

Legislative Analysis



FINGERPRINTING AND PHOTOGRAPHING CHILDREN/YOUTH OR INDIVIDUALS WITH SPECIAL HEALTH CARE NEEDS

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House Bill 4137 (reported from committee w/o amendment)

Sponsor: Rep. Ben Frederick

House Committee: Judiciary

(Public Act 24 of 2017)

Senate Bill 38 (reported from House committee w/o amendment)

Sponsor: Sen. Rick Jones

Senate Committee: Judiciary

House Committee: Judiciary

(Public Act 25 of 2017)

Complete to 3-10-17

BRIEF SUMMARY: House Bill 4137 expands the current Child Identification and Protection Act (CIPA) to allow a parent or guardian of *a child or youth with special health care needs* to volunteer the child's or youth's fingerprints and photograph to the Department of State Police, or an MSP-approved entity, for the purpose of distribution if that child or youth becomes missing or a runaway. House Bill 4137 is identical to Senate Bill 36, which has been passed by the Senate.

Senate Bill 38 expands Public Act 120 of 1935 and includes provisions identical to those found in House Bill 4127 to apply to *an individual with special health care needs*. This bill was passed by the Senate on February 9, 2017.

FISCAL IMPACT: These bills would result in a minor, negative fiscal impact on the Department of State Police (MSP). The MSP reports that it would require a separate system for storing fingerprints and photographs collected under the provisions of these bills since this information cannot be comingled with criminal information. This would result in one-time programming costs of approximately \$25,000. Approximately \$3,200 in additional costs would be incurred annually to maintain the system. Fees paid by individuals providing fingerprint and photograph information would likely cover the costs of administering the program.

THE APPARENT PROBLEM:

The Child Identification and Protection Act (CIPA) was enacted in 1985 in Michigan to help identify missing children. Even though the original act would encompass children with special needs, it has an age cut-off of 17 years old. However, many special needs children are still living with their parents or guardians past 17 years of age. To account for this, the bill would expand the age of fingerprinting and photographing individuals with special needs to 21 years of age. Thus, CIPA would carve out an exception for children and youths with special needs to extend the age at which fingerprints and photographs may be taken and held on file for identification purposes.

Missing children may also become scared when away from home, and some special needs children or youths may not be able to effectively communicate to provide a name or home address. Additionally, some may have an aversion to touch, making identification through fingerprints difficult. As a result, both fingerprinting and photographing a special needs child or youth is helpful to be able to use either identification technique.

THE CONTENT OF THE BILLS:

House Bill 4137 expands the current Child Identification and Protection Act (CIPA) to allow a parent or guardian of *a child or youth with special health care needs* to volunteer the child's or youth's fingerprints and photograph to the Department of State Police, or an MSP-approved entity, for the purpose of distribution if that child or youth becomes missing or a runaway.

Senate Bill 38 expands Public Act 120 of 1935 and includes provisions identical to those found in House Bill 4127 to apply to *an individual with special health care needs*.

"Child or youth with special health care needs" (in HB 4147) means a single or married individual under 21 years of age whose activity is or may become so restricted by disease or specified medical condition as to reduce the individual's normal capacity for education and self-support. "Individual with special health care needs" (in SB 38) means a single or married individual whose activity is or may become so restricted by disease or specified medical condition as to reduce the individual's normal capacity for education and self-support.

Fingerprinting and Photo Identification Process

The bills would require the creation of an online written request form on the Department of State Police website that a parent or guardian of *a child or youth* with special health care needs (HB 4137), or a parent or guardian of an *individual* with special health care needs (SB 38) could use to request a MSP-approved entity to fingerprint and digitally photograph the child or youth, or individual. The fingerprints and photo would then be added to the Automated Fingerprint Identification System (AFIS) and the statewide network of agency photos maintained by the department.

Along with the posted form on the department's website, a list of department-approved entities must also be available. The department may charge a fee to cover the costs associated with processing the request, but the bill does not provide an amount that can be charged. The session would take place at the department, or an entity approved by the department, and the processing fee and a signed waiver are due at this session.

After Fingerprinting and Photo Identification

Once the fingerprints and digital photo are collected, the department must forward them to the Director of the Federal Bureau of Investigation (FBI) for registration, storage, and use for identification purposes by the FBI.

A parent or guardian may make a written request to the state police to have the fingerprints and photo removed from the AFIS database and the statewide network of agency photos. Upon receipt of this request, the MSP must remove the fingerprints and photo from the AFIS database and the statewide network of agency photos.

Background and Definitions

In addition to those already cited, the bills would add the following new definitions to be used in their new sections.

- "Department-approved entity" means an entity, including a local law enforcement agency or a private company, approved by the Department of State Police to take the fingerprints and photograph of a child or youth with special health care needs under section 4.
- "Guardian" means a person who has qualified as a guardian [. . .] under a parental or spousal nomination or a court order issued under the Probate Code, or the Estates and Protected Individuals Code, or the Mental Health Code. Guardian may also include a person appointed by a Tribal Court under tribal code or custom. Guardian does not include a guardian ad litem.
- "Parent" means the natural or adoptive parent [. . .] who has either or both sole or joint legal or physical custody of the child if a court order dictating custody is in place, or the natural or adoptive parent of an individual with special health care needs if there is no court order dictating custody in place.

These amendments will take effect 90 days after the date they are enacted into law.

MCL 722.772 et al. (HB 4137)
MCL 28.271 et al. (SB 38)

ARGUMENTS:

For:

Proponents of the bill say that it addresses stressful times when a child or youth with special health care needs becomes missing. In the event of any missing child, a fast reaction results in higher odds of reuniting the family. However, if the child or youth with special needs is unable to articulate their name or address, the process of reunification can be hindered. As a result, police officers may search for the child's or youth's fingerprints in the AFIS database to identify their name and address. Or, if the child or youth has an aversion to touch, a photo in the statewide network of agency photos maintained by the department can be used.

One parent pointed out that the fingerprints and photographs stored in the databases might also help combat youth homelessness. If a youth with special health care needs wanders too far from home, any department in the state will be able to search the AFIS database and the statewide network of agency photos.

Another supporter of the bill clarified that the fingerprints and photographs would strictly be for identification purposes only. This means they would be stored in the AFIS database

separately from fingerprints and photographs used for criminal investigations. Because the fingerprints and photographs will be stored separately, removal from the database would be easy if the parent or guardian chooses to have them removed.

Against:

No arguments were presented in opposition.

POSITIONS:

A representative from the Michigan State Police testified in support of the bill. (2-28-17)

Shiawassee County Sheriff testified in support of the bill. (2-28-17)

A concerned parent also testified before the committee in support of the bill. (2-28-17)

Legislative Analyst: Emily S. Smith
Fiscal Analyst: Kent Dell

■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.