

HOUSE BILL REPORT

SHB 1121

As Amended by the Senate

Title: An act relating to dependent children.

Brief Description: Revising legal custody of children.

Sponsors: By House Committee on Children & Family Services (originally sponsored by Representatives Veloria, Cooke, Tokuda, Wolfe, Dunn and Costa).

Brief History:

Committee Activity:

Children & Family Services: 2/6/97, 2/7/97 [DPS].

Floor Activity:

Passed House: 2/24/97, 96-0;

Passed House: 1/14/98, 95-0.

Senate Amended.

HOUSE COMMITTEE ON CHILDREN & FAMILY SERVICES

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 11 members: Representatives Cooke, Chairman; Boldt, Vice Chairman; Bush, Vice Chairman; Tokuda, Ranking Minority Member; Kastama, Assistant Ranking Minority Member; Ballasiotes; Carrell; Dickerson; Gombosky; McDonald and Wolfe.

Staff: Douglas Ruth (786-7134).

Background: In a dependency proceeding, a juvenile court may order that a child be temporarily placed outside the child's home. In ordering this out-of-home placement, the court must give preference to placement with relatives of the child if the relatives are willing, available, and suitable to have the child stay with them.

After the child is placed out of the home, the agency that is charged with the child's care must present to the juvenile court, a permanency plan identifying the long-term goals for permanent care of the child. The agency may choose from a statutorily defined list of goals. These goals include adoption, long-term relative care, foster care, guardianship, or independent living, or return of the child to the parents, a guardian, or a legal custodian. The plan must encourage maximum parent-child contact and the resumption of parental custody.

One goal that is not on the list of long-term goals for a child's care is non-parental custody of the child through a permanent custody order. Permanent custody orders are court orders that transfer child custody from the parents of a child to a non-parental individual, such as a grandparent.

Current law establishes the content, scope, and procedures for obtaining a permanent child custody order. To grant an order, the court must find that the parent of the child is either unfit, or that placement of the child with the parent would detrimentally affect the child's growth and development. An individual, or individuals, receiving permanent custody of a child has the authority to determine the child's care, upbringing, education, health care, and religious training. As part of a permanent custody order, the court may award visitation rights to the parents and require them to provide child support and health insurance for the child.

Summary of Bill: In ordering an out-of-home placement, a court must give preference to placement with a non-custodial parent unless there is reasonable cause to believe that the safety or welfare of the child would be jeopardized, or that efforts to reunite the parent and child would be hindered. If such a non-custodial parent is unavailable, the court must give preference to placement with another relative.

Permanent custody orders are added to the list of long-term goals that an agency may select to implement in a dependency proceeding. In addition to adoption, long-term relative care, foster care, guardianship, and independent living as agency options for long-term placement of a dependent child, an agency also has the option of facilitating custody by a non-parental individual through a permanent custody order.

Entry of a permanent custody order by a court acts to dismiss a dependency proceeding and ends court supervision of the child. The court is relieved of conducting periodic permanency planning hearings to review the child's status. Once a court has entered a permanent custody order, the individual's custody over the child may be altered only through judicial modification of the order.

Because the court ordering permanent child custody (superior court) is a separate court from the one supervising the child's dependency (juvenile court), the bill explicitly permits concurrent jurisdiction by both courts.

EFFECT OF SENATE AMENDMENT(S): The Senate amendment removes a preference for placement of a dependent child with a non-custodial parent. The removed preference would have been limited to placement with non-custodial parents who do not pose a risk to the welfare of the child and would not hinder efforts to reunite the parent and child.

The amended bill also provides a definition of "permanent legal custody."

Appropriation: None.

Fiscal Note: Available.

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

Testimony For: Adding permanent custody orders to the long-term placement options of an agency in a dependency proceeding will allow grandparents to provide a safe, stable environment for dependent children. Non-parental custody differs from guardianship since the child is still considered a dependent child under a guardianship. This restricts the guardian from traveling out of state with the child without state permission. It also places a financial burden on the state that non-parental custody of the child does not. Once an individual is awarded custody of a child, he or she is financially responsible for that child, including responsibility for the child's health care.

Testimony Against: Juvenile courts do not give non-custodial parents preference when they order out-of-home placement in a dependency proceeding.

Testified: Representative Velma Veloria; Jennifer Strus, Department of Social and Health Services (pro); John Weers, United Grandparents Raising Grandchildren (pro); Vivian Weers, United Grandparents Raising Grandchildren (pro); Marjorie C. Green, Medical Counseling and Guidance (with questions); and Julie Jones, Washington Families for Non-Custodial Rights (with concerns).