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House Bill 4641 (Substitute S-1 as reported)
House Bill 4642 (Substitute S 1 as reported)
House Bill 4643 (as reported with amendment)

Sponsor: Representative Debbie Stabenow

House Committee: Judiciary

Senate Committee Criminal Justice, Urban Affairs, and Economic Development

Date Completed. 6-2-88

RATIONALE

In 1982, Justice Mary S. Coleman of the Michigan Supreme Court assembled a commission to identify the barriers in the juvenile justice and child welfare system that lead to abused and neglected children 'drifting' in the system rather than being placed in permanent homes. The commission, which was composed of legal and child care experts, took as its premise the belief that "it is every child's inalienable right to belong in a family". When the commission issued its report in 1985, there were nearly 10,000 abused and neglected children in out-of-home placements supervised by the Department of Social Services (DSS), and another almost 2,000 under the supervision of the juvenile courts. Economic costs of foster and institutionalized care were estimated conservatively to be approximately \$75 million per year, but social costs were considered to be even greater.

The commission focused on the need for 'permanency planning'; that is, the need for courts, case workers, and others to coordinate and strengthen efforts to find permanent family placement for children, and to keep families together whenever possible. The commission identified 10 barriers to permanency and linked them to 38 recommendations for establishing a single service delivery system by providing all abuse and neglect services through the DSS, either directly or by contract, and phasing out court-provided services. Proposed amendments to the juvenile code included extending the court's jurisdiction to abused and neglected seventeen-year-olds, requiring permanency planning hearings, and revising provisions for the termination of parental rights. Also proposed was a clarification of the role of the prosecutor in abuse and neglect proceedings. Many feel that the Coleman Commission recommendations should be enacted.

CONTENT

House Bills 4641 (S-1), 4642 (S-1), and 4643 would amend the Social Welfare Act, the juvenile code, and Public Act 220 of 1935, respectively, to implement some of the recommendations of the Coleman Commission pertaining to the delivery of juvenile justice services in abuse and neglect cases.

The bills are tie-barred and would take effect on April 1, 1989.

House Bill 4641 (S-1)

The bill would amend the Social Welfare Act to allow money in a county's Child Care Fund to be used by a designated agency providing juvenile justice services. That designation

would be made by a county's board of commissioners except in Wayne County, where it would be made by the county executive.

MCL 400 117c

House Bill 4642 (S-1)

The bill would amend the juvenile code to establish uniform procedures for dealing with abused and neglected children. The bill would do all of the following:

- Extend the jurisdiction of the juvenile division of Probate Court (juvenile court) over abused and neglected children to include all children under age 18. (The current limit is under age 17.)
- Allow the juvenile court, after a preliminary abuse and neglect hearing or inquiry, to authorize a petition and either to release the child to his or her parents, guardian, or custodian or to order placement with someone else.
- Allow placement with someone other than a parent only if the court determined, after a hearing, that custody with a parent, guardian, or custodian presented a substantial risk of harm to the child and no other arrangement was reasonably available, and that conditions of custody away from a parent, guardian, or custodian were adequate to safeguard the child.
- Eliminate, by January 1, 1992, court-provided foster care services for abused and neglected children
- Require prosecuting attorneys to provide legal consultation to the DSS.
- Provide for legal representation of parents in abuse and neglect proceedings.
- Require an agency responsible for a child's care to prepare a case service plan before the court entered an order of disposition in an abuse and neglect proceeding.
- Require the court to hold a review hearing at various times after placement of a child in foster care to assess the record of compliance with the case service plan.
- Require the court to conduct an annual permanency planning hearing to review the child's status and progress toward returning to his or her home
- Provide for proceedings to terminate parental rights and place a child in permanent juvenile court custody.
- Require periodic hearings for children who remained in foster care after the termination of parental rights to review the child's placement and the progress made toward permanent placement and adoption.

MCL 712A 1 et al.

H.B. 4641 & 4642 (6-2-88)

H.B. 4641 & 4642 (6-2-88)

House Bill 4643

The bill would amend Public Act 220 of 1935, which provides for the commitment of children to the Michigan Children's Institute, to provide for the review of those commitments by the juvenile court.

MCL 400.203

SENATE COMMITTEE ACTION

The Senate Committee on Criminal Justice, Urban Affairs, and Economic Development adopted substitutes to House Bills 4641 and 4642 which incorporated language that was added to the Social Welfare Act and the juvenile code earlier this year. The substitutes and the amendment adopted for House Bill 4643 also include an effective date of April 1, 1989.

FISCAL IMPACT

House Bills 4641, 4642, and 4643 would result in an increase in State spending due to changes in the juvenile code. The Department of Social Services estimates the cost to exceed \$15.0 million.

The bills would have an indeterminate fiscal impact on local units of government.

ARGUMENTS

Supporting Argument

In implementing the Coleman Commission's recommendations, the bills would take steps to ensure that abused or neglected children spent as little time as possible in institutions or foster care. An individualized case plan would have to be developed and maintained for each child, and courts would have to consider these case plans in making placement decisions. Strong emphasis would have to be placed on keeping a child in his or her home whenever possible, and on returning the child to his or her home as soon as possible, in conjunction with improved home conditions. Regular and frequent family contact would be strongly encouraged for children removed from their homes. Courts would have to review foster care placements frequently under prescribed criteria, with the emphasis on safely returning a child home. For children at risk of remaining in foster care indefinitely, such as those still in foster care after one year, the social service agency could bring action to terminate parental rights so that permanent adoption could be arranged. New criteria for termination of parental rights would ensure that termination was done under appropriate circumstances and was not impaired by vague or archaic terms or delayed by time frames that were unrealistically long for small children.

Supporting Argument

The bills would minimize the fragmentation of services and conflicts of interest that can arise when juvenile courts provide foster care services to abused and neglected children. Under the bills, services would be provided through the DSS and its contractual agents, and the court would be the evaluator of those services, rather than both the evaluator and the provider. Since there are a number of juvenile courts that currently have foster care programs, the bills would offer a reasonable phase-in period before the new prohibition against court-provided services took effect.

Supporting Argument

Progress in some abuse and neglect cases reportedly has been impeded by lack of legal expertise on the part of a social worker pursuing the action, combined with a lack of interest or outright refusal of assistance from a local prosecutor. House Bill 4642 would require that prosecutors at least be available for consultation in such matters and would enable the DSS to hire an attorney when a prosecutor refused to appear for the Department or its agent.

Opposing Argument

House Bill 4642 should provide a check against ill-advised or unnecessary abuse and neglect actions being brought by social service agencies or case workers. If petitions had to be approved by the prosecutor, there would be an independent review by a disinterested expert on the sufficiency of a case, and a family could be spared the embarrassment and anguish of dealing with invalid charges of abuse or neglect.

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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.