

SENATE BILL REPORT

SB 6524

As Reported By Senate Committee On:
Children & Family Services & Corrections, February 6, 2004

Title: An act relating to guardianship of dependent children.

Brief Description: Revising provisions relating to guardianship of dependent children.

Sponsors: Senators Hargrove and Stevens; by request of Department of Social and Health Services.

Brief History:

Committee Activity: Children & Family Services & Corrections: 1/30/04, 2/6/04 [DPS].

SENATE COMMITTEE ON CHILDREN & FAMILY SERVICES & CORRECTIONS

Majority Report: That Substitute Senate Bill No. 6524 be substituted therefor, and the substitute bill do pass.

Signed by Senators Stevens, Chair; Carlson, Hargrove and McAuliffe.

Staff: Lilah Amos (786-7429)

Background: The best interests of a dependent child are often served by placement with relatives or persons who have a long-term caring relationship with the child. Currently the court can appoint a dependency guardian to assist the court in supervising the dependency. Dependency guardians can be appointed for dependent children for whom parental rights have not been terminated.

Summary of Substitute Bill: Dependency guardianships are eliminated. Guardianships are authorized for dependent children when their parents' rights have not been terminated. The importance of the maintenance of sibling relationships is recognized.

Guardianship must be the preferred permanency plan for the child when return to the home or adoption is not an appropriate plan, and the court finds:

- the child retains a bond with the child's parent and maintenance of that bond is in the best interests of the child; and
- the child is at least 12 but less than 18 years old, and termination of the parent-child relationship and adoption is not suitable; or
- the child is less than 12 years old and the guardian is related to the child and has made a long-term commitment to care for the child; and
- ongoing involvement of the Department of Social and Health Services (DSHS) or another agency to supervise the placement of the child or provide services beyond guardianship subsidies and benefits or incentives authorized is not required.

The court may also consider whether the proposed guardianship meets the familial and cultural needs of the child, whether the child has expressed a preference for guardianship, and

whether the placement of the siblings with the same guardian is in the best interest of the siblings, regardless of their age.

In determining whether the proposed guardianship is in the best interests of the child, the court must consider the above factors and also consider the relationship of the proposed guardian to the child, the nature of the child's relationship with siblings and the extent to which the guardianship will facilitate those relationships and, if the child is an Indian child, the position of the child's tribe regarding the guardianship.

A guardianship for a child under the age of 12 for whom the parent-child relationship has been legally terminated may be established only if a court determines that exceptional circumstances exist and that a guardianship is in the child's best interests. The finding of exceptional circumstances is not required if the proposed guardian has promised to provide long-term care for the child. Exceptional circumstances may include:

- a child under age 12 who is difficult to place and has special needs and a suitable and willing guardian;
- a child age 14 to 17 for whom parental rights have been terminated who does not consent to adoption; and
- establishment of a guardianship will allow the child to maintain contact with siblings to an extent unlikely to be achieved through other permanency options.

DSHS has no authority to provide services to or supervise a child in a guardianship. DSHS may provide subsidies for guardians to meet the child's needs and must establish eligibility for the subsidy by rule.

Before a guardianship is established, a home study must be completed which must include a criminal background check.

Substitute Bill Compared to Original Bill: The original bill was not considered.

Appropriation: None.

Fiscal Note: Available.

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

Testimony For: This bill will minimize department intrusion into the lives of families capable of caring for children without department intervention or services. This guardianship plan recognizes that, for children who maintain a relationship with their parents but for whom return to that home is not likely to be feasible, a permanency plan such as this is the best option.

Testimony Against: There are concerns that this bill would eliminate financial assistance and services for persons who are willing to provide long-term care for children and would have other unintended consequences. Additionally, Indian children would not benefit from a situation in which services are not offered by DSHS.

Testified: PRO: Uma Ahluwalia, DSHS Children's Administration; CONCERNS: Edith Owen, Pierce County Relatives Raising Children; Laurie Lippold, Children's Home Society; Janet Helson, Columbia Legal Services (on behalf of a client); Kevin Campbell, Catholic

Community Services; CON: Di Daugherty-King, Snoqualmie Tribe; John Stout, Washington State CASA.