

HOUSE BILL REPORT

HB 3205

As Reported by House Committee On:

Early Learning & Children's Services
Appropriations

Title: An act relating to promoting the long-term well-being of children.

Brief Description: Promoting the long-term well-being of children.

Sponsors: Representatives Jarrett, Walsh, Kagi, Roberts, Hunter, Sullivan, Green, Kelley, Morrell, Chase, McIntire, Seaquist and Kenney.

Brief History:

Committee Activity:

Early Learning & Children's Services: 2/5/08 [DPS];
Appropriations: 2/11/08 [DP2S(w/o sub ELCS)].

Brief Summary of Second Substitute Bill

- Requires the court to direct the filing of a petition to terminate parental rights when a child has been in foster care for 15 of the past 22 months, unless the court determines there is good cause why a petition should not be filed.
- Adds the concept of a child's long-term well-being as a paramount concern when making reasonable efforts in dependency and termination matters.

HOUSE COMMITTEE ON EARLY LEARNING & CHILDREN'S SERVICES

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 7 members: Representatives Kagi, Chair; Roberts, Vice Chair; Haler, Ranking Minority Member; Walsh, Assistant Ranking Minority Member; Goodman, Hinkle and Pettigrew.

Staff: Sydney Forrester (786-7120).

Background:

The Federal Adoption and Safe Families Act

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.

The Adoption and Safe Families Act (Act) requires states to have a plan for operating a coordinated system of programs of community-based family support services, family preservation services, time-limited family reunification services, and adoption promotion and support services. A state's system of programs and services is intended to demonstrate reasonable efforts to prevent the need for out-of-home placement, and in cases where out-of-home placement is necessary, to make reasonable efforts to reunify the family, and in cases where reunification is not in the child's best interests, to place the child with a permanent family through adoption.

In cases where children have been removed from home, most cases require the offering of time-limited services designed to facilitate the reunification of the child safely and appropriately. Examples of time-limited family reunification services include individual, group, and family counseling; inpatient, residential, or outpatient substance abuse treatment; mental health treatment; assistance to address domestic violence; temporary child care and therapeutic services, including crisis nurseries; and transportation to or from any of these services or activities. The concept of services being time-limited conveys the need to balance the goal of reunification with the child's needs for safety and permanency, with the child's interests being paramount.

The Act also requires that when a child has been in out-of-home care for 15 of the past 22 months, a petition for termination of parental rights be filed, unless one of three exceptions applies:

- (1) At the state's option, the child is being cared for by relatives.
- (2) The child's case plan documents a compelling reason why a termination petition would not be in the child's best interests.
- (3) The state has not provided the necessary family reunification services in the time period set out in the case plan.

Timeliness of Dependency Case Processing

While Washington law requires permanency planning and review hearings, and declares a preference for achieving the permanency planning goals before the child has been in out-of-home care for 15 months, there is no requirement for a specific judicial finding on the issue of whether a termination petition should be filed when a dependency case reaches the 15-month threshold and the permanency goal has not been achieved.

A recent review by the Administrative Office of the Courts (AOC) regarding the timeliness of dependency case processing in Washington examined 82 percent of dependency cases for which adequate data was available. Of those cases in which a petition for termination of parental rights was filed during 2004, 2005, and 2006 calendar years, 50 percent of cases met this timeliness standard.

Summary of Substitute Bill:

When a child has been in out-of-home care for 15 of the most recent 22 months, the court must require the filing of a petition to terminate parental rights, unless the court makes a

written finding that filing the petition is not appropriate. If the court makes such a finding, it must be reviewed at all subsequent motion and review hearings pertaining to the child.

The concept of the child's long-term well-being is added as a paramount concern when making reasonable efforts in dependency and termination matters.

Substitute Bill Compared to Original Bill:

The substitute makes the following changes to the original bill:

- (1) removes section two of the original bill establishing the criteria for determining whether a child's developmental needs are being met; and
- (2) clarifies and aligns with federal law the timeliness standard for deciding whether to file a petition to terminate parental rights in dependency cases.

Appropriation: None.

Fiscal Note: Available.

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

Staff Summary of Public Testimony:

(In support of original bill) The problems and challenges facing the state's child welfare system are well documented. It is unconscionable that we allow children, especially very young children, to experience multiple placements while they linger in foster care for years on end. This bill is about trying to do two things. First, it is an opportunity to help kids who are in foster care by thinking more about their long-term well-being when making decisions. Second, it is an opportunity to think about the connections between children's developmental experiences at home and in foster care and children's ability to be successful in our educational system.

The recent report produced by the AOC indicates that less than half of child dependency cases meet the federal timeliness standard intended to promote safety, stability, and permanency for children. If the state was appropriately meeting this target for resolving dependency cases, our foster care caseloads would be reduced as more children were expeditiously moved to permanency.

The trend in state law is to place a focus on the rights of parents above the rights of children. The court system is designed to deal with adults, not children. Drawing cases out over several years may work very well for the adults involved, but it leads to damage for the children involved. The most important aspect of this bill is that it requires the court to make a decision about the child's future. For cases where reunification cannot be achieved safely, we must recognize that the longer the child lingers in foster care, the less likely it is the child will be adopted.

Any bill that will put in place concrete timelines in dependency cases deserves support. When children stay in care so long, moving from placement to placement, they fail to thrive and are continually re-traumatized.

(With concerns on original bill) One of the main concerns is regarding section two of the bill, but the Department of Social and Health Services appreciates the bill's focus on children's long-term well-being. An additional concern is with regard to the 15-month timeline. In order for this to work well, other parts of the system need to be resourced, such as the courts and service providers. The decision to file for terminating parental rights is a difficult decision.

Some of the reasons we have such problems in our system is that social workers lack training and education for the tasks they are expected to perform. Current law has too many loopholes allowing for decisions that keep kids in care and out of a permanent placement for too long. It is important to force decisions to be made at critical deadlines. The social workers and assistant Attorneys General are responsible for much of the continuances. Cases get passed around from caseworker to caseworker. The Children's Administration makes careers for people in perpetuity. The system is dysfunctional and hearing about particular cases is disturbing. This bill would help by at least requiring the court to make a decision for children once they have been in foster care for 15 months.

Persons Testifying: (In support of original bill) Representative Jarrett, prime sponsor; and Diana Farrow.

(With concerns on original bill) Dave Wood, Washington Families United; and David Del Villar Fox, Children's Administration, Department of Social and Health Services.

Persons Signed In To Testify But Not Testifying: None.

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 32 members: Representatives Sommers, Chair; Dunshee, Vice Chair; Alexander, Ranking Minority Member; Bailey, Assistant Ranking Minority Member; Haler, Assistant Ranking Minority Member; Anderson, Chandler, Cody, Conway, Darneille, Ericks, Fromhold, Grant, Green, Haigh, Hinkle, Hunt, Kagi, Kenney, Kessler, Kretz, Linville, McIntire, Morrell, Pettigrew, Priest, Ross, Schmick, Schual-Berke, Seaquist, Sullivan and Walsh.

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

Summary of Recommendation of Committee On Appropriations Compared to Recommendation of Committee On Early Learning & Children's Services:

A null and void clause was added, making the bill null and void unless funded in the budget.

Appropriation: None.

Fiscal Note: Requested on February 7, 2008.

Effective Date of Second Substitute Bill: The bill takes effect 90 days after adjournment of session in which bill is passed. However, the bill is null and void unless funded in the budget.

Staff Summary of Public Testimony:

(In support) The attested admission by the Attorney General that they are not meeting the 15-month standard did not come as a surprise to foster parents. The average time children are in foster care is three years. There is a human cost paid by foster children every day they remain in the system. The more time given to parents to come into compliance is time taken away from children in their critical developmental years. The cost is attachment disorder, low self-esteem, low self-worth, and depression; these problems are evident in preschoolers. The stressors placed on foster children are debilitating for most adults. Fifteen months is enough time to change the lives of children.

(Opposed) None.

Persons Testifying: Gary Malkasian.

Persons Signed In To Testify But Not Testifying: None.