

# SENATE BILL REPORT

## SB 6792

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As Reported By Senate Committee On:  
Human Services & Corrections, February 05, 2008

**Title:** An act relating to dependency matters.

**Brief Description:** Concerning dependency matters.

**Sponsors:** Senators Hargrove and Stevens.

**Brief History:**

**Committee Activity:** Human Services & Corrections: 1/29/08, 2/05/08 [DPS].

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### SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS

**Majority Report:** That Substitute Senate Bill No. 6792 be substituted therefor, and the substitute bill do pass.

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

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

**Background:** During the 2007 session, the Legislature passed ESSB 1624 which, among other things, provided a process by which a dependent child, in certain situations, can petition the court to reinstate previously terminated parental rights. During the implementation of this bill, several issues came to light: the burden of proof in a parental rights reinstatement petition was not specifically stated; although a child under 12 could seem to file a petition for reinstatement of parental rights, no process for doing so had been established; and no opportunity for the court to grant a final order of reinstatement was included.

Currently, the Department of Social and Health Services (department) could be held liable for its negligence in providing services under or administering the reinstatement of parental rights statute.

At a shelter care hearing in a dependency matter, the court must determine whether an order expelling the allegedly abusive parent from the home will allow the child to remain safely in the home rather than placing the child in out-of-home care. The court must also determine whether orders for examinations, evaluations or immediate services are needed; however, the court may not order a parent to undergo examinations, evaluations or services at the shelter care hearing unless the parent agrees to it.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

In a judicial proceeding under chapter 26.44 RCW, the court may issue a restraining order removing the alleged abuser from the home if to do so would keep the child safe.

**Summary of Bill (Recommended Substitute):** The court may order that a hearing be held on the merits of a petition to reinstate parental rights if it finds by a preponderance of the evidence that reinstatement is in the child's best interests. The court, upon the child's motion, or upon the court's own motion, may hear a petition filed by a child younger than 12. If the court grants the child's petition, a temporary order of reinstatement is entered. After the child has been placed with the parent for six months, and the placement has been successful, the court must hold a hearing and enter a final order restoring the parent's rights and dismissing the dependency.

The state, the department, and its employees are not liable for civil damages resulting from acts or omissions under the parental reinstatement section of the law unless the act or omission constituted gross negligence.

At a shelter care hearing, the court must determine whether an order expelling an allegedly abusive household member from the home of the nonabusive parent, guardian, or custodian will allow the child to remain safely in the home.

At a shelter care hearing, uncertainty by a parent, guardian, legal custodian, relative, or suitable other person that the alleged abuser has in fact abused the child cannot be the sole basis upon which the child is removed from the care of the parent, guardian, legal custodian, relative, or suitable other person, nor can it be the sole basis upon which to preclude placement with either a relative or a suitable person.

Under chapter 26.44 RCW, the court may enter a restraining order to protect an allegedly abused or neglected child and if the child's caretaker is willing and does comply with the restraining order, uncertainty by the caretaker that the alleged abuser has abused the alleged victim must not, alone, be a basis to remove the alleged victim from the caretaker.

The provision allowing a child to petition the juvenile court to reinstate previously terminated parental rights within three years of the exhaustion of any right to appeal the termination order, if the order is appealed, is removed.

**EFFECT OF CHANGES MADE BY HUMAN SERVICES & CORRECTIONS COMMITTEE (Recommended Substitute):** The provision allowing the court to order a parent to participate in a comprehensive chemical dependency evaluation at shelter care is removed.

The provision allowing a child to petition the juvenile court to reinstate previously terminated parental rights within three years of the exhaustion of any right to appeal the termination order, if the order is appealed, is removed.

**Appropriation:** None.

**Fiscal Note:** Requested on January 24, 2008.

**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 Original Bill:** PRO: Is in favor of the bill but would like the portion of the existing reinstatement of parental rights statute that states that a child cannot petition for reinstatement until three years after the exhaustion of the parent's right to appeal the termination order to be removed.

**Persons Testifying:** PRO: Stella Farias, Washington Families United.