

HOUSE BILL REPORT

E2SSB 6255

As Reported By House Committee On:
Human Services
Appropriations

Title: An act relating to permanency planning and guardianship for dependent children.

Brief Description: Changing provisions relating to children removed from the custody of parents.

Sponsors: Senators Talmadge, Wojahn, Haugen, Winsley and McAuliffe; by request of Attorney General.

Brief History:

Reported by House Committee on:
Human Services, February 23, 1994, DPA;
Appropriations, February 28, 1994, DPA(HS/APP)S.

HOUSE COMMITTEE ON HUMAN SERVICES

Majority Report: Do pass as amended. Signed by 12 members: Representatives Leonard, Chair; Thibaudeau, Vice Chair; Cooke, Ranking Minority Member; Talcott, Assistant Ranking Minority Member; Brown; Caver; Karahalios; Lisk; Padden; Patterson; Riley and Wolfe.

Staff: Dave Knutson (786-7146).

Background: A dependency petition may be filed for any child who has been abandoned, is abused or neglected, has no parent capable of caring for them, or is developmentally disabled and services cannot be provided in the home. If a dependent child is removed from the home, the child's caseworker must prepare a plan for the child to assure that a permanent home is found for the child as soon as possible. This "permanency plan" may include returning the child back to his or her parent, adoption, guardianship or a long-term placement with a relative or in foster care.

It has been suggested that changes in the law will reduce unnecessary delays in achieving permanency and stability for the child.

Summary of Amended Bill: The new definitions for "current placement episode," "dependency guardian," "guardian" and "out-of-home care" are provided for the dependency statute.

The permanency plan shall be developed no later than 60 days after the supervising agency assumes responsibility for providing services, or by the fact-finding hearing, whichever occurs first. The planning continues whenever the child is removed from parental custody, until the goal is met or the dependency is dismissed.

The plan's identified outcomes and goals may change with the circumstances. Permanency planning goals should be met within 15 months of out-of-home placement. A hearing is required if the child is out-of-home for at least nine months and in all cases shall be held no later than 12 months after placement.

The agency having custody of the child shall file the permanency plan with the court and mail copies to the parties and their counsel 10 working days prior to a permanency planning hearing.

At the permanency planning hearing, the court shall determine whether the goal has been met and review the status and plan to assure it remains appropriate. If the court orders the child returned home, casework supervision shall continue for at least six months for a review hearing and consideration of the need for continued intervention. A permanency plan that does not contemplate the return of the child to the parent does not relieve the supervising agency from its obligation to provide reasonable services intended to effectuate the return of the child.

After the first permanency planning hearing, additional planning hearings shall be held at least every 12 months, until the goal is achieved or the case is dismissed. Status review hearings shall continue to be held every six months, unless a "dependency" guardian has been appointed.

An agency with custody of the child may file a termination or guardianship petition at any time after a finding of dependency. A fact-finding hearing shall be held unless the agency dismisses the petition, or an agreed order is entered.

"Dependency guardians" are authorized. A dependency guardian is a person, nonprofit corporation, or tribe appointed for the limited purpose of assisting the court in the supervision of the dependency. In establishing a guardianship, the best interest of the child standard is used instead of the best interest of the family.

The court shall specify the dependency guardian's authority over the estate of the child. The dependency guardian's rights and duties are specified. While the guardianship is

in effect, the dependency guardian shall be a party to any dependency proceeding. Any party may request modification or termination of the guardianship order. The Department of Social and Health Services may intervene in any guardianship to modify or terminate its provisions.

Prior to approving an out-of-home placement, the court must first find that preventive services have been offered or provided and have failed to prevent the need for out-of-home placement.

The court may modify or terminate the guardianship if it finds that, by a preponderance of the evidence, there has been a "change of circumstances" and the order is in the child's best interest. A hearing is required unless all parties agree.

When terminated, a dependency guardian has no rights or responsibilities for the child and has no legal standing to further participate in dependency proceedings.

The child shall remain dependent when the guardianship is terminated and shall be returned to: the parent; Department of Social and Health Services; a child-placing agency; or a home not requiring licensing.

The child shall not be returned to the parent unless the original reason for removal no longer exists and it is in the child's best interest.

Parental preferences may be considered in the appointment of a dependency guardian. The reference to the dependency guardian's rights and duties regarding the child's religious activities is stricken. The dependency guardian's qualifications are modified.

Amended Bill Compared to Original Bill: Prior to approving an out-of-home placement for a dependent child, the court must find that preventive services have been offered or provided and have failed to prevent the need for out-of-home placement.

Fiscal Note: Available.

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

Testimony For: This approach will shorten the time dependent children stay in out-of-home placement. It may also prevent the need for some out-of-home placements.

Testimony Against: None.

Witnesses: Don Knapp, Foster Parents Association of Washington State (pro); and Lee Ann Miller, Attorney General's Office (pro).

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: Do pass as amended by Committee on Human Services as such amendment is amended by Committee on Appropriations. Signed by 26 members: Representatives Sommers, Chair; Valle, Vice Chair; Silver, Ranking Minority Member; Carlson, Assistant Ranking Minority Member; Appelwick; Ballasiotes; Basich; Cooke; Dellwo; Dorn; Dunshee; G. Fisher; Foreman; Jacobsen; Lemmon; Leonard; Linville; H. Myers; Peery; Rust; Sehlin; Sheahan; Stevens; Talcott; Wang and Wolfe.

Staff: Beth Redfield (786-7130).

Summary of Recommendation of Committee on Appropriations Compared to Recommendation of Committee on Human Services: Technical clarifications are made to the definition of "preventive services" and to the requirement that preventive services must have been offered or provided before any out-of-home placement may be ordered. The permanency planning hearing schedule is returned to current law, removing the fiscal impact of the bill.

Fiscal Note: Available.

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

Testimony For: The permanency planning law passed a few years ago was a good first step but clarifications are needed to reduce litigation and shorten the time children spend in out-of-home placements. There is support for the concept of preventive services added in the House Human Services Committee.

Testimony Against: None.

Witnesses: (In favor) Lee Ann Miller, Office of the Attorney General; and Laurie Lippold, Children's Alliance.