
**Children & Family Services
Committee**

SSB 5474

Brief Description: Creating a kinship caregiver's authorization affidavit.

Sponsors: Senate Committee on Children & Family Services & Corrections (originally sponsored by Senators Regala, Stevens, McAuliffe, Carlson, Kohl-Welles, Winsley and Rasmussen).

Brief Summary of Substitute Bill

- Establishes a kinship caregiver's authorization affidavit.

Hearing Date: 3/26/03

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 state should adopt a Caregiver's Authorization Affidavit, modeled on one that has operated successfully in California since 1994, which would authorize relative caregivers to enroll a child in school and obtain medical care for the child.

Summary of Bill:

A kinship caregiver's authorization affidavit is created that could be used to authorize a kinship caregiver to: enroll a child in school and consent to school-related medical care on behalf of the child in his or her care; or consent, on behalf of the child in his or her care, to dental care and such emergent medical care as necessary to preserve the life or health of the child. "Kinship caregiver" is defined as a person over 18 years of age who provides parent-like services and support to a child residing with the caregiver, to whom the child is related by blood or marriage or to whom the child was related by marriage even if the marriage has been dissolved. For a child defined as an "Indian child" under the federal Indian Child Welfare Act, the definition of "extended family member" under that law applies.

The authority of a kinship caregiver to consent to or to refuse medical or dental care for a child is subordinate to any decision of the parent or other person having legal custody of the child, provided the decision of the parent or other person having legal custody of the child does not jeopardize the life, health, or safety of the child.

A person who acts in good faith reliance on a kinship caregiver's affidavit to provide medical or dental care, without actual knowledge of facts contrary to those stated on the affidavit, is not subject to criminal liability or civil liability to any person or professional disciplinary action for such good faith reliance if the applicable portions of the affidavit are completed.

A kinship caregiver who is unable to notify the parent or parents that the caregiver has the child must notify law enforcement and document that notification on the affidavit.

A kinship caregiver's authorization affidavit may not be valid for more than six months after the date on which it is executed. At the expiration of the affidavit, the kinship caregiver must: return the child to the parent or parents if available; notify the DSHS that the parent or parents are not available; or petition for permanent legal custody if the parent or parents are not available.

If the child ceases to reside with the kinship caregiver, the kinship caregiver must immediately notify any and every school, health care provider, carrier, or other person or entity to whom the kinship caregiver has provided the affidavit that the child no longer resides with the caregiver. No further consent to school enrollment or medical treatment may be given by the former kinship caregiver once the child ceases to reside with the former caregiver.

Appropriation: None.

Fiscal Note: Requested on March 18, 2003.

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