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BILL ANALYSIS



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Senate Bill 1005 (as enacted)
Sponsor: Senator Judy K. Emmons
Senate Committee: Families, Seniors and Human Services
House Committee: Families, Children, and Seniors

PUBLIC ACT 115 of 2012

Date Completed: 9-10-13

CONTENT

The bill amended the juvenile code to do the following:

- **Allow the Department of Human Services (DHS) to make reasonable efforts to reunify a child with a parent under certain conditions, if a court finds a parent is required to register under the Sex Offenders Registration Act (SORA).**
- **Specify that reasonable efforts to reunify a child and family are not required if the parent is required to register under SORA.**
- **Require an agency's case service plan regarding certain juveniles to include conditions that limit or preclude placement or parenting time with a parent who is required to register under SORA.**
- **Include sexual abuse of a child, a sibling, or another child in the types of abuse for which the family court may terminate parental rights.**
- **Include training in early childhood, child, and adolescent development in the powers and duties of a lawyer-guardian ad litem.**

The bill took effect on May 1, 2012.

Release of Juvenile to Parent

Under the juvenile code, if a juvenile is alleged to be within the provisions of Section 2(b) of the code, the family court may authorize a petition to be filed at the conclusion of a preliminary hearing or inquiry. The court may authorize the petition upon a showing of probable cause that one or more of the allegations in the petition are true and fall within Section 2(b).

(Section 2(b) gives the family court jurisdiction in proceedings concerning a juvenile under 18 years of age if any of the following apply:

- The juvenile's parent or other person legally responsible for the juvenile's care and maintenance neglects or refuses to provide proper or necessary support, education, medical, or other care necessary for the juvenile's health or morals.
- The juvenile is subject to a substantial risk of harm to his or her mental well-being.
- The juvenile is abandoned by his or her parent, guardian, or other custodian.
- The juvenile is without proper custody or guardianship.
- The juvenile's home or environment, by reason of neglect, cruelty, drunkenness, criminality, or depravity on the part of a parent, guardian, nonparent adult, or other custodian, is an unfit place for the juvenile to live.
- The juvenile's parent has substantially failed, without good cause, to comply with a limited guardianship placement plan or a court-structured plan under the Estates and Protected Individuals Code (EPIC).

Juvenile proceedings also are under the family court's jurisdiction under Section 2(b) if the juvenile has a guardian under EPIC and his or her parent meets criteria involving the failure to provide support or make contact for at least two years)

Except as otherwise provided in the juvenile code, if a petition is authorized under Section 2(b), the court may release the juvenile in the custody of either of his or her parents or his or her guardian or custodian under reasonable terms and conditions necessary for the juvenile's physical health or mental well-being.

Under the bill, if a court finds that a parent is required by court order to register under the Sex Offenders Registration Act, the DHS may, but is not required to, make reasonable efforts to reunify the child with the parent. The court also may order reasonable efforts to be made by the Department.

Case Service Plan

Under the juvenile code, in a proceeding under Section 2(b), if an agency advises the court against placing a child in the custody of the child's parent, guardian, or custodian, the agency must take certain actions. Before the court enters an order of disposition in a proceeding under Section 2(b), the agency must prepare a case service plan.

The case service plan must provide for placing the child in the most family-like setting available and in as close proximity to the child's parents' home as is consistent with the child's best interests and special needs. The case service plan must include certain information, such as the type of home or institution where the child is to be placed.

Under the bill, the case service plan also must include conditions that would limit or preclude placement or parenting time with a parent who is required by court order to register under SORA.

Permanency Planning Hearing

If a child remains in foster care and parental rights to the child have not been terminated, the juvenile code requires the court to conduct a permanency planning hearing within 12 months after the child was removed from his or her home. The court must conduct the hearing within 30 days after there is a judicial determination that reasonable efforts to reunite the child and family are not required.

Reasonable efforts to reunify the child and family must be made in all cases, unless certain conditions apply. Under the bill, those conditions include that the parent is required by court order to register under SORA.

Termination of Parental Rights

If a child remains in foster care in the temporary custody of the family court following a review hearing or a permanency planning hearing under the juvenile code, or if a child remains in the custody of a guardian or limited guardian, the code requires the court to hold a hearing, upon the filing of a petition, to determine if the parental rights to a child should be terminated. The court may terminate a person's parental rights if it finds, by clear and convincing evidence, that any of the conditions specified in the code exist.

One of the grounds for terminating parental rights is that the parent abused the child, or his or her sibling, and the abuse 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.

The bill added to that list "sexual abuse" as the term is defined in the Child Protection Law. (That Law defines "sexual abuse" as "sexual contact" or "sexual penetration", with a child, as those terms are defined in the criminal sexual conduct provisions of the Michigan Penal Code (MCL 750.520a).)

In addition, the juvenile code authorizes the family court to terminate the parental rights of a person whose parental rights to another child were voluntarily terminated following the initiation of proceedings for neglect or abandonment, and the proceedings involved abuse that included any of the actions listed in the code (which are the same as those noted above). The bill also added sexual abuse to this list.

LGAL Powers & Duties

The juvenile code requires the family court to appoint a lawyer-guardian ad litem (LGAL) to represent a child in a case involving neglect or abandonment, or in a divorce action in which the circuit court has waived jurisdiction to the family court. The code provides that an LGAL's duty is to the child, not the court, and specifies the powers and duties of a lawyer-guardian ad litem.

Under the bill, those powers and duties include participation in training in early childhood, child, and adolescent development.

MCL 712A.17d & 712A.19b

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bill incorporated new Federal guidelines into statute, as required by the Child Abuse Prevention and Treatment Act (CAPTA) Reauthorization Act of 2010. In order to continue to qualify for approximately \$800,000 in Federal funding for child abuse and neglect prevention activities, the State must comply with these guidelines.

Some of the guidelines are not expected to result in any fiscal impact. Under CAPTA, the State is required to incorporate specific terminology referring to "sexual abuse" in statute. The State already used similar, but not identical, phrasing in statute. Additionally, the State must include permissive language allowing a court to terminate parental rights if a parent is on the Sex Offender Registry.

Requiring lawyer-guardian ad litem to participate in early childhood development training may result in an indeterminate fiscal impact. Compensation of LGALs varies across local jurisdictions, but local units may incur small costs to ensure that appointed LGALs have adequate child development training as the bill requires.

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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.