

Senate Study Bill 2125

Bill Text

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1 1 Section 1. Section [232.2](#), Code Supplement 1997, is amended
1 2 by adding the following new subsection before subsection 1 and
1 3 renumbering the succeeding subsection:

1 4 NEW SUBSECTION. 0A. "Abandoned infant" is a child who is
1 5 less than twelve months of age whose parent has not had
1 6 significant or meaningful contact with the child during the
1 7 previous three months and has not made meaningful efforts to
1 8 gain or regain custody of, or to have regular visitation with,
1 9 the child despite being given the opportunity to do so.

1 10 Sec. 2. Section [232.2](#), subsection 21, unnumbered paragraph
1 11 1, Code Supplement 1997, is amended to read as follows:

1 12 "Guardian" means a person who is not the parent of a child,
1 13 but who has been appointed by a court or juvenile court having
1 14 jurisdiction over the child, to have a permanent self-
1 15 sustaining relationship with the child and to make important
1 16 decisions which have a permanent effect on the life and
1 17 development of that child and to promote the general welfare
1 18 of that child. A guardian may be a court or a juvenile court.
1 19 Guardian does not mean conservator, as defined in section
1 20 633.3, although a person who is appointed to be a guardian may
1 21 also be appointed to be a conservator.

1 22 Sec. 3. Section [232.2](#), subsection 21, Code Supplement
1 23 1997, is amended by adding the following new paragraph:

1 24 NEW PARAGRAPH. f. To make other decisions involving
1 25 protection, education, and care and control of the child.

1 26 Sec. 4. Section [232.102](#), subsection 5, unnumbered
1 27 paragraph 2, Code Supplement 1997, is amended to read as
1 28 follows:

1 29 The order shall, in addition, contain a statement that
1 30 removal from the home is the result of a determination that
1 31 continuation

~~therein~~

~~in the home~~ would be contrary to the
1 32 welfare of the child, and that reasonable efforts have been
1 33 made

~~to prevent or eliminate the need for removal of the child~~

1 34

~~from the child's home~~

1 35 Sec. 5. Section [232.102](#), subsection 8, paragraphs a, b,
2 1 and c, Code Supplement 1997, are amended to read as follows:

2 2 a. The initial dispositional review hearing shall not be
2 3 waived or continued beyond six months after the date of the
2 4 dispositional hearing.

2 5 b.

~~Subsequent~~

~~Any subsequent~~ dispositional review
2 6

~~hearings~~

~~hearing~~ shall

~~not~~

- be

~~waived or continued beyond~~

- 2 7

~~twelve months after the date of the most recent dispositional~~

- 2 8

~~review hearing~~

- a permanency hearing in accordance with section

2 9 232.104.

2 10 c. For purposes of this subsection, a hearing held

2 11 pursuant to section 232.103

~~or 232.104~~

- satisfies the

2 12 requirements for initial dispositional review or subsequent

2 13

~~dispositional review~~

- permanency hearing.

2 14 Sec. 6. Section 232.102, subsection 9, paragraph a,

2 15 unnumbered paragraph 1, Code Supplement 1997, is amended to

2 16 read as follows:

2 17 As used in this section, "reasonable efforts" means the

2 18 efforts made to

~~prevent~~

- preserve and unify a family prior to

2 19 the out-of-home placement of a child in foster care or to

2 20 eliminate the need for removal of

~~a~~

- the child

~~from~~

- or make it

2 21 possible for the child to safely return to the

~~child's~~

- 2 22 family's home. A child's health and safety shall be the

2 23 paramount concern in making reasonable efforts. Reasonable

2 24 efforts may include intensive family preservation services or

2 25 family-centered services, if the child's safety in the home

2 26 can be maintained during the time the services are provided.

2 27 In determining whether reasonable efforts have been made, the

2 28 court shall consider both of the following:

2 29 Sec. 7. Section 232.102, Code Supplement 1997, is amended

2 30 by adding the following new subsections:

2 31 NEW SUBSECTION. 10. The performance of reasonable efforts

2 32 to place a child for adoption or with a guardian may be made

2 33 concurrently with making reasonable efforts as defined in this

2 34 section.

2 35 NEW SUBSECTION. 11. If the court determines aggravated

3 1 circumstances exist, with written findings of fact based upon

3 2 evidence in the record, the court may waive the requirement

3 3 for making reasonable efforts. The existence of aggravated

3 4 circumstances may be indicated by but is not limited to

3 5 consideration of any of the following:

3 6 a. The parent has abandoned the child.

3 7 b. The parent has subjected the child, a sibling of the

3 8 child, or another child within the household where the child

3 9 resides to any of the following, and there is a preponderance
3 10 of evidence to show that the offer or receipt of services
3 11 would not be likely within a reasonable period of time to
3 12 correct the conditions which led to the abuse or neglect:
3 13 (1) Abuse or neglect which posed a significant risk to the
3 14 life of the child who was abused or neglected.
3 15 (2) Abuse or neglect which posed an imminent danger to the
3 16 life or health of the child who was abused or neglected.
3 17 c. The parent has inflicted chronic abuse or torture of
3 18 the child, a sibling of the child, or another child within the
3 19 household where the child resides, and there is a
3 20 preponderance of evidence to show that the offer or receipt of
3 21 services would not be likely within a reasonable period of
3 22 time to correct the conditions which led to the abuse or
3 23 neglect. The presence of chronic abuse or torture is
3 24 indicated by abuse described in the definition of a child in
3 25 need of assistance in section 232.2, subsection 6, paragraph
3 26 "b" or "d", which has occurred on multiple occasions and which
3 27 shows a pattern of strong disregard for the child's well-
3 28 being.
3 29 d. There has been an adjudication that the parent has
3 30 sexually abused or has aided in the sexual abuse of the child,
3 31 or another child within the household where the child resides,
3 32 and there is a preponderance of evidence to show that the
3 33 offer or receipt of services would not be likely within a
3 34 reasonable period of time to correct the conditions which led
3 35 to the adjudication.
4 1 e. The parent's parental rights have been terminated under
4 2 section 232.116 with respect to another child who is a member
4 3 of the same family, and there is a preponderance of evidence
4 4 to show that the offer or receipt of services would not be
4 5 likely within a reasonable period of time to correct the
4 6 conditions which led to the child's removal.
4 7 f. The parent has been convicted of the murder of another
4 8 child of the parent.
4 9 g. The parent has been convicted of the voluntary
4 10 manslaughter of another child of the parent.
4 11 h. The parent has aided or abetted, attempted, conspired
4 12 in, or solicited the commission of the murder or voluntary
4 13 manslaughter of another child of the parent.
4 14 i. The parent has been convicted of a felony assault which
4 15 resulted in serious bodily injury of the child or of another
4 16 child of the parent.
4 17 Sec. 8. Section [232.104](#), subsection 1, Code 1997, is
4 18 amended to read as follows:
4 19 1. a.

~~If a child has been placed in foster care for a~~

4 20

~~period of twelve months, or if the prior legal custodian of a~~

4 21

~~child has abandoned efforts to regain custody of the child,~~

4 22

~~the court shall, on its own motion, or upon application by any~~

4 23

~~interested party, including the child's foster parent if the~~

4 24

~~child has been placed with the foster parent for at least~~

4 25

~~twelve months, hold a hearing to consider the issue of the~~

4 26

~~establishment of permanency for the child.~~

~~The time for the~~

4 27 initial permanency hearing for a child subject to out-of-home
4 28 placement shall be the earlier of the following:

4 29 (1) For a temporary removal order entered under section
4 30 232.78, 232.95, or 232.96, or for a child who was removed
4 31 without a court order under section 232.79, the permanency
4 32 hearing shall be held within fourteen months of the date the
4 33 child was removed from the home.

4 34 (2) For an order entered under section 232.102, for which
4 35 the court has not waived reasonable efforts requirements, the
5 1 permanency hearing shall be held within twelve months of the
5 2 date of the dispositional order.

5 3 (3) For an order entered under section 232.102, for which
5 4 the court has waived reasonable efforts requirements under
5 5 section 232.102, subsection 11, the permanency hearing shall
5 6 be held within thirty days of the date the requirements were
5 7 waived.

5 8 b.

~~Such a~~

~~The permanency hearing may be held concurrently~~

5 9 with a hearing under section 232.103 to review, modify,
5 10 substitute, vacate, or terminate a dispositional order.

5 11 c. Reasonable notice of a permanency hearing in a case of
5 12 juvenile delinquency shall be provided pursuant to section
5 13 232.37. A permanency hearing shall be conducted in
5 14 substantial conformance with the provisions of section 232.99.
5 15 During the hearing the court shall consider the child's need
5 16 for a secure and permanent placement in light of any
5 17 permanency plan or evidence submitted to the court. Upon
5 18 completion of the hearing the court shall enter written
5 19 findings and make a determination based upon the permanency
5 20 plan which will best serve the child's individual interests at
5 21 that time.

5 22 Sec. 9. Section 232.104, subsection 6, Code 1997, is
5 23 amended to read as follows:

5 24 6. Following an initial permanency hearing and the entry
5 25 of a permanency order which places a child in the custody or
5 26 guardianship of another person or agency, the court shall
5 27 retain jurisdiction and annually review the order to ascertain
5 28 whether the best interest of the child is being served.

~~When~~

5 29

~~such order places the child in the custody of the department~~

5 30

~~for the purpose of long term foster care placement in a~~

5 31

~~facility, the~~

~~The review shall be in a hearing that shall not~~

5 32 be waived or continued beyond twelve months after the initial
5 33 permanency hearing or the last permanency review hearing. Any

5 34 modification shall be accomplished through a hearing procedure
5 35 following reasonable notice. During the hearing, all relevant
6 1 and material evidence shall be admitted and procedural due
6 2 process shall be provided to all parties.

6 3 Sec. 10. Section [232.111](#), Code 1997, is amended by adding
6 4 the following new subsection:

6 5 NEW SUBSECTION. 1A. a. Unless any of the circumstances
6 6 described in paragraph "b" exist, the county attorney shall
6 7 file a petition for termination of the parent-child
6 8 relationship and parental rights with respect to a child or if
6 9 a petition has been filed, join in the petition, under any of
6 10 the following circumstances:

6 11 (1) The child has been placed in foster care for fifteen
6 12 months or more of the most recent twenty-two-month period.

6 13 (2) The child has been judicially determined to be an
6 14 abandoned infant.

6 15 (3) A court has determined the parent committed the murder
6 16 or the voluntary manslaughter of another child of the parent.

6 17 (4) A court has determined the child's parent has aided or
6 18 abetted, attempted, conspired in, or solicited the commission
6 19 of the murder or voluntary manslaughter of another child of
6 20 the parent.

6 21 b. If any of the following conditions exist, the county
6 22 attorney is not required to file a petition or join in an
6 23 existing petition as provided in paragraph "a":

6 24 (1) At the option of the department or by order of the
6 25 court, the child is being cared for by a relative.

6 26 (2) The department or a state agency has documented in the
6 27 child's case permanency plan provided or available to the
6 28 court a compelling reason for determining that filing the
6 29 petition would not be in the best interest of the child.

6 30 (3) The department has not provided the child's family,
6 31 consistent with the time frames outlined in the child's case
6 32 permanency plan, with those services the state deems necessary
6 33 for the safe return of the child to the child's home, and the
6 34 limited extension of time necessary to complete the services
6 35 is clearly documented in the case permanency plan.

7 1 Sec. 11. Section [232.116](#), subsection 2, unnumbered
7 2 paragraph 1, Code 1997, is amended to read as follows:

7 3 In considering whether to terminate the rights of a parent
7 4 under this section, the court shall give primary consideration
7 5 to the safety and to the physical, mental, and emotional
7 6 condition and needs of the child.

~~Such~~

- ~~This~~ consideration may

7 7 include any of the following:

7 8 Sec. 12. Section [232.119](#), subsection 4, Code 1997, is
7 9 amended to read as follows:

7 10 4. The exchange shall include a matching service for
7 11 children registered or listed in the adoption photo-listing
7 12 book and prospective adoptive families listed on the exchange.
7 13 The department shall register a child with the national
7 14 electronic exchange and electronic photolisting system if the
7 15 child has not been placed for adoption after three months on
7 16 the exchange established pursuant to this section.

7 17 Sec. 13. Section [232.189](#), unnumbered paragraph 1, Code
7 18 1997, is amended to read as follows:

7 19 Based upon a model reasonable efforts family court
7 20 initiative, the director of human services and the chief
7 21 justice of the supreme court or their designees shall jointly
7 22 establish and implement a statewide protocol for reasonable
7 23 efforts

~~to prevent or eliminate the need for placement of a~~

~~child outside the child's home~~
~~-, as defined in section 232.102.~~

7 25 In addition, the director and the chief justice shall design
7 26 and implement a system for judicial and departmental
7 27 reasonable efforts education for deployment throughout the
7 28 state. The system for reasonable efforts education shall be
7 29 developed in a manner which addresses the particular needs of
7 30 rural areas and shall include but is not limited to all of the
7 31 following topics:

7 32 Sec. 14. Section [237.8](#), subsection 2, paragraphs a and b,
7 33 Code 1997, are amended to read as follows:

7 34 a. (1) If a person is being considered for licensure
7 35 under this chapter, or for employment involving direct
8 1 responsibility for a child or with access to a child when the
8 2 child is alone, by a licensee under this chapter, or if a
8 3 person will reside in a facility utilized by a licensee, and
8 4 if the person has been convicted of a crime or has a record of
8 5 founded child abuse, the department and the licensee for an
8 6 employee of the licensee shall perform an evaluation to
8 7 determine whether the crime or founded child abuse warrants
8 8 prohibition of licensure, employment, or residence in the
8 9 facility. The department shall conduct criminal and child
8 10 abuse record checks in this state and may conduct these checks
8 11 in other states. The evaluation shall be performed in
8 12 accordance with procedures adopted for this purpose by the
8 13 department.

8 14 (2) An individual applying to be a foster parent licensee
8 15 shall not be granted a license and an evaluation shall not be
8 16 performed under this subsection if the individual has been
8 17 convicted of any of the following felony offenses:

8 18 (a) Within the five-year period preceding the application
8 19 date, physical assault, battery, or a drug-related offense.

8 20 (b) Child abuse or neglect.

8 21 (c) Domestic abuse.

8 22 (d) A crime against a child, including but not limited to
8 23 child pornography.

8 24 (e) A crime involving violence, including but not limited
8 25 to rape, sexual assault, or homicide.

8 26 b.

~~If~~

~~- Except as otherwise provided in paragraph "a", if~~

8 27 the department determines that a person has committed a crime
8 28 or has a record of founded child abuse and is licensed,
8 29 employed by a licensee, or resides in a licensed facility the
8 30 department shall notify the licensee that an evaluation will
8 31 be conducted to determine whether prohibition of the person's
8 32 licensure, employment, or residence is warranted.

8 33 Sec. 15. Section [600.8](#), subsection 2, paragraph b, Code
8 34 1997, is amended to read as follows:

8 35 b. (1) The person making the investigation shall not
9 1 approve a prospective adoption petitioner pursuant to
9 2 subsection 1, paragraph "a", subparagraph (3), and an
9 3 evaluation shall not be performed under subparagraph (2), if
9 4 the petitioner has been convicted of any of the following
9 5 felony offenses:

9 6 (a) Within the five-year period preceding the petition
9 7 date, physical assault, battery, or a drug-related offense.

9 8 (b) Child abuse or neglect.

9 9 (c) Domestic abuse.

9 10 (d) A crime against a child, including but not limited to
9 11 child pornography.

9 12 (e) A crime involving violence, including but not limited
9 13 to rape, sexual assault, or homicide.

9 14 (2) The person making the investigation shall not approve
9 15 a prospective adoption petitioner pursuant to subsection 1,

9 16 paragraph "a", subparagraph (3), unless an evaluation has been
9 17 made which considers the nature and seriousness of the crime
9 18 or founded abuse in relation to the adoption, the time elapsed
9 19 since the commission of the crime or founded abuse, the
9 20 circumstances under which the crime or founded abuse was
9 21 committed, the degree of rehabilitation, and the number of
9 22 crimes or founded abuse committed by the person involved.

9 23 EXPLANATION

9 24 This bill relates to juvenile justice system provisions
9 25 involving foster care, termination of parental rights, and
9 26 adoption preplacement investigations.

9 27 Code section 232.2, relating to the definitions for the
9 28 juvenile justice code, is amended to add a new definition of
9 29 "abandoned infant" and to revise the definition of "guardian".
9 30 The bill contains a provision using the abandoned infant
9 31 definition as part of a requirement for filing a petition for
9 32 termination of parental rights.

9 33 Code section 232.102, relating to transfer of legal custody
9 34 of a child and placement, is amended to revise the definition
9 35 of reasonable efforts to prevent or eliminate the need for
10 1 removal of a child from the child's home. The change involves
10 2 language for preserving and unifying a family prior to out-of-
10 3 home placement of a child and for making the child's health
10 4 and safety the paramount concern in making reasonable efforts.
10 5 The performance of the reasonable efforts to prevent out-of-
10 6 home placement may be made concurrently with reasonable
10 7 efforts to place a child for adoption or with a guardian. The
10 8 language in the requirement for dispositional review hearings
10 9 is revised to refer to permanency hearings under Code section
10 10 232.104. The bill authorizes the court to waive the
10 11 requirement to make reasonable efforts if various conditions
10 12 exist.

10 13 Code section 232.104, relating to permanency hearings, is
10 14 amended to revise the time limits for holding the hearings.
10 15 Under the bill, the initial hearing for a child removed under
10 16 an ex parte court order, without a court order, or under
10 17 temporary removal orders must be held within 14 months of the
10 18 removal. For removal orders under Code section 232.102, in
10 19 which the court has not waived the requirements for reasonable
10 20 efforts, the hearing must be held within 12 months of the
10 21 initial order. For removal orders under Code section 232.102,
10 22 in which the court has waived the requirements for reasonable
10 23 efforts, the hearing must be held within 30 days of the
10 24 waiver.

10 25 In addition, the bill amends Code section 232.104 to
10 26 provide that following an initial permanency hearing which
10 27 places a child in the custody or guardianship of another
10 28 person or agency, subsequent permanency review hearings are to
10 29 be held annually. The review hearing cannot be waived or
10 30 continued beyond 12 months after the initial hearing or last
10 31 permanency review hearing.

10 32 Code section 232.111, relating to the filing of a petition
10 33 for termination of parental rights, is amended to require the
10 34 county attorney to file the petition if certain circumstances
10 35 exist. Exceptions to the requirement are provided.

11 1 Code section 232.116, relating to the grounds for
11 2 termination of parental rights, is amended to require the
11 3 court to consider the safety of the child along with the
11 4 existing criteria for determining whether to terminate the
11 5 rights.

11 6 Code section 232.119, relating to the adoption exchange
11 7 established in the department of human services, is amended to
11 8 revise a reference to the national exchange to refer to
11 9 electronic capabilities.

11 10 Code section 232.189, relating to requirements for the
11 11 director of human services and the chief justice of the
11 12 supreme court to implement a reasonable efforts protocol, is

11 13 amended to refer to the revised definition of "reasonable
11 14 efforts".

11 15 Code section 237.8, relating to records checks of persons
11 16 licensed to provide foster care, is amended to prohibit foster
11 17 parent licensing of individuals who have committed certain
11 18 crimes such as child abuse, domestic abuse, and murder.

11 19 Code section 600.8, relating to preadoption investigations
11 20 of individuals, is amended to prohibit approval of individuals
11 21 to be adoptive parents who have committed certain crimes such
11 22 as child abuse, domestic abuse, and murder.

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11 24 jp/cf/24