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MEMORANDUM

To: House Committee on Children and Seniors  
From: Renae Jefferies, Assistant Revisor  
Date: February 26, 2013  
Subject: HB 2233

House bill 2233 establishes the protective parent reform act. New sections 1 and 2 contain the act.

Section 1 allows a parent, who holds a reasonable belief that the parent's child is a victim of physical, mental, emotional or sexual abuse or neglect perpetrated or allowed by the other parent, to make a good faith allegation to protect the child or seek treatment for the child. The parent making the allegation shall not be deprived of custody, visitation or contact with the child. If the allegation is supported by a preponderance of evidence, the court shall not award custody of the child to the parent who presents a substantial risk of harm to the child.

There shall be no ex parte communication between the court and any guardian ad litem or attorney for the child. The guardian ad litem or attorney for the child shall be limited to advocating for the desires of the child and shall not substitute the guardian ad litem's or attorney's personal opinion and judgment for the desires of the child.

The parents shall have access to all custody and mental health evaluations and reports that are to be considered in the proceeding. Prior to trial, the parents shall be allowed to depose each mental health professional who will testify in the proceeding.

No parent shall be deprived of custody, visitation or contact with the parent's child based on a mental health professional's opinion the parent might flee with the child or that the child has been coached, unless credible and admissible evidence independent of the mental health professional's opinion establishes that the parent's plan or intent is to flee or that the child has been coached.

When a physical, mental, emotional or sexual abuse or neglect of a child is at issue in a proceeding, the mental health professional who conducts an evaluation of the child shall have specialized training and experience in the type of abuse or neglect that is relevant to the specific allegations made.

Additionally, no protection from abuse order shall be violated by an award of custody, visitation or contact by the parent who is the perpetrator of family violence.

Section 2 provides that the child shall only be interviewed one time concerning the allegations. If new information arises, one or more additional interviews may be allowed and where possible, with the initial interviewer. Additional procedures for conducting investigations and interviews is provided in this section.

Section 3 amends current law to require that the person who conducts the interview be trained in forensic children's interviewing techniques and that the interview be videotaped.

Section 4 on page 5 amends current law to require that if clear and convincing evidence of abuse or neglect of a child exists, immediate steps will be taken to protect that child and any other child under that child's caretaker. No petition shall be filed by the county or district attorney to remove the child from the residence or custody of the parent who is not the alleged perpetrator of the report of alleged abuse or neglect or if the report is found to be unsubstantiated due to lack of clear and convincing evidence.

The secretary shall make necessary inquiries about the criminal records of the alleged abusive or neglectful person, including, but not limited to, inquiries about a criminal history record of family violence and past reports of the alleged or neglectful person being investigated for crimes involving children.

The act, if passed, would take effect upon publication in the statute book.