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BILL ANALYSIS



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Senate Bill 1444 (as introduced 9-30-04)  
Sponsor: Senator Alan L. Cropsey  
Committee: Judiciary

Date Completed: 10-5-04

## **CONTENT**

**The bill would amend the juvenile code to do the following:**

- Require a lawyer-guardian ad litem to review an "agency case file" before a hearing for termination of parental rights.**
- Specify the instances in which a lawyer-guardian ad litem would have to meet with and observe a child.**
- Revise the time frame for a foster care review board to investigate a change in foster care placement after the foster care parents appealed the change.**

### Lawyer-Guardian Ad Litem

The code defines "lawyer-guardian ad litem" as an attorney appointed under Section 17c, which requires the family court to appoint a lawyer-guardian ad litem to represent a child in a case involving neglect or abandonment, or in a divorce action in which the circuit court has waived jurisdiction to the family court. The code provides that a lawyer-guardian ad litem's duty is to the child, not the court, and specifies the powers and duties of a lawyer-guardian ad litem. These provisions also apply to a lawyer-guardian ad litem appointed for a child under the Estates and Protected Individuals Code, the Child Custody Act, or the Child Protection Law.

Among his or her responsibilities, a lawyer-guardian ad litem has the power and duty to determine the facts of the case by conducting an independent investigation, including interviewing the child, social workers, family members, and others as necessary, and reviewing relevant reports and other information. The bill specifies that the "agency case file" would have to be reviewed before disposition and before a hearing for termination of parental rights. Updated materials would have to be reviewed as provided to the court and parties. At least five business days before the scheduled hearing, the supervising agency would have to provide documentation of progress relating to all aspects of the last court-ordered treatment plan, including copies of evaluations and therapy reports and verification of parenting time. ("Agency case file" would mean the current file from the agency providing direct services to the child, which could include the child protective services file, if the child had not been removed from the home, or the Family Independence Agency or contract agency foster care file.)

In addition, before each proceeding or hearing, a lawyer-guardian ad litem presently has the powers and duty to meet with and observe the child, assess the child's needs and wishes with regard to the representation and the issues in the case, review the agency case file, and, consistent with the rules of professional responsibility, consult with the child's

parents, foster care providers, guardians, and caseworkers. The bill specifies instead that, a lawyer-guardian ad litem would have the power and duty to meet with and observe the child and assess his or her needs and wishes with regard to the representation and the issues in the case in the following instances:

- Before the pretrial hearing.
- Before the initial disposition, if held more than 91 days after the petition had been authorized.
- Before a dispositional review hearing.
- Before a permanency planning hearing.
- Before a posttermination review hearing.
- At least once during the pendency of a supplemental petition.
- At other times as ordered by the court.

Adjourned or continued hearings would not require additional visits unless directed by the court.

The bill also specifies that the court could allow alternative means of contact with the child, if good cause were shown on the record.

#### Foster Care Review Board Investigation

Under the code, before a change in foster care placement takes effect, the foster parents may appeal the change within three days to the foster care review board with jurisdiction over the child. The foster care review board then must investigate the change in placement and report its findings and recommendations within three days to the court or the superintendent of the Michigan Children's Institute , the foster care parents, the parents, and the agency. Under the bill, the foster care review board would have to investigate the change in placement within seven days and report its findings and recommendations within three days.

MCL 712A.13a et al.

Legislative Analyst: Patrick Affholter

#### **FISCAL IMPACT**

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

Fiscal Analyst: Bethany Wicksall

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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.