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**SFA****BILL ANALYSIS**

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Senate Bill 490 (as introduced 5-7-97)

Sponsor: Senator Joel D. Gougeon

Committee: Families, Mental Health and Human Services

Date Completed: 5-8-97

### **CONTENT**

The bill would amend the juvenile code to do the following:

- Prohibit a court from ordering the placement of a child in his or her home, without ordering the alleged perpetrator to leave the home, if the court had reasonable cause to believe that a parent or other adult in the home had sexually abused or severely physically abused the child.
- Require a psychological evaluation and/or counseling to determine the appropriateness of parenting time, if an abusive parent were ordered to leave the home.
- Require the court to order a home study if an abused or neglected child were placed in the home of a relative.
- Require the court to consider the appropriateness of parenting time before entering an order of disposition and at a foster care review hearing.
- Establish procedures for a change in foster care placement, including hearings and an investigation by a foster care review board.
- Require parenting time to be suspended if a petition to terminate parental rights had been filed.
- Specify that written reports, case service plans, and court orders would have to be provided (rather than available) to the foster parent, child caring institution, or relative with whom a child was placed.
- Require foster care review hearings and permanency planning hearings to be held every 91 days.

### **Placement of Child**

Under the bill, if the juvenile division of probate court found that there was reasonable cause to believe that a child had been sexually abused or severely physically abused by a parent, guardian, custodian, or other person who was 18 years of age or older and who resided for any length of time in the child's home, the court could not order the placement of the child in his or her home unless the court had entered an order requiring the alleged perpetrator to leave the home. The bill would include this language in provisions concerning juveniles who were allegedly abused or neglected, juveniles placed under supervision in their own home, and juveniles placed in foster care.

Currently, if a petition alleging abuse or neglect by a parent, guardian, custodian, or other person residing in a juvenile's home is authorized and the court finds probable cause to believe that the parent, guardian, custodian, or other person committed the abuse, the court may order that person to leave the home and not subsequently return to it. The bill provides that, if the person to be

removed were a parent and it appeared that significant trauma to the child could occur as a result of parenting time, the court would have to order a psychological evaluation, counseling, or both, to determine the appropriateness and conditions of parenting time.

Under the code, in determining placement of a juvenile pending trial, the court must order the juvenile placed in the most family-like setting available consistent with his or her needs. The bill provides that, if the child were placed in the home of a relative, the court would have to order a home study to be performed and a copy of the home study to be submitted to the court within 30 days after the placement.

If a child were placed in foster care, the court would have to provide the foster parents with copies of all reports related to the child that were filed with the court, including reports that were filed before the child was placed with those foster parents. If the parent, guardian, or custodian of a child placed in foster care refused to sign a consent to the release of the child's medical records, the court would have to enter an order for the release of those records upon request of the agency or the child's guardian ad litem. (The code defines "agency" as a public or private organization, institution, or facility responsible under court order or contractual agreement for the care and supervision of a child.)

#### Change in Foster Care Placement

Under the bill, if an abused or neglected child were placed in foster care and the foster care parent objected to a proposed change in placement, the agency could not change the placement without a hearing, unless the court had ordered the child returned home or placement were with a relative after initial assessment of the kinship placement.

At least 10 days before a proposed change in foster care placement was to take effect, the agency would have to notify the State Court Administrative Office of the proposed change, and notify the foster parents of the intended change as well as inform them that if they disagreed with the decision, they could appeal within 72 hours to a local foster care review board. The agency also would have to give the foster parents the address and telephone number of the local foster care review board with jurisdiction over the child.

Upon receiving an appeal from foster parents, the foster care review board would have to investigate the change in placement and report its findings and recommendations within three business days to the court and the agency. If the board determined that the move was not in the child's best interests, the board would have to request and set a date for a hearing, and the court would have to give notice of the hearing to the foster parents and all interested parties. The hearing could not be earlier than seven days after the court received notice of the request from the board, or later than the date the proposed change was intended to take effect.

After hearing testimony from the agency and any other interested party, and considering any other evidence bearing upon the proposed change in placement, the court would have to order the continuation of the placement unless it found by clear and convincing evidence that the change was in the child's best interests.

An agency could change a child's placement without complying with these provisions, however, if the agency had reasonable cause to believe that the child had been physically or sexually harmed and it believed that the child was in immediate danger of additional physical or sexual harm. The agency would have to include in the child's file documentation of its justification for action under this provision. If a foster parent objected to the removal of the child, the foster care parent could request a hearing of the local foster care review board within three business days of the child's removal.

## Review Hearings

Currently, if an abused or neglected child is placed and remains in foster care, the court must hold a review hearing within 91 days after entry of the order of disposition, and every 91 days thereafter for the first year following entry of the order. After the first year, a review hearing must be held within 182 days after a permanency planning hearing (described below). Under the bill, a review hearing would have to be held within 91 days after entry of the order and every 91 days thereafter as long as the child was under the jurisdiction of the court.

If a child were in a permanent foster family agreement, or placed with a relative where placement was intended to be permanent, or where the court had ordered guardianship or another arrangement, a review hearing would have to be held within 182 days after a permanency planning hearing and every 182 days after that as long as the child was under the court's jurisdiction. Upon the motion of any party or at the court's discretion, a review hearing could be accelerated to review any element of the case service plan prepared by the agency.

## Permanency Planning Hearings

Currently, if a child remains in foster care and parental rights to the child have not been terminated, the court must conduct a permanency planning hearing within 364 days after entry of the order of disposition and every 364 days thereafter during the continuation of the child's foster care placement. Under the bill, the court would have to conduct a permanency planning hearing within 364 days after an original petition had been filed. The court would have to conduct an additional permanency planning hearing within 91 days after the original permanency planning hearing and every 91 days after that as long as the child remained under the court's jurisdiction.

Under the Code, if the court determines at a permanency planning hearing that the child should not be returned to his or her parent, the court must order the agency to initiate proceedings to terminate parental rights to the child within 42 days after the hearing, *unless* the agency demonstrates to the court that initiating the termination of parental rights is clearly not in the child's best interests. The bill would delete that exception.

MCL 712A.13a et al.

Legislative Analyst: S. Margules

## **FISCAL IMPACT**

### State Government

Family Independence Agency. The bill would have an indeterminate fiscal impact on State government. The psychological evaluations, which would be required when a parent was removed from the home and there was a concern regarding the effect of parenting time, would increase in number. Psychological assessments currently are ordered at the FIA worker's discretion. Therefore, the bill would possibly increase the number of assessments ordered. The maximum cost of a general assessment for parents is \$300. The maximum cost of a general psychological assessment for a child is \$200. A more specialized (sexual assault) assessment could cost more. Home studies prior to placements with relatives are not done now before a child becomes a ward of the court; however, the FIA staff indicate that a change in this policy is being considered. Child abuse and neglect cases do have home studies done because the problem is seen as a family problem. The cost of a home study includes staff time, transportation, and materials costs. Providing foster parents with copies of reports related to the child placed with them would result in a minimal increase in costs for copying and distribution of the reports. The bill would increase the required number of permanency planning hearings. The cost of a hearing includes staff time, transportation, court costs, and reimbursement of costs for the foster parents.

State Court Administrative Office - Foster Care Review Board. Requiring a foster care review board to investigate a proposed change in foster care placement and report findings and recommendations in three days would require additional resources. Currently 19 boards made up of volunteer members in 15 counties review selected cases. In addition, this legislation would require the local community boards to investigate and make recommendations when a foster parent filed an appeal of an agency decision. The July 1996 report of the Binsfield Children's Commission made a similar recommendation for foster parents to be given an opportunity to appeal decisions. This would mean possible expansion of the current community boards that review cases as well as additional resources for the foster care review board office, whose staff are responsible for attending the hearings that are held one day a month. In addition, office staff are also responsible for compiling and presenting the recommendations of the local community boards to the courts, agency, and other interested parties. It is not know how many foster parents would potentially appeal decisions to a foster care review board, but in order to address any of these potential cases in a timely fashion as well as conduct normal business, the foster care review board could be required to increase its field representatives, which consist of two persons.

#### Local Government

The section of the bill that would require a home study to be done might be interpreted as a State mandate to local government. If there were no court orders for the children for whom home studies would be required, these children would be between systems; they would be awaiting a trial and would not be court or State wards yet. This means that the locals could be required to bear the costs of the studies.

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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.