

1 SB461
2 168733-1
3 By Senator Bussman
4 RFD: Health and Human Services
5 First Read: 07-MAY-15

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8 SYNOPSIS: Under existing law, before initiating a
9 proceeding in the juvenile court to terminate the
10 parental rights of the parent or parents of a child
11 who has been placed in foster care or in the
12 custody of the Department of Human Resources, the
13 court is generally required to make a finding that
14 the department has made reasonable efforts to
15 preserve the family and reunify the child with the
16 family before the court may order that the parental
17 rights are involuntarily terminated. Existing law
18 also provides certain conditions when the court is
19 not required to make this finding.

20 This bill would also eliminate the duty of
21 the Department of Human Resources to make such
22 reasonable efforts to preserve the family if the
23 parent has allowed the child to be in the presence
24 of a methamphetamine laboratory or a location where
25 illegal drugs are stored, kept, packaged, diluted,
26 or manufactured.

1 A BILL
2 TO BE ENTITLED
3 AN ACT
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5 Relating to the termination of parental rights; to
6 amend Section 12-15-312, Code of Alabama 1975, to eliminate
7 the duty of the Department of Human Resources to make
8 reasonable efforts with respect to a parent of a child to
9 protect the family relationship if the parent has allowed the
10 child to be in the presence of a methamphetamine laboratory or
11 a location where illegal drugs are stored, kept, packaged,
12 diluted, or manufactured.

13 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

14 Section 1. Section 12-15-312, Code of Alabama 1975,
15 is amended to read as follows:

16 "§12-15-312.

17 "(a) When the juvenile court enters an order
18 removing a child from his or her home and places the child
19 into foster care or custody of the Department of Human
20 Resources pursuant to this chapter, the order shall contain
21 specific findings, if warranted by the evidence, within the
22 following time periods while making child safety the paramount
23 concern:

24 "(1) In the first order of the juvenile court that
25 sanctions the removal, whether continuation of the residence
26 of the child in the home would be contrary to the welfare of

1 the child. This order may be the pick-up order that the
2 juvenile court issues on the filing of a dependency petition.

3 "(2) Within 60 days after the child is removed from
4 the home of the child, whether reasonable efforts have been
5 made to prevent removal of the child or whether reasonable
6 efforts were not required to be made.

7 "(3) Within 12 months after the child is removed
8 from the home of the child and not less than every 12 months
9 thereafter during the continuation of the child in out-of-home
10 care, whether reasonable efforts have been made to finalize
11 the existing permanency plan.

12 "(b) As used in this chapter, reasonable efforts
13 refers to efforts made to preserve and reunify families prior
14 to the placement of a child in foster care, to prevent or
15 eliminate the need for removing the child from the home of the
16 child, and to make it possible for a child to return safely to
17 the home of the child. In determining the reasonable efforts
18 to be made with respect to a child, and in making these
19 reasonable efforts, the health and safety of the child shall
20 be the paramount concern. If continuation of reasonable
21 efforts is determined to be inconsistent with the permanency
22 plan for the child, reasonable efforts shall be made to place
23 the child in a timely manner in accordance with the permanency
24 plan including, if appropriate, through an interstate
25 placement, and to complete whatever steps are necessary to
26 finalize a permanent plan for the child.

1 "(c) Reasonable efforts shall not be required to be
2 made with respect to a parent of the child if the juvenile
3 court has determined that the parental rights of the parent to
4 a sibling of the child have been involuntarily terminated or
5 that a parent has done any of the following:

6 "(1) Subjected a child to an aggravated circumstance
7 against the child or a sibling of the child and the risk of
8 child abuse or neglect is too high for the child to remain at
9 home safely or to be returned home. An aggravated circumstance
10 includes, but is not limited to, rape, sodomy, incest,
11 aggravated stalking, abandonment, torture, chronic abuse, or
12 sexual abuse. An aggravated circumstance may also include any
13 of the following:

14 "a. Allowing a child to use alcohol or illegal drugs
15 to the point of abuse, neglect, or substantial risk of harm.

16 "b. Substance misuse or abuse, or both, by a parent
17 or interfering with the ability to keep the child safe and
18 refusal of a parent to participate in or complete treatment,
19 or where treatment has been unsuccessful.

20 "c. Allowing a child to be in the presence of a
21 methamphetamine laboratory or a location where illegal drugs
22 are stored, kept, packaged, diluted, or manufactured.

23 "c.d. A parent demonstrating extreme disinterest in
24 the child by doing either of the following:

25 "1. Not complying with the steps outlined in the
26 individualized service plan or case plan over a period of six
27 months.

1 "2. Repeatedly leaving the child with someone who is
2 unwilling or incapable of providing care and not returning for
3 the child as promised.

4 "d. Abandoning an infant or young child when the
5 identity of the child is unknown and the parent is unknown or
6 unable to be located after a diligent search.

7 "e. When the parent has an emotional or mental
8 condition and there is clearly no treatment that can improve
9 or strengthen the condition enough to allow the child to
10 remain at home safely or to return home safely.

11 "f. When a parent is incarcerated and the child is
12 deprived of a safe, stable, and permanent parent-child
13 relationship.

14 "(2) Committed murder or manslaughter of another
15 child or murder or manslaughter of the other parent of the
16 child.

17 "(3) Aided or abetted, attempted, conspired, or
18 solicited to commit murder or manslaughter of another child or
19 aided or abetted, attempted, conspired, or solicited to commit
20 murder or manslaughter of the other parent of the child.

21 "(4) Committed a felony assault which resulted in
22 serious bodily injury to the child or another child or to the
23 other parent of the child. The term serious bodily injury
24 means bodily injury which involves substantial risk of death,
25 extreme physical pain, protracted and obvious disfigurement,
26 or protracted loss or impairment of the function of a bodily
27 member, organ, or mental faculty.

1 "(d) Nothing in the exceptions to making reasonable
2 efforts listed in subsection (c) shall be interpreted to
3 require the reunification of a child with a stepparent or
4 paramour of a parent under similar circumstances. The crimes
5 listed in subsection (c) may include those from other states
6 or federal crimes if the elements of the crimes are
7 substantially similar to those crimes in this state.

8 "(e) If reasonable efforts are not made with respect
9 to a child as a result of a determination made by a juvenile
10 court in situations as described above, a permanency hearing,
11 as provided in Section 12-15-315, in which in-state or
12 out-of-state placement options for the child are considered,
13 shall be held for the child within 30 days after the
14 determination. Reasonable efforts shall be made to place the
15 child in a timely manner in accordance with the permanency
16 plan and to complete whatever steps are necessary to finalize
17 permanent placement of the child. Reasonable efforts to place
18 a child for adoption or with a legal guardian or legal
19 custodian, including identifying appropriate in-state and
20 out-of-state placements, may be made concurrently with other
21 reasonable efforts."

22 Section 2. This act shall become effective
23 immediately following its passage and approval by the
24 Governor, or its otherwise becoming law.