

# Legislative Analysis



## FOSTER CARE PLACEMENT

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**Senate Bill 668 (S-1)**  
**Sponsor: Sen. Bill Hardiman**

**Senate Bill 670 without amendment**  
**Sponsor: Sen. Gilda Z. Jacobs**

**Senate Bills 669 (S-1) & 672 (S-1)**  
**Sponsor: Sen. Mark C. Jansen**

**Senate Bill 671 (S-1)**  
**Sponsor: Sen. Roger Kahn, M.D.**

**House Committee: Families and Children's Services**  
**Senate Committee: Families and Human Services**

**Complete to 3-18-08**

### **A SUMMARY OF SENATE BILLS 668-672 AS PASSED BY THE SENATE 10-3-07**

The bills would amend the Juvenile Code (MCL 712A.13b et al.) to revise provisions concerning the placement of children in foster care. A detailed description of the bills follows.

Senate Bill 668 would permit a judge to suspend parenting time if a petition to terminate parental rights were filed, and would delete provisions for the automatic suspension of parenting time. The bill would also require the family court, before ordering the termination of parental rights, to determine that termination was in the child's best interests.

Senate Bill 669 would do all of the following:

- \* Require the family court, at a permanency planning hearing for a child, to obtain the child's views regarding the permanency plan, in an age-appropriate manner.
- \* Permit, rather than require, the court to order the termination of parental rights if it determined that a child should not be returned to his or her parents.
- \* Require the court to order the termination of parental rights if a child had been in foster care for 15 of the most recent 22 months, except under certain circumstances.
- \* Permit the court to appoint a guardian for a child as an alternative placement plan, if termination of parental rights were not initiated.
- \* Require the court to order the Department of Human Services (DHS), if a child were placed in a guardian's or proposed guardian's home, to conduct a criminal record check and central registry clearance within seven days, and a home study within 30 days. If a home study has been performed within the immediately preceding year, a copy of that

home study would need to be submitted to the court.

\*Require the court review a guardianship for a child not later than one year after the guardian is appointed; it could review a guardianship anytime it considers necessary.

\* Require the court to terminate or revoke a guardianship if it found that continuation of the guardianship was not in the child's best interests.

Under the bill, the court could, on its own motion, or on petition from the Department of Human Services, or the child's lawyer guardian ad litem, hold a hearing to determine whether a guardianship appointed under the Code could be revoked. A guardian could petition the court for permission to terminate the guardianship. A petition could include a request for appointment of a successor guardian.

After notice and hearing on the petition for revocation or permission to terminate guardianship, if the court finds by preponderance of the evidence that continuation of the guardianship is not in the child's best interests, the court could revoke or terminate the guardianship, appoint a successor guardian or restore temporary legal custody to the Department of Human Services.

Senate Bill 670 would require the child placing agency to notify the court with jurisdiction over the child and the child's lawyer guardian ad litem of the change in placement. The bill would specify that the notice would not affect the department's placement discretion. The notice would have to include the reason for the change in placement, the number of times the child's placement had been changed, whether or not the child would be required to change schools, and whether or not the change would separate or reunite siblings or affect sibling visitation.

The bill would also permit any of the required notices to be given by electronic means as agreed by DHS and the court with jurisdiction over the child.

Senate Bill 671 would specify that reasonable efforts to finalize an alternate permanency plan could be made concurrently with reasonable efforts to reunify the child with the family.

Currently, the juvenile code requires the court to hold periodic review hearings for a child under the court's jurisdiction. In addition, the court is required to determine the extent of progress toward mitigating the conditions that caused the child to be placed or to remain in foster care, and determine the continuing necessity and appropriateness of the child's placement.

Senate Bill 672 would permit the court to appoint a guardian for a child who remained in placement following the termination of parental rights, if the court determined that such an appointment was in the best interests of the child. The court could not appoint a guardian without the written consent of the Michigan Children's Institute (MCI) superintendent. The MCI superintendent would be required to consult with the child's lawyer guardian ad litem when considering whether to grant written consent.

If a person believed that a decision to withhold consent was arbitrary or capricious, the person could file a motion with the court. The motion would have to contain the specific steps the person took to obtain the required consent, and the results, if any, as well as the specific reasons for believing that the decision to withhold consent was arbitrary or capricious.

If a motion is filed, the court would have to set a hearing date and notify the MCI superintendent, the foster parents, the prospective guardian, the child, and the child's lawyer guardian ad litem. If a hearing is held on the motion and the court found by clear and convincing evidence that the decision to withhold consent was arbitrary or capricious, the court could approve the guardianship without the consent of the MCI superintendent

A guardian appointed under these provisions would have all the powers and duties set forth under Section 15 of the Estates and Protected Individuals Code (EPIC).

If a child is placed in a guardian's or a proposed guardian's home, the court could order the DHS to perform an investigation, file a written report of the investigation for a review, perform a criminal record check and a central registry clearance within seven days. The court could also require the DHS to perform a home study and file a copy of the home study with the court within 30 days, unless a home study has been performed within the immediately preceding 365 days. If a home study has been performed within the immediately 365 days, a copy of that home study must be submitted to the court.

Under the bill, a court would have to review a guardianship within 365 days after the guardian was appointed, and could review a guardianship at any time the court considered necessary. The court could on its own motion, or upon petition from the DHS or the child's lawyer guardian ad litem, hold a hearing to determine whether a guardianship appointed should be revoked. A guardian could petition the court for permission to terminate the guardianship. A petition may include a request for appointment of a successor guardian.

After notice and hearing on a petition for revocation (or permission) to terminate the guardianship, if the court finds by a preponderance of the evidence that continuation of the guardianship is not in the child's best interest, the court could revoke or terminate the guardianship and appoint a successor guardian or restore temporary legal custody to the DHS.

## **FISCAL IMPACT:**

The bills would have no fiscal impact on state or local government, other than the cost of additional criminal record checks. (Information based on the analysis of the bills by the Senate Fiscal Agency.)

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■ 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.