

HOUSE BILL REPORT

E2SHB 3145

As Passed House:
February 15, 2008

Title: An act relating to implementing a program of tiered classification for foster parent licensing.

Brief Description: Implementing a tiered classification system for foster parent licensing.

Sponsors: By House Committee on Appropriations (originally sponsored by Representatives Kagi, Haler, Roberts, Walsh, Pettigrew, Dickerson, Conway, Green, Goodman, Kenney, Wood and Ormsby).

Brief History:

Committee Activity:

Early Learning & Children's Services: 1/29/08, 2/1/08 [DPS];
Appropriations: 2/8/08, 2/11/08 [DP2S(w/o sub ELCS)].

Floor Activity:

Passed House: 2/15/08, 72-22.

Brief Summary of Engrossed Second Substitute Bill

- Directs the Department of Social and Health Services to implement a specialized licensed foster home program in two geographical areas in Washington.
- Requires a report to the Governor and the Legislature with recommendations for expansion and statewide implementation of the specialized licensed foster home program.
- Grants collective bargaining rights to specialized foster home providers, beginning January 1, 2009.

HOUSE COMMITTEE ON EARLY LEARNING & CHILDREN'S SERVICES

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 6 members: Representatives Kagi, Chair; Roberts, Vice Chair; Haler, Ranking Minority Member; Walsh, Assistant Ranking Minority Member; Goodman and Pettigrew.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Minority Report: Without recommendation. Signed by 1 member: Representative Hinkle.

Staff: Sydney Forrester (786-7120).

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: The second substitute bill be substituted therefor and the second substitute bill do pass and do not pass the substitute bill by Committee on Early Learning & Children's Services. Signed by 21 members: Representatives Sommers, Chair; Dunshee, Vice Chair; Cody, Conway, Darneille, Ericks, Fromhold, Grant, Green, Haigh, Hunt, Kagi, Kenney, Kessler, Linville, McIntire, Morrell, Pettigrew, Schual-Berke, Seaquist and Sullivan.

Minority Report: Do not pass. Signed by 11 members: Representatives Alexander, Ranking Minority Member; Bailey, Assistant Ranking Minority Member; Haler, Assistant Ranking Minority Member; Anderson, Chandler, Hinkle, Kretz, Priest, Ross, Schmick and Walsh.

Staff: Kelci Karl-Robinson (786-7109).

Background:

In 2007 the Legislature enacted HB 1624 creating a work group to study the need for and feasibility of creating tiered classifications for foster parent licensing, including a professional foster parent classification. The work group was facilitated by the Assistant Secretary of the Children's Administration (CA) of the Department of Social and Health Services (DSHS) and the Executive Director of the Northwest Institute for Children and Families (NW Institute) at the University of Washington (UW).

Work group members included representation from the Legislature; Indian tribes; foster parents; the Foster Parent Association of Washington State (FPAWS); child welfare professionals; Partners for our Children at the UW; and the Washington Federation of State Employees. The work group met five times and held two stakeholder meetings. In addition, two subcommittees of the work group each met three times.

The draft report from the work group was published January 25, 2007, and included the following recommendations:

- (1) The foster care level system should be re-examined for the overall foster care system.
- (2) A specific model of skill-building should be selected for use by specialized foster parents who serve children with behavioral issues.
- (3) The CA should work with foster parents, the UW School of Social Work, and child-serving agencies to further refine a number of specifics relating to implementation of a specialized foster parent program.

Issues identified for further work include the selection process and criteria for specialized foster parents; managing the risks of reduced permanency; how specialized foster parents would fit in the continuum of services for children; and federal funding and individual income tax implications.

Summary of Engrossed Second Substitute Bill:

Specialized Foster Home Program

The DSHS must select two or more geographic areas for implementing phase one of a specialized foster home program (program). In determining the scope of phase one, the DSHS must examine areas where there are high concentrations of children with significant needs in foster care; consider areas of appropriate size that will allow for an analysis of the impact of the program on the continuum of out-of-home care providers; and determine the number of children to be served. During phase one, only licensed foster parents supervised by the DSHS are eligible to participate. Implementation of the initial sites should be undertaken with the goal of eventual expansion of the program statewide.

The DSHS must seek recommendations from foster parents and other out-of-home care service providers regarding the qualifications and requirements of specialized foster home providers; the needs of children who will be served in the program; and the desired outcomes to be measured or monitored. The DSHS must also consult experts in child welfare, children's mental health, and children's health care to identify evidence-based or promising practice models to be utilized in the program, including the appropriate support to be provided to specialized foster home providers to ensure program fidelity.

Using the recommendations from foster parents, the consultations with professionals from appropriate disciplines, and information from the specialized foster parent work group, the DSHS must:

- (1) define the criteria for specialized foster home providers;
- (2) define the criteria for identifying children eligible for placement with specialized foster home providers;
- (3) establish rules for placement of children in specialized foster homes, including a limit on the number of children who may be placed;
- (4) identify one or more models of skill-building to be used by specialized foster home providers;
- (5) specify training, consultation, supervision, and supports to be provided to specialized foster home providers;
- (6) adopt a level of stipend payments to specialized foster home providers for enhanced skills and services;
- (7) establish clearly defined responsibilities for specialized foster home providers; and
- (8) develop a process for annual performance reviews of specialized foster home providers.

Beginning on or before October 1, 2008, the DSHS must begin selecting and negotiating contracts with specialized foster home providers. Contracts must specify at least the following elements:

- (1) the model of treatment and care to be provided;
- (2) the training and ongoing professional consultation to be provided;
- (3) the method for determining any additional supports to be provided to the child or the specialized foster home provider;
- (4) the desired outcomes to be measured;
- (5) a reasonable and efficient process for seeking a modification to the contract;

- (6) the rate and terms of payment under the contract; and
- (7) the process for an annual performance review of the specialized foster home provider and an annual assessment of the child.

The DSHS must report to the Legislature and the Governor with an implementation status update by January 30, 2009, and with recommendations for phasing in a statewide expansion of the program by September 1, 2009. The recommendations for expansion must identify the essential elements of the specialized foster home program that should be addressed or replicated as the program is expanded to the next phase.

Collective Bargaining Rights Beginning January 1, 2009, specialized foster home providers are granted collective bargaining rights. Specialized foster home providers are defined as licensed foster parents determined by the DSHS to be eligible foster parents and who have a contract with the DSHS under the specialized foster home program.

The scope of bargaining is limited solely to economic compensation in the form of a stipend paid to specialized foster home providers for enhanced services provided; health and welfare benefits; labor management committees; and grievance procedures. Retirement benefits are not subject to collective bargaining, and specialized foster home providers do not have the right to strike. Monthly union dues shall be deducted only from the stipends paid to specialized foster home providers and not from foster care maintenance payments.

The collective bargaining rights and activities do not create or modify:

- (1) the DSHS's authority with respect to establishing the plan of care for individual children in foster care;
- (2) the DSHS's obligation to comply with federal funding laws and rules, including the federally-approved state plan and any waivers granted;
- (3) the Legislature's right to modify programmatic elements of the state's child welfare system, including eligibility criteria for specialized foster home providers and children who may be placed under the program;
- (4) the rights of the court, the DSHS, and other authorized entities to remove a child from a specialized foster home;
- (5) the DSHS's authority to set minimum licensing standards for foster parents, and to establish the process for determining foster care maintenance rates;
- (6) the DSHS's authority to establish rules for resolving licensing actions and investigating allegations of abuse or neglect in a specialized foster home;
- (7) the DSHS's authority to define the program elements of the specialized foster home program; and
- (8) procedures and policies adopted by the DSHS relating to background checks and the sharing of information for the purpose of child care licensing; denial, suspension, revocation, or modification of a license; and quarterly consultations with foster parents.

A statewide unit of specialized foster home providers is the only unit appropriate for collective bargaining purposes. The Public Employment Relations Commission must adopt rules for the inclusion of unrepresented specialized foster home providers following phase one of the program.

Requests for funding to implement stipend and benefit provisions of a collective bargaining agreement must be submitted by October 1 prior to the legislative session during which the funding request is to be considered. An exception is allowed requiring the initial negotiation to be submitted after July 1, 2009.

Upon submission of a request for funding of an agreement, the Legislature must approve or reject the request as a whole. If the Legislature rejects or fails to act on a submission, the agreement will be reopened only for the purpose of renegotiating the amount of funds necessary to implement the agreement.

If, after approval of funding for the stipend and benefit provisions of an agreement, a significant revenue shortfall occurs, collective bargaining must commence for the purpose of reaching mutual agreement to modify the agreement.

Appropriation: None.

Fiscal Note: Preliminary available on substitute bill. No fiscal note requested on second substitute bill.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed, except sections 3 through 6, relating to collective bargaining, which take effect January 1, 2009. However, the bill is null and void unless funded in the budget.

Staff Summary of Public Testimony: (Early Learning & Children's Services)

(In support of original bill) The work group convened to study the area of professional foster parents did a good deal of work over the interim regarding how best to establish a specialized foster parent program. It was important to assure that whatever mechanisms were created, we would not jeopardize permanency for children. This is an extremely complex program category because the existing system is complex. This bill is not drafted as a pilot because it's not intended to be a pilot. Because of the need to move forward in a very thoughtful and measured way, we want to phase in the program in areas where there are concentrations of foster parents serving children with significant needs.

The program will help us to address some of the biggest concerns around hard-to-serve children who may experience numerous placements because foster parents do not have the necessary skills to support these kids. There are many children in foster care who need significant amounts of support. This bill will lead to more stability and will improve care for children. There already is a kind of self-selected group of foster parents serving these kids.

This bill is excellent but is missing the teeth it needs to address a crisis in the system. There should be a union of specialized foster parents. Highly skilled foster parents can help avert tragedies like keeping kids out of prison. Foster parents want to be recognized as professionals. Research supports investing in early child education, and the medically fragile children in the foster care system are some of the most at-risk children. We need a guarantee that the CA can effectively recruit and retain qualified professional foster homes.

(With concerns on original bill) The subcommittee of the workgroup recommended a contractual program versus a separate licensing category. Contractual obligations should be established on both sides because we want to be sure the consultation and professional supports are available to specialized foster parents. We also want to be very clear about the expectations and obligations of specialized foster parents who are selected. The time lines in the report are aggressive. There still is a good deal of consultation and collaboration needed with the appropriate entities.

(Opposed) None.

Staff Summary of Public Testimony: (Appropriations)

(In support of substitute bill) This bill is a milestone in foster care; people have been talking about such a program for the past 20 years. There are a lot of children in foster care with significant physical and mental challenges. It is difficult to place these children in foster care or adoption, which leads to many placement disruptions. Informally, a specialized class of foster parents has developed to care for children with high needs. The bill would create a structure, standards, and accountability for what is already being done. Collective bargaining is an important element of the bill. The Department of Social and Health Services is authorized to set the aspects of the contracts; therefore, the foster parents need to have balanced representation. Only the small subset of contracted foster parents with a special set of skills would be included in the bargaining unit.

(Opposed) None.

Persons Testifying: (Early Learning & Children's Services) (In support of original bill) Dennis Eagle, Washington Federation of State Employees and Foster Parent Association of Washington State; Elizabeth Rich; and Mary-Jeanne Smith, Foster Parent Association of Washington State.

(With concerns on original bill) Cheryl Stephani, Department of Social and Health Services - Children's Administration.

Persons Testifying: (Appropriations) (In support of substitute bill) Representative Kagi, prime sponsor; Dennis Eagle, Washington Federation of State Employees; and Steve Baxter, Foster Parents Association of Washington.

Persons Signed In To Testify But Not Testifying: (Early Learning & Children's Services) None.

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