

# SENATE BILL REPORT

## E2SHB 3205

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As Reported By Senate Committee On:  
Human Services & Corrections, February 28, 2008  
Ways & Means, March 03, 2008

**Title:** An act relating to promoting the long-term well-being of children.

**Brief Description:** Promoting the long-term well-being of children.

**Sponsors:** House Committee on Appropriations (originally sponsored by Representatives Jarrett, Walsh, Kagi, Roberts, Hunter, Sullivan, Green, Kelley, Morrell, Chase, McIntire, Seaquist and Kenney).

**Brief History:** Passed House: 2/15/08, 94-0.

**Committee Activity:** Human Services & Corrections: 2/28/08 [DPA-WM].  
Ways & Means: 3/3/08 [DPA, w/oRec].

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### SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS

**Majority Report:** Do pass as amended and be referred to Committee on Ways & Means.

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

**Staff:** Jennifer Strus (786-7316)

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### 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; Fairley, Hatfield, Hobbs, Keiser, Kohl-Welles, Oemig, Rasmussen, Rockefeller and Tom.

**Minority Report:** That it be referred without recommendation.

Signed by Senators Zarelli, Ranking Minority Member; Brandland, Carrell, Honeyford, Parlette, Roach and Schoesler.

**Staff:** Paula Moore (786-7449)

**Background:** The Adoption and Safe Families Act. The federal Adoption and Safe Families Act (ASFA) requires that when a child has been in out-of-home care for 15 of the past 22 months, a petition for termination of parental rights be filed, unless one of three exceptions applies: (1) at the state's option, the child is being cared for by relatives; (2) the child's case

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plan documents a compelling reason why a termination petition would not be in the child's best interests; or (3) the state has not provided the necessary family reunification services in the time period set out in the case plan.

ASFA passed in November 1997 and states were given until after the close of their next scheduled legislative session to come into compliance if they were not already in compliance.

Washington Law Regarding Termination Petitions. In dependency matters in Washington State, if a child has been placed in out of home care for 15 of the most recent 22 months, the court, in its review of the child's permanency plan, must review the appropriateness of the plan, whether reasonable efforts were made by the Department of Social and Health Services (DSHS) to achieve the goal of the permanency plan and the circumstances which prevent the child from: (1) being returned home; (2) having a termination of parental rights filed on the child's behalf; or (3) being placed for adoption, with a guardian, with a relative, or some other alternative permanent placement.

A recent review by the Administrative Office of the Courts (AOC) regarding the timeliness of dependency case processing in Washington examined 82 percent of dependency cases for which adequate data was available. Of those cases in which a petition for termination of parental rights was filed during the 2004, 2005, and 2006 calendar years, 50 percent of cases met this timeliness standard.

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

Special needs eligibility for adoption support 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; and (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) an 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 contract indicates that adoption support does not pay for residential services and that DSHS cannot make payment for a child in group care unless the DSHS has custody of the child.

**Summary of Bill (Recommended Amendments):** When a child has been in out-of-home care for 15 of the most recent 22 months, the court must order DSHS to file a petition to terminate parental rights, unless the court makes a good cause exception as to why filing the petition is not appropriate. Good cause exception includes, but is not limited to, the following: (1) the child is being cared for by a relative; (2) DSHS has not provided reasonable

efforts; or (3) DSHS has documented a compelling reason why a termination petition should not be filed. If the court makes such a finding, it must be reviewed at all subsequent motion and review hearings pertaining to the child.

The concept of the child's long-term well-being is added as a paramount concern when making reasonable efforts in dependency and termination matters.

**EFFECT OF CHANGES MADE BY WAYS & MEANS COMMITTEE (Recommended Amendments):** Removes the provisions authorizing DSHS to enter into voluntary placement agreements with: (1) parents who adopted foster children; or (2) parents whose children have been in foster care, but have been returned home and the dependency has been dismissed.

Adjusts the intent language.

**EFFECT OF CHANGES MADE BY HUMAN SERVICES & CORRECTIONS COMMITTEE (Recommended Amendments):** Good cause exceptions to the filing of a termination of parental rights petition are added. The VPA process is amended to also be available to parents whose children have been in foster care, but have been returned home and the dependency dismissed.

**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 on Engrossed Second Substitute: (Human Services & Corrections)** PRO: No one benefits when dependency cases take too long to achieve permanency. There is a cost to following the law but everyone benefits if the law is followed. We as a state are not doing a good job managing the foster care system. According to the Boeing lean team there is a tremendous lack of urgency on the part of the Children's Administration in making changes that need to occur and that the Legislature expects to occur. Once a child is in foster care beyond 22 months, the chances of achieving permanency drop. Given sufficient resources, parents can afford to adopt foster children. There is a pool of parents who have adopted foster children with mental health needs. When these parents turn to DSHS for help, they are told that DSHS will not place children for mental health treatment. There is a lot of research that supports what the voluntary placement agreement portion of the bill is trying to achieve – it's not a solution but it is a start. DSHS is not the only roadblock to permanency – the courts and the AG's office also contribute. The Legislature should hold these entities accountable as well. Many adoptive families need some support and nothing more and the resource and referral portion of the bill would go far in assisting them.

OTHER: The law as written casts too wide a net. Creates a presumption that a termination petition will be filed at a certain date and does not include the 3 exceptions included in federal law. These three exceptions should be included in this bill.

**Persons Testifying (Human Services & Corrections):** PRO: Representative Jarrett, prime sponsor; Grace Fitzgerald, Foster Parent; Dan Nord, Adoptive Parent; Linda Green Basket,

adoptive parent; Laurie Wilson, Adoptive parent; Diane Farrow, CASA; Gary Malkasian, foster parent; Laurie Lippold, Children's Home Society

OTHER: Joanne Moore, Office of Public Defense.

**Staff Summary of Public Testimony on Engrossed Second Substitute (Ways & Means):**

PRO: We are in support of adjusting state policy to be consistent with federal law. The Office of Public Defense is not opposed to this bill, but will need additional funding. We believe this will increase the number of termination filings.

**Persons Testifying (Ways & Means):** PRO: Lauri Lippold, Children's Home Society; Joanne Moore, Office of Public Defense.