HOUSE FILE 2390
BY COMMITTEE ON HUMAN
RESOURCES

(SUCCESSOR TO HSB 624)

(COMPANION TO SF 2174 BY
COMMITTEE ON HUMAN RESOURCES)

(As Amended and Passed by the House February 23, 2022)
[= New Language by the House

A BILL FOR

An Act relating to child welfare, including provisions relating to foster care and the child advocacy board.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 232.2, subsection 9, Code 2022, is amended to read as follows:

9. *"Court appointed special advocate"* means a person duly certified by the child advocacy board created in section 237.16 for participation in the court appointed special advocate program and appointed by the court to ~~represent the interests of a child in any judicial proceeding to which the child is a party or is called as a witness or relating to any dispositional order involving the child resulting from such proceeding~~ carry out the duties required by section 237.24.

Sec. 2. Section 237.15, Code 2022, is amended by adding the following new subsection:

NEW SUBSECTION. 4A. *"Fictive kin"* means an adult person who is not a relative of a child but who has an emotionally [positive] significant relationship with the child or the child's family.

Sec. 3. Section 237.16, Code 2022, is amended by adding the following new subsection:

NEW SUBSECTION. 4. The department and the department of inspections and appeals shall jointly develop written protocols detailing the responsibilities of each department with regard to children under the purview of the state board. The protocols shall be reviewed by the departments on an annual basis.

Sec. 4. Section 237.17, Code 2022, is amended to read as follows:

237.17 Foster care registry.

1. The state board shall establish a registry of the placements of all children receiving foster care. The ~~department~~ agency responsible for the placement shall notify the state board of each placement ~~within five working days of the department's notification of the placement~~ in accordance with written protocols adopted pursuant to section 237.16, subsection 4. The notification ~~to the state board~~ shall include information identifying the child receiving foster care

and placement information for that child.

2. ~~Within thirty days of the placement or two days after the dispositional hearing the~~ The agency responsible for the placement shall submit the case permanency plan and all case permanency plan revisions to ~~the state board~~ a local board in accordance with written protocols adopted pursuant to section 237.16, subsection 4. ~~All subsequent revisions of the case permanency plan shall be submitted when the revisions are developed.~~

Sec. 5. Section 237.18, Code 2022, is amended to read as follows:

237.18 Duties of state board.

The state board shall:

1. Review the activities and actions of local boards and the court appointed special advocate program.

2. Adopt rules pursuant to chapter 17A to:

a. Establish a recordkeeping system for the files of local ~~review~~ boards including individual case reviews.

b. Accumulate data and develop an annual report regarding children ~~in foster care~~ served by the state board. The report shall include:

(1) ~~Personal data~~ Data regarding the total number of days of foster care provided and the characteristics of the children receiving foster care.

(2) The number of placements of children in foster care.

~~(3) The frequency and results of court reviews.~~

c. Evaluate the ~~judicial and administrative~~ data collected ~~on foster care~~ by local boards and court appointed special advocates, and disseminate the data to the governor, ~~the supreme court, the chief judge of each judicial district,~~ the department, ~~and~~ child-placing agencies, and the state court administrator for dissemination to the supreme court and the chief judge of each judicial district.

d. Establish mandatory training programs for members of the state ~~and local review boards including an initial training~~

~~program and periodic in-service training programs~~ board. Training shall focus on, but not be limited to, the following:

(1) ~~The history, philosophy and role of the juvenile court in the child protection system~~ The duties of the state board.

(2) ~~Juvenile court procedures under the juvenile justice act~~ The duties of local boards.

(3) ~~The foster care administrative review process of the department of human services~~ The duties of court appointed special advocates.

(4) ~~The role and procedures of the citizen's foster care review system~~ Applicable child welfare laws and practices that influence the work of local boards and court appointed special advocates.

~~(5) The Adoption Assistance and Child Welfare Act of 1980, Pub. L. No. 96-272.~~

~~(6) The purpose of case permanency plans, and the type of information that will be available in those plans.~~

~~(7) The situations where the goals of either reuniting the child with the child's family or adoption would be appropriate.~~

~~(8) The legal processes that may lead to foster care placement.~~

~~(9) The types and number of children involved in those legal processes.~~

~~(10) The types of foster care placement available, with emphasis on the types and number of facilities available on a regional basis.~~

~~(11) The impact of specific physical or mental conditions of a child on the type of placement most appropriate and the kind of progress that should be expected in those situations.~~

e. Establish a mandatory training program and procedures for ~~the~~ local ~~review board~~ boards consistent with the provisions of section 237.20.

~~*f.* Establish grounds and procedures for removal of a local review board member.~~

~~*g.*~~ *f.* Establish procedures and protocols for administering

the court appointed special advocate program in accordance with subsection ~~7~~ 6.

3. Assign the cases of children receiving foster care to the appropriate local boards.

~~4. Assist local boards in reviewing cases of children receiving foster care, as provided in section 237.20.~~

~~5.~~ 4. Employ appropriate staff in accordance with available funding. ~~The board shall coordinate with the department of inspections and appeals regarding administrative functions of the board.~~

~~6.~~ 5. ~~In conjunction with the legislative services agency and in consultation with the department of human services, supreme court, and private foster care providers, develop and maintain~~ Maintain an evaluation program regarding citizen foster care review programming. The evaluation program shall be designed to evaluate the effectiveness of citizen reviews in improving case permanency planning and meeting case permanency planning goals, identify the amount of time children spend in foster care placements, and identify problem issues in the foster care system. The state board shall submit an annual evaluation report to the governor and the general assembly.

~~7.~~ 6. Administer the court appointed special advocate program, including but not limited to performance of all of the following:

a. Establish standards for the program, including but not limited to standards for selection and screening of volunteers, preservice training, ~~ongoing~~ continuing education, and assignment and supervision of volunteers. Identifying information concerning a court appointed special advocate, other than the advocate's name, shall not be considered to be a public record under chapter 22.

b. Implement the court appointed special advocate program ~~in additional areas of the state~~ as deemed necessary to effectuate its purpose including but not limited to employing court appointed special advocate program staff as available funding

provides.

c. Promote adherence to the national guidelines for state and local court appointed special advocate programs.

d. Issue an annual report of the court appointed special advocate program for submission to the general assembly, the governor, and the supreme court.

~~*e. Employ appropriate court appointed special advocate program staff in accordance with available funding. The state board shall coordinate with the department of inspections and appeals the performance of the administrative functions of the state board.*~~

~~8.~~ 7. Receive gifts, grants, or donations made for any of the purposes of the state board's programs and disburse and administer the funds received in accordance with the terms of the donor and under the direction of program staff. The funds received shall be used according to any restrictions attached to the funds and any unrestricted funds shall be retained and applied to the applicable program budget for the next succeeding fiscal year.

~~9.~~ 8. Make recommendations to the general assembly, the department, ~~to~~ child-placing agencies, the governor, and the state court administrator for dissemination to the supreme court~~,~~ and the chief judge of each judicial district~~, and to the judicial branch~~. The recommendations shall include but are not limited to identification of systemic problems in the foster care and the juvenile justice systems, specific proposals for improvements that assist the systems in being more cost-effective and better able to protect the best interests of children, and necessary changes relating to the data collected and the annual report made under subsection 2, paragraph "*b*".

Sec. 6. Section 237.19, Code 2022, is amended to read as follows:

237.19 Local citizen foster care review boards.

1. The state board shall establish local citizen foster

care review boards to review cases of children receiving foster care. The department shall discontinue its foster care review process for those children reviewed by local boards as local boards are established and operating. The state board shall select a minimum of five members and ~~two alternate~~ a maximum of seven members to serve on each local board ~~in consultation with the chief judge of each judicial district~~. The actual number of local boards needed and established shall be determined by the state board. The members of each local board shall ~~consist of persons of~~, to the extent possible, reflect the various ~~social, economic,~~ racial~~,~~ and ethnic groups and various occupations of their district. A person employed by the state board, ~~or~~ the department, ~~the department of inspections and appeals,~~ or the district court, or an employee of an agency with which the department contracts for services for children under foster care, a foster parent providing foster care, or a child-placing agency shall not serve on a local board. ~~The state board shall provide the names of the members of the local boards to the department.~~

2. Vacancies on a local board shall be filled in the same manner as original appointments. ~~The members shall not receive per diem but shall receive reimbursement for actual and necessary expenses incurred in their duties as members.~~

3. A local board member shall be required to pass a background check and complete requirements as established by the state board prior to taking an oath of confidentiality to serve on a local board.

4. A local board member shall be required to receive periodic continuing education during each term of service as established by the state board.

Sec. 7. Section 237.20, subsection 1, unnumbered paragraph 1, Code 2022, is amended to read as follows:

Review the case of each child receiving foster care assigned to ~~the~~ a local board ~~by the state board~~ in accordance with written protocols adopted pursuant to section 237.16,

subsection 4, to determine whether satisfactory progress is being made toward the goals of the case permanency plan pursuant to section 237.22. The timing and frequency of a review of each case by a local board shall take into consideration the permanency goals, placement setting, and frequency of any court reviews of the case.

Sec. 8. Section 237.20, subsection 1, paragraph a, subparagraph (2), Code 2022, is amended to read as follows:

(2) The efforts of the agency responsible for the placement of the child to locate and provide services to the child's biological or adoptive parents ~~of the child~~, legal guardians, or fictive kin providing the majority of a child's daily food, lodging, and support.

Sec. 9. Section 237.20, subsection 1, paragraphs b, c, and d, Code 2022, are amended to read as follows:

b. ~~The review shall include issues pertaining to the case permanency plan and shall not include issues that do not pertain to the case permanency plan.~~ A person notified pursuant to subsection 4 shall either attend the review or submit ~~testimony~~ a statement as requested by the local board or in accordance with a written protocol jointly developed by the state board and the department. ~~Oral testimony~~ Statements may, upon the request of ~~the testifier~~ an interested party or upon motion of the local board, be given in a private setting ~~when to do so would facilitate the presentation of evidence~~. Statements may be made in written, oral, or electronic form. Local board ~~questions~~ reviews shall pertain to the permanency plan and shall not include issues that do not pertain to the permanency plan.

c. A person who gives an oral ~~testimony~~ statement has the right to representation by counsel at the review.

d. An agency or individual providing services to the child shall submit ~~testimony~~ statements as requested by the local board. ~~The testimony may be written or oral, or may be a tape recorded telephone call.~~ Written ~~testimony~~ or recorded

statements from other interested parties may also be considered by the board in its review.

Sec. 10. Section 237.20, subsection 2, paragraph a, Code 2022, is amended to read as follows:

a. Submit to the appropriate court and the department within fifteen days after the review under subsection 1, the findings and recommendations of the review. The local board shall ensure that the most recent report is available for a court hearing. The report ~~to the court~~ shall include information regarding the case permanency plan and the progress in attaining the permanency goals. The report shall not include issues that do not pertain to the case permanency plan. The findings and recommendations shall include the proposed date of the next review by the local board. The local board shall notify the persons specified in subsection 4 of the findings and recommendations.

Sec. 11. Section 237.20, subsection 4, paragraph a, Code 2022, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (9) An intervenor.

Sec. 12. Section 237.21, subsection 2, Code 2022, is amended to read as follows:

2. Information and records relating to a child receiving foster care and to the child's family shall be provided to a court appointed special advocate, a local board, or the state board by the department, the department's agent, or a ~~child-care~~ child placement agency ~~receiving purchase-of-service funds from the department~~ contracted by the department upon request by the court appointed special advocate or either board. A court having jurisdiction of a child receiving foster care shall release the information and records the court deems necessary to determine the needs of the child~~,~~ ~~if the information and records are not obtainable elsewhere,~~ to a local board or ~~the state board~~ court appointed special advocate upon request by ~~either~~ the local board or court appointed special advocate. If confidential information and

records are distributed to individual members in advance of a meeting of ~~the state board or~~ a local board, the information and records shall be clearly identified as confidential and the members shall take appropriate steps to prevent unauthorized disclosure. If confidential information and records are distributed to a court appointed special advocate or court appointed special advocate program staff, the information shall be confidential and the court appointed special advocate and court appointed special advocate program staff shall take appropriate steps to prevent unauthorized disclosure.

Sec. 13. Section 237.21, subsection 4, Code 2022, is amended to read as follows:

4. A court appointed special advocate may disclose case-related observations and recommendations to the agency assigned by the court to supervise the case, to the county attorney, or to the child's legal representative or guardian ad litem, or at a local board meeting. Case-related observations and recommendations about a child and the child's parent or about a child and the child's legal guardian may also be disclosed to the parent or guardian to which the observations and recommendations pertain or to such parent or guardian's legal representative.

Sec. 14. Section 237.22, Code 2022, is amended to read as follows:

237.22 Case permanency plan.

The agency responsible for the placement of the child shall create a case permanency plan. ~~The plan shall~~ In addition to requirements stated in section 232.2, subsection 4, the plan shall also include~~,~~ but not be limited to:

~~1. Plans for carrying out the voluntary placement agreement or judicial determination pursuant to which the child entered care.~~

~~2.~~ 1. Time frames to meet the stated permanency goal and short-term objectives.

~~3. The type and appropriateness of the placement and~~

~~services to be provided to the child.~~

~~4.~~ 2. The care and services that will be provided to the child, biological parents, the child's fictive kin, and foster parents.

~~5. How the care and services will meet the needs of the child while in care and will facilitate the child's return home or other permanent placement.~~

~~6.~~ 3. The efforts to place the child with a relative or fictive kin.

~~7.~~ 4. The rationale for an out-of-state placement, and the efforts to prevent such placement, if the child has been placed out of state.

Sec. 15. NEW SECTION. **237.24 Court appointed special advocates.**

1. A court appointed special advocate shall receive notice of all depositions, hearings, and trial proceedings in a matter to which the court appointed special advocate is appointed.

2. The duties of a court appointed special advocate with respect to a child, unless otherwise enlarged or circumscribed by a court or juvenile court with jurisdiction over the child after a finding of good cause, shall include all of the following:

a. Conducting in-person interviews with the child every thirty days, if the child's age is appropriate for the interview, and interviewing each parent, guardian, or other person having custody of the child as needed, if authorized by counsel.

b. Visiting the home, residence, or both home and residence of the child and any prospective home or residence of the child, including each time placement is changed.

c. Interviewing any person providing medical, mental health, social, educational, or other services to the child.

d. Obtaining firsthand knowledge, if possible, of the facts, circumstances, and parties involved in the matter in which the court appointed special advocate is appointed.

e. Attending any depositions, hearings, and trial proceedings in a matter to which the court appointed special advocate is appointed for the purpose of supporting the child and advocating for the child's protection.

f. Assisting the transition committee in the development of a transition plan if the child's case permanency plan calls for the development of a transition plan.

g. (1) Submitting a written report to the juvenile court and to each of the parties identified in section 237.21, subsection 4, prior to each court hearing unless otherwise ordered by the court.

(2) The report shall include but not be limited to the identified strengths of the child and the child's family, concerns identified by the court appointed special advocate, the court appointed special advocate's recommendations regarding the child's placement, and other recommendations the court appointed special advocate believes are in the child's best interests.

h. Submitting periodic reports to the court or juvenile court with jurisdiction over a child and interested parties detailing the child's situation as long as the child remains under the jurisdiction of the court or juvenile court.

i. Filing other reports as ordered by a court or juvenile court.