

Department of Legislative Services
Maryland General Assembly
2010 Session

FISCAL AND POLICY NOTE

Senate Bill 137

(Chair, Judicial Proceedings Committee)(By Request -
Maryland Judicial Conference)

Judicial Proceedings

**Family Law - Permanency Planning and Guardianship Review Hearings -
Consultation with Child**

This bill requires a juvenile court, in permanency planning and guardianship review hearings, to place on the record an age-appropriate consultation with the child at least every 12 months.

Fiscal Summary

State Effect: The Judiciary can handle the bill's requirements with existing resources. In addition, the bill may help protect federal funding by ensuring that Maryland law conforms to federal guidelines.

Local Effect: The circuit courts can handle the bill's requirements with existing resources.

Small Business Effect: None.

Analysis

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 review hearing, the court must make specified findings and consider a number of factors, including whether reasonable efforts have been made to finalize the permanency plan, the safety of the child, and the continuing necessity for and appropriateness of the placement. The foster parent, preadoptive parent, relative, or his or her attorney must be given an opportunity to be heard, and, if practicable, at least

10 days' notice before any hearing. 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.

A juvenile court must hold an initial guardianship review hearing no later than 180 days after the date of an order granting guardianship to establish a permanency plan for the child. Additional review hearings must be held at least once each year after the initial review hearing until the juvenile court's jurisdiction terminates.

Background: Title IV of the Social Security Act requires a court holding a permanency hearing to conduct an age-appropriate consultation with the child regarding the proposed permanency or transition plan. This bill is intended to clarify how the court can effectively fulfill its mandate of obtaining the views of the child in such hearings. The Administration for Children and Families (ACF) in the U.S. Department of Health and Human Services has indicated that it does not interpret the term "consult" as requiring the physical presence of the child at a hearing; however, the child's views on the permanency or transition plan must be obtained by the court for consideration. For example, ACF has indicated that an attorney, caseworker, or guardian ad litem who verbally reports the child's views to the court could be sufficient.

State and Local Fiscal Effect: Although the new provision requiring a juvenile court in a guardianship review hearing to place an age-appropriate consultation with the child on the record may increase the amount of time a court spends during the hearing, any increase in the workload for the Judiciary and the circuit courts can be handled with existing resources. The bill's intended clarification that an age-appropriation consultation need not require the child's presence, but may be placed on the record, may allow a juvenile court to handle permanency planning and review hearings more efficiently in some cases by providing an alternative way of obtaining the child's viewpoint. The clarification will also protect federal funding by ensuring that Maryland statutes are in compliance with federal guidelines.

Additional Information

Prior Introductions: None.

Cross File: HB 161 (Chair, Judiciary Committee)(By Request - Maryland Judicial Conference) - Judiciary.

Information Source(s): Department of Human Resources, Judiciary (Administrative Office of the Courts), U.S. Department of Health and Human Services, Department of Legislative Services

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