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SFA**BILL ANALYSIS**

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Senate Bill 1447 (Substitute S-1 as reported by the Committee of the Whole)
Sponsor: Senator Bev Hammerstrom
Committee: Judiciary

CONTENT

The bill would amend the juvenile code to revise the procedures governing videotape statements of witnesses in some cases. The bill would refer to "videorecorded", rather than "videotape", statements; require that a videorecorded statement conform to the protocol implemented under the Child Protection Law (CPL); provide that a videorecorded statement would be subject to an order to protect the privacy of the witness and would not be subject to release under any other statute or to disclosure under the Michigan Court Rules governing discovery; and provide that intentionally releasing a videorecorded statement in violation of the code would be punishable by up to 93 days' imprisonment and/or a \$500 maximum fine. The bill is tie-barred to Senate Bill 1356, which would similarly change the Revised Judicature Act.

The code allows an investigating agency to take a videotape statement of a witness. "Witness" means a person who is under 16 years of age or who is 16 or older with a developmental disability, and who is an alleged victim of first-, second-, third-, or fourth-degree child abuse; involvement in child sexually abusive activity or material; first-, second-, third-, or fourth-degree criminal sexual conduct (CSC); or assault with intent to commit CSC. Under the bill, "videorecorded statement" would mean a witness's statement taken by a custodian of the videorecorded statement as provided in the code, but would not include a videorecorded deposition taken instead of live testimony. "Custodian of the videorecorded statement" would mean the Family Independence Agency (FIA), investigating law enforcement agency, prosecuting attorney, Department of Attorney General, or another person designated under the county protocols established under the CPL (procedures for cases of suspected child abuse or child neglect reported to the FIA, including standard investigation and interview protocols).

The bill specifies that a custodian of the videorecorded statement could release it to a law enforcement agency, an agency authorized to prosecute the criminal case, or an entity that was part of the county protocols established under the CPL. If authorized by the prosecuting attorney, a videorecorded statement could be used for purposes of training the county's custodians of the videorecorded statement.

Each respondent and his or her attorney would have the right to view and hear a videorecorded statement at a reasonable time before it was offered into evidence (instead of at least 48 hours before, as currently provided). The court could order that a copy be given to the defense to prepare for a court proceeding, under protective conditions involving a prohibition against copying the videorecorded statement.

MCL 712A.17b

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

Please see **FISCAL IMPACT** on Senate Bill 1356.

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