

HB 679 -- Foster Care

Co-Sponsors: Hanaway, Parker, Portwood, Stevenson, Dixon,
Schneider

This bill makes numerous revisions to laws relating to foster care and protective services for children.

LIABILITY OF EMPLOYEES AND SUPERVISORS

The bill subjects employees of the Division of Family Services who intentionally or with gross negligence violate division policy, division rules, or state laws dealing with the activities of the division, or supervisors who know or should know of the violation, to personal civil and criminal liability for injury or damage that arises as a result of a violation. If serious physical injury or death occurs as a result of a violation, the employee or supervisor is guilty of a class D felony.

CHILD ABUSE AND NEGLECT RECORDS

The bill requires records and reports of law enforcement agencies concerning child abuse and neglect to be kept separate from other records. It allows disclosure of these records to specified individuals and organizations, including members of the General Assembly under certain circumstances.

Currently, records of the division concerning reports of child abuse and neglect are available to specified individuals and organizations under certain circumstances. The bill adds a requirement that records of the division concerning reports of child abuse and neglect be made available to specified committees of the House of Representatives and the Senate to carry out the member's or committee's official functions. The records may also be available to any member of the General Assembly if a child is placed in foster care and is the victim of a fatality or near fatality, a substantiated allegation of sexual or physical abuse, kidnaping, or is missing for 72 hours or more. The member of the General Assembly requesting records must file a written request with the director of the division and the Attorney General, and the records must be made available to the member within 72 hours of the filing of the request.

Information from reports and records concerning child abuse and neglect maintained by the division become public records when a child suffers life-threatening injury or death as a result of child abuse or neglect.

Currently, the division must retain identifying information from reports of child abuse and neglect made by a mandated reporter

for a period of 10 years when there is insufficient evidence of abuse or neglect. The bill reduces the length of time that the record must be kept to five years, and specifies that if no evidence of abuse or neglect is found, the division may not retain any identifying information. For reports of child abuse and neglect made by other reporters, the division will not retain identifying information if no evidence of abuse or neglect is found.

Currently, records of juvenile court proceedings may be disclosed to parents or persons with a legitimate interest in the child with a court order. The bill makes these records available to the parents of the child and others with a legitimate interest in the child without a court order.

COURT PROCEEDINGS

The bill requires guardians ad litem to be informed of and have the right to attend all meetings involving the child when they are appointed by the court. The judge making the appointment of guardian ad litem or a volunteer advocate also has the authority to examine the background of the guardian ad litem or volunteer advocate to ensure the safety of the children the guardian ad litem or volunteer advocate is appointed to represent. The bill also requires the guardian ad litem to advocate for timely hearings whenever possible.

When the court finds that placement of a child with relatives is not in the best interests of the child, the bill requires the court to make specific findings on the record as to why the best interests of the child mandate the child's placement with persons other than relatives.

Currently, the parents of a child under the age of 17 who is alleged to be in need of care and treatment and who is taken into custody must be notified of the right to a custody hearing, and any party may request that a protective custody hearing be held within three days of the request, but a protective custody hearing is not mandatory. The bill requires an initial hearing to be held concerning the status of the child within three days of the child being taken into custody. Upon notification of the parties, the court must hold a protective custody hearing within 14 days of the child being taken into custody, and an additional hearing must be held within 60 days of the child being taken into custody to determine whether there is sufficient cause for the child to remain in the state's custody. If the court determines that sufficient cause exists, the court must continue to review reunification efforts every 90 to 120 days.

Currently, the general public is excluded from juvenile court

proceedings, except in some cases in which a child is accused of an offense that would be considered a felony if committed by an adult. The bill allows the general public to have access to all juvenile court proceedings, except when a child or victim is testifying, and except upon the exercise of discretion by the judge, who can exclude the general public for good cause. The bill also prohibits the court from granting more than one continuance in a juvenile proceeding, unless there are compelling extenuating circumstances and the court makes written findings on the record detailing the reasons for granting another continuance.

CHILDREN'S SERVICES

The bill requires the Department of Social Services to contract for the provision of services to children with private children's service providers and community agencies whenever possible.

The bill requires the Division of Family Services to implement a two-year pilot project on or before January 1, 2004. This pilot project will be located in Greene County, the City of St. Louis, and one rural county to be determined by the division. In the pilot project locations, all direct services for children and families that are currently provided by the division will be provided by public and private children's service agencies and providers that have contracted with the division through a competitive bid process. The bill specifies the criteria for the pilot project and the terms of children's services contracts entered into by the division for purposes of the pilot project. The division must submit a report to the General Assembly beginning January 15, 2005, and continuing each year that the pilot project is in operation. The report must include specified details about the pilot project, recommendations concerning the continuation or expansion of the project, and information relating to the provision of direct services for children and their families.

The bill establishes the Child Protective Services Citizen Review Panel within the Department of Social Services to provide independent review of policies and procedures of child protective services agencies and specific cases where appropriate, as well as to evaluate whether agencies are discharging their child protection responsibilities effectively. The bill specifies the membership of the board and the terms of service. The panel must meet at least once every three months and must be provided access to information necessary to carry out its duties. The panel must also prepare an annual report summarizing its activities.

The bill requires the department to submit an annual report to the Governor and the General Assembly beginning February 1, 2005.

The report must include specified information about the previous calendar year concerning reports of abuse and neglect, services provided to parents, and the agency's response to reports of abuse and neglect.

MISCELLANEOUS PROVISIONS

The bill prohibits the division from requiring individuals to sign a confidentiality agreement before testifying or providing information at a meeting or hearing held in relation to the removal of a child from the child's home. Individuals and the division may enter into confidentiality agreements by mutual consent.

The bill requires the departments of Social Services, Mental Health, and Elementary and Secondary Education to hold monthly meetings to address and review actions taken by agency employees involving the provision of services to children.

The bill requires the Division of Family Services to seek waivers from the Department of Health and Senior Services to enhance federal reimbursement for foster care and adoption assistance.

The bill also requires the division to conduct a diligent search for the natural parent or parents of a child who is in the custody of the division and whose parent or parents are unknown. A "diligent search" is defined as attempts by the division to locate a natural parent beginning when the division becomes aware of the existence of the parent and continuing until the parent is located or identified or the court excuses further search.

The bill contains an emergency clause.