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PROPOSED COMMITTEE AMENDMENT

Rep. Bryant
1/25/2010 3:08 PM

COMMITTEE AMENDMENT “.” To LD 1623, An Act to Expand Options in the Permanency Plan for Children in Foster Care

Amend the bill by striking out the title and inserting in its place the following:

An Act to Expand Options in the Permanency Plan for Children in Foster Care and to Address the Participation of Children in Court Proceedings

Amend the bill by striking out everything after the enacting clause and inserting its place the following:

Sec. 1. 18-A MRSA §1-112, sub-§(d) is amended to read:

(d). The guardian ad litem shall use the standard of the best interest of the child as set forth in Title 19-A, section 1653, subsection 3. The guardian ad litem shall ask the child what the wishes of the child are, including the child’s desire to participate in court proceedings, and shall make the wishes of the child known to the court if the child has expressed them, regardless of the recommendation of the guardian ad litem.

Sec. 2. 19-A MRSA §1507, sub-§4 is amended to read:

4. Best interest of the child. The guardian ad litem shall use the standard of the best interest of the child as set forth in section 1653, subsection 3. The guardian ad litem shall ask the child what the wishes of the child are including the child’s desire to participate in court proceedings, and shall make the wishes of the child known to the court if the child has expressed them, regardless of the recommendation of the guardian ad litem.

Sec. 3. 22 MRSA §4038-B, sub-§4, ¶D is enacted to read:

D. The permanency plan must ensure that all in-state and out-of-state placements are considered to provide children with all possible permanency options.

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Sec. 4. 22 MRSA §4005, sub-§1, ¶B is amended to read:

B. The guardian ad litem shall act in pursuit of the best interests of the child. The guardian ad litem must be given access to all reports and records relevant to the case and investigate to ascertain the facts. The investigation must include, when possible and appropriate, the following:

- (1) Review of relevant mental health records and materials;
- (2) Review of relevant medical records;
- (3) Review of relevant school records and other pertinent materials;
- (4) Interviews with the child with or without other persons present; and
- (5) Interviews with parents, foster parents, teachers, caseworkers and other persons who have been involved in caring for or treating the child.

The guardian ad litem shall have face-to-face contact with the child in the child's home or foster home within 7 days of appointment by the court and at least once every 3 months thereafter or on a schedule established by the court for reasons specific to the child and family. The guardian ad litem shall report to the court and all parties in writing at 6-month intervals, or as is otherwise ordered by the court, regarding the guardian ad litem's activities on behalf of the child and recommendations concerning the manner in which the court should proceed in the best interest of the child. The court ~~may~~ shall provide an opportunity for the child to address the court personally in a manner appropriate to the age of the child if the child requests to do so or if the guardian ad litem believes it is in the child's best interest.

Sec. 5. 22 MRSA §4005, sub-§1, ¶E is amended to read:

E. The guardian ad litem shall ask the child what the wishes of the child are, including the child's desire to participate in the court proceedings, and shall make the wishes of the child known to the court if the child has expressed his wishes them, regardless of the recommendation of the guardian ad litem.

Sec. 6. 22 MRSA §4038-B, sub-§5 is amended to read:

5. Wishes of child. ~~The District Court shall consider, but is not bound by, the wishes of a child in making a determination under this section~~ ensure that the child participates in the permanency hearing, in an age-appropriate manner, if the child so desires. If the child has expressed an interest in participating in the proceeding, the District Court shall consult with the child, in a manner appropriate to the age of the child, regarding the proposed permanency or transition plan for the child. The District Court is not bound by the wishes of the child in making a permanency determination under this section.

Sec. 7. 22 MRSA §4055, sub-3 is amended to read:

3. Wishes of child. ~~The~~ If the child has expressed an interest in participating in the proceeding, the court shall consult with the child, in a manner appropriate to the age of the child, regarding the issuance of an order under this section. The District Court is not bound by the wishes of the child ~~court shall consider, but is not bound by, the wishes of a child 12 years of age or older in making an order under this section.~~

Sec. 8. 22 MRSA §8101, sub-§1

1. Children's home. "Children's home" means any residence maintained exclusively or in part for the board and care of one or more children under the age of 18; ~~by anyone other than a relative by blood, marriage or adoption.~~ "Children's home" does not include:

- A. A facility established primarily to provide medical care;
- B. A youth camp licensed under section 2495; or
- C. A school established solely for educational purposes except as provided in subsection 4.

SUMMARY

Still to come . . .