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House Bill 4646 (Substitute S-2 as reported by the Committee of the Whole)

Sponsor: Representative Mike Shirkey

House Committee: Families, Children, and Seniors

Senate Committee: Families, Seniors and Human Services

CONTENT

The bill would amend the Michigan Adoption Code to do the following:

- Allow a parent or guardian to execute an out-of-court release or consent to relinquish his or her parental rights, and allow a parent or guardian to execute an out-of-court consent after a child's birth in a direct placement.
- Require a release or consent to contain statements explaining the parent's or guardian's rights with respect to the child and the release or consent.
- Require an adoption attorney and child placing agency caseworker to explain to the parent or guardian his or her legal rights and the fact that he or she would voluntarily relinquish those rights by virtue of the release or consent.
- Require a court to issue an order terminating parental rights not sooner than five days, excluding weekends and holidays, after an out-of-court release or consent was executed.
- Provide that an out-of-court release or consent would be revocable from the time of execution until five days, excluding weekends and holidays, after execution.
- Require an adoption attorney or child placing agency caseworker to assist a parent or guardian in filing a revocation petition.
- Require a hearing before a judge if a revocation petition were filed, unless the adoptive parent or parents, or the child placing agency that accepted a release, agreed to a revocation.
- Require the court to determine whether the release or consent was executed voluntarily, and if it had been, to determine whether the child's best interests would be served by returning custody to the parent or guardian, continuing the adoption proceedings, or making another disposition.
- Require the court to determine, for revocation of a consent, whether the parent or guardian was fit and immediately able to care for the child, and if he or she were, to determine the best interest of the child, according to factors listed in the bill.
- Require the court to deny the petition for revocation if it found that the parent or guardian was not fit and immediately able to care for the child.

The bill would take effect 180 days after it was enacted.

MCL 710.23d et al.

Legislative Analyst: Jeff Mann

FISCAL IMPACT

The bill would have an indeterminate impact on caseload and administrative costs for local courts. There are two offsetting factors, meaning that the direction of the impact is ambiguous at this time. The bill would provide a time period of up to five days within which a parent could attempt to revoke an out-of-court release, and after that point the release

would become irrevocable. The bill also would define the parameters of a hearing in the event that a parent submitted paperwork to revoke the release within the specified time period. These parameters include whether the release was given voluntarily and what would be in the best interests of the child. The creation of these time frames and parameters could result in more hearings and thereby increase caseload for family courts. However, the same parameters also could help improve the efficiency of the court in addressing the existing caseload, and the five-day time period could reduce the caseload by preventing revocations that otherwise might occur after the time period.

Date Completed: 3-26-14

Fiscal Analyst: John Maxwell

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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.