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**Early Learning & Children's  
Services Committee**

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**HB 2760**

**Brief Description:** Establishing children's rights in dependency matters.

**Sponsors:** Representatives Dickerson, Kagi, Lantz, Appleton, Kenney, Darneille and Goodman.

**Brief Summary of Bill**

- Establishes rights for children ages eight years and older who are the subject of dependency proceedings to receive notice, be present, and be heard in proceedings.
- Requires guardians ad litem or other court-appointed advocates to meet with or observe a child at least once before making recommendations to the court regarding the child's best interests.
- Requires guardians ad litem or other court-appointed advocates to report to the court any preferences or views expressed by the child with regard to issues pending before the court.
- Directs the child's attorney or guardian ad litem to coordinate transportation for a child who wishes to attend a hearing.
- Permits the court to interview a child in chambers regarding issues before the court.

**Hearing Date:** 1/31/08

**Staff:** Sydney Forrester (786-7120).

**Background:**

*Notice and Rights in Dependency Proceedings*

Upon the filing of a dependency petition, state law requires a copy of the summons and petition be sent to children ages twelve years and older who are the subject of such petitions. Parents,

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guardians, and custodians of children also are summoned, and the court may include an order for the child to be brought to the fact-finding hearing on the dependency petition.

Under federal and state law, foster parents, although not considered parties to dependency proceedings, also have rights to notice and to be heard in dependency matters. The Department of Social and Health Services (DSHS) is required to provide foster parents with notice of all hearings regarding children in their care.

All parties to dependency proceedings are entitled to be represented by counsel and to be heard in all proceedings. Parents, guardians, and custodians who are found to be indigent are entitled to counsel at public expense.

#### Guardians Ad Litem

For children in dependencies, the court is required to appoint a guardian ad litem (GAL) unless good cause exists not to do so. This requirement is considered satisfied for children who are represented by independent counsel. The court may appoint an attorney to represent the child if the child is age 12 years or older and requests independent counsel, or if the court or the GAL determined the child should be represented by counsel.

Statewide there is considerable variability regarding both GAL programs and whether children in dependencies are represented by independent counsel. Some GALs are also licensed attorneys, although their role as GAL differs from that of independent counsel. Counties without a sufficient number of contracted or available GALs may appoint lay volunteers to serve as special advocates for children in dependencies. In some counties all children are represented by independent counsel in dependency matters, and these children may or may not also have an appointed GAL or volunteer advocate. GALs and volunteer advocates are charged with investigating relevant information and making recommendations to the court regarding the child's best interests.

#### Children's Rights and Participation in Dependency Proceedings

Other than the initial requirement for a child over the age of 12 to receive a summons and petition when a dependency is initiated, there is no requirement for the child to receive further notice of dependency proceedings. Similarly there is no express right granted to a child to be heard in dependency proceedings.

#### **Summary of Bill:**

For children ages eight years and older who are the subjects of dependency proceedings, the following rights are established:

- (1) the right to receive notice of hearings;
- (2) the right to be present at hearings; and
- (3) the right to be heard personally.

These rights can not be limited or denied unless the court makes a written finding that denial or limitation is in the child's best interests and necessary to protect the child's health, safety, or welfare. Prior to hearings, the child's GAL or attorney must determine if the child wishes to attend the hearing. If the child wishes to attend, the attorney and GAL must coordinate with the child's caregiver and the DSHS or other supervising agency to arrange for transportation.

If the child exercises his or her right to be present, the court may interview the child in chambers to determine the child's wishes regarding issues before the court. The interview can be at the request of the child, the GAL or volunteer, the child's attorney, or at the court's discretion.

Prior to making recommendations to the court regarding the child's best interests, a GAL or volunteer advocate must meet with, interview, or observe the child at least once. The GAL or volunteer also must report to the court any preferences or wishes expressed by the child regarding issues to be decided by the court.

**Appropriation:** None.

**Fiscal Note:** Requested on January 21, 2008.

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