
HOUSE BILL 2152

State of Washington

55th Legislature

1997 Regular Session

By Representative Sherstad

Read first time 02/24/97. Referred to Committee on Law & Justice.

1 AN ACT Relating to the voluntary termination of the parent and
2 child relationship by the parent; and adding a new chapter to Title 13
3 RCW.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** The definitions in this section apply
6 throughout this chapter unless the context clearly requires otherwise.

7 (1) "Department" means the department of social and health
8 services.

9 (2) "Child" means a person under the age of eighteen years who is
10 not emancipated under chapter 13.64 RCW.

11 (3) "Parent" means the natural or adoptive mother or father of a
12 child.

13 (4) "Guardian ad litem" means a person, not related to a party to
14 the action, appointed by the court to represent the best interests of
15 a party who is under a legal disability.

16 (5) "Delinquent child" means a child who has violated any state law
17 defining a crime; any ordinance of a town, city, or county of this
18 state defining a crime; any law of another state defining a crime; or

1 any law of the federal government defining a crime; and who has been
2 referred to a court in any jurisdiction for any disposition.

3 (6) "Incorrigible child" means a child who is beyond the control of
4 the child's parent or legal guardian by reason of the conduct of the
5 child.

6 Evidence of incorrigibility includes but is not limited to the
7 following behaviors: Failure to comply with the requirements of the
8 parent or legal guardian not otherwise unlawful; failure to cease the
9 unlawful use of alcohol, drugs, or tobacco; failure to cease
10 frequenting a residence or place where unlawful activity occurs;
11 failure to cease associating with persons who engage in unlawful
12 activity; and failure to cease violating curfew laws or being in public
13 places at nighttime without being on lawful business.

14 An incorrigible child is a child who habitually engages in the
15 behavior without the express or implied consent of the child's parent
16 or legal guardian and who refuses to comply with the demand of the
17 parent or legal guardian that the child cease engaging in such
18 behavior.

19 (7) "Truant child" means a child who is habitually absent from
20 school without the express or implied consent of the child's parent or
21 legal guardian and who refuses to comply with the demand of the parent
22 or legal guardian that the child attend school or who has been
23 suspended or expelled from school.

24 NEW SECTION. **Sec. 2.** A parent may petition the superior court for
25 the voluntary termination of the parent and child relationship if:

26 (1)(a) The child is a delinquent child, an incorrigible child, or
27 a truant child;

28 (b) The parent has made good faith and ongoing attempts to control
29 the child or be reconciled with the child;

30 (c) The parent's efforts to control the child or be reconciled with
31 the child have failed; and

32 (d) Future attempts by the parent to control the child or be
33 reconciled with the child would be futile; or

34 (2) The parent has previously petitioned the court, the court has
35 ordered the child to cease to engage in delinquent, incorrigible, or
36 truant behavior and to comply with the parent's requests, and the child
37 has failed to comply with the order of the court.

1 NEW SECTION. **Sec. 3.** The court shall set a time and place for a
2 hearing on the petition for the voluntary termination of the parent and
3 child relationship by the parent within thirty days after the filing of
4 the petition.

5 Notice of the hearing and a copy of the petition must be personally
6 served on the parent petitioning for termination, the child's other
7 parent, the child, and the department at least twenty days prior to the
8 hearing.

9 If the child is an Indian child, notice of the hearing must also be
10 personally served on the child's tribe.

11 If personal service cannot be made, the notice must be given by
12 registered, first class mail, mailed at least thirty days prior to the
13 hearing, and by publication at least once a week for three consecutive
14 weeks with the first publication at least thirty days before the
15 hearing.

16 The court shall appoint a guardian ad litem for the child.

17 The court shall advise the child that the child has the right to
18 court-appointed counsel to represent the child on the petition and
19 shall provide court-appointed counsel to the child upon request.

20 NEW SECTION. **Sec. 4.** The parent-child relationship of an Indian
21 child and his or her parent may be terminated only pursuant to the
22 standards set forth in 25 U.S.C. Sec. 1912(f).

23 In cases not involving an Indian child and his or her parent, the
24 parent and child relationship of a parent may be terminated upon a
25 showing by:

26 (1) Clear, cogent, and convincing evidence that:

27 (a) The child is a delinquent child, an incorrigible child, or a
28 truant child;

29 (b) The parent has made good faith and ongoing attempts to control
30 the child or be reconciled with the child; and

31 (c) The parent's efforts to control the child or be reconciled with
32 the child have failed; and

33 (2) A preponderance of the evidence that:

34 (a) Future attempts by the parent to control the child or be
35 reconciled with the child would be futile; or

36 (b) The parent has previously petitioned the court, the court has
37 ordered the child to cease to engage in delinquent, incorrigible, or

1 truant behavior and to comply with the parent's requests, and the child
2 has failed to comply with the order of the court.

3 That a parent did not obtain paid or professional counseling
4 services or take advantage of government-provided counseling services
5 may not be considered in determining whether the parent gave his or her
6 implied or express consent to the behavior of the child.

7 NEW SECTION. **Sec. 5.** If the court determines that the parent and
8 child relationship should be terminated, the court shall enter an
9 appropriate order terminating the parent and child relationship.

10 If the court approves the petition and terminates the parent and
11 child relationship, the court shall award custody of the child to the
12 nonpetitioner, noncustodial parent if the nonpetitioner, noncustodial
13 parent is otherwise qualified and moves the court for custody of the
14 child. If a nonpetitioner, noncustodial parent does not move for
15 custody of the child or is not awarded custody of the child, the court
16 shall award custody of the child to the department who shall be
17 appointed legal guardian of the child. The nonpetitioner, noncustodial
18 parent who is awarded custody of the child, or the department as legal
19 guardian of the child, is financially responsible for support of the
20 child until further order of the court.

21 An order of termination and appointment of the department as legal
22 guardian of the child must include an order authorizing the department
23 to place the child with a prospective adoptive parent under the
24 provisions of chapter 26.33 RCW.

25 An order terminating the parent and child relationship divests the
26 parent and the child of all legal rights, powers, privileges,
27 immunities, duties, and obligations with respect to each other except
28 past-due child support obligations owed by the parent, which shall be
29 paid to the department.

30 The parent and child relationship may be terminated with respect to
31 one parent without affecting the parent and child relationship between
32 the child and the other parent.

33 The parent whose parent and child relationship with the child has
34 been terminated is not thereafter entitled to notice of proceedings for
35 the adoption of the child by another, nor has the parent any right to
36 contest the adoption or otherwise to participate in the proceedings
37 unless an appeal from the termination order is pending or unless
38 otherwise ordered by the court.

1 NEW SECTION. **Sec. 6.** Sections 1 through 5 of this act constitute
2 a new chapter in Title 13 RCW.

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