

SENATE BILL REPORT

SB 5491

As Reported By Senate Committee On:
Human Services & Corrections, March 4, 1997

Title: An act relating to termination of the parent and child relationship.

Brief Description: Revising provision for termination of parent and child relationship.

Sponsors: Senators Stevens, Swecker, Strannigan, Schow and Hochstatter.

Brief History:

Committee Activity: Human Services & Corrections: 2/27/97, 3/4/97 (DPS).

SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS

Majority Report: That Substitute Senate Bill No. 5491 be substituted therefor, and the substitute bill do pass.

Signed by Senators Long, Chair; Zarelli, Vice Chair; Franklin, Hargrove, Kohl, Schow and Stevens.

Staff: Richard Rodger (786-7461)

Background: A "dependent child" means any child who has been abandoned, who is abused or neglected by a person legally responsible for the child's care, or who has a developmental disability and whose care cannot be provided in the home.

A petition seeking the termination of a parent and child relationship may be filed in juvenile court by any party to the dependency proceeding concerning that child. The petition for the termination of a parent and child relationship must allege (1) the child has been determined to be a dependent child; (2) the child has been removed from the custody of the parent for a period of at least six months; (3) services capable of correcting parental deficiencies have been provided; (4) there is little likelihood that conditions will be remedied so that the child may be returned home; and (5) that continuation of the parent and child relationship clearly diminishes the child's prospects for early integration into a stable and permanent home.

A parent's failure to improve parental deficiencies substantially within 12 months following an order of a dependency proceeding creates a rebuttable presumption that there is little likelihood that conditions will be remedied so that the child can be returned to the parent. This rebuttable presumption arises only if all necessary services capable of correcting the parental deficiencies have been offered or provided.

Summary of Substitute Bill: The court is required to use the standard of clear and convincing evidence to remove a child from the home on the basis that a manifest danger exists that the child will suffer serious abuse of neglect unless removed.

A petition seeking the termination of parent and child relationship must allege that the parent is currently unfit, notwithstanding the allegations in any previous dependency petition. This allegation must be proved by clear, cogent and convincing evidence.

Substitute Bill Compared to Original Bill: The substitute eliminates the requirement that the petitioner, seeking the termination of a parent and child relationship, must allege and prove that the child was previously found dependent and is currently a dependent. It also eliminates the requirement that evidence before the court in a prior dependency proceeding may not be the sole basis for a finding that the child is currently dependent. The substitute restores the rebuttable presumption that there is little likelihood that conditions will be remedied if the parent has failed to improve parental deficiencies within 12 months after the disposition of the dependency proceeding.

The clear and convincing standard of proof for the removal of a child from the home is added. The allegation that the parent is currently unfit is added to the termination petition process.

Appropriation: None.

Fiscal Note: Available.

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

Testimony For: This bill will clarify the process for the termination of parental rights and raise the proof requirements for the department.

Testimony Against: The bill will make it more difficult for the department to terminate parental rights in appropriate cases. It will be very difficult for the department to prove that the child is "currently unfit" because the child will have been in foster care and not in the custody of the parents during the pendency of the dependency and termination petitions. The bill will result in a large fiscal impact because it will force more children to remain in foster care for a longer period of time.

Testified: Senator Val Stevens, prime sponsor, (pro); Jennifer Strus, DSHS, (concerns).