

SENATE BILL REPORT

ESHB 1782

As of March 23, 2009

Title: An act relating to encouraging early and consistent engagement of parents in children's dependency matters.

Brief Description: Concerning parent participation in dependency matters.

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

Brief History: Passed House: 3/11/09, 96-0.

Committee Activity: Human Services & Corrections: 3/26/09.

SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS

Staff: Jennifer Strus (786-7316)

Background: When a child has been taken into custody as the result of a child abuse or neglect investigation, the Department of Social and Health Services (DSHS) must provide a notice of custody and rights to the parent, guardian, or legal custodian no later than 24 hours after the child has been taken into custody or 24 hours after Child Protective Services has been notified that a child has been taken into custody. The statute requiring the notice also prescribes the content of the notice. The notice provides information about the court processes in dependency matters and some of the rights to which the parent is entitled.

If the court determines at the shelter care stage that the child should be placed, and the child was not originally placed with a relative, DSHS must make reasonable efforts to locate a relative.

Whenever a child is removed from the home of a dependency guardian, long-term relative, or foster care provider, and the child is placed in out-of-home care, a permanency planning hearing must be held no later than 12 months following removal unless, before the hearing, the child is returned home, or an adoption decree, guardianship order, or permanent custody order is entered, or the dependency is dismissed.

At a permanency planning hearing, the court must order one of the following:

- the permanency plan developed by DSHS be implemented;

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- the permanency plan presented by DSHS be modified and the modified plan implemented;
- the child be returned home; or
- the child remains in out-of-home care for a limited period of time while efforts are made to implement the permanency plan.

In determining whether a petition to terminate parental rights should be granted, the court must, among other factors, determine that there is little likelihood that conditions will be remedied so that the child can be returned home in the near future. In determining whether the conditions will be remedied, the court may consider the following factors:

- use of alcohol or drugs so as to render the parent incapable of providing proper care to the child for extended periods of time and documented unwillingness of the parent to receive and complete treatment; or
- the parent's psychological incapacity or mental deficiency is so severe and chronic that the parent is incapable of providing proper care for the child for extended periods of time and documented unwillingness by the parent to receive and complete treatment.

Summary of Bill: To the notice provided to parents by DSHS when their child is taken into custody are added several items:

- an explanation of what a permanency plan is, that DSHS must make reasonable efforts to provide them with services, and visitation with their child, along with a warning that failure to promptly engage in services or to maintain contact with their child may lead to the filing of a termination of parental rights petition; and
- an explanation that primary and secondary permanency plans run concurrently as well as an explanation that, absent good cause and when appropriate, DSHS must follow the wishes of the parent regarding the child's placement.

After the entry of a dispositional order in a dependency case in which the child is placed in out-of-home care, DSHS is to continue to encourage the parent, guardian, or custodian to engage in services and maintain contact with the child. This encouragement is to occur through a written standard notice to be attached to the individual services and safety plan (ISSP) and to be printed on contrasting color to distinguish it from the ISSP. The content of the notice is to contain a statement indicating that if the parent has not been maintaining consistent contact with his or her child in out-of-home care, the parent's ability to reunite with the child may be jeopardized. The notice is also to contain the following:

- information about permanency planning and what the parent must do to be reunified with that parent's child;
- information about concurrent planning and visitation; and
- information about hearings in dependency cases and the importance of participating.

If the court determines at the shelter care stage that the child should be placed and the child was not originally placed with a relative, DSHS must make reasonable efforts to locate a relative. In determining placement at the shelter care stage of the dependency proceeding, the court is to weigh the child's length of stay and attachment to the current provider in determining what is in the best interest of the child.

In entering an order at a permanency planning hearing, the court must use a developmentally appropriate child-centered perspective to consider the child's history and attachment status, how separation from primary caregivers has affected the child, and how an additional separation and change in placement may affect the child's attachment system or create risk of psychological harm with potentially lifelong consequences.

To the list of factors the court must consider when deciding whether conditions can be remedied in a termination of parental rights proceeding is added the failure of the parent to have contact with the child for an extended period of time after the dependency petition was filed if the parent was given an opportunity to have a relationship with the child and received documented notice of the potential consequences of this failure. The inability of the parent to maintain contact with the child because of incarceration or military service does not, alone, constitute failure to have contact with the child.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

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