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BILL ANALYSIS

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Senate Bill 1100 (as introduced 2-3-10)
Sponsor: Senator Dennis Olshove
Committee: Families and Human Services

Date Completed: 2-23-10

CONTENT

The bill would amend the child care licensing Act to do the following:

- **Extend criminal history and records check requirements to licensee designees of child care organizations.**
- **Expand the types of child care organizations whose employees are subject to criminal history checks.**
- **Prohibit the Department of Human Services from issuing a license to an applicant if the individual applicant or the owner, partner, or director of the applying organization had been convicted of child abuse or neglect.**
- **Prohibit a licensee, registrant, adult household member, licensee designee, chief administrator, or program director of a child care organization from being present in a child care organization if he or she had been convicted of child abuse or neglect.**
- **Include licensees, registrants, licensee designees, administrators, and adult household members among those who must provide documentation that they have not been named as the perpetrator of child abuse or neglect.**
- **Prohibit children's camp staff members and unsupervised adult volunteers from having contact with children unless they provided such documentation.**

Licensee Designee; Application

The bill would define "licensee designee" as the individual designated in writing by the board of directors of the corporation or by the owner or person with legal authority to act on behalf of the company or organization on licensing matters.

All license applications would have to be signed by the licensee in the case of an individual or by a member of the corporation, company, or organization.

Criminal Checks: Organizations

The Act prohibits the Department of Human Services (DHS) from issuing a license to or renewing the license of a child care center or day care center without requesting a criminal history check and criminal records check. If a check reveals that an applicant has been convicted of a listed offense, the DHS may not issue or renew a license. ("Listed offense" means that term as defined in the Sex Offenders Registration Act.)

Under the bill, the DHS also would have to request a criminal history check and criminal records check before issuing a license to or renewing a license of a child placing agency, child caring institution, or children's camp.

Under the Act, when a person, partnership, firm, corporation, association, or nongovernmental organization applies for or applies to renew a license for a child care center or day care center, the DHS must request the Department of State Police to conduct a criminal history check, and to conduct a criminal records check through the FBI, on the person or each partner, officer, or manager of the child care or day care center.

The bill would extend this requirement to license applications for a child placing agency, child caring institution, or children's camp. In addition, the criminal history and records checks would have to be conducted on the licensee designee, chief administrator, and program director of the child care organization, rather than the partner, officer, or manager.

The Act requires applicants to give consent for the criminal history and records checks, and provides that the checks are not required for license renewal if a person has previously undergone criminal history and records checks and remained continuously licensed. The bill would extend these provisions to child placing agencies, child caring institutions, and children's camps.

Criminal Checks: Employees

Under the Act, before a child care center or day care center offers employment to a person or allows a person to work regularly and continuously under contract at the center, it must conduct a criminal history check on the person using the Department of State Police's internet criminal history access tool (ICHAT). If the ICHAT search reveals that the person has been convicted of a listed offense, the child care or day care center may not offer that person employment or allow him or her to work regularly and continuously under contract at the center.

Under the bill, these provisions would apply to a child care organization, rather than only to a child care center or day care center. The bill also would require use of either ICHAT or an equivalent check from the person's state or province of residence.

(The Act defines "child care organization" as a governmental or nongovernmental organization whose principal function is receiving minor children for care, maintenance, training, and supervision. The term includes organizations commonly described as child caring institutions, child care centers, day care centers, nursery schools, foster homes, group homes, child care homes, child placing agencies, children's camps, children's campsites, children's therapeutic group homes, or parent cooperative preschools.)

Criminal Convictions

The bill would prohibit the DHS from issuing an license to, or renewing a license of, an applicant if any of the following had been convicted of child abuse or child neglect:

- The individual applicant.
- The owner, partner, or director of the applying organization, if other than an individual.

The Act prohibits a staff member from being present in a child care center, child caring institution, or child placing agency if he or she has been convicted of a felony involving harm or threatened harm to an individual within 10 years before the date of hire, or has been convicted of child abuse or child neglect.

The Act also prohibits a volunteer from having unsupervised contact with children who are in the care of a child care center, child caring institution, or child placing agency if he or she has been convicted of a felony involving harm or threatened harm to an individual within 10 years before offering to volunteer, or has been convicted of child abuse or child neglect.

The bill, instead, would prohibit a licensee, registrant, adult household member, licensee designee, chief administrator, or program director of a child care organization from being present in a child care organization if he or she had been convicted of child abuse or child neglect. The bill also would prohibit a staff member or volunteer from having contact with children in the care of a child care organization if he or she had been convicted of a felony involving harm or threatened harm to an individual within 10 years before the date of hire or appointment, or had been convicted of child abuse or child neglect.

Perpetrator of Child Abuse or Neglect

Currently, before a staff member or unsupervised volunteer has contact with a child in the care of a child care center, child caring institution, or child placing agency, the staff member or volunteer must give the center, institution, or agency documentation from the DHS that he or she has not been named in a central registry case as the perpetrator of child abuse or child neglect.

Under the bill, instead, a licensee, registrant, adult household member, licensee designee, chief administrator, staff member, or unsupervised volunteer could not have contact with a child in the care of a child care organization until that person gave the organization documentation from the DHS that he or she had not been named in a central registry case as the perpetrator of child abuse or child neglect.

Upon the Department's request, the licensee or registrant would have to give the DHS an updated authorization for central registry clearance. If an updated clearance documented that a licensee, registrant, adult household member, licensee designee, chief administrator, staff member, or unsupervised volunteer was named as a perpetrator in a central registry case, he or she could not be present in the child care organization.

A staff member or unsupervised volunteer in a children's camp or children's campsite who was at least 21 years old could not have contact with a child in the care of a children's camp until the staff member or volunteer gave the camp documentation from the DHS that he or she had not been named in a central registry case as the perpetrator of child abuse or neglect.

The Act requires each child care center, child caring institution, or child placing agency to establish and maintain a policy regarding supervision of volunteers, including parents of children who receive care at the center, institution, or agency. Under the bill, this requirement would apply to each child care organization.

(The central registry is a statewide, electronic registry that the DHS maintains to keep a record of all reports filed with the Department in which relevant and accurate evidence of child abuse or neglect is found to exist.)

MCL 722.111 et al.

Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

The bill could lead to increases in administrative cost in the Department of Human Services. The increase would be associated with process changes to ensure that child care organizations complied with the background check standard, and processing increased requests for checks with the Department of State Police.

The bill would require the Department of State police to run criminal history and criminal records background checks for licensees of all child care organizations. The cost is \$49.25 per check. The bill also would require the performance of a criminal history (name) check on each employee of a child care organization through ICHAT at a cost of \$10 per name check.

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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.