

HCS SCS SB 96 -- NEEDS AND RIGHTS OF CHILDREN

SPONSOR: Justus (Pratt)

COMMITTEE ACTION: Voted "do pass" by the Special Committee on Children and Families by a vote of 9 to 3.

This substitute changes the laws regarding the needs and rights of children.

EDUCATIONAL RIGHTS OF FOSTER CARE STUDENTS (Sections 167.018, 167.019, 167.021, and 210.1050, RSMo)

The Foster Pupil Rights to Education is established which requires each school district to ensure and facilitate the proper educational placements, enrollment, and checkout from school of foster children; to assist in the transfer between schools by ensuring transfer of grades, records, and credits; to request school records; and to submit requested school records.

Child-placing agencies must promote educational stability for foster care children by considering the location of the school when placing the foster child in a school. A foster care child may continue to attend his or her school of origin pending resolution of a school placement dispute. Each school district must accept for credit any full or partial course work satisfactorily completed by a pupil while attending school. A pupil who completes the graduation requirements of his or her school district of residence while under the jurisdiction of the juvenile court will receive a diploma. If a foster care pupil is absent from school because a court or child-placing agency makes a change in placement for the pupil or because the pupil has a court-ordered activity, the pupil's grades and credits will be calculated as of the date the pupil left school and the absence cannot lessen the foster pupil's grades. If allowed by federal law, school districts can allow a child-placing agency to have access to a foster care pupil's school records to fulfill educational case management responsibilities as required by the juvenile officer or by law and assist with a school transfer or the placement of a pupil.

When possible, a foster child must be placed in the same educational setting as his or her siblings. A foster parent is deemed qualified to make the best educational choices for a foster child in his or her care as long as the foster parent enrolls the child in an authorized school that is appropriate for sibling groups and does not disrupt any prior enrollment or the current school semester. A foster parent is authorized to use his or her discretion to determine the educational needs of a foster child in his or her care unless otherwise ordered by a

court.

Each child who is in foster care or who is placed in a licensed residential care facility is entitled to a full school day of six hours under the guidance and direction of teachers in the educational process, unless the school district determines that fewer hours are warranted. For children placed in a licensed residential care facility, the Commissioner of Education will be an ombudsman to assist the family support team and school district to determine the appropriate school day length for the child. The ombudsman will have the final decision over any discrepancies over the length of time.

PARENTAL RIGHTS (Section 210.005)

A parent or legal guardian has the guaranteed right to care, educate, and raise his or her children without governmental hindrance unless there is a compelling governmental interest.

CHILD ABUSE AND NEGLECT REPORTS (Sections 210.131, 210.135, and 210.145)

Beginning January 1, 2010, any materials created, developed, or used by the Children's Division with the Department of Social Services to educate the public about false child abuse and neglect reports must contain a statement that informs the public that a false or misleading report is against the law. Exceptions are made for supplies of material produced prior to June 1, 2009.

Hotline and service workers for the division who are involved in a case of the death or severe injury of a foster child must receive a preliminary evaluation by the division to determine if a performance assessment of the worker is required to be completed within three days of the child's death or injury. Hotline workers must advise individuals to call 911 when a child may be in immediate danger.

PLACEMENT OF GRANDCHILDREN IN AN EMERGENCY (Sections 210.305 and 210.565)

When an emergency placement of a child is deemed necessary, the substitute requires the Children's Division 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 interest of the child. The division must have documented just cause for the non-placement with a grandparent. Prior to contacting the grandparent, the division must care for any physical health needs of the child; and the grandparent must comply with the emergency background check requirements. If contact with a grandparent cannot be made within three hours of

the division determining an emergency placement is necessary, the child may be placed in a foster home; and during that three-hour period, the child can be placed in foster care. The provisions of the substitute are not to interfere with 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 the placement of the child.

FOSTER PARENTS (Section 210.556 and Section 1)

The Children's Division or its contractors will be in violation of law if a caseworker fails to inform a foster parent or potential adoptive parent of information regarding relevant information about a child in order to secure placement of that child. The division must provide two weeks' notice to foster parents for all meetings regarding licensure status or child placements. Within its current appropriation, the division must establish funding for respite care for foster children, and foster parents must discipline their foster child using methods accepted by the division. A foster parent must be contacted when a sibling of a foster child in his or her care enters the foster care system to determine if the foster parent is interested in placing the siblings together. Foster parents must participate in the development and review of foster care system licensure policies in accordance with the newly established Missouri State Foster Care and Adoption Board. The board is to create and review division policies and procedures related to foster care and adoption including, but not limited to, in-service training for foster and adoptive parents; improvement of foster care and adoption practices; and ensure adequate checks and balances over the services provided to children in foster care. The board must provide to the Director of the Department of Social Services, Governor, Office of the Child Advocate, and, upon request, the General Assembly an annual report of the board's activities.

FOSTER CHILDREN VICTIMS OF SEXUAL OFFENSES (Section 453.330)

Any foster child younger than 18 years of age who is seeking an abortion must be given any services or treatments that are provided to any victim of a sexual offense and must have a tissue sample, collected by the Department of Health and Senior Services, from the unborn child preserved for DNA testing by the department, to determine paternity if the pregnancy was the result of a criminal offense. The DNA results must be given to the county prosecuting attorney to determine if a sexual offense has occurred.

CHILD WITNESS PROTECTION ACT (Section 491.725)

The substitute establishes the Child Witness Protection Act that applies to children 17 years of age or younger who are testifying in any judicial proceeding. In its main provisions, the substitute:

(1) Requires the court to ensure that the oath be given to a child in a manner that the child may fully understand his or her duty to tell the truth, that questions are stated in a form which is appropriate for the age of the child, and that questions are explained to the child if necessary in order for him or her to understand;

(2) Requires the court to allow the child to testify at a time of day when the child is best able to understand the questions asked of him or her and to allow testimony to be in limited duration;

(3) Allows the child when testifying to have a comfort item, upon motion and if all parties agree, such as a toy, blanket, or similar item;

(4) Allows the child to have a support person present and in close proximity during his or her testimony to provide emotional support, upon motion and if all parties agree. The support person must abide by the rules established by the court;

(5) Requires the court to prevent intimidation or harassment of the child by the parties or attorneys; and

(6) Allows the court to order comfortable accommodations for the child which can include adjusting the courtroom layout, conducting the proceedings outside of a courtroom, or relaxing the formalities of the proceedings.

FISCAL NOTE: No impact on state funds in FY 2010, FY 2011, and FY 2012.

PROPOSERS: Supporters say that the bill provides continuity for children in foster care regarding their education. The foster care system needs improvement to help with the educational needs of foster children. Foster children will be allowed to have their records transferred in a timely manner so they can graduate on time. The bill promotes higher rates of graduation for youth in foster care by increasing their ability to become productive citizens. Federal law has been passed to help guide states on how to better serve the educational needs of foster children. Foster children need to be given the same rights and opportunities that children of intact families experience.

Testifying for the bill were Senator Justus; Kevin Drollinger, Epworth Children and Family Services; Missouri Coalition of Children Agencies; and Partnership for Children.

OPPONENTS: There was no opposition voiced to the committee.