

HOUSE BILL REPORT

EHB 2582

As Amended by the Senate

Title: An act relating to filing a petition seeking termination of parental rights.

Brief Description: Concerning filing a petition seeking termination of parental rights.

Sponsors: Representatives Hargrove, Kagi and Walsh.

Brief History:

Committee Activity:

Early Learning & Human Services: 1/29/14, 1/30/14 [DP].

Floor Activity:

Passed House: 2/14/14, 91-5.

Senate Amended.

Passed Senate: 3/7/14, 47-2.

Brief Summary of Engrossed Bill

- Requires the court to order that a petition seeking termination of the parent and child relationship be filed if the child has been in out-of-home care for at least 12 months and the parents have been noncompliant with court-ordered services and made no progress towards correcting parental deficiencies.

HOUSE COMMITTEE ON EARLY LEARNING & HUMAN SERVICES

Majority Report: Do pass. Signed by 11 members: Representatives Kagi, Chair; Freeman, Vice Chair; Walsh, Ranking Minority Member; Fagan, Goodman, MacEwen, Ortiz-Self, Roberts, Sawyer, Senn and Zeiger.

Minority Report: Do not pass. Signed by 2 members: Representatives Scott, Assistant Ranking Minority Member; Young.

Staff: Lindsay Lanham (786-7120).

Background:

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.

The Adoption and Safe Families Act of 1997 (ASFA) requires child welfare agencies to file a petition seeking termination of parental rights if a child has been in foster care for 15 of the most recent 22 months unless the court makes a good cause exception as to why the filing of a termination petition is not appropriate.

In Washington, examples of a good cause exception include, but are not limited to the following:

- The child is being cared for by a relative;
- The Department of Social and Health Services Children's Administration (CA) has not provided to the child's family such services as the court and the CA have deemed necessary for the child's safe return home;
- The CA has documented in the case plan a compelling reason for determining that filing a petition to terminate parental rights would not be in the child's best interests;
- The parent is incarcerated, or the parent's prior incarceration is a significant factor in why the child has been in foster care for 15 of the last 22 months, the parent maintains a meaningful role in the child's life, and the CA has not documented another reason why it would be otherwise appropriate to file a petition pursuant to this section;
- Until June 30, 2015, where a parent has been accepted into a dependency treatment court program or long-term substance abuse or dual diagnoses treatment program and is demonstrating compliance with treatment goals; or
- Until June 30, 2015, where a parent who has been court ordered to complete services necessary for the child's safe return home files a declaration under penalty of perjury stating the parent's financial inability to pay for the same court-ordered services, and also declares the CA was unwilling or unable to pay for the same services necessary for the child's safe return home.

In addition to ASFA, the CA also establishes case standards that help guide child welfare practice. Children's Administration policy allows timing flexibility in case practice to address the termination of parental rights in a case specific manner. Some examples as to when social workers are to consider filing a parental rights termination petition include the following: (1) when a qualified expert has stated the parents are unable to make the changes required to safely parent the child; or (2) an infant has been abandoned.

Summary of Engrossed Bill:

The court is required to order that a petition seeking termination of the parent and child relationship be filed if a child has been in out-of-home care for at least 12 consecutive months following the filing of a dependency petition and the parents have been noncompliant with court-ordered services and have made no progress towards correcting parental deficiencies, unless the court makes a good cause exception.

EFFECT OF SENATE AMENDMENT(S):

Adds additional factors that the court must find before ordering the filing of a parental rights termination petition: the DSHS has offered and provided all necessary to correct parental deficiencies; and there is no genuine issue of material fact that the parents have made no progress toward successfully correcting parental deficiencies.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) When foster children have no stability in their lives, it may further perpetuate child trauma. House bill 2582 (HB 2582) takes a step to quickly increase stability for foster children, protect the rights of parents and may even remind parents of the seriousness of the dependency process, encourage relatives to come forward as placements, and gives foster parents more certainty.

There is an extreme shortage of foster parents. Not only do foster parents have to serve children who have experiences of trauma, but foster parents are often asked to provide care to children for two or three years before permanency is achieved. Because of the shortage in foster homes, children are being bounced from one foster home to another. Siblings are being separated. The average family fosters is 18 months. They then stop taking placements. House Bill 2582 provides earlier permanency for foster children. One foster parent described an incident where a child was placed in the home at two days old. The child then was reunified with his mother two and half years later. When this foster parent saw this child at age three, the child had changed. He is a victim of a system that does not make early permanency a priority.

Another foster parent recalls the story of her foster child. The child was placed in protective custody because of physical abuse. The foster parent provided the fifth placement for this child. The foster parents committed to this child for life. After seven months, the court placed the child with his grandmother. The grandmother adopted the child; however, the grandmother then relinquished her rights of the child. The child was then placed back with the foster mother. This permanency disruption in the child's life re-traumatized the child. The child is still struggling with feeling secure in his new home. The provisions in House Bill 2582 offer children timely permanency and allows them to begin the healing process. Early intervention is the key for all children, but especially children that experience traumatic events.

Permanence is an important building block in a child's life. Many children are aging out of foster care and never finding permanence. Children who age-out of foster care have poor outcomes. It is necessary to take steps to achieve timely permanence for foster children.

(With concerns) The Children's Administration has concerns with HB 2582. Rarely is a permanent plan going to be adoption. The current language in HB 2582 is confusing and conflicts with federal guidance as stated in the ASFA. The Children's Administration would rather the language read that if the court finds that the child has been in out-of-home care for 12 consecutive months following the filing of dependency petition and the parents have been noncompliant with court order services and made no progress toward correcting parental

deficiencies than the court shall order that a petition seeking the termination of parental rights be filed unless the court makes a good cause exception.

(Opposed) The role of the child welfare system is to place children in protective custody for safety and to mitigate risk and return children to their families of origin. This process cannot happen too quickly. In the last two years, there have been at least two cases where findings in dependency actions were reversed. This type of scenario is one of the worst for children. The child thinks permanency is achieved and it is not. Judges need discretion in dependency proceedings. The judge already has the legal authority to request that petition to terminate parental rights be filed.

Persons Testifying: (In support) Representative Hargrove, prime sponsor; Karly Leib; Nicole Kittelson; and Andrew Schneider, Children's Law Center of Washington.

(With concerns) Jennifer Strus, Department of Social and Health Services.

(Opposed) Chuck Szurszerwiser.

Persons Signed In To Testify But Not Testifying: None.