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BILL ANALYSIS



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Senate Bill 483 (as enacted)
House Bill 5521 (as enacted)

PUBLIC ACT 191 of 2016
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Sponsor: Senator Rick Jones (S.B. 483)

Representative Klint Kesto (H.B. 5521)

Senate Committee: Families, Seniors and Human Services (S.B. 483)

House Committee: Judiciary

Date Completed: 8-26-16

CONTENT

Senate Bill 483 amends the juvenile code to do the following:

- Require a reasonable effort to be made to place siblings removed from their home in the same placement, or provide for at least monthly visitation or other ongoing interaction between siblings, unless either of these would be contrary to the safety or well-being of any of the siblings.
- Require a court to determine if sibling visitation or contact will be beneficial to siblings, if the supervising agency documents that visitation or other contract is contrary to the safety or well-being of the siblings.
- Require a case service plan to include efforts to be made by the supervising agency to provide frequent in-person visitation or other ongoing interaction between siblings, unless a court determines that the visitation or contact will not be beneficial.
- Require a court to permit the parent of a child removed from the parent's custody to have parenting time at least once every seven days, unless the court determines that exigent circumstance require less frequent parenting time or that parenting time may be harmful to the child.

House Bill 5521 amends the Foster Care and Adoption Services Act to do the following:

- Require a supervising agency to make a reasonable effort to place siblings removed from their home in the same placement, or provide for visitation between siblings at least monthly, unless the agency documents that either of these would be contrary to the safety or well-being of any of the siblings.
- Require a supervising agency to make a reasonable effort to facilitate at least monthly visitation or other ongoing contact with siblings who are not jointly placed, unless a court determines that visitation or contact would not be beneficial.
- Require the agency to report to the court for consideration at the next review hearing, if the agency discontinues visitation or other ongoing contact with siblings because it determines that visitation or contact is contrary to the safety or well-being of any of the sibling.

The bills will take effect on September 19, 2016.

Senate Bill 483

Sibling Visitation

The juvenile code governs, among other things, the placement of children removed from their parent's care under a variety of circumstances. The bill requires reasonable efforts to be made to 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.

("Sibling" means a child who is related through birth or adoption by at least one common parent. Sibling includes that term as defined by the American Indian or Alaskan Native child's tribal code or custom.)

In the case of siblings removed from their home who are not jointly placed, the bill requires a reasonable effort to be made to provide for visitation, at least monthly, or other ongoing interaction between siblings, unless the supervising agency documents that at least monthly visitation or other ongoing interaction 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 bill requires the supervising agency to report its determination to the court for consideration at the next review hearing. If the supervising agency temporarily suspends visitation or contact, 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.

Under the code, before a court enters an order of disposition in a proceeding under Section 2(b), an agency must prepare a case service plan that must be available to the court and to all of the parties of the proceeding. The case service plan must provide for placing the child in the most family-like setting available, and must include services to be provided by and responsibilities and obligations of the agency as well as activities, responsibilities, and obligations of the parent. Under the bill, the plan also must include efforts to be made by the supervising agency to provide frequent in-person visitation or other ongoing interaction between siblings unless the court determines under that sibling visitation will not be beneficial to one or more of the siblings. (Section 2(b) relates to court jurisdiction concerning a juvenile in situations involving abuse or neglect.)

Parenting Time

The code provides that if a juvenile is removed from the parent's custody, the court must permit the juvenile's parents to have frequent parenting time. The bill specifies that unless the court determines 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, parenting time must be regular and frequent, and at least one time every seven days. If the court determines that parenting time, even if supervised, may be harmful, the court may suspend parenting time until the risk of harm no longer exists.

Currently, the court must order the juvenile to have a psychological evaluation or counseling, or both, to determine the appropriateness and conditions of parenting time. The bill instead makes this order permissive.

Under the code, if a court finds that a juvenile concerning whom a petition is filed is not within the code, the court must enter an order dismissing the petition. If, however, the court finds that a juvenile is subject to the code, the court may enter certain orders of disposition that are appropriate for the welfare of the juvenile and society. The bill requires the court to permit

the parenting time referred to above, if the juvenile is removed from the parent's custody at any time in the course of a proceeding under Section 2(b) or (c) of the code.

(Section 2(b) relates to court jurisdiction in proceedings concerning a juvenile in situations involving abuse or neglect. Section 2(c) pertains to situations in which jurisdiction of a juvenile has been waived to the family division of circuit court based on a complaint for divorce.)

House Bill 5521

The Foster Care and Adoption Services Act pertains to, among other things, the placement of children within a supervising agency's care. The bill requires a supervising agency to make reasonable efforts to place siblings removed from their home in the same foster care, kinship guardianship, or adoptive placement, unless the agency documents that a joint placement would be contrary to the safety or well-being of any of the siblings. (The bill defines "sibling" as a child who is related through birth or adoption by at least one common parent. "Sibling" includes that term as defined by an American Indian or Alaskan Native child's tribal code or custom.)

In the case of siblings removed from their home who are not jointly placed, the bill requires the supervising agency to provide for at least monthly visitation or other ongoing contact between the siblings, unless the agency documents that at least monthly visitation or other ongoing contact would be contrary to the safety or well-being of any of the siblings.

If siblings cannot be placed together or not all the siblings are placed in foster care, the supervising agency must make reasonable efforts to facilitate at least monthly visitation or other ongoing contact with siblings unless a court has determined that at least monthly visitation or other ongoing contact would not be beneficial under the juvenile code (as amended by Senate Bill 483).

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

MCL 710.24 et al. (S.B. 483)
722.952 & 722.954a (H.B. 5521)

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bills may result in a fiscal impact on locally operated child placing agencies and will have no fiscal impact on the State. Currently, Department of Health and Human Services policy and provisions of the Federal court agreement related to *Duane B. v. Snyder* require the Department to place sibling groups together when feasible and appropriate and to assure visitations, when appropriate, between siblings when not placed together.

Depending on the current policies of locally operated agencies regarding sibling placements, there may be a local fiscal impact. There are several child placing agencies that are operated by community mental health agencies and some agencies operated by circuit courts or counties. These locally operated agencies are not subject to the settlement requirements. To the extent that the requirements under the bills are new, the agencies may realize some additional costs.

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.