

HOUSE BILL REPORT

ESSB 5413

As Reported by House Committee On:
Children & Family Services
Appropriations

Title: An act relating to provisions to improve accountability in child dependency cases.

Brief Description: Improving accountability in child dependency cases.

Sponsors: By Senate Committee on Human Services & Corrections (originally sponsored by Senators Stevens, Hargrove, Long and Roach).

Brief History:

Committee Activity:

Children & Family Services: 3/19/01, 3/28/01 [DPA];
Appropriations: 3/31/01 [DPA(APP w/o CFS)s].

Brief Summary of Engrossed Substitute Bill
(As Amended by House Committee)

- The Department of Social and Health Services (DSHS) is required, upon the parents' request, to facilitate a conference to identify in a written service agreement the specific, measurable expectations of the department and parents regarding care and placement of a dependent child
- The court is required to review the service agreement at each dependency proceeding and evaluate the performance of both the department and the parents.
- The requirement is established that a law enforcement officer will be present and file a report when a child returns home from shelter care for the second time.

HOUSE COMMITTEE ON CHILDREN & FAMILY SERVICES

Majority Report: Do pass as amended. Signed by 10 members: Representatives Boldt, Republican Co-Chair; Tokuda, Democratic Co-Chair; Kagi, Democratic Vice Chair; Morell, Republican Vice Chair; Ballasiotes, Campbell, Darneille, Dickerson, Miloscia and Pflug.

Staff: Deborah Frazier (786-7152).

Background:

Any person may file a petition to have a child declared dependent. A dependent child is one who: 1) has been abandoned, 2) has been abused or neglected, or 3) has no parent, guardian, or custodian capable of providing adequate care, so that the child's psychological or physical development is in danger of substantial damage.

If the court issues an order to take the child into custody, the child is placed in shelter care. Parents must be notified that the child is in custody, the reasons for the removal from the home, and their legal rights, including the right to be represented by appointed counsel.

The duration of shelter care may not exceed 72 hours, excluding weekends and holidays. A shelter care hearing must be held during this period. The court determines if the child should be released to the family home or if a continued out-of-home placement is required.

After the shelter care hearing, the child may remain out of home for 75 days before a fact-finding hearing is held to determine whether, by a preponderance of the evidence, the child has been proven to be dependent. During the out-of-home placement, the court may require actions by the parents and the Department of Social and Health Services (DSHS). Any out-of-home placement requires the development of a permanency plan for the child.

If the child is declared dependent, a disposition hearing is held immediately following the fact-finding hearing to establish conditions for the ongoing care of the child. The court must review the dependency at least every six months, from the beginning of the out-of-home placement or the date that dependency is established, to determine if continued court supervision is required. Dependency cases may result in termination of parental rights.

The court may order parents of a dependent child to pay child support.

All hearings related to dependency petitions are closed to the public unless the judge finds that certain persons have a direct interest in the case or the work of the court.

Summary of Amended Bill:

Upon request of parents involved in a dependency case, after the shelter care hearing but not later than 25 days prior to the fact finding hearing, the DSHS is required to facilitate a conference to identify the department's expectations regarding care and placement of

the child in a written service agreement. The expectations must be specific so that court can measure performance, and must correlate with the court's findings at the shelter care hearing.

At any stage of the dependency proceeding, the parents may request and the department must facilitate a case conference.

The required notification to parents of removal and placement of the child in shelter care is modified to inform parents that they can request the service agreement conference.

The requirement is established that a law enforcement officer will accompany the child and file a report when a child returns home from shelter care for the second time.

When considering the allegation in a termination petition that conditions will not be remedied so that the child can be returned to the parent, the court may consider that a parent's use of controlled substances, or psychological incapacity, results in an inability to care for the child for periods of time that present a risk of imminent harm to the child.

The bill requires that the first dependency review be an in-court hearing, and must be accomplished with available resources. The first hearing must occur six months from the beginning of the out-of-home placement or no more than 90 days from entry of the disposition order. This hearing may be a permanency planning hearing. At this hearing, the court is required to consider the measurable progress of the agency and parent in meeting the disposition plan requirements.

The department is required to inform parents about case conferences prior to using the process.

The bill sets forth the process for a parent to waive the right to a fact-finding hearing and to stipulate or agree to dependency orders. The process seeks to assure that the parent has knowingly and willingly stipulated and agreed to the order, and understands that this action may result in termination of parental rights.

Amended Bill Compared to Engrossed Substitute Bill:

It is clarified that the written service agreement applies to both the department and the parent. The role of the agreement in dependency proceedings is described. The section addressing child support suspension or deferral is deleted. The requirement is established that a law enforcement officer will accompany the child and file a report when a child returns home from shelter care for the second time. The elapsed time after the disposition hearing to the first dependency review is set at 90 days, rather than 60-90 days. The requirement is established that the processes at the initial dependency review be accomplished within available resources. The section requiring accreditation of Children's Administration offices by January 30, 2008 is deleted. The variety of

processes listed as available to the parent during dependency proceedings is replaced with the term case conference. The reference to available resources related to informing the parents about the nature of a case conference is deleted. The section establishing the name of the act is deleted.

Appropriation: None.

Fiscal Note: Available.

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

Testimony For: The members of the fatality review panel were alarmed to find that each of the department's regions handles things differently. We need a statewide standard. The service contract will improve accountability as the case moves from worker to worker. The emotional strain on parents whose children have been removed is immense; the proposed service contract can tie together all that is currently done during dependency proceedings. The bill emphasizes the involvement of parents and other interested parties. Accreditation will improve accountability.

Testimony Against: Costs will increase because of the increased demand on public defenders' time and court time. King County currently hears fewer than 50 percent of initial dependency reviews in court. The requirement to hear all of these in court will affect the counties' costs. The child support provisions take away the judges' discretion and conflict with federal law.

Testified: (In support) Senator Stevens, prime sponsor; Laurie Lippold, Children's Home Society; and Dave Wood, Families United.

(In support with concerns) Jody Sheridan, Court Appointed Special Advocates for Dependent Children; and Marianna Conner and David Stillman, Department of Social and Health Services.

(Concerns) Heather Lechner, Washington Defenders Association; Martha Harden, Superior Court Judge Association; and Sophia Byrd, Washington State Association of Counties.

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: Do pass as amended by Committee on Appropriations and without amendment by Committee on Children & Family Services. Signed by 30 members: Representatives Sehlin, Republican Co-Chair; H. Sommers, Democratic Co-Chair; Barlean, Republican Vice Chair; Doumit, Democratic Vice Chair; Lisk, Republican Vice

Chair; Alexander, Benson, Boldt, Buck, Clements, Cody, Cox, Dunshee, Fromhold, Grant, Kagi, Keiser, Kenney, Kessler, Lambert, Linville, Mastin, McIntire, Mulliken, Pearson, Pflug, Ruderman, Schual-Berke, Talcott and Tokuda.

Staff: Heather Flodstrom (786-7391).

Summary of Recommendation of Committee On Appropriations Compared to Recommendation of Committee On Children & Family Services:

It is clarified that the written service agreement applies to both the department and the parent. The role of the agreement in dependency proceedings is described. References to the presence of parents' counsel and a child's guardian ad litem at the case conference are removed. The section addressing child support suspension or deferral is deleted. When a child is returned home from shelter care for the second time, an officer must be present and file a report. Processes at the initial dependency review must be accomplished within available resources, and do not have to occur in court. The section requiring accreditation of Children's Administration offices by January 30, 2008 is deleted. The variety of processes listed as available to the parent during dependency proceedings is replaced with the term case conference.— The reference to available resources related to informing the parents about the nature of a case conference is deleted. The section setting forth the process for a parent to waive the right to a fact-finding hearing, and to stipulate or agree to dependency orders, is modified to require that the parents and the counsel to the parents sign a statement developed according to court rules, indicating the parents' understanding of the dependency proceedings. The section establishing the name of the act is deleted.

Appropriation: None.

Fiscal Note: Available.

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

Testimony For: The lack of inclusion of parents and other people concerned with dependency cases is a problem discovered during the Zy'nyia Nobles fatality review. The Court Appointed Special Advocate (CASA) program uses volunteer guardians ad litem, and will defer some of the cost in convening the case conferences. This will allow parents a clear vehicle to participate in early case planning for children, and it will facilitate a clear understanding between the parents and the department on the action steps that should be taken to support the children's welfare. This bill will get parents involved at an early point in the process and is good practice.

Testimony Against: None.

Testified: Senator Stevens, prime sponsor; Marianna Connor, Department of Social and Health Services; and Laurie Lippold, Children’s Home Society.