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Senate Bill 1005 (as introduced 3-6-12)
Sponsor: Senator Judy K. Emmons
Committee: Families, Seniors and Human Services

(as passed by the Senate)

Date Completed: 3-8-12

CONTENT

The bill would amend the juvenile code to do the following:

- **Allow the family division of circuit court (family court) to terminate a parent's parental rights to a child if the parent were required to register under the Sex Offenders Registration Act (SORA).**
- **Include sexual abuse of a child, a sibling, or another child in the types of abuse for which the family court may terminate a parent's parental rights.**
- **Include training in early childhood, child, and adolescent development in the powers and duties of a lawyer-guardian ad litem (LGAL).**

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 to a child if it finds, by clear and convincing evidence, the existence of one or more of the conditions specified in the code. Under the bill, those conditions would include that the parent was required to register under SORA.

Currently, 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 would include in that list "sexual abuse" as that 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 family court may 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 would include sexual abuse in this list.

LGAL Powers & Duties

The juvenile code defines "lawyer-guardian ad litem" as an attorney appointed under Section 17c, which requires the family court to appoint an 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 would include participation in training in early childhood, child, and adolescent development.

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

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bill would incorporate 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 currently uses 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 could result in an indeterminate fiscal impact. Compensation of LGALs varies across local jurisdictions, but local units could incur small costs to ensure that appointed LGALs had adequate child development training as the bill would require.

Fiscal Analyst: Frances Carley
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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.