

SENATE BILL REPORT

SB 6008

As Reported By Senate Committee On:
Human Services & Corrections, February 24, 2005

Title: An act relating to guardianship of dependent children.

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

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

Brief History:

Committee Activity: Human Services & Corrections: 2/22/05, 2/24/05 [DPS].

SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS

Majority Report: That Substitute Senate Bill No. 6008 be substituted therefor, and the substitute bill do pass.

Signed by Senators Hargrove, Chair; Regala, Vice Chair; Brandland, Carrell and McAuliffe.

Staff: Edith Rice (786-7444)

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 Substitute 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 twelve unless exceptional circumstances exist. The exceptional circumstances are described.

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.

Substitute Bill Compared to Original Bill: All references to guardianship subsidies are removed from the bill. The criteria for a parent to request that a guardianship be terminated no longer require that the guardian be found unfit or is no longer able to care for the child. The court must instead consider other relevant factors such as the relationship between the guardian and the child, the amount of parent child contact during the guardianship and the wishes of the guardian. If the court finds that a parent has applied to terminate the guardianship in bad faith, the court must assess attorney fees and court costs against the parent.

Appropriation: None.

Fiscal Note: Requested on February 21, 2005.

Committee/Commission/Task Force Created: No.

Effective Date: January 1, 2006

Testimony For: This bill will allow for the shared planning, keeping in mind the best interest of the child, that must take place in guardianship placement. When adoption has been ruled out, a guardian can provide for appropriate parental authority.

Other: We are concerned that implementation be done appropriately and that the correct level of support and care be provided for children in guardianships as well as the guardians.

Testimony Against: None.

Who Testified: PRO: Uma Ahluwalia, Assistant Secretary Children's Administration, DSHS,
OTHER: Laurie Lippold, Children's Home Society.