
**Children & Family Services
Committee**

HB 3001

Brief Description: Authorizing kinship caregivers to consent to medical care.

Sponsors: Representatives Pettigrew, Boldt, Flannigan, Bailey, Kagi, Clibborn, Shabro, McDermott, Dickerson, Miloscia, Darneille, Roach, O'Brien, Morrell, Santos, Linville, Lantz, Wood and Chase.

Brief Summary of Bill

- Authorizes a person standing in loco parentis to a child to consent to medical treatment for that child.

Hearing Date: 2/4/04

Staff: Cynthia Forland (786-7152).

Background:

In 2001, the Legislature directed the Washington State Institute for Public Policy (WSIPP) to study the prevalence and needs of families who are raising related children. In June 2002, the WSIPP issued a report describing the prevalence and characteristics of kinship care, needs of kinship care providers in the state, policies and services available in Washington and other states, and policy options that may increase appropriate kinship care placements.

In anticipation of the release of the WSIPP report, the Department of Social and Health Services (DSHS) was required to convene a kinship caregivers workgroup to review the report and develop a briefing for the Legislature identifying the policy issues related to kinship caregivers, the federal and state statutes associated with these issues, and options to address the issues. The Kinship Care Workgroup, which the DSHS formed in response, reported to the Legislature in November 2002 with recommendations identifying a number of steps that could be taken by the Legislature or by the DSHS that encompassed the following areas related to kinship care: financial needs, service delivery and practice, legal issues, social services, and issues for federal action.

The Kinship Care Workgroup put forth a total of 16 high priority recommendations, including the recommendation that the Legislature mandate and fund an ongoing committee of relative caregivers and others to oversee the implementation of the recommendations in the report and continue future work on kinship care in the state.

In 2003, legislation was enacted requiring the DSHS to establish an oversight committee to monitor, guide, and report on kinship care recommendations and implementation activities. In response, the DSHS established the Kinship Oversight Committee, which issued recommendations in January 2004 concerning issues of legislative concern relating to kinship care. Those recommendations included establishing authorization for kinship caregivers to consent to medical care for children in their care.

Summary of Bill:

In addition to such other persons as may be so authorized, any person 18 years of age or older standing in loco parentis to a child under 18 years of age is authorized to consent to any medical or surgical treatment or procedure not prohibited by law, including professional use of anesthetics and administration of prescribed medications, provided that the treatment or procedure has been suggested, recommended, prescribed, or directed by a licensed health care practitioner performing services within that practitioner's authorized scope of practice.

No person who acts in good faith reliance on consent provided by a person standing in loco parentis to a child may be subject to criminal liability, civil liability, or professional disciplinary action as a result of such reliance.

Any person who falsely claims to be standing in loco parentis or who, based on in loco parentis status, provides consent to a medical or surgical treatment or procedure despite actual knowledge that the parent of the child would object to such treatment or procedure is subject to a civil penalty of \$1,000 for each violation and may also be subject to criminal liability.

The authorized consent does not apply to children who are in the custody of the DSHS or other agency contracted by the DSHS.

Appropriation: None.

Fiscal Note: Not requested.

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