

SENATE BILL REPORT

ESSB 6635

As Passed Senate, February 14, 2006

Title: An act relating to adoption.

Brief Description: Changing provisions relating to adoption.

Sponsors: Senate Committee on Human Services & Corrections (originally sponsored by Senators Franklin, Benton, Zarelli, Stevens, Honeyford and Rasmussen).

Brief History:

Committee Activity: Human Services & Corrections: 1/30/06, 2/1/06 [DPS].

Ways & Means: 2/6/06 [w/oRec].

Passed Senate: 2/14/06, 44-4.

SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS

Majority Report: That Substitute Senate Bill No. 6635 be substituted therefor, and the substitute bill do pass.

Signed by Senators Hargrove, Chair; Regala, Vice Chair; Stevens, Ranking Minority Member; Brandland, Carrell, McAuliffe and Thibaudeau.

Staff: Shani Bauer (786-7468)

Background: Adoptions in the state occur through licensed private agencies, the Division of Children and Family Services of the Department of Social and Health Services (DSHS), and independent agents. Requirements, processes, and services offered vary with each of these three methods of adoption. Additionally, the fees related to adoption of a child through these three methods can vary greatly and can exceed the financial reach of families whose resources are limited.

Concerns were raised in the 2004 legislative session that families willing to adopt have been discouraged or prevented from doing so because of the prohibitive fees. As a result, the Legislature passed House Concurrent Resolution 4418 creating a legislative panel to study a variety of adoption-related issues. Recommendations from the study panel were given to the Legislature in January 2005. To date, the study panel's report has not resulted in further legislation on this issue.

Adoption fees can be charged for a variety of expenses in the adoption process. Authorized fees include such items as the preparation of legal documents, legal representation, court costs, home studies, birth parent medical expenses, and agency fees. Actual fees may range from zero (0) to thirty thousand dollars (\$30,000).

Federal law provides that an adoption may not be delayed or denied based upon the race, color, or national origin of the adoptive parent or the child involved. Further, an agency may not routinely consider race, national origin, or ethnicity in making placement decisions. Any

consideration of race or ethnicity must be done on an individualized basis where special circumstances warrant their consideration.

Current state law states that an adoption may not be delayed or denied on the basis of the race, color, or national origin of the adoptive parent or the child. However, in considering the best interests of the child, the department may consider the cultural, ethnic, or racial background of the child and the capacity of prospective adoptive parents to meet the needs of a child of this background.

Summary of Bill: The consideration of a child's cultural, ethnic, or racial background in making placement decisions is limited to those situations where a particular child presents specific compelling circumstances and consideration of those factors is the only way to achieve the best interest of the child.

DSHS is required to create standardized training on federal civil rights laws on the placement of children for all DSHS or agency employees involved in the placement of children.

DSHS is required to establish and maintain a schedule of standard adoption-related fees in consultation with related agencies and organizations. The court may forward a copy of the fee disclosure statement to the department if the fees are in excess of the established fee schedule. DSHS, in consultation with representatives from interested entities, must review adoption fees associated with children adopted outside the foster care system and report to the Legislature by December 1, 2006.

Language is added to clarify that the Attorney General may bring an action for an unlawful trade practice against any person advertising adoption services in the state without a license. An advertising entity who attempts to verify that a person or entity providing adoption services has complied with the law does not commit an unlawful trade practice for accepting adoption advertising in good faith.

No entity engaged in any service related to the adoption of children may operate as a for-profit entity.

Appropriation: None.

Fiscal Note: Requested on 1/23/06.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: There are too many children in foster care. The intent of this bill is to remove unnecessary barriers to adoption for those children. Anything that we can do to make it easier for the department to act in the best interests of the child when placing the child for adoption would be helpful.

Testimony Against: This bill is the same piece of legislation that led to the creation of the Study Panel on Adoption in 2004. While efforts to facilitate adoption are supported, the committee is urged to take a look at that report before passing this legislation. Oversight of adoption fees is more appropriate to a regulatory agency rather than the courts.

Who Testified: PRO: Senator Rosa Franklin, prime sponsor.

CON: Senator Paull Shin, Martha Harden-Cesar, Superior Court Judges Association; Laurie Lippold, Children's Home Society; Donna Christensen, WA State Catholic Conference.

House Amendment(s): The following provisions are removed:

- Limitations for when race may be considered in the placement of a child;
- The requirement that DSHS create a standardized schedule of adoption-related fees that may be charged;
- The requirement that a written financial disclosure statement be filed with any petition for adoption; and
- The prohibition against providing adoption related services while operating as a for-profit entity.

A provision is added requiring that the Department of Health work with DSHS to recommend a process for the collection of adoption statistical data. Recommendations must be submitted to the Legislature by October 1, 2006.