

SENATE BILL REPORT

HB 2735

As Reported by Senate Committee On:
Human Services & Corrections, February 25, 2010

Title: An act relating to the representation of children in dependency matters.

Brief Description: Encouraging the need for representation of children in dependency matters.

Sponsors: Representatives Goodman, Appleton, Rolfes, Seaquist, Finn, Rodne, Williams, Haigh, Pettigrew, Nelson, Darneille, Hasegawa and Ormsby.

Brief History: Passed House: 2/13/10, 95-0.

Committee Activity: Human Services & Corrections: 2/19/10, 2/25/10 [DP].

SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS

Majority Report: Do pass.

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

Staff: Jennifer Strus (786-7316)

Background: The court must appoint a guardian ad litem (GAL) for a child who is the subject of a dependency action unless, for good cause, the court finds the appointment unnecessary. The requirement to appoint a GAL is deemed satisfied if the child has had an attorney appointed to represent him or her.

If a child age 12 or older requests, or the GAL or the court determines that the child should be represented by an attorney in a dependency matter, the court may appoint an attorney to represent the child's position.

Summary of Bill: The Department of Social and Health Services (DSHS) or supervising agency and the child's GAL must notify a child of his or her right to request counsel and must ask the child if he or she wishes to have counsel. This notification and inquiry must occur immediately after the child's 12th birthday; assignment of the case involving a child over the age of 12; or July 1, 2010, for a child who turned 12 before this date.

DSHS or the supervising agency and the GAL must repeat this notification and inquiry at least once a year and anytime a motion or petition affecting the child's placement, services, or

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familial relationships is filed. The notification and inquiry is not required if the child has already been appointed counsel.

DSHS or the supervising agency must note in the child's individual service and safety plan and the GAL must note in his or her report to the court that the child was notified of the right to request counsel and indicate the child's position regarding the appointment of counsel.

At the first regularly scheduled hearing after: (1) the date the child turns 12; (2) the date that a dependency petition is filed on a child 12 or older; or (3) July 1, 2010, for a child who turned 12 before this date, the court must ask whether the child has received the required notice and inquiry regarding the appointment of counsel. The court must make an additional inquiry at the first regularly scheduled hearing after the child's 15th birthday. No inquiry is needed if the child has been appointed counsel.

If the child is eligible to petition the court for the reinstatement of parental rights and the parent whose rights have been terminated contacts DSHS or the supervising agency or the child's GAL regarding reinstatement, DSHS or the supervising agency or the GAL must notify the child about his or her right to petition for reinstatement of parental rights.

The Administrative Office of the Courts (AOC), working with the State Supreme Court Commission on Children in Foster Care, must develop recommendations for voluntary training and caseload standards for attorneys who represent youth in dependency proceedings. AOC must report its recommendations to the appropriate legislative committees by December 31, 2010.

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: PRO: Representation of children in dependency matters increases reunification. This bill requires that the child be given the notice of their right to request a lawyer – which is already in statute. Youth need to know that they can ask for parental rights to be reinstated – having an attorney will help with that. The current statute allows youth over 12 to ask for an attorney, but there is no mechanism for anyone to give the youth this information. This bill shifts the burden to the adults in the case to inform the youth of his or her right to request an attorney. The bill does not change the court's current authority. This bill will help youth involved in the foster care system to feel involved and engaged in decisions about their lives. But without the knowledge of the system it is difficult for them to do this. This bill would bring youth's current rights to life. What good are your rights if you don't know about them? This bill will help more youth get to permanency.

OTHER: Support the goal of having children in the dependency system represented by an attorney but strongly urge that language be added that it's conditioned upon additional funds

being appropriated for this purpose. Funding around the state for attorneys for children in dependency matters is not there.

Persons Testifying: PRO: Representative Goodman, prime sponsor; Erin Shea McCann, Columbia Legal Services; Georgina Ramirez, Jim Theofelis, Mockingbird Society; Delilah Bruskas, Foster Care Alum; Gary Malkasian, Foster Care Justice Alliance; Roger Freeman, Society of Counsel.

OTHER: Judge Fleck, Superior Court Judge's Association; Brian Enslow, Washington State Association of Counties.