

Department of Legislative Services
Maryland General Assembly
2011 Session

FISCAL AND POLICY NOTE

Senate Bill 335 (Senators Kelley and Forehand)
Judicial Proceedings

Family Law - Permanency Planning and Guardianship Review Hearings

This bill sets forth methods by which the juvenile court may satisfy the requirement, in specified permanency planning and guardianship review hearings, to consult on the record with the child.

Fiscal Summary

State Effect: Minimal general fund expenditure increase for the Judiciary to arrange docket and scheduling changes to facilitate on the record consultations for circuit courts that are unable to obtain video conferencing and computer equipment. General fund expenditures for the Department of Juvenile Services increase \$150,000 in FY 2012 only for computer equipment to facilitate child availability for court consultations. The Department of Human Resources (DHR), the Department of Health and Mental Hygiene (DHMH), and the Maryland State Department of Education (MSDE) can meet the bill's requirements with existing resources.

Local Effect: Potential significant increase in equipment expenditures for the circuit courts, in FY 2012 only, to obtain video conferencing and computer equipment or to facilitate in person consultations. **This bill may impose a mandate on a unit of local government.**

Small Business Effect: Minimal.

Analysis

Bill Summary: At least every 12 months at a permanency planning or guardianship review hearing, the juvenile court must consult on the record with the child by one of the following methods:

- if the child is placed in the State or within a reasonable distance from the courthouse and it is feasible to arrange the child's transportation, the court may converse with the child during the hearing if the child is verbal, or with the child's caretakers if the child is not verbal;
- if the child is placed outside the State or is not within a reasonable distance of the courthouse or it is not feasible to arrange the child's transportation, the court may use video conferencing to converse with the child during the hearing;
- if the child is so medically fragile that it is physically impossible for the child to be transported to the courthouse, the court may visit the child at the child's placement; or
- if it is not feasible to obtain the views of the child by any of the above methods, the court may use a video connection during the hearing to observe the child while engaged in daily living activities at the child's placement.

Current Law: State law does not specify how a juvenile court may consult with a child during a permanency planning or guardianship review hearing in an "age-appropriate" manner.

No later than 11 months after a child in need of assistance or a child in a voluntary placement enters an out-of-home placement, the juvenile court must hold a permanency planning hearing to determine a permanency plan for the child. The court must also hold a permanency planning hearing within 30 days after the court finds that a local department's reasonable efforts to reunify a child with the child's parents or guardian are not required due to a finding that the child was subjected to abuse, torture, or violence, as specified in statute.

Except as otherwise provided, the court must conduct a hearing to review the permanency plan at least every six months until the commitment is rescinded or a voluntary placement is terminated. After the court determines that the child must be continued in an out-of-home placement with a specific caregiver who agrees to care for the child permanently, the court must conduct a review hearing every 12 months. A court must terminate a case after the court grants custody and guardianship of the child to a relative

or other individual, unless the court finds good cause not to terminate the case. If the court does find such cause, the court must then conduct a review hearing every 12 months until the case is terminated. 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 guardianship 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 or guardianship review hearing to conduct an age-appropriate consultation on the record with the child regarding the proposed permanency or transition plan. In guidance issued by the U.S. Department of Health and Human Services, the importance of obtaining the child's views on the child's permanency or transition plan is emphasized. The guidance notes that at times, the reporting presented by attorneys, case workers, guardians *ad litem*, and other child representatives, although intended to be in the child's best interests, may not adequately convey the child's true feelings regarding placement or guardianship. Also, the federal guidance notes the importance of the judge's personal observation of the child's nonverbal communication and demeanor.

This bill is intended to set forth specific methods by which a juvenile court might comply with the federal mandate to have a meaningful consultation on the record with a child who is the subject of a permanency planning or guardianship review hearing.

State and Local Expenditures: It is anticipated that the bill's changes can be implemented by DHR, DHMH, and MSDE with existing resources.

General fund expenditures for the Department of Juvenile Services increase by \$150,000 in fiscal 2012 only, for computer equipment in each of the agency's six regions to facilitate video connections and conferencing with the children who are the subjects of these hearings.

Minimal increase in general fund expenditures for the Judiciary to arrange dockets and scheduling in smaller circuit court jurisdictions to allow for visits of children at their placements to comply with the bill's requirements.

For smaller circuit court jurisdictions or for those that do not have video conferencing equipment, local government expenditures could increase significantly in fiscal 2012

only to obtain the necessary equipment. For those jurisdictions that are unable to obtain equipment to meet the bill's requirements, scheduling and dockets would have to be rearranged to allow for in person consultation.

The Administrative Office of the Court advises that for the larger circuit court jurisdictions, video conferencing and other arrangements to facilitate a meaningful consultation could be accomplished with existing resources.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Human Resources, Maryland State Department of Education, Department of Health and Mental Hygiene, Judiciary (Administrative Office of the Courts), Department of Juvenile Services, U. S. Department of Health and Human Services, Department of Legislative Services

Fiscal Note History: First Reader - February 28, 2011
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