



Senate Fiscal Agency
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BILL ANALYSIS

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House Bills 5274 through 5277 (Substitute H-1 as passed by the House)
House Bill 5278 (as passed by the House)
House Bills 5279 and 5280 (Substitute H-1 as passed by the House)
House Bill 5534 (Substitute H-1 as passed by the House)
House Bill 5594 (Substitute H-1 as passed by the House)
Sponsor: Representative Luke Meerman (H.B. 5274)
Representative David LaGrand (H.B. 5275)
Representative Kevin Hertel (H.B. 5276)
Representative Michele Hoitenga (H.B. 5277)
Representative Brenda Carter (H.B. 5278)
Representative Darrin Camilleri (H.B. 5279)
Representative Andrew Fink (H.B. 5280)
Representative Steven Johnson (H.B. 5534)
Representative Pamela Hornberger (H.B. 5594)
House Committee: Families, Children, and Seniors
Senate Committee: Judiciary and Public Safety

Date Completed: 3-2-22

CONTENT

House Bill 5277 (H-1) would amend the Child Protection Law (CPL) to modify and enact various definitions.

House Bill 5278 would amend Section 7 of the CPL to do the following:

- Delete a provision requiring the Department of Health and Human Services (DHHS) to maintain a statewide electronic Central Registry to carry out the intent of the CPL.
- Require certain confidential documents and materials to be made available to a licensed child caring institution for certain employment purposes.
- Delete provisions requiring the DHHS to maintain certain records in the Central Registry and send written notice to each person who is named in the record as a perpetrator of the child abuse or neglect; establishing a process by which a person who is the subject of a report or record may request that the DHHS expunge it from the Central Registry; and prescribing various record retention procedures.

House Bill 5275 (H-1) would amend Section 7j of the CPL to recodify, and expand, various provisions from Section 7 that House Bill 5278 would delete. Specifically, the bill would do the following:

- Require the DHHS to maintain a statewide electronic case management system.
- Require the DHHS to classify a confirmed case of methamphetamine production, confirmed serious abuse or neglect, confirmed sexual abuse, or confirmed sexual exploitation as a Central Registry case.

- Require the DHHS to notify in writing, within 30 days after the classification of a Central Registry case, each person who was named in the record as a perpetrator of the confirmed serious abuse or neglect, confirmed sexual abuse, confirmed sexual exploitation, or confirmed case of methamphetamine production.
- Establish a process for a person who was the subject of a report or record to request the DHHS amend or expunge an inaccurate report or record from the Central Registry and local office file and establish an appeals process.
- Establish hearing procedures to determine whether a report or record should be expunged from the Central Registry.

House Bill 5274 (H-1) would amend Section 8 of the CPL to require the DHHS to determine whether the child abuse or child neglect would have to be classified as a Central Registry case, and to recodify, and expand, various provisions from Section 7 that House Bill 5278 would delete. Specifically, the bill would do the following:

- Allow a person who was the subject of a report or record made under the CPL for certain specified violations to request the DHHS amend or expunge an inaccurate report or record from a local office file.
- Require the DHHS to notify in writing, within 30 days after the classification of a confirmed case that did not result in being placed on the Central Registry, each person who was named in the report or record as a perpetrator of confirmed serious abuse or neglect.
- Require a request to amend or expunge an inaccurate report or record to be made within 180 days after the date of service of notice of a confirmed serious abuse or neglect.
- Require the DHHS to create an administrative process to determine whether a report or record should be amended or expunged.

House Bill 5276 (H-1) would amend the CPL to do the following:

- Modify various provisions to refer to whether a case was *confirmed or not confirmed* instead of substantiated or unsubstantiated.
- Delete provisions requiring the DHHS to list the perpetrator of the child abuse or neglect, based on the report that was the subject of a field investigation, on the Central Registry, either by name or as "unknown" if the perpetrator has not been identified.
- Delete provisions pertaining to the DHHS's use of a structured decision-making tool.

House Bill 5279 (H-1) would amend the child care licensing Act, to change citations to the Michigan Compiled Laws that House Bill 5278 would amend.

House Bill 5280 (H-1) would amend the child care licensing Act to modify the definition of "severe physical injury".

House Bill 5534 (H-1) would amend the child care licensing Act to prescribe a process to allow a former applicant or former licensee to request an administrative review by the department¹ responsible for licensure under the Act.

¹ Under the child care licensing Act, LARA is responsible for licensing and regulatory matters for child care centers, group child care homes, family child care homes, children's camps, and children's campsites. The DHHS is responsible for licensing and regulatory matters for child caring institutions, child placing agencies, children's therapeutic group homes, foster family homes, and foster family group homes.

House Bill 5594 (H-1) would amend the CPL to prescribe a process to allow an individual who was listed on the Central Registry before the bill's effective date to submit to the DHHS for an administrative review for the expungement of the individual's name from the statewide electronic case management system.

House Bills 5274 (H-1) through 5278 are tie-barred. House Bill 5275 (H-1) also is tie-barred to House Bill 5534. House Bill 5279 (H-1) is tie-barred to House Bill 5278. House Bill 5280 (H-1) is tie-barred to House Bill 5274. House Bill 5534 (H-1) is tie-barred to House Bills 5275 and 5594. House Bill 5594 (H-1) is tie-barred to House Bills 5275 and 5534. Each bill would take effect 180 days after its enactment.

House Bill 5277 (H-1)

The CPL defines "Central Registry" as the system maintained at the DHHS that is used to keep a record of all reports filed with the Department under the CPL in which relevant and accurate evidence of child abuse or child neglect is found to exist. Instead, the bill would define "Central Registry" as a repository of names of individuals who are identified as perpetrators related to a Central Registry case in the Department's statewide electronic case management system.

Under the CPL, "Central registry case" means a Children's Protective Services (CPS) case that the DHHS classified under Sections 8 and 8d as Category I or II. For a CPS case that was investigated before July 1, 1999, the term means an allegation of child abuse or child neglect that the Department substantiated. Instead, under the bill, the term would mean the Department confirmed that a person responsible for the child's health or welfare committed serious abuse or neglect, sexual abuse, or sexual exploitation of a child, or allowed a child to be exposed to or have contact with methamphetamine production.

The CPL defines "person responsible for the child's health or welfare" as a parent, legal guardian, person 18 years of age or older who resides for any length of time in the same home in which the child resides, or, except as otherwise provided, nonparent adult; or an owner, operator, volunteer, or employee of one or more of the following:

- A licensed or registered child care organization.
- A licensed or unlicensed adult foster care family home or adult foster care small group home as defined in the Adult Foster Care Facility Licensing Act.
- A court-operated facility as approved under the Social Welfare Act.

Under the bill, the term also would include an owner, operator, volunteer, or employee of a program involving youth, including youth clubs, youth sports teams, and driver training schools.

Under the CPL, "child care regulatory agency" means the Department of Licensing and Regulatory Affairs (LARA) or its successor State department that is responsible for the licensing or registration of child care organizations or the licensing of adult foster care locations authorized to care for a child. Under the bill, the term also would mean LARA, *the DHHS's Division of Child Welfare Licensing*, or its successor State department that is responsible for the licensing or registration of child care organizations or the licensing of adult foster care locations authorized to care for a child.

The CPL defines "CPSI system" as the CPS Information System, which is an internal data system maintained within and by the DHHS, and which is separate from the Central Registry and not subject to Section 7. The bill would delete this term. Instead, under the bill, "electronic

case management system" would mean the CPSI system that is an internal data system maintained within and by the DHHS.

Under the bill, "confirmed case" would mean the DHHS has determined, by a preponderance of the evidence, that child abuse or child neglect occurred by a person responsible for the child's health, welfare, or care.

"Confirmed case of methamphetamine production" would mean a confirmed case that involved a child's exposure or contact with methamphetamine production.

"Confirmed serious abuse or neglect" would mean a confirmed case of mental injury or physical injury or neglect to a child that involves any of the following:

- Battering, torture, or other serious physical harm.
- Loss or serious impairment of an organ or limb.
- Life-threatening injury.
- Murder or attempted murder.
- Serious mental harm.

"Confirmed sexual abuse" would mean a confirmed case that involved sexual penetration, sexual contact, attempted sexual penetration, or assault with intent to penetrate as those terms are defined in the Penal Code.

"Confirmed sexual exploitation" would mean a confirmed case that involves allowing, permitting, or encouraging a child to engage in prostitution, or allowing, permitting, encouraging, or engaging in the photographing, filming, or depicting of a child engaged in a listed sexual act as that term is defined in the Penal Code.

"Serious mental harm" and "serious physical harm" would mean those terms as defined in the Penal Code.

The CPL defines "substantiated" as a CPS case classified as a Central Registry case. Instead, under the bill, the term would mean a confirmed case.

The CPL defines "unsubstantiated" as a CPL case the DHHS classified under Sections 8 and 8d as Category III, IV, or V. Instead, under the bill, the term would mean a case that is not confirmed.

House Bill 5278

Section 7 of the CPL requires the DHHS to maintain a statewide electronic central registry to carry out the intent of the CPL. The bill would delete this provision.

Section 7 specifies that unless the DHHS Director releases the information at his or her own initiative or upon written request, a written report, document, or photograph filed with the DHHS is a confidential record available only to certain individuals and entities, such as a police agency or law enforcement agency investigating a report of known or suspected child abuse or neglect, a physician who is treating a child whom the physician reasonably suspects may be abused or neglected, or a grand jury that determines the information is necessary to conduct the grand jury's official business. Under the bill, a confidential written report, document, or photograph also would have to be made available to a licensed child caring institution for the purpose of investigating an applicant for employment or an employee of a child caring institution to determine suitability of the applicant or employee for initial or

continued employment. The child caring institution would have to disclose the information to the applicant or employee.

Section 7 contains provisions generally requiring the DHHS, if it classified a report of suspected child abuse or neglect as a Central Registry case, to maintain a record in the Central Registry and send written notice to each person who is named in the record as a perpetrator of the child abuse or neglect; establishing a process by which a person who is the subject to a report or record may request that the DHHS expunge it from the Central Registry and establishes an appeal process; and prescribing various record retention procedures. The bill would delete these provisions. (These provisions would be recodified, and expanded, in House Bills 5274 (H-1) and 5275 (H-1).)

House Bill 5275 (H-1)

The bill would require the DHHS to maintain a statewide electronic case management system to carry out the intent of the CPL. The Department could enter into vendor contracts that it considered necessary and proper for implementation, review, and update of the electronic case management system. The Department would have to solicit proposals from entities to provide the services necessary to implement, review, and update the electronic case management system.

The Department would have to classify a confirmed case of methamphetamine production, confirmed serious abuse or neglect, confirmed sexual abuse, or confirmed sexual exploitation, as a Central Registry case. Upon request from any law enforcement agency in the State, the DHHS would have to classify a felony conviction for a violation of Section 136b of the Michigan Penal Code, a conviction for a violation of Chapter 76 (Rape) of the Penal Code, involving a minor victim, a conviction for a violation of Section 145c of the Penal Code, and any conviction involving the death of a child as a Central Registry case. (Section 136b of the Penal Code defines the crimes of first-, second-, third-, and fourth-degree child abuse, and prescribes the penalties for each crime. Section 145c of the Penal Code pertains to child sexually abusive activity or material.)

Within 30 days after the classification of a Central Registry case, the DHHS would have to notify each person who was named in the record as a perpetrator of the confirmed serious abuse or neglect, confirmed sexual abuse, confirmed sexual exploitation, or confirmed case of methamphetamine production. The notice requirements would include all of the following:

- The notice would have to be sent by registered or certified mail, return receipt requested, and delivery restricted to the addressee.
- The notice would have to set forth the person's right to request expunction of the record and the right to a hearing if the DHHS refused the request.
- The notice would have to state that the record could be released under Section 7d.
- The notice could not identify the person reporting the suspected child abuse or child neglect.

A person who was the subject of a report or record could request that the Department amend or expunge an inaccurate report or record from the Central Registry and local office file.

If the DHHS denied the request to amend or expunge a report, a person who was the subject of a report or record, within 180 days from the date of service of notice of the right to a hearing, could request the Department hold a hearing to review the request for amendment or expunction.

The Department would have to hold a hearing to determine by a preponderance of the evidence whether the report or record in whole or in part met the statutory requirement of the confirmed conduct and should be amended or expunged from the Central Registry. The hearing would have to be held before an administrative law judge and would have to be conducted as prescribed by the Administrative Procedures Act. The Department, for good cause, could hold a hearing if it determined that the person who was the subject of the report or record submitted the request for a hearing within 60 days after the 180-day notice period expired.

If the investigation of a report did not show serious child abuse or child neglect, sexual abuse, sexual exploitation, or methamphetamine production by a preponderance of the evidence, or if a court dismissed a petition based on the merits of the petition filed under the juvenile code because the petitioner had failed to establish, or a court had failed to find, that the child came within the jurisdiction of the court following an adjudication hearing, the information identifying the subject of the report would have to be expunged from the Central Registry after a party had exhausted all appellate remedies and an appellate review did not find that the child was within the jurisdiction of the court. If a preponderance of evidence of child abuse or child neglect existed, or if a court took jurisdiction of the child under the juvenile code, the DHHS would have to maintain the information and would have to maintain the perpetrator's information in the Central Registry if the case were determined to be a confirmed case of methamphetamine production, confirmed serious abuse or neglect, confirmed sexual abuse, or confirmed sexual exploitation.

Except as otherwise provided, the DHHS would have to maintain the information in the Central Registry until it received reliable information that the perpetrator was dead. Not more than once every 10 years after an individual had been listed on the registry, the individual could request a hearing regarding removal from the Registry. Except for confirmed sexual abuse or confirmed sexual exploitation, the Department would have to hold a hearing to determine whether the information should be maintained on the Central Registry. The hearing would have to be held before an administrative law judge and would have to be conducted as prescribed by the Administrative Procedures Act. In this hearing, the individual would be presumed to be a risk to children and the burden of proof would be on the individual requesting to be removed from the Registry. If the individual demonstrated by a preponderance of the evidence that the presumption was unreasonable, then the information would have to be expunged from the Central Registry. The facts and circumstances as determined by the DHHS or an administrative law judge on review of the Department's decision that resulted in the individual originally being placed on the Central Registry would not be subject to review. The administrative law judge would have to take into account the facts and circumstances in the years since the individual was listed on the Central Registry that bore on the assessment of the individual's risk to children in the future. "Reliable information" would include information obtained using the United States Social Security death index database.

The CPL allows the Department to provide, upon request, to an individual, or whoever is appropriate, documentation stating that the individual is not named in a Central Registry case as the perpetrator of child abuse or neglect. Instead, under the bill, upon written request, the DHHS could provide confirmation of Central Registry placement to an individual, office, or agency authorized to receive it.

Under the CPL, an individual or the DHHS may share the document provided above for certain employment purposes. The bill would refer to a *person* instead of an individual.

The CPL specifies an employer, a person or agency to whom an individual is applying for employment, or a volunteer agency, with appropriate authorization and identification from

the individual, may request and receive Central Registry clearance information if that employment or volunteer work will include contact with children. Instead, under the bill, an individual or organization for whom a person was applying for employment, licensing for a child care organization, or to act as a volunteer, could, with appropriate authorization and identification, request and receive confirmation of Central Registry placement, if that employment or volunteer work included contact with children.

Under the bill, a parent or other person responsible for a child, who has reason to believe another caregiver could place that child at risk, could, with appropriate authorization and identification, receive confirmation of Central Registry placement of that parent, person responsible, or caregiver.

The CPL allows the Department to develop an automated system that will allow an individual applying for child-related employment or seeking to volunteer in a capacity that would allow unsupervised access to a child for whom the individual is not a person responsible for that child's health or welfare to be listed in that system if a screening of the individual finds that he or she has not been named in a Central Registry case as the perpetrator of child abuse or child neglect. The automated system must provide for public access to the list of individuals who have been screened. The bill would refer to a *person* instead of an individual. Also, the bill would refer to a *confirmed case of methamphetamine production, confirmed serious abuse or neglect, confirmed sexual abuse, or confirmed sexual exploitation* instead of child abuse or child neglect.

Under the bill, an action taken to exclude an individual from licensure to provide foster care, child care, or camp services by LARA or the Division of Child Welfare Licensing in the DHHS, or a predecessor agency, in effect before the bill's effective date would have to remain in effect according to its terms, except if an individual were successful in an administrative review or appeal of the exclusionary status in accord with Section 9 of the child care licensing Act.

In addition to the Central Registry clearance, the DHHS would have to search CPS records to determine if an applicant or licensee, relative, adult member of the household, licensee designee, chief administrator, staff member, or unsupervised volunteer had a CPS history before making a licensing or placement determination, or provide clearance for staff employment or a volunteer in a child caring organization.

House Bill 5274 (H-1)

The CPL generally requires certain professionals to report to the DHHS if they have reasonable cause to suspect child abuse or neglect. Under Section 8, within 24 hours after receiving a report made under the CPL, the DHHS must refer the report to the prosecuting attorney and the local law enforcement agency if the report involves child abuse causing death or severe injury; sexual abuse or exploitation; first-, second-, third-, or fourth-degree child abuse; involvement in child sexually abusive activity or possession of child sexually abusive material; or exposure to the manufacture of methamphetamine.

In conducting its investigation, the Department must seek the assistance of and cooperate with law enforcement officials within 24 hours after becoming aware that one or more of the following conditions exist:

- Child abuse or child neglect is the suspected cause of a child's death.
- The child is the victim of suspected sexual abuse or sexual exploitation.
- Child abuse or child neglect resulting in severe physical injury.

"Serious physical injury" means an injury to the child that requires medical treatment or hospitalization and that seriously impairs the child's health or physical well-being. The bill would refer to serious physical harm instead of serious physical injury and would delete the definition of "serious physical injury".

Under the CPL, after completing a field investigation and based on its results, the DHHS must determine in which single category, prescribed by Section 8d of the CPL, to classify the allegation of child abuse or child neglect. The bill also would require the DHHS to determine whether the child abuse or child neglect would have to be classified as a Central Registry case.

Additionally, under the bill, a person who was the subject of a report or record made under the CPL in which the violation did not result in being placed on the Central Registry, but was categorized as a Category I, II, or III case under Section 8d, could request the DHHS amend or expunge an inaccurate report or record from a local office file. Within 30 days after the classification of a confirmed case that did not result in being placed on the Central Registry, the Department would have to notify in writing each person who was named in the report or record as a perpetrator of confirmed serious abuse or neglect. The notice requirement would include all the following:

- It would have to be sent by first-class mail to the identified perpetrator.
- It would have to set forth the person's right to request expunction of the record and the right to an administrative review conducted by the DHHS.
- It would have to state that the record could be released under Section 7d and could affect future employment or licensing opportunities.
- It could not identify the person reporting the suspected child abuse or child neglect.

A request to amend or expunge an inaccurate report or record from a local office file would have to be made within 180 days after the date of service of notice of a confirmed serious abuse or neglect. The Department, for good cause, could extend the time frame for the request after the 180-day notice if it determined that the person who was the subject of the report or record submitted the request for an administrative review within 60 days after the 180-day notice period expired. The Department would have to create an administrative process to determine whether the report or record should be amended or expunged.

House Bill 5276 (H-1)

Release of Information

Preliminary Decision. Section 7d of the CPL generally requires the Director of the DHHS to release specified information upon written request. The Director may release the specified information if there is clear and convincing evidence that either 1) the release of the specified information is in the best interests of the child to whom the specified information relates or 2) the release of the specified information is not in the best interests of the child to whom the specified information related, and that certain facts are true, including that the report or record containing the specified information concerns a substantiated report of sexual abuse, serious injury, or life threatening harm involving the child or a sibling of the child identified in the request. The bill would refer to a *confirmed* report instead of a substantiated report.

Prohibitions. Section 7e requires the Director to deny a request for specified information based upon a desire to shield a lack of or an inappropriate performance by the DHHS.

Regardless of the Director's determination that the specified information may not be released, he or she may not release the specified information if certain are true, including that an

investigation of the report of child abuse or neglect to which the specified information relates is in progress and the report has not been substantiated or unsubstantiated. The bill would refer to *confirmed or not confirmed* instead of substantiated or unsubstantiated.

Individuals to be Notified. Under Section 7g, if the Director decides to release specified information, he or she must give each required notice to certain specified people. The bill would delete all references to person and instead refer to an *individual*.

Under the bill, Section 7g also would be referred to as "Wyatt's Law".

Categories of Child Abuse or Neglect

Under Section 8d of the CPL, for the Department's determination required by Section 8, the categories, and the departmental response required for each category, are the following:

- Category V - services not needed.
- Category IV - community services recommended.
- Category III - community services needed.
- Category II - CPS required.
- Category I - court petition required.

Under a Category II determination, the DHHS determines that there is evidence of child abuse or neglect, and the structured decision-making tool indicates a high or intensive risk of future harm to the child. The Department must open a protective services case and provide the services necessary under the CPL.

Additionally, the DHHS must list the perpetrator of the child abuse or neglect, based on the report that was the subject of a field investigation, on the Central Registry, either by name or as "unknown" if the perpetrator has not been identified. The bill would delete this provision.

In response to a Category I classification, the CPL requires the DHHS to submit a petition for authorization by the court under the juvenile code, if a court petition is not required under another provision of the CPL, and open a protective services case and provide the services necessary under the CPL.

The DHHS also must list the perpetrator of the child abuse or neglect, based on the report that was the subject of a field investigation, on the Central Registry, either by name or as "unknown" if the perpetrator has not been identified. The bill would delete this provision.

Under the CPL, the DHHS is not required to use the structured decision-making tool for a nonparent adult who resides outside the child's home who is the victim or alleged victim of child abuse or child neglect or for an owner, operator, volunteer, or employee of a licensed or registered child care organization or a licensed or unlicensed adult foster care family home or adult foster care small group home. If, following a field investigation, the DHHS determines that there is a preponderance of evidence that an individual was the perpetrator of child abuse or child neglect, the Department must list the perpetrator of the child abuse or child neglect on the Central Registry. The bill would delete these provisions.

Annual Report

The CPL requires the agency within the DHHS that is responsible for administering and providing services under the CPL to make an annual comprehensive report to the Legislature. The report must contain certain information, including the total reports of abuse and neglect

investigated under the CPL and the number that were substantiated and unsubstantiated. The bill would refer to *confirmed or not confirmed* instead of substantiated and unsubstantiated.

Petition for Authorization

The CPL requires the DHHS to submit a petition for authorization by the court under the juvenile code if one or more of the following apply:

- The DHHS determines that a parent, guardian, or custodian, or a person who is 18 years of age or older and who resides for any length of time in the child's home, has abused the child or a sibling of the child and the abuse included one or more of the following: a) abandonment of a young child, b) criminal sexual conduct involving penetration, attempted penetration, or assault with intent to penetrate, c) battering, torture, or other severe physical abuse, d) loss or serious impairment of an organ or limb, e) life threatening injury, or f) murder or attempted murder.
- The parent's rights to another child were terminated as a result of proceeding under the juvenile code or similar law of another state and the parent has failed to rectify the conditions that led to the prior termination of parental rights.
- The parent's rights to another child were voluntarily terminated following the initiation of proceeding under the juvenile code or a similar law of another state, the parent has failed to rectify the conditions that led to the prior termination of parents rights, and the proceeding involved abuse that included one or more of the following: a) abandonment of a young child, b) criminal sexual conduct involving penetration, attempted penetration, or assault with intent to penetrate, c) battering, torture, or other severe physical abuse, d) loss or serious impairment of an organ or limb, e) life threatening injury, or f) murder or attempted murder.

The bill would refer to *serious physical harm* instead of severe physical abuse.

House Bill 5280 (H-1)

Under the child care licensing Act, "severe physical injury" means that term as defined in Section 8 of the CPL: an injury to the child that requires medical treatment or hospitalization and that seriously impairs the child's health or physical well-being.

The bill instead would define "severe physical injury" as serious physical harm as that term is defined in Section 136b of the Penal Code: any physical injury to a child that seriously impairs the child's health or physical well-being, including, but not limited to, brain damage, a skull or bone fracture, subdural hemorrhage or hematoma, dislocation, sprain, internal injury, poisoning, burn or scald, or severe cut.

House Bill 5534 (H-1)

The bill would amend the child care licensing Act to allow a former applicant or former licensee to request an administrative review by the department responsible for licensure under the Act if the license for a child care organization were denied, revoked, or refused renewal due in whole or in part to the person's placement on the Central Registry before House Bill 5275 (H-1)'s effective date (which would create the proposed Central Registry), and if the person's placement on the Central Registry were subsequently expunged from the case management system as a Central Registry case after the House Bill 5275 (H-1)'s effective date. The request for administrative review would have to be submitted in writing addressed to the director of the department responsible for licensure or the director's designee within 60 days after receiving the written notification, and the local office file from the DHHS that the person was no longer listed on Central Registry or named in a Central Registry case.

The administrative review would be limited to determining if LARA would enforce the five-year prohibition in Section 15(4) of the Act. (Under Section 15(4), a person, child care organization, agency, or representative or officer of a firm, a corporation, an association, or an organization who has a license or certificate of registration revoked, application denied, renewal refused, or, before March 28, 2018, certificate of registration revoked or refused renewal or application denied may be refused a license, or be prohibited from being connected, directly or indirectly, with a licensee for a period of at least five years after the revocation, denial, or refusal to renew.) Within 90 days after receiving the request for an administrative review or receiving the written notification under Section 7j of the CPL, and the local office file under Section 7l from the DHHS of the removal of the person listed on the Central Registry, whichever was later, the director of the department responsible for licensure or the director's designee would have to complete the review and notify the person of the final decision. If LARA's final decision was to enforce the five-year prohibition, the person could appeal as provided in the Administrative Procedures Act. If the Department decided to waive the five-year prohibition, the former applicant or former licensee could apply for a new license with the department responsible for licensure. As used in this provision, "local office file" would mean that term as defined in Section 2 of the CPL: the system used to keep a record of a written report, document, or photograph filed with and maintained by a county or a regionally based office of the DHHS.

A child care staff member, adult member of the household, or a person who had been determined to be ineligible by LARA, and who was no longer listed on the Central Registry nor named in a Central Registry case, could be eligible to be a child care staff member or adult member of the household as an employee or volunteer if that person complied with the required criminal history check and submitted documentation to LARA from the DHHS demonstrating that the person was no longer listed on the Central Registry or named in a Central Registry case.

House Bill 5594 (H-1)

Under the bill, an individual who was listed on the Central Registry before the bill's effective date could submit a request to the DHHS for an administrative review for the expungement of the individual's name from the statewide electronic case management system. Within 90 days after receiving a request for an administrative review, the DHHS would have to complete the review and notify the individual of the final decision to expunge the individual from the Central Registry or to classify the individual's case as a confirmed case of methamphetamine production, confirmed serious abuse or serious neglect, confirmed sexual abuse, or confirmed sexual exploitation and keep the individual on the Central Registry in the statewide electronic case management system.

If the Department decided to expunge the individual from the Central Registry, then the DHHS would have to forward its local office file to the director of the department responsible for the licensure of that individual or the director's designee within 45 days after the final decision.

MCL 722.628 (H.B. 5274)
722.627j (H.B. 5275)
722.625 et al. (H.B. 5276)
722.622 (H.B. 5277)
722.627 (H.B. 5278)
722.120 (H.B. 5279)
722.111 (H.B. 5280)
722.119 (H.B. 5534)
Proposed MCL 722.627l (H.B. 5594)

Legislative Analyst: Stephen Jackson

FISCAL IMPACT

House Bill 5274 (H-1)

The bill would have an uncertain, but likely minor, fiscal impact on the DHHS and no fiscal impact on local units of government. To the extent that current DHHS resources would be sufficient to cover the modification of administrative policy required for the determination of the amendment or expunction of inaccurate reports or records or certain violations that did not result in an individual's being placed on the Michigan Child Abuse and Neglect Central Registry, there would be no fiscal impact on the DHHS.

House Bill 5275 (H-1)

The bill would have an estimated fiscal impact of \$700,000 on the DHHS and no fiscal impact on local units of government. The fiscal impact on the DHHS would be the result of changes to child welfare information systems, either the Michigan Automated Child Welfare System (i.e., MiSACWIS) or the Comprehensive Child Welfare System (i.e., CCWIS). The DHHS estimates that 50,000 to 60,000 records in the Michigan Child Abuse and Neglect Central Registry may be expunged through work done by the University of Michigan. The DHHS operates under an existing budgeted contract with the University of Michigan, so it is expected that no additional resources would be needed to complete the expunction process.

House Bill 5276 (H-1), 5278, 5279 (H-1), and 5280 (H-1)

The bill would have no fiscal impact on State or local government.

House Bill 5277 (H-1)

The bill would have no direct fiscal impact on State or local government. As the bill would amend and add definitions for changes made in bills tie-barred to House Bill 5277, the direct costs for the changes would be observed in House Bills 5274 (H-1) and 5275 (H-1), which would have a minor fiscal impact and a \$700,000 fiscal impact, respectively.

House Bill 5534 (H-1)

The bill would have an indeterminate fiscal impact on State government and no fiscal impact on local units of government. The bill would not have a fiscal impact on the DHHS. It is possible that LARA could incur costs if it were required to undertake a significant number of administrative reviews. However, it is unlikely that the number of reviews undertaken would create a need for additional appropriations. The Department of Licensing and Regulatory Affairs also could receive additional revenue if a licensee were permitted to apply for a license as a result of an administrative review decision.

House Bill 5594 (H-1)

The bill would have an uncertain, but likely minor, cost for the DHHS and no fiscal impact on local units of government. To the extent that current DHHS resources would be sufficient to cover the modification of administrative policy required for the expunction of individuals listed on the statewide electronic case management system who were listed on the Central Registry before the bill's effective date, there would be no fiscal impact on the DHHS.

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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.