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Bill Analysis

Version: As Introduced

Primary Sponsors: Reps. McClain and Pavliga

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SUMMARY

Continuation in child's placement

- Prohibits a court from approving a change in the child's placement, unless it is in the child's best interests and requested by the child's foster caregiver, and permits the court to presume that placement continuation is in the child's best interests if all of the following apply:
 - The child's current placement has been in a stable home environment for the past nine months;
 - A change in the child's placement would be detrimental to the child's emotional well-being;
 - The child's foster caregiver has not requested, in writing, that the placement be changed.

Repeal of relative preference in adoption

- Repeals the requirement that a public children services agency (PCSA) or private child placing agency (PCPA) must consider giving preference to a child's adult relative over a nonrelative caregiver when determining an adoptive placement for the child.

Diligent search for child's adult relatives and nonrelatives

- Requires a PCSA or PCPA, on removal of a child from the child's home, to initiate a diligent search for the child's adult relatives and nonrelatives with a significant relationship to the child to assume, as applicable, legal, temporary, or permanent custody of the child.
- Requires the diligent search include (1) interviews, (2) comprehensive searches of databases available to the PCSA or PCPA, (3) appropriate inquiry made during any

hearings in the case, and (4) any other reasonable means that are likely to identify adult relatives or nonrelatives with a significant relationship to the child.

- Requires a PCSA or PCPA to continue to search for a child’s adult relatives or nonrelatives until one of the following occurs:
 - An adult relative or adult nonrelative with a significant relationship to the child with whom to place the child is found;
 - A permanency plan is approved for the child;
 - The court orders the PCSA or PCPA to discontinue the search.
- Requires the PCSA or PCPA to notify all of the child’s identified relatives and nonrelatives, unless the PCSA or PCPA determines that the adult identified may cause or has caused the child to be an abused, neglected, or dependent child.
- Requires the diligent search and notification requirements to be completed, documented, and filed with the court not later than 30 days after the removal of the child from the child’s home, or as otherwise required by the court, and at each review hearing.
- Permits the court to excuse the PCSA or PCPA from considering an identified relative or nonrelative for the child’s placement if they fail, within six months from receipt of the notice, to demonstrate an interest in and willingness to assume, as applicable, legal, temporary, or permanent custody of the child.
- Requires the court, in determining whether the PCSA or PCPA made reasonable efforts to finalize the child’s permanency plan as required under continuing law, to consider if the PCSA or PCPA complied with the diligent search requirements under the bill.

Juvenile court participation

- Requires that the notification be made in writing to a child’s foster caregiver or kinship caregiver about a court hearing regarding the child’s case plan, placement, temporary disposition, or custody arrangement, or involving whether the child is abused, neglected, or dependent or alleging the child to be delinquent, unruly, or a juvenile traffic offender.
- Provides that the child’s foster caregiver or kinship caregiver has the right to participate in the hearing, rather than to be heard as in current law.
- Requires the child’s foster caregiver or kinship caregiver to be encouraged to update the court about the child in the caregiver’s care, express concerns to the court that relate to the child, ask questions about any aspect of the child’s case, and file reports and letters to the court as part of the child’s case record.
- Provides that a child’s prospective adoptive parent has the right to participate in, rather than to be heard as in current law, a child’s case plan review or court hearing on the child’s placement, custody arrangement, or case plan.

- Specifies that the notice and the opportunity to participate in the child's review or hearing, rather than to be heard as in current law, do not make the foster caregiver, kinship caregiver, or prospective adoptive parent a party in the action or proceeding pursuant to which the review or hearing is conducted.

DETAILED ANALYSIS

Continuation in child's placement

Presumption of placement continuation

Under the bill, the court, when it is reviewing a child's case plan, is prohibited from approving a change in the child's placement (unless it is in the child's best interests and the child's foster caregiver requests, in writing, a change in the child's placement) and may presume that continuation of the child's current placement is in the child's best interests if all of the following apply:

- The child's current placement has been in a stable home environment for the past nine months;
- A change in the child's placement would be detrimental to the child's emotional well-being;
- The child's foster caregiver has not requested, in writing, that the placement be changed.¹

Background

Under current law, a public children services agency (PCSA) or private child placing agency (PCPA) that has temporary custody of a child, when developing a case plan, and the court, when reviewing the case plan, must give preference for legal custody and placement to a suitable relative, followed by a suitable nonrelative, before considering placement of the child in a foster home or other substitute care setting.² This may result in, for example, a child being initially placed in a foster home, but later removed from the foster home and placed in the home of a suitable relative or nonrelative.

Repeal of relative preference in adoption

The bill repeals the requirement that, if a PCSA or PCPA is given permanent custody of a child and the child's foster caregiver or relative caregiver has informed the PCSA or PCPA of the foster caregiver's or relative's desire to adopt the child, the PCSA or PCPA must consider giving preference to an adult relative over a nonrelative caregiver when determining an adoptive

¹ R.C. 2151.412(F)(4).

² R.C. 2151.412(H); Ohio Administrative Code (O.A.C.) 5101:2-42-05(A), (B), (E), and (F).

placement for the child, provided the adult relative satisfies all relevant child protection standards and the PCSA or PCPA determines that the placement is in the child's best interest.³

Diligent search for child's adult relatives and nonrelatives

Search requirements

The bill requires a PCSA or PCPA, on removal of a child from the child's home, to initiate a diligent search for the child's adult relatives and adult nonrelatives with a significant relationship to the child to assume, as applicable, legal, temporary, or permanent custody of the child.⁴ The diligent search must include all of the following:

- Interviews, to be conducted as necessary throughout the pendency of proceedings regarding the case, with the following:
 - The child;
 - The child's parents;
 - Identified adult relatives;
 - Any other person who is likely to have information about the identity or location of the person being sought.
- Comprehensive searches of databases available to the PCSA or PCPA, including searches of employment, residence, utilities, vehicle registration, child support enforcement, law enforcement, corrections records, and any other records likely to result in identifying and locating the person being sought;
- Appropriate inquiry made during any hearings in the case;
- Any other reasonable means that are likely to identify adult relatives or adult nonrelatives with a significant relationship to the child.⁵

Under the bill, except as provided under "**Search and Notification Documentation**" (see below),⁶ the PCSA or PCPA is required to continue to search for adult relatives or adult nonrelatives with a significant relationship to the child until one of the following occurs:

- An adult relative or adult nonrelative with a significant relationship to the child with whom to place the child is found;

³ R.C. 5103.161.

⁴ R.C. 2151.4115.

⁵ R.C. 2151.4116.

⁶ The provision references R.C. 2151.4118 as an exception to the PCSA's or PCPA's continued search requirements in error. A technical amendment to remove "Except as provided in section 2151.4118 of the Revised Code," from R.C. 2151.4117 may be beneficial for the bill's clarity.

- A permanency plan is approved for the child;
- The court orders the PCSA or PCPA to discontinue the search.⁷

Notice to identified relatives and nonrelatives

The bill requires the PCSA or PCPA to provide notice to all of the child’s adult relatives and adult nonrelatives with a significant relationship to the child identified by the diligent search, unless the PCSA or PCPA determines that the adult identified may cause or has caused the child to be an abused, neglected, or dependent child. The notice must include all of the following:

- Notification that the child has been or is being removed from the child’s home;
- An explanation of the options the identified relative or nonrelative has to participate in the care and placement of the child and any options that may be lost by failing to respond to the notice;
- A description of the process for becoming an approved foster home and the additional services and supports available for children placed in approved foster homes;⁸
- A description of any financial assistance for which the identified relative or nonrelative may be eligible.⁹

Search and notification documentation

The diligent search and notification requirements must be completed, documented in writing, and filed with the court not later than 30 days after the removal of the child from the child’s home, or as otherwise required by the court, and at each review hearing of a child’s placement, custody arrangement, or case plan.¹⁰

Exemption to consideration of identified relative or nonrelative

Under the bill, the court may excuse the PCSA or PCPA from considering an adult relative or adult nonrelative with a significant relationship to the child for placement if the adult relative or adult nonrelative entitled to notice fails, within six months from receipt of the notice, to demonstrate an interest in and willingness to assume, as applicable, legal, temporary, or permanent custody of the child.¹¹

⁷ R.C. 2151.4117.

⁸ A technical amendment to remove the second “the” from “description of the the process” in R.C. 2151.4119(C) may be beneficial.

⁹ R.C. 2151.4119.

¹⁰ R.C. 2151.4118.

¹¹ R.C. 2151.4120.

Finalizing a child’s permanency plan

Whenever a court conducts a review hearing to finalize a permanency plan, the bill requires the court, in determining whether the PCSA or PCPA made reasonable efforts to finalize the plan, to consider if the PCSA or PCPA complied with the diligent search requirements under the bill. Continuing law requires that the court, if it determines the PCSA or PCPA has not made reasonable efforts to finalize the plan, issue an order finalizing a permanency plan requiring the PCSA or PCPA to use reasonable efforts to do the following:

- Place the child in a timely manner into a permanent placement;
- Complete whatever steps are necessary to finalize the permanent placement of the child.¹²

Juvenile court participation

Foster and kinship caregivers

Continuing law requires a court, prior to conducting any hearing regarding a child’s case plan, placement, temporary disposition, or custody arrangement, or involving abused, neglected, or dependent children or alleging a child to be a delinquent child, unruly child, or juvenile traffic offender, to notify the child’s foster caregiver or kinship caregiver of the date, time, and place of the hearing. The bill requires that the notification be made in writing. Further, the bill provides that the foster caregiver or kinship caregiver has the right to participate in the hearing, rather than to be heard as in current law. But, this participation does not make the foster caregiver or kinship caregiver a party to the action or proceeding under which the hearing is conducted.

The bill requires the foster caregiver or kinship caregiver to be encouraged to update the court about the child in the caregiver’s care, express concerns to the court that relate to the child, ask questions about any aspect of the child’s case, and file reports and letters to the court as part of the child’s case record.¹³

Prospective adoptive parents

The bill provides for a child in permanent custody who is subject to an adoption petition, that when the PCSA or PCPA with custody conducts a case plan review, or a court conducts a hearing regarding the child’s placement, custody arrangement, or case plan, the prospective adoptive parent has the right to participate in the review or hearing, rather than to be heard as in current law. But, this participation does not make the prospective adoptive parent a party to the action or proceeding under which the review or hearing is conducted.¹⁴

¹² 2151.417(K)(3)(a).

¹³ R.C. 2151.424(A), (C), and (D).

¹⁴ R.C. 2151.424(B) and (D).

HISTORY

Action	Date
Introduced	05-05-21
