may order that a copy of the videorecorded statement be given to the defense. The bills would allow the order to specify who may view the videorecorded statement, indicate the time by which the recording is required to be returned, and state a reason for the release of the videorecorded statement.

Currently, a person who intentionally releases a videorecorded statement in violation of the act is guilty of a misdemeanor punishable by imprisonment for not more than 93 days and/or a fine of not more than \$500. The bills would increase the maximum term of imprisonment to one year and the maximum fine to \$1,000.

Further, the bills would require a court to retain a videorecorded statement for not less than one year after final resolution of the case. This would include, but not be limited to, all appellate proceedings. The storage would be done in accordance with the county protocols established under Section 8 of the Child Protection Act, which references protocols developed by the Governor's Task Force on Children's Justice and published in certain department publications.

Lastly, House Bill 5271 would allow the videorecorded statements to also be considered by a court in a probation violation hearing and require a prosecutor, upon request, to provide the defense with a means to view and hear the videorecorded statement before a probation hearing or a hearing as described above pertaining to amending or expunging irrelevant or inaccurate evidence of child abuse or neglect in the Central Registry.

FISCAL IMPACT:

House Bill 5270 would have a minimal, and likely negligible, fiscal impact on the state and local units of government as the state has as a best practice to video record child interviews during a child abuse or neglect investigation. A fiscal analysis on the impact on state or local corrections agencies is in process.

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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.