

Senate Bill 226 (Substitute S-1 as reported)	<i>(as passed by the Senate)</i>
Senate Bill 227 (Substitute S-1 as reported)	<i>(as passed by the Senate)</i>
Senate Bill 228 (as reported without amendment)	<i>(as passed by the Senate)</i>
Senate Bill 229 (Substitute S-1 as reported)	<i>(as passed by the Senate)</i>
Sponsor: Senator Mark C. Jansen (S.B. 226)	
Senator Vincent Gregory (S.B. 227)	
Senator Judy K. Emmons (S.B. 228)	
Senator Mike Nofs (S.B. 229)	
Committee: Families, Seniors, and Human Services	

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RATIONALE

In recent years, partly as a result of several high-profile cases, there have been heightened concerns about the death of children in State care, including children in foster care, children under court jurisdiction, and children who died following contact with the Office of Child Protective Services (CPS) in the Department of Human Services (DHS). The exact extent of the problem is not known, however. One source of information is the Office of Children's Ombudsman, which has the authority to investigate the death of children who are under the supervision of the DHS or its private contracted agencies. According to its 2008-2009 Annual Report, the Office of Children's Ombudsman completed investigations of 58 cases in which a child died in fiscal year 2008-09. The report indicated that 15 children died in parental care during an active investigation or an open CPS case, three children died in foster care, and 96% of the investigations involved a child or siblings whose family had prior contact with CPS. In addition to the Children's Ombudsman, various other agencies report child fatalities in Michigan, using different counting standards and formats. As a result, there are no uniform statistics regarding children who have died in State care in a given year.

The lack of consistent information is seen as a key obstacle to preventing additional deaths of children under State care. The absence of the judiciary from the child death review process also is considered

problematic. Evidently, investigations rarely include representatives of the judicial branch, and the courts are unable to obtain confidential information about a child from the DHS after the child dies. Some have suggested the enactment of various measures that could enhance information-sharing among the responsible entities, increase State review of child deaths, and increase the involvement of the judiciary.

CONTENT

Senate Bill 226 (S-1) would amend the Child Protection Law (CPL) to require the Department of Human Services (DHS) to establish and maintain a publicly accessible registry of statistical information regarding children's deaths.

Senate Bill 227 (S-1) would amend the CPL to require the DHS, if a child died while under the court's jurisdiction in a suspected abuse or neglect case, to notify the court, the State legislators representing the district in which the court was located, and the Children's Ombudsman. The bill also would require the DHS to notify the Ombudsman within one business day when a child died during an active Child Protective Services investigation or an open CPS case, if there had been previous complaints about the child's caretaker, or if the death could have resulted from abuse or neglect.

Senate Bill 228 would amend the CPL to make certain information available to a court that had jurisdiction over a child in a suspected abuse or neglect case, in the event of the child's death.

Senate Bill 229 (S-1) would amend the CPL to do the following:

- **Require a child fatality review team and the advisory committee created under the Law to include a representative of a State or local court.**
- **Require the citizen review panel to review each child fatality involving allegations of abuse or neglect for each child who, at the time of death or within the prior year, was under the family court's jurisdiction in an abuse or neglect case.**
- **Require the advisory committee to transmit its annual report of child fatalities to the DHS, and require the Department to ensure the publication of the report between 30 and 60 days after the advisory committee transmitted it.**

All of the bills are described in detail below.

Senate Bill 226 (S-1)

The bill would require the DHS to establish and maintain a registry of statistical information regarding children's deaths that was accessible to the public.

The registry could not disclose any identifying information and could only include statistical information covering all of the following:

- The number of children who died while under court jurisdiction for child abuse or neglect regardless of placement setting.
- The number of children who died as a result of child abuse or neglect after a parent had one or more CPS complaints within the two years before the child's death and the category dispositions of those complaints.
- The total number of children who died under the above conditions in the preceding year.
- The CPS disposition of the child fatality.

Senate Bill 227 (S-1)

Under the bill, if a child who was under the family court's jurisdiction under Section 2(b) of the juvenile code died, the DHS would have to give written or electronic notice within one business day to the court that had jurisdiction over the child at the time of his or her death, the State Senator and State Representative representing the district in which the court was located, and the Children's Ombudsman.

In addition, the DHS would have to notify the Ombudsman within one business day when a child died and any of the following applied:

- The child died during an active CPS investigation or an open CPS case.
- The DHS had received a prior CPS complaint concerning the child's caretaker.
- The death could have resulted from child abuse or neglect.

(Section 2(b) of the juvenile code grants the family division of circuit court jurisdiction in proceedings involving a juvenile under the age of 18 whose parent or legal guardian neglects to provide proper or necessary support, education, medical, surgical or other necessary care; who is subject to a substantial risk of harm to his or her mental well-being; who is abandoned by his or her parents or guardian; or who is without proper custody or guardianship. The court also has jurisdiction over a juvenile whose home or environment is an unfit place to live in because of a parent's or guardian's neglect, cruelty, drunkenness, criminality, or depravity; or whose parent has substantially failed, without good cause, to comply with a limited guardianship plan or a court-structured plan.)

Senate Bill 228

A written report, document, or photograph filed with the DHS under the CPL is a confidential record available only to certain government agencies, law enforcement officials, and other specified entities, including a court that determines the information is necessary to decide an issue before the court.

The bill also would make the information available to a court that had jurisdiction over

a child under Section 2(b) of the juvenile code, in the event of the child's death.

Senate Bill 229 (S-1)

The CPL requires each county to have a standing child fatality review team, although two or more counties may appoint a single review team for those counties.

The Law also requires the DHS to establish a multi-agency, multidisciplinary advisory committee to identify and make recommendations on policy and statutory changes pertaining to child fatalities and to guide statewide prevention, education, and training efforts.

The bill would require a review team and the advisory committee to include a representative of the local court.

The CPL requires the advisory committee to publish an annual report on child fatalities, using an annual compilation of child fatalities reported by the State Registrar under the Public Health Code and data received from the child fatality review teams. The report must include information specified in the Law, and the DHS must transmit it to the Governor and the legislative committees with jurisdiction over child protection matters. The bill would require the advisory committee to transmit the final report to the DHS by December 31 of each year. The DHS would have to ensure publication of the report not less than 30 or more than 60 days after the advisory committee transmitted it to the DHS.

In addition, the bill would require the citizen review panel to review each child fatality involving allegations of child abuse or neglect for each child who, at the time of death or within the preceding 12 months, was under the jurisdiction of the family court in an abuse or neglect case.

(The CPL defines "citizen review panel" (CRP) as a panel established as required by the Federal Child Abuse Prevention and Treatment Act. Pursuant to Federal law, Michigan has a Child Death CRP, a Prevention CRP, and a Child Protective Services, Foster Care, and Adoption CRP.)

MCL 722.627b (S.B. 226)
Proposed MCL 722.627k (S.B. 227)

MCL 722.627 (S.B. 228)
722.627b (S.B. 229)

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

This package of legislation would improve Michigan's child protection system by advancing the practice of information-sharing, breaking down the silos within the system, and increasing the judiciary's role in the child death review process. By enabling public officials to identify systemic problems that may be contributing factors in child deaths, the bills ultimately could prevent the death of additional children under State care.

Currently, without a comprehensive, uniform source of information on child fatalities, the State does not have cohesive data on what is happening and why children are dying in State care. Child deaths are reported by at least five agencies: the DHS, the Department of Community Health, the child death review team program, the Children's Ombudsman, and a national project called Kids Count. The data collected by these agencies are not widely available to all and can be inconsistent, because the respective entities may use differing methodologies or have access to varying sets of information. As a result, their statistics do not match, and a comparison of their figures does not give a clear picture of how many children have died in State care in a given year.

Senate Bill 226 (S-1) would address this problem by requiring the DHS to create a registry of statistical information about children who died while under court jurisdiction for abuse or neglect or as a result of abuse or neglect after CPS complaints. The availability of one central registry could help to remove institutional barriers between the different agencies involved, reducing the isolation of information within the various entities. In addition, because the registry of nonidentifying information would be publicly available, policy-makers and others interested in child safety could perform accurate research and contribute to the discussion of how to prevent child deaths.

Senate Bill 227 (S-1) also would advance the sharing of information on child fatalities. Although the Children's Ombudsman has statutory authority to review child deaths and recommend improvements, the DHS is not required to notify the Ombudsman when a child dies in State care. The bill would require the Department to notify not only the Ombudsman but also the court that had jurisdiction over a child when he or she died and the legislators whose districts include the court. Since each of these parties sees the system from a different angle, it is important that they all work together.

Supporting Argument

Senate Bills 228 and 229 (S-1) would address the absence of the judiciary from the child death review process. It appears that there are few court representatives on State and local child death review teams, and the teams do not ordinarily obtain court records as part of their investigation. In reaction to this situation, the Court Child Death Review Team was formed in December 2007 to investigate the case of any foster child who died while under court jurisdiction. The DHS, however, has the bulk of information needed to conduct a comprehensive review, and the court's team was unable to obtain information that the Department considered confidential. Under current law, a court has access to information about a child if a case involving the child is before the court. If the child dies, however, the case is no longer before the court.

Under Senate Bill 228, the DHS would be required to make case-specific information available to a court that had jurisdiction over an abused or neglected child who died. This would give the court valuable insight into a child's death, and help build a bridge between the judiciary and the child death review system. At the same time, Senate Bill 229 (S-1) would add a judicial perspective to the work of other review entities, by requiring a representative of the local court to be included on county child fatality review teams and the DHS advisory committee on child fatalities. The bill also would mandate State review of the death of any abused or neglected child who was under the court's jurisdiction, rather than leaving review discretionary. Together, these bills would advance the goal of involving the judiciary in every aspect of child death review.

FISCAL IMPACT

Senate Bill 226 (S-1)

According to the Department of Human Services, data that would be used in the registry mandated by the bill are already collected by the child fatality review teams and made available to the Legislature. The bill would likely lead to a small, indeterminate increase in administrative cost to the Department associated with modifying available information for use in a registry and modifying the Department's internet home page to meet the requirements of the bill.

Senate Bills 227 (S-1), 228, & 229 (S-1)

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

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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.