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House Bill 4648 (Substitute S-1)
Sponsor: Representative Kenneth Kurtz
House Committee: Families, Children, and Seniors
Senate Committee: Families, Seniors and Human Services

Date Completed: 2-26-14

CONTENT

The bill would amend the Michigan Adoption Code to do the following:

- Require a court to take specific actions if a putative father's parental rights were not terminated.**
- Prohibit a mother's or guardian's execution of a release of rights to a child from being used against the mother or guardian in a proceeding under the Child Custody Act.**

The bill would take effect 180 days after the date it was enacted.

Rights of Putative Father & Child Custody

Under the Code, if a child is claimed to be born out of wedlock and the mother executes a release or consent relinquishing her rights to the child, or joins in a petition for adoption filed by her husband, and the release or consent of the natural father cannot be obtained, the judge must hold a hearing to determine whether the child was born out of wedlock, to determine the identity of the father, and to determine or terminate the rights of the father.

Notice of the hearing must be served upon a putative father who has filed a notice of intent to claim paternity and a putative father who was not served a notice of intent to release or consent at least 30 days before the expected delivery of the child. The notice must inform the putative father that his failure to appear at the hearing will constitute a denial of his interest in custody of the child, which will result in the court's termination of his rights to the child.

If the putative father appears at the hearing and requests custody of the child, the court must inquire into his fitness and his ability to properly care for the child, and determine whether the best interests of the child will be served by granting him custody. If the court finds that it would not be in the best interests of the child to grant custody to the putative father, the court is required to terminate his rights to the child. If, however, the father has established a custodial relationship with the child, or has provided substantial and regular support or care to the mother or child, the rights of the putative father may not be terminated, except by other proceedings under the Code.

Under the bill, if a court determined that a putative father's parental rights would not be terminated, the court would have to do all of the following: 1) terminate temporary

placement under Section 23d, 2) return child custody to the mother or guardian, and 3) deny the order of adoption and dismiss the pending adoption proceeding.

(Section 23d provides for temporary placement of a child with a prospective adoptive parent by a parent or guardian with legal custody of the child, or by a placing agency with written authorization of a parent or guardian.)

Mother's Rights

Under the bill, after a court completed the actions that would be required when a putative father's rights were not terminated, if a mother or guardian executed or proposed to execute a release or consent relinquishing the mother's parental rights or the guardian's rights to the child and sought termination of the putative father's parental rights, that could not be used against the mother or guardian in a proceeding under the Child Custody Act.

The Code requires a court to enter an order granting custody of a child to the putative father if the child was born out of wedlock and the mother's parental rights are terminated. Under the bill, this would apply if the mother's rights were terminated and were not restored due to a court denial of an adoption.

MCL 710.39

Legislative Analyst: Jeff Mann

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

Fiscal Analyst: John Maxwell

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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.