

SENATE BILL REPORT

ESHB 1624

As Reported By Senate Committee On:
Human Services & Corrections, March 29, 2007
Ways & Means, April 2, 2007

Title: An act relating to child welfare.

Brief Description: Reinstating parental rights for adolescents who are in state care and have not been adopted and providing immunity for department of social and health services representatives.

Sponsors: House Committee on Early Learning & Children's Services (originally sponsored by Representatives Kagi, Walsh, Appleton, Roberts and Haigh).

Brief History: Passed House: 3/12/07, 98-0.

Committee Activity: Human Services & Corrections: 3/27/07, 3/29/07 [DPA].
Ways & Means: 4/02/07 [DPA].

SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS

Majority Report: Do pass as amended.

Signed by Senators Hargrove, Chair; Regala, Vice Chair; Stevens, Ranking Minority Member; Brandland, Carrell and McAuliffe.

Staff: Kiki Keizer (786-7430)

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: Do pass as amended.

Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Pridemore, Vice Chair, Operating Budget; Zarelli, Ranking Minority Member; Brandland, Carrell, Fairley, Hatfield, Hobbs, Honeyford, Keiser, Kohl-Welles, Oemig, Parlette, Rasmussen, Regala, Roach, Rockefeller, Schoesler and Tom.

Staff: Paula Moore (786-7449)

Background: After a child is removed from home because of allegations of child abuse or neglect, the Department of Social and Health Services (DSHS) must identify an outcome, such as reunification, adoption, or a long-term placement or guardianship as the primary goal of the child's permanency plan of care. The court must hold the permanency planning hearing when a

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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 disposition order. At a review hearing, the court may return the child home if the parent has made sufficient progress.

If the parent fails to cure the deficiencies which led to the dependency, or if a statutory aggravating factor exists, then a petition may be filed to terminate parental rights. Federal law requires that after a child has been in foster care for 15 of the past 22 months, the state must file a petition to terminate parental rights unless the child is being cared for by relatives or a compelling reason exists that termination would not be in the best interest of the child, or the state has failed to offer necessary services to the parent.

A court order terminating the parent-child relationship divests the parent and the child of all legal rights, powers, privileges, immunities, duties, and obligations with respect to each other except past-due child support obligations owed by the parent.

Summary of Engrossed Substitute Bill: Relationship Between the DSHS and Foster Parents: The Secretary of the DSHS must work with the University of Washington on a feasibility study examining the efficacy of tiered classifications for foster parent licensing, including a professional foster parent classification.

A duty of the DSHS is created to consult at least quarterly with the foster parent association.

Reinstatement of Parental Rights that were Previously Terminated by the Court: A child of at least 12 years of age, who has not been adopted within at least three years of the termination of a parent's parental rights, may petition for reinstatement of the parental rights that were previously terminated. The child has a right to appointed counsel, as does an indigent former parent. The court may conditionally grant the petition for a year if the court is satisfied that the deficiencies that caused the termination have been addressed to a degree that won't present a risk to the child.

Error of Judgment: The state, or a representative of the state delivering child welfare services, is not liable for an error in judgment in selecting one of two alternative courses of action, if reasonable care and skill are used in arriving at the judgment.

Changes in the Dependency Statutes: When the DSHS removes a child from home, it may authorize evaluations of educational and developmental status, as well as other evaluations currently allowed by law.

The primary purpose of various court hearings, such as the shelter care hearing, review hearing, and permanency planning hearing, are set out.

Certain provisions are added to the statute controlling shelter care hearings. For example, language is added to the section requiring the court to continue placement with a relative, unless that placement would hinder the efforts to reunite the parent and child. The new language states that the relative must be willing and available to perform certain functions and cooperate with the DSHS on providing background checks and home studies. The person with

whom the child is placed must also cooperate with the DSHS's case plan and with court orders.

With respect to the review hearing, a foster parent, preadoptive parent, or relative currently caring for a child must receive notice of the hearing and have an opportunity to be heard. The new language also sets out specific considerations of the court in determining whether to modify services to the family or the child's placement.

With respect to the permanency hearing, the court is required to make a number of explicit findings. The permanency plan should ensure that the child remains enrolled in the school he or she was attending at the time he or she entered foster care, if it is practical and in the child's best interests. There is a section requiring a permanency hearing if a child is returned home, then subsequently removed because of allegations of child abuse or neglect.

EFFECT OF CHANGES MADE BY RECOMMENDED STRIKING AMENDMENT(S) AS PASSED COMMITTEE (Human Services & Corrections):

- with respect to the provision on reunification following termination of parental rights: eliminates age limit of child petitioning for reunification; provides that a child may petition if permanency plan is not achieved within three years of termination of parental rights; changes court procedures and considerations when determining whether to reinstate parental rights;
- shields the state from liability for civil damages resulting from act or omission in delivery of CPS or CWS through the Children's Administration unless gross negligence;
- provides that child should be placed in shelter care with a relative or a person requested by the parent;
- eliminates amendatory language authorizing the DSHS to evaluate a child's educational and developmental status;
- provides for notice of shelter care in an understandable manner, considering the parent's or guardian's primary language, level of education, and cultural issues;
- eliminates the provision permitting waiver of shelter care hearing;
- indicates that orders for evaluations (considered by court at the shelter care hearing) should be agreed by all parties;
- indicates that visitation conditions considered by court should include family visitation;
- requires that the written permanency plan be provided to all parties 14 days before the permanency hearing with an opportunity to respond within seven days of hearing;
- allows the court, in a fact-finding hearing, to consider the history of past involvement of CPS or law enforcement with the family;
- provides that the child should be kept in the same school when placed out of home, unless it is not in the best interests of the child;
- eliminates the requirement of notice and opportunity to be heard for preadoptive parents at review hearings;
- eliminates the provision related to new permanency hearing within 30 days of a second removal from home;
- provides that, in connection with an out-of-home dependency, a court may enter an order of child support, if the state pays for court-ordered services;

- provides for DSHS consultation with foster parents at least quarterly, including members of the foster parent association of Washington;
- adds provisions regarding retention and destruction of records of unfounded or inconclusive allegations of child abuse or neglect;
- prevents the DSHS from destroying records of unfounded or inconclusive allegations of child abuse or neglect if a prior or subsequent founded report involving the child, a sibling or half-sibling, or parent, guardian, or legal custodian is received before the records are destroyed;
- requires the DSHS to provide certain information to foster parents, if known, about a foster child and that child's family. For example, the DSHS must provide information about whether a child is sexually reactive or exhibits high-risk behaviors, has received a medical diagnosis of fetal alcohol syndrome, or a medical diagnosis of a mental health disorder; and
- provides for the CPS to prepare a statement, warning against false allegations of child abuse or neglect for inclusion with educational materials or letters to persons determined to have made a false report.

EFFECT OF CHANGES MADE BY RECOMMENDED AMENDMENT(S) AS PASSED COMMITTEE (Ways & Means): Removes the provision directing the court to order the parent to pay child support only if that parent has received court-ordered services provided by the state.

Changes the work group's representation by adding legislative members; modifying the foster parent representation from being solely from the Foster Parent Association of Washington State to include four foster parents representing a diverse number of foster parent organizations throughout Washington State.

Removes representatives from the Washington Federation of State Employees from the work group.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony (Human Services & Corrections): PRO: The bill started out providing for reunification of adolescents with parents whose parental rights had previously been terminated.

There is language in the bill protecting the state from civil liability, but a gross negligence standard is preferred.

The sections amending the dependency statutes are the result of the Court Improvement Project's recommendations. The idea was to make the purpose of each hearing clearer and to assure a deliberative process at each hearing.

The foster parent association supports the provision that requires the DSHS to consult with foster parents, particularly with respect to such issues as recruitment, retention, and support of foster families. In addition, the work group provision reflects that there already are professional foster parents for medically fragile and behaviorally challenged children. Therapeutic foster care already exists. Still, there should be criteria on how those services operate.

OTHER: The liability of the state, and of those individuals who have life-and-death decision-making authority over children, should not be limited.

There should not be an age limit that determines when a child might petition to have parental rights restored. There's no reason to keep kids lingering in foster care, if they can go home and be safe there. In addition, kids should be able to petition for reunification with their birth families if their permanency plans have not been achieved within three years; relief should not be limited to those children who have not been adopted within three years.

Birth parents should have more of a voice in the process of restoring parental rights, rather than just having responsibility. Foster kids should also receive notice of the possibility of having their parents' rights restored, so that they can let the court know what they want.

Persons Testifying (Human Services & Corrections): PRO: Representative Kagi, prime sponsor; Elaine Wolcott-Ehrhardt, Washington Families United; Daryl Dawgs, Foster Parent Association of Washington, Washington Federation of State Employees; Laurie Lippold, Children's Home Society of Washington.

OTHER: Char Riel Wellner, Paula Duranceau, Meri Lawrence, Mark Horberg, Chet McVay, citizens; Stella Farias, Washington Families United.

Staff Summary of Public Testimony (Ways & Means): PRO: This bill contains a number of positive items, including the provisions on the reinstatement of parental rights. The Senate language regarding the reinstatement of parental rights is preferred to the House language. Foster parents will be helped by the provision requiring the department to meet regularly with them. Tiered classification improves recruitment and retention of foster parents in the state.

Persons Testifying (Ways & Means): PRO: Lauri Lippold, Children's Home Society of Washington; Dennis Eagle, Washington Federation of State Employees.