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Senate Bill 260 (as introduced 2-18-09)
Sponsor: Senator Roger Kahn, M.D.
Committee: Families and Human Services

Date Completed: 3-9-09

CONTENT

The bill would amend the Child Protection Law (CPL) to require the Department of Human Services (DHS) to allow a court access to all information the DHS had pertaining to a child who died while under the jurisdiction of the court under Section 2(b) of the juvenile code.

(Section 2(b) 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.)

The CPL requires the DHS Director to release specified information in a child abuse or neglect case in which a child who was a part of the case has died.

At the Director's initiative or upon written request, the Director may release specified information from child protective services records if there is clear and convincing evidence the release is in the best interest of the child, or is not in conflict with the best interest of the child and one or more of the following are true:

- The release is in the best interest of a member of the child's family or an individual who resides in the same home.
- The release clarifies actions taken by the DHS on a specific case.
- The report or record containing the information concerns a child who has died or concerns a member of that child's family.
- All or part of the report containing the specified information is publicly disclosed in a judicial proceeding.
- The report or record relates to a child abuse or neglect case that has been part of the subject matter of a published or broadcast media story.
- The report or record concerns a substantiated report of sexual abuse, serious injury, or life-threatening harm involving the child or a sibling.

The Director may not deny a request for specified information based on a desire to shield a lack of or inappropriate performance by the Department.

The Director may not release the specified information if one or more of the following are true:

- The request for release does not include information sufficient to identify the specific case to which the request relates.
- An investigation of the report of child abuse or neglect to which the information relates is in progress and the report has not been substantiated or unsubstantiated.
- A hearing to determine whether a record should be amended or expunged is pending.
- There is an ongoing criminal investigation, and release would interfere with it, as determined by the local prosecuting attorney.
- The individual who submits the request is serving a sentence of imprisonment in a State, county, or Federal correctional facility in this State or in another state.
- The child to whom the report or record relates is 18 years of age or older.

The requirement under the bill would be in addition to those requirements.

Proposed MCL 722.627I

Legislative Analyst: Curtis Walker

FISCAL IMPACT

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

Fiscal Analyst: David Fosdick

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