

Legislative Analysis



REQUIRE VIDEO TESTIMONY OF CHILD ABUSE/NEGLECT VICTIM

Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

House Bill 4547 as introduced
Sponsor: Rep. Thomas B. Hooker

Analysis available at
<http://www.legislature.mi.gov>

House Bill 4548 as introduced
Sponsor: Rep. Robert L. Kosowski

House Bill 4549 as introduced
Sponsor: Rep. Harvey Santana

Committee: Judiciary
Complete to 5-25-15

SUMMARY:

Taken together, the bills would amend various acts to:

- Require an electronic recording of an interview of a child in a child abuse or neglect investigation. "Electronic recording" refers to a videorecording of a witness statement.
- Allow that statement to be considered in a probation violation hearing, or a hearing to expunge irrelevant or inaccurate evidence from the Central Registry (of child abuse and neglect).
- Specify who may view a videorecorded statement.
- Increase the penalty for unauthorized disclosure of a statement.
- Specify how long a court must retain a videorecorded statement.

The bills are tie-barred to each other, meaning no bill could become law unless all are enacted. The bills would take effect 90 days after enactment.

House Bill 4547 would add a new section to the Child Protection Law, which pertains to complaints of child abuse or child neglect made to Children's Protective Services (CPS), and how complaints are handled (MCL 722.638f). The bill would require a department investigator or law enforcement officer who interviews a child in an accredited or an accreditable child assessment center (or arranges an interview of a child in one of those locations, also known as child advocacy centers) to make an electronic recording of the interview in its entirety. The recording would have to be started at the beginning of the interview and not be turned off until the interview was completed.

The Department of Health and Human Services (DHHS) would have to allow access to and retain electronic recordings in the same manner as provided by House Bill 4548.

House Bills 4548 and 4549 would make similar revisions to the Revised Judicature Act (MCL 600.2163a) and Juvenile Code (MCL 712A.17b), respectively.

Provisions in each of those two acts allow special accommodations for a witness who is under 16 years old or developmentally disabled and who is an alleged victim of abuse or criminal sexual conduct. The special accommodations apply to criminal prosecutions and juvenile proceedings and include, among other things, videotaping witness statements.

The bills would allow a videorecorded statement to be considered by a hearing officer in a hearing, or in a proceeding, held under Section 7(6) of the Child Protection Law to determine if a report or record in the Central Registry should be amended or expunged on the grounds that it is not relevant or accurate evidence of abuse or neglect. ("Central Registry" is the system maintained at DHHS that is used to keep a record of all reports filed with the department under the Child Protection Act in which relevant and accurate evidence of child abuse or neglect is found to exist.)

In a child abuse or neglect proceeding, a court may order that a copy of the videorecorded statement be given to the defense. The bills would allow the order to specify who may view the videorecorded statement, indicate the time by which the recording is required to be returned, and state a reason for the release of the videorecorded statement.

Currently, a person who intentionally releases a videorecorded statement in violation of the act is guilty of a misdemeanor punishable by imprisonment for not more than 93 days and/or a fine of not more than \$500. The bills would increase the maximum term of imprisonment to one year and the maximum fine to \$1,000.

Further, the bills would require a court to retain a videorecorded statement as required by state Supreme Court rule. All other entities would have to store a videorecorded statement made under the bills in accordance with the county protocols established under Section 8 of the Child Protection Act, which references protocols developed by the Governor's Task Force on Children's Justice and published in certain department publications.

Lastly, House Bill 4548 would allow the videorecorded statements to also be considered by a court in a probation violation hearing and require a prosecutor, upon request, to provide the defense with a means to view and hear the videorecorded statement before a probation hearing or a hearing as described above pertaining to amending or expunging irrelevant or inaccurate evidence of child abuse or neglect in the Central Registry.

FISCAL IMPACT:

Given the increase in the maximum term of imprisonment and the increase in the amount of fines that could be assessed, the bills could increase costs on local correctional systems and could increase funding for local libraries. New convictions would increase costs related to county jails and/or local misdemeanor probation supervision. The costs of local incarceration in a county jail and local misdemeanor probation supervision vary by jurisdiction. The bill would have an indeterminate fiscal impact on the judiciary and local

court funding units. The fiscal impact would depend on how the provisions of the bills affected caseloads and related administrative costs. Any increase in penal fine revenues would increase funding for local libraries, which are the constitutionally-designated recipients of those revenues.

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