

FOSTER CARE PLACEMENT

Senate Bill 490 (Substitute H-3)
Sponsor: Sen. Joel D. Gougeon

Senate Bill 491 as passed by the Senate
Sponsor: Sen. Robert Geake

Senate Bill 492 (Substitute H-4)
Sponsor: Sen. Michael J. Bouchard

Addendum to SFA analysis (12-2-97)
Senate Committee: Families, Mental
Health and Human Services
House Committee: Human Services and
Children

ADDENDUM TO SENATE FISCAL AGENCY ANALYSIS OF SB 490, 491, AND 492 DATED 6-17-97:

The Senate Fiscal Agency Analysis reflects the bills as passed by the Senate.

HOUSE COMMITTEE ACTION:

The House Human Services and Children Committee adopted Substitute H-3 for Senate Bill 490 and Substitute H-4 for Senate Bill 492. The House committee substitute bills would replace the "juvenile division of the probate court" with the "family division of circuit court," in the title of the act and throughout the bills to conform to the provisions of Public Act 388 of 1996, which created the family division of the circuit court (family court). The primary provisions of the substitute bills are as follows:

Senate Bill 490.

Petitions. Currently, the code establishes provisions under which the court may issue a petition concerning an abused or neglected juvenile. In addition, under the provisions of the House committee substitute for Senate Bill 515, the Family Independence Agency (FIA) must submit a petition for the court to take jurisdiction of a child within 24 hours after the agency concludes that the child has been severely physically injured or sexually abused. The House committee substitute bill would add that, if a petition had been submitted to the court under the provisions of Senate Bill 515, then the court would have to hold a hearing on the petition within 24 hours or on the next business day after the petition was submitted, at which hearing the court would have to at least consider matters concerning the alleged abuse of the child and the possibility of removing the perpetrator of the abuse from the child's home.

Placement of Child/Parenting Time. Currently, the juvenile code specifies that, if a petition alleging abuse or neglect by a parent, guardian, custodian, or other person residing in a

juvenile's home is authorized and the court finds probable cause to believe that the person committed the abuse, the court may order that person to leave the home and not return to it. The bill, as passed by the Senate, provided that, if the juvenile division of probate court found that there was reasonable cause to believe that a child had been sexually abused or severely physically abused by a parent, guardian, custodian, or other person who was 18 years of age or older and who resided for any length of time in the home, the court could not order the placement of the child in the home unless it entered an order requiring the alleged perpetrator to leave the home. The bill also included this language in provisions concerning juveniles who were allegedly abused or neglected, juveniles placed under supervision in their own home, juveniles placed in foster care, juveniles placed on probation, and in provisions regarding hearings to determine whether or not a child's foster care placement should be continued. The House committee substitute would delete this language, and would specify only that, regardless of whether the court ordered an alleged abuser to leave the child's home, the court could not leave a child in his or her home nor return a child to his or her home, nor place the child with an unlicensed day care provider, unless it found that the conditions of custody adequately safeguarded the child from risk of harm.

Currently, the code specifies that a juvenile's parent must be permitted to have parenting time frequently, unless it would be harmful to the juvenile. The bill, as passed by the Senate, provided that the court would have to order a psychological evaluation and/or counseling to determine the appropriateness and conditions of parenting time. The House committee substitute would add that the court could suspend parenting time while the psychological evaluation or counseling was conducted.

Change in Foster Care Placement. The House committee substitute would replace provisions for changes in foster care placement in the Senate-passed version of the bill with the following:

- The agency responsible for a child's care could not change the child's foster care placement unless the foster care provider requested or agreed to the change; or, if the provider objected, the court ordered the child returned home, the change was less than 30 days after the child's initial removal from home, the change was less than 90 days after the child's initial removal from home and the placement was with a relative, or the change in placement complied with other provisions of the bill.

- Unless the agency had reasonable cause to believe that a child had suffered sexual abuse or nonaccidental physical injury, or was at risk of harm, it would have to notify the State Court Administrative Office of a proposed change, and notify the foster parents of the intended change as well as inform them that if they disagreed with the decision, they could appeal within 3 days to a foster care review board. A parent could appeal orally but would have to submit a written appeal immediately following the oral appeal. The agency also would have to give the foster parents the address and telephone number of the local foster care review board with jurisdiction over the child.

- The agency would have to maintain the current placement for no less than the time for an appeal to the foster care review board, and until the board determination if the foster parent appealed.
- Upon receiving an appeal from foster parents, the foster care review board would have to investigate the change in placement and report its findings and recommendations within three business days to the court, the foster care parents, the parents, and the agency. If, after investigation, the board determined that the change was in the child's best interests, the agency could move the child.
- If, after investigation, the board determined that the move was not in the child's best interests, the agency would have to maintain the current placement until a finding and order by the court. The agency could not return a child to a placement unless ordered by the court to do so. The board would have to notify the court about the disagreement. The court would set a hearing date and notify the foster parents, each interested party, and the prosecuting attorney. Within 7 to 14 days after receipt of the review board's notice, a hearing would be set. The rules of evidence would not apply to the hearing.

The agency could change a child's placement without complying with these provisions if it had reasonable cause to believe that the child had suffered sexual abuse or nonaccidental physical injury, or that there was substantial risk of harm to the child's emotional well-being. The agency would have to include in the child's file documentation of its justification for action under this provision. If a foster parent objected to the removal of the child, the foster care parent could appeal to the review board within three business days of the child's removal. In addition, at the time of, or immediately following, a child's removal, the agency would have to inform the foster parents about the removal and inform them that they could appeal within three days in the manner provided above. The agency would also have to provide the foster parents with the appropriate review board's address and telephone number.

Review Hearings. Currently, if an abused or neglected child is placed and remains in foster care, the court must hold a review hearing within 91 days after entry of the order of disposition, and every 91 days thereafter for the first year following entry of the order. After the first year, a review hearing must be held within 182 days after a permanency planning hearing (described below). The bill, as passed by the Senate, specified that a review hearing would have to be held within 91 days after entry of the order and every 91 days thereafter as long as the child was under the jurisdiction of the court. The Senate-passed bill also specifies that, if a child were in a permanent foster family agreement, or placed with a relative where placement was intended to be permanent, or where the court had ordered guardianship, a review hearing would have to be held within 182 days after a permanency planning hearing and every 182 days after that as long as the child was under the court's jurisdiction. Upon the motion of any party or at the court's discretion, a review hearing could be accelerated to review any element of the case service plan prepared by the agency. The bill specifies that its provisions would apply to a child who was under the jurisdiction, control, or supervision of the court, or of the Michigan Children's Institute or other agency.

Permanency Planning Hearings. Currently, if a child remains in foster care and parental rights to the child have not been terminated, the court must conduct a permanency planning hearing within 364 days after entry of the order of disposition and every 364 days thereafter during the continuation of the child's foster care placement. The bill, as passed by the Senate, would specify that the court would have to conduct a permanency planning hearing within 364 days after an original petition had been filed. The court would have to conduct an additional permanency planning hearing within 91 days after the original permanency planning hearing and every 91 days after that as long as the child remained under the court's jurisdiction. The House committee substitute specifies that the bill's provisions would apply to a child who was under the jurisdiction, control, or supervision of the court, or of the Michigan Children's Institute or other agency.

Other. Senate Bill 490 (H-3) would also distinguish between "foster care" and a "permanent foster family agreement," which would be defined under the substitute bill to mean an agreement between a child, a child's family, a foster family, and a child placing agency for a child 14 years old or older to remain with a particular foster family until he or she was 18. (Note: The term "child" is employed throughout Senate Bill 490. However, Public Act 409 of 1996 substituted "juvenile" for child throughout the act. However, according to the LSB, these definitions have no legal meaning.)

Senate Bill 492. The bill, as passed by the Senate, would amend the child care licensing act to specify that, upon the recommendation of a local foster care review board or a child placing agency, the Department of Consumer and Industry Services (DCIS) could grant a variance to one or more licensing rules or statutes with respect to a licensed foster family home or foster family group home, if the placement of a particular child in that home would cause the home to be out of compliance with one or more licensing requirements and the placement were in the child's best interests. A variance could be granted under the bill only if the DCIS determined that violation of the particular licensing rule or statute would not jeopardize the health or safety of the children residing in the home. The House committee substitute would provide, instead, that the variance could be granted to allow a child and one or more siblings to remain or be placed together, and that the grant of a variance would not change the licensing status of a private home.

Analyst: R. Young

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