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Guidance on Senate Bill (SB) 463 Factors to Consider When Assessing Parental Reunification

When assessing whether or not it is safe to return a child to their parent's custody, [Senate Bill 463](#) (passed on 10/23/23) eliminates the previous presumption that a parent's lack of compliance with their court ordered treatment program is, in itself, detrimental to the safety, protection, or physical or emotional well-being of the child.

At each hearing conducted pursuant to WIC section 366.21, 366.22, or 366.25, the court must return the child unless DCFS proves, by preponderance of the evidence, that return would create a substantial risk of detriment to the child. This amendment eliminates the previous presumption that lack of participation in court ordered treatment is prima facie evidence of risk, but instead requires assessment of the **totality of circumstances** surrounding the parent's ability to have the child safely returned to the home.

Under the new law, DCFS and the court shall determine a parent's ability to reunify with their child based on the **totality of the circumstances**, as opposed to beginning with the presumption that the parent is unable to reunify if they failed to participate in court-ordered treatment programs. The CSW should focus on the parents' efforts and progress and the extent to which they availed themselves of the services provided. The totality of circumstances to consider include:

- Did the parent participate in each component of the case plan?
- Did they make substantial progress in those programs?
- Did the parent make a substantial change in behavior so that previous danger concerns were alleviated?
- If the parent did not participate in certain programs, what reason was given?
- Was appropriate treatment identified timely?
- Were parents wait listed?
- Would work give them time off to participate?
- Were there problems with insurance or cost?
- Did the parents address case issues through other programs not ordered by the court?
- Does the parent demonstrate insight into the issues that led to court supervision even though they did not complete their programs?

DCFS carries the burden of proof and must show that returning a child is detrimental, no matter the level of the parent's compliance with the case plan. In their assessment of return, the CSW should focus on the parent's efforts and progress and the extent to which they availed themselves of the services provided, considering any barriers that the parent may have encountered, instead of just their lack of participation or progress.

If you have any questions regarding this release, please e-mail your question to:

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