

HOUSE BILL REPORT

SHB 2156

As Amended by the Senate

Title: An act relating to dependency and termination of parental rights.

Brief Description: Regarding dependency and termination of parental rights.

Sponsors: By House Committee on Children & Family Services (originally sponsored by Representatives Hinkle, Kagi, Nixon, Pettigrew, McDonald, Dickerson, Pearson, Springer, Rodne and Williams).

Brief History:

Committee Activity:

Children & Family Services: 3/1/05, 3/2/05 [DPS];

Appropriations: 3/5/05 [DPS(CFS)].

Floor Activity:

Passed House: 3/10/05, 94-0.

Senate Amended.

Passed Senate: 4/6/05, 49-0.

Brief Summary of Substitute Bill

- Requires that if a child has been removed from the parent's home twice, the child may not be returned home again unless the parent can show by clear and convincing evidence at a fact-finding hearing that the reasons for removal no longer exist.
- If the child is removed from the home a third time, or if the parent fails to remedy the reasons for removal within 15 months, the supervising agency must file a petition for termination of parental rights.
- Requires permanency planning to occur sooner than current requirements.
- Requires the court to hear the supervising agency's plan to ensure the safety of the child before the child may be returned home.
- Adds failure to contact the child to the list of aggravating factors for the purpose of termination of parental rights.

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; Roberts, Vice Chair; Hinkle, Ranking Minority Member; Walsh, Assistant Ranking Minority Member; Darneille, Dickerson, Dunn, Haler and Pettigrew.

Staff: Sonja Hallum (786-7092).

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: The substitute bill by Committee on Children & Family Services be substituted therefor and the substitute bill do pass. Signed by 28 members: Representatives Sommers, Chair; Fromhold, Vice Chair; Alexander, Ranking Minority Member; Anderson, Assistant Ranking Minority Member; McDonald, Assistant Ranking Minority Member; Armstrong, Bailey, Buri, Clements, Cody, Conway, Darneille, Dunshee, Grant, Haigh, Hinkle, Hunter, Kagi, Kenney, Kessler, Linville, McDermott, Miloscia, Pearson, Priest, Schual-Berke, Talcott and Walsh.

Staff: Amy Skei (786-7140).

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 and initiate a dependency proceeding in juvenile court. If the court finds the statutory requirements have been met, the court will find the child to be a dependent of the state.

Whenever the court orders a dependent child to be removed from the home, the court will enter a dispositional plan which will include the obligations of the parties including the parents, the supervising agency or Department of Social and Health Services (Department), and the child. The dispositional order will contain an order for the placement of the child either within the home or outside of the home. If the child is placed outside the home, he or she may be placed with a relative or in non-relative foster care.

Within 60 days of assuming responsibility for the child, the Department is required to provide the court with a permanent plan for the child. The permanent plan will contain the desired goal for the child which may include a plan to return the child home, adoption, long-term placement, or guardianship, including a dependency guardianship. The court must hold the permanency planning hearing when a child has been in out-of-home care for nine months. The hearing must take place within 12 months of the current placement.

The status of all dependent children must be reviewed by the court every six months. During the review the court will examine the progress of the parents in meeting the requirements of the dispositional plan. At this hearing the court may return the child to the home if the parent has made sufficient progress.

If the parent fails to make progress in curing the parental deficiencies which led to the dependency, or if one of the statutory aggravating factors exist, a termination petition may be

filed. If the court finds the statutory grounds for termination are met, the court will terminate the parental rights and the parent will no longer have rights, privileges, or obligations toward the child.

Summary of Substitute Bill:

The length of time before a permanency planning hearing must be held is shortened. The court must hold the permanency planning hearing when a child has been in out-of-home care for six months. The hearing must take place within six months of the current placement. However, if the child is a dependent and is returned to the home of the parent, and then subsequently removed from the home, the permanency planning hearing must take place within two months of the current placement.

Before the court may return a dependent child who has been placed in an out-of-home placement to the child's parent, the agency who is supervising the child must present a plan to the court describing how the agency will ensure the safety of the child once returned home.

If a child has been removed from the home of a parent and a dependency is ordered, if the child is returned home to the parent, but must be removed due to risk to the child, the parents must thereafter meet a higher standard to have the child returned home a third time. Prior to placing a child with a parent, the court must hold a fact-finding hearing and provide the parent due process. During this hearing, the parent must show by clear and convincing evidence that the reasons for removal of the child no longer exist.

If the child is removed from the parent's home a third time due to parental deficiencies that place the child at risk, the agency in charge of supervising the child must file a petition for termination of parental rights. Additionally, if the parent fails to remedy the deficiencies which led to the finding of dependency after 15 months, the supervising agency must file a petition for termination of parental rights.

The failure of a parent to have any contact with his or her child for at least one year is added to the list of aggravating factors. This would permit a court to terminate parental rights if the court finds only two factors: (1) that the child is a dependent; and (2) the parent failed to contact the child for at least one year.

The court is permitted to continue a hearing on a termination petition if the court finds that the parent was unable to remedy the parental deficiencies that led to the removal of the child due to extenuating circumstances beyond the control of the parent.

EFFECT OF SENATE AMENDMENT(S):

The amendment removes all of the provisions of the underlying bill and creates a task force on child safety to address the issue of the health, safety and welfare of children receiving services from child protective services and child welfare services.

The task force membership includes legislators, Washington Council for the Prevention of Child Abuse and Neglect, members from child fatality review committees, the Department, public defenders, Office of Family and Children's Ombudsman, Washington Association of

Sheriffs and Police Chiefs, Department of Health, Attorney General, Superior Court Judges Association, social workers, foster parents, birth parents, and organizations that serve children involved in the child welfare system.

The joint task force will make recommendations to the legislature and the Governor on the following issues:

State and federal statutes regarding child safety, placement, removal from the home, termination of parental rights, and reunification with parents; Current and ongoing Department work groups or work plans regarding child safety, placement, removal from the home, termination of parental rights, and reunification with parents; The purpose and value of child protection teams and determine whether any changes should be made; Best practices regarding children removed from parents at birth and placed in out-of-home care, transition services for families, and standards for return to home placement including situations where a child has been placed out-of-home and returned to home multiple times; The training that is offered to social workers regarding child development and determine whether any changes should be made; Best practices regarding information sharing between case workers, supervisors, and other relevant participants in placement decisions; Best practices for assessing and addressing chemical dependency issues of parents; The effectiveness of current home-based service providers currently used and determine whether any changes should be made; Best practices addressing family cultural and tribal issues and the role, if any, of social worker training or bias in safety assessment and placement decisions; and Other issues deemed relevant to improving child safety outcomes.

Preliminary findings are due to the legislature by Dec. 31, 2005 and a final report is due September 1, 2006.

Appropriation: None.

Fiscal Note: Available on original bill.

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

Testimony For: (Children & Family Services) (In support on original bill) We recognize the importance of parental rights. We do not want to take more children away from parents. But, we are trying to create a safety net for children and hold chronic abusers accountable. Sirita died because it took too long to make these changes. Children do not wind up in foster care because they have perfect parents. She was in foster care for three and one half years. Every family deserves a second chance, but she was returned six times. We must ensure the parental deficiencies are corrected before we return these children. These kids deserve permanency sooner. The longer they are in the system the harder it is to find them an adoptive home. Raphael Gomez was returned home four times. Each time he was removed and he had serious injuries. The last time, he was killed. If this law passes maybe we can protect other children. As a former foster child, this bill will help. You can't bring a gun to school three times before being kicked out, so why do we allow parents so many chances. There needs to be some limits. It is not fair to the children.

(With concerns on original bill) We think there needs to be amendments. We don't want to hurt any improvement that has been made by the parents. We are concerned about the length of the standards in the bill

Testimony For: (Appropriations) Returning children home to the place where bad things happened to them usually means putting them at risk. The state should support the reunification of families, but if parents can't get their acts together, the state should step in and terminate parental rights. It is too late for Sirita, but there are many more children in the system whom this bill will help.

Testimony Against: (Children & Family Services) We know protecting children is important, but the current laws are sufficient. What happened to these children is a tragedy, but it happened because the current laws weren't enforced. We are concerned about the bright line rule this creates and the language in the bill such as "extenuating circumstances." This bill shifts the burden to the parents, so we need to be sure the rules of evidence apply. This may lead to fewer children being returned. We are concerned about the "clear and convincing" standard. The reality of court is that parents won't be able to meet their burden.

Testimony Against: (Appropriations) None.

Persons Testifying: (Children & Family Services) Representative Hinkle, prime sponsor; Gary Malkasian; Cheri Covert; Ria Moncada; Toni Boyd, Central Washington Foster Parents Association; Denise Griffith; Char Rel Wellner,; Crystal Conner; and Ken Hutchenson, Antioch Bible Church.

(With concerns on original bill) Laverne Lamoureux, Department of Social and Health Services.

(Against original bill) Dave Wood, Families United.

Persons Testifying: (Appropriations) Gary Malkasian.

Persons Signed In To Testify But Not Testifying: (Children & Family Services) None.

Persons Signed In To Testify But Not Testifying: (Appropriations) None.