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**SFA**



**BILL ANALYSIS**

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Senate Bill 1152 (as reported without amendment)  
Sponsor: Senator Joel D. Gougeon  
Committee: Families, Mental Health and Human Services

Date Completed: 6-3-98

## 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, the reunification of families, and the permanent placement of children. In July 1996, the Commission issued a report that contains specific goals as well as recommendations for addressing these issues. Many of the recommendations were enacted into law by Public Acts 163 through 172 of 1997.

One of the Commission's recommendations that has not yet been enacted pertains to the use of medical personnel during investigations of abuse cases in which medical intervention was necessary. Another recommendation concerns the termination of parental rights if a parent is convicted of a crime against a child that makes him or her unfit to associate with children. It has been suggested that these recommendations also should be enacted.

## CONTENT

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

- **Require the Family Independence Agency (FIA) to review a child's case with the child's physician under certain circumstances.**
- **Specifically authorize the family division of circuit court (family court) to terminate a person's parental rights if the parent were convicted of certain crimes.**
- **Revise the schedule of hearings to review the foster care placement after the termination of parental rights.**

### Physician Review

The bill would require that, to ensure that a case service plan addressed a child's medical needs in relation to abuse and neglect, the FIA review a

child's case with either his or her attending physician of record during a hospitalization or his or her primary care physician, but only if a physician diagnosed the child's abuse or neglect as having involved one or more of the following:

- Failure to thrive.
- Munchausen syndrome by proxy.
- Shaken baby syndrome.
- A bone fracture that was diagnosed as being the result of abuse or neglect.
- Drug exposure.

If a child were placed outside of his or her home and the FIA were required under the bill to review the child's case with a physician, then, in a judicial proceeding to determine if the child should be returned to the home, the court would have to allow the physician to testify regarding the case service plan. The court would have to notify each physician of a hearing's time and place.

### Termination of Parental Rights

The juvenile code allows the family court to terminate a parent's parental rights to a child if it finds, by clear and convincing evidence, that certain factors exist. Among those factors are desertion of the child; physical or sexual abuse of the child or a sibling at the hands of the parent or with the parent's complicity; failure of the parent, without regard to intent, to provide proper care or custody for the child; imprisonment under certain circumstances; previous termination of rights; and a reasonable likelihood, based on the parent's conduct or capacity, that the child would be harmed.

Under the bill, parental rights also could be terminated if the parent were convicted of any of the following:

- First- or second-degree murder (MCL 750.316 & 750.317).

- First-, second-, third-, or fourth-degree criminal sexual conduct (CSC) (MCL 750.520b-750.520e).
- Assault with intent to commit CSC (MCL 750.520g).
- A violation of a criminal statute, an element of which was the use or threat of force, and that subjected the parent to habitual offender sentence enhancements under the Code of Criminal Procedure (MCL 769.10, 769.11, & 769.12).
- A Federal law or law of another state with provisions substantially similar to a crime or procedure listed above.

### Foster Care Review Hearing

The juvenile code provides that, if a child remains in foster care following the termination of parental rights to the child, the court must conduct a hearing not more than 182 days after the termination of parental rights and at least every 182 days after that hearing in order to review the child's placement in foster care and the progress being made toward the child's adoption or other permanent placement. The bill would change that review hearing schedule to 91 days after the termination of rights and at least every 91 days after that hearing. The bill states that this provision would apply as long as the child was subject to the jurisdiction, control, or supervision of the court or the Michigan Children's Institute or other agency.

The accelerated hearing schedule would not apply if the child were in a permanent foster family agreement or had been placed with a relative and the placement were intended to be permanent. (Another section of the code requires a hearing every 182 days for these children (MCL 712A.19(4)).)

MCL 712A.18f et al.

### **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**

By requiring the FIA to review specific types of abuse cases with a physician, the bill would ensure that a child's case service plan effectively addressed his or her medical needs. The input of a child's attending physician or primary care physician could be extremely helpful to protective services workers who do not have medical training.

The bill also would assist judges in deciding whether these abused children should be returned home, by requiring the court to permit a child's physician to testify in a judicial proceeding on that issue.

#### **Supporting Argument**

An individual who has been convicted of any of the crimes described in the bill presumably is unfit to be a parent. By specifying that parental rights could be terminated because of such a conviction, the bill would expedite the permanent placement of children whose parents have been proven to be dangerous.

#### **Supporting Argument**

The bill's requirement for a review hearing every 91 days would be consistent with another provision of the code that requires review hearings every 91 days for children in foster care. The bill would apply to children remaining in foster care after the termination of parental rights.

Legislative Analyst: S. Lowe

### **FISCAL IMPACT**

The bill would have an indeterminate fiscal impact on State government. In FY 1996-97 the Family Independence Agency substantiated 11,577 out of 59,829 child abuse and neglect complaints. It is unknown if the physician or the hospital would charge a consultation fee for a joint review of a child's case. If so, then there would be an increase in expenditures based on the number of substantiated complaints involved. The department could have additional children eligible for adoption as a result in the increased number of causes for rights termination, therefore increasing the expenditures for the administration of and payments for adoption cases. The department could spend additional funds due to an increase in the number of review hearings mandated by the bill.

It appears that the bill would have no fiscal impact on local governments.

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.