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ADOPTION: AGENCY CONSENTS

House Bill 4488 (Substitute H-1)
Sponsor: Rep. David M. Gubow
Committee: Judiciary

Complete to 5-8-92

A SUMMARY OF HOUSE BILL 4488 (SUBSTITUTE H-1)

Under the adoption code, adoption of a child unrelated to the petitioner (that is, the prospective adoptive parent) requires the consent of the court or agency involved, including the Department of Social Services. (Consent is also required from a guardian, if any.) When the agency or court has not executed a consent within a reasonable period of time after the filing of the adoption petition, the petitioner may ask the court to determine whether the withholding of consent was arbitrary and capricious. If the court finds that the required consent had been being arbitrarily and capriciously withheld, it may terminate the rights of agency or court and enter a final order of adoption.

The bill would revise procedures for a judicial decision on the withholding of consent, and generally require that any necessary consent from an agency or court be filed with the petition for adoption. Under the bill, an adoption petitioner who was unable to obtain the consent could file a motion alleging that the decision regarding consent was arbitrary and capricious; the petitioner would have to explain the specific steps that he or she had taken to obtain the required consent, any results of those efforts, and the specific reasons why the petitioner believed the decision was arbitrary and capricious. If the child had already been placed with someone who had already received consent, the petitioner would have to file the motion within 28 days after the child placement or adoption order was issued.

The court would have 91 days to rule on the motion, unless good cause was shown for delay. The court would have to deny the motion unless the petitioner showed by clear and convincing evidence that the decision regarding consent had been arbitrary and capricious; if the motion was denied, the court would also dismiss the petition to adopt. If the court found in favor of the petitioner, it could terminate the rights of the appropriate court or agency and could enter further orders as it considered appropriate.

MCL 710.26 and 710.45

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