

ADOPTION SERVICES AND INFO.

Senate Bill 722 (Substitute H-5) First Analysis (5-25-94)

Sponsor: Sen. Jack Welborn
Senate Committee: Family Law,
Criminal Law, and Corrections
House Committee: Judiciary

THE APPARENT PROBLEM:

After a series of exhaustive public hearings and testimony, the Binsfeld Commission on Adoption issued a detailed and wide-ranging report on April 23, 1992. Many of the issues addressed by the report's 67 recommendations, such as whether and how to allow direct placement adoptions, and whether and how to allow access to heretofore closed adoption records, have been and continue to be the subject of much attention in the legislature. In addition to such matters of broad reform, however, the report pointed out a number of other significant issues in need of attention.

Many of the recommendations dealt with the importance of ensuring that adoption and foster care services were provided by trained workers, that post-adoption services be provided, and that biological parents, prospective adoptive parents, and prospective foster parents are adequately informed about what they are undertaking and about available services. Legislation has been proposed to ensure that services are provided, that information about services is disseminated, and that foster care and adoption workers are adequately trained.

THE CONTENT OF THE BILL:

The bill would create the Foster Care and Adoption Services Act. The stated purposes of the act would be: to assist foster parents to provide a stable, loving family environment for foster children; to help eliminate barriers to the adoption of children and to promote the provision of a stable and loving family environment to children who are without permanent families; to promote the well-being and safety of all children who receive foster care or are adopted under Michigan law; to protect and assist prospective adoptive families as they negotiate the adoption process; to regulate child placing agencies who certify foster parents and serve Michigan adoptees and adoptive families; to regulate adoption

attorneys who facilitate direct placement adoptions. The bill would take effect six months after enactment, but could not take effect unless Senate Bills 299, 721, and 723-725 were enacted. Further details follow.

Foster care information. Before certifying an individual for licensure as a foster parent, a child placing agency would have to conduct an orientation designed to ensure the individual's understanding of the purposes of foster care, including the temporary nature of foster care and the ultimate goal of returning the child to his or her family or preparing the child for adoption. Before placing a child with foster parents, child placing agency would have to provide the foster parents with written information on any history of abuse or neglect, all known emotional and psychological problems, all behavior problems that might put the foster family at risk, and any other information necessary to enable the foster family to provide a stable, safe, and healthy environment for the foster child and for other members of the foster family. The child placing agency would have to explain to the foster parents that this information about the child and his or her family was confidential.

Adoption attorney registration. The bill would require that an adoption attorney register with the children's ombudsman before providing any services in a direct placement adoption. Registration would be accomplished by filing a verified statement that the attorney was in compliance with adoption code requirements for continuing education, and maintenance of files on service providers. An adoption attorney would have to re-register at least once every five years, and could request to be removed from the registry at any time.

Adoption services. An adoption facilitator (that is, an adoption attorney or agency) would have to

provide clients with needed services related to adoption, including postadoption services, or make referrals to available resources in the community. When providing services to an adoption client, an adoption facilitator would have to review with the client the DSS pamphlet describing the adoption process and make sure that the client understands the various adoption alternatives and how to get access to the department's directory of children available for adoption, the registry of adoptive homes that the DSS is to maintain, and the public information forms on adoption facilitators that are to be completed and maintained under House Bill 4201.

A facilitator could not refuse services to a prospective adoptive parent or make placement decisions based solely on age, race, disability, income level, or, generally, religious affiliation (the restriction regarding religious affiliation would not apply to a child placing agency connected with a religious institution that gave preference or limited its services to applicants of the same religion).

In a direct placement adoption, an adoption facilitator would allow a parent or guardian the option of selecting from the adoption facilitator's entire pool of potential adoptive parents who have been determined suitable to be adoptive parents of adoptees.

Adoption information. An adoption facilitator would provide to each individual who inquired about services a DSS pamphlet describing the adoption process plus a written document including information on the types of adoptions the facilitator handles, a description of the services that he or she provides, a description of services available by referral, any eligibility requirements that the facilitator has for adoptive families, the extent to which openness in adoption is encouraged or allowed by the facilitator, a description of any postfinalization services, a schedule of all fees, and, if the facilitator is a child placing (adoption) agency, the procedure used for selecting a prospective adoptive parent, including the role of the child's parent or guardian in the selection process. The document also would have to include a statement that each party to an adoption has a right to independent representation by an attorney and that one attorney may not represent both the biological parents or guardian and the prospective adoptive parents. This information would be provided free

of charge to a biological parent, guardian, or prospective adoptive parent.

Worker training. The DSS would have to promulgate rules to ensure the comprehensive, high-quality training of foster care and adoption workers. It would consult with and could contract with colleges and universities, child placing agencies, and professional organizations for the design and implementation of the training. The training would have to stress cultural sensitivity, interagency cooperation, and respect for individuals and families.

Directory of children. The DSS would produce or contract for the production of a directory of children available for adoption (the department already does this for special needs children). Copies of the directory would be made available throughout the state to ensure that interested individuals had reasonable access to it.

Registry of adoptive homes. The DSS would establish and maintain a registry of adoptive homes to be used as a central clearinghouse for information about prospective adoptive parents. The registry would contain information on prospective adoptive parents who had received favorable home studies. Information would be filed in a form that would enable easy retrieval for biological parents or child placing agencies. The DSS would charge a prospective adoptive parent an initial fee of \$100 for maintaining the information, and a renewal fee of \$50 for each year the parent remained in the registry. Registry information would be provided to biological parents and child placing agencies without charge.

HOUSE COMMITTEE ACTION:

The Senate-passed version of the bill would have required the State Court Administrative Office to house the registry of adoptive homes.

FISCAL IMPLICATIONS:

The Department of Social Services reports that the bill would present costs to the department, but that cost estimates have not yet been completed. (5-23-94)

ARGUMENTS:

For:

By ensuring the availability of important information and trained caseworkers, the bill would promote successful adoptions and foster care placements. Its provisions echo many recommendations of the Binsfeld commission, and address problems with caseworker insensitivity, foster children being "dumped" on foster families with no information to help foster parents to help the child, some foster parents tending to view their charges as permanent wards, and an overemphasis on race in child placements, to name just a few things. Various provisions on adoption facilitator briefings and DSS-maintained directories and registries would promote the dissemination of comprehensive and accurate information regarding adoption facilitators and services, children available for adoption, and adoptive families waiting for children. Adoption clients would have better consumer information, and adoptive children and families that otherwise might be kept waiting could be united.

Against:

There is widespread agreement that adoption is a lifelong process, often requiring not only counseling and services at the time a child is transferred to adoptive parents, but also periodic counseling and support services. The bill, however, is vague in its requirement that adoption facilitators provide services either directly or by referral. The sorts of services --such as orientation programs and counseling--considered important should be more clearly identified and required. Further, the costs of any services provided under referral should be disclosed.

Against:

Registration for adoption attorneys does nothing to protect the public from potential problems stemming from the use of for-profit attorneys as adoption facilitators. Rather than simple registration, there should be a comprehensive system of licensure and regulation such as that imposed on child placing agencies. There should at least be provisions for suspension or revocation of registration upon violation of adoption laws.

Against:

By prohibiting discrimination against prospective adoptive parents based on age, race, disability, and income level, the bill fails to acknowledge the

importance of ensuring a prospective parent's ability to adequately provide for the child, care for the child, and provide a stable and loving home until the child reached adulthood. In other words, the best interests of the child are not addressed.

Response:

The bill would prohibit an adoption facilitator from refusing services or making placement decisions based solely on any of these factors. There would be room to consider whether a prospective adoptive parent could provide a suitable home for the child.

POSITIONS:

Parents for Private Adoption/The Family Tree supports the bill. (5-23-94)

The Coalition of Child Placing Agencies supports the concept of the bill, but has not yet reviewed the substitute. (5-24-94)

The Michigan Foster and Adoptive Parent Association supports the concept of the bill, but has not yet reviewed the substitute. (5-23-94)

The Michigan Federation of Private Child and Family Agencies supports the bill with amendments to ensure that adoptive parents complete an orientation program and that birth parents and adoptive parents were informed as to the costs of services from alternative providers to whom they were referred for services. (5-24-94)

Right to Life of Michigan supports the bill, but would prefer that it require all facilitators to have an orientation program for prospective adoptive parents. (5-20-94)

The Department of Social Services has no position at this time. (5-23-94)

Michigan Legal Services opposes the bill. (5-23-94)