

SENATE BILL REPORT

ESHB 1774

As Reported by Senate Committee On:
Human Services & Corrections, March 24, 2011

Title: An act relating to recognizing adopted siblings and adoptive parents as relatives.

Brief Description: Concerning suitable persons with which a child in a dependency matter may be placed.

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

Brief History: Passed House: 3/02/11, 95-0.

Committee Activity: Human Services & Corrections: 3/18/11, 3/24/11 [DPA, w/oRec].

SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS

Majority Report: Do pass as amended.

Signed by Senators Hargrove, Chair; Regala, Vice Chair; Carrell, Harper and McAuliffe.

Minority Report: That it be referred without recommendation.

Signed by Senator Baxter.

Staff: Jennifer Strus (786-7316)

Background: 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.

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

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.

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 must be at least 12 years old at the time the petition is filed.

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 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 five, 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 ten 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 laid out in RCW 13.34.215(1)(c) 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 RCW 13.34.215(1)(c) applies only to dependent children whose permanent plans were not achieved within three years of a final order of termination and therefore, J.R.'s petition was appropriately dismissed by the juvenile court.

Summary of Bill (Recommended Amendments): 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 that person or adoptive parent passes the criminal background check and is otherwise competent to provide care for the dependent child.

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;
- (a) the child has not achieved his or her permanency plan, or (b) while the child achieved a permanency plan, it has not since been sustained;
- three years have passed since the final order of termination was entered; and
- the child must be at least 12 years old at the time the petition is filed.

EFFECT OF CHANGES MADE BY HUMAN SERVICES & CORRECTIONS COMMITTEE (Recommended Amendments): Provides that the department or supervising agency may consider, with court approval, the placement of a 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 passes a criminal background check and otherwise appears competent to care for the child.

Provides that in a reinstatement of parental rights matter, a child may petition for reinstatement if his or her permanency plan has not been achieved or has not been sustained and 3 years have passed since the parental rights were terminated.

Appropriation: None.

Fiscal Note: Available on the original bill.

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 Engrossed Substitute House Bill: PRO: There are judges who have held that, because the parents of siblings have had their parental rights terminated as to the siblings, the children are no longer siblings. As a result some children have not been placed or adopted together. Keeping siblings together is a very good thing because there is a sibling bond that should be preserved even if parental rights have been terminated. As an adoptive parent I have adopted three siblings – this bill would give sibling relationships a legal footing, but would still allow for parental preference and judicial discretion as to what is in the best interests of the child. When parents are unable, unwilling, or unfit to raise their children, they should not be deprived of the opportunity, if possible, to grow up with their siblings.

Persons Testifying: PRO: Representative Goodman, prime sponsor; Gary Malkasian, Foster Care Justice Alliance; David Putnam, adoptive parent.