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House Bill 5081 (Substitute S-1)
Sponsor: Representative Bronna Kahle
House Committee: Families, Children and Seniors
Senate Committee: Health Policy and Human Services

Date Completed: 6-23-22

CONTENT

The bill would enact the "Foster Care Improvement Commission Act" to do the following:

- **Create the "Foster Care Improvement Commission" within the Department of Health and Human Services (DHHS) and prescribe its membership.**
- **Prescribe the Commission's duties, which would include facilitating coordination across the three branches of State government and continuous and consistent leadership in the child protection area to ensure progress and improvement effects were not hindered by changes in leadership in any branch; creating advisory panels to provide insight and recommendations for improvements to the child welfare system; and overseeing a resource mapping of all Federal- and State-funded programs serving youth.**
- **Allow the Commission to raise money to carry out the Act's provisions.**
- **Create the "Children's Services Commission Fund" in the State Treasury and require the DHHS to spend money from the Fund only to carry out the Act's provisions.**

Commission Membership & Meetings

The bill would create the Foster Care Improvement Commission within the Legislative Council. The Council would be responsible for setting up the Commission and establishing its budget. The Commission could appoint and employ, at its pleasure, an executive director and other individuals it considered necessary to assist in carrying out its duties.

The Commission would consist of the following 11 members:

One individual from the State Court Administrative Office's Child Welfare Services Division, as designated by the Chief Justice of the Michigan Supreme Court.

- Two individuals appointed by the Chief Justice, one of whom represented judges who adjudicated family matters or juvenile matters in the family division of the circuit courts and one of whom represented attorneys who represented children and parents in juvenile matters.
- The Director of the Children's Services Agency within the DHHS.
- Three individuals appointed by the Governor, one of whom represented the DHHS foster care or child protective services caseworkers, one of whom who represented foster youth, and one of whom who represented parent partners.

- One individual appointed by the Legislative Council who would be the chair of the Commission.
- Three individuals appointed by the chair, one of whom who represented private foster care agencies, one of whom who represented foster parents, and one of whom who represented a child welfare expert.

Commission members would be appointed for a three-year term except that, of the members first appointed, three would serve for one year, four would serve for two years, and four would serve for three years as designated by the chair of the Commission. After the first appointments, a Commission member's term would be three years or until a successor was appointed, whichever was later.

If a vacancy occurred on the Commission, it would have to be filled for the balance of the unexpired term in the same manner as the original appointment. The Council or the Commission could remove a member for incompetence, dereliction of duty, malfeasance, misfeasance, or nonfeasance in office, or any other good cause.

The Commission would have to meet at least quarterly, or more frequently at the call of the chairperson or at the request of six or more members. The Commission would have to conduct its business in compliance with the Open Meetings Act and the Freedom of Information Act. A Commission member would not be entitled to compensation for service on the Commission, but the Commission could reimburse a member for actual and necessary expenses incurred in serving.

Commission Duties & Responsibilities

The bill would require the Commission to do all of the following:

- Facilitate coordination across the three branches of State government and continuous, consistent leadership in the child protection area to ensure progress and improvement efforts were not hindered by changes in leadership in any branch.
- Review all current data, laws, and processes for children and youth services in the State.
- Research best practices in other states regarding the seven national child welfare outcomes reported annually to the United States Congress by the US Department of Health and Human Services (HHS) according to the requirements of the Adoption and Safe Families Act.¹
- Create advisory panels to provide insight and recommendations for improvements to the child welfare system; the advisory panels would have to be composed of national experts in the area of child welfare and individuals who had experience within the child welfare system, including current and former foster youth and foster parents.
- Identify current gaps, problems, and barriers for children and youth services in the State.
- Develop recommendations and advocate for legislative, administrative, and judicial administrative action to correct identified gaps, problems, and barriers to success and to accomplish the commitments of the modified implementation, sustainability, and exit plan under *Dwayne B. v Whitmer*.
- Provide oversight over the DHHS to ensure that applicable laws, policies, procedures, and recommended improvements were being properly executed.

¹ According to the Child Welfare Outcomes 2018 Report to Congress published by the HHS, the seven national outcomes include the following: reducing recurrence of child abuse and/or neglect; reducing the incidence of child abuse and/or neglect in foster care; increasing permanency for children in foster care; reducing time in foster care to reunification without increasing reentry; reducing time in foster care to adoption; increasing placement stability; and reducing placements of young children in groups homes or institutions.

- Develop a communication strategy that brought attention to the foster care crisis, supported current foster care families, and engaged new families by increasing public awareness of the needs of the State's foster care system.
- Serve as a liaison with public and private stakeholders, including foundations and the higher education community.
- Serve as a clearinghouse for data and reporting for children and youth services in the State by reviewing reports of other child welfare-related commissions, boards, and task forces, including the State Court Administrative Office's Child Welfare Services Division, the Governor's Task Force on Abuse And Neglect, the State Child Death Review Team, the Children's Trust Fund, the Office of the Auditor General, the Foster Care Review Board Program, and the monitors for the *Dwayne B. v Whitmer* implementation, sustainability, and exit plan to compile data, assess current trends, and ensure that the commission's reports and recommendations are being considered and implemented.
- Work in conjunction with the Office of the Children's Ombudsman to share information and develop a consistent strategy of reform for the child welfare system in the State.
- Oversee a resource mapping of all Federal- and State-funded programs serving youth to determine if there were overlapping programs, gaps in service delivery, or funding opportunities that the State could be eligible to use to meet unrecognized needs.
- Publish a publicly available annual report on the Commission's activities, outcomes, and recommendations.

"Foundation" would mean a nonprofit corporation or a charitable trust that makes grants to organizations, institutions, or individuals for charitable purposes.

The Commission also would have to develop initiatives with a focus on the following:

- Primary prevention and early intervention across systems of care, including behavioral health services, early childhood development, and public health.
- Identifying and addressing racial and ethnic disproportionality and disparity in the child welfare system.
- Ensuring implementation of a braided financial strategy that received funding from available private and public resources.
- Bolstering kinship care and reunification strategies.
- Support for youth who have aged out or will age out of the child welfare system.

The Commission could raise money to carry out the bill's provisions.

The Commission or the advisory panels, or both, would have to reflect the diversity of the State and be inclusive of individuals of different racially and ethnically diverse backgrounds, genders, and generations.

Children's Services Commission Fund

The bill would create the Children's Services Commission Fund in the State Treasury. The State Treasurer would have to deposit money and other assets received from the Commission or from any other source in the Fund. The State Treasurer would have to direct the investment of money in the Fund and credit to it interest and earnings from the investments.

The DHHS would be the administrator of the Fund for audits of it. The DHHS would have to spend money from the Fund, on appropriation, only to carry out the bill's provisions.

Legislative Analyst: Stephen P. Jackson

FISCAL IMPACT

The bill would have an indeterminate fiscal impact on the Department of Health and Human Services. The bill would create the Foster Care Improvement Commission within the DHHS. Commission members would not receive a salary but would be eligible for reimbursement for necessary expenses incurred in the performance of their duties as Commission members. Reimbursement costs, based on other similar commissions and committees, average less than \$50,000 annually.

The Commission could select a director who would have to report to the Commission. The bill does not specify how the Commission would determine a salary for the director or if a salary would be paid. The Commission also could hire any additional staff it deemed necessary. Based on fiscal year 2021-22 data, the current estimated average annual cost for 1.0 FTE for a classified State employee is \$135,500 gross, \$73,200 General Fund/General Purpose for salary and benefits.

The Department of Treasury would experience minor administrative costs to create and administer the Children's Services Commission Fund. These costs would be minor and within current appropriation.

Fiscal Analyst: Ellyn Ackerman
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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.