

# HOUSE BILL REPORT

## SHB 2988

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### As Amended by the Senate

**Title:** An act relating to foster parents' rights.

**Brief Description:** Protecting the rights of foster parents.

**Sponsors:** By House Committee on Children & Family Services (originally sponsored by Representatives Boldt, Clements, Pearson, Bailey and McMahan).

**Brief History:**

**Committee Activity:**

Children & Family Services: 2/5/04 [DPS].

**Floor Activity:**

Passed House: 2/12/04, 93-0.

Senate Amended.

Passed Senate: 3/2/04, 47-0.

<p style="text-align: center;"><b>Brief Summary of Substitute Bill</b></p> <ul style="list-style-type: none"><li>· Prohibits any Department of Social and Health Services employee from retaliating or discriminating against a foster parent for specified actions.</li></ul>
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### HOUSE COMMITTEE ON CHILDREN & FAMILY SERVICES

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 9 members: Representatives Kagi, Chair; Darneille, Vice Chair; Boldt, Ranking Minority Member; Roach, Assistant Ranking Minority Member; Bailey, Dickerson, Miloscia, Pettigrew and Shabro.

**Staff:** Cynthia Forland (786-7152).

**Background:**

House Bill 1102 of 2001, relating to foster parents rights, was enacted in 2001 with a partial veto by the Governor. House Bill 1102 provided that foster parents have the right to be free of coercion, discrimination, and reprisal in serving foster children, including the right to voice grievances about treatment furnished or not furnished to the foster child.

Two sections of the bill were vetoed by the Governor. One of those two vetoed sections provided that no Department of Social and Health Services (DSHS) employee may retaliate against a foster parent or in any other manner discriminate against any foster parent because:

- The foster parent made a complaint with the Office of the Family and Children's Ombudsman (OFCO), the Attorney General, law enforcement agencies, or the DSHS, provided information, or otherwise cooperated with the investigation of such a complaint;
- The foster parent has caused to be instituted any proceedings under or related to Title 13 RCW, relating to juvenile courts and juvenile offenders;
- The foster parent has testified or is about to testify in any proceedings under or related to Title 13 RCW, relating to juvenile courts and juvenile offenders;
- The foster parent has advocated for services on behalf of the foster child;
- The foster parent has sought to adopt a foster child in the foster parent's care; or
- The foster parent has discussed or consulted with anyone concerning the foster parent's rights under chapter 74.13 RCW, relating to child welfare services, chapter 74.15 RCW, relating to the care of children, expectant mothers, and developmentally disabled, or chapter 13.34 RCW, relating to dependencies.

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### **Summary of Substitute Bill:**

No DSHS employee may retaliate against a foster parent or in any other manner discriminate against any foster parent because:

- The foster parent made a complaint with the OFCO, the Attorney General, law enforcement agencies, or the DSHS, provided information, or otherwise cooperated with the investigation of such a complaint;
- The foster parent has caused to be instituted any proceedings under or related to Title 13 RCW, relating to juvenile courts and juvenile offenders;
- The foster parent has testified or is about to testify in any proceedings under or related to Title 13 RCW, relating to juvenile courts and juvenile offenders;
- The foster parent has advocated for services on behalf of the foster child;
- The foster parent has sought to adopt a foster child in the foster parent's care; or
- The foster parent has discussed or consulted with anyone concerning the foster parent's rights under chapter 74.13 RCW, relating to child welfare services, chapter 74.15 RCW, relating to the care of children, expectant mothers, and developmentally disabled, or chapter 13.34 RCW, relating to dependencies.

The DSHS is required to develop procedures for the following:

- reporting a violation of the prohibition provided in the substitute bill on retaliating against a foster parent or in any other manner discriminating against a foster parent;
- disciplinary action in response to a violation of the prohibition provided in the substitute bill on retaliating against a foster parent or in any other manner discriminating against a foster parent;

- informing a foster parent who reports a violation of the prohibition provided in the substitute bill on retaliating against a foster parent or in any other manner discriminating against a foster parent and the regional foster parent liaison of the outcome of that report; and
- informing foster parents of: the prohibition provided in the substitute bill on retaliating against a foster parent or in any other manner discriminating against a foster parent; and the procedures developed for reporting a violation of that prohibition, disciplinary action in response to a violation of that prohibition, and informing a foster parent reporting such a violation and the regional foster parent liaison of the outcome of that report.

The DSHS is required to report to the appropriate committees of the Legislature on the developed procedures by January 1, 2005.

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**EFFECT OF SENATE AMENDMENT(S):**

The actions identified in the substitute bill, for which no DSHS employee may retaliate or in any other manner discriminate against a foster parent, are retained; however, that specific prohibition on DSHS employees and the requirements of the DSHS to develop procedures relating to that prohibition are removed.

It is provided that a foster parent who believes that a DSHS employee has retaliated or in any other manner discriminated against the foster parent for engaging in the identified actions may file a complaint with the OFCO. The OFCO is required to include its recommendations regarding those complaints in its annual report. The OFCO is also required to identify trends which may indicate a need to improve relations between the DSHS and foster parents. The DSHS is required to develop procedures for responding to recommendations of the OFCO as a result of any and all complaints filed by foster parents who believe that a DSHS employee has retaliated or in any other manner discriminated against them for engaging in the identified actions.

The sum of \$50,000 is appropriated for this fiscal year to the OFCO for the functions required under the bill.

**Appropriation:** None.

**Fiscal Note:** Available. New fiscal note requested on February 6, 2004.

**Effective Date:** The bill takes effect 90 days after adjournment of session in which bill is passed.

**Testimony For:** (In support on original bill) This bill is made up of the sections of HB 1102 of 2001 that the Governor vetoed. The Governor followed up on that veto by

reinstating some policies, but this issue has resurfaced. The DSHS has not been implementing bills that have been enacted, but we are seeing more satisfying outcomes from the DSHS. Foster parents are being damaged by the DSHS. The DSHS must follow its own policies and procedures. Caseworkers are making unilateral decisions and are not notifying foster parents of decisions. Foster parents have filed complaints with the DSHS, with no results. Foster parents are afraid of retaliation by the DSHS. There is reason to believe that changes are coming. Retaliation against foster parents does exist, including Child Protective Services investigations of foster parents, removals of foster children, refusals to place children with foster parents, incorrect placements of foster children, and late payments to foster parents. However, retaliation is not widespread. There is a lack of respect of foster parents. The fear of retaliation is spreading like wildfire. There is no evidence of corrective action by the DSHS. The bill should include a clause mandating corrective action. In some areas, the DSHS is not willing to place children with relatives. Foster parents are misled and are subjected to threats, false allegations, and intimidations. There should be accountability of caseworkers.

(With concerns on original bill) Language in the bill concerning enforcement of the conflict of interest provisions is arbitrary and does not allow for protections under state civil service law.

**Testimony Against:** (Opposed on original bill) The DSHS investigates complaints of retaliation, following specific policies, the results of which remain confidential. The DSHS is looking at the issues of discipline and accountability as part of civil service reform. The DSHS has received a grant from the Casey Foundation to look at foster parent relationships and relative placements. The DSHS has developed a more formal complaint protocol. In response to the federal Child and Family Services Review, Washington's Program Improvement Plan will address decision making around safety and reunification, placements with relatives, and relationships with foster parents. There are two seemingly unrelated subjects in the bill. The process for determining retaliation is not spelled out in the bill.

**Persons Testifying:** (In support on original bill) Representative Boldt, prime sponsor; Cheri Covert, Central Washington Foster Parent Association; Charlotte Riel Wellner and Darlene Flowers, Foster Parent Association of Washington State; and Suzy Nickel, foster parent.

(With concerns on original bill) Bev Hermanson, Washington Federation of State Employees.

(Opposed on original bill) Nancy Zahn, Department of Social and Health Services.

**Persons Signed In To Testify But Not Testifying:** None.