

DAY CARE AIDES AND RELATIVE PROVIDERS

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House Bill 5242
Sponsor: Rep. Pam Byrnes

House Bill 5244
Sponsor: Rep. Dudley Spade

House Bill 5243
Sponsor: Rep. Tim Melton

House Bill 5838
Sponsor: Rep. Barb Byrum

Committee: Families and Children's Services
Complete to 2-24-10

A SUMMARY OF HOUSE BILLS 5242-5244 AS INTRODUCED 8-19-09 & HOUSE BILL 5838 AS INTRODUCED 2-17-10

Each of the bills would amend the Social Welfare Act. (MCL 400.1 et seq.)

Training Session Requirement (House Bill 5242)

The bill would add Section 74b, under which the Department of Human Services would require day care aides and relative care providers complete at least ten clock hours of training each calendar year; the training would have to include topics regarding cardiopulmonary resuscitation, safe sleep, shaken baby syndrome, child development, and program planning and management. Beginning October 1, 2010, the department would disenroll any day care aide or relative care provider who had not met the annual training requirement under this section.

Subsidy Ineligibility (House Bill 5243)

The bill would add a new Section 74c to specify that a day care aide would not be eligible to receive a child care subsidy under the act for providing care for a child if the aide and the child reside in the same household.

Criminal History and Background Check Requirement (House Bill 5244)

Checks on Newly Enrolled Aides and Providers. Under the bill, when the department enrolled an individual as a day care aide or relative care provider, it would have to request the Department of State Police to conduct on that individual (1) a criminal history check and (2) a criminal records check through the Federal Bureau of Investigations (FBI). An individual enrolling as a day care aide or relative care provider would have to give written consent, at the time of enrollment, for the State Police to conduct the checks required under this section. The DHS would require the individual to submit fingerprints to the State Police for those history and record checks.

The DHS would request the criminal background and history checks on a form and in the manner prescribed by the Department of State Police. Within a reasonable amount of time after receiving a complete request for a criminal history check on an individual under this section, the State Police would be required to conduct the criminal history check and provide a report of the results to the Department of Human Services. The report would need to contain any criminal history record information on the individual maintained by the State Police. After receiving a proper request for a criminal records check, the State Police would be required to initiate the criminal records check. When the results were received from the Federal Bureau of Investigation (FBI), the State Police would provide a report of the results to the DHS.

The day care aide or relative care provider would need to pay the fee for a criminal history or criminal records check; the fee could not exceed the actual and reasonable cost of conducting it.

Reports of Arraignments. A day care aide or relative care provider would be required to report to the DHS within three business days after having been arraigned for any felony and any of the following misdemeanors:

- *Criminal sexual conduct (CSC) in the fourth degree or an attempt to commit CSC in the fourth degree.
- *Child abuse in the third or fourth degree or an attempt to commit child abuse in the third or fourth degree.
- *A misdemeanor involving cruelty, torture, or indecent exposure involving a child.
- *A misdemeanor violation of Section 7410 of the Public Health Code (controlled substance violations).
- *A violation of various sections of the Penal Code related to breaking and entering; larceny from a vacant building; allowing minors to have alcohol or controlled substances at social gatherings; accosting, enticing, or soliciting a child for immoral purposes; indecent exposure; assault and battery; inflicting serious or aggravated injury; and Internet communication crimes.
- *A misdemeanor violation of Section 701 of the Michigan Liquor Control Code (furnishing alcohol to a minor).
- *Any misdemeanor that is a listed offense under the Sex Offenders Registration Act.
- *A violation of a substantially similar law of another state, of a political subdivision of this state or another state or of the United States.

The failure to report such an arraignment would be a misdemeanor, punishable by imprisonment for up to one year and/or a fine of up to \$1,000. However, if the arraignment was for a felony or for a misdemeanor that is a listed offense under the Sex Offenders Registration Act, the failure to report would be a felony, punishable by imprisonment for up to two years and/or a fine of up to \$2,000.

DHS would be required to delete from the day care aide's or relative care provider's records all information relating to a reported arraignment if it received documentation that the individual arraigned for the crime was subsequently not convicted of any crime after the completion of the judicial proceeding resulting from the arraignment.

Within 12 months after the bill's effective date, the department would be required to inform all persons currently enrolled as day care aides or relative care providers and all applicants for enrollment to report certain arraignments and the penalty for not reporting them. Similarly, the department would have to make the same information available whenever it enrolls an individual as a day care aide or relative care provider.

Checks on Currently Enrolled Aides and Providers. Within 12 months after the bill's effective date, the DHS would be required to conduct a criminal history and criminal records check on all currently enrolled day care aides and relative care providers. However, if an individual being enrolled as a day care aide or relative care provider has previously undergone a criminal history and criminal records check and has been continuously enrolled as a day care aide or relative care provider after the checks have been performed, that individual would not be required to submit to another such check.

Automated Fingerprint Identification System. Under the bill, the State Police would be required to use the automated fingerprint identification system database, established under the Child Care Licensing Act, to provide for an automatic notification at the time a subsequent criminal arrest fingerprint card submitted to the system matches a previously submitted set of fingerprints. Upon this notification, the State Police would immediately notify the department and it would immediately contact the respective day care aide or relative provider. Information in the database is confidential, is not subject to disclosure under the Freedom of Information Act, and cannot be disclosed to any other person except for purposes of the Social Welfare Act or law enforcement purposes.

Definitions in HB 5244. The bill would define "day care aide" to mean an individual who is at least 18 years of age or older, is employed by the parent or guardian of the child, and is enrolled by the department to provide child care for up to four children at one time in the home where the children live. "Relative care provider" would be mean an adult 18 years of age or older who provides care in the relative's home, is enrolled by the department to provide child care for up to four children at one time, and is related to the child as a grandparent, step-grandparent, great grandparent, step-great grandparent, aunt, step-aunt, uncle, step-uncle, adult sibling, or step sibling.

Definitions of Terms Used in Other Bills (House Bill 5838)

The bill would add Section 74d to define certain terms as they are used in Sections 74a, 74b, and 74c of the act. Under the bill, term "enrolled provider" would be defined to mean an individual who is at least 18 years of age or older, is employed by the parent or guardian of the child receiving child care services, is enrolled by the department to care for up to four children at one time and does either of the following; (a) provides care for the child in the child's home; or (b) provides care for the child in the caregiver's home and is related to the child. The bill would define "related" to mean any of the following

relationships by blood, marriage, or adoption: grandparent, great-grandparent, aunt, great-aunt, uncle or great-uncle. House Bill 5838 is tie-barred to the other bills, meaning it cannot take effect unless they are all enacted.

MCL 400.1 et al.

FISCAL IMPACT:

A fiscal analysis is in process.

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.