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BILL ANALYSIS



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Senate Bills 1041 through 1044 (as introduced 9-6-16)
Sponsor: Senator Judy K. Emmons
Committee: Families, Seniors and Human Services

Date Completed: 10-20-16

CONTENT

The bills would amend various statutes to allow certain confidential information possessed by the Department of Health and Human Services (DHHS) or the Department of Licensing and Regulatory Affairs (LARA) to be disclosed as necessary for the functioning of the DHHS, LARA, or another State department, regardless of confidentiality provisions.

Senate Bill 1041 would amend the Adult Foster Care Facility Licensing Act; Senate Bill 1042 would amend the Social Welfare Act; Senate Bill 1043 would amend the Child Protection Law; and Senate Bill 1044 would amend the child care licensing Act.

Each of the bills would take effect 90 days after its enactment.

Senate Bill 1041

Under the Adult Foster Care Facility Licensing Act, a person who believes that the Act or a rule promulgated under it might have been violated may request an investigation of an adult foster care facility. The request must be submitted to LARA in writing or the Department must assist the person in reducing an oral complaint to writing within seven days after the oral request is made.

The complaint, a copy of it, or a record published, released, or otherwise disclosed to the facility may not disclose the name of the complainant or an adult resident named in the complaint unless the complainant or resident consents in writing or the investigation results in an administrative hearing or judicial proceeding, or unless LARA considers disclosure essential to the investigation. If disclosure is considered essential to the investigation, the complainant must be given the opportunity to withdraw the complaint before disclosure.

Under the bill, notwithstanding the provision described above, information or records that LARA possessed could be disclosed to the extent necessary for the proper functioning of the Department or another State department.

Senate Bill 1042

Under the Social Welfare Act, certain people who suspect or have reasonable cause to believe that an adult has been abused, neglected, or exploited must immediately make an oral report to the county department of social services and may follow up with a written report. In addition to those people required to report, any person who suspects that an adult has been abused, neglected, or exploited may report that suspicion.

The identity of a person making a report must be confidential, subject only to disclosure with that person's consent or by judicial process. Under the bill, notwithstanding that provision and any other confidentiality provisions of the Act, information or records that the DHHS possessed could be disclosed to the extent necessary for the proper functioning of the Department or another State department.

Senate Bill 1043

The Child Protection Law (CPL) requires certain people who have reasonable cause to suspect child abuse or neglect to make an immediate report to the DHHS by telephone or, if available, through an online reporting system. Within 72 hours after making the oral report, the person must file a written report. In addition, any person who has reasonable cause to suspect child abuse or neglect may report to the DHHS or a law enforcement agency.

Except as otherwise provided in the CPL, the identity of a reporting person is confidential subject to disclosure only with his or her consent or by judicial process. Under the bill, notwithstanding that provision and other confidentiality provisions in the CPL, information or records that the DHHS possessed could be disclosed to the extent necessary for the proper functioning of the Department or another State department.

Senate Bill 1044

Under the child care licensing Act, the DHHS may investigate and examine conditions of a child care organization in which a licensee receives, maintains, or places out children, and may investigate and examine a licensee's books and records.

Except as otherwise provided in the Act, records regarding children and facts compiled about children and their parents and relatives are confidential and disclosure of that information must be properly safeguarded by the child care organization, the DHHS, and any other entity in possession of the information. Under the bill, notwithstanding confidentiality provisions of the Act, information or records that the DHHS possessed could be disclosed to the extent necessary for the proper functioning of the Department or another State department.

MCL 400.724 (S.B. 1041)
400.11c (S.B. 1042)
722.625 (S.B. 1043)
722.120 (S.B. 1044)

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

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

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