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BILL ANALYSIS

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House Bill 6008 (Substitute S-1 as reported)
House Bill 6009 (Substitute S-1 as reported)
House Bill 6010 (Substitute S-1 as reported)
Sponsor: Representative Lauren Hager (H.B. 6008 & 6009)
Representative Artina Tinsley-Hardman (H.B. 6010)
House Committee: Family and Children Services
Senate Committee: Judiciary

**CONTENT**

The bills would amend the Michigan Adoption Code and the Act governing the Michigan Children's Institute (MCI) to do the following:

-- Require the court to notify all interested parties of a motion alleging an arbitrary and capricious decision to withhold consent to an adoption.
-- Allow an adoption petition to be filed in the county where parental rights were terminated or pending termination.
-- Require a person to file a notice of intent to file an adoption petition if a child were a ward of the State, and provide that, if the child had been temporarily placed, the court that had terminated parental rights would have to give its permission for another court to handle the adoption proceedings.
-- Allow more than one petitioner to be an interested party in an adoption petition.
-- Include the guardian ad litem of an interested party among the interested parties in a petition for a hearing to identify a father and determine or terminate his rights, and in a temporary placement hearing.
-- Prohibit the family court from ordering an adoption until certain appellate deadlines had passed.
-- Authorize the family court to allow a child to attend his or her adoption hearing.
-- Expand the "general purposes" of the Adoption Code.
-- Eliminate admission to the MCI by observation, and authorize the MCI superintendent to make decisions on behalf of a child committed to the Institute.

House Bill 6008 (S-1) would amend the Michigan Adoption Code to require the family division of circuit court (family court) to give all interested parties in an adoption petition notice of a motion alleging that the Family Independence Agency (FIA) or a child placing agency, or the court having permanent custody of the child, arbitrarily and capriciously withheld consent. The court would have to give all interested parties the opportunity for a fair hearing and allow them to offer testimony and documentation regarding their position on the motion or on the child's adoption.

House Bill 6009 (S-1) would amend Public Act 220 of 1935, which provides for family home care for children committed to the State and governs the Michigan Children's Institute, to delete a provision allowing commitment to the MCI by observation order. A child under 17 still could be be admitted to the MCI by commitment to the FIA.

The bill specifies that the MCI superintendent would have the power to make decisions on behalf of a child committed to the Institute. The Attorney General or his or her

representative would have to represent the superintendent in any court proceeding in which the superintendent considered representation necessary to carry out his or her duties.

The Act authorizes the superintendent to consent to the adoption, marriage, or emancipation of a child who has been committed to the MCI. The bill specifies that, beginning on its effective date, the MCI superintendent would be authorized to provide this consent.

House Bill 6010 (S-1) would add the following to the general purposes identified in the Adoption Code:

-- To achieve permanency and stability for adoptive children as quickly as possible.
-- To support the permanency of a finalized adoption by allowing all interested parties to participate in proceedings regarding the adoptive child.

Presently, a person wishing to adopt must file a petition with the court of the county where the petitioner resides or the adoptee is found. Under the bill, a petition also could be filed in the county where parental rights were terminated or pending termination.

Under the bill, if a child were an MCI ward or a permanent ward of the court, a person who wanted to adopt the child would have to file a notice of intent to file an adoption petition. The notice would have to be filed with the court of the county where the petitioner lived or the adoptee was found. If the child had been temporarily placed, the notice would have to be filed with the court that received the report on the child's transfer to temporary placement. The court then would have to contact the court in which parental rights were terminated or pending termination, and that court would have to notify the requesting court of its permission to handle the adoption proceedings. An adoption petition could be filed after permission was granted.

Generally, unless the court determines that circumstances making adoption undesirable have arisen, the court may enter an adoption order six months after formal placement. If a petition for rehearing or an appeal as of right from an order terminating parental rights has been filed, however, the court may not order an adoption until appeals have been exhausted or the time for filing an appeal has expired without an appeal being filed. The bill would add similar requirements regarding appeals to the Supreme Court.

Also, if a motion were filed alleging an arbitrary and capricious decision to withhold consent to adopt, the court could not order an adoption until the motion was decided and the deadline for filing an appeal had passed and no appeal had been filed, or the Supreme Court had denied leave to appeal or issued an opinion.

MCL 710.45 (H.B. 6008)
400.203 & 400.209 (H.B. 6009)
710.21a et al. (H.B. 6010)

Legislative Analyst: Patrick Affholter

**FISCAL IMPACT**

No information is available from the State Court Administrative Office regarding the impact on the court system from House Bills 6008 (H-1) and 6010 (H-1).

House Bill 6009 (H-1) would have no fiscal impact on the Family Independence Agency.

Date Completed: 11-22-04

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