

FINAL BILL REPORT

ESHB 1774

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Synopsis as Enacted

Brief Description: Concerning dependency matters.

Sponsors: House Committee on Early Learning & Human Services (originally sponsored by Representatives Goodman, Pettigrew, Orwall, Kenney, Roberts, Kagi and Moscoso).

House Committee on Judiciary
House Committee on Early Learning & Human Services
Senate Committee on Human Services & Corrections

Background:

Placement of Dependent Children.

At the dispositional stage of a dependency matter, if the court orders that the child be placed in out-of-home care, the Children's Administration (CA) has the authority to place the child:

- with a relative;
- with another suitable person if the child or family has a preexisting relationship with that person and the person has completed all required criminal history background checks and otherwise appears to be suitable and competent to provide care for the child; or
- in a foster family home or group care facility.

The CA may place a child with a non-relative only if the court finds that such a placement is in the child's best interest.

Reinstatement of Parental Rights.

A child may petition the juvenile court to reinstate the previously terminated parental rights of his or her parent if the following requirements are met:

- the child was previously found to be a dependent child;
- the child's parent's rights were terminated pursuant to a dependency proceeding;
- the child has not achieved his or her permanency plan within three years of a final order of termination; and
- the child is at least 12 years old at the time the petition is filed. The court may hear a petition filed by a child younger than 12 years old if the court finds good cause.

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.

After a petition is filed, the court must hold a threshold hearing to consider the parent's fitness and interest in reinstatement of parental rights. If the court finds that the best interests of the child would be served by reinstatement, the court is to hold a hearing on the merits of the petition.

The court must conditionally grant the petition if it finds by clear and convincing evidence that the child has not achieved his or her permanency plan and is not imminently likely to achieve his or her permanency plan and that reinstatement of parental rights is in the child's best interests. In determining whether the child has or has not achieved his or her permanency plan or whether the child is likely to achieve his or her permanency plan, the Department of Social and Health Services (DSHS) must provide to the court information related to any efforts to achieve the permanency plan including efforts to achieve adoption or a permanent guardianship.

In a recent Washington Court of Appeals case, *In Re the Interest of J.R.*, a 15-year-old child filed a petition to have his mother's parental rights reinstated. When the child was age 5, his mother voluntarily relinquished her parental rights. Two and a half months after the relinquishment, the court ordered that the child be placed in a guardianship with his grandmother and another relative. The guardianship was in place for 10 years until the court terminated the guardianship upon the guardian's request. Shortly thereafter, the child petitioned to have his mother's rights reinstated. At the threshold hearing, the state argued that J.R.'s petition did not meet the statutory criteria because he achieved permanency when he was placed in a dependency guardianship within three years of the order terminating parental rights. The juvenile court stated that although the reinstatement of his mother's parental rights might be in J.R.'s best interests, he did not meet the criteria established for reinstatement petitions. Upon appeal, the Court of Appeals affirmed the juvenile court and held that only dependent children whose permanent plans were not achieved within three years of a final order of termination could petition for reinstatement of parental rights. The court held that J.R.'s petition was appropriately dismissed by the juvenile court.

Guardians Ad Litem in Adoption Cases.

In adoption proceedings, the court must appoint a guardian ad litem (GAL) for any alleged parent under 18 years of age. Among other duties, the GAL must report to the court whether any written consent by the parent to relinquish the child for adoption was made voluntarily. The county in which a petition is filed in an adoption proceeding must pay the fees of a court-appointed GAL or attorney.

In some cases, the child being adopted has been the subject of earlier dependency proceedings, which means the state has terminated the parent's parental rights to the child. In a dependency proceeding, the court determines if a child should be considered a dependent of the state because of abuse, neglect, abandonment, or because there is no parent, guardian, or custodian capable of caring for the child. Once a child is found dependent, the court periodically reviews the case and makes determinations about the parent's progress in correcting parental deficiencies. If the parent fails to take corrective measures needed for the child to safely return home, the court can eventually terminate the parent's parental rights. The parent has the right to an attorney in dependency proceedings.

Investigators and GALs in Family Law Cases.

In dissolution cases in which there are minor children, the court must establish a parenting plan setting forth, among other things, each parent's residential time with the children. The court may order an investigation and report concerning parenting arrangements, may appoint a GAL, or both. The investigation and report may be made by a GAL, the staff of the court, or a professional social service organization experienced in counseling children. Some family law courts have full- or part-time investigators that work for the court. The term "investigator" is used in the statutes but not defined.

In counties with a court-appointed special advocate (CASA) program for family law cases, the court may appoint a GAL from the CASA program. The GALs and CASAs must comply with certain training requirements developed by the Administrative Office of the Courts. Generally, the court must specify the hourly rate a GAL may charge and specify the maximum amount the GAL may charge without additional court approval. The court must specify rates and fees in the order appointing the GAL or at the earliest date the court is able to determine the appropriate rates and fees.

Summary:

Placement of Dependent Children.

The DSHS or a supervising agency, when considering out of home placement of a child at the dispositional stage of a dependency, may consider placement of the dependent child with a person with whom the child's sibling or half-sibling is placed or with the adoptive parent of the child's sibling or half-sibling as long as the person or adoptive parent passes the criminal background check and is otherwise competent to provide care for the dependent child.

Reinstatement of Parental Rights.

A child may petition the juvenile court to reinstate the previously terminated parental rights of his or her parent if the following requirements are met:

- the child was previously found to be a dependent child;
- the child's parent's rights were terminated pursuant to a dependency proceeding;
- the child has not achieved his or her permanency plan, or the child achieved a permanency plan, but it has not since been sustained;
- three years have passed since the final order of termination was entered; and
- the child is at least 12 years old at the time the petition is filed, unless the court finds good cause to accept a petition for a child younger than 12 years old.

Guardians Ad Litem in Adoption Cases.

If the child in the adoption proceeding is a dependent child of a minor parent, and the minor parent is represented by an attorney or a GAL in the dependency proceeding, the court may rely on the parent's dependency attorney or the GAL to report to the court regarding the voluntariness of any written consent to adoption or petition for relinquishment signed by the parent.

When a GAL is appointed in an adoption case, the court must direct who shall pay the GAL's fee. If the court orders the parties to pay the GAL fee, the fee must be established under the same procedures that GAL fees are established in family law cases.

Investigators.

The term "investigator" is defined to mean a person appointed by the court as a full- or part-time assistant to the court or any other third-party professional ordered or appointed by the court to provide an opinion, assessment, or evaluation regarding the creation or modification of a parenting plan. It is made explicit that the court may appoint an investigator in family law cases to make recommendations to the court.

Investigators who are not supervised by a GAL or by a CASA program must comply with the training requirements applicable to the GALs or the CASAs.

Votes on Final Passage:

House	95	0	
Senate	48	0	(Senate amended)
House	96	0	(House concurred)

Effective: July 22, 2011