

SENATE BILL REPORT

SHB 1285

As of March 18, 2013

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

Brief Description: Modifying provisions regarding the representation of children in dependency matters.

Sponsors: House Committee on Judiciary (originally sponsored by Representatives Goodman, Freeman, Pettigrew, Jinkins, Walsh, Kirby, Orwall, Roberts, Appleton, Seaquist, Ryu, Stanford, Clibborn, Maxwell, Tarleton, Morrell, Pollet and Ormsby).

Brief History: Passed House: 3/06/13, 74-23.

Committee Activity: Human Services & Corrections: 3/19/13.

SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS

Staff: Joan Miller (786-7784)

Background: The Department of Social and Health Services (DSHS) or any person may file a petition in court to determine if a child should be a dependent of the state due to abuse, neglect, abandonment, or because there is no parent or custodian capable of caring for the child. If the court determines that the child is dependent, the court will conduct periodic reviews and make determinations about the child's placement and the parents' progress in correcting parental deficiencies. Under certain circumstances, the court may order the filing of a petition for the termination of parental rights. If a child has been in out-of-home placement for 15 of the most recent 22 months, the court must order DSHS to file a petition for termination, in the absence of a good-cause exception.

The court must appoint a guardian ad litem (GAL) for a child in a dependency proceeding unless the court finds the appointment unnecessary. The court has the discretion to appoint an attorney to represent a child in a dependency.

DSHS and the child's GAL must notify a child who is age 12 or older of the child's right to request an attorney and must ask the child whether the child wants an attorney. DSHS and the GAL must notify the child about the right to an attorney annually, and also upon the filing of any motion affecting the child's placement, services, or familial relationships.

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.

DSHS must note in the child's service and safety plan, and the GAL must note in the report to the court, the child's position regarding the appointment of an attorney. The GAL must provide the court with the GAL's recommendation about whether the appointment of an attorney is in the child's best interests.

The court must also ask a child who is age 12 or older whether the child has been informed by DSHS and the GAL regarding the child's right to request an attorney. The court must make an additional inquiry at the first regularly scheduled hearing after the child's 15th birthday.

Summary of Bill: The court must appoint an attorney for a child in a dependency hearing within 72 hours of granting a petition to terminate the parent and child relationship. The Washington State Center for Court Research, in consultation with the Office of Civil Legal Aid, is tasked with evaluating the effect of mandatory attorney representation in termination cases, particularly the effect on case-processing timelines and child and family well-being outcomes. A preliminary report is due in December 2014 with a final report to follow in December 2015.

In addition, the court may appoint an attorney to represent the child's position in any dependency action on its own initiative, or upon the request of a parent, the child, a GAL, a caregiver, or DSHS. A child's caregiver may refer the child to an attorney for purposes of filing a motion to request appointment of an attorney at public expense. A child or another individual may retain an attorney for the child for such purposes as well.

The age at which a child in a dependency must be notified of the right to request an attorney, and asked their wishes with respect to having an attorney, is lowered from 12 years to seven. Such notifications must continue to be made at least annually. At the first regularly scheduled court hearing, the court must inquire whether the child received such notice after the following events:

- the child's seventh birthday;
- the date that a dependency petition is filed on a child age seven or older; or
- July 1, 2013, for a child who turned seven before that date.

The court must make additional inquiries at the first regularly scheduled hearing after the child's ninth birthday unless the child has already been appointed an attorney.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.