

HOUSE BILL REPORT

HB 1236

As Reported by House Committee On:
Children & Family Services

Title: An act relating to public access to child dependency hearings.

Brief Description: Providing public access to child dependency hearings.

Sponsors: Representatives Kagi, Boldt, Pettigrew, Darneille, Moeller, Clibborn, Roach, Armstrong, Jarrett, Lantz, Kenney, Benson, Shabro, Anderson and Mielke.

Brief History:

Committee Activity:

Children & Family Services: 1/29/03, 2/12/03 [DPS].

Brief Summary of Substitute Bill

- Requires that all dependency and termination of parental rights hearings must be open to the public unless the judge finds that excluding the public is in the best interest of the child.

HOUSE COMMITTEE ON CHILDREN & FAMILY SERVICES

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 8 members: Representatives Kagi, Chair; Darneille, Vice Chair; Boldt, Ranking Minority Member; Bailey, Dickerson, Miloscia, Pettigrew and Shabro.

Staff: Sonja Hallum (786-7092).

Background:

If there are allegations of abandonment, abuse or neglect, or no parent who is capable of caring for a child, the state may investigate the allegations. If the conditions are sufficient to meet the statutory requirements of a "dependent" child, the Department of Social and Health Services (Department) may file a dependency petition with the court. If the court finds the statutory requirements have been met, the court will find the child to be a dependent of the state.

The court may order the parent to engage in services to correct the parental deficiencies

which led to the finding of dependency. If the parent fails to correct the parental deficiencies, the Department may file a petition requesting termination of parental rights (termination). If the court finds the state has proven the statutory requirements, the court may terminate the parent's rights to the child. The parent then has no further rights to the child than would any other non-related person.

Dependency and termination hearings have traditionally been closed to the public. States have been increasingly moving towards opening these hearings to the public. The states which have opted to open their dependency and termination proceedings to the public vary on the extent of the openness of the hearings and the access allowed to the documents from the hearings.

There is no federal law specifically requiring that dependency or termination proceedings be either open or closed to the public. There are, however, federal provisions which provide funding to the states for services such as foster care, social security, and other social services. These federal funding provisions require states to follow certain conditions in order to obtain the funding. One of the requirements is the maintenance of confidentiality.

Dependency and termination hearings are closed to the public in Washington.

Summary of Substitute Bill:

The dependency and termination hearings may be heard in conjunction with other business of the court. The public will not be excluded from any dependency and termination hearings unless the judge finds that excluding the public is in the best interest of the child and states the reasons for excluding the public on the record.

If the judge finds it is in the best interest of the child to close the hearing to the public, the following people may attend the hearings:

- a. The child's relatives and foster parents may attend the hearing unless the judge finds it is not in the best interest of the child; and
- b. Any person may attend the hearing at the request of the parent unless the judge finds it is not in the best interest of the child.

Substitute Bill Compared to Original Bill:

The original bill required the court to have dependency and termination hearings separate from other court business. The substitute bill removes this restriction and allows dependency and termination hearings to be heard with other business of Superior Court.

The original bill allows the judge to close the hearings if he or she determines that it is in the best interest of the child to close the dependency hearing. The substitute bill adds the requirement that if the judge closes the hearing, the judge must state his or her reasons on the record.

The substitute bill allows additional persons to attend the closed hearings.

Appropriation: None.

Fiscal Note: Not Requested.

Effective Date of Substitute Bill: The bill takes effect ninety days after adjournment of session in which bill is passed.

Testimony For: (Original bill) Opening dependency court holds the parties more accountable. Parents, courts, judges, the Department, and all parties are more accountable. Open dependency courts are working in other states. In cases in states where the courts are open, there has not been a problem of the press publicizing the cases. In states where the hearings are open, judges find it is helpful to know who is there to support the families. Historically, dependency hearings have been open to the public. The judges have the discretion to close the hearings. If there are particularly sensitive issues, the court has the ability to seal the records. Opening dependency court is consistent with the Constitution.

(With concerns on the original bill) The provision regarding closing the hearing doesn't go far enough. The hearing should be closed if the parents want it closed. The state may risk losing federal funding by opening the dependency court. This arguably creates open files which anyone can look at down the road. This could be problematic for parents and children. It is hard to imagine where the best interest of the child would be served by opening the court to the public. Media focusing on sensational stories is a concern. The parents would be humiliated and embarrassed. If the hearing is open it should be heard in conjunction with other court business to enable courts like family court to incorporate those issues. The judge should give reasons to close the hearings. Other people need to be able to attend. The bill should use the language "harmful to the child" rather than "best interest of the child."

(Neutral with concerns on the original bill) It is up to the court whether to close the hearings. If the hearings are open, the files must be open. Any party can bring a motion to find it is in the best interest of the child to close the hearing.

Testimony Against: None.

Testified: (In support) Representative Kagi, prime sponsor; Laurie Lippold, Children's

Home Society; Delight Roberts, Children's Alliance; Dave Wood, Families United; Terisa Montoya; and Rowland Thompson, Allied Daily Newspapers.

(With concerns) Art Cantrall, Department of Social and Health Services; Sherry Appleton, Washington Defenders Association and Washington Association of Criminal Defense Lawyers; James A. Legaz, Washington Catholic Conference; Martha Harden, Superior Court Judges Association; and Gary Preble, attorney.

(Neutral with concerns) Debbie Wilke, Washington Association of County Officials.