

HCS SCS#2 SB 762 -- FOSTER CARE

SPONSOR: Champion (Hanaway)

COMMITTEE ACTION: Voted "do pass" by the Committee on Children and Families by a vote of 10 to 2.

This substitute changes the laws regarding protective services for children and foster care.

CHILD ABUSE AND NEGLECT REPORTS

The substitute:

(1) Changes the standard for including an individual on the child abuse and neglect central registry from probable cause to believe the individual committed child abuse or neglect to a finding by the Children's Division within the Department of Social Services that there is a preponderance of evidence that the individual committed child abuse or neglect;

(2) Prohibits mandated reporters from making reports of child abuse or neglect anonymously. All other reporters may remain anonymous;

(3) Requires the division to use a structured decision-making model to classify all reports made to the child abuse and neglect hotline, giving priority to ensuring the well-being and safety of the child;

(4) Requires the names of individuals placed on the central registry before August 28, 2003, to remain on the registry for the duration of the time required in Section 210.152, RSMo;

(5) Prohibits the division from meeting with a child at any school or child care facility where abuse of the child is alleged to have occurred;

(6) Reduces from 10 to five years the amount of time the division must keep an unsubstantiated report of child abuse made by a mandated reporter; and

(7) Requires biological parents, foster parents, guardians ad litem, and volunteer advocates to be notified of all family support team meetings.

COURT PROCEEDINGS

The substitute:

(1) Requires the guardian ad litem and volunteer advocate to be informed of and have the right to attend all meetings involving the child upon appointment by the court. The guardian ad litem is required to advocate for timely court hearings to achieve permanency for the child as soon as possible;

(2) Requires that the questioning of a child who is in custody because the child is in need of care or treatment cease if the child wishes to have a parent, guardian, or attorney present during the questioning. All video or audio recordings of meetings, interviews, or interrogations conducted in relation to a child in the state's custody are presumed admissible as evidence in proceedings involving the child. The recordings are inadmissible only upon a showing by clear and convincing evidence that the recording lacks sufficient indicia of reliability;

(3) Requires the court to grant a change of judge upon the motion of a child or the child's parent;

(4) Requires a status conference to be held within three days of a child being taken into custody. If requested at the status hearing, a protective custody hearing must be held within 14 days of the request. An adjudication must be held no later than 60 days after the child has been taken into custody; and if at that time the court determines there is sufficient cause for the child to remain in the state's custody, the court will conduct a dispositional review no later than 90 days after the child has been taken into custody. The court must then conduct review hearings every 90 to 120 days during the first year and at least every six months after the first year; and

(5) Requires that on or before July 1, 2005, all juvenile court proceedings for children who are in need of care and treatment and termination of parental rights cases initiated by the juvenile office or the division will be open to the public. The proceedings can be closed in certain situations. The general public is excluded during the testimony of a child or a victim.

BACKGROUND CHECKS AND FINGERPRINTING

The substitute:

(1) Allows the division or the juvenile office to request a name-based criminal history check when an emergency placement of a child must be made and requires them to determine whether any person over the age of 17 living in the household is listed on the child abuse and neglect central registry;

(2) Requires the division to conduct a search for full orders of protection for anyone seeking a foster parent license. The

applicant and any adult in the applicant's household must also submit two sets of fingerprints for a criminal background check;

(3) Requires persons employed by a school after January 1, 2005, who are authorized to have contact with children to have a criminal background check completed before having any unsupervised contact with a child;

(4) Requires the Department of Social Services to determine whether an applicant for a license to operate a school bus is listed on the central registry. The applicant is required to submit fingerprints to search state and federal criminal history repositories and to pay the fees for the searches;

(5) Requires the court that certifies a juvenile offender as an adult to order the law enforcement agency to fingerprint the individual immediately;

(6) Requires qualified entities to obtain two sets of fingerprints from the individual if a national criminal record review is requested; and

(7) Increases the fees the State Highway Patrol can charge for name-based criminal history background checks from \$5 to \$10 and for checks based on fingerprints from \$14 to \$20.

FOSTER CARE AND PLACEMENT OF CHILDREN

The substitute:

(1) Requires the division to provide standards and training for prospective foster parents, as well as performance-based criteria for licensed foster parents;

(2) Requires the division to notify parents when their child is placed in foster care, except when harm or danger to the child is imminent;

(3) Prohibits the removal of children from school for placement in foster care without a court order;

(4) Requires the division to hold a team meeting immediately after the 72-hour status conference and additional meetings prior to taking any action relating to the placement of a child in its custody;

(5) Requires the division to place a child with relatives if the court has determined that the placement is not contrary to the best interests of the child. The court must make specific findings on the record detailing why placement with a relative is

not in the best interests of the child;

(6) Specifies that the age of a relative may not be the only consideration in determining whether to place the child with that relative. The substitute also requires the division to comply with the Federal Indian Child Welfare Act in placing Native American children;

(7) Allows parents to temporarily place a child with another person, while retaining the right to supervise the care of the child and resume custody, and allows a parent to use a power of attorney to delegate his or her powers regarding care or custody of a minor child to another person for a period of up to one year;

(8) Requires that all information provided at a meeting or hearing relating to the removal of a child from the child's home be confidential, except that a party or parent may waive confidentiality for himself or herself, and that no one may be required to sign a confidentiality agreement prior to testifying or providing information at the meeting; and

(9) Requires the Department of Social Services to seek Title IV-E waivers from the Department of Health and Senior Services and requires the Department of Social Services to take the necessary steps to qualify the state for any federal block grant money available for foster care and adoption assistance.

PRIVATIZATION OF SERVICES FOR CHILDREN

The substitute:

(1) Requires the division to implement privatization of child welfare services statewide beginning on or before July 1, 2005. All direct services for children that are currently provided by the division, except hotline, initial investigation, and family assessment services, will be provided by public and private children's service providers that have contracted through a competitive bid process;

(2) Requires providers to have a proven record of providing child welfare services in the state or the ability to provide a range of services. Providers and agencies that currently contract with the state may also participate in the competitive bid process. All contracts entered into by the division must be in accordance with federal law and must not result in a loss of federal funding; and

(3) Requires the division, in collaboration with the courts, to submit a report to the General Assembly beginning July 15, 2006,

and continuing each year that the privatization project is in operation. The substitute specifies the information that must be included in the report.

REPORTS

The substitute:

- (1) Requires the Task Force on Children's Justice established by the Children's Service Commission in accordance with federal law to conduct an independent review of the policies and procedures of state and local child protective services agencies and to conduct reviews of specific cases, when appropriate, to evaluate how effectively agencies are discharging their responsibilities;
- (2) Requires the Department of Social Services to submit, beginning February 1, 2006, an annual statistical report regarding the number of children receiving child protective services to the Governor and the General Assembly; and
- (3) Requires the division to identify all children in its custody who are receiving foster care services by January 1, 2005, and report to the General Assembly the type of foster care being provided and the status of all children.

MISCELLANEOUS PROVISIONS

The substitute:

- (1) Establishes the Office of Child Advocate for Children's Protection and Services within the Office of Administration;
- (2) Designates specified provisions as the "Dominic James Memorial Foster Care Act of 2004";
- (3) Requires the Family Support Division and the Children's Division to jointly operate and maintain an office in each county;
- (4) Requires employees of the Children's Division who are involved with child protective services and who purposely, knowingly, and willingly violate a policy, rule, or state law that is related to the child abuse and neglect activities of the division to be dismissed if the violation results in serious physical injury or death;
- (5) Allows children with special health care needs that if not treated would result in death or serious physical injury to participate in the MC+ for Kids Program without meeting the six-month uninsured requirement;

(6) Requires the division to conduct a diligent search for the natural parents of a child who is in the custody of the division when the parents' identity or location is unknown;

(7) Requires an action to recover damages for injury or illness that resulted from child sexual abuse to be commenced within 10 years of the date the plaintiff reached the age of 21 or within three years of the date the plaintiff discovers or reasonably should have discovered that the illness or injury resulted from child sexual abuse, whichever is later;

(8) Revises the Special Needs Child Adoption Tax Credit. For individuals, the amount of the credit that is in excess of the individual's tax liability is refundable for the year in which the credit is claimed. The credit is not refundable for businesses claiming the credit on behalf of an employee, and there is a \$2 million annual cumulative cap on credits claimed by businesses;

(9) Requires all hospitals and health care facilities providing obstetrical services to require new mothers to watch a video on shaken baby syndrome before being discharged from the facility;

(10) Requires the Department of Health and Senior Services and the Department of Social Services to collaborate with non-profit organizations, health maintenance organizations, and the Missouri Consolidated Health Care Plan to formulate an educational strategy to increase the number of children who are tested for lead poisoning under the Medicaid Program, with a goal of having 75% of the children who receive Medicaid being tested; and

(11) Revises provisions regarding the Missouri Family Trust.

The substitute contains an emergency clause.

FISCAL NOTE: Estimated Cost on General Revenue Fund of More than \$5,381,466 in FY 2005, More than \$6,870,052 in FY 2006, and More than \$9,342,859 in FY 2007. Estimated Effect on Other State Funds of an income of \$30,995 to \$2,547,311 in FY 2005, an income of \$11,526 to \$2,527,842 in FY 2006, and a cost of \$941 to an income of \$2,515,375 in FY 2007.

PROPONENTS: Supporters say that the bill was an attempt to find solutions for problems in the system, particularly in southwest Missouri. It also codifies steps that the Department of Social Services has already taken administratively.

Testifying for the bill were Senator Champion; Speaker Hanaway; and Missouri Council for Children-at-Risk.

OPPONENTS: There was no opposition voiced to the committee.

Amy Woods, Legislative Analyst