

Senate Fiscal Agency
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SFA



BILL ANALYSIS

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Senate Bill 543 (as passed by the Senate)
Senate Bill 544 (Substitute S-1 as passed by the Senate)
Sponsor: Senator Gary Peters (Senate Bill 543)
Senator Bill Schuette (Senate Bill 544)
Committee: Families, Mental Health and Human Services

Date Completed: 6-20-97

RATIONALE

Executive Order 1995-12 created the Lieutenant Governor's Children's Commission to review laws and programs concerning the removal of children from abusive households, the placement of children in foster care, and the permanent placement of children. The Commission's report, issued in July 1996, contains a number of goals in these areas and identifies barriers to achieving the goals. The Commission's report also makes a number of recommendations to address the issues and overcome the barriers. Some of the Commission's recommendations pertain, in particular, to a system of review and accountability for children who are permanent wards, the timely and appropriate placement of children, and protection of and medical care for children in out-of-home placement.

CONTENT

Senate Bills 543 and 544 (S-1) would amend, respectively, Public Act 220 of 1935, which governs the Michigan Children's Institute (MCI), and the Foster Care and Adoption Services Act to provide for consultation between a child's attorney and the superintendent of the MCI and establish requirements for foster care supervising agencies.

Senate Bill 543

The bill provides that, if a child were committed to the Children's Institute and the child's attorney objected to the actions of the Family Independence Agency (FIA), the attorney would have to consult with and be consulted by the superintendent of the Institute regarding all issues of commitment, placement, and permanency planning.

Under Public Act 220 of 1995, a child may be

admitted to the MCI either by commitment to the FIA, or by observation order of the probate court. A child may be committed to the FIA either by the juvenile court if the child is abused or neglected, or by the probate court if the child is a ward of the court and the court has denied an order of adoption. In the case of an observation order, if a child has been decreed to be a ward of the probate court or if the juvenile court has acquired formal jurisdiction of a child, the probate court may make a temporary commitment to the FIA and direct that the child be taken to a facility of the Children's Institute for observation.

The Act also provides that, if an order is made committing a child to the MCI, the court must send to the MCI superintendent a certified copy of the petition, the order of disposition in the case, the report of the county agent or probation officer, and the report of the physician making the examination of the child, within 30 days after the order is made. The bill would delete the requirement that the report of the county agent or probation officer be sent.

Senate Bill 544 (S-1)

The bill would establish requirements for a "supervising agency", i.e., the department or agency in whose care a child was placed for foster care. Among other things, a supervising agency would have to make a placement decision after consulting with relatives; strive to achieve permanent placement within 12 months after a child's removal from his or her home; require its workers to make in-home visits; develop a medical passport for each child under its care; and obtain an assessment or psychological evaluation of certain children. The bill is tie-barred to Senate Bill 516, which would make amendments to the

juvenile code regarding child abuse proceedings.

Specifically, under Senate Bill 544 (S-1), within 30 days after removal, as part of a child's initial service plan, a supervising agency would have to identify, locate, and consult with relatives to determine placement with a fit and appropriate relative or member of the child's extended family who would meet the child's developmental, emotional, and physical needs as an alternative to foster care. Within 90 days after the child's removal from his or her home, the supervising agency would have to do both of the following:

- Make a placement decision and document in writing the reason for the decision.
- Provide written notice of the decision and the reasons for it to the child's attorney, guardian, guardian ad litem, mother, and father; attorneys for the mother and father; all relatives or extended family members who had expressed an interest in caring for the child; the prosecutor; and the child, if he or she were old enough to express an opinion regarding placement.

Any person who received a written decision could request in writing, within five days, documentation of the reasons for the decision. If the person did not agree with the placement decision, he or she could request that the child's attorney review the decision to determine whether it was in the child's best interest. If the attorney determined that the decision was not in the child's best interest, he or she could petition the court for a review hearing, on the record, to commence within 14 days after the date of the written decision.

The supervising agency would be required to strive to achieve a permanent placement for the child, including either a safe return to his or her home or implementation of a permanency plan, within 12 months after the child was removed from his or her home. This 12-month goal could not be extended or delayed for reasons such as a change or transfer of staff or worker at the supervising agency.

If an adoptive family for a child had not been identified within 90 days after an order terminating parental rights was entered, the supervising agency would have to submit the necessary information for including the child in the directory of children described in Section 8 of the Foster Care and Adoption Services Act. (Section 8 requires the FIA to produce or contract with another person to produce a directory of children under the

jurisdiction of the FIA who are available for adoption.)

The supervising agency would have to require that its worker make monthly visits to the home or facility in which the child was placed, as well as monitor and assess in-home visitation between the child and his or her parents. To ensure the occurrence of in-home visits, the agency would have to institute a flexible schedule to provide a number of hours outside of the traditional workday to accommodate the schedules of the individuals involved.

The supervising agency would have to obtain from the parent, guardian, or custodian of each child who was placed in foster care the name and address of the child's medical provider and a signed document for the release of the child's medical records. If the parent, guardian, or custodian refused to provide the information, the agency would have to petition the probate court for an order for the production of the records. The supervising agency also would have to require that a child's medical provider remain constant while the child was in foster care, unless the child's current primary medical provider was a managed care health plan or unless doing so would create an unreasonable burden for the relative, foster parent, or other custodian.

The supervising agency would have to develop a medical passport for each child who came under its care. The medical passport would have to contain all information required by policy or law to be provided to foster parents; a basic medical history; a record of all immunizations; and any other information concerning the child's physical and mental health. Each foster care worker who transferred a child's medical passport to another foster care worker would have to sign and date the passport, verifying that he or she had sought and obtained this information and any additional information required under FIA policy. The supervising agency would have to provide a copy of each medical passport to the FIA for maintenance in a central location, and send updates to the FIA each time information was added to the passport.

If a child under the care of a supervising agency had suffered sexual abuse, serious physical abuse, or mental illness, the agency would have to have an experienced and licensed mental health professional or a certified social worker trained in children's psychological assessments perform an assessment or psychological evaluation of the child. The costs of an evaluation would have to be

borne by the supervising agency.

The FIA would be required to publish for each supervising agency an annual report card that evaluated its achievements in obtaining permanency for children and making recommendations for the removal of barriers to permanency.

MCL 400.204 (S.B. 543)
722.952 et al. (S.B. 544)

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

The MCI superintendent is appointed as the legal guardian of a child committed to the Institute and is responsible for consent to such actions as adoption, emancipation, marriage, and military service. While there is currently no prohibition against consultation between a child's attorney and the MCI superintendent, Senate Bill 543 would give clear statutory direction for that type of consultation in the consideration of what actions would be in the child's best interest. In cases in which there was agreement on the FIA's actions, consultation between the attorney and the superintendent would not be necessary. Contact between those parties, however, could be very productive when there was disagreement. Senate Bill 543 would provide an avenue for direct input to the MCI superintendent and would ensure that the superintendent had access to information that a child's attorney could provide. The bill would implement a recommendation of the Children's Commission, while accommodating concerns of the FIA.

Supporting Argument

The report of the Binsfeld Children's Commission states as a goal that timely and appropriate placement with extended family members (kinship care) be used as an alternative to foster care whenever possible. A representative of a child advocacy agency in Kent County testified before the Senate Committee on Families, Mental Health and Human Services regarding the organization's use of kinship care. Its aim is to keep children safe, but within their extended family. The family group decisions model that is used allows relatives to work on the child's placement plan and operates as a diversion from the foster care system. Senate Bill 544 (S-1) proposes a similar program that would be beneficial both to children and to the

burgeoning foster care system.

Response: The kinship care advocate who testified before the Committee also cautioned that, while kinship placement may divert some children from foster care, thereby saving foster care payments, kinship care families might need help with obtaining other assistance and services, such as food stamps or psychological counseling for the children placed in kinship care. In addition, he pointed out that the way a kinship care system is implemented is important to its success, and suggested that things like a relative's criminal history or entry in the child abuse and neglect central registry should not automatically preclude kinship placement, but should be considered in placement decisions.

Supporting Argument

The provisions in Senate Bill 544 (S-1) for a medical passport, a constant medical provider for the child, and psychological assessments would ensure that each child in the foster care system received consistent care and proper protection, and that the child's placement met his or her needs. These provisions would establish continuity in the assignment of professionals and the transfer of information throughout the child's placement.

Supporting Argument

Requiring that a child be listed in the Michigan Adoption Resource Exchange after a given period, setting as a goal the achievement of permanency planning within 12 months, and providing for a "report card" of supervising agencies all would contribute to better care of children in the foster care system and to less time spent in that system. Requiring monthly visits by the supervising agency would protect children from abuse in out-of-home placements, and requiring a flexible schedule for in-home visitation would ensure that a family's interactions could be monitored and assessed.

Legislative Analyst: P. Affholter

FISCAL IMPACT

Senate Bill 543 appears to have no fiscal impact on State or local governments.

Senate Bill 544 (S-1) could have an indeterminate impact on State government. The development of a medical passport for children in foster care placement is included in the FY 1997-98 proposal for the Family Independence Agency appropriation. It is anticipated that a managed care provider will maintain the child's complete medical history and provide this information to the FIA. Approximately

\$500,000 is anticipated to be used for the medical passport program implementation. In addition, the implementation details will be developed in conjunction with the Medical Assistance Program in the Department of Community Health.

Fiscal Analyst: C. Cole

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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.