

HOUSE BILL REPORT

HB 1334

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

Title: An act relating to documentation in child welfare proceedings.

Brief Description: Requiring the petitioner in a child welfare case to provide the court with relevant documentation.

Sponsors: Representatives Hinkle and Walsh.

Brief History:

Committee Activity:

Early Learning & Children's Services: 2/9/07, 2/15/07 [DPS];
Appropriations: 2/26/07, 2/27/07 [DP2S(w/o sub ELCS)].

Brief Summary of Second Substitute Bill

- Requires the Department of Social and Health Services to submit certain documents in reports recommending a child be returned home.

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; Haler, Ranking Minority Member; Walsh, Assistant Ranking Minority Member; Appleton, Hinkle, Pettigrew and Roberts.

Staff: Sonja Hallum (786-7092).

Background:

Dependency and Termination of Parental Rights Background

If there are allegations of abandonment, abuse or neglect, or no parent who is capable of caring for a child, the state may investigate the allegations and initiate a dependency proceeding in juvenile court. If the court finds the statutory requirements have been met, the court will find the child to be a dependent of the state.

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.

Whenever the court orders a dependent child to be removed from the home, the court will enter a dispositional plan which will include the obligations of the parties including the parents, the supervising agency or Department of Social and Health Services (Department), and the child. The dispositional order will contain an order for the placement of the child either within the home or outside of the home. If the child is placed outside the home, he or she may be placed with a relative or in non-relative foster care.

Within 60 days of assuming responsibility for the child, the Department is required to provide the court with a permanency plan for the child. The permanency plan will contain the desired goal for the child which may include a plan to return the child home, adoption, long-term placement, or guardianship, including a dependency guardianship. The court must hold the permanency planning hearing when a child has been in out-of-home care for nine months. The hearing must take place within 12 months of the current placement.

The status of all dependent children must be reviewed by the court every six months. During the review the court will examine the progress of the parents in meeting the requirements of the dispositional plan. At this hearing the court may return the child to the home if the parent has made sufficient progress.

If the parent fails to make progress in curing the parental deficiencies which led to the dependency, or if one of the statutory aggravating factors exist, a termination petition may be filed. Federal law requires that after a child has been in foster care for fifteen of the past twenty-two months, the state must file a petition to terminate parental rights unless the child is being cared for by relatives, there is a compelling reason why termination would not be in the best interest of the child, or the state has failed to offer the necessary services to the parent.

If the court finds the statutory grounds for termination are met, the court will terminate the parental rights and the parent will no longer have rights, privileges, or obligations toward the child.

Task Force Background

In 2005, the Legislature formed a task force to review issues pertaining to the health, safety and welfare of children receiving services from Child Protective Services and Child Welfare Services. In 2006, the task force reported several recommendations to the Legislature for improving Child Protective Services and Child Welfare Services.

Summary of Substitute Bill:

The bill is to be known as the Raphael Gomez Act.

In a dependency or termination of parental rights proceeding, if the Department submits a report to the court in which the Department is recommending a child be placed with a parent after the child was removed from the parent due to abuse or neglect allegations, the Department must include certain documents with the report. The Department may only include the relevant documents and may not attach the entire history of the parent or child.

The following are the documents the Department may include:

- (1) the progress report or evaluation submitted by the provider if the Department's report contains a recommendation, opinion, or assertion relating to the parent's substance abuse treatment, mental health treatment, anger management classes, or domestic violence classes;
- (2) the most recent visitation report, a visitation report referencing a specific incident alleged in the report, or a summary of visitation prepared by the person who supervised the visitation if the Department's report contains a recommendation, opinion or assertion relating to the parent's visitation with the child;
- (3) the progress report, evaluation, or summary submitted by the provider, if the Department's report contains a recommendation, opinion or assertion relating to the psychological status of the parent; and
- (4) a summary of the physicians report if the Department's report contains a recommendation, opinion or assertion relating to injuries to the child that occurred while in the care of the parent.

Substitute Bill Compared to Original Bill:

The substitute bill limits the occasions when the Department is required to submit documentation to include only those reports in which the Department is recommending the child be placed with the parent after having been removed from the parent due to abuse or neglect.

The substitute specifies which reports should be provided to the court in relation to specific issue areas and clarifies that the entire history of the parent is not to be provided to the court.

A short title is added to name the bill the "Raphael Gomez Act."

Appropriation: None.

Fiscal Note: Requested for substitute bill on February 15, 2007.

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) I have spoken to judges in my own district and they would like this documentation. In the Raphael Gomez case, having solid information would have been more useful. Raphael died because information from the foster family and from the medical doctor was filtered by the social worker who had an apparent bias. But, this wasn't just a problem in Raphael's case. We have reports of other cases where this has happened as well. When making these decisions that will affect children for the rest of their lives, we should have the best information and documentation available. It would be a sad thing if we couldn't do the right thing for our kids because we couldn't afford the photocopying costs. If we can stop this

from happening to any more children, we have done a good thing here. This bill will lead to a better informed judiciary and more full and fair hearings. This will lead to better decisions for children. Please add a citation to Raphael Gomez to this bill.

(Neutral) This bill will lead to a better informed judiciary. The Office of Family and Children's Ombudsman has identified the failure to provide decision-making with source documentation as a factor in the death of Raphael Gomez and other complaints, received in the office.

(Opposed to original bill) We have some concerns with the language.

Persons Testifying: (In support of original bill) Representative Hinkle, sponsor; Gary Malkasian; Patrick Dowd, Office of Public Defense; Elaine Wolcott-Ehrhart and Bianca L. Tillett, Washington Families United; and Daniele Baxter, Foster Parents Association of Washington.

(Neutral) Mary Meinig, Office of Family & Children's Ombudsman.

(Opposed to original bill) Ross Dawson, Children's Administration.

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 33 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, 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:

The Appropriations Committee recommendation adds a null and void clause.

Appropriation: None.

Fiscal Note: Available. Fiscal note for substitute requested on February 15, 2007.

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) We found out when working on the Sirita Task Force that there are times when backup documents on assertions and findings related to child abuse and neglect are not provided by the Department of Social and Health Services to the court. We don't want things to get missed in these cases, as were missed in Sirita Sotelo and Rafael Gomez' cases. The bill has been narrowed to provide more specific information, rather than all the information that might relate to an assertion. Sirita Sotelo was a foster child who was beaten to death by her stepmother. She was in foster care from birth until she was nearly 4 years old. She was in eight foster homes, returned to her mother six times, and her father didn't enter her life until she was 3 1/2 years old. As her foster parents, we raised several issues regarding her father. This included a letter her father had written that it would not be good for his wife if he had custody. To her, the child was a reminder of her husband's infidelity. A year after Sirita's placement with her father she was beaten to death. The concerns we raised with the social worker and her father's letter were never presented to the court. We believe this was a factor in her death, along with other factors. Rafael Gomez was a young child who was removed from his home four times with broken bones and cigarette burns, and yet the caretaker's report from the foster mother and the medical records were never given to the judge. The judge later said he would have never returned the child home if he had seen those reports.

(Opposed) None.

Persons Testifying: Representative Hinkle, prime sponsor; and Gary Malkasian.

Persons Signed In To Testify But Not Testifying: None.