



House of Representatives

General Assembly

File No. 247

January Session, 2001

Substitute House Bill No. 6891

House of Representatives, April 11, 2001

The Committee on Judiciary reported through REP. LAWLOR of the 99th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING THE STREAMLINING OF THE CHILD PROTECTION SESSION HEARING PROCESS AND PERMANENCY HEARINGS AND MOTIONS FOR EXTENSION OR REVOCATION OF COMMITMENT.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsection (j) of section 46b-129 of the general statutes is
2 repealed and the following is substituted in lieu thereof:

3 (j) Upon finding and adjudging that any child or youth is uncared-
4 for, neglected or dependent, the court may commit [him] such child or
5 youth to the Commissioner of Children and Families. [for a maximum
6 period of twelve months, unless such period is extended in accordance
7 with the provisions of subsection (k) of this section] Such commitment
8 shall remain in effect until further order of the court pursuant to the
9 provisions of subsection (k) of this section, as amended by this act,
10 provided such commitment [or any extension thereof] may be revoked
11 or parental rights terminated at any time by the court, or the court may
12 vest such child's or youth's care and personal custody in any private or

13 public agency which is permitted by law to care for neglected,
14 uncared-for or dependent children or youth or with any person or
15 persons found to be suitable and worthy of such responsibility by the
16 court. The court shall order specific steps which the parent must take
17 to facilitate the return of the child or youth to the custody of such
18 parent. The commissioner shall be the guardian of such child or youth
19 for the duration of the commitment, provided the child or youth has
20 not reached the age of eighteen years or, in the case of a child or youth
21 in full-time attendance in a secondary school, a technical school, a
22 college or a state-accredited job training program, provided such child
23 or youth has not reached the age of twenty-one, by consent of such
24 youth, or until another guardian has been legally appointed, and in
25 like manner, upon such vesting of [his] the care of such child or youth,
26 such other public or private agency or individual shall be the guardian
27 of such child or youth until [he] such child or youth has reached the
28 age of eighteen years or, in the case of a child or youth in full-time
29 attendance in a secondary school, a technical school, a college or a
30 state-accredited job training program, until such child or youth has
31 reached the age of twenty-one years or until another guardian has
32 been legally appointed. Said commissioner may place any child or
33 youth so committed to [him] the commissioner in a suitable foster
34 home or in the home of a person related by blood to such child or
35 youth or in a licensed child-caring institution or in the care and
36 custody of any accredited, licensed or approved child-caring agency,
37 within or without the state, provided a child shall not be placed
38 outside the state except for good cause and unless the parents of such
39 child are notified in advance of such placement and given an
40 opportunity to be heard, or in a receiving home maintained and
41 operated by the Commissioner of Children and Families. In placing
42 such child or youth, said commissioner shall, if possible, select a home,
43 agency, institution or person of like religious faith to that of a parent of
44 such child or youth, if such faith is known or may be ascertained by
45 reasonable inquiry, provided such home conforms to the standards of

46 said commissioner and the commissioner shall, when placing siblings,
47 if possible, place such children together. As an alternative to
48 commitment, the court may place the child in the custody of the parent
49 or guardian with protective supervision by the Commissioner of
50 Children and Families subject to conditions established by the court.

51 Sec. 2. Subsection (k) of section 46b-129 of the general statutes is
52 repealed and the following is substituted in lieu thereof:

53 [(k) (1) Ten months after the adjudication of neglect of the child or
54 youth or twelve months after the vesting of temporary care and
55 custody pursuant to subsection (b) of this section]

56 (k) (1) Nine months after placement of the child or youth in the care
57 and custody of the commissioner pursuant to a voluntary placement
58 agreement, or removal of a child or youth pursuant to section 17a-101g
59 or an order issued by a court of competent jurisdiction, whichever is
60 earlier, the commissioner shall file a motion for review of a
61 permanency plan and to [extend] maintain or revoke the commitment.
62 [Ten] Nine months after a permanency plan has been approved by the
63 court pursuant to this subsection, [unless the court has approved
64 placement in long-term foster care with an identified person or an
65 independent living program, or the commissioner has filed a petition
66 for termination of parental rights or motion to transfer guardianship,]
67 the commissioner shall file a motion for review of the permanency
68 plan and to [extend] maintain or revoke the commitment. Any party
69 seeking to oppose the commissioner's permanency plan or the
70 maintaining or revocation of commitment shall file a motion in
71 opposition within thirty days after the filing of the commissioner's
72 motion for review of the permanency plan and to maintain or revoke
73 commitment. A permanency hearing on any [such] motion for review
74 of the permanency plan and to maintain or revoke commitment shall
75 be held within [sixty] ninety days of the filing of such motion. The
76 court shall hold evidentiary hearings in connection with any contested

77 motion for review of the permanency plan and to maintain or revoke
78 commitment. The burden of proof shall be upon the commissioner to
79 establish that the commitment should be maintained. After the initial
80 permanency hearing, subsequent permanency hearings shall be held
81 not less frequently than every twelve months while the child or youth
82 remains in the custody of the Commissioner of Children and Families.
83 The court shall provide notice to the child or youth, and [his] the
84 parent or guardian of such child or youth of the time and place of the
85 court hearing on any such motion not less than fourteen days prior to
86 such hearing.

87 (2) At [such] a permanency hearing held in accordance with the
88 provisions of subdivision (1) of this subsection, the court shall
89 determine whether it is appropriate to continue to make reasonable
90 efforts to reunify the child or youth with the parent, unless the court
91 has previously determined that such efforts are not appropriate
92 pursuant to this subdivision or section 17a-111b. In making this
93 determination, the court shall consider the best interests of the child,
94 including the child's need for permanency. If the court finds that
95 further efforts are not appropriate, the commissioner has no duty to
96 make further efforts to reunify the child or youth with the parent. If the
97 court finds that further efforts are appropriate, such efforts shall
98 ensure that the child or youth's health and safety are protected and
99 such efforts shall be specified by the court, including the services to be
100 provided to the parent, what steps the parent may take to address the
101 problem that prevents the child or youth from safely reuniting with
102 the parent and a time period, not longer than six months, for such
103 steps to be accomplished.

104 (3) At [such] a permanency hearing held in accordance with the
105 provisions of subdivision (1) of this subsection, the court shall approve
106 a permanency plan that is in the best interests of the child or youth and
107 takes into consideration the [child] child's or youth's need for
108 permanency. The child's or youth's health and safety shall be of

109 paramount concern in formulating such plan. Such permanency plan
110 may include the goal of (A) revocation of commitment and placement
111 of the child or youth with the parent or guardian, with or without
112 protective supervision; [(B) placing the child or youth in an
113 independent living program; (C)] (B) transfer of guardianship; [(D)
114 approval of] (C) long-term foster care with [an identified foster parent;
115 (E)] a relative licensed as a foster parent or certified as a relative
116 caregiver; (D) adoption and filing of termination of parental rights; [(F)
117 if the permanency plan identifies adoption as an option, a thorough
118 adoption assessment and child specific recruitment. As used in this
119 subdivision, "thorough adoption assessment" means conducting and
120 documenting face-to-face interviews with the child, foster care
121 providers, and other significant parties and "child specific recruitment"
122 means recruiting an adoptive placement targeted to meet the
123 individual needs of the specific child, including, but not limited to, use
124 of the media, use of photo-listing services and any other in-state or
125 out-of-state resources that may be used to meet the specific needs of
126 the child, unless there are extenuating circumstances that indicate that
127 these efforts are not in the best interest of the child; or (G)] or (E) such
128 other [appropriate action] planned permanent living arrangement
129 ordered by the court, provided the Commissioner of Children and
130 Families has documented a compelling reason why it would not be in
131 the best interest of the child or youth for the permanency plan to
132 include the goals in subparagraphs (A) to (D), inclusive, of this
133 subdivision. Such other planned permanent living arrangement may
134 include, but not be limited to, placement of a child or youth in an
135 independent living program or long term foster care with an identified
136 foster parent.

137 (4) If the court approves the permanency plan of adoption: (A) The
138 Commissioner of Children and Families shall conduct a thorough
139 adoption assessment and child-specific recruitment; and (B) the court
140 may order that the child be photo-listed within thirty days if the court
141 determines that such photo-listing is in the best interest of the child. As

142 used in this subdivision, "thorough adoption assessment" means
143 conducting and documenting face-to-face interviews with the child,
144 foster care providers, and other significant parties and "child specific
145 recruitment" means recruiting an adoptive placement targeted to meet
146 the individual needs of the specific child, including, but not limited to,
147 use of the media, use of photo-listing services and any other in-state or
148 out-of-state resources that may be used to meet the specific needs of
149 the child, unless there are extenuating circumstances that indicate that
150 these efforts are not in the best interest of the child.

151 (5) At [the] a permanency [plan] hearing held in accordance with
152 the provisions of subdivision (1) of this subsection, the court shall
153 review the status of the child, the progress being made to implement
154 the permanency plan, [and] determine a timetable for attaining the
155 permanency [prescribed by the] plan and determine whether the
156 commissioner has made reasonable efforts to achieve the permanency
157 plan. The court shall [extend] maintain commitment if [extension] it is
158 in the best interests of the child or youth. [for a period of twelve
159 months.] The court shall revoke commitment if a cause for
160 commitment no longer exists and it is in the best interests of the child
161 or youth.

162 Sec. 3. Subsection (o) of section 46b-129 of the general statutes is
163 repealed and the following is substituted in lieu thereof:

164 [(o) A foster parent shall have standing for the purposes of this
165 section in Superior Court in matters concerning the placement or
166 revocation of commitment of a foster child living with such parent. A
167 foster parent shall receive notice of any motion to revoke commitment
168 or any hearing on such motion. A foster parent who has cared for a
169 child or youth for not less than six months shall have standing to
170 comment on the best interests of such child or youth in any matter
171 under this section which is brought not more than one year after the
172 last day the foster parent provided such care.]

173 (o) Any foster parent, prospective adoptive parent or relative
174 licensed as a foster parent or certified as a relative caregiver, caring for
175 a child or youth shall have the right to notice and an opportunity to be
176 heard on the best interests of such child or youth at any permanency
177 hearing under this section or at a hearing on a motion to revoke
178 commitment. The commissioner shall provide notice to such foster
179 parent, prospective adoptive parent or relative licensed as a foster
180 parent or certified as a relative caregiver of the time and place of such
181 hearing not less than fourteen days prior to such hearing.

182 Sec. 4. Section 46b-141 of the general statutes is repealed and the
183 following is substituted in lieu thereof:

184 (a) Except as otherwise limited by subsection (i) of section 46b-140,
185 commitment of children convicted as delinquent by the Superior Court
186 to the Department of Children and Families shall be for (1) an
187 indeterminate time up to a maximum of eighteen months, or (2) when
188 so convicted for a serious juvenile offense, up to a maximum of four
189 years at the discretion of the court, unless extended as hereinafter
190 provided.

191 (b) The Commissioner of Children and Families may [petition the
192 court] file a motion for an extension of the commitment as provided in
193 subdivision (1) of subsection (a) beyond the eighteen-month period on
194 the grounds that such extension is for the best interest of the child or
195 the community. The court shall give notice to the parent or guardian
196 and to the child at least fourteen days prior to the hearing upon such
197 [petition] motion. The court may, after hearing and upon finding that
198 such extension is in the best interest of the child or the community,
199 continue the commitment for an additional period of not more than
200 eighteen months. Not later than twelve months after a child is
201 committed to the Department of Children and Families in accordance
202 with subdivision (1) of subsection (a) of this section the court shall
203 hold a permanency hearing in accordance with subsection (d) of this

204 section. After the initial permanency hearing, subsequent permanency
205 hearings shall be held not less frequently than every twelve months
206 while the child remains committed to the Department of Children and
207 Families.

208 (c) The [Commissioner of Children and Families shall obtain judicial
209 review of] court shall hold a permanency hearing in accordance with
210 subsection (d) of this section for each child convicted as delinquent for
211 a serious juvenile offense as provided in subdivision (2) of subsection
212 (a) of this section within [eighteen] twelve months of commitment to
213 the Department of Children and Families and every [eighteen] twelve
214 months thereafter if the child remains committed to the Department of
215 Children and Families. Such [judicial review] hearing may include the
216 submission of a [petition] motion to the court by the commissioner to
217 either (1) modify such commitment, or (2) extend the commitment
218 beyond such four-year period on the grounds that such extension is for
219 the best interest of the child or the community. The court shall give
220 notice to the parent or guardian and to the child at least fourteen days
221 prior to the hearing upon such [petition] motion. The court, after
222 hearing, may modify such commitment or, upon finding that such
223 extension is in the best interest of the child or the community, continue
224 the commitment for an additional period of not more than eighteen
225 months.

226 (d) At least sixty days prior to each permanency hearing required
227 pursuant to subsection (b) or (c) of this section, the Commissioner of
228 Children and Families shall file a permanency plan with the court. At
229 each permanency hearing, the court shall review and approve a
230 permanency plan that is in the best interest of the child and takes into
231 consideration the child's need for permanency. Such permanency plan
232 may include the goal of: (1) Revocation of commitment and placement
233 of the child with the parent or guardian, (2) transfer of guardianship,
234 (3) permanent placement with a relative, (4) adoption, or (5) such other
235 planned permanent living arrangement ordered by the court, provided

236 the Commissioner of Children and Families has documented a
237 compelling reason why it would not be in the best interest of the child
238 for the permanency plan to include the goals in subdivisions (1) to (4),
239 inclusive, of this subsection. Such other planned permanent living
240 arrangement may include, but not be limited to, placement of the child
241 in an independent living program. At any such permanency hearing,
242 the court shall also determine whether the Commissioner of Children
243 and Families has made reasonable efforts to achieve the permanency
244 plan.

245 [(d)] (e) All other commitments of delinquent, mentally deficient or
246 mentally ill children by the court pursuant to the provisions of section
247 46b-140, may be for an indeterminate time. Commitments may be
248 reopened and terminated at any time by said court, provided the
249 Commissioner of Children and Families shall be given notice of such
250 proposed reopening and a reasonable opportunity to present [his] the
251 commissioner's views thereon. The parents or guardian of such child
252 may apply not more than twice in any calendar year for such
253 reopening and termination of commitment. Any order of the court
254 made under the provisions of this section shall be deemed a final order
255 for purposes of appeal, except that no bond shall be required nor costs
256 taxed on such appeal.

257 Sec. 5. Section 17a-42 of the general statutes is repealed and the
258 following is substituted in lieu thereof:

259 (a) There is established within the Department of Children and
260 Families a photo-listing service which shall include, but need not be
261 limited to, a book and an electronic format containing a photograph
262 and description of each child to be photo-listed. Such book and its
263 electronic format shall be distributed to all child care and child-placing
264 agencies, as such terms are defined in section 45a-707, and to other
265 organizations concerned with adoption. Such photo-listing service
266 shall recruit adoptive families for children who are legally free for

267 adoption under section 45a-725, and have remained in foster care or
268 institutions for a period of thirty days or more, such thirty days to
269 include any period of foster or institutional care immediately
270 preceding the date on which such child was legally free for adoption.
271 Such photo-listing service may recruit prospective adoptive families
272 for children who are not yet legally free for adoption under section
273 45a-725, provided the court has approved a permanency plan for
274 adoption pursuant to subdivision (3) of subsection (k) of section 46b-
275 129, as amended by this act. The Commissioner of Children and
276 Families shall employ under [his] the commissioner's direction and
277 control such persons as [he] the commissioner deems necessary for the
278 effective performance of such photo-listing service.

279 (b) Under sections 17a-112 and 45a-717, the court may order that a
280 child be photo-listed within thirty days of the termination of parental
281 rights as a condition of granting an order of termination of parental
282 rights if the court determines that it is in the best interests of the child.
283 Under subdivision (3) of subsection (k) of section 46b-129, as amended
284 by this act, the court may order that a child be photo-listed within
285 thirty days of the approval of a permanency plan for adoption if the
286 court determines that it is in the best interest of the child. The court
287 shall not order that a child twelve years of age or older be photo-listed
288 unless such child consents to such photo-listing.

289 (c) Said commissioner shall adopt regulations, in accordance with
290 the provisions of chapter 54, to implement and maintain a photo-
291 listing service. Such regulations shall include, but not be limited to,
292 procedures for registration of children with the photo-listing service
293 and format and media selection for presenting photo-listed children to
294 the public. The commissioner shall, within available appropriations,
295 establish, maintain and distribute a photo-listing service book. The
296 commissioner, within available appropriations, shall contract with a
297 nonprofit agency to establish and maintain the photo-listing service in
298 its electronic format.

299 Sec. 6. Subsection (d) of section 17a-10 of the general statutes is
300 repealed and the following is substituted in lieu thereof:

301 (d) If the Superior Court requests a report on any committed child,
302 the commissioner shall be responsible for preparing and transmitting
303 such report to the requesting court. Not more than sixty days nor less
304 than thirty days prior to the expiration of the original commitment of
305 any child to the department, the commissioner may [petition the court]
306 file a motion for an extension of commitment pursuant to the
307 provisions of section 46b-141, as amended by this act. If the
308 commissioner, or the board of review pursuant to the provisions of
309 section 17a-15, at any time during the commitment of any child,
310 determines that termination of commitment of a child is in the best
311 interest of such child, the commissioner or the board may terminate
312 the commitment and such termination shall be effective without
313 further action by the court.

Statement of Legislative Commissioners:

Section 6 was added for consistency.

JUD JOINT FAVORABLE SUBST.

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact: Significant Cost, Cost, Potential Indeterminate Revenue Loss Avoidance, Potential Indeterminate Revenue Loss, Potential Indeterminate Savings, Minimal Savings

Affected Agencies: Department of Children and Families, Judicial Department, Office of the Attorney General, Division of Criminal Justice, Public Defenders

Municipal Impact: None

Explanation

State Impact:

This bill makes various changes that will impact upon the programmatic and financial operation of state agencies involved with children who may be adopted after having been in out-of-home placement.

Certain provisions in this bill conform state law to federal regulations related to the Adoption and Safe Families Act of 1997. Failure to implement these guidelines will result in assessment of an indeterminate financial penalty, which would be based upon a federally determined "extent of non-compliance."

Should these changes result in expedited adoptions of children who

might otherwise be maintained in foster care, the Department of Children and Families (DCF) will experience a savings when the child is not deemed to meet the statutory definition of a special needs child (Section 17a-116 CGS). This will result because monthly maintenance payments to foster parents on the child's behalf will cease at the time of adoption. Based upon the imposition of inflationary adjustments as recommended by the Governor within his FY 02 - 03 Biennial Budget, effective July 1, 2001, the average monthly foster care payment is projected to be \$721.16 per month (or \$8,654 annually). In these cases, the Department of Social Services will also experience savings, as the child's Medicaid eligibility would cease. Any savings to both agencies would be partially offset by reduced federal financial participation.

However, the majority of adopted children who leave foster care are deemed to be special needs children. In these cases, DCF provides a monthly subsidy slightly less than that paid to foster parents and Medicaid eligibility is continued until age eighteen. Thus, the state will experience a minimal per child savings for each special needs child who may be adopted more rapidly given provisions in the bill. As children in subsidized adoptive care are not carried on the agency's caseload for purposes of determining social work staffing under the Juan F. Consent Decree, a workload reduction, which may lead to future savings, might occur. The magnitude of any potential savings would be dependent upon how many additional children leave foster care, which cannot be determined at this time.

Specific changes and their associated fiscal impacts are as follows:

Court Hearings Process in Child Welfare Cases

The bill shortens the length of time that DCF has in which to file a motion for review of a permanency plan and eliminates mandatory annual hearings on the extension of a commitment of a child. It is anticipated that both the department and the Office of the Attorney General will be able to comply with the shortened timeframes within

their anticipated budgetary resources. A workload decrease will result from eliminating separate extension hearings.

The bill also: (1) shortens from ninety to sixty days the time in which the court must hold hearings to review a permanency plan and/or maintain or revoke a commitment; (2) grants the right to opposing parties to submit motions in opposition within thirty days of the department's filing of its motion (in these cases the court is required to hold evidentiary hearings in which the burden of proof is upon DCF to establish that commitment should be maintained); and (3) modifies current law, which extends legal standing to foster parents, by instead stating that foster parents, prospective adoptive parents and certified relative caregivers have the right to be heard at hearings. It is anticipated that the net impact of these changes can be accommodated by the court within the Judicial Department's anticipated budgetary resources.

DCF will incur minimal savings to the extent that the bill eliminates a requirement that the agency notify all foster parents having cared for a child not less than six months about court hearings. The bill instead limits the required notification to those parties having the child in their care at the time of the hearing. The department incurs the cost of postage when notifying these parties.

Child-Specific Recruiting for Adoptive Families and Use of Photo-Listing Service

The bill requires, in cases in which a child's permanency plan indicates adoption, DCF to conduct a thorough adoption assessment and child-specific recruiting. Under current law, a permanency plan for such a child may include these efforts. The agency will incur an annual cost of approximately \$1.5 million to comply with this requirement. Currently, the department purchases child-specific recruiting services on behalf of approximately one hundred children. An estimated additional 250 children will receive this service as a

result of mandating it in all cases in which a child's permanency plan indicates adoption. Per each recruitment effort, these services cost approximately \$6,000.

Additionally, the court may order that the child be photo-listed within thirty days, and the bill authorizes children with an approved permanency plan for adoption whose parental rights have not yet been terminated to be included in the photo-listing service. The department can accommodate these requirements within its anticipated budgetary resources. The agency currently operates its own photo-listing service with in-house staff and computer resources.

Permanency Planning Process for Juvenile Delinquents

The bill establishes a permanency hearing process for youth committed to DCF as delinquent. An estimated 700 cases will be heard annually.

For each case, counsel for the child would be required to represent the child's interests during the permanency hearing process. It is estimated that a state-funded counsel for indigent clients would be needed in about 500 of these cases. Counsel in these cases would be appointed in three ways: (1) if the child was previously being served through the family with service needs (FWSN) program, the court could require the attorney that had been appointed during the FWSN process to handle the permanency plan hearing; (2) a public defender for juvenile matters would be appointed, or (3) a new court appointed attorney would be assigned. The manner of such appointments would be at the discretion of the judge in each case.

In addition, a court hearing would be required in each of the 700 cases. Each hearing would require the involvement of a judge and support staff, a juvenile prosecutor and defense counsel (whether private, court-appointed or a public defender). At this time, it appears that this workload can be absorbed within the anticipated budgetary

resources and staff of the Judicial Department, the Division of Criminal Justice and the Public Defenders. However, it should be noted that although the assignment of new court-appointed attorneys in these cases is not anticipated to be common, such attorneys are paid \$350 per case.

The Office of the Attorney General will incur an FY 02 cost of \$221,920 to reflect the three-quarter year salaries of three (3) Assistant Attorney Generals and two (2) Paralegal positions needed to participate in these same hearings, as well as associated other expenses. An additional \$81,680 in fringe benefit costs would be incurred by the state, for a total cost in FY 02 of \$303,600. In FY 03, the annualized cost of this staffing expansion would be \$411,017 in combined operating and fringe benefit costs.

The DCF will incur an FY 02 cost of \$40,665 to support the three-quarter year salary of one Paralegal position, and associated other expenses and equipment costs. This position will be required to assist the agency's parole staff in the completion and filing of court documents and preparation of testimony. An additional \$15,790 in fringe benefit costs would be incurred by the state, for a total cost in FY 02 of \$56,455. In FY 03, the annualized cost of this staffing expansion would be \$58,710 in combined operating and fringe benefit costs.

OLR Bill Analysis

sHB 6891

AN ACT CONCERNING THE STREAMLINING OF THE CHILD PROTECTION SESSION HEARING PROCESS AND PERMANENCY HEARINGS AND MOTIONS FOR EXTENSION OR REVOCATION OF COMMITMENT.

SUMMARY:

This bill makes many changes in the laws requiring court reviews of the Department of Children and Families' (DCF's) efforts to arrange permanent placements for children in its custody. Most of them are required by the federal Adoption and Safe Families Act (ASFA). The bill:

1. shortens "trigger" dates for court permanency plan review hearings and requires yearly hearings for all children in DCF custody,
2. restricts the permanency plan options that courts can approve,
3. imposes pre-hearing time limits for objections and requires evidentiary hearings only in these cases,
4. permits a judge to rely on previous rulings that reunification efforts are inappropriate and requires him to determine at each hearing whether DCF has made reasonable efforts to achieve permanency,
5. modifies the rights of foster and prospective adoptive parents and relative caregivers to participate in permanency plan and commitment revocation hearings,
6. establishes a yearly permanency plan hearing procedure for delinquent children committed to DCF, and
7. permits DCF to use its photo-listing service to recruit adoptive

parents for children whose court-approved permanency plan specifies the goal of adoption.

The bill also eliminates the requirement that DCF obtain court orders to extend the commitment of an abused and neglected child beyond 12 months. Instead, it requires the agency to prove at each yearly permanency plan hearing that a child should remain in its custody.

EFFECTIVE DATE: October 1, 2001

SHORTENED “TRIGGER” DATES FOR ABUSE, NEGLECT, AND VOLUNTARY PLACEMENT HEARINGS

Federal law requires that state foster care agencies obtain court review and approval of permanency plans within one year of a child’s first entry into the foster care system, and at least yearly thereafter (42 USC § 675(5)(C)). Under the bill, (1) DCF must file motions for review of permanency plans by the earlier of nine months after taking custody under a voluntary placement agreement, emergency removal from the home, or court order. The Juvenile Court must hold hearings within 90 days of the filing. DCF must file subsequent motions within nine months of the plan approval hearing, and the court must hear these motions within 90 days thereafter. The combined effect of these deadlines is to complete permanency plan reviews for all of these children at least every 12 months.

Currently, DCF must make such filings only for abused and neglected children. It must file the first motion by the earlier of 10 months after a court finding of abuse or neglect or 12 months after it first removed a child from his home on an emergency basis. Court hearings must be held within 60 days. These timetables may result in some children being in DCF custody for more than a year without a court-approved permanency plan.

Current law requires subsequent yearly review hearings, triggered by DCF filing motions 10 months after every hearing. But it exempts cases in which (1) the court has approved a permanency plan for placement in long-term foster care with an identified person or independent living program or, (2) DCF has filed a petition to terminate parental rights or a Probate Court motion to transfer guardianship.

PRIORITIZED PERMANENCY PLAN OPTIONS AND CONTESTED HEARINGS

As required by ASFA, the bill establishes a preference for one of the following existing permanency goals: (1) revocation of commitment and placement with a parent or guardian, with or without protective supervision; (2) transfer of guardianship; (3) adoption; or (4) long-term foster care with a licensed or certified relative caregiver (ASFA requires relatives to be licensed in the same manner as other foster parents (42 USC § 671(a)(10)).

Currently, permanency goals can also include placing the child or youth in an independent living program and long-term foster care with an identified foster parent (not necessarily a relative). Under the bill, the court cannot approve these or any other “planned permanent living arrangements” unless DCF establishes a compelling reason why one of the preferred placements is not in the child’s best interest. This is consistent with ASFA requirements (42 USC § 675(5)(C)).

The bill makes the health and safety of an abused or neglected child the paramount concern in formulating a permanency plan, another federal requirement (42 USC § 671(15)(A)). As under current law, courts must approve plans that are in the child’s best interests and consider the child’s need for permanency.

Participation of Parents, Foster and Pre-adoptive Parents, and Relative Caregivers

The bill requires any party seeking to oppose the commissioner’s plan or the maintaining or revoking of a commitment to file a motion with the court within 30 days of DCF’s filing its motion for review. When the plan is contested, the court must allow parties to introduce evidence at the hearing. The bill specifies that DCF has the burden of proving that the commitment should be maintained.

The bill eliminates the right of a child’s current foster parent to participate as a party in matters concerning the child’s placement or revocation of commitment. And it eliminates the right of former foster parents to comment at hearings on the child’s best interest. Instead, it

permits foster parents, prospective adoptive parents, and licensed or certified relative caregivers currently caring for the child to comment on the child's best interest at any permanency or revocation hearing. (These latter two groups have no explicit right to participate or comment under current law, but ASFA requires states to give them notice and an opportunity to be heard (42 USC § 6 75(5)(G)).

As under current law and ASFA, those who are permitted to express their views must get at least 14 days advance notice of the time and place of the hearing.

PERMANENCY PLANS FOR JUVENILE DELINQUENTS

The bill requires DCF to develop permanency plans that juvenile courts must review yearly while the child is committed to DCF custody as a result of a delinquency adjudication.

The permanency plan goals and priorities are the same as those described above for abused and neglected children. The bill specifies that courts must approve permanency plans that are in the child's best interest and take into consideration his need for permanency.

Current law does not require DCF to develop permanency plans for juvenile delinquents or serious juvenile offenders. It must obtain court review only if it seeks to extend a commitment beyond the time permitted by law, or, in the case of children convicted of serious crimes (serious juvenile offenders), every 18 months. The bill reduces to 12 months the period between court reviews of serious juvenile offender commitments. It does not change the 18-month review cycle for other juvenile delinquents.

PHOTO-LISTING

The bill permits courts to order DCF to use its photo-listing service to recruit adoptive parents when they approve permanency plans with the goal of adoption for children who are not yet legally free for adoption. The listing cannot occur until 30 days after the court's approval of the plan. The judge must determine that photo-listing is in the child's best interest, and children over age 12 must consent. Currently, DCF must wait until a court terminates parental rights

before photo-listing a child.

BACKGROUND

Federal Adoption and Safe Families Act (ASFA)

ASFA (P.L. 105-89) amended Title IV-E of the Social Security Act, the primary federal funding source for state foster care and adoption assistance programs. It sets eligibility requirements that states must meet to qualify for federal matching funds. It also mandates periodic federal review of each state’s success in arranging permanent placements for children in foster care, including by reunification with their parents, legal guardianship, or adoption. Federal officials can assess penalties against or withhold funds from non-complaint states.

Related Bills

sHB 6967, reported favorably by the Judiciary Committee also requires yearly permanency reviews for all children in DCF custody, but contains slightly different “trigger” deadlines. It also includes provisions requiring licensing of relative caregivers and makes other changes in foster care and adoption laws.

sSB 1094, reported favorably by the Human Services Committee, requires relative caregiver licensing by July 1, 2001.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute

Yea 34 Nay 1