

***Juvenile Justice Committee***

***SB 5500***

***Brief Description:*** *Revising programs and proceedings for children under the BECCA and HOPE acts.*

***Sponsors:*** *By Senators Hargrove and Long.*

***Brief Summary of Bill***

- *Adds truancy to the definition of at-risk youth.*
- *Allows parents to convert a ChINS or truancy petition to an ARY petition.*
- *Provides greater discretion to the court to order risk and needs assessments, and to hold review hearings.*
- *Protects persons who shelter children pursuant to the HOPE Act from criminal and civil liability.*
- *Allows courts to pursue criminal contempt sanctions, and extends the seven day civil contempt sanction to 21 days for certain cases.*

***Hearing Date:***

***Staff:*** *Catherine Blinn (786-7114).*

***Background:***

***ChINS:***

*A Child In Need of Services (ChINS) petition filed in juvenile court by a parent, child, or the Department of Social and Health Services (DSHS) seeks out-of-home placement for a child who has a history of running away; has a substance abuse problem; exhibits behavior endangering anyone's health, safety or welfare; is beyond the parents' control; needs necessary services such as food, shelter, health care, clothing or education; and/or whose parents have been unsuccessful or unwilling to maintain the family structure. Once a*

*proper ChINS petition is filed, the juvenile court must schedule a fact-finding hearing, notify parents of their right to file an at-risk youth petition, and address the current placement of the child. At the conclusion of a fact-finding hearing, the court can dismiss the ChINS petition, approve the ChINS petition and approve a temporary out-of-home placement for the child, or dismiss the ChINS petition but approve an at-risk youth petition. At the dispositional hearing held within 14 days of the fact-finding hearing, the court may reunite the family and dismiss the ChINS petition, dismiss the ChINS petition but approve an at-risk youth petition, or order an out-of-home placement. If the child is placed out of the home, the court must hold a review hearing within 90 days to continue or discontinue the out-of-home placement. The court can dismiss a ChINS proceeding at any time if circumstances warrant it or if the child becomes the subject of a dependency action. Out-of-home placement may not continue past 180 days from the review hearing, at which time the child must return to a parent's home.*

**ARY:**

*An At-Risk Youth (ARY) petition is a process by which parents may request and receive assistance from juvenile courts to provide appropriate care, treatment, and supervision of an at-risk youth. An at-risk youth is a child who is absent from home for at least 72 hours; is beyond the parents' control and exhibits behavior endangering anyone's health, safety or welfare; or who has a substance abuse problem but no pending criminal charges pertaining to the substance abuse problem. When a proper ARY petition is filed, the court must hold a fact-finding hearing to approve or dismiss the petition. At the dispositional hearing held within 14 days of the fact-finding hearing, the court must consider recommendations from the parties and the DSHS to assist parents in maintaining care, custody, and control of the child. The court shall hold a review hearing within 90 days of the dispositional hearing to continue or discontinue court supervision. Court supervision may not continue past 180 days from the review hearing. The court can dismiss an ARY proceeding at any time if circumstances warrant it or if the child becomes the subject of a dependency action. The court must grant a parent's request to discontinue an ARY proceeding, unless a contempt action is pending or a ChINS petition is pending.*

**Truancy:**

*A truancy petition may be filed by a school district or parent when a student has an unacceptable number of unexcused absences, the school district has been unsuccessful in reducing the absences, and court intervention and supervision appear necessary. The court must inform the parents of the purpose and procedure for ChINS and ARY petitions. Once a truancy petition is approved, the court or truancy board must enter into an agreement with the student and the parents that establishes attendance requirements and takes any other action necessary to reduce the absences.*

**Immunity:**

*Crisis residential centers, their employees and other persons with whom children are placed pursuant to ChINS and ARY out-of-home placements are immune from civil or criminal liability for receiving the children, as long as they act reasonably and in good faith. Persons who provide shelter, without legal authorization, to runaway children are immune from liability as long as they promptly notify a parent, an appropriate law enforcement agency or the DSHS, and as long as there is no intentional misconduct or gross negligence.*

*The HOPE Act of 1999 addressed the needs of homeless families with children, and created HOPE centers and responsible living skills programs. HOPE Centers provide temporary residential placement for street youth, children in need of services, and dependent children. Responsible living skills programs provide residential and transitional services for dependent teenagers 16 to 18 years old who are unable to live in their authorized residences, and for dependent teenagers 14 to 15 years old who have no other placement alternative.*

**Contempt:**

*Children who violate ChINS, ARY and truancy conditions of supervision are subject to civil contempt proceedings, as provided in the general civil contempt statutes. Criminal contempt proceedings are currently not authorized for ChINS, ARY and truancy violations. The purpose of remedial sanctions imposed in civil contempt proceedings is to coerce the child to comply with the court's orders. The maximum sanction allowed for a ChINS or ARY contempt proceeding is a \$100 fine and seven days detention. The courts recently addressed ChINS and ARY civil contempt sanctions and concluded:*

- a child must be allowed to promise future compliance before the court imposes detention;*
- detention is allowed once it is clear that the child's promise to comply is unreliable, but the detention is remedial only if the court provides a purge condition that is within the child's power to perform, and that will remove the child from contempt status, allowing for his or her immediate release; and*
- courts cannot aggregate detention sanctions for multiple violations beyond the seven day limit.*

*The sanction must be remedial, rather than punitive. If detention is imposed without an opportunity to purge the contempt status, the detention becomes punitive. If the sanction will not induce compliance, the justification for the sanction disappears, and any further incarceration as punishment for disobeying the court's orders can only be imposed following criminal proceedings. Criminal contempt proceedings are punitive and require the same due process rights afforded criminal defendants, such as the filing of a complaint or information by a prosecuting attorney, assistance of counsel, and proof beyond a reasonable doubt.*

**Summary of Bill:**

**ChINS, ARY and Truancy:**

*The definition of at-risk youth includes truants who also exhibit one of the other behavior factors already listed in the definition of at-risk youth. Parents may request that a ChINS or truancy petition be converted to an ARY petition, disposing of the need to file a new, separate petition and have the old petition dismissed. If an ARY petition that was originally filed as a truancy petition is dismissed, it shall revert to a truancy petition. Subject to available resources, the court may order a risk and needs assessment at any time during a ChINS or ARY proceeding. The court may order an assessment during a truancy proceeding once a child violates the truancy order. Based on the results of the assessment, the court can order any appropriate conditions of supervision, including regular school attendance, counseling, and participation in a substance abuse or mental health outpatient program. At its discretion, the court may hold a hearing to review a ChINS or ARY matter at any time. However, the 180 day limit on court supervision still begins to run from the day of the review hearing.*

***Immunity:***

***Any person who receives or shelters a child with regard to the HOPE Act is immune from civil or criminal liability as long as the person acts reasonably, in good faith, and in compliance with the requirements of the HOPE Act. The grant of immunity applies to both HOPE centers and responsible living skills programs.***

***Contempt:***

***The word "remedial" is removed from the section of the civil contempt statute that addresses sanctions for ChINS, ARY, truancy and dependency violations. The maximum sanction of \$100 fine and seven days detention remains in the civil contempt statute but is removed from the ChINS and ARY statute. The seven day limit may be extended to 21 days where the court finds that the child "has repeatedly been held in contempt, the party does not agree to comply with the court's order, and the court determines that detention is necessary to enforce the order of the court." Both criminal and civil contempt sanctions are now authorized for violations of ChINS, ARY or truancy conditions.***

***Appropriation: None.***

***Fiscal Note: Not Requested.***

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