

Department of Legislative Services
Maryland General Assembly
2008 Session

FISCAL AND POLICY NOTE

House Bill 90

(Chair, Judiciary Committee)

(By Request – Maryland Judicial Conference)

Judiciary

Judicial Proceedings

Child Welfare - Permanency Planning and Interstate Placement of Foster Children

This bill requires the local department of social services and a juvenile court to consider both in-state and out-of-state placements in the development and evaluation of permanency plans for children in out-of-home placements. The bill requires that, whenever practicable, at least 10 days written notice of any permanency planning hearing be given to the child's foster parent, preadoptive parent, or any relative providing care. The bill requires the court to consult on the record with the child at least every 12 months at a permanency planning hearing.

Fiscal Summary

State Effect: The bill's requirements could be met with existing resources. Enactment of the bill may help prevent the loss of federal foster care matching funds by bringing Maryland in compliance with federal guidelines.

Local Effect: Any increase in the workload of the circuit courts could be met with existing resources.

Small Business Effect: None.

Analysis

Bill Summary: The bill requires a juvenile court, when making its findings at a permanency planning hearing or a hearing to review the permanency plan, to consider whether the local department of social services included consideration of in-state and

out-of-state placement options for a child in out-of-home placement. At least every 12 months at a permanency planning or review hearing, the court must consult on the record with the child in an age appropriate manner.

The bill increases from 7 to 10 the number of days notice required to be given to a foster parent, preadoptive parent, or relative providing care regarding a permanency planning or review hearing, if practicable. The notice must be in writing, unless waived for good cause, and include the date, time, and place of the hearing and notice of the right to be heard. The bill also clarifies that these individuals have the right to be heard.

In developing a permanency plan for a child in an out-of-home placement and in making reasonable efforts to place the child in a timely manner in accordance with the permanency plan, the local department of social services must include consideration of both in-state and out-of-state placements.

Current Law: The juvenile court must hold a hearing to determine the permanency plan for a child in out-of-home placement and conduct a hearing to review the plan at least every six months. During a permanency planning or review hearing, the court must make specified findings and consider a number of enumerated factors, including whether a local department of social services has provided appropriate services that facilitate the achievement of a permanency plan for the child. A child's foster parent, preadoptive parent, or any relative providing for care of the child shall be given, if practicable, at least seven days notice before any permanency planning or review hearing. The foster parent, preadoptive parent, relative, or their attorney must be given an opportunity to be heard at the hearing.

In developing a permanency plan for a child in an out-of-home placement, the local department of social services must give primary consideration to the child's best interests. The local department must consider • the child's safety and health in the parent's home; • the child's attachment and emotional ties to natural parents and siblings; • the child's emotional attachment to the current caregiver and caregiver's family; • the length of time the child lived with the current caregiver; • the potential harm if the child is moved from the current placement; and • the potential harm if the child remains in State custody for an excessive period of time.

To the extent consistent with the child's best interests, the local department must consider the following permanency plans, in descending order of priority:

- returning the child to the parent or guardian, unless the local department is the guardian;

- placing the child with relatives to whom adoption, custody and guardianship, or care and custody are planned to be granted;
- adoption in the following descending order of priority: (1) by a current foster parent with whom the child has resided for a sufficient time as specified in statute; or (2) by another approved family; and
- another planned living arrangement that (1) addresses the individual needs of the child, including the child's educational plan, emotional stability, physical placement, and socialization needs; and (2) includes goals that promote the continuity of relations with individuals who will fill a lasting and significant role in the child's life.

To the extent consistent with the best interests of a child in an out-of-home placement, in determining a permanency plan, the local department shall also consider:

- placement of the child in the local jurisdiction where the child's parent or guardian resides; or
- placement of the child in another jurisdiction in the State after considering (1) the availability of resources to provide necessary services to the child; (2) the accessibility to any appropriate family treatment; and (3) the effect on the local school system.

Background: Foster care is a federally based program, which must adhere to federal laws and conditions. The Safe and Timely Interstate Placement of Foster Children Act of 2006 encourages states to improve protections for children and holds them accountable for the safe and timely placement of children across state lines. According to the Judiciary, the intent of this bill is to bring Maryland's statutes into compliance with federal guidelines.

Additional Information

Prior Introductions: None.

Cross File: SB 57 (Chair, Judicial Proceedings Committee)(By Request – Maryland Judicial Conference – Judicial Proceedings.

Information Source(s): Judiciary (Administrative Office of the Courts), Department of Juvenile Services, Department of Human Resources, Department of Legislative Services

Fiscal Note History: First Reader - January 17, 2008
ncs/hlb

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