

Legislative Analysis



CONDITIONS FOR TERMINATION OF PARENTAL RIGHTS: REVISE IN CERTAIN CIRCUMSTANCES

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House Bill 4535 (Proposed Substitute H-1)

House Bill 4820 as introduced

Sponsor: Rep. Pam Byrnes

Committee: Judiciary

Complete to 4-21-09

A SUMMARY OF SUBSTITUTE HOUSE BILL 4535 (H-1) AND HOUSE BILL 4820 AS INTRODUCED 4-21-09

The bills would amend the Juvenile Code to narrow those instances in which a court could terminate a parent's parental rights, and the Child Protection Law to narrow those instances in which the Department of Human Services must petition a court to have a parent's parental rights terminated, in cases where that parent had previously voluntarily given up parental rights to another child. House Bills 4535 and 4820 are tie-barred, meaning that one bill could not take effect unless the other was also enacted into law. The bills would take effect 180 days after the bills were enacted.

House Bill 4535

Currently, Section 19b of the Juvenile Code allows a court to terminate a parent's parental rights if it finds, by clear and convincing evidence, that one or more statutory conditions has been met. In addition to factors such as desertion, physical injury to or sexual abuse of the child, or incarceration of the parent, a court may also terminate a parent's parental rights if it finds the parent's parental rights to another child had been voluntarily terminated following the initiation of proceedings under Section 2(b) of the code (abuse and neglect) or a similar law of another state.

House Bill 4535 would amend Section 19b of the Juvenile Code (MCL 712A.19b). Under the bill, a previous voluntary termination of parental rights after a Section 2(b) proceeding was initiated would constitute grounds for a subsequent termination only if that previous proceeding involved abuse that included one or more of the following:

- Abandonment of a young child.
- 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.
- Aiding and abetting, attempting to commit, conspiring to commit, or soliciting murder or voluntary manslaughter.

(Section 2(b) of the Juvenile Code grants jurisdiction to the family division of circuit court over a juvenile under 18 years of age whose parent neglects or refuses to provide proper or necessary support, education, medical, surgical, or other care necessary for the child's health or morals; who has been abandoned or is without proper custody or guardianship; whose home or environment, by reason of neglect, cruelty, drunkenness, criminality, or depravity on the part of a parent, guardian, or non-parent adult, is an unfit place for the juvenile to live; whose parent has substantially failed, without good cause, to comply with a limited guardianship placement plan or a court-structured plan described in the Estates and Protected Individuals Code (EPIC); or, if the juvenile has a guardian under EPIC, the parent failed or neglected – for at least two years before the petition to terminate was filed – to provide regular and substantial support or failed or neglected to visit, contact, or communicate with the juvenile. The initiation of a Section 2(b) proceeding is a first step to termination of parental rights.)

House Bill 4820

The bill would amend the Child Protection Law (MCL 722.638) to similarly revise a provision that requires DHS to file a petition for termination of parental rights if the department determines that there is risk of harm to a child and the parent's rights to another child had been voluntarily terminated following the initiation of proceedings under Section 2(b) or a similar law of another state. Under the bill, DHS would only be required to file the petition if the Section 2(b) proceeding had involved abuse that included one or more of the following:

- Abandonment of a young child.
- 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.
- Aiding and abetting, attempting to commit, conspiring to commit, or soliciting murder or voluntary manslaughter.

FISCAL IMPACT:

The bills would have an indeterminate, but likely negligible, fiscal impact on the judiciary.

An analysis on the fiscal impact of House Bill 4820 on the Department of Human Services is in process.

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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.