

HOUSE BILL REPORT

HB 1287

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

Title: An act relating to compliance with the federal safe and timely interstate placement of foster children.

Brief Description: Modifying foster children placement provisions.

Sponsors: Representatives Kagi, Hinkle, Walsh, Haler, Appleton, Simpson, Moeller and Kenney; by request of Department of Social and Health Services.

Brief History:

Committee Activity:

Early Learning & Children's Services: 2/1/07, 2/16/07 [DPS];
Appropriations: 3/1/07, 3/3/07 [DPS(ELCS)].

Brief Summary of Substitute Bill

- Requires foster parents, pre-adoptive parents, and other care givers be provided notice of their right to be heard in court proceedings for children in out-of-home care.
- Requires dependency review hearings to establish whether both in-state and out-of-state placements for the child have been considered.
- Requires entry of a court order authorizing the Department of Social and Health Services (DSHS) to access the educational, medical health, and mental health records of children who are in the custody of the DSHS.
- Requires entry of a court order authorizing persons providing care to children who are in the custody of the DSHS to authorize and manage certain school enrollment-related processes on behalf of the child.

HOUSE COMMITTEE ON EARLY LEARNING & CHILDREN'S SERVICES

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.

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

Staff: Sydney Forrester (786-7120).

Background:

Shelter Care Hearings

When children are taken into the custody of the Department of Social and Health Services (DSHS) as a result of allegations of abuse or neglect, a shelter care hearing must be held within 72 hours. If the child is not returned home at the shelter care hearing, the DSHS makes continuing arrangement for the child's care. This includes providing for the child's care, and health and educational needs. If the court later finds that the abuse or neglect of the child supports a finding of a dependency, a series of review hearings are held which require the court to make certain determinations related to the status of the case, including a determination of whether the child has been placed in the least restrictive setting and whether placement with a relative has been given consideration and preference. State law currently grants foster parents, pre-adoptive parents, and relative care givers a right to an opportunity to be heard in these dependency review hearings. Foster parents, pre-adoptive parents, and relative care givers also are entitled to notice of these review hearings.

Educational and Medical Records of Children in Out-of-Home Care

When a child enters foster care or kinship care, the DSHS is required to provide care givers with the child's health and education records to the extent they are available. The availability of the child's records depends in part on where the records are maintained. Whether or not the entity maintaining the records has a clear understanding of the laws governing access to and sharing of health and education records also can impact the time it takes for the DSHS to access the child's records. As part of the work completed by the DSHS Education Oversight Committee, a standard order for use at shelter care hearings was developed in order to expedite the DSHS's access to the child's health and education records.

The Safe and Timely Interstate Placement of Foster Children Act of 2006

In July 2006, the Safe and Timely Interstate Placement of Foster Children Act of 2006 (Act) became federal law. The Act requires state courts to ensure foster parents, pre-adoptive parents, and other care givers have the right to be heard in all proceedings regarding children in their care.

Summary of Substitute Bill:

When a child is placed in out-of-home care as a result of suffering abuse or neglect, the court is required to enter an order: (1) authorizing the DSHS to obtain the child's most recent medical health, mental health, and educational records; and (2) authorizing foster and other care givers to manage enrollment and other school-related processes and services on behalf of

the child. Notice of these orders being entered must be included in the standard notice regarding the shelter care hearing sent to the child's parents.

Foster parents, pre-adoptive parents, and other care givers of children in the custody of the DSHS must be notified prior to each proceeding of their right to be heard in each proceeding under the state's dependency statutes relating to children in their care. The dependency review hearings for children in DSHS custody must establish in writing whether both in-state and out-of-state placement options have been considered for the child.

Substitute Bill Compared to Original Bill:

The substitute bill requires that the standard shelter care hearing notice includes notice regarding the entry of the order granting DSHS access to the child's health and education records and granting the DSHS or its designee the authority to manage certain school enrollment-related process for the child.

The substitute bill clarifies that access to the child's health records is subject to the child's consent where required by other state or federal laws.

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) It is important for foster parents and other care givers to be able to speak in court when there is a review of cases for children in their care through the DSHS. The provisions for access to the child's records will help expedite a sometimes cumbersome process.

Obtaining information about foster children has been very difficult. This bill puts the state in compliance with federal law and will allow the state to move forward in its efforts to timely meet the needs of children in foster care. It also is vital that the DSHS have this information to pass onto the child's care givers.

(Opposed) From the children's and parents' perspectives it is important to consider that these orders are entered during the shelter care process which occurs prior to a finding of a dependency. This is very preliminary and would give the DSHS access to all the child's records. We would like to see advance notice to the child or the child's attorney for children 13 and over before complete access to the records are given. The DSHS doesn't always need all the records because not all may be pertinent to the case.

In particular, the therapeutic relationship the child has with a therapist should be preserved to the greatest extent possible. When these relationships predate a dependency they should be treated differently and children over the age of 13 should be allowed to decide on their own

regarding the release of their medical records. Notice would allow the child to make a motion for some restrictions on access to those records.

The authority to enroll a child in school should be tied to allowing the child to remain in the same school and the DSHS should be required to provide transportation. We would like parents to have some voice in the school enrollment decisions.

Persons Testifying: (In support) Representative Kagi, prime sponsor; Laurie Lippold, Children's Home Society of Washington; and Cheryl Stephani, Department of Social and Health Services, Children's Administration.

(Opposed) Robert Wyman, Washington Defender's Association.

Persons Signed In To Testify But Not Testifying: None.

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: The substitute bill by Committee on Early Learning & Children's Services be substituted therefor and the substitute bill do pass. 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, Buri, Chandler, Cody, Conway, Darneille, Dunn, Ericks, Fromhold, Grant, Haigh, Hinkle, Hunt, Hunter, Kagi, Kenney, Kessler, Kretz, Linville, McDermott, McDonald, McIntire, Morrell, Pettigrew, Priest, Schual-Berke, Seaquist, P. Sullivan and Walsh.

Staff: Amy Skei (786-7140).

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

No new changes were recommended.

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) We urge support for this bill.

(Opposed) None.

Persons Testifying: David Del Villar Fox, Department of Social and Health Services, Children's Administration.

Persons Signed In To Testify But Not Testifying: None.