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House Bill 4649 (Substitute H-2 as passed by the House)
House Bill 4650 (Substitute H-2 as passed by the House)
Sponsor: Representative Kevin Cotter (H.B. 4649)
Representative Ben Glardon (H.B. 4650)
House Committee: Families, Children, and Seniors
Senate Committee: Families, Seniors and Human Services

Date Completed: 9-24-14

CONTENT

House Bill 4649 (H-2) would create the "Foster Parent's Bill of Rights Law" within the Foster Care and Adoption Services Act to do the following:

- **Require a supervising agency to ensure that each foster parent had access to or received certain resources and information.**
- **Require a supervising agency to maintain a written policy describing the grievance procedure for foster parents and prospective adoptive parents.**
- **Allow foster parents to file a grievance with the supervising agency with regard to the information and resources received.**
- **Allow foster parents to request an administrative hearing and file a complaint with the Children's Ombudsman.**
- **Require the Department of Human Services (DHS) to compile and submit to the Legislature a report regarding grievances and administrative hearings.**

House Bill 4650 (H-2) would amend the Children's Ombudsman Act to allow the Children's Ombudsman to conduct investigations into alleged violations of the Foster Parent's Bill of Rights Law.

House Bill 4650 (H-2) is tie-barred to House Bill 4649, and both bills would take effect October 1, 2014.

House Bill 4649 (H-2)

Access to Services & Information

The Foster Care and Adoption Services Act prescribes the standards for foster care and adoption services for children and their families.

The bill would create the Foster Parent's Bill of Rights Law, which would require a supervising agency to ensure that each foster parent had access to or received the following:

- Explanation and clarification regarding the supervising agency's role and expectations, information concerning the supervising agency's policies and procedures, and changes to those policies or procedures within 30 days after those changes were made.
- Treatment by the agency that would not violate the Elliott-Larsen Civil Rights Act.

- Evaluation and feedback regarding the foster parent's provision of care role. Necessary training to enable the foster parent to provide quality services to children who were or would be in his or her care.
- Access to the appropriate supervising agency 24 hours a day, seven days a week.
- Timely financial reimbursement for foster children in the foster parent's care. A hearing regarding licensing as provided in the child care licensing Act.
- Decisions concerning a licensing corrective action plan that was specifically tied to the applicable licensing rules regarding the licensing violation.
- Copies of information relative to the foster family and services contained in the personal foster home or foster parent records, to the extent permitted by State and Federal law.
- Information before placement of the child regarding the child's behavior, or other issues relative to the child that could jeopardize the health and safety of the foster family or alter the manner in which foster care would be provided.
- The option to refuse placement of a child into the foster home or to request the removal of a child from the foster home, without adverse effect on assignments of future foster children or prospective adoptive placements.
- Information through the supervising agency regarding the number of times a child had been moved, the reason for the move, and names and telephone numbers of previous foster parents, if the previous foster parents had authorized release of that information.
- Advanced notice of a child's move from a foster home, unless there was an emergency situation.
- Notification and the option to participate, in writing or in person, in meetings concerning the child, to be informed of decisions made by the court or the supervising agency concerning the child, and to provide input concerning the case service plan for the child and to have that input considered by the supervising agency.
- The option to receive a copy of the supervising agency's placement and case service plan concerning the child's care in the foster parent's home and to participate in and receive case service plan revisions as well as any other information relevant to the child's care in a timely manner.
- Timely and complete written notice from the supervising agency of all court proceedings and the option to submit factually written statements to the court as provided by State or Federal law.
- The option to be considered as a foster parent when a child formerly placed with the foster parent reentered foster care, and the option to be considered when a child previously placed in the foster parent's home became available for adoption if relative placement were not available and the placement was consistent with the best interests of the child and other children in the foster home.

Case service plans would have to be provided within 10 days after a foster parent's written request.

("Feedback" would mean "providing a copy of the written annual assessment of rule compliance and the written special evaluation report upon completion of the report to the foster parent". "Timely financial reimbursement" would mean payment issued within 30 days after submission of accurate and complete documentation. "Timely notice" would mean notification of a hearing with seven days after the supervising agency received notice from the court.)

A supervising agency also would have to ensure a timely investigation of complaints concerning the foster parent's licensure. A foster parent would have the right to have a person of his or her choosing present during a licensing investigation and the right to file a grievance when he or she disagreed with a finding in a licensing investigation. An investigation would be "timely" if completed within 45 days after receipt of the information. If additional time were required, the supervising agency would have to inform the foster parent, in writing, of the basis for the extension. Extensions would be limited to a total of 90 days.

In addition, a supervising agency would have to provide necessary support for the foster parent, including: a) reasonable relief and respite as allowed by the agency's resources, b) access to agency staff for assistance dealing with family loss and separation when a child left the foster parent's home, and c) access to information about support groups that included local and statewide foster, kinship, and adoptive parent associations. ("Respite" would mean substitute care that is provided to a foster child when the foster parent is not present or not available as defined in the supervising agency's substitute care policy or as facilitated by the supervising agency.)

Grievances, Complaints, & Reporting

The bill would require a supervising agency to maintain a written policy describing the grievance procedure, including information on how and where to file a grievance, for foster parents and prospective adoptive parents to address any noncompliance with the items listed above.

A foster parent could file a grievance with the supervising agency regarding any of those items as outlined in the agency's written grievance policy. Within 30 days, the agency would have to respond with a written statement of how the grievance would be addressed. If the agency failed to respond within 30 days after the grievance was filed, the foster parent could file a complaint with the DHS's Bureau of Children and Adult Licensing. If the grievance were not resolved after a complaint was filed with the Bureau of Child and Adult Licensing, the foster parents could request that a hearing be conducted under the Administrative Procedures Act. Injunctive relief would be the only remedy.

A foster parent also could file a complaint with the Office of the Children's Ombudsman to investigate the supervising agency's alleged violation of law, rule, or policy. The Children's Ombudsman's investigations would be subject to an appropriation.

The supervising agency would have to provide the information regarding grievances and administrative hearings received to the DHS, and the Department would have to compile and submit that information in the form of a report to the Appropriations subcommittees for the DHS's budget, as well as the Senate and House of Representatives standing committees having jurisdiction over issues involving human services. The DHS would have to provide the report beginning October 1, 2015, and annually after that. The report would have to include the following information:

- The total number of grievances filed for the reporting period.
- The total number of grievances resolved, and the number not resolved, within 30 days.
- The total number of complaints filed with the Bureau of Children and Adult Licensing, including the number of licensing actions that resulted from those complaints.
- A summary of policy changes initiated in response to the grievances filed.
- The total number of grievances that resulted in an administrative hearing process, including the number of actions in which the administrative law judge denied or dismissed the action, agreed with the supervising agency, or agreed with the foster parent.

House Bill 4650 (H-2)

The Children's Ombudsman has the authority to: a) pursue all necessary action, including legal action, to protect the rights and welfare of a child under the jurisdiction or control of the DHS, the Michigan Children's Institute, the Family Division of Circuit Court, a child caring institution, or a child placing agency, b) pursue legislative advocacy in the best interests of children, and c) review policies and procedures relating to the DHS's involvement with children and make recommendations for improvement. Under the bill, and subject to an appropriation of funds, the Children's Ombudsman would have the authority to

commence and conduct investigations into alleged violations of the proposed Foster Parent's Bill of Rights Law.

The bill also would permit the Children's Ombudsman, upon his or her own initiative or upon the receipt of a complaint and subject to an appropriation of funds, to investigate an alleged violation of the Foster Parent's Bill of Rights Law.

MCL 722.953 et al. (H.B. 4649)
722.922 et al. (H.B. 4650)

Legislative Analyst: Jeff Mann

FISCAL IMPACT

House Bill 4649 (H-2)

The bill would require the Department to make certain services available to foster parents, some of which are already in place. To the extent that the requirements would be new, the DHS could realize some minimal increased costs. A request to the Department for more information is pending.

House Bill 4650 (H-2)

The bill could result in additional costs to the Office of the Children's Ombudsman as a result of investigating violations of the Foster Parent's Bill of Rights. Additional costs could result from the need for the Ombudsman to hire additional staff to conduct these investigations. The bill provides that the Ombudsman's investigations would be subject to an appropriation; however, the cost is indeterminate and dependent on the number of additional staff hired. Based on current Statewide averages, the annual cost for any FTE is an estimated \$85,000 gross (\$45,000 GF/GP) annually for salary, wages, and benefits.

Fiscal Analyst: Frances Carley
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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.