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BILL ANALYSIS



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Senate Bill 1071 (as reported without amendment)
Sponsor: Senator Mike Nofs
Committee: Families and Human Services

(as passed by the Senate)

Date Completed: 2-5-10

RATIONALE

Over the past few years, several children have died while in the foster care system or the subject of an investigation by the Office of Child Protective Services. The deaths have raised concerns about the lack of adequate protections for those children. To help correct the problems, legislation has been proposed to create the Office of the Legislative Child Fatality Examiner, which would have to identify specific causes and systemic problems that contribute to the deaths of children in foster care. It has been suggested that the Child Fatality Examiner should have access to reports produced by the Children's Ombudsman for the purpose of conducting a review.

CONTENT

The bill would amend the Children's Ombudsman Act to permit the Ombudsman to provide to the Legislative Child Fatality Examiner a copy of his or her report on suspected abuse or neglect of a child, with all confidential information redacted, for the purpose of a review of a child's death.

The Act authorizes the Ombudsman to pursue all necessary action to protect the rights and welfare of a child under the jurisdiction of the Department of Human Services (DHS), the Michigan Children's Institute, the family court, a child caring institution, or a child placing agency. The Ombudsman has the authority to investigate administrative acts in relation to such a child who may be a victim of child abuse or neglect, either upon receiving a complaint or on his or her own initiative. The Ombudsman must prepare a report of the factual findings of the investigation and

make recommendations to the DHS or the child placing agency.

Under the bill, the Ombudsman could provide to the Legislative Child Fatality Examiner a copy of that report, with all confidential information redacted, for the purpose of a review of a child's death under the proposed Child Fatality Review Act.

The bill is tie-barred to Senate Bill 259 or House Bill 5702. (Each of those bills would create the "Legislative Child Fatality Review Act" to establish the Office of the Legislative Child Fatality Examiner for the purpose of identifying specific causes and systemic problems that contribute to the deaths of children in foster care.)

MCL 722.930

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

The bill would allow the sharing of critical information necessary for the proposed Legislative Child Fatality Examiner to conduct a thorough investigation. The Children's Ombudsman has the authority to investigate allegations of child abuse and neglect, and specifically to look into whether the DHS or child placing agencies violated any policies or procedures in handling a case. The results of an investigation could help the Child Fatality Examiner understand the events leading up to the death of a child and make recommendations to prevent similar incidents in the future. The bill would allow, but would not require, that

information to be shared with the Child Fatality Examiner, with confidential information redacted.

Opposing Argument

The bill is unnecessary because the Office of the Legislative Child Fatality Examiner itself is unnecessary and duplicative. A number of mechanisms already exist to investigate the death of a child while under the State's care, and creating another office for essentially the same purpose would not be the best use of the State's limited resources.

Response: The Office of the Legislative Child Fatality Examiner would look at the situation from a broader perspective, trying to understand the systemic failures that led to a child's death. In that sense, it would not be duplicative, but would fill a gap in the current review process. The sharing of information as permitted under the bill would help to make the Examiner's office more effective in meeting that objective.

Opposing Argument

The Children's Ombudsman Act already provides for the release of information regarding child deaths in Michigan. Any legislator or other individual who registers a complaint with the Ombudsman has access to the Ombudsman's report once an investigation is completed. In addition, the Ombudsman may share information regarding an investigation with the Legislature or a legislative committee upon request. The Ombudsman's office also releases statistical information on child abuse and neglect in its annual report, which includes comprehensive information on investigations conducted during the year and recommendations for ways to improve the child welfare system. That report is available to the public on the Ombudsman's website at www.michigan.gov/oco. It is unclear how the bill would differ from the provisions already in place.

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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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.