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BILL



ANALYSIS

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Senate Bill 694 (Substitute S-1 as reported)
Senate Bill 1303 (Substitute S-1 as reported)
Sponsor: Senator Tom Casperson
Committee: Judiciary

CONTENT

Senate Bill 694 (S-1) would amend the juvenile code to revise a provision granting jurisdiction to the family court over a juvenile whose home or environment is an unfit place for the juvenile to live in due to neglect, cruelty, drunkenness, criminality, or depravity on the part of a parent, guardian, nonparent adult, or other custodian. The bill would refer to a juvenile's home or environment that "is or will be" an unfit place to live in.

The bill would require the court, in determining whether a home is or will be an unfit place for the juvenile to live in, to consider allegations against a parent who was currently absent from the home or had no current contact with the juvenile.

The bill would define "criminality" as a violation of State or Federal law by a parent, guardian, nonparent adult, or other custodian, that by its nature or effect renders the home unfit whether or not the violation results in a conviction. In a consideration of whether offenses committed children rendered the home unfit, it would not matter whether the child victim was related to the parent, guardian, nonparent adult, or other custodian.

Also, in the factors that make a home or environment unfit, the bill would refer to abuse and substance abuse, and would delete drunkenness.

Senate Bill 1303 (S-1) would amend the juvenile code to provide that the Department of Human Services (DHS) would be permitted, but not required, to provide services to reunify a child with his or her parent, and the court could order the DHS to provide those services, in situations involving a parent who "is or will be imprisoned for 2 or more years".

The bill would apply to cases in which a child is under the jurisdiction of the family court pursuant to Section 2(b) of the juvenile code (the section Senate Bill 694 (S-1) would amend).

Under the code, after a preliminary hearing or inquiry, the court may authorize a petition to be filed and may release the juvenile to his or her parents, guardian, or custodian, and order a parent, guardian, custodian, nonparent adult, or other person living in the child's home to leave the home. If a petition alleges abuse by such a person, the court may not leave the child in or return the child to his or her home unless the court finds that the conditions are adequate to protect the child from the risk of harm.

Under the bill, if the court found that a parent currently was or would be imprisoned for two or more years, the DHS would be permitted but not required to make reasonable efforts to reunify the child with the parent, and the court could order the Department to make reasonable efforts.

Before the court enters an order of disposition in a proceeding under Section 2(b), the agency responsible for the child's care must prepare a case service plan. The bill specifies that, if a court found that a parent was or would be imprisoned for two or more years in a State prison, an out-of-State prison, or a Federal prison, the DHS could, but would not be required to, provide services under the case service plan in an effort to reunify the child with the parent. The court could order the Department to provide reunification services.

The code requires the court to conduct a permanency planning hearing if a child remains in foster care and parental rights have not been terminated. The hearing must be conducted within 12 months after the child was removed from his or her home, and then at least every 12 months while foster care continues. If there is a judicial determination that reasonable efforts to reunify the child and family are not required, however, the court must conduct a permanency planning hearing within 30 days of that determination.

Reasonable efforts to reunify the child and family must be made in all cases unless any of the circumstances specified in the code apply. Under the bill, in addition to these circumstances, reunification would not be required if the parent were or would be imprisoned for two or more years.

The bills are tie-barred to each other.

MCL 712A.2 (S.B. 694)
712A.13a et al. (S.B. 1303)

Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

Senate Bill 694 (S-1): The bill could increase costs to the State and the counties. To the extent that the courts used the revised provision and also the extent that it would affect the courts' placement decisions, the State could realize some additional costs. It is not clear whether the provision would affect the courts' placement decisions in any significant way, however. If more out-of-home placements were required due to the potential unfitness of a home, the per diem costs of certain cases could increase from approximately \$60 per day for an in-home placement to approximately \$202 per day for placement in a private, residential facility.

The counties split the costs of juvenile justice placements 50-50 with the State through the Child Care Fund. Therefore, the county share would increase as the State's share increased.

Senate Bill 1303 (S-1): To the extent that parents face new prison sentences just before the reunification process, it is possible that the bill could have a slight yet indeterminate fiscal impact on the State foster care caseload or adoption subsidy payments, the costs of which are primarily paid with Federal funding. The bill would not affect reunification funding, which is a Federal capped funding source. The DHS strives to find a permanent placement for a child who is in foster care within one year. The Department's policy manual also includes checks and provisions for parents with a criminal record.

The Children's Foster Care Policy Manual requires the Department to do a criminal history and background check through the Law Enforcement Information Network (LEIN) system on all adult household members and nonparent adults for all cases in which a return home is being considered. Through an agreement with the Michigan State Police, the LEIN system gives the Department access to information such as State of Michigan criminal history information; Internet Criminal History Access Tool (ICHAT); Sex Offender Registry; prison and parole information; personal protection orders; and National Crime Information Center - wants/warrants only from all states.

The reunification assessment has three steps: (1) assessment of compliance with the parenting time plan; (2) assessment of barrier and risk reduction; and (3) determination of the child's safety. According to Department policy, a child's safety is the primary factor in determining reunification, and "the existence or nonexistence of an arrest or criminal record is only one factor in assessing risk. The nonexistence of an arrest or criminal record is not necessarily an indication of low or no risk."

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