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BILL ANALYSIS



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Senate Bill 1116 (Substitute S-1 as passed by the Senate)
Senate Bill 1117 (as passed by the Senate)
Sponsor: Senator Bill Hardiman (S.B. 1116)
Senator Jud Gilbert, II (S.B. 1117)
Committee: Families and Human Services

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RATIONALE

Methamphetamine, or meth, is a synthetic stimulant that is becoming an increasing problem in Michigan and across the country. The drug reportedly has effects similar to those of cocaine, but much longer lasting, since meth is not as easily broken down by the body. Depending on the method of ingestion, a meth high can last as long as three days. In some cases, meth addicts have been known to neglect their children, sometimes forgetting to feed, clothe, or bathe them for days at a time or longer.

One of the primary ingredients in meth is pseudoephedrine, commonly found in over-the-counter cold medicines, but other hazardous chemicals are used in manufacturing the drug, including benzene, ether, toluene, anhydrous ammonia, red phosphorous, iodine, and reactive metals. The chemical processes used to make meth can create hazardous fumes and dangerous byproducts that can contaminate an entire building, including the walls, ceilings, floors, and furnishings. Groundwater or drinking water can be contaminated as well. Since the process is illegal and most meth producers are not trained to handle such dangerous chemicals, they rarely take adequate precautions or use the proper safety equipment to contain fumes or the hazardous waste products. Children living in homes where meth is produced often are exposed to a highly toxic environment, where their clothes, blankets, and toys may be contaminated.

The Child Protection Law requires the Department of Human Services (DHS) to report to a law enforcement agency the

results of an investigation into child abuse, if the investigation turns up evidence of child abuse or sexual misconduct. The Law also requires law enforcement agencies to report to the DHS if an agency receives a report of child abuse or neglect committed by a person responsible for the child. Some believe that the law should require such communication in cases involving children who may have been exposed to methamphetamine production. Reportedly, the DHS and law enforcement agencies often notify each other in these cases, but currently there is no statutory requirement to do so.

CONTENT

Senate Bill 1116 (S-1) would amend the Child Protection Law to require reporting and investigation by the Department of Human Services and law enforcement agencies if a report or investigation of child abuse indicated a drug lab violation involving meth, or if there were evidence that a child was being exposed to meth production.

Senate Bill 1117 would amend the Child Protection Law to require the Department of Human Services to refer a central registry case to the prosecuting attorney if it involved a child's exposure to meth production, and require the prosecuting attorney to review the investigation of the case.

The bills are described below.

Senate Bill 1116 (S-1)

The Child Protection Law (CPL) requires certain professionals (including physicians, nurses, medical examiners, psychologists, social workers, teachers, members of the clergy, and regulated child care providers) to report to the DHS if they have reasonable cause to suspect child abuse or neglect.

If an allegation, written report, or subsequent investigation of suspected child abuse or child neglect indicates that a violation of the Michigan Penal Code involving child abuse and child sexually abusive activity, or criminal sexual conduct (CSC), has occurred, the DHS must transmit a copy of the allegation or written report and the results of any investigation to a law enforcement agency in the county where the incident occurred.

Under the bill, this requirement also would apply if an allegation, written report, or subsequent investigation indicated that a violation of Section 7401c of the Public Health Code involving methamphetamine had occurred. (Section 7401c prescribes criminal penalties for owning, possessing, or using a vehicle, building, or place used to manufacture a controlled substance, counterfeit substance, or controlled substance analogue in violation of the Code; owning or possessing any chemical or laboratory equipment used for that purpose; or providing any chemical or lab equipment to another person who intends to use it for that purpose.)

The bill also would require the DHS immediately to contact the law enforcement agency in the county in which the incident occurred if, in conducting an investigation of child abuse or neglect, the Department suspected that a child had been exposed to or had contact with meth production.

Under the CPL, if a local law enforcement agency receives an allegation or written report of suspected child abuse or child neglect and the allegation, report, or subsequent investigation indicates that the abuse or neglect was committed by a person responsible for the child's health or welfare, the law enforcement agency must refer the allegation or provide a copy of the written report and the results of any investigation to the DHS. The bill would require a law enforcement agency to do the same if it

discovered evidence of or received a report of an individual allowing a child to be exposed to or to have contact with meth production, and the allegation, report, or investigation indicated that a person responsible for the child's health or welfare allowed the child to be exposed to or have contact with meth production.

Also, under the CPL, if the allegation, report, or investigation indicates that the individual who committed the suspected abuse or neglect is a child care provider and the law enforcement agency believes that the report has basis in fact, the agency must send a copy of the report or the results of the investigation to the child care regulatory agency having authority over the provider. Under the bill, this also would apply if a child care provider were suspected of causing a child to be exposed to or have contact with meth production.

The CPL requires the Department, within 24 hours of receiving a report made under the Law, to refer the report to the prosecuting attorney if it indicates that a violation involving criminal child abuse, child sexually abusive activity, or CSC occurred. Under the bill, the DHS also would have to refer the report to the prosecuting attorney within 24 hours if the Department, in its investigation, suspected that a child had been exposed to or had contact with meth production.

Under the CPL, within 24 hours after receiving a report involving criminal child abuse, child sexually abusive activity, or CSC, the local law enforcement agency must refer the report to the DHS if there is an indication that the abuse or neglect was committed by a person responsible for the child's health or welfare, or the law enforcement agency must begin an investigation of the child. Under the bill, the law enforcement agency also would have to begin an investigation if it received a report from the DHS that a child had been exposed to or had contact with meth production.

Currently, if the child suspected of being abused is not in the physical custody of the parent or legal guardian and informing the parent or guardian would not endanger the child's health or welfare, the DHS or law enforcement agency must inform the child's parent or guardian of the investigation. Under the bill, this also would apply if the

child suspected of having been exposed to or allowed to have contact with meth production were not in the physical custody of the parent or legal guardian.

The CPL requires the Department, in conducting its investigation, to seek the assistance of and cooperate with law enforcement officials within 24 hours after becoming aware of certain conditions (e.g., abuse or neglect is the suspected cause of a child's death, or the child is the victim of suspected sexual abuse or sexual exploitation). Under the bill, the DHS also would have to seek the assistance of and cooperate with law enforcement officials within 24 hours after becoming aware that the child had been exposed to or had contact with meth production.

The CPL also requires the DHS, within 24 hours of determining that a child was severely physically injured or sexually abused, to submit a petition requesting that the Family Division of the Circuit Court take jurisdiction over the case under Section 2(b) of the juvenile code. The bill would extend this requirement to include cases in which a child was allowed to be exposed to or have contact with meth production.

(Section 2(b) grants the Family Division of the Circuit Court (family 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 1117

The Child Protection Law requires the DHS to maintain a statewide, electronic central registry to carry out the intent of the Law. "Central registry" means the system maintained by the DHS that is used to keep a record of all reports filed with the

Department 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 DHS classifies as Category I or Category II.

(A Category I case is one in which the DHS 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 DHS previously classified the case as Category II and the child's family does not voluntarily participate in services; or there is a violation, involving the child, of a crime specified in the Law. A Category II case is one in which the DHS determines that there is evidence of child abuse or neglect and there is a high or intensive risk of future harm to the child.)

Under the bill, if a central registry case involved a child's exposure to or contact with methamphetamine production, the DHS would have to refer the case to the prosecuting attorney for the county in which the child was located. The prosecuting attorney would have to review the investigation of the case to determine whether it complied with the protocol adopted as required by Section 8.

(Section 8 requires the prosecuting attorney and the DHS, in each county, to adopt and implement standard child abuse and neglect investigation and interview protocols, as well as procedures for involving law enforcement officials. Under Section 8, the DHS must refer a report to the prosecuting attorney if criminal child abuse, child sexually abusive activity, or criminal sexual conduct is indicated, or if the suspected abuse or neglect was committed by someone who is not responsible for the child's health or welfare; or the DHS must begin an investigation. If a local law enforcement agency receives a report of suspected child abuse or neglect involving criminal child abuse, child sexually abusive activity, or CSC, the agency must refer the report to the DHS if the suspected child abuse or neglect was committed by a person responsible for the child's health or welfare; or the agency must begin an investigation.)

MCL 722.623 et al. (S.B. 1116)
722.628b (S.B. 1117)

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

A meth lab in a home can have many harmful effects on children, both physical and emotional. Children exposed to meth production reportedly can develop respiratory ailments, brain or organ damage, or other serious health conditions. Children, who are still growing, are more susceptible than adults to the harmful health effects of these substances. The poisonous chemicals from meth production can contaminate the air, water, and everything in the house, creating a toxic environment for children. Many of the materials used to produce meth are highly flammable. If they are heated too quickly during the cooking process, the meth lab could catch fire or even explode, potentially burning down the house or building where the lab was located.

In addition, parents using or cooking meth may not be in the proper frame of mind to care for their children. Meth can induce paranoia, anxiety, and psychotic episodes, and in some cases can cause parents to neglect their children altogether. Because of the multiple dangers to children living in homes where meth is being produced, law enforcement agencies and the DHS should both be notified and work together when children are discovered in such situations. Clear and effective communication between agencies is necessary to protect the best interests of the children and to pursue the appropriate legal action. Under the bills, the DHS would have to notify law enforcement agencies when investigations of abuse uncovered evidence of a meth lab in a home, and law enforcement agencies would have to notify the DHS if they uncovered a meth lab where children were present. Although such communication generally occurs in these circumstances, the bills would put a requirement into statute, to ensure that children were safeguarded and emphasize the importance of protecting children exposed to meth production.

Legislative Analyst: Curtis Walker

FISCAL IMPACT

The bills would have no fiscal impact on State or local government. The changes apparently would codify existing practice of the Department of Human Services.

Fiscal Analyst: Constance Cole

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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.