

Legislative Analysis



FOSTER CARE REVIEW HEARINGS, PERMANENCY PLANNING HEARINGS, AND GUARDIAN AD LITEM REVISIONS

Mitchell Bean, Director
Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

**Senate Bill 1440 as passed by the Senate
Sponsor: Sen. Michael D. Bishop**

**Senate Bill 1441 as passed by the Senate
Sponsor: Sen. Virg Bernero**

**Senate Bill 1442 as passed by the Senate
Sponsor: Sen. Mark H. Schauer**

**Senate Bill 1444 as passed by the Senate
Sponsor: Sen. Alan L. Cropsey**

**Senate Committee: Judiciary
House Committee: Judiciary**

Complete to 11-8-04

A SUMMARY OF SENATE BILLS 1440-1442 AND 1444] AS PASSED BY THE SENATE

The bills would all amend the juvenile code section of the Probate Code to revise time frames for various foster care review hearings and permanency planning hearings, add definitions, and require a lawyer-guardian ad litem to meet with and observe the child before certain proceedings. Significant changes to the code are described as follows:

Senate Bill 1440. The bill would amend the juvenile code (MCL 712A.19) to require the family division of circuit court (family court) to conduct an initial foster care review hearing within 182 days after removal of a child from his or her home, rather than within 91 days after entry of a court order regarding the child's foster care placement, in a case involving neglect or abandonment.

Currently, when a child is under the jurisdiction of the family court in a proceeding under Section 2(b) of the code (which generally involves neglect or abandonment), and the child is placed and remains in foster care (except in a permanent foster family agreement or a permanent placement with a relative), a review hearing must be held within 91 days after the order of disposition is entered and every 91 days after that as long as the child is subject to the jurisdiction, control, and supervision of the family court or of the Michigan Children's Institute (MCI) or other agency. Under the bill, the family court would have to hold a review hearing within 182 days after the child was removed from his or her home and not later than every 91 days after that as long as the child was under the court's jurisdiction. After the first year, the bill also would require a review hearing to be held

not more than 182 days from the immediately preceding review hearing until the case was dismissed.

The bill also would establish a similar review hearing schedule for a child under the family court's jurisdiction who remained in his or her home.

A review hearing could not be canceled or delayed beyond the time required in the bill, regardless of whether a petition to terminate parental rights or another matter was pending.

Senate Bill 1441. The bill would amend the juvenile code (MCL 712A.19c) to require the family division of circuit court (family court) to conduct a review hearing not later than 182 days from the immediately preceding review hearing, for a child remaining in placement beyond the first year following the termination of parental rights to the child. The bill also would require the family court to conduct a permanency planning hearing within 12 months after a child was removed from his or her home, and once every 12 months after that.

Under the code, if a child remains in foster care following the termination of parental rights (except in a permanent foster family agreement or a permanent placement with a relative), the family court must conduct a hearing within 91 days after the termination of parental rights and at least every 91 days after that hearing. The bill would retain that schedule for the first year following termination of parental rights. If the child remained in foster care for more than one year following termination of parental rights, the court would have to conduct a review hearing not later than 182 days after the immediately preceding review hearing until the case was dismissed. A review hearing could not be canceled or delayed beyond the time required in the bill, but could be accelerated upon motion of any party or in the court's discretion.

In addition, the bill would require the family court to conduct the first permanency planning hearing within 12 months after the date the child originally was removed from his or her home. The court would have to hold subsequent permanency planning hearings within 12 months after the preceding hearing. A permanency planning hearing could not be canceled or delayed beyond the time required in the bill.

The bill also would allow a permanency planning hearing to be combined with a foster care review hearing, if proper notice were provided.

Senate Bill 1442. The bill would amend the juvenile code (MCL 712A.19a) to 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. The bill also would revise the time frame for the family court to hold a permanency planning hearing in abuse cases.

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 not less than every 12 months after each preceding hearing during the continuation of foster care. A permanency planning hearing could not be canceled or delayed beyond the time required in the bill, regardless of whether a petition to terminate parental rights was pending.

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 his or her sibling and the abuse included certain actions. 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 would have to be made unless certain circumstances existed.

Senate Bill 1444. The bill would amend the juvenile code (MCL 712A.13a) to do the following:

- Require a lawyer-guardian ad litem to review an "agency case file" before a hearing for termination of parental rights.
- Require a lawyer-guardian ad litem appointed for a child to meet with and observe the child before the following proceedings: a pretrial hearing; an initial disposition, if held more than 91 days after the petition had been authorized; a dispositional review hearing; a permanency planning hearing; and a post-termination review hearing; as well as at least once during the pendency of a supplemental petition.
- Expand the definition of "related" in a provision allowing the court to place a juvenile with a related adult.
- Allow placement with the parent of a man whom the court had probable cause to believe was the putative father, if there were no other man with legally established rights to the child.
- Require the foster care review board to investigate a change in placement within seven days, rather than three days, after foster parents appealed the change in placement, and report its findings and recommendations within three days after completing the investigation. (Currently, the board must investigate and report within three days.)

The bill would define "agency case file" as 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.

FISCAL IMPACT:

The bills would have an indeterminate fiscal impact on the judiciary, depending on the bills' affect on the number of court hearings.

Senate Bill 1444 would have no significant fiscal impact on the Family Independence Agency. The other bills would have an indeterminate impact on the state; to the extent they increased the number of hearings held per case, they could increase foster care caseload costs for the Family Independence Agency.

The bills' provisions are also related to recent federal reviews of the state's foster care system. A recent federal Child and Family Services review resulted in a penalty of roughly \$2.5 million, while the state's initial primary Title IV-E Eligibility Review revealed disallowed costs of roughly \$283,000 for errors related to foster care and permanency planning hearings. The FIA has implemented a Performance Improvement Plan to address findings within the reviews. A follow-up Title IV-E review will be conducted, with further disallowances possible if the State is found to be in non-compliance at that time.

Legislative Analyst: Susan Stutzky
Fiscal Analyst: Robert Schneider
Marilyn Peterson

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.