

SENATE BILL REPORT

SB 6255

AS REPORTED BY COMMITTEE ON WAYS & MEANS, FEBRUARY 8, 1994

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

SENATE COMMITTEE ON HEALTH & HUMAN SERVICES

Majority Report: That Substitute Senate Bill No. 6255 be substituted therefor, and the substitute bill do pass.

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

Staff: Richard Rodger (786-7461)

Hearing Dates: January 25, 1994; February 3, 1994

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: That Second Substitute Senate Bill No. 6255 be substituted therefor, and the second substitute bill do pass.

Signed by Senators Rinehart, Chairman; Quigley, Vice Chairman; Bauer, Bluechel, Gaspard, Hargrove, Hochstatter, Ludwig, McDonald, Moyer, Niemi, Pelz, Roach, L. Smith, Snyder, Spanel, Talmadge, Williams and Wojahn.

Staff: Tim Yowell (786-7435)

Hearing Dates: February 7, 1994; February 8, 1994

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:

When a dependent child is removed from the home, the permanency plan may include a plan of independent living for a child who is age 16 or older. The plan must identify services provided for a successful transition from foster care to independent living.

Permanency planning is required to start at the same time child welfare services are provided. 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 15 months and in all cases shall be held no later than 18 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.

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.

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. DSHS may intervene in any guardianship to modify or terminate its provisions.

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; DSHS; 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.

EFFECT OF PROPOSED SUBSTITUTE:

The new definitions for "current placement episode," "dependency guardian," "guardian," and "out-of-home care" are moved into the definition section for Chapter 13.34 RCW.

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 permanency plan goal may not include the option of independent living for a child age 16 or older.

A permanency planning hearing shall be held in all cases where a child has remained in out-of-home care for at least nine months. The hearing shall take place no later than 12 months following the current placement episode. After the first permanency planning hearing, review hearings shall be held at least every six months.

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.

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.

EFFECT OF PROPOSED SECOND SUBSTITUTE:

The second substitute requires permanency planning hearings every 12 months, rather than at 12 months and every six months thereafter, as proposed in the first substitute.

Appropriation: none

Revenue: none

Fiscal Note: available

TESTIMONY FOR (Health & Human Services):

The bill will address and solve problems with the dependency system that contribute to foster care drift. The bill supplements and clarifies the guardianship provisions for dependent children.

TESTIMONY AGAINST (Health & Human Services):

Social workers are overworked now; this bill adds additional timelines that will impede their ability to work. The dependency system needs additional resources to adequately serve the families. The new dependency guardianship provisions need a significant review system to monitor their activities.

TESTIFIED (Health & Human Services): Senator Mary Margaret Haugen (pro); Christine Gregoire, Attorney General (pro); Lee Ann Miller, Assistant Attorney General (pro); Basil Badley (pro); Timothy Sells (con); Laurie Lippold, Children's Alliance (pro); Catherine Moore (con); Don Knapp, Foster Parents Association of Washington (pro); Royce Roberts, Society of Counsel (con); Margaret Casey, Superior Court Judges Assoc. (pro); Sid Sidorowicz, DSHS, Director Children and Family Services (pro)

TESTIMONY FOR (Ways & Means):

Current laws are inadequate because kids get caught in a series of temporary placements for too long. This bill is essential to get kids permanent homes faster, and is consistent with two national foundation grants which are coming to our state.

TESTIMONY AGAINST (Ways & Means): None

TESTIFIED (Ways & Means): Darlene Flowers, Foster Parents Association of Washington (pro); Laurie Lippold, Children's Alliance (pro)