

# HOUSE BILL REPORT

## HB 2846

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

**Title:** An act relating to voluntary out-of-home placement agreements to provide residential treatment for adoptive children in crisis.

**Brief Description:** Establishing a process for entering voluntary out-of-home placement agreements for adoptive children in crisis.

**Sponsors:** Representatives Kagi, Kenney and Dickerson.

**Brief History:**

**Committee Activity:**

Early Learning & Children's Services: 1/24/08, 2/1/08 [DPS].

**Brief Summary of Substitute Bill**

- Establishes a program for voluntary placement agreements between parents of children adopted out of foster care and the Department of Social and Health Services to provide residential treatment to adoptive children in crisis.

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### 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:**

Of the approximately 3,000 adoptions finalized in Washington each year, 1,000 are adoptions of children from the foster care system. Almost all children adopted from the state's foster care system are determined to have special needs, making them and their adoptive families eligible for Washington's adoption support program. There are approximately 12,000

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adoption support contracts in place with approximately 6,000 families in Washington. Approximately 750 children in foster care are legally free and waiting for adoptive homes.

#### Adoption Support

Special needs eligibility is determined by meeting three main criteria:

- (1) The state has determined that the child can not or should not be returned home.
- (2) Efforts to place the child for adoption without adoption support have been unsuccessful.
- (3) The child's age, ethnicity, disability or risk of diagnosis of disability, or placement in a sibling group of three or more, qualifies the child as having special needs.

Post-adoption support benefits for special needs children may include:

- (1) medical and dental services paid through Medicaid;
- (2) pre-authorized counseling;
- (3) assistance with non-recurring adoption costs;
- (4) pre-authorized training; and
- (5) adoption subsidy, a negotiated monthly payment to help cover some of the expenses of raising a child with special needs.

The state's standard adoption support agreement indicates that adoption support does not pay for residential services and includes a reference to the statute amended in section four of the bill stating that the Department of Social and Health Services (DSHS) can not make payment for a child in group care unless the DSHS has custody of the child.

#### Voluntary Placement Agreements for Children with Developmental Disabilities

The DSHS is authorized to enter into voluntary placement agreements (VPA) with parents of children who are developmentally disabled for the placement of children in group homes or in treatment foster care homes. The VPAs may be needed when the child's age, size, or functioning are beyond the parent's ability to manage or when the child's behavior places other family members at risk of injury. The VPAs for children with developmental disabilities may be entered into only when the sole reason for the placement is the child's disability. Under a VPA regarding a child with a developmental disability, the parent retains custody of the child and may terminate the agreement at any time. When a long-term placement is anticipated, judicial review of the agreement is required. Permanency planning for the child is the joint responsibility of the DSHS and the parent.

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

The DSHS is authorized to enter into VPAs with parents who have adopted a child from the foster care system for the purpose of accessing residential care for a child in crisis. A parent may request and the DSHS may agree to enter into a VPA under the following circumstances:

- (1) the child resides in Washington;
- (2) less intensive or traditional adoption supports have been unsuccessful or are not likely to be successful in stabilizing the child's behavior and functioning; or

- (3) the parent has no reasonable alternative to accessing the level of care necessary to meet the child's needs and preserve the adoption.

Under a VPA, the parent retains legal custody of the child and the DSHS assumes responsibility for the placement and care of the child. The VPA is developed jointly by the parent, the child's mental health provider, and the DSHS, and must include a plan for the child's eventual return home. If the agreement anticipates the child will be in care longer than 180 days, judicial review is required. For all agreements extending 180 days or more, the parent and the DSHS must jointly file a petition to the court for review of the agreement and a determination by the court that the out-of-home placement is in the child's best interests. Either party to the agreement may terminate the VPA at any time, and upon termination the child must be immediately returned home.

The section of law specifying limitations on the DSHS's payment for out-of-home placements in group care is amended and clarified to be consistent with judicial and DSHS interpretation of the term *custody* as meaning *placement and care authority*, rather than legal custody.

### **Substitute Bill Compared to Original Bill:**

The substitute bill makes the following changes to the original bill:

- (1) removes references to inpatient treatment and allows for VPAs between adoptive parents and the Children's Administration for out-of-home placements in treatment foster care, group care, or behavioral rehabilitation services homes;
- (2) removes the requirement that out-of-home placement under a VPA be determined a medical necessity; and
- (3) establishes a process for judicial review of VPAs extending beyond 180 days as required by federal law by directing the DSHS and the parent to jointly petition the court for review of the agreement and a determination that it is in the child's best interests.

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**Appropriation:** None.

**Fiscal Note:** Requested on February 4, 2008.

**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) This bill is a result of efforts to try and address concerns from a number of parents in the Seattle area who have children adopted from foster care and who are facing extreme struggles and frustration in getting assistance managing and meeting the needs of their children. Adoptive parents, based on statements and language in adoption support contracts, understand that residential treatment is not available to them under the adoption

support program. This bill is an attempt to make sure adoptive parents can voluntarily agree to temporary out-of-home placement when their children's needs will be best met in such a therapeutic setting.

Families who have adopted children from foster care have a wide range of needs. It is important for these families to have a range of supports, including the intensive services sometimes needed.

(With concerns on original bill) The adoption support program does not pay for residential services. But the DSHS can enter into voluntary placement agreements with adoptive parents via the child welfare system for up to 180 days. After 180 days, however, we would need to file for a dependency. One caution would be that we should look at the needs of the populations as a whole and look at enhancements to children's mental health residential programs. Depending on the child's needs, the type of residential care needed could range from a treatment foster home, a group home, a long-term inpatient treatment facility, or a psychiatric hospital. The waiting lists for long-term inpatient treatment can be as long as 10 months.

(Neutral) The Office of the Children and Family Ombudsman receives a number of complaints each year from adoptive parents who feel they have exhausted all available means to get services for their children in need. Adoptive parents are concerned about the adopted child in crisis and feel unable to protect the other children at home. This bill may also provide reassurance to prospective adoptive parents who may be concerned about the types of services that will be available to them in the future. It would also give assurance to foster parents who may be wavering in making a commitment to adopt a child because of concern about meeting the child's future mental and behavioral health needs. Funding of residential treatment will alleviate the financial stress on families who are trying to get the child the help needed.

(Opposed) None.

**Persons Testifying:** (In support of original bill) Representative Kagi, prime sponsor; and Laurie Lippold, Children's Home Society.

(With concerns on original bill) Cheryl Stephani, Department of Social and Health Services - Children's Administration.

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

**Persons Signed In To Testify But Not Testifying:** None.