



Senate Fiscal Agency
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BILL ANALYSIS



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House Bill 5974 (Substitute S-1)
House Bill 5975 (Substitute H-1 as passed by the House)
House Bills 5976 through 5978 (as passed by the House)
House Bills 5980 and 5981 (as passed by the House)
House Bill 6070 (Substitute H-2 as passed by the House)
House Bill 6073 (Substitute H-2 as passed by the House)
House Bills 6074 and 6075 (as passed by the House)
Sponsor: Representative Mary Whiteford (H.B. 4974, 6073, & 6074)
Representative Laurie Pohutsky (H.B. 4975)
Representative Tyrone A. Carter (H.B. 5976)
Representative Phil Green (H.B. 5977)
Representative Rodney Wakeman (H.B. 5978)
Representative Stephanie A. Young (5980)
Representative Sarah Anthony (H.B. 5981)
Representative Jack O'Malley (H.B. 6070)
Representative Daire Rendon (H.B. 6075)
House Committee: Families, Children and Seniors
Senate Committee: Health Policy and Human Services

Date Completed: 6-23-22

CONTENT

House Bill 5974 (S-1) would amend the juvenile code to modify the definition of "relative".

House Bill 5975 (H-1) would amend the juvenile code to include in a lawyer-guardian ad litem's duties participating in trauma-involved training if provided by the State Court Administrative Office (SCAO).

House Bill 5976 would amend Foster Care and Adoption Services Act to require the Department of Health and Human Services (DHHS) to annually report to the Legislature on certain cost savings that occurred due to reductions in foster youth in the foster care program, and to require the report to include certain reinvestment information.

House Bill 5977 would amend the child care licensing Act to require the DHHS to conduct an annual comprehensive needs assessment regarding using residential treatment and the needs of youth who were referred to this type of treatment.

House Bill 5978 would amend the Foster Care and Adoption Services Act to do the following:

-- Require the DHHS, upon appropriation and by October 1, 2022, to work in conjunction with entities that performed family finding and engagement services

to help foster youth who were separated from their family to connect to family and friends who could assist in the foster youth's care.

- Require the DHHS to make, by December 31, 2022, efforts in family finding and engagement services on behalf of all foster youth currently in the foster care program.

House Bill 5980 would amend the child care licensing Act to require the DHHS to issue an extended license to a foster family home or a foster family group home under certain conditions, beginning January 1, 2023, and to specify that an extended license would be effective for three years unless revoked or refused renewal or modified to a provisional license.

House Bill 5981 would amend the Michigan Zoning Enabling Act to specify that a qualified residential treatment program would be a residential type of property for certain prescribed purposes.

House Bill 6070 (H-2) would amend Chapter 17 of the Income Tax Act to do the following:

- Allow a qualified employer that voluntarily provided paid adoption leave to its employees to claim, beginning on and after January 1, 2023, a credit against the income taxes required to be withheld and remitted to the State.
- Prescribe the maximum amount of credit allowed per qualified employee.
- Require the qualified employer to claim the credit on the annual return required under Chapter 17.

House Bill 6073 (H-2) would amend the child care licensing Act to modify various definitions.

House Bill 6074 would amend the Michigan Adoption Code and the juvenile code to modify the definition of "relative".

House Bill 6075 would amend the Guardian Assistance Act to modify the definition of "relative".

House Bills 6073 (H-2) through 6075 are tie-barred to House Bill 5974.

House Bill 5974 (S-1)

Under Section 13a the juvenile code, "relative" means an individual who is at least 18 years of age and related to the child by blood, marriage, or adoption, as grandparent, great-grandparent, great-great-grandparent, aunt or uncle, great-aunt or great-uncle, great-great-aunt or great-great-uncle, sibling, stepsibling, nephew or niece, first cousin or first cousin once removed, and the spouse of any of the above, even after the marriage has ended by death or divorce. A stepparent, ex-stepparent, or the parent who shares custody of a half-sibling is considered a relative for the purpose of placement. Notification to the stepparent, ex-stepparent, or the parent who shares custody of a half-sibling is required as described in Section 4a of the foster care and adoption services act. A child may be placed with the parent of a man whom the court has found probable cause to believe is the putative father if there is no man with legally established rights to the child. A placement with the parent of a putative father under this subdivision is not a finding of paternity and does not confer legal standing on the putative father.

Instead, under the bill, "relative" means an individual who is at least 18 years of age and is either of the following:

- Related to the child within the fifth degree by blood, marriage, or adoption, including the spouse of an individual related to the child within the fifth degree, even after the marriage has ended by death or divorce, the parent who shares custody of a half-sibling, and the parent of a man whom the court has found probable cause to believe is the putative father if there is no man with legally establish rights to the child.
- Not related to a child within the fifth degree by blood, marriage, or adoption but who has a strong positive emotional tie or role in the child's life or the child's parent's life if the child is an infant, as determined by the DHHS or, if the child is an Indian child, as determined solely by the Indian child's tribe.

"Indian child" and "Indian child's tribe" would mean those terms as defined in the Michigan Indian Family Preservation Act. (Under that Act, "Indian child" means an unmarried person who is under the age of 18 and is either of the following:

- A member of an Indian tribe.
- Eligible for membership in an Indian tribe as determined by that Indian tribe.

"Indian tribe" or "tribe" means any Indian tribe, band, nation, or other organized group or community of Indians recognized as eligible for the services provided to Indians by the United States Secretary of the Interior because of their status as Indians, including any Alaska native village as defined in the Alaska Native Claims Settlement Act.)

The bill specifies that nothing in Section 13a is intended to supersede the placement preferences for an Indian Child under the Michigan Indian Family Preservation Act.

House Bill 4975 (H-1)

The juvenile code allows the court to appoint a guardian ad litem for a child involved in a proceeding under the code to assist the court in determining a child's best interests. A lawyer-guardian ad litem's duty is to the child, and not the court. The code prescribes a lawyer-guardian ad litem's power and duties.

Under the bill, a lawyer-guardian ad litem's duties also would include participating in trauma-involved training if provided by SCAO.

House Bill 5976

The bill would amend the Foster Care and Adoption Services Act to require the DHHS, beginning January 1, 2023, and annually each January 1 after that, to submit an annual report to the Legislature and the Senate and the House of Representatives appropriation committees on the DHHS budget, that identified the cost savings that occurred due to reductions in foster youth in the foster care program and compared that number with the cost when the highest number of foster youth had been in the foster care system for the immediately preceding 10 years. The report also would have to include details of the DHHS's efforts to reinvest the cost savings identified in the report.

The details of the DHHS's efforts would have to include information on all of the following reinvestment efforts:

- Prevention services.
- Permanency services.

- Adoption assistance.
- Safety assessments.
- Adoptive and foster family recruitment.
- Training.
- Caseworker bonuses.
- Wage increases.

House Bill 5977

The bill would amend the child care licensing Act to require the DHHS, beginning January 1, 2023, and every January 1 after that, to conduct a comprehensive needs assessment regarding using residential treatment and the needs of youth who were referred to this type of treatment. The assessment would have to identify the types of beds being used and the types of beds needed, the age group, gender, and geographic region of youth receiving these treatment services and those in need of the treatment services.

As it identified needs of foster youth through the assessment, the DHHS would have to work with community partners to assist providers in meeting the needs of the foster youth.

House Bill 5978

The bill would amend the Foster Care and Adoption Services Act to require the DHHS, upon appropriation and by October 1, 2022, to work in conjunction with entities that performed family finding and engagement services to help foster youth who were separated from their family to connect to family and friends who could assist in the foster youth's care.

By December 31, 2022, the Department would have to make efforts in family finding and engagement services on behalf of all foster youth currently in the foster care program. The Department would have to incorporate family finding and engagement services in all current and future child abuse and child neglect investigations.

House Bill 5980

Under the child care licensing Act, a regular license is effective for two years after the date of issuance unless revoked or refused renewal or modified to a provisional license. A license must be renewed biennially on application approval. Under the bill, the renewal provision would apply unless the license was an extended license (as described above).

Under the bill, beginning January 1, 2023, the DHHS would have to issue an extended license to a foster family home or a foster family group home under the following conditions:

- The foster family home or foster family group home had been licensed for at least one year.
- The foster family home or foster family group home was in good standing with the Department.

An extended license would be effective for three years after the date of issuance unless revoked or refused renewal or modified to a provisional license. An extended license would have to be renewed every three years on application and approval.

House Bill 5981

The Michigan Zoning Enabling Act specifies that each of the following is a residential type of property for the purposes of zoning and a permitted use in all residential zones and is not

subject to a special use or conditional use permit or procedure different from those required for other dwellings or similar density in the same zone:

- A State licensed residential facility.
- A facility in use as described in Section 3(4)(k) of the Adult Foster Care Facility Licensing Act (a private residence with the capacity to receive at least one but not more than four adults who all receive benefits from a community mental health services program if the program monitors the services being delivered in the residential setting).

Under the bill, a qualified residential treatment program would be a residential type of property for the purposes described above. "Qualified residential treatment program" would mean that term as defined in the child care licensing Act: a program within a child caring institution to which all of the following apply:

- The program has a trauma-informed treatment model, evidenced by the inclusion of trauma awareness, knowledge, and skills into the program's culture, practices, and policies.
- The program has registered or licensed nursing and other licensed clinical staff on-site or available 24 hours a day, seven days a week, who provide care in the scope of their practice under the Public Health Code.
- The program integrates families into treatment, including maintaining sibling connections.
- The program provides aftercare services for at least six months post discharge.
- The program is accredited by an independent not-for-profit organization as described in 42 USC 672(k)(4)(G) (i.e., it is licensed by the Department and accredited by the Commission on Accreditation of Rehabilitation Facilities, the Joint Commission on Accreditation of Healthcare Organizations, the Council on Accreditation, or any other not-for-profit accrediting organization approved by the Federal government).
- The program does not include a detention facility, forestry camp, training school, or other facility operated primarily to detain minor children who are determined to be delinquent.

House Bill 6070 (H-2)

Definitions

"Adoption leave" would mean a period of absence related to the adoption of a child by the employee to provide time for bonding and adjustments immediately after placement of that child with the employee.

"Qualified employee" would mean an individual who has been employed by the employer for at least one year, and for the preceding year had compensation that does not exceed 60% of the amount applicable for highly compensated employees under Section 414(q)(1)(B) of the Internal Revenue Code for that same year.

"Qualified employer" would mean an employer that has a written policy offering adoption leave that satisfies both of the following:

- Provides at least two weeks of paid adoption leave for each full-time qualified employee and a proportionate amount of adoption leave for each part-time qualified employee.
- The rate of payment for adoption leave is not less than 50% of the wages normally paid to that same employee for services performed for the employer.

"Wages" would mean that term as defined in Section 3306(b) of the Internal Revenue Code: means all remuneration for employment, including the cash value of all remuneration, including benefit, paid in any medium other than cash, subject to exceptions.

Adoption Leave Credit

Under the bill, for tax years beginning on and after January 1, 2023, a qualified employer that voluntarily provided paid adoption leave to its employees could claim a credit against the income taxes required to be withheld and remitted to the State in an amount equal to 50% of the wages paid to each qualified employee during any period during the tax year in which the qualified employee was on adoption leave. The maximum amount of credit allowed per qualified employee for a single adoption leave period would be \$4,000. The maximum amount of leave with respect to any qualified employee for which a credit could be claimed could not exceed 12 weeks. Any adoption leave that was paid by the State or a political subdivision of the State or that was required to be paid by law could not be included in determining the amount of the credit for wages paid to a qualified employee for adoption leave.

A qualified employer claiming a credit against the withholdings tax payments made under Chapter 17 would have to, in form and content as prescribed by the Department of Treasury, claim the credit allowed under the bill on the annual return required under Section 711 for that same calendar year.

House Bill 6073 (H-2)

The child care licensing Act defines "family child care home" as a private home in which one but fewer than seven minor children are received for care and supervision for compensation for periods of less than 24 hours a day, unattended by a parent or legal guardian, except children related to an adult member of the household by blood, marriage, or adoption. "Group child care home" means a private home in which more than six but not more than 12 minor children are given care and supervision for periods of less than 24 hours a day unattended by a parent or legal guardian, except children related to an adult member of the household by blood, marriage, or adoption.

The bill would delete reference to "by blood, marriage, or adoption" from the definitions of "family child care home" and "group child care home".

Under the Act, "related" means in the relationship by blood, marriage, or adoption, as parent, grandparent, great-grandparent, great-great-grandparent, aunt or uncle, great-aunt or great-uncle, great-great-aunt or great-great-uncle, sibling, stepsibling, nephew or niece, first cousin or first cousin once removed, and the spouse of any of the individuals described in this definition, even after the marriage has ended by death or divorce. Under the bill, this definition would apply for licensing by the Department related to a child care center, children's camp, children's campsite, family child care home, foster family home, foster family group home, or group child care home.

Additionally, under the bill, except as provided above, "related" would mean a relative as defined in Section 13a of the juvenile code (which House Bill 5974 (H-1) would amend).

House Bill 6074

Michigan Adoption Code

The Code defines "relative" as an individual who is related to the child within the fifth degree by marriage, blood, or adoption. Instead, under the bill, "relative" would mean that term as defined in Section 13a of the juvenile code (which House Bill 5974 (H-1) would amend).

Juvenile Code

Under Section 18 of the juvenile code, if a court finds that a juvenile concerning whom a petition is filed is not within the code, the court must enter an order dismissing the petition. Except as otherwise provided, if the court finds that a juvenile is within the code, the court must order the juvenile returned to his or her parent if the return of the juvenile would not cause a substantial risk of harm to the juvenile or society. The court also may enter any of the following orders of disposition that are appropriate for the welfare of the juvenile and society in view of the facts proven and ascertained:

- Warn the juvenile or his or her parent, guardian, or custodian and, except as otherwise provided, dismiss the petition.
- Place the juvenile on probation, or under supervision in the juvenile's own home or in the home of an adult who is related to the juvenile.

As used above, "related" means an individual who is not less than 18 years of age and related to the child by blood, marriage, or adoption, as grandparent, great-grandparent, great-great-grandparent, aunt or uncle, great-aunt or great-uncle, great-great-aunt or great-great-uncle, sibling, stepsibling, nephew or niece, first cousin or first cousin once removed, and the spouse of any of the above, even after the marriage has ended by death or divorce. A child may be placed with the parent of a man whom the court has found probable cause to believe is the putative father if there is no man with legally established rights to the child. This placement of the child with the parent of a man whom the court has found probable cause to believe is the putative father is for the purpose of placement only, is not a finding of paternity, and does not confer legal standing.

Instead, under the bill, "related" would mean a relative as that term is defined in Section 13a of the code.

House Bill 6075

The Guardian Assistance Act defines "relative" as an individual who is at least 18 years of age and related to the child by blood, marriage, or adoption, as grandparent, great-grandparent, great-great-grandparent, aunt or uncle, great-aunt or great-uncle, great-great-aunt or great-great-uncle, sibling, stepsibling, nephew or niece, first cousin or first cousin once removed, or the spouse of any of the above, even after the marriage has ended by death or divorce. The parent of a man who the court has found probable cause to believe is the putative father if there is no man with legally established rights to the child may be considered a relative under the Act, but this is not to be considered as a finding of paternity and does not confer legal standing on the putative father.

Instead, under the bill, "relative" would mean that term as defined in Section 13a of the juvenile code.

MCL 712A.13a (H.B. 5974)
MCL 712A.17d (H.B. 5975)
Proposed MCL 722.953a (H.B. 5976)
Proposed MCL 722.116a (H.B. 5977)
Proposed MCL 722.953a (H.B. 5978)
MCL 722.118 (H.B. 5980)
MCL 125.3102 & 125.3206 (H.B. 5981)
Proposed MCL 206.715 (H.B. 6070)
MCL 722.111 (H.B. 6073)
MCL 710.22 & 712A.18 (H.B. 6074)

Legislative Analyst: Stephen P. Jackson

FISCAL IMPACT

House Bills 5974 (S-1), 5981, & 6073 (H-2)-6075

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

House Bill 5976

The bill would have no direct fiscal impact on State or local government. The report described in the bill would require the identification of identified savings and reinvestment efforts. These amounts would be difficult to determine with accuracy, as foster care caseloads and appropriations are updated annually to reflect caseload trends. Section 367b of the Management and Budget Act requires the May Revenue Estimating Conference to forecast Medicaid and human services (including foster care) expenditure and caseload projections for the entitlement lines for the current and following two fiscal years. These projections effectively increase or decrease the Medicaid and human services entitlement line items, which makes any efforts to "reinvest" savings difficult. Equally, if a Medicaid and human services entitlement line item is forecasted to have a shortfall, that entitlement line is not then required, for example, to reduce reimbursement rates, eligibility limits, or utilization limits.

House Bill 5977

The bill would increase State costs by up to \$500,000 and would have no fiscal impact on local units of government.

House Bill 5978

The bill would have no direct fiscal impact on State or local units of government. To the extent that there is an appropriation for family finding and engagement services, that amount would represent the cost for DHHS to provide these services.

House Bill 5980

The bill likely would have a negative fiscal impact on the State and no fiscal impact on local units of government. To the extent there were savings generated from extending license renewal to every three years rather than every two years, increased costs to the DHHS could offset the cost of changing the administration of licenses.

House Bill 6070 (H-2)

The bill would reduce State individual income tax revenue by an unknown amount that would depend on the number of individual's affected, the number of qualified employers, and the ways of affected employees.

In tax year 2019, approximately 63,500 Federal tax returns were filed nationally claiming the Federal adoption credit. If approximately 3.5% of those were from Michigan, and each adopting return was represented by a couple who both were working, it would suggest a maximum of approximately 4,500 workers that could be affected by the bill. If all potentially affected workers earned sufficient wages and benefits under the bill to generate the maximum credit, the maximum potential revenue reduction would be approximately \$17.8 million per year. The actual revenue reduction likely would be less, both because not all potential

adopters would be employed, and many could work for employers that did not offer the qualifying benefits and/or pay wages sufficient to qualify for the maximum credit.

The reduction definitely would lower General Fund revenue but also could lower School Aid Fund (SAF) revenue. Any reduction in SAF revenue would depend on how the State accounted for the credits. Normally, a credit would lower General Fund revenue only, but the bill requires that the credits be claimed against withholding liability. As a result, the credit could reduce gross collections. If gross collections were lowered, then 23.8% of the impact (using the maximum potential estimates above, the total would be \$4.2 million) would reduce SAF revenue.

House Bill 5975 (H-1)

The bill would have a minor, negative fiscal impact on SCAO only if it provided trauma-informed training for lawyer-guardians ad litem. Expenses for this training can vary depending on the format of the training. Webinars and video training would be a relatively minor expense for SCAO, perhaps as much as a few hundred dollars, while in-person training for a large number of lawyer-guardians ad litem would cost more, perhaps as much as several thousand dollars. These expenses likely would be absorbed by SCAO, if it chose to provide this training.

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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.