

Report on Public Policy Position

Name of section:

Children's Law Section

Contact person:

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Bill Number:

[HB 4535](#) (Byrnes) Children; abuse or neglect; conditions involving termination of parental rights; expand. Amends sec. 19b, ch. XIA of [1939 PA 288](#) (MCL 712A.19b).

Date position was adopted:

March 19, 2009

Process used to take the ideological position:

Position adopted after discussion and vote at a scheduled meeting.

Number of members in the decision-making body:

16

Number who voted in favor and opposed to the position:

13 Voted for position

0 Voted against position

0 Abstained from vote

3 Did not vote

Position:

Support and Amend

Explanation of the position, including any recommended amendments:

Section voted to adopt suggested bill with the recommendation that a sub section pertaining to prior voluntary releases of parental rights include language about serious and chronic neglect. Specifically, the proposal would add a (viii) under MCL 712A.19b(3)(l) reading "serious or chronic neglect." See the attached document.

The text of any legislation, court rule, or administrative regulation that is the subject of or referenced in this report.

<http://legislature.mi.gov/doc.aspx?2009-HB-4535>

HOUSE BILL No. 4535

March 10, 2009, Introduced by Reps. Byrnes and Lori and referred to the Committee on Judiciary.

A bill to amend 1939 PA 288, entitled "Probate code of 1939," by amending section 19b of chapter XIIIA (MCL 712A.19b), as amended by 2008 PA 199.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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CHAPTER XIIIA

Sec. 19b. (1) Except as provided in subsection (4), if a child remains in foster care in the temporary custody of the court following a review hearing under section 19(3) of this chapter or a permanency planning hearing under section 19a of this chapter or if a child remains in the custody of a guardian or limited guardian, upon petition of the prosecuting attorney, whether or not the

1 (g) The child's attorney and each party's attorney.

2 (h) If the child is 11 years of age or older, the child.

3 (i) The prosecutor.

4 (3) The court may terminate a parent's parental rights to a
5 child if the court finds, by clear and convincing evidence, 1 or
6 more of the following:

7 (a) The child has been deserted under any of the following
8 circumstances:

9 (i) The child's parent is unidentifiable, has deserted the
10 child for 28 or more days, and has not sought custody of the child
11 during that period. For the purposes of this section, a parent is
12 unidentifiable if the parent's identity cannot be ascertained after
13 reasonable efforts have been made to locate and identify the
14 parent.

15 (ii) The child's parent has deserted the child for 91 or more
16 days and has not sought custody of the child during that period.

17 (iii) The child's parent voluntarily surrendered the child to an
18 emergency service provider under chapter XII and did not petition
19 the court to regain custody within 28 days after surrendering the
20 child.

21 (b) The child or a sibling of the child has suffered physical
22 injury or physical or sexual abuse under 1 or more of the following
23 circumstances:

24 (i) The parent's act caused the physical injury or physical or
25 sexual abuse and the court finds that there is a reasonable
26 likelihood that the child will suffer from injury or abuse in the
27 foreseeable future if placed in the parent's home.

1 guardianship under section 5205 of the estates and protected
2 individuals code, 1998 PA 386, MCL 700.5205, and has substantially
3 failed, without good cause, to comply with a limited guardianship
4 placement plan described in section 5205 of the estates and
5 protected individuals code, 1998 PA 386, MCL 700.5205, regarding
6 the child to the extent that the noncompliance has resulted in a
7 disruption of the parent-child relationship.

8 (e) The child has a guardian under the estates and protected
9 individuals code, 1998 PA 386, MCL 700.1101 to 700.8102, and the
10 parent has substantially failed, without good cause, to comply with
11 a court-structured plan described in section 5207 or 5209 of the
12 estates and protected individuals code, 1998 PA 386, MCL 700.5207
13 and 700.5209, regarding the child to the extent that the
14 noncompliance has resulted in a disruption of the parent-child
15 relationship.

16 (f) The child has a guardian under the estates and protected
17 individuals code, 1998 PA 386, MCL 700.1101 to 700.8102, and both
18 of the following have occurred:

19 (i) The parent, having the ability to support or assist in
20 supporting the minor, has failed or neglected, without good cause,
21 to provide regular and substantial support for the minor for a
22 period of 2 years or more before the filing of the petition or, if
23 a support order has been entered, has failed to substantially
24 comply with the order for a period of 2 years or more before the
25 filing of the petition.

26 (ii) The parent, having the ability to visit, contact, or
27 communicate with the minor, has regularly and substantially failed

1 (vi) Murder or attempted murder.

2 (vii) Voluntary manslaughter.

3 (viii) Aiding and abetting, attempting to commit, conspiring to
4 commit, or soliciting murder or voluntary manslaughter.

5 (l) The parent's rights to another child were terminated as a
6 result of proceedings under section 2(b) of this chapter or a
7 similar law of another state.

8 (m) The parent's rights to another child were voluntarily
9 terminated following the initiation of proceedings under section
10 2(b) of this chapter or a similar law of another state —AND THE
11 PROCEEDING INVOLVED ABUSE THAT INCLUDED 1 OR MORE OF THE FOLLOWING:

12 (i) ABANDONMENT OF A YOUNG CHILD.

13 (ii) CRIMINAL SEXUAL CONDUCT INVOLVING PENETRATION, ATTEMPTED
14 PENETRATION, OR ASSAULT WITH INTENT TO PENETRATE.

15 (iii) BATTERING, TORTURE, OR OTHER SEVERE PHYSICAL ABUSE.

16 (iv) LOSS OR SERIOUS IMPAIRMENT OF AN ORGAN OR LIMB.

17 (v) LIFE-THREATENING INJURY.

18 (vi) MURDER OR ATTEMPTED MURDER.

19 (vii) VOLUNTARY MANSLAUGHTER.

20 (viii) AIDING AND ABETTING, ATTEMPTING TO COMMIT, CONSPIRING TO
21 COMMIT, OR SOLICITING MURDER OR VOLUNTARY MANSLAUGHTER.

22 (n) The parent is convicted of 1 or more of the following, and
23 the court determines that termination is in the child's best
24 interests because continuing the parent-child relationship with the
25 parent would be harmful to the child:

26 (i) A violation of section 316, 317, 520b, 520c, 520d, 520e, or
27 520g of the Michigan penal code, 1931 PA 328, MCL 750.316, 750.317,

1 a petition under this section.