

HOUSE BILL REPORT

ESSB 6238

As Passed House - Amended:

March 4, 1998

Title: An act relating to dependent children.

Brief Description: Changing provisions relating to dependent children.

Sponsors: Senate Committee on Human Services & Corrections (originally sponsored by Senators Stevens and Swecker).

Brief History:

Committee Activity:

Children & Family Services: 2/26/98 [DPA];

Appropriations: 2/28/98 [DPA(CFS & APP)].

Floor Activity:

Passed House - Amended: 3/4/98, 97-0.

HOUSE COMMITTEE ON CHILDREN & FAMILY SERVICES

Majority Report: Do pass as amended. 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).

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: Do pass as amended by Committee on Children & Family Services as further amended by Committee on Appropriations. Signed by 31 members: Representatives Huff, Chairman; Alexander, Vice Chairman; Clements, Vice Chairman; Wensman, Vice Chairman; H. Sommers, Ranking Minority Member; Doumit, Assistant Ranking Minority Member; Gombosky, Assistant Ranking Minority Member; Benson; Carlson; Chopp; Cody; Cooke; Crouse; Dyer; Grant; Keiser; Kenney; Kessler; Lambert; Linville; Lisk; Mastin; McMorris; Parlette; Poulsen; Regala; D. Schmidt; Sehlin; Sheahan; Talcott and Tokuda.

Staff: Jason Hall (786-7145).

Background: Under dependency law, a law enforcement officer, probation counselor, or child protective services official may, pursuant to a juvenile court order, remove a child and place the child in state custody. For an order to be issued, a petition must be filed with the court alleging that the child is dependent and the child's health, safety and welfare will be seriously endangered if the child is not taken into custody. The petition does not need to be served upon the parents. If the court finds that these allegations are true, it may order the child into the custody of one of these state officials. The court may issue an order without notice to the parents or guardians, and without a preliminary hearing.

Once a child is placed in custody, a court must hold a shelter care hearing no later than 72 hours after the child is taken into state custody. At the hearing the court may release the child to the parents or continue shelter care. Release of the child may be made subject to conditions set by the court. If the parents do not comply with the conditions, a child may be returned to shelter care.

To aid the court in its decision-making, the person or agency filing the petition is charged with the task of providing a social study of matters relevant to the case. The social study includes all social records pertaining to the case and provides an evaluation of the child's circumstances. The study must be provided to the parents of the child at least 10 days prior to the dependency hearing and the court must consider the study before making a ruling.

To aid the parents in preparing for a shelter care hearing, the department is required to provide social records to the parents within 20 days of a request and prior to a shelter care hearing.

Summary of Bill: Any petition to a court to take custody of a child must be accompanied by an affidavit or declaration, filed by the department, setting forth specific facts evidencing reasonable grounds that the child's health, safety and welfare would be seriously endangered if not taken into custody. At least one of the grounds set forth by the petitioner must demonstrate a risk of imminent harm to the child. Imminent harm is defined to include, but not be limited to, sexual abuse or sexual exploitation of a child.

The petition, affidavit, and order must be served upon the guardian or parents at the time the child is removed from the home. If the parents cannot be found, failure to provide them with the petition does not invalidate the petition.

If a petitioner does not include the required affidavit or declaration with the petition, the court must notify the parents of the petition and hold a hearing on the petition prior to issuing an order for custody of the child.

Records the department intends to rely upon in support of its shelter care hearing must be produced within 15 days of a written request and prior to any shelter care hearing. If the records are served upon legal counsel, legal counsel must have an opportunity to review these records with the parents prior to the shelter care hearing. A notice of a shelter care hearing must state that the parents or guardian has a right to the records.

When a court considers whether the parents have met the conditions for release of a child to the parents, the courts must consider whether nonconformance by the parents was due to circumstances beyond the control of the parents.

As part of the social study submitted to a dependency court, parents may submit a counselor's or health care provider's evaluation of the parents. The report must be either included in the study or considered in conjunction with the study. A social study must identify any services chosen and approved by the parents.

Appropriation: None.

Fiscal Note: Available.

Effective Date: Ninety days after adjournment of session in which bill is passed. However, the bill is null and void unless funded in the budget.

Testimony For: (Children & Family Services) Parents have experienced an inability to provide input to the courts regarding the custody of their children. Further, in cases of negligent treatment, there exists a perception that families have been harmed by state intervention in situations where the conduct of the parents has not been egregious enough to outweigh the harm resulting from state intervention. The bill gives parents a better opportunity to present their views and to respond to the department's findings. Efforts at improving circumstances wherein children are removed from parents by the department are applauded by parent advocates.

(Appropriations) The department does not oppose these changes to the dependency hearing process. Parents will be better able to respond to department findings, and the department will be able to meet the 15 day deadline for providing records to the court.

Testimony Against: (Children & Family Services) None.

(Appropriations) None.

Testified: (Children & Family Services) Senator Val Stevens, prime sponsor; Jennifer Strus, Director of Program and Policy, Department of Social and Health Services (pro with amendments); and Laurie Lippold, Children's Home Society (pro with amendments).

(Appropriations) Jennifer Strus, Director of Program and Policy, Department of Social & Health Services.