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FOSTER CARE REVIEW HEARING

House Bill 5145

Sponsor: Rep. Joanne Voorhees

Committee: Family and Children Services

Complete to 1-31-00

A SUMMARY OF HOUSE BILL 5145 AS INTRODUCED 11-30-99

House Bill 5145 would amend the Probate Code to modify the requirements for foster care review hearings.

Review Hearings. Currently, under the Probate Code, if a child who is under the court's jurisdiction remains in foster care and parental rights to the child have not been terminated, the act specifies that the court must conduct a permanency planning hearing within 364 days after an original petition has been filed to review the child's status and the progress being made toward the child's return home, or to show why the child should not be placed in the permanent custody of the court. House Bill 5145 would restate this provision to specify that a permanency hearing would have to be conducted within one year after an original petition had been filed. However, in cases involving alleged child abuse, the bill would specify that a permanency planning hearing would have to be conducted by the court within 28 days after the filing of a petition alleging that the parent had abused the child or the child's sibling, and the abuse included one or more of the following: abandonment; 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; murder or attempted murder; voluntary manslaughter; and aiding, abetting, attempting, conspiring, or soliciting the commission of murder or voluntary manslaughter.

The bill would also specify that, in both cases, the court would be required to conduct a permanency planning hearing within one year after an initial hearing, and within one year after each subsequent hearing, if a child remained in foster care and parental rights had not been terminated.

Termination of Parental Rights. Under the code, grounds for termination of parental rights include a finding that the parent has abused the child, or the child's sibling, and the abuse included one or more of certain actions. The bill would extend the list of specific actions to include voluntary manslaughter, and aiding and abetting, attempting to commit, conspiring to commit, or soliciting murder or voluntary manslaughter. Under this provision of the Probate Code, parental rights may also be terminated if the court finds that a child has a guardian or has been placed in a limited guardianship. The bill would amend the code to update references to the Estates and Protected Individuals Code, in situations where a parent had placed a child in a limited guardianship and had substantially failed to comply with the limited guardianship placement plan; or in situations where a child had a guardian and the parent failed to comply with a court-structured plan regarding the child, to the extent, in each case, that the noncompliance resulted in a disruption of the parent-child relationship. (The Estates and Protected Individuals Code [Public Act 386 of 1998], which takes effect April 1, 2000, repealed and replaced the Revised Probate Code.)

House Bill 5145 (1-31-00)

Change in Foster Care Placement. Under the Probate Code, when an abused or neglected child who is under the court's jurisdiction is placed in foster care, certain rules govern any changes regarding the placement. For example, the agency responsible for the child's care may not change the foster care placement unless the foster care provider requests or agrees to the change, or, if the provider objects, certain circumstances apply that, under the provisions of the act, allow the change to occur. Before a change in foster care placement takes effect, the agency must notify the State Court Administrative Office (SCAO) and the foster parents of the intended change. However, the code currently specifies that the agency can change a child's placement without notifying the SCAO or the foster parents if it has reasonable cause to believe that the child has suffered sexual abuse or nonaccidental physical injury, or is at risk of harm). House Bill 5145 would amend the code to specify that the agency could also change a child's placement without complying with the notification provisions in situations where the foster care provider requested or agreed to the change, or, if the provider objected, in circumstances where the court had ordered the child returned home, the change in placement was less than 30 days after the child's initial removal from home, the change was less than 90 days after the initial removal from the home and the new placement was with a relative, or the change was in accordance with other provisions of the act.

MCL 712A.13b et al.

Analyst: R. Young

■ 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.