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SFA**BILL ANALYSIS**

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House Bill 6202 (Substitute H-2 as passed by the House)
House Bill 6204 (Substitute H-1 as passed by the House)
House Bill 6205 (as passed by the House)
Sponsor: Representative Sue Tabor (House Bill 6202)
Representative Gary Woronchak (House Bill 6204)
Representative Belda Garza (House Bill 6205)
House Committee: Family and Children Services
Senate Committee: Families, Mental Health and Human Services

Date Completed: 9-17-02

CONTENT

House Bill 6202 (H-2) would amend the child care licensing Act to prohibit people who had been convicted of certain crimes from being present in a day care center, or having contact with children in a day care center.

House Bill 6204 (H-1) would amend the Child Protection Law to allow the Family Independence Agency (FIA) to give an individual applying for employment or seeking to volunteer in a child care center documentation that he or she was not named in a central registry case as the perpetrator of child abuse or child neglect; and allow the FIA to develop an automated system, accessible to the public, in which such a person could be listed.

House Bill 6205 would amend the child care licensing Act to require that an operator of a child care center conspicuously post on the premises of the child care center a notice stating whether that child care center required a criminal history check of its employees or volunteers. The Department of Consumer and Industry Services would have to promulgate rules to implement the bill.

A more detailed description of House Bills 6202 (H-2) and 6204 (H-1) follows.

House Bill 6202 (H-2)

Under the bill, a staff member could not be present in a child care center, and a volunteer who was not a parent, grandparent, or legal guardian of a child receiving care at a child care center could not have contact with children in the care of that center, if he or she had ever been convicted of child abuse or child neglect or had been convicted of a felony involving harm or threatened harm to an individual within the 10 years immediately before the date the person was hired or offered to volunteer at the child care center.

Before a staff member or volunteer who was not a parent, grandparent, or legal guardian of a child receiving care at a child care center could have contact with a child in the care of that center, the staff member or volunteer would have to provide the child care center with documentation from the FIA that he or she had not been named in a central registry case as the perpetrator of child abuse or child neglect.

The bill also would require that each child care center establish and maintain a policy regarding

supervision of volunteers, including volunteers who were parents of a child receiving care at the center.

Under the bill, "child abuse" and "child neglect" would mean those terms as defined in the Child Protection Law (CPL). The CPL defines "child abuse" as harm or threatened harm to a child's health or welfare by a parent, a legal guardian, or any other person responsible for the child's health or welfare, or by a teacher or teacher's aide, that occurs through nonaccidental physical or mental injury, sexual abuse, sexual exploitation, or maltreatment. "Child neglect" is defined as harm or threatened harm to a child's health or welfare by a parent, legal guardian, or any other person responsible for the child's health or welfare that occurs through either of the following:

- Negligent treatment, including the failure to provide adequate food, clothing, shelter, or medical care.
- Placing a child at an unreasonable risk to his or her health or welfare by failure of the parent, legal guardian, or other person responsible for the child's health or welfare to intervene to eliminate that risk when that person is able to do so and has, or should have, knowledge of the risk.

Under the child care licensing Act, "child care center" means a facility, other than a private home, that receives one or more preschool or school age children for care for periods of less than 24 hours a day, and where the parents or guardians are not immediately available to the child. "Child care center" includes a facility that provides care for not less than two consecutive weeks, regardless of the number of hours of care per day. A child care center does not include either of the following:

- A Sunday school, a vacation bible school, or a religious instructional class that is conducted by a religious organization where children are in attendance for not more than three hours per day for an indefinite period, or not more than eight hours per day for a period not to exceed four weeks during a 12-month period.
- A facility operated by a religious organization where children are cared for not more than three hours while people responsible for the children are attending religious services.

House Bill 6204 (H-1)

Under the bill, upon written request, the FIA could provide to an individual documentation stating that he or she was not named in a central registry case as the perpetrator of child abuse or child neglect. The written request would have to include the individual's affirmation that he or she was applying for employment or was seeking to volunteer in a child care center. For that purpose, a prospective employee or volunteer could share the document provided by the FIA with the child care center's owner or licensee, or an individual authorized by the owner or licensee.

The FIA could develop an automated system that would allow a person applying for employment or seeking to volunteer at a child care center to be listed in that system if a screening found that he or she had not been named in a central registry case as the perpetrator of child abuse or child neglect. The automated system would have to provide for public access to the list of people who had been screened for the purpose of complying with these provisions. The automated system would have to have appropriate safeguards and procedures to ensure that confidential information under the CPL, State law, or Federal law was not accessible or disclosed through the system.

The bill specifies that a case investigated before July 1, 1999, and entered in the central registry would be considered a central registry case if any of the following conditions existed:

- Abuse or neglect was the suspected cause of a child's death.
- The child was the victim of suspected sexual abuse or sexual exploitation.
- Abuse or neglect resulting in severe physical injury to the child required medical treatment or hospitalization.

"Child care center" would mean that term as defined in the child care licensing Act (described above).

Under the CPL, "central registry" means the system maintained by the FIA that is used to keep a record of all reports filed with the FIA pursuant to the CPL in which relevant and accurate evidence of child abuse or neglect is found to exist. "Central registry case" means a child protective services case that the FIA classifies as Category I or Category II. For a case investigated before July 1, 1999, "central registry case" means an allegation of child abuse or neglect that the FIA substantiated.

(Category I is a child protective services case in which the FIA determines that there is evidence of child abuse or neglect and one or more of the following are true: a court petition is required under another provision of the CPL; the child is not safe and a petition for removal is needed; the FIA previously classified the case as Category II and the child's family does not voluntarily participate in services; or there is a violation of certain crimes, involving the child. Category II is a child protective services case in which the FIA determines that there is evidence of child abuse or neglect and there is a high or intensive risk of future harm to the child. For either category, the FIA must provide services necessary under the CPL and list the perpetrator of the child abuse or neglect on the central registry.)

Proposed MCL 722.119 (H.B. 6202)
722.627j (H.B. 6204)
722.113e (H.B. 6205)

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

House Bill 6202 (H-2)

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

House Bill 6204 (H-1)

The bill would have an indeterminate fiscal impact on the State. The Family Independence Agency would experience additional administrative costs in processing requests for the documents, but could charge a fee for service. Estimated costs for any automated system development would be minimal if it were linked to existing FIA automated systems, such as the central registry system, or used the FIA's worldwide web system in order to respond to requests. The FIA currently is working on a system similar to one operated by the State of California. According to a California analyst, that state charges \$15 per inquiry to its "Trust Line", a background check system developed in the 1980s. The system queries a person on two checks: 1) fingerprints for the state criminal history and 2) the child abuse registry, including an FBI check.

House Bill 6205

The bill would result in minimal costs to the State. The bill would require the Department of Consumer and Industry Services to promulgate and distribute rules, which have a minimal cost of approximately \$1,000. Existing revenues would be used to cover these costs.

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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.