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House Bills 4704, 4705, and 4709 (as passed by the House)
House Bills 4706 through 4708 (Substitute H-1 as passed by the House)
Sponsor: Representative Kathy Crawford (H.B. 4704)
Representative Matt Hall (H.B. 4705)
Representative Andrea K. Schroeder (H.B. 4706)
Representative Frank Liberati (H.B. 4707)
Representative Luke Meerman (H.B. 4708)
Representative David LaGrand (H.B. 4709)
House Committee: Families, Children and Seniors
Judiciary
Senate Committee: Families, Seniors, and Veterans

Date Completed: 2-19-20

CONTENT

House Bill 4704 would amend the Child Protection law do the following:

- Define "abbreviated investigation" and require a case worker to document why an investigation was an abbreviated investigation.
- Require a county director or his or her designee to approve an abbreviated investigation before it could be closed.
- Require a caseworker to conduct a full investigation if a county director or his or her designee did not review and approve an abbreviated investigation.

House Bill 4705 would amend the Child Protection law to do the following:

- Specify that an investigation had not commenced until the Department of Health and Human Services (DHHS) had made contact that provided information on the well-being of each child in the household where a child was suspected of being abused or neglected.
- Modify a requirement related to a local law enforcement agency referring a report to the DHHS.

House Bill 4706 (H-1) would amend the Child Protection law to modify the process for the determination of a category III case and prohibit the DHHS from closing a category III case until after it had confirmed and documented the family's participation in community services and the child's well-being.

House Bill 4707 (H-1) would amend the Child Protection law to do the following:

- Require, in each county, the DHHS to conduct an annual review to determine if the county had adopted and implemented standard child abuse and child neglect investigation and interview protocols.
- Require the DHHS to report its findings to the Legislature and to the Task Force on Child Abuse and Neglect.

House Bill 4708 (H-1) would amend the Child Protection law to specify that the DHHS would not have to use the structured decision-making tool for the owner, operator, volunteer, or employee of a license-exempt child development and care program child care provider.

House Bill 4709 would amend the Child Protection law to do the following:

- Require the agency within the DHHS that is responsible for administering and providing services under the law to make a comprehensive quarterly report to the chairs of the Senate and House of Representatives standing oversight committees by every January 31, April 30, July 31, and October 31.**
- Require the report to include data from the Child Protective Services (CPS) investigatory staff who would have to provide measurements regarding, among other things, whether an investigation was commenced within 24 hours after receiving a report.**

House Bill 4704

Section 8e of the law requires the DHHS to implement an investigation checklist to be used in each investigation of suspected abuse and child neglect it handles. The bill would define "investigation checklist" as a tool used by a supervisor to review and verify compliance with investigation requirements.

Under the bill, Section 8e would apply except that a caseworker would have to document why an investigation was an abbreviated investigation. An investigation checklist would not be required for an abbreviated investigation. Before an abbreviated investigation could be closed, it would have to be approved by the county director or his or her designee. If the review and approval did not occur, the caseworker would have to conduct a full investigation. "Abbreviated investigation" would mean an investigation in which a full investigation with all investigative policy requirements is not conducted and the Department has determined that the case will result in a category V disposition. (A category V disposition means that following a field investigation, the DHHS determines that there is no evidence of child abuse or neglect, and that child protective services are not needed.)

The law specifies that subject to the requirements described below, an investigation is not closed until the investigation checklist is completed. This provision also would be subject to the proposed abbreviated investigation provisions described above.

The law requires a supervisor to review the completed checklist. If the supervisor determines that the investigation complies with the checklist and with certain State laws and DHHS policy, the investigation may be closed. If the supervisor determines that the investigation does not comply with the checklist and the State laws and DHHS policy prescribed in the law, the supervisor must determine the reason the checklist and State law or DHHS policy were not followed. Under the bill, these provisions would apply if an investigation were not an abbreviated investigation.

House Bill 4705

Under the law, certain individuals who have reasonable cause to suspect child abuse or neglect must make an immediate report of the suspected abuse or neglect. Within 24 hours after receiving a report, the DHHS must refer it to the prosecuting attorney and the local law enforcement agency if the report meets certain requirements provided by law or the DHHS must commence an investigation of the child suspected of being abused or neglected. (The law requires the DHHS to refer the report to the prosecuting attorney and the local law

enforcement agency if one or more of the following conditions exist: a) child abuse or child neglect is the suspected cause of a child's death; b) the child is the victim of suspected sexual abuse or sexual exploitation; c) child abuse or child neglect resulting in severe physical injury to the child; d) certain procedures developed by a county and the DHHS, as required by law, are met; or e) the DHHS has contact with a child in a school, to which certain requirements apply.)

Within 24 hours after receiving a report whether from the reporting person or from the Department under the conditions described above, the local law enforcement agency must refer it to the Department if the report indicates that the child abuse or child neglect, or allowing a child to be exposed to methamphetamine production, was committed by a person responsible for the child's health or welfare, or must commence an investigation of the child suspected of being abused or neglected or exposed to or who has had contact with methamphetamine production. The bill would eliminate this provision.

Instead, the bill specifies that an investigation would not be commenced until the DHHS had made contact that provided information on the well-being of each child in the household where a child was suspected of being abused or neglected. Within 24 hours after receiving a report from the reporting person, the local law enforcement agency would have to refer the report to the DHHS if the report indicated that the abuse or neglect was committed by a person responsible for the child's health or welfare. Within 24 hours after receiving a report from a reporting person or from the Department, the local law enforcement agency would have to begin an investigation of the child suspected of being abused or neglected or exposed to or who had contact with methamphetamine production (as is currently required).

House Bill 4706 (H-1)

The law requires the DHHS, after investigating an allegation of child abuse or neglect, to rank the case according to five categories, with category I being cases requiring a court petition, and category V being cases in which there is no evidence of abuse or neglect.

Category III cases are those in which the DHHS determines that there is a preponderance of evidence of child abuse or child neglect, and the structured decision-making tool indicates a low or moderate risk of future harm to the child.

The DHHS must assist the child's family in receiving community based services commensurate with the risk to the child. If the family does not voluntarily participate in community services, or the family voluntarily participates in community services but does not progress toward alleviating the child's risk level, the DHHS must consider reclassifying the case as category II. Instead, under the bill, the DHHS would have to determine a category III case as follows:

If the safety assessment determined that the child would be safe with community services the DHHS would have to assist the family in receiving community-based services commensurate with the risk to the child. The Department could not close this type of case until after it had confirmed and documented the family's participation in community services and the child's well-being. The bill would retain the provision pertaining to reclassifying the case as category II.

If the safety assessment determined that the child was safe, the DHHS would have to assist the child's family in receiving community-based services commensurate with the risk to the child. After providing assistance to the family, the DHHS could close the case. If a case were not closed and it was determined that the family did not voluntarily participate in community services, or the family voluntarily participated in community services but did not progress

toward alleviating the child's risk level, the DHHS would have to consider reclassifying the case as category II.

(Category II cases are those in which the DHHS determines that there is evidence of child abuse or neglect, and the structured decision-making tool indicates a high or intensive risk of future harm to the child. Under this designation, the DHHS must open a protective services case, provide certain services, and list the perpetrator of the child abuse or neglect on the central registry.)

"Safety assessment" would mean a statistically validated structured decision-making tool designed to classify whether a child is safe, safe with services, or unsafe and to identify the following:

- Safety factors present.
- Protecting safety interventions initiated or planned.
- Overall safety decisions.

"Safety decisions" would mean a decision based on the assessment of all safety factors, protecting interventions, and any other information known about the case. A safety decision would include one of the following determinations:

- Safe: the child was safe; no safety factors existed.
- Safe with services: at least one safety factor was indicated and at least one protecting intervention had been put into place.
- Unsafe: at least one safety factor was indicated and placement was the only protecting intervention possible for the child.

House Bill 4707 (H-1)

The law requires, in each county, the prosecuting attorney and the DHHS to adopt and implement standard child abuse and child neglect investigation and interview protocols using as a model the protocols developed by the Task Force on Children's Justice as published in FIA Publication 794 (revised 8-98) and FIA Publication 779 (8-98), or an updated version of those publications.

The bill also would require, in each county, the DHHS to conduct an annual review to determine if the county had adopted and implemented the standard child abuse and child neglect investigation and interview protocols required above. The Department would have to report its findings to the Legislature and to the Task Force on Child Abuse and Neglect.

(The Task Force on Children's Justice was established in 1991 and was responsible for developing a Model Protocol for the handling of child abuse and neglect cases in Michigan. The Model Protocol has since been revised multiple times. The Model Protocol provides a roadmap for coordination of prosecutor, law enforcement, children's protective service workers, child advocacy center staff, as well as the medical, mental health, school and friend of the court staff when dealing with child abuse and neglect cases.)

House Bill 4708 (H-1)

Under the law, after investigating an allegation of child abuse or neglect and ranking the case according to one of the five categories prescribed in the law, the DHHS is not required to use the structured decision-making tool for a nonparent adult who resides outside the child's home who is the victim or alleged victim of child abuse or child neglect or for an owner, operator,

volunteer, or employee of a licensed child care organization, or a licensed or unlicensed adult foster care family home or adult foster care small group home.

Under the bill, the DHHS also would not have to use the structured decision-making tool for the owner, operator, volunteer, or employee of a license-exempt child development and care program child care provider.

House Bill 4709

The bill would amend the law to require the agency within the DHHS that was responsible for administering and providing services under the law to make a comprehensive quarterly report to the chairs of the Senate and House of Representatives standing oversight committees by every January 31, April 30, July 31, and October 31. The report would have to include data from the CPS investigatory staff who would have to provide a measurement for each of the following:

- Was the investigation commenced within 24 hours after receiving a report made under the law?
- Was a Central Registry review or clearance performed for all required individuals?
- Was face-to-face contact made within the established timeframe required by the DHHS?
- Was a sibling placement evaluation completed when one of more children remained in the home after a child had been removed?
- Were the family needs and strengths assessments completed?
- Was the supervisory review performed in a timely manner?
- How many CPS investigators had been concerned for his or her own personal safety?
- How many investigators were using the mobile application or other tool to document compliance?

The data included in the report would have to be from the most recent 30-day period before the report was submitted.

MCL 722.622 & 722.628e (H.B. 4704)
722.628 (H.B. 4705 & 4707)
722.628d (H.B. 4706 & 4708)
Proposed MCL 722.629b (H.B. 4709)

Legislative Analyst: Tyler VanHuyse

FISCAL IMPACT

House Bill 4704

The bill would have no fiscal impact on State or local government. The bill would codify existing DHHS policy.¹

House Bill 4705

The bill could have a significant fiscal impact on State government and would have no fiscal impact on local units of government. There is uncertainty surrounding the degree that costs to the DHHS would increase. The uncertainty depends upon the interpretation of the requirements proposed in the bill in which the Department would have to make contact that provides information on the well-being of each child in the household in which a child is suspected of being abused or neglected. If the requirement for commencement as described

¹ Children's Protective Services Manual of the State of Michigan, PSM 713-01.

in the bill were interpreted to mean the verification of well-being of each child in the household, victim or not, the DHHS has indicated this requirement would require a significant increase in the number of CPS staff. The DHHS claims that the staffing increase would be necessary to meet the interpretation of the bill's requirements. The estimate from the DHHS is an additional 300 CPS investigators and 60 supervisors at a cost of \$48,960,000. As of December 2019, the DHHS had 1,678 CPS workers on staff with 48 vacancies.

During fiscal year (FY) 2017-18, CPS was assigned 96,084 reports of suspected abuse or neglect. There were 95,465 investigations that were completed in FY 2017-18 (which includes reports that may have been reported in FY 2016-17 and carried over to FY 2017-18). For context as to numbers of investigations, Table 1 shows the number of FY 2017-18 completed investigations by preponderance of evidence of child abuse or neglect categories.

Table 1: DHHS CPS Investigations, FY 2017-18 by Category

Category	Investigations
I	4,432
II	6,819
III	14,403
IV	68,741
V	1,070
Total.....	95,465

Under current DHHS policy,² when a report of suspected child abuse or neglect is received through the statewide centralized intake process, the worker classifies the complaint as priority one or priority two. The priority class is determined by the results of a priority response tool (a standardized screening tool that reflects the level of harm or risk to the child) and under DHHS policy, the results of the priority response tool determines the timeframe required for the caseworker to commence an investigation and make face-to-face contact with the alleged child victims.

Current DHHS policy requires priority one response cases to commence within 12 hours, and face-to-face contact must be made with each alleged child victim within 24 hours. Priority two response cases must commence within 24 hours, and face-to-face contact must be made within 72 hours. Table 2 shows the priority classes for CPS complaints.

Table 2: CPS Case Priority, FY 2016-17 through FY 2019-20

Calendar Year	Priority 1 Response (% of total)	Priority 2 Response (% of total)	Total
2017	32,702 (35.6%)	59,263 (64.4%)	91,965
2018	34,401 (35.7%)	62,035 (64.3%)	96,436
2019	29,995 (31.9%)	64,048 (68.1%)	94,043
2020	929 (34.1%)	1,796 (65.9%)	2,725
Total	98,027 (34.4%)	187,142 (65.6%)	285,169

Under the DHHS's interpretation of the bill, both priority one and priority two cases would have to be verified within 24 hours. Since the DHHS claims that verification of well-being cannot be determined by making a simple contact with a knowledgeable source, the

² Children's Protective Services Manual of the State of Michigan, PSM 712-4.

Department claims that, in essence, the description of commencement in the bill would require face-to-face verification within 24 hours for all children.

One variable in determining the fiscal impact of the bill is determining what, if any, changes to the DHHS would be required. The uncertainty of the cost centers around the meaning of case commencement. Commencement is defined by current DHHS policy as beginning the investigation with any activity including:

- Review of case history.
- Gathering of evidence.
- Case planning with supervisor.
- Making successful investigation contacts.³

As the bill constrains investigatory commencement until the Department has made contact that provides information on the well-being of each child in the household in which a child is suspected of being abused or neglected, any estimate of the bill's fiscal impact depends on the interpretation of commencement and how it would be implemented by the DHHS. If the requirements for commencement under the bill effectively required face-to-face within 24 hours for both priority one and priority two complaints, there likely would have to be a significant increase in the number of staff required to implement the bill. If the requirements for commencement were interpreted to mean something similar to current Department policy, the estimated fiscal impact would decrease substantially.

House Bill 4706 (H-1)

The bill could have a minor fiscal impact on State government and would have no fiscal impact on local units of government. According to the Michigan Office of the Auditor General,⁴ the DHHS does not monitor families with category III CPS cases to confirm that they received community-based services. Under current law, the statute states that the DHHS must assist category III families in receiving services. The bill delineates category III cases (those with a preponderance of evidence of child abuse or neglect and the risk assessment indicates a low or moderate risk) into three subcategories after being assessed through a safety assessment conducted by the DHHS. The subcategories listed under the bill would provide guidance to caseworkers as to when cases required confirmation and documentation of the receipt of community-based services. The costs to the DHHS likely would be from additional administrative and training costs necessary to implement the bill's requirements.

House Bill 4707 (H-1)

There would be a modest fiscal cost to State government and a likely minor cost to local units of government. According to the DHHS, the standard child abuse and child neglect investigation and interview protocols (including the forensic interview protocol and model child abuse protocol) are updated every three to five years. Protocols are updated by the Governor's Task Force on Child Abuse and Neglect in coordination with the DHHS. The forensic interview protocol portion of the standards were last updated in calendar year 2017. The model child abuse protocol is scheduled to be updated during calendar year 2020.

The Department estimates that the cost to implement the annual protocol review described in the bill would cost \$260,000 over three years. The costs may be split between the DHHS and the Prosecuting Attorneys Association of Michigan.

³ Children's Protective Services Manual of the State of Michigan, PSM 713-01.

⁴ Michigan Office of the Auditor General Audit #431-1285-16, Finding #18.

The annual cost is estimated at approximately \$86,667 per year. The various costs are detailed in Table 3.

Table 3

Costs	Amount
Training Salaries	\$60,000
PAAM Administrative Oversight	10,000
Training Travel	8,000
Technology	6,667
Materials	2,000
Total	\$86,667

House Bill 4708 (H-1)

The bill would have no fiscal impact to State or local government.

House Bill 4709

The bill would have no fiscal impact on State or local government. The DHHS has indicated that data for the reports to the Legislature could be extracted from reports already available or developed from existing audit remediation proceedings.

Fiscal Analyst: John Maxwell