

Legislative Analysis



FOSTER CARE PLACEMENT: RELIGIOUS PRACTICES

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House Bill 4736 (Substitute H-1)

Sponsor: Rep. Barb Byrum

Committee: Families and Children's Services

First Analysis (6-18-07)

BRIEF SUMMARY: The bill would amend the Foster Care and Adoption Services Act to require a supervising agency, in making a determination of placement for a child in its care, to give consideration to placement in a home that shares the same religion as the child's immediate family before his or her removal, especially if religious laws regarding food have been observed in the immediate family before the child's removal.

FISCAL IMPACT: The bill would have no fiscal impact on the State or on local units of government.

THE APPARENT PROBLEM:

Currently, the Foster Care and Adoption Services Act requires a supervising agency to identify, locate, and consult with relatives of a child being removed from a home to determine if it is possible to place the child with a fit and appropriate relative who would meet the child's developmental, emotional, and physical needs as an alternative to foster care. (Although the department offers first consideration to the family, this procedure is not mandatory or required under the act.)

According to committee testimony, DHS policy also stresses the importance of respecting and accommodating a child and family's religious practices. The department's licensing rules require an agency have a policy that, at a minimum, ensures the foster child has the opportunity to receive religious instruction and attend religious services of the parent's or child's choosing. However, this department policy is not in statute. Legislation has been introduced that would require that consideration be given to placement in a home that shares the same religion as the child's immediate family before placement.

House Bill 4736 is a companion bill to House Bills 4735 and 4737. For more information, see the analysis of House Bills 4735 dated 6-6-07 and the summary of House Bill 4737 also dated 6-6-07.

THE CONTENT OF THE BILL:

The bill would amend Section 4a of the Foster Care and Adoption Services Act to require a supervising agency, in making a determination of placement for a child in its care, to give consideration to placement in a home that shares the same religion as the child's immediate family before his or her removal, especially if religious laws regarding food have been observed in the home before the child's removal. However, placement of a

child could not be delayed or denied solely to achieve placement in a home of the same religious practices as the child.

MCL 722.954a

ARGUMENTS:

For:

The experience of leaving one family and joining another can be traumatic for children. Moving them away from a familiar religious setting can add to the trauma. Although each child's physical, emotional, and developmental needs are unique, this legislation aims at providing special consideration to religious practices in order to ease the transition for children and respecting the religious traditions in which the children have raised.

Against:

Critics believe that current departmental policies and practices already in place make the bill unnecessary. Adequate administrative remedies already exist to address a family's concern that an agency has not adequately accommodated a child's religious preferences. Without penalties or enforcement provisions to deter violators, the bill has no "teeth." What would the bill accomplish?

Response:

The bill would not significantly change current practices within the department. It would, however, elevate current procedures to statute and create a "red flag" warning if the procedure were not followed.

POSITIONS:

The Department of Human Services supports the bill. (6-14-07)

The Children's Ombudsman's Office testified against the bill as introduced but is neutral on the bill in its current form. (6-14-07)

Family Law Section – State Bar of Michigan opposed the bill as introduced but is not opposed to the bill as amended. (6-13-07)

Legislative Analyst: E. Best
Fiscal Analyst: Bob Schneider

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