

SENATE BILL REPORT

2SHB 2030

As Reported By Senate Committee On:
Human Services & Corrections, March 31, 2005
Ways & Means, April 4, 2005

Title: An act relating to guardianship of dependent children.

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

Sponsors: House Committee on Appropriations (originally sponsored by Representatives Roberts and Kagi; by request of Department of Social and Health Services).

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

Committee Activity: Human Services & Corrections: 3/28/05, 3/31/05 [DPA-WM].
Ways & Means: 4/4/05 [DPA].

SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS

Majority Report: Do pass as amended and be referred to Committee on Ways & Means.

Signed by Senators Hargrove, Chair; Regala, Vice Chair; Stevens, Ranking Minority Member; Brandland, Carrell, McAuliffe and Thibaudeau.

Staff: Edith Rice (786-7444)

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: Do pass as amended.

Signed by Senators Prentice, Chair; Doumit, Vice Chair; Fraser, Vice Chair; Zarelli, Ranking Minority Member; Brandland, Kohl-Welles, Parlette, Pflug, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler and Thibaudeau.

Staff: Carole Holland (786-7441)

Background: Under current law a child found to be dependent by a court means that the child has been abandoned, abused, or neglected by a person legally responsible for their care, or the child lacks a parent capable of adequately caring for him or her. The Department of Social and Health Services (DSHS) is required to develop a permanent plan for the care of a child found to be dependent. This can include a return to home, adoption, long term placement in foster care, guardianship, or dependency guardianship. Permanency planning continues until one of these goals is achieved or the dependency is dismissed. In a dependency guardianship, the underlying dependency continues and the court determines the extent to which there is a continuing need for review and involvement of the supervising agency.

Summary of Amended Bill: The legislature recognizes the value of establishing guardianships for dependent children who cannot live with their parents. Guardianship

enables them to live with other long-term care givers while eliminating the need for continuing review and involvement of a government agency.

References to "dependency guardian" are eliminated and replaced with "guardian". Existing dependency guardianships are to continue but can be reviewed and converted to a guardianship if the parties agree and the court finds that it is in the best interests of the child to do so.

A guardianship is established by the court if: the child has been found to be dependent by a court; a dispositional order has been entered; the child has been apart from the parent for at least six months; services to correct the parental deficiencies have been offered, and there is little likelihood that conditions will be remedied to allow the child to be returned home; the child has been with the guardian for six months; the guardian fully acknowledges the responsibilities and rights of such a role; and a guardianship is more appropriate than adoption. Factors which the court is to consider in making such a decision are listed and include consideration of the child's tribe, if the child is an Indian child. A court may not approve a guardianship for a child under the age of 12 unless exceptional circumstances exist.

A guardian must be 21 years of age and have had a home study and criminal background check completed.

In establishing a guardianship, the court will dismiss the underlying dependency and specify the responsibilities and rights of the guardian. The court has no authority to order the Department of Social and Health Services to supervise or provide services to the guardian or child.

The standards which must be met in order for the court to modify or terminate a guardianship differ depending upon the requestor. At a minimum, any modification or termination of a guardianship must be in the best interest of the child.

A limited, state funded support program is created to provide medical and counseling assistance for children with extraordinary medical or mental health needs. Specific criteria are listed in the bill.

Amended Bill Compared to Original Bill: Reference to guardianship subsidies are removed and replaced with a limited state funded support program for children with extraordinary medical or mental health needs.

Appropriation: None.

Fiscal Note: Available, original bill only. Fiscal note requested on substitute.

Committee/Commission/Task Force Created: No.

Effective Date: The bill takes effect on January 1, 2006.

Testimony For: (Human Services & Corrections) It is important that these children have some sense of permanency in their care. The subsidy is important, its time that we move ahead with this concept. Many of these children are teenagers, caregivers need some financial assistance, lets get it done.

Testimony Against (Human Services & Corrections): None.

Who Testified (Human Services & Corrections): PRO: Representative Mary Helen Roberts, prime sponsor; Edith Owen, Pierce County Relatives Raising Children; Uma Ahluwalia, Children's Administration, DSHS; Laurie Lippold, Children's Home Society.

Testimony For (Ways & Means): The intent of this bill is to make guardianships a viable permanent placement plan. It clarifies when, and for whom, a guardianship is appropriate. It clarifies the legal responsibilities for the guardian and the department. It does not change any of the existing guardianships. It will only be used when in the child's best interests. Reasonable efforts to reunify the family must have been made. A return home and/or adoption must first be considered.

Testimony Against (Ways & Means): There is concern and disappointment that the Senate amendment took out the subsidy. Stakeholders worked for months to develop an approach for modifying the current guardianship provisions. The original bill included a subsidy. A recent report on success in guardianships identified the presence of a subsidy as the second most important element in that success. The goal of the stakeholders working on this bill is to stop the churning of children through foster homes. The group never assumed that the subsidy would be removed. We request that the committee approve the original bill that came from the House of Representatives.

Who Testified (Ways & Means): PRO: Laverne Lamoureux and Deborah Reed, Children's Administration, Department of Social and Health Services.

CON: Laurie Lippold, Children's Home Society of Washington, Mike Ryherd, Washington State CASA.