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House Bill 5248 (Substitute H-2 as passed by the House)
House Bill 5249 (as passed by the House)
Sponsor: Representative Matt Hall (H.B. 5248)
Representative Andrea K. Schroeder (H.B. 5249)
House Committee: Families, Children, and Seniors
Ways and Means
Senate Committee: Families, Seniors, and Veterans

Date Completed: 7-21-20

CONTENT

House Bill 5249 would amend the Children's Ombudsman Act to do the following:

- **Require the Children's Ombudsman to conduct a preliminary investigation, instead of an investigation, for all child fatality cases that occurred or are alleged to have occurred because of child abuse or neglect.**
- **After completing a preliminary investigation, require the Ombudsman to determine whether a full investigation was necessary, and if so, require the Ombudsman to open a full investigation.**

House Bill 5248 (H-2) would amend the Children's Ombudsman Act to require the Ombudsman, after redacting confidential information, to release his or her findings, recommendations, and the agency responses to the public not more than 30 days after the case closure date of a case investigated by the Office of Children's Ombudsman (OCO).

House Bill 5249

Generally, the Act prescribes the powers and duties of the Children's Ombudsman. Among other things, the Ombudsman must investigate all child fatality cases that occurred or are alleged to have occurred because of child abuse or neglect in the following situations:

- A child died during an active child protective services investigation or open services case, or there was an assigned rejected child protective services complaint within 24 months immediately preceding the child's death.
- A child died while in foster care, unless the death resulted from natural causes and there was not a previous child protective services or licensing complaint concerning the foster home.
- A child was returned home from foster care and there is an active foster care case.
- The foster care case involving the deceased child or sibling was closed within 24 months immediately preceding the child's death.

Under the bill, the Ombudsman would have to conduct a preliminary investigation into all child fatality cases that occurred or were alleged to have occurred because child abuse or child neglect in one or more of the situations described above. Upon completing a preliminary investigation into a child fatality case as described above, the Ombudsman would have to

determine whether a full investigation was necessary. If the Ombudsman determined a full investigation was necessary, he or she would have to open a full investigation into the child fatality case.

("Preliminary investigation" would mean an act of fact finding, document review, or systematic inquiry or examination to determine if there is correlation between an administrative act and the death of a child or to determine if a trend or systematic issue is identified that would cause the Ombudsman to open a full investigation. "Full investigation" would mean an act of fact finding, document review, or systematic inquiry or examination that occurs after the completion of a preliminary investigation. "Investigation" would mean either a preliminary or a full investigation.)

The Code currently requires an investigation to be completed within 12 months after the Ombudsman opens a case for investigation, subject to State appropriations. The bill would require a full investigation into a child fatality case as described above to be completed within 12 months after the Ombudsman opened that child fatality case for a full investigation, subject to State appropriations.

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Under the Act, subject to certain provisions, a record of the OCO is confidential and must be used only for purposes set forth in the Act. The record is not subject to court subpoena and is not discoverable in legal proceeding. A record also is exempt from disclosure under the Freedom of Information Act. If the Ombudsman identifies action or inaction by the State that failed to protect children, the Ombudsman must provide his or her findings and recommendations to the agency affected by those findings, and make those findings and recommendations available to the complainant and the Legislature upon request to the extent consistent with State or Federal law. The Ombudsman may not disclose any information that impairs the rights of the child or the child's parents or guardians. The bill specifies that this language would not apply to the proposed requirement below.

Under the bill, not more than 30 days after the case closure date of a case investigated by the OCO under the Act, the Ombudsman would have to release his or her findings, recommendations, and the agency responses, if any, to the public. The Ombudsman would have to redact confidential information consistent with State and Federal law.

MCL 722.929 (H.B. 5248)
722.922 & 722.926 (H.B. 5249)

Legislative Analyst: Tyler VanHuyse

FISCAL IMPACT

House Bill 5249

The bill could have a negligible fiscal impact on the State. The new provision would require the OCO, in all child fatality cases, to conduct a preliminary investigation to determine if a full investigation were warranted. This could result in fewer full investigations resulting in a slight savings to the OCO; however the costs of the required preliminary investigations could negate those savings.

House Bill 5248 (H-2)

The bill likely would have a significant fiscal impact on the OCO in the Department of Technology, Management, and Budget. It would have no fiscal impact on local units of government.

The Office would have to publish the required documents online. The cost of posting and maintaining documents includes fixed as well as variable costs based on the number of times the document is viewed or downloaded. As a result, the magnitude of the impact would be determined by the number of documents published and the number of times each document was retrieved. Initial cost estimates indicate additional annual expenses of between several hundred and several thousand dollars This would represent an increase of 1% or more in office support costs based on current appropriations.

Fiscal Analyst: Joe Carrasco
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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.