

# SENATE BILL REPORT

## SB 5381

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As Reported By Senate Committee On:  
Human Services & Corrections, February 21, 2007  
Ways & Means, March 5, 2007

**Title:** An act relating to dependent children.

**Brief Description:** Concerning dependent children.

**Sponsors:** Senators Hargrove, Stevens, Regala, McAuliffe and Shin.

**Brief History:**

**Committee Activity:** Human Services & Corrections: 1/18/07, 2/21/07 [DPS-WM].  
Ways & Means: 3/02/07, 3/05/07 [DP2S].

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### SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS

**Majority Report:** That Substitute Senate Bill No. 5381 be substituted therefor, and the substitute bill do pass 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:** Kiki Keizer (786-7430)

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### SENATE COMMITTEE ON WAYS & MEANS

**Majority Report:** That Second Substitute Senate Bill No. 5381 be substituted therefor, and the second substitute bill do pass.

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

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

**Background:** In cases involving allegations of child abuse or neglect in which a child has been removed from home, a court holds a fact-finding hearing to determine whether it is more likely than not that a child (1) has been abandoned or abused or neglected by a person legally responsible for the child's care or (2) has no parent, guardian, or custodian capable of caring for him or her. If the court makes that determination, then the court may order the child

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removed from home and into the care and custody of a relative or non-relative, or the court may order a disposition other than removal, designed to stop the danger to the child.

After a child is removed from home, the Department of Social and Health Services 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 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.

The Joint Task Force on Child Safety for Children in Child Protective Services (CPS) or Child Welfare Services (CWS) custody was created in 2005 by SHB 2156. The legislation required the task force to review several issues relating to improving the health, safety, and welfare of Washington children in CPS or CWS custody and to make recommendations to the Legislature and the Governor regarding those issues.

After its meetings during the legislative interims of 2005 and 2006, the task force reached agreement on a number of recommendations relating to how cases involving allegations of child abuse and neglect should be handled. The recommendations were directed to a number of state agencies and commissions, including the Children's Administration, the courts, and the Commission on Children in Foster Care. Some of the recommendations of the task force contemplated legislative changes to existing law.

**Summary of Bill:** If a child is removed from home due to allegations of abuse or neglect, returned home, and subsequently removed and placed in out-of-home care, the court must hold a hearing no later than 30 days from the date of the removal to determine the appropriate action, including a change in the permanency plan or the filing of a termination petition. The best interests of the child must be the primary consideration.

If a child welfare worker determines that a child's primary care giver must engage in services necessary to ensure the safety of the child, and that care giver fails to engage in the recommended services, then the child welfare worker must notify the court.

The Children's Administration, law enforcement, and prosecutors must develop protocols about contact and communication between agencies in physical abuse cases, similar to those protocols that have been developed to handle sex abuse cases.

The Criminal Justice Training Commission, in consultation with the Department of Social and Health Services (DSHS) and the Washington Association of Sheriffs and Police Chiefs, must develop a curriculum related to child abuse and neglect to be included in the basic law enforcement training that must be successfully completed within the first 15 months of employment of all law enforcement personnel. The curriculum must be incorporated into the basic law enforcement training program by July 1, 2008.

The DSHS must convene a work group, including representatives of the Children's Administration and the Mental Health Division, to analyze where gaps in the availability and accessibility of services identified in the Adoption and Safe Families Act exist in our state.

Parents in dependency proceedings have priority access to court-ordered service, including mental health services, domestic violence treatment, parent-child therapy, and parenting classes. The DSHS must provide funds for such court-ordered services if the parent is unable to pay for the services.

The Administrative Office of the Courts, in consultation with the Attorney General's office and the DSHS, must track dependencies that do not comply with statutory time limits and submit an annual report to the Legislature on December 1 of each year, setting out its findings in this regard.

**EFFECT OF CHANGES MADE BY RECOMMENDED SUBSTITUTE AS PASSED COMMITTEE (Human Services & Corrections):**

- It is clarified that a review hearing is required after a child is returned home and subsequently removed in pending dependency cases.
- Divisions of the DSHS are required to coordinate, and that the DSHS enter contracts with service providers, to provide priority access to certain services to parents who are defendants in dependency proceedings.
- Substance abuse is included in list of court-ordered services.
- It is clarified that the DSHS must make reasonable efforts to provide services to parent or primary caregiver identified in the permanency plan before notifying court of failure to engage in services.
- Changes are made to section on investigation protocols in child abuse and neglect cases.
- The Joint Legislative Audit and Review Committee is required to do the analysis of gaps in availability and accessibility of services to families.
- It provides for foster parents to help in child's transition back to natural family.
- The mental health statute is amended to specifically include parents who are defendants in dependency proceedings in consideration of priority populations.
- The act is named "Sirita's Law."
- The title is amended.

**EFFECT OF CHANGES MADE BY RECOMMENDED SECOND SUBSTITUTE AS PASSED COMMITTEE (Ways & Means):** It is clarified that priority services provided to parents in dependency proceedings by the department are remedial services as defined in the

federal adoption and safe families act as time-limited family reunification services. DSHS must provide funds for remedial services if the parents are unable to pay, to the extent funding is appropriated within the operating budget or otherwise available. As a condition for receiving remedial services, the court may inquire into a parent's ability to pay for services, or may require a parent to make an application to alternative funding sources for services. If remedial services are unavailable for any reason, DSHS will notify the court that the parent is unable to engage in services due to inability to access services.

The provision requiring the child welfare to notify the court is removed, if it is determined that a child's primary care giver must engage in services necessary to ensure the safety of the child, and that care giver fails to engage in the recommended services.

Prior to returning a child to the home, DSHS must identify any persons who may act as the child's caregiver. DSHS must determine if the caregiver is in need of services to ensure the safety of the child, regardless of whether the persons are a party to the dependency. DSHS may recommend to the court, and the court may order, the child's placement be contingent upon, or delayed, based on the caregiver's need to engage in or complete services. Caregivers may be required to engage in services solely for the purpose of ensuring the present and future safety of a child who is a ward of the court.

To ensure the safety of the child, DSHS must notify the parent with whom the child is placed that s/he has an ongoing duty to inform DSHS of all persons residing in the home, or acting as a caregiver, as long as the court retains jurisdiction of the dependency proceeding or DSHS is providing or monitoring remedial services to the parent or caregiver.

Language is added clarifying that the bill does not create an entitlement to services.

**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 addresses the profound problems that parents have obtaining court-ordered services that they must complete before a court will return their children home. Granting priority access to certain services to parents in dependency actions already occurs with respect to substance abuse treatment. The bill would expand that priority to other classes of services, which is appropriate because no other group is facing permanent loss of their children.

An analysis of where service gaps are is an important way to ensure that each parent in each county can access services. It would be better, perhaps, if an independent, objective group, such as the Joint Legislative Audit and Review Commission or the Washington State Institute for Public Policy, did the analysis.

It's important to ensure that other services, such as substance abuse treatment and other services through community-based organizations, are included.

Limiting access to services based upon ability to pay may raise constitutional issues. Many parents cannot afford to pay for services or to pay child support while their children are in the state's care. We are losing a lot of families because of this situation.

The language concerning the development of protocols seems to be based on the development of statewide sex abuse investigation protocols several years ago. It is important to bring local parties together to work on information-sharing protocols, as Children's Administration has started to do.

CON: The fiscal impacts of the bill are outside the Governor's budget and cannot be supported by an executive branch agency. The greatest fiscal impact anticipated would occur as a result of the requirement to hold hearings within 30 days if a child must be removed from the home more than once. If the earlier removal was in a previous dependency case that has been closed, the dependency would begin again and a new permanency plan would need to be considered for the child.

The provision giving parents in dependency actions priority access to certain services would likely affect other populations who receive services through programs funded with state dollars. For example, voluntary services to parents which are intended to prevent involvement with the state's child welfare system, or services to stabilize certain placements, might have to be reduced.

The section on protocols appears to be modeled after extensive work that was done on statewide sex abuse investigation protocols. The Children's Administration is working through its local offices with local law enforcement agencies on this, community-by-community.

The Children's Administration is using a case review process that is intended to accomplish an analysis of gaps in service availability.

**Persons Testifying (Human Services & Corrections):** PRO: Joanne Moore, Office of Public Defense; Laurie Lippold, Children's Home Society of Washington.

CON: Cheryl Stephani, Children's Administration, Department of Social and Health Services.

**Staff Summary of Public Testimony (Ways & Means):** PRO: This bill captures the major recommendations of the task force. The whole goal is to improve the child welfare system and outcomes for children and families. This bill moves us in the right direction. In the long run this will be cost-effective as it moves children out of the foster care system and back into the home. It will save money and heartbreak. If I had received these services, I would have my son with me today.

OTHER: Providing upfront services to enable parents to safely parent the child is a direction the department wants to go in. However, there are a few changes we suggest as we are concerned about two provisions. The section on services for primary caregivers does not contain language that services be provided within available resources. We are concerned this extends the department's obligations and extends our liability. Also, it's not clear the department has the authority over a primary caregiver who is not a party to the dependency.

**Persons Testifying (Ways & Means):** PRO: Laurie Lippold, Children's Home Society; Stella Farias, Washington Families United.

OTHER: Cheryl Stephani, Assistant Secretary, Children's Administration, Department of Social and Health Services.