

Legislative Analysis



RESIDENCY REQUIREMENT FOR TEMPORARY ADOPTION PLACEMENTS

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Senate Bill 702 (Substitute H-1)

Sponsor: Sen. Bev Hammerstrom

House Committee: Family and Children Services

Senate Committee: Families and Human Services

First Analysis (3-16-04)

BRIEF SUMMARY: The bill would amend the Michigan Adoption Code to eliminate a requirement that the prospective adoptive parent be a Michigan resident in order to receive a temporary placement.

FISCAL IMPACT: The bill would have no fiscal impact on state or local government.

THE APPARENT PROBLEM:

Under the Michigan Adoption Code, a parent or guardian with legal and physical custody of a child, or a child placing agency, may make a temporary placement of the child with his or her prospective adoptive parents, instead of placing the child in foster care, before the adoption is finalized. This is commonly used for infants, whereby the prospective adoptive parents are able to take the child home within the first few weeks after birth. However, under the code, a direct temporary placement may be made only if the prospective adoptive parent resides in Michigan. It is believed that this residency requirement is rather burdensome on birth parents, adoption attorneys, and child placing agencies trying to find suitable adoptive parents.

THE CONTENT OF THE BILL:

In addition to meeting other requirements, a prospective adoptive parent with whom a child is temporarily placed must be a Michigan resident. The bill would delete the residency requirement. The bill would add a requirement that the prospective adoptive parent have a preplacement assessment completed within one year before the date of the transfer that finds that the prospective adoptive parent would be suitable to be a parent of an adoptee.

Currently under the code, the prospective adoptive parent must sign a document stating that the prospective adoptive parent agrees to reside with the child in Michigan until a formal placement occurs and the court approves a change of residence. Under the bill, the document would state (1) if the prospective adoptive parent is a Michigan resident, that he or she agrees to reside with the child in Michigan until a formal placement occurs; (2) that the prospective adoptive parent agrees to obtain approval in compliance with the Interstate Compact on the Placement of Children before the child could be sent, brought,

or caused to be sent or brought into a receiving state; and (3) that the prospective adoptive parent submits to this state's jurisdiction.

In addition, the code requires the adoption attorney or child placing agency assisting with the temporary placement or the child placing agency that makes the temporary placement to submit a report to the court in the county in which the prospective adoptive parent resides, within two days after a transfer of physical custody. Under the bill, the report would have to be submitted to the court in the county where the prospective adoptive parent resided, the county in which the child's parent or guardian resided, or the county in which the child was found.

MCL 710.23d

HOUSE COMMITTEE ACTION:

The House Committee on Family and Children Services deleted language that had apparently required prospective adoptive parents that are Michigan residents to reside with the child in Michigan until a change of residence within the state of Michigan is approved by the court after formal placement occurs.

ARGUMENTS:

For:

This bill is necessary to allow prospective adoptive parents who are not residents of the state to receive a temporary placement. While nonresidents can adopt children in Michigan, they cannot, under current law, receive a temporary placement, which permits them to immediately care for the child. Instead, the child would be placed in foster care until the adoption is finalized. This, however, is not in the best interests of the child, as the first few weeks after birth are said to be a critical time for the child to bond with the new family.

POSITIONS:

The Family Law Section of the State Bar Association of Michigan supports the bill. (3-10-04)

Legislative Analyst: Mark Wolf

■ 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.