

Legislative Analysis



MANDATORY REPORTING OF SUSPECTED CHILD ABUSE OR NEGLECT

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House Bill 4880 as reported from committee

Sponsor: Rep. Roger Hauck

1st Committee: Families, Children and Seniors

2nd Committee: Judiciary

Complete to 11-4-21

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

BRIEF SUMMARY: House Bill 4880 would amend the Child Protection Law to add physical therapists, physical therapist assistants, occupational therapists, and athletic trainers to the list of individuals required to report suspected child abuse or child neglect.

FISCAL IMPACT: The bill may increase costs to the state and local units of governments. (See **Fiscal Information**, below, for a detailed discussion.)

THE APPARENT PROBLEM:

By law, members of certain professions are required to report a suspected case of child abuse or child neglect to the Children's Protective Services (CPS) program within the Department of Health and Human Services (DHHS). These individuals are commonly referred to as "mandatory reporters."

Allied health professionals such as physical therapists, physical therapy assistants, occupational therapists, and athletic trainers often work with children to provide a range of medical services for physical injuries, birth trauma, and autism, and many work with children in sports programs, in rehabilitative clinics in hospitals, and with middle and high school sports teams.

This leads many people to assume that these health professionals are mandatory reporters. However, although any person may report suspected abuse or neglect to the CPS, these professionals are not currently required to do so even though they are uniquely positioned to observe signs of abuse or to be confided in by youthful patients. Some feel, therefore, that these health professionals should be added to the list of professionals who are required to report all cases of suspected child abuse or child neglect to DHHS.

THE CONTENT OF THE BILL:

House Bill 4880 would amend the Child Protection Law to add physical therapists, physical therapist assistants, occupational therapists, and athletic trainers to the list of individuals required to report suspected child abuse or child neglect.

Certain professionals are required under the act to make an immediate report if they have reasonable cause to suspect child abuse or child neglect. These professionals are called

mandated reporters.¹ The act includes a detailed method for reporting the abuse and notifying the Department of Health and Human Services (DHHS). Reports are confidential, and a person making a report in good faith is immune from liability for making the report and cooperating with a subsequent investigation. A mandated reporter who fails to make a report of suspected child abuse or neglect may be found guilty of a misdemeanor punishable by imprisonment for up to 93 days, a fine of up to \$500, or both. In addition, he or she may be held liable in a civil action for all damages caused by his or her failure to file a report.

The bill would add physical therapists, physical therapist assistants, occupational therapists, and athletic trainers to the list of those who are required to report suspected child abuse or child neglect.

The bill would take effect 90 days after its enactment.

MCL 722.623

BACKGROUND INFORMATION:

As passed by the House of Representatives, House Bill 4376 of the 2019-20 legislative session and House Bill 5659 of the 2017-18 legislative session both proposed adding athletic trainers as mandatory reporters, and House Bill 4108 of the 2019-20 legislative session proposed adding physical therapists and physical therapist assistants.

FISCAL INFORMATION:

House Bill 4880 would extend mandatory reporting requirements to physical therapists, physical therapist assistants, occupational therapists, and athletic trainers. Due to the possibility of additional investigations, the bill's provisions may increase costs to the DHHS Children's Protective Services program, which investigates allegations of abuse or neglect by a caretaker of a child under the age of 18. A caretaker is defined as any person responsible for the child's health or welfare. Currently within the CPS program, DHHS has 1,605 investigators who each carry a caseload of 12 cases for each investigator. Ongoing CPS caseworkers each carry a caseload of 15 cases for each worker. The amount of any increase in costs to the department would depend upon the number of additional complaints to be investigated.

If a neglect or abuse allegation is against a child's caretaker, then DHHS has investigatory authority. If the allegation is against anyone else other than a caretaker, then law enforcement agencies would have the responsibility to investigate, which could, in some instances, increase costs to local governments.

In FY 2019-20, the CPS investigated 70,242 reports of child abuse or neglect. Of those investigations, 71.6%, or 50,274 cases, were reported by a mandatory reporter, and 28.4%, or

¹ Mandated reporters currently include law enforcement officers, members of the clergy, school counselors or teachers, school administrators, physicians, nurses, physician's assistants, licensed providers of emergency medical care, dentists, dental hygienists, medical examiners, audiologists, psychologists, professional counselors, marriage and family therapists, social workers, master's or bachelor's social workers, social service technicians, persons employed in a professional capacity in any office of the Friend of the Court, and regulated child care providers.

19,968 cases, were reported by non-mandatory reporters. After investigations were performed, approximately 24% of these cases, approximately 17,557, were substantiated for evidence of some level of abuse and/or neglect.

ARGUMENTS:

For:

Physical therapists, physical therapy assistants, occupational therapists, and athletic trainers are allied health professionals, regulated under the Public Health Code, who collaborate with physicians to provide preventive and rehabilitative care in a wide array of health and sports settings and who, as part of their training, have been informed regarding the signs of abuse and neglect. Besides treating patients in traditional settings, many (especially athletic trainers) provide services to children as coaches or part of a school's athletic department's sports team. Currently, none of these health professionals is included in the Child Protection Law as a professional who is required to report suspected or known instances of child abuse or child neglect. This means that even if a child reported abuse or neglect on the part of a parent, relative, or medical provider to one of these professionals, they would not be required to report that alleged abuse directly to Children's Protective Services. As seen at the state's public universities and elsewhere in the nation, reports of physical and sexual abuse made to members of these health professions do not always get to the appropriate state officials or law enforcement.

By including these allied health professionals as mandatory reporters, House Bill 4880 would remove any confusion, or hesitancy, as to the responsibility they bear if encountering a suspected case of abuse or neglect and therefore would add one more layer of protection for children who need assistance. Any of these professionals who failed to make a report as required could face a criminal penalty (misdemeanor) and could be sued for damages.

Against:

No arguments in opposition to the legislation were offered in committee.

POSITIONS:

A representative of the American Physical Therapy Association of Michigan testified in support of the bill. (10-26-21)

The following entities and organizations indicated support for the bill (10-26-21):

- Michigan Athletic Trainers Society
- Michigan Catholic Conference
- Michigan Council for Maternal Child Health
- Michigan Occupational Therapy Association

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