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BILL ANALYSIS

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Senate Bill 702 (as enrolled)

Sponsor: Senator Bev Hammerstrom

Senate Committee: Families and Human Services

House Committee: Family and Children Services

PUBLIC ACT 68 of 2004

Date Completed: 7-9-04

RATIONALE

Under the Michigan Adoption Code, a parent or guardian with legal and physical custody of a child, or a child placing agency, may make a temporary placement of the child with his or her prospective adoptive parents, rather than placing the child in foster care, before the adoption is finalized. This procedure is used commonly with infants and enables the prospective adoptive parents to take the baby home within the first few weeks after birth. A direct temporary placement, however, previously could be made only if the prospective adoptive parent lived in the State of Michigan. Some people believed that the residency requirement placed an unnecessary burden on birth parents, adoption attorneys, and child-placing agencies trying to place children with suitable families with minimal disruption to the children.

CONTENT

The bill amended the Michigan Adoption Code to eliminate a requirement that a prospective adoptive parent be a Michigan resident. The bill took effect on April 20, 2004.

In addition to meeting other requirements, a prospective adoptive parent with whom a child was temporarily placed had to be a Michigan resident. The bill deleted the residency requirement. The bill requires that the prospective adoptive parent have a preplacement assessment completed within one year before the date of the transfer with a finding that the prospective adoptive parent is suitable to be a parent of an adoptee.

Previously, under the Code, the prospective adoptive parent had to sign a document setting forth the date of the transfer and his or her name and address, and stating that the prospective adoptive parent agreed to reside with the child in Michigan until a formal placement occurred and the court approved a change of residence. Under the bill, if a prospective adoptive parent is a Michigan resident, the person must make a statement that he or she agrees to reside with the child in Michigan until formal placement occurs. (The person does not have to agree to reside in this State until the court approves a change of residence.) The bill also requires the document (signed by all prospective adoptive parents) to state that the prospective adoptive parent agrees to obtain approval in compliance with the Interstate Compact on the Placement of Children before the child may be sent, brought, or caused to be sent or brought into a receiving state; and state that the prospective adoptive parent submits to this State's jurisdiction.

The Code had required the adoption attorney or child placing agency assisting with the temporary placement or the child placing agency making the temporary placement to submit a report to the court in the county in which the prospective adoptive parent resides, within two days after a transfer of physical custody. Under the bill, the report must be submitted to the court in the county where the prospective adoptive parent resides, the county in which the child's parent or guardian resides, or the county in which the child is found.

MCL 710.23d

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

Birth mothers who wish to give their children up for adoption often have strong feelings about the kinds of families with which their children are placed. They might want adoptive families to meet certain criteria related to size, religion, education, and values. A biological mother may even have a specific family in mind, one that she already knows well and trusts to raise her child. It is often the case, particularly in towns near the State border, that the ideal family for a specific child does not live in Michigan. In that situation, the birth parent had few options for the placement of her children until the adoption was finalized. The child could be placed in foster or other interim care and the adoptive parents could visit. A child does not benefit, however, from being transferred several times between the birth parent, foster care, and the adoptive parents, especially because the first few weeks after birth are a critical time for bonding between a child and his or her new family. The Code was changed to reflect the fact that it is in the child's best interest to be placed with the adoptive family as quickly as possible, regardless of residency.

Supporting Argument

The State will benefit from the elimination of the residency requirement because adoptees can be placed with their families more quickly. Many children in foster care are enrolled in the Medicaid program. If they are placed with their adoptive families instead of in the foster care system, they will be covered under their families' insurance policies.

Legislative Analyst: Julie Koval

FISCAL IMPACT

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

Fiscal Analyst: Constance Cole

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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.