

Legislative Analysis



MCI SUPERINTENDENT: CONSENT TO GUARDIANSHIP AND ADOPTION OF CHILD

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House Bill 4381

Sponsor: Rep. Kenneth Kurtz

House Bill 4382

Sponsor: Rep. Bruce Rendon

House Bill 4383

Sponsor: Rep. Kurt Heise

Committee: Families, Children, and Seniors

Complete to 3-21-11

A SUMMARY OF HOUSE BILL 4381-4383 AS INTRODUCED 3-3-11

Each of the bills deals with the role of the superintendent of the Michigan Children's Institute in situations where the parental rights of children have been terminated. Each of the bills would allow a **designee** of the superintendent to carry out certain powers currently granted only to the superintendent. According to the Department of Human Services website:

The Michigan Children's Institute was created to assure the proper care of children needing services from the state. The law established the MCI superintendent as the legal guardian for children committed to MCI when parental rights have been terminated. In 1935, the Michigan Legislature established the MCI Superintendent as the legal guardian for these children. The Superintendent is authorized to consent to adoption, emancipation, and marriage of MCI wards. Children who have been committed to MCI, whose permanency plan is other than adoption, usually remain under the MCI supervision until age 19.

House Bill 4381 would amend the Michigan Adoption Code (MCL 710.43) to permit the designee of an authorized representative of the Department of Human Services to consent to the adoption of a child.

Under the Code, each parent is required to give consent to the adoption of a child unless the rights of the parent has been terminated, the child has been released for adoption to a child placing agency or the department, if other circumstances exist. Consent must also be given by the authorized representative of the DHS or of a child placing agency to whom the child has been released or permanently committed by an order of the family court. Under the bill, consent could be given by the authorized representative of the department or **his or her designee**.

House Bill 4382 would amend Public Act 220 of 1935 (which deals with the Michigan Children's Institute) to authorize the superintendent of the Michigan Children's Institute (MCI) or the superintendent's designee to consent to the guardianship of a child committed to the MCI. Currently, the MCI superintendent is authorized to consent to the adoption, marriage, or emancipation of any child who may have been committed to the MCI, according to applicable law. Under the bill, the superintendent's designee would have the same

authority. In addition, the superintendent or a designee would be authorized to consent to the guardianship of any child who may have been committed to the MCI, as provided in Section 19c of the Juvenile Code. A child for whom a guardian was appointed under those provisions would cease to be a ward of the state.

Note: Section 19c of the Juvenile Code deals with placement planning for a child following the termination of parental rights. Among other placement options, if the family court determines it is in the child's best interest, the court may appoint a guardian for the child, although it may not do so without the MCI superintendent's written consent. The superintendent must consult with the child's lawyer guardian ad litem when considering whether to grant consent.

House Bill 4383 would amend the Juvenile Code (MCL 712A.19c) to authorize a **designee** of the superintendent of the Michigan Children's Institute (MCI) to grant consent to the appointment of a guardian for a child.

Under the code, if a child remains in placement following the termination of parental rights to the child, the family court must conduct review hearings and permanency planning hearings. The court may appoint a guardian for the child, if it determines that doing so is in the child's best interest. The court may not appoint a guardian without the MCI superintendent's written consent. Under the bill, the court could not appoint a guardian without the written consent of the superintendent or a designee.

The code requires the MCI superintendent to consult with the child's lawyer guardian ad litem when considering whether to grant consent. Under the bill, that requirement also would apply to the superintendent's designee.

FISCAL IMPACT:

These bills could generate a small amount of administrative savings for the state. These bills will help address delays in the Michigan Children's Institute review process for adoption and permanent guardianship requests by allowing the MCI superintendent to appoint a designee on his or her behalf to consent to the adoption or guardianship of a child committed to the MCI.

These bills could generate savings for local units of governments. Local governments are required to provide 50% of the cost for out-of-home placements for foster youth that are not eligible for federal IV-E funding or funded entirely with state funds. When a foster youth is moved to a permanent placement through adoption or subsidized guardianship, that local unit of government is no longer required to meet a proportion of the cost of care. So if the process of placing a foster child into one of those permanent placements can be expedited, then the local government will see fiscal savings.

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■ 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.