

SENATE BILL REPORT

SSB 6416

As Amended by House, March 4, 2010

Title: An act relating to relatives in dependency proceedings.

Brief Description: Concerning relatives in dependency proceedings.

Sponsors: Senate Committee on Human Services & Corrections (originally sponsored by Senators Roach, Hargrove and Stevens).

Brief History:

Committee Activity: Human Services & Corrections: 1/21/10, 2/02/10 [DPS].

Passed Senate: 2/16/10, 48-0.

Passed House: 3/04/10, 98-0.

SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS

Majority Report: That Substitute Senate Bill No. 6416 be substituted therefor, and the substitute bill 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: When a child has resided in a foster home for at least 90 consecutive days, the Department of Social and Health Services (DSHS) or supervising agency must notify the foster parent at least five days before moving the child to another placement. DSHS is relieved of the five day notice requirement in the following circumstances:

- a court order has been entered requiring an immediate change in placement;
- the child is being returned home;
- the child's safety is in jeopardy; or
- the child is residing in a receiving or group home.

If a child has resided in a foster home for less than 90 days and one of the above circumstances exists so that it is not possible to provide the foster parent with five days notice, DSHS or the supervising agency must notify the foster parent of the proposed placement changes as soon as reasonably possible.

No court hearing need be held prior to changing a child's foster care placement.

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.

Foster parents may request a review of the placement decision by DSHS's complaint resolution process.

As a matter of practice, DSHS follows the same notification and complaint resolution process requirements with regard to the removal of a dependent child from the home of a relative.

Summary of Substitute Bill: A relative of a dependent child may petition the juvenile court to be heard on DSHS or a supervising agency's decision to remove the child from the relative's care if:

- the child has been found to be a dependent child;
- the parents of the child have consented to the relative filing a petition to be heard on the placement decision;
- the child is in the custody of DSHS or a supervising agency at the time the petition is filed;
- DSHS or a supervising agency has decided to remove or has already removed the child from the relative's care; and
- the child had been in the relative's care for 12 months or more prior to the decision to remove or the removal of the child.

The relative has ten business days from the date the relative learns of the removal decision, or the child is removed from the relative's care, whichever is later, to file the petition to be heard.

If the requirements to file a petition to be heard are met, the court must grant the petition to be heard on the sole issue of the placement decision and must schedule an expedited hearing on the matter. The relative has the right to be represented by counsel, at his or her own expense, at the hearing on the petition to be heard. The relative may call and cross-examine witnesses at the hearing.

The granting of the petition to be heard under this section does not grant the relative party status in the underlying dependency.

At the shelter care and dispositional stages of the dependency proceedings, when a parent requests that his or her child be placed with a relative, there is a presumption that relative placement is in the child's best interest unless the placement will impede reasonable efforts to reunify the child with his or her parents. DSHS has the burden of overcoming this presumption by a preponderance of the evidence.

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 Original Bill: PRO: The slightly higher burden of proof to overcome the presumption that placement with relatives is in the best interests of the child will make sure that relatives are actually given the preference that the Legislature has directed the courts and DSHS to give. This change will assist in making sure the best interests of the child are followed.

Persons Testifying: PRO: Senator Roach, prime sponsor; Elaine Wolcott-Ehrhardt, Christy Curry, Washington Families United; Jan Smith, Andrew Willard, Bari Willard, Doug and Anne-Marie Stuth, citizens; Bob Rudolph, Grandparents' Rights of Washington State.

House Amendment(s): The amended bill removes the provisions creating a legal presumption that a parent's request for relative placement is in the child's best interests, and shifting the burden of proof to the DSHS to overcome that presumption by a preponderance of the evidence. The provision relating to the right to petition to be heard on the issue of changing the placement of a dependent child who has resided with a caregiver for 12 or more continuous months is expanded to grant that right to licensed foster parents and other suitable persons with whom a child has been placed. The original bill granted the right to petition only to relative caregivers. The requirements for filing a petition to be heard no longer include the requirement that the child's parent consent to the filing of the petition. At the hearing on the issue of changing the child's placement, the caregiver may not cross examine witnesses.