

SENATE BILL REPORT

SB 5392

AS REPORTED BY COMMITTEE ON HEALTH & HUMAN SERVICES,
FEBRUARY 26, 1993

Brief Description: Revising provisions relating to abuse of children and incompetent persons.

SPONSORS: Senators Talmadge, Deccio, Fraser, L. Smith, McCaslin, Moyer, Oke and Winsley

SENATE COMMITTEE ON HEALTH & HUMAN SERVICES

Majority Report: That Substitute Senate Bill No. 5392 be substituted therefor, and the substitute bill do pass.

Signed by Senators Talmadge, Chairman; Wojahn, Vice Chairman; Deccio, Erwin, Franklin, Fraser, Hargrove, McAuliffe, McDonald, Niemi, Quigley, Sheldon, L. Smith, and Winsley.

Staff: Richard Rodger (786-7461)

Hearing Dates: February 2, 1993; February 26, 1993

BACKGROUND:

In February of 1992 an external review committee was created by DSHS's Division of Children and Family Services to conduct a child fatality review. The committee reviewed the policies and procedures used by the division in the case under review. The committee made a series of recommendations designed to decrease the likelihood of future child fatalities.

SUMMARY:

A formal process for ordering evaluation and treatment services in dependency cases is created. The services may include drug and alcohol testing or treatment, anger management, and parenting classes. The treatment programs are required to file quarterly progress reports with the court, the department, and the person in treatment or their attorney.

The treatment facility must also file a violation report within 24 hours of any breach of the treatment plan. The court shall schedule a hearing on the violation and modify the dependency order, as necessary, to ensure the safety of the child.

Agreed fact-finding and dispositional orders require the concurrence of the parties, their attorneys, the guardian ad litem, and the court-appointed special assistants. The court is required to consider the reports of the guardian ad litem and the court-appointed special assistant at dispositional

hearings. The department is required to present the risk assessment factors to the court.

The scope of the "aggravated circumstances," which are used in determining whether it is likely that a child will be returned home, are broadened. The child abuse reporting requirement is expanded to include reporting by any adult residing within the residence where abuse or neglect has occurred.

A person can be in violation of a temporary restraining order without the need for a police officer to tell them to leave.

EFFECT OF PROPOSED SUBSTITUTE:

The proposed substitute incorporates the following changes:

The section which provided the court with specific authority to order evaluations for alcohol abuse, drug abuse, or mental problems is removed. The provisions regarding alcohol and substance abuse apply whenever a court orders an alcohol or drug abuse evaluation.

Additional requirements are added for court-ordered treatment plans: (1) The affected person must be involved in developing the plan and must sign the proposed plan; (2) reports must be sent at six weeks, three months, six months, one year, and every six months thereafter; and (3) a close-out report must be filed including a summary of the treatment outcomes and contain recommendations for maintaining ongoing stability.

Treatment reports shall be given to the guardian ad litem and to the supervising child placing agency, if any exists. The court may not require the department to pay for any treatment programs.

Upon receiving a violation report either the court or the department may schedule a show cause hearing. Information presented at the hearing may include testimony, declarations, reports, or other relevant information.

The court shall consider any reports filed by a party to the action when deciding a dependency case. The modifications concerning the "aggravated circumstances" for termination of parental rights are eliminated. The risk assessment process shall be used for child abuse investigations only.

A police officer who is investigating a child physical or sexual abuse case may seek a temporary restraining order to restrict visitation rights during the period of an investigation.

Appropriation: none

Revenue: none

Fiscal Note: available

TESTIMONY FOR:

The bill protects children in homes where other abuse has occurred and where there has been a history of abuse. The mandatory show cause hearing requirement may cause a great fiscal impact on state and local governments.

TESTIMONY AGAINST: None

TESTIFIED: Darlene Flowers, FPAWS; Lois Smith, Juvenile Court Administrators; Gerard Sidorowicz, DSHS