

HOUSE BILL REPORT

ESSB 6792

As Reported by House Committee On:
Early Learning & Children's Services
Appropriations

Title: An act relating to dependency matters.

Brief Description: Concerning dependency matters.

Sponsors: Senate Committee on Human Services & Corrections (originally sponsored by Senators Hargrove and Stevens).

Brief History:

Committee Activity:

Early Learning & Children's Services: 2/21/08, 2/26/08 [DPA];
Appropriations: 3/3/08 [DPA(APP w/o ELCS)].

Brief Summary of Engrossed Substitute Bill (As Amended by House Committee)

- Establishes a standard of proof and makes certain procedural changes and clarifications for petitions to reinstate parental rights.
- Creates limited immunity from liability for services provided in reinstatement of parental rights cases.
- Adds references in child abuse and neglect hearing provisions relating to child safety, placement with a non-abusing parent, and restraining orders entered against an alleged abuser.
- Permits the court to order evaluations for parents at shelter care hearings upon a finding of reasonable cause regarding substance abuse or unmet mental health needs.
- Establishes a schedule of monthly visits for children in foster care and requires accredited supervising agencies to conduct visits for the cases they supervise.

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.

- Exempts from state bid process requirements the contracting for monthly visits with certain children.
- Establishes a process for the sharing of information between the Department of Social and Health Services and the Department of Licensing to facilitate youth in foster care obtaining a state identification card.
- Clarifies and changes provisions relating to street youth, HOPE centers, and responsible living skills programs.

HOUSE COMMITTEE ON EARLY LEARNING & CHILDREN'S SERVICES

Majority Report: Do pass as amended. 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:

Reinstatement of Parental Rights

The Legislature in 2007 enacted Engrossed Substitute House Bill 1624 allowing a dependent child to petition the court to reinstate the previously terminated parental rights of his or her parent. In order to file the petition, three years must have passed since the parental rights were terminated, or for cases that are appealed, three years must have passed since exhaustion of any right to appeal the termination order; the child must not have achieved permanency; and the child must be over the age of 12 years, unless there is good cause to permit a child under age 12 to file the petition. The child must be provided counsel prior to the filing of the petition.

After a petition is filed, the court must hold a threshold hearing to determine whether the parent has an interest in reinstating parental rights and whether the parent appears fit to care for the child. If the court finds, based on the threshold hearing, that it appears the best interests of the child may be served by reinstatement of parental rights, the court will order a hearing on the merits of the petition.

If the court finds, based on the evidence presented at the hearing on the merits, that reinstatement of parental rights is in the child's best interests, the court must conditionally grant the petition and continue the case for six months. During the six-month period, the child must be placed in the custody of the parent, and the Department of Social and Health Services (DSHS) must develop a permanency plan for reunification and provide transition services to the family. If the child is successfully placed with the parent for six months, the order reinstating parental rights remains in effect and the dependency is dismissed.

The standard of proof for the court's findings in the hearing on the merits of the petition is clear and convincing evidence. For the court's findings in the threshold hearing, no standard of proof was specified in the legislation enacted in 2007. In addition, although the statute contemplates a child under age 12 filing a petition with good cause shown, no explicit process is provided for the court to recognize and hear such a petition. Similarly, although the statute specifies that the order reinstating parental rights becomes permanent following a successful six-month placement with the parent, there is no requirement for a final order and little clarity regarding the full effect of an order reinstating parental rights. Finally, there is no immunity from liability for negligence when the DSHS is providing services under the reinstatement of parental right chapter.

Shelter Care Hearings

Shelter care hearings are conducted within 72 hours of the DSHS or law enforcement taking physical custody of a child due to allegations of abuse or neglect. During the shelter care hearing, the court must determine whether the child can safely be returned home while the dependency is being adjudicated. In making this determination, one of the issues the court must analyze is whether an order expelling the allegedly abusive parent from the home will allow the child to safely remain in the home, if returned.

Monitoring and Supervision of Child Placements

State Law: State law requires the DSHS to monitor out-of-home placements on a timely and routine basis to assure the safety, well-being, and quality of care being provided to children in foster care is consistent with legislative intent. Policies by the DSHS direct caseworkers to conduct monthly visits with children in out-of-home care and in-home dependencies. Accredited child placing agencies (CPA) with responsibility for supervising a child's placement also are required to conduct monthly visits as a condition of accreditation.

GMAP: The Governor, through the Government Measurement, Accountability, and Performance (GMAP) process, has prioritized monthly visits for children in in-home dependencies, with a projected phase-in for monthly visits to all children in out-of-home placements.

Braam: The 2006 Braam Implementation Plan (Plan) developed jointly by the Braam Oversight Panel, the DSHS, and attorneys for the Braam plaintiff class, the percentage of children in out-of-home care who receive a private and individual face-to-face visit from their caseworker at least every 30 days is required to increase significantly by region and statewide. The Plan calls for incremental improvements to baseline data such that by the 2011 monitoring report, there will have been a 95 percent increase from the baseline.

Federal Law: Federal statutes require the DSHS to conduct health and safety checks with children in dependencies at least every 90 days. A recent amendment to federal law requires states adopt a plan by June 1, 2008, to ensure that, by October 1, 2011, at least 90 percent of children in foster care are visited by their caseworker at least monthly.

Washington State Identification Cards

State identification cards, known as *identicards*, are issued by the Department of Licensing (DOL) and require the applicant to provide proof of residency in the state and proof of identity. Youth under age 18 must have authorization and some form of in-person verification regarding identity from a parent or guardian to obtain an identicard.

At the 2007 Annual Foster Youth Leadership Summit, youth described encountering significant hurdles in obtaining an identicard as a result of being in state custody. Photo identification frequently is required for a number of reasons, including but not limited to, travel; opening a bank account; taking the GED; employment; housing; voting; obtaining a library card; enrolling in post-secondary institutions; admission to join certain organizations; and being able to provide identification if requested by law enforcement.

HOPE Centers and Responsible Living Skills Programs

HOPE Centers are licensed by the DSHS and provide temporary residential and other services to street youth. A "street youth" is defined as a person under age 18 who lives outdoors or in another unsafe location not intended for occupancy and who is not residing with his or her parent or at his or her legally authorized residence. Street youth may remain in a HOPE center for 30 days while services are arranged and a placement is coordinated.

Responsible Living Skills Programs (RLSP) are provided by agencies licensed by the DSHS to provide transitional living services that emphasize the achievement of independent living skills competency. These programs may be offered in a group home setting or in a typical foster home setting. To be eligible for placement in an RLSP, the minor must be dependent and must have lived in a HOPE Center or in a secure crisis residential center.

Summary of Amended Bill:

Reinstatement of Parental Rights

The required time lapse following a termination order prior to petitioning for reinstatement is three years, regardless of whether the order is appealed. The court may hear a petition filed by a child younger than 12 upon the child's motion or upon the court's own motion. The standard of proof by which the court will make its findings in a threshold hearing on a petition to reinstate parental rights is a preponderance of the evidence. If, after a hearing on the merits, the court grants the petition, a temporary order reinstating parental rights must be entered. If the child has been placed with the parent for six months and the placement has been successful, the court must hold a final hearing and enter a permanent order dismissing the dependency restoring the parent's parental rights, powers, privileges, immunities, duties, and obligations, and dismissing the dependency.

A parent whose rights are reinstated is not liable for the costs of services provided to the child during the time parental rights were terminated. A limit on liability is provided when the state, the DSHS, and its employees are providing services in petitions for reinstatement and no cause of action accrues for the original termination when a parent's rights are subsequently reinstated by a court.

Shelter Care Hearings

Whenever the court finds reasonable cause to believe substance abuse or unmet mental health needs are contributing factors to the abuse or neglect of a child, the court may order a comprehensive chemical dependency or mental health evaluation for a parent at the shelter care hearing.

At the shelter care hearing, uncertainty by a parent or potential placement caregiver that the alleged abuser has in fact abused the child cannot be the sole basis upon which the child is placed in out-of-home care, nor can it be the sole basis upon which to preclude placement with either a relative or a suitable person so long as the potential caregiver is willing to and does comply with the statutory requirement to assist in enforcement of the order.

Monitoring and Supervision of Child Placements

The DSHS must monitor out-of-home placements and conduct face-to-face meetings with children in out-of-home care and their caregivers by conducting monthly face-to-face visits with the child and with the child's caregiver. Within existing funds, when a child's case is managed by an accredited CPA, the CPA must conduct the monthly face-to-face visits and provide the DSHS with a written report of the visit within 15 days of the visit. The DSHS must still conduct the federally-required health and safety visits with the child and the child's caregiver on a quarterly basis when not conducting the monthly visits.

Washington State Identicons for Youth in Foster Care

A process is established for the sharing of information between the DSHS and the DOL in order to facilitate youth in foster care obtaining a state identification card. The DSHS may submit the required proof of residency and identify for a youth in foster care and a picture of the youth directly to the DOL. The foster youth will be provided a copy of the information submitted to hand carry to the DOL when applying in person for an identicon.

HOPE Centers and Responsible Living Skills Programs

Eligibility for placement in a HOPE Center is expanded to include minors who, without placement in a HOPE Center, will continue to participate in increasingly risky behavior. Minors also may self-refer to a HOPE Center. Payment for a HOPE Center bed is not contingent upon prior approval by the DSHS.

If a minor's caseworker determines that placement in an RLSP would be the most appropriate placement given the minor's current circumstances, prior residence in a HOPE Center or secure crisis residential center (CRC) is not required in order to provide the minor an RLSP placement.

Amended Bill Compared to Engrossed Substitute Bill:

The striking amendment makes the following changes to the engrossed substitute bill:

- (1) adds a provision allowing for the sharing of information between DSHS and DOL to establish proof of residency and identity for the issuance of Washington identicons for youth in foster care;

- (2) adds a provision clarifying that a parent whose parental rights are reinstated is not liable for the costs of services provided to a child for the period of time during when parental rights were terminated;
- (3) adds a provision allowing the court, upon a finding of reasonable cause at a shelter care hearing, to order a chemical dependency or mental health evaluation for a parent;
- (4) clarifies that a parent's or caregiver's compliance with a restraining order entered in a child abuse or neglect proceeding means complying with the statutory affirmative duties to assist in the enforcement of the restraining order including, but not limited to, the duty to notify the court and DSHS of any violation of the order, and to seek assistance from law enforcement to enforce the order;
- (5) clarifies requirements relating to monthly and quarterly visits to children in out-of-home care and in-home dependencies;
- (6) adds a provision exempting from bid and request for proposal requirements relating to the state purchase of services the contracted monthly visits with children whose child welfare placements are being managed by a state-licensed private agency;
- (7) removes a reference to a one-time performance audit dated January 1, 2007; and
- (8) makes technical corrections to references to parents involved in dependency proceedings.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Amended Bill: The bill takes effect 90 days after adjournment of session in which bill is passed except Section 5, making a technical correction, which takes effect December 31, 2008.

Staff Summary of Public Testimony:

(In support) The original bill allowed for the court to order evaluations for parents at the shelter care hearing if the court found there was a reasonable connection between the abuse or neglect and substance abuse. This was a very good idea and should be expanded to allow for mental health evaluations. Where appropriate, ordering evaluation for parents early allows services to be provided sooner and encourages parents to engage earlier in the steps necessary for reunification.

Eligibility for access to HOPE Center beds does include more than just youth living on the street, but some HOPE Center staff have interpreted the law to mean that only youth on the streets can access a bed. One of the underlying reasons for adopting the original act was the prevention of homelessness among youth and the resulting threat to their well-being. Clarifying that youth may access a HOPE Center bed whenever they are in any unsafe living situation makes sense, especially since we are funding these beds which sometimes are remaining empty. There is still the safeguard for notification to a parent, the DSHS, or law enforcement, but the result is that if an outreach worker can connect an at-risk youth with a HOPE Center bed, it is much more likely the youth will get connected to needed services.

De-linking the requirement for residence in a HOPE Center bed with eligibility for a Responsible Living Skills Program (RLSP) placement is another important step forward. Older youth in foster care, who may be facing a change in placement may prefer the skills-based approach of an RLSP placement as opposed to trying to bond with yet another foster family. Some teens heading toward independence from foster care can focus on their own goals and plan for independent living more effectively in an RLSP placement. When the youth and his or her social worker agree the RLSP placement is appropriate, it doesn't make sense to require the youth to have spent time in a HOPE Center or a secure crisis residential center in order to be eligible for the RLSP.

(With concerns) The DSHS has concerns only with Section 5 and wants to ensure that the resources match up with the requirements for phasing in the 30-day visits to children and their caregivers.

(Opposed) None.

Persons Testifying: (In support) Jim Theofelis, Mockingbird Society; and Laurie Lippold, Children's Home Society.

(With concerns) David Del Villar Fox, Children's Administration - Department of Social & Health Services.

Persons Signed In To Testify But Not Testifying: None.

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: Do pass as amended by Committee on Appropriations and without amendment by Committee on Early Learning & Children's Services. Signed by 34 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, Hunter, Kagi, Kenney, Kessler, Kretz, Linville, McDonald, 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:

The Appropriations Committee corrected the reference in the effective date section of the policy committee's striking amendment so that the delayed effective date of December 31, 2008, applies to section 6 of the striking amendment, governing 30-day visits to children in dependencies. A null and void clause was added making the bill null and void unless funded in the budget.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Amended Bill: The bill takes effect 90 days after adjournment of session in which bill is passed, except for section 6, governing 30-day visits to children in dependencies, which takes effect December 31, 2008. However, the bill is null and void unless funded in the budget.

Staff Summary of Public Testimony:

(In support) There are multiple policy items in this bill that need to be implemented in order to improve outcomes for children and families. The fiscal impact will be addressed through the amendment.

(Opposed) None.

Persons Testifying: Laurie Lippold, Children's Home Society.

Persons Signed In To Testify But Not Testifying: None.