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House Bill 6310 (Substitute H-2 as passed by the House)

Sponsor: Representative Jim Howell

House Committee: Judiciary

Senate Committee: Judiciary

Date Completed: 11-29-04

## **CONTENT**

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

- Require the family division of circuit court (family court) to conduct a permanency planning hearing within 12 months after a child was removed from his or her home, for a child who remained in foster care and for whom parental rights had not been terminated.**
- Revise the time frame and criteria for the family court to hold a permanency planning hearing in abuse cases.**
- Prohibit a permanency planning hearing from being canceled or delayed beyond the time required in the bill.**
- Require a court to have compelling reasons to order long-term continuation of foster care.**

Under the code, except in certain abuse cases, if a child remains in foster care and parental rights to the child have not been terminated, the family court must conduct a permanency planning hearing within one year after an original petition is filed. Under the bill, the court would have to hold the hearing within 12 months after the child was removed from his or her home. Subsequent permanency planning hearings would have to be held at least every 12 months after each preceding hearing while foster care continued.

In addition, the code requires the family court to conduct a permanency planning hearing within 28 days after a petition is adjudicated and the parent is found to have abused the child or a sibling of the child and the abuse included one or more of the following:

- Abandonment of a young child.
- Criminal sexual conduct involving penetration, attempted penetration, or assault with intent to penetrate.
- Battering, torture, or other severe physical abuse.
- Loss or serious impairment of an organ or limb.
- Life-threatening injury.
- Murder or attempted murder.
- Voluntary manslaughter.
- Aiding, abetting, attempting, conspiring, or soliciting the commission of murder or voluntary manslaughter.

The bill, instead, would require the family court to conduct a permanency planning hearing within 30 days after a judicial determination that reasonable efforts to reunite the child and family were not required. Reasonable efforts to reunify the child and family would have to be made in all cases, unless any of the following applied:

- There was a judicial determination under Section 8 of the Child Protection Law that the parent had subjected the child to aggravated circumstances.
- The parent had been convicted of murder or voluntary manslaughter of another child of the parent; aiding or abetting in the murder, voluntary manslaughter, attempted murder, or conspiracy or solicitation to commit the murder of another child of the parent; or a felony assault that resulted in serious bodily injury to the child or another child of the parent.
- The parent's rights to the child's sibling had been terminated involuntarily.

(Section 8 of the Child Protection Law requires the Family Independence Agency (FIA) to submit a petition to the family court under the juvenile code for court jurisdiction of a child if the FIA determines that the child has been subject to abuse involving certain factors or that the parent's rights to another child were terminated due to neglect. The abuse factors are the same as those listed above regarding a permanency planning hearing, except the factors involving voluntary manslaughter or aiding, abetting, attempting, conspiring, or soliciting the commission of murder or voluntary manslaughter.)

A permanency planning hearing could not be canceled or delayed beyond the months or days required in the bill, regardless of whether a petition to terminate parental rights was pending.

Under the juvenile code, if the court determines at a permanency planning hearing that the child should not be returned to his or her parent, the court must order the agency responsible for the juvenile's care to initiate proceedings to terminate parental rights to the child. If the agency demonstrates that initiating the proceedings is clearly not in the child's best interests, the court must order one of the following:

- The continuation of foster care placement for a limited period, if other permanent placement is not possible.
- The continuation of foster care placement on a long-term basis, if the court determines that this is in the child's best interests.

Under the bill, the court's determination that long-term continuation was in the child's best interests would have to be based upon compelling reasons.

MCL 712A.19a

Legislative Analyst: Patrick Affholter

### **FISCAL IMPACT**

The bill would have an indeterminate fiscal impact on the State. The foster care review and permanency planning hearings affect the State's compliance with the Title IV-E Eligibility Review provisions. The bill is directly tied to a penalty of approximately \$2.5 million from a Federal child and family services review, and a \$283,200 Title IV-E disallowance for errors determined in a Federal review of foster care and permanency planning hearings. The disallowed funds must be repaid to the Federal government and a Performance Improvement Plan (PIP) implemented. A second Title IV-E Review will be conducted after the PIP has been completed. Any cases determined to be in error will reduce Title IV-E funding from the point the cases became ineligible, and could cost as much as all of the cases' expenditures. The amount of the disallowance cannot be determined at this time.

To the extent that it would change the number of hearings held, the bill could have an indeterminate fiscal impact on local court costs and Family Independence Agency caseload costs.

Fiscal Analyst: Connie 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.