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Senate Bill 379 (as enrolled)
Sponsor: Senator Bev Hammerstrom
Committee: Families, Mental Health and Human Services

Date Completed: 3-2-99

RATIONALE

Public Act 479 of 1998 made changes relating to parental rights and the welfare of children. Among other things, the Act deleted a provision from Section 18f of the juvenile code pertaining to a parental rights hearing and the suspension of parenting time, and replaced it with a similar provision in Section 19b of the code. Public Act 480 of 1998, which dealt with the appointment of lawyer-guardians ad litem for children, also amended Section 18f of the juvenile code. The hearing and suspension provision deleted from Section 18f by Public Act 479 was inadvertently retained by Public Act 480. Consequently, two similar provisions governing the suspension of parenting time during a parental rights hearing are in the juvenile code. Some people have pointed out that this could lead to confusion among family law practitioners and courts, and believe that the provision deleted from Section 18f by Public Act 479 and reinserted by Public Act 480 should again be removed from the juvenile code.

CONTENT

The bill would amend the juvenile code to delete a provision regarding the suspension of parenting time during a parental rights termination hearing.

The bill would delete from Section 18f of the code (MCL 712A.18f(3)(e)) a provision requiring parenting time to be automatically suspended at the time of the initial termination hearing held to consider termination of parental rights, unless the parent establishes and the court determines that the exercise of parenting time will not harm the child. Under the provision to be deleted, if the court adjourns or continues the termination hearing beyond the original scheduled date for any reason, the court must suspend parenting time in the interim, unless the court determines that the exercise of parenting time will not harm the child.

(Section 19b of the code (MCL 712A.19b(4)) provides that, if a petition to terminate the parental

rights to a child is filed, parenting time for a parent who is a subject of the petition is automatically suspended and remains suspended at least until a decision is issued on the termination petition. If, however, the parent establishes and the court determines that parenting time will not harm the child, the court may order parenting time in the amount and under the conditions it determines appropriate.)

MCL 712A.18f

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

The bill would correct an oversight that occurred in the last legislative session, resulting in two different provisions of the juvenile code governing the same legal procedure. Public Act 479, which took effect on March 1, 1999, deleted one provision from Section 18f and replaced it with a similar provision added to Section 19b of the code. The deleted provision, however, was inadvertently reinserted into the code by Public Act 480, which will take effect on July 1, 1999. This might lead to confusion in the family division of circuit court as to how to handle parenting time in situations in which a petition is filed to revoke a person's parental rights. By completing the revision enacted by Public Act 479, the bill would avert this confusing situation.

Legislative Analyst: P. Affholter

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

Fiscal Analyst: B. Bowerman

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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.