

HOUSE BILL REPORT

HB 2140

As Passed House:
March 9, 2015

Title: An act relating to good cause exceptions during permanency hearings.

Brief Description: Concerning good cause exceptions during permanency hearings.

Sponsors: Representatives Kagi, Orwall, Johnson, Walsh, Sells, Clibborn, Tarleton, Appleton, Ortiz-Self, Hargrove, Zeiger, Senn, Ormsby, Kilduff, Walkinshaw and Goodman.

Brief History:

Committee Activity:

Early Learning & Human Services: 2/18/15, 2/20/15 [DP].

Floor Activity:

Passed House: 3/9/15, 98-0.

Brief Summary of Bill

- Removes the expiration of two good cause exceptions for the court not to order the Department of Social and Health Services to file a petition seeking the termination of parental rights if a child has been in out-of-home care for 15 of the last 22 months since the date a dependency petition was filed.

HOUSE COMMITTEE ON EARLY LEARNING & HUMAN SERVICES

Majority Report: Do pass. Signed by 11 members: Representatives Kagi, Chair; Walkinshaw, Vice Chair; Walsh, Ranking Minority Member; Scott, Assistant Ranking Minority Member; Dent, Hawkins, Kilduff, McCaslin, Ortiz-Self, Sawyer and Senn.

Staff: Luke Wickham (786-7146).

Background:

Dependency Court System.

The Department of Social and Health Services (DSHS) may file a petition in court alleging that a child should be a dependent of the state due to abuse, neglect, or because there is no parent, guardian, or custodian capable of adequately caring for the child.

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.

If a court determines that a child is dependent, then the court will conduct periodic reviews and make determinations regarding the child's placement, the provision of services by the DSHS, compliance of the parents, and whether progress has been made by the parents.

Under certain circumstances after a child has been removed from the custody of a parent for at least six months pursuant to a finding of dependency, a petition may be filed seeking termination of parental rights.

Adoption and Safe Families Act.

The Adoption and Safe Families Act (ASFA) of 1997 requires child welfare agencies to file a petition seeking termination of parental rights if a child has been in out-of-home 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.

Good Cause Exceptions Not to File a Termination Petition.

In Washington, good cause exceptions not to file a termination petition when a child has been in out-of-home care for 15 out of the last 22 months include, but are not limited to, the following:

- The child is cared for by a relative.
- The DSHS has not provided services that the court and the DSHS have deemed necessary for the child to safely return home.
- The DSHS has documented in the case plan a compelling reason why filing a termination petition 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 out-of-home care, the parent maintains a meaningful role in the child's life, and the DSHS has not documented another reason to file a termination petition.
- The parent has been accepted into a dependency treatment court program or long-term substance abuse program and is demonstrating compliance with treatment goals until June 30, 2015.
- The parent files a declaration stating the parent's financial inability to pay for court-ordered services and the DSHS was unwilling or unable to pay for the same services necessary for the child to safely return home until June 30, 2015.

Substitute House Bill 1821 was enacted in 2013 and added the last two good cause exceptions listed above along with their expiration on June 30, 2015.

Summary of Bill:

The bill removes the expiration on June 30, 2015, of the following good cause exceptions for the court not to order the DSHS to file a petition seeking the termination of parental rights if a child has been in out-of-home care for 15 of the last 22 months since the date the dependency petition was filed:

- 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; and

- 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 services and that the DSHS was unwilling or unable to pay for those services.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill contains an emergency clause and takes effect on June 30, 2015.

Staff Summary of Public Testimony:

(In support) Two good cause exceptions for the court not to order the filing of a termination of parental rights petition that Representative Freeman added two years ago will sunset this summer. Substance abuse treatment programs often last longer than 15 months. There are also situations where neither parents nor the DSHS are able to pay for services. These are important good cause exceptions not to file a termination petition. These good cause exceptions do not mean that a termination petition will not be filed and good cause exceptions have to be reviewed at every future review hearing. These are two very important factors to consider when determining when to file a termination petition. This was important two years ago and is important now. An expiration date was established so the DSHS could determine the practical implications of these good cause exceptions. It is not appropriate to move forward with a termination petition if there is an inability to pay for services. Representative Freeman had a tremendous love for these families that are trying to reunify with their children. Recognizing that these can be challenging cases, this bill will make sure that families are able to engage in the services necessary to correct parental deficiencies.

(Opposed) None.

Persons Testifying: Representative Kagi, prime sponsor; Laura Lippold, Parents for Our Children; and Nancy Saprio, Legal Voice.

Persons Signed In To Testify But Not Testifying: None.