

# Legislative Analysis



## **FOSTER CARE PLACEMENTS: KEEP SIBLINGS TOGETHER**

Phone: (517) 373-8080  
<http://www.house.mi.gov/hfa>

**House Bill 5521 (H-2) as reported from House Committee**  
**Sponsor: Rep. Klint Kesto**

Analysis available at  
<http://www.legislature.mi.gov>

**Senate Bill 483 (H-2) as reported from House Committee**  
**Sponsor: Sen. Rick Jones**

**House Committee: Judiciary**

**Senate Committee: Families, Seniors and Human Services (SB 483)**

**Complete to 5-17-16**

*(Enacted as Public Acts 190 & 191 of 2016)*

## **SUMMARY:**

House Bill 5521 and Senate Bill 483 would amend different acts to require reasonable efforts be made to place siblings removed from their homes in the same foster placement. If not jointly placed, visits between the siblings would be required, unless contrary to the safety or well-being of any of the siblings. Senate Bill 483 would also revise provisions within the Juvenile Code pertaining to parenting time between parents and a juvenile who is removed from the custody of the parents.

The bills are tie-barred to each other, meaning that neither can take effect unless the other is also enacted into law. Each bill will take effect 90 days after enactment.

**House Bill 5521** would amend the Foster Care and Adoption Services Act (MCL 722.952 and 722.954a). The stated purpose of the act is to assist foster parents to provide a stable, loving family environment for children who are placed outside of their homes on a temporary basis and to help eliminate barriers to the adoption of children and to promote the provision of a stable and loving family environment to children who are without permanent families.

The bill would amend the act to require that reasonable efforts be made to do the following:

- Place siblings removed from their home in the same foster care, kinship guardianship, or adoptive placement, unless the supervising agency documents that a joint placement would be contrary to the safety or well-being of any of the siblings.
- If the siblings were not jointly placed, provide for at least monthly visitation or other ongoing contact between the siblings, unless documented by the supervising agency that at least monthly visitation or ongoing contact would be contrary to the safety or well-being of any of the siblings.

If the siblings could not be placed together, or if not all the siblings were being placed in foster care, the supervising agency would be required to make reasonable efforts to

facilitate sibling at least monthly visitation or other ongoing contact with siblings unless a court determines that at least monthly visitation or other ongoing contact with siblings would not be beneficial under Section 13a(15) of Chapter XIIA (Juvenile Code) of the Probate Code.

If the supervising agency discontinues visitation or other ongoing contact with siblings because the agency determines that visitation or other ongoing contact is contrary to the safety or well-being of any of the siblings, the supervising agency must report its determination to the court for consideration at the next review hearing.

"Sibling" would be defined to mean a child who is related through birth or adoption by at least one common parent, and includes that term as defined by the American Indian or Alaskan Native child's tribal code or custom.

**Senate Bill 483** would make similar amendments to Chapter XIIA (Juvenile Code) regarding foster placement of siblings, require regular parenting time with a child removed from the home, and make technical amendments to Chapter X (Adoption Code) of the Probate Code (MCL 710.13a et al.).

Under the Juvenile Code, the Family Division of circuit court has jurisdiction over juveniles under certain circumstances; for example, for certain criminal or juvenile delinquency proceedings, and also if the juvenile is the victim of abuse or neglect and in certain divorce proceedings.

### ***Sibling Placement/Visitation***

If juveniles are removed from their home, the bill would require reasonable efforts be made to do the following:

- Place siblings in the same foster care, kinship guardianship, or adoptive placement unless the supervising agency documents that a joint placement would be contrary to the safety or well-being of any of the siblings.
- If the siblings are not jointly placed, provide for visitation at least monthly or other ongoing interaction unless the visits would be contrary to the safety or well-being of any of the siblings.

If the supervising agency documents that visitation or other contact is contrary to the safety or well-being of any of the siblings and temporarily suspends visitation or contact, the agency must report its determination to the court for consideration at the next review hearing. If the visitation or contact is suspended, the court must review the decision and determine whether sibling visitation or contact will be beneficial to the siblings. If so, the court must order sibling visitation or contact to the extent reasonable.

The bill would also require that the case service plan include the efforts to be made by the agency to provide frequent in-person visitation or other ongoing interaction between siblings unless the court determines under Section 13a of the code that sibling visitation or contact will not be beneficial to one or more of the siblings.

(A service case plan is a document prepared before the court enters an order of disposition in a juvenile proceeding by the agency having responsibility for the juvenile's care and supervision that includes the services to be provided by the agency and responsibilities and obligations of the agency and the parents.)

### ***Parenting Time***

Currently, if a juvenile is removed from his or her home, the circuit court must permit the juvenile's parent to have frequent parenting time with the juvenile. Instead, the bill would specify that if a juvenile is removed from the parent's custody at any time, the court shall permit the juvenile's parent to have regular and frequent parenting time with the juvenile.

Currently, if parenting time, even if supervised, may be harmful to the juvenile, the court shall order the child to have a psychological evaluation or counseling or both, to determine the appropriateness and the conditions of parenting time. Under the bill, the court *could*, rather than being required to, order the *juvenile* to the psychological evaluation or counseling. A provision allowing the court to suspend parenting time while the psychological evaluation or counseling is conducted would be eliminated.

Further, the bill specifies that parenting time between the juvenile and his or her parent shall not be less than one time every seven days unless the court determines either that exigent circumstances require less frequent parenting time or that parenting time, even if supervised, may be harmful to the juvenile's life, physical health, or mental well-being. If the court determines that parenting time, even if supervised, may be harmful to the juvenile's life, physical health, or mental well-being, the court may suspend parenting time until the risk of harm no longer exists.

In addition, Section 2(b) of the Juvenile Code gives the court authority and jurisdiction over juveniles under 18 years of age under certain listed circumstances; for example, the juvenile was subjected to abuse or neglect or alleged to have been a victim of human trafficking. Under Section 2(c), the court has jurisdiction over juveniles under 18 years of age for whom jurisdiction was waived to the Family Division based on a complaint for divorce or upon a motion related to a complaint for divorce by the prosecuting attorney, in a divorce judgment dissolving a marriage between the juvenile's parents, or by an amended judgment relative to the juvenile's custody in a divorce.

The bill would add a new provision specifying that the same manner of regular and frequent parenting time as described above for other proceedings involving juveniles would be required in a proceeding under Section 2(b) or (c).

Lastly, the bill revises references to "husband" in two sections of the Adoption Code to instead refer to "spouse."

### **FISCAL IMPACT:**

These bills should have no significant impact on the State of Michigan or local units of government. Currently, the federal *Fostering Connections to Success and Increasing*

*Adoption Act of 2008* (P.L. 110-351), already requires reasonable efforts be made to place siblings together in these cases and if not, to facilitate visitation or ongoing contact, unless it is contrary to their safety or well-being.

## **BRIEF DISCUSSION ON THE ISSUES:**

By some estimates, up to 75 percent of siblings are separated when they enter the foster care system. Often it is the youngest of the siblings who may be separated from the rest. Splitting up siblings when a family is in crisis, say knowledgeable observers, only adds to the trauma experienced by children and interrupts important family bonds. The bills address critical gaps in the state's welfare system according to advocates and should help protect the bond between siblings when entering the foster system. In those cases in which the children cannot be placed together, the bills ensure that the children will be able to see each other at least monthly and have other ongoing contact, such as phone calls, that will help them weather the difficulties of physical separation and make reunification easier.

Senate Bill 483 also preserves the bond between a child and a parent when the child is removed from the custody of a parent. Whether removal is needed for the child's safety and well-being, or based on false allegations of neglect or abuse, many families are eventually reunited. The ability to have regular and frequent contact between the parent or parents and the children is necessary to keep family bonds strong and facilitate and support successful reunification. The bill also codifies a long-held practice that a court cannot suspend parenting time without a finding of harm to the child if parenting time is continued. This practice had been overturned by a 2013 Court of Appeals case that gave wide discretion to courts to determine whether parenting time was in a child's best interest. Enactment of the bill would restore a parent's and a child's right to continue to see each other unless a court determines that such contact is harmful to the child, even if supervised.

## **POSITIONS:**

- A representative of the Department of Health and Human Services testified in support of the bills. (4-12-16)
- A representative of the Child Advocacy Law Clinic of the University of Michigan Law School testified in support of the bills. (4-12-16)
- A representative of the Children's Law Section of the State Bar of Michigan testified in support of the bills. (4-12-16)
- The Michigan State Council of Junior Leagues indicated support for the bills. (4-12-16)
- Citizens for Parental Rights submitted written testimony in support of the bills. (4-12-16)

Legislative Analyst: Susan Stutzky  
Fiscal Analyst: Viola Bay Wild

---

■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.