



Romney Building, 10th Floor
Lansing, Michigan 48909
Phone: 517/373-6466

FAMILY INDEPENDENCE AGENCY: MANDATORY PETITIONS

Senate Bill 1209 as passed by the Senate First Analysis (9-23-98)

Sponsor: Sen. Art Miller, Jr.
House Committee: Judiciary
**Senate Committee: Families, Mental
Health and Human Services**

THE APPARENT PROBLEM:

Executive Order 1995-12 created the Lieutenant Governor's Children's Commission to review laws and programs concerning the removal of children from abusive households, the placement of children in foster care, and the permanent placement of children. The commission's report, issued in July 1996, contains a number of goals in these areas and identifies barriers to achieving the goals. The commission found, for example, a need for coordination between agencies, consistent standards for initiating the termination of parental rights, and expeditious adjudication. The commission's report also makes a number of recommendations to address the issues and overcome the barriers.

Last year, a number of bills were enacted in response to the commission's recommendations. In particular, Senate Bill 515 (Public Act 168 of 1997), which took effect on April 1, 1998, amended the Child Protection Law to require that the FIA submit petitions to take jurisdiction of a child and for the termination of a parent's rights under certain circumstances. Unfortunately, it is felt that the language of the law as enacted is overly broad and requires the FIA submit petitions for jurisdiction of a child or for termination of parental rights under circumstances that do not truly warrant these petitions.

THE CONTENT OF THE BILL:

The bill would amend the Child Protection Law to revise provisions under which the Family Independence Agency (FIA) must file an abuse or neglect petition that includes a request for termination of parental rights. Currently, the FIA is required to

file such a petition with the family court if one or more of the following apply:

-- The FIA determines that a parent, guardian, or custodian, or a person who is at least 18 years old and resides in the child's home, has abused the child or a sibling of the child and the abuse included abandonment of a young child; criminal sexual conduct involving penetration, attempted penetration, or assault with intent to penetrate; battering, torture, or other severe physical abuse; loss or serious impairment of an organ or limb; life-threatening injury; and/or murder or attempted murder.

-- The parent's rights to another child were terminated as a result of abuse or neglect proceedings.

-- The parent's rights to another child were voluntarily terminated following the initiation of abuse or neglect proceedings.

Under the bill, in either situation involving the termination of a parent's rights to another child, the FIA would have to file a petition if the agency determined that there was risk of harm to the child.

Currently, in a petition submitted under the provisions described above, the FIA must include a request for termination of parental rights at the initial dispositional hearing. Under the bill, this requirement would apply only if a parent were a suspected perpetrator or were suspected of placing the child at an unreasonable risk of harm due to the parent's failure to take reasonable steps to intervene to eliminate that risk.

MCL 722.638

Senate Bill 1029 (9-23-98)

FISCAL IMPLICATIONS:

According to the Senate Fiscal Agency, the bill would have an indeterminate fiscal impact on state government. The SFA reports that, according to the FIA, the change would conform with current policy to remove children from harm. However, if additional children in a family were removed because the department determined that those children were at risk, this would increase the number of children who come in contact with the foster care system. (8-10-98)

ARGUMENTS:**For:**

According to the FIA, the bill would correct a drafting error that occurred in the enactment of Public Act 168 of 1997. The changes required the FIA to file petitions under certain circumstances; however, the circumstances are felt to be far too broad and often result in requiring a petition to be filed where it is not truly needed. The bill would correct this problem and would clarify that the FIA would not be required to file a petition for the termination of parental rights unless the parent were a suspected perpetrator or had placed the child at risk without taking reasonable steps to intervene to eliminate that risk, rather than requiring a termination petition regardless of whether the parent was the cause or was even aware of the harm or risk of harm to the child.

POSITIONS:

The Family Independence Agency supports the bill. (9-18-98)

Analyst: W. Flory

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