

CCS#2 SS HCS HB 154 -- CHILD PLACEMENT, FOSTER CARE, AND STANDBY GUARDIANS

This bill establishes the Foster Care Education Bill of Rights and changes the laws regarding the placement of children and the appointment of standby guardians.

FOSTER CARE EDUCATION BILL OF RIGHTS (Sections 167.018, 167.019, and 210.1050, RSMo)

The Foster Care Education Bill of Rights is established requiring each school district to designate a staff person to act as the educational liaison for children in foster care. The liaison will facilitate the proper educational placement and expedite record requests and submissions. Foster care pupils will have the right to remain enrolled in their school of origin pending resolution of school placement disputes. Districts must accept credit for work satisfactorily completed; and if a pupil under the jurisdiction of the juvenile court completes graduation requirements, the school district of residence must issue a diploma. Students must not be penalized for absences resulting from required court appearances or court-related activities. Districts are authorized to permit access of a pupil's records to child-placement agencies within the limits of federal law. Children in foster care or children placed in a licensed residential care facility are entitled to a full six-hour school day unless the school district determines that fewer hours are needed. The Commissioner of Education will act as an ombudsman for children placed for treatment in a licensed residential facility by the Department of Social Services and will make the final determination over discrepancies regarding school day length.

PLACEMENT OF CHILDREN (Sections 210.305, 210.565, and 453.030)

When an emergency placement of a child is deemed necessary by the juvenile or family court, the bill requires the Children's Division within the Department of Social Services to make documented diligent efforts to locate, contact, and place the child with a grandparent unless the division determines that the placement is not in the best interests of the child. The division must have documented in writing just cause for the non-placement with a grandparent. Prior to placing a child in any emergency placement, the division must make sure that the child's physical needs are met. The placement with a grandparent is subject to an emergency placement background check. Diligent efforts must be made to contact the grandparent or grandparents of a child within three hours from the time an emergency placement is deemed necessary. During this time period or if the grandparent or grandparents cannot be located, the child may be

placed in an emergency placement. The division must continue to make diligent efforts to contact, locate, and place the child with a grandparent or grandparents, or another relative, with first consideration given to a grandparent for placement. The provisions of this section are not to interfere with or supersede the laws relating to parental rights or judicial authority.

When a court determines that a child must be placed in a foster home, the division must make diligent efforts to locate the grandparents of the child and determine if they wish to be considered for placement of the child.

A grandparent or other relative can, on a case-by-case basis, have the standards for licensure of his or her home waived, except for the standards related to safety, for specific children in care if those standards impede the licensing of the grandparent's or other relative's home.

A guardian ad litem must ascertain a child's wishes and feelings about his or her placement through interviews with the child if appropriate, based on the child's age and maturity level, and must be considered as a factor in placement decisions and recommendations. This consideration will not supersede the preference for relative placement or be contrary to the child's best interests. In a case involving the adoption of a child younger than 14 years of age, the guardian ad litem must ascertain the child's wishes and feelings if appropriate, based on the child's age and maturity level, and must be considered as a factor in determining if the adoption is in the child's best interests.

STANDBY GUARDIAN OF MINORS OR INCAPACITATED PERSONS (Sections 475.010 - 475.105)

A custodial parent may designate a person to act as a standby guardian for a minor or an incapacitated person by a will or by a separate written instrument.

If a parent who has designated a standby guardian is or becomes seriously ill, the parent or designated standby guardian may file a petition in probate court seeking appointment of the person as the standby guardian of the minor or incapacitated person. The petition must be filed with a copy of the will or the written instrument designating the standby guardian and a consent to act as the standby guardian by the designated person.

The petition must contain certain identifying and contact information for the minor or incapacitated person, the custodial parent and designated standby guardian, each parent of the minor or incapacitated person, the spouse and all living children of

the minor or incapacitated person, information about any adjudication of incapacity and the reasons why a standby guardian is sought.

The court must determine the appointment of a standby guardian in accordance with the best interests of the minor or incapacitated person after considering whether there is a parent other than the custodial parent willing, able, and fit to assume the duties of a parent; the suitability of any person nominated by the minor or incapacitated person to be the standby guardian if he or she can communicate a reasonable choice; and the desirability of arrangements which minimize stress and disruption and avoid the placement of the minor or incapacitated person in foster or similar care if the custodial parent becomes incapacitated or dies.

The authority of the person to act as the standby guardian will only take effect if the person has previously been appointed by the court as a standby guardian or if the person has not yet been appointed upon the first to occur of the following: (1) if the consent of the custodial parent is given in a written, duly executed instrument; (2) if an entry of an order adjudicating the custodial parent as incapacitated has been entered; or (3) if the custodial parent dies. The standby guardian must notify the court in writing within 10 days after he or she begins acting as the standby guardian of that fact and of the reasons and must petition the court within 60 days for appointment as the standby guardian or for another qualified person to be appointed as the guardian for the minor or incapacitated person.

Nothing in these provisions is to be construed to deprive a parent of his or her legal rights nor to authorize a grant of authority to a standby guardian which would supersede any of these rights or to relieve his or her obligations or duties to a minor or incapacitated person.