
Early Learning & Human Services Committee

HB 1943

Brief Description: Concerning child welfare court proceedings.

Sponsors: Representatives Kagi and Graves.

Brief Summary of Bill

- Allows courts to order parents to engage in services following a shelter care hearing.
- Limits the application of various incarcerated child welfare parent provisions to situations where a parent has a preexisting relationship with a child.
- Requires courts to make a finding that a continuance is the best interest of the child before continuing child welfare review or permanency planning hearings.

Hearing Date: 2/15/17

Staff: Luke Wickham (786-7146).

Background:

Child Welfare Court Proceedings.

Anyone, including 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. In counties that have paid probation officers, those officers shall, to the extent possible, determine whether dependency petitions are justifiable. These petitions must be verified and contain a statement of facts that constitute a dependency and the names and residence of the parents if known.

When a child is taken into custody, the court is to hold a shelter care hearing within 72 hours. The primary purpose of the shelter care hearing is to determine whether the child can be immediately and safely returned home while the dependency case is being resolved.

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. The DSHS must develop a permanency plan within 60 days from the date the DSHS assumes responsibility for the child which must identify primary outcome goals for the case. The DSHS must submit this permanency plan to the parties and the court at least 14 days before a permanency planning court hearing.

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.

Incarcerated Parent Child Welfare Court Provisions.

In 2013 the Legislature enacted several additional findings or requirements for the court and the department in child welfare proceedings involving an incarcerated parent.

A permanency plan must address the special circumstances of a parent who is incarcerated including addressing how the parent will participate in the case conference and permanency planning meetings.

In determining whether a parent has failed to complete court-ordered treatment, the court must consider constraints that a parent experienced by a current or prior incarceration. The constraints considered may include delays or barriers experienced by the parent. The court may also consider whether the parent has maintained a meaningful role in the child's life and whether the DSHS has made reasonable efforts to assist the parent. When a parent who is sentenced to long-term incarceration has maintained a meaningful role in his or her child's life, the DSHS should, but is not required to, seek a permanent placement that allows the parent to maintain a relationship with his or her child, such as a guardianship.

Good cause exceptions to filing a mandatory petition for termination of parental rights include circumstances where a current or prior incarceration is a significant factor in why a child has been in foster care for 15 of the last 22 months, as long as the parent has maintained a meaningful role in the child's life. In determining whether the parent has maintained a meaningful role in a child's life, the court may consider the parent's lack of access to programs, services, treatment, legal counsel, or court proceedings. The court may also consider as a good cause exception any delays or barriers to completion of court-mandated treatment caused by incarceration.

There are several elements that must be proven to terminate a parent's rights including that continuation of the parent and child relationship clearly diminishes the child's prospects for early integration into a stable and permanent home. If a parent is incarcerated, the court must consider whether the parent maintains a meaningful relationship with his or her child.

Summary of Bill:

Some references to supervising agencies are removed from statute.

Shelter Care Hearings.

Courts are allowed to order parents to engage in services following a shelter care hearing. When making a placement decision following a shelter care hearing, the court must give great weight to a child's length of stay and attachment to the current provider.

Incarcerated Parent Provisions.

Limits the discussion in the Department of Social and Health Services (DSHS) permanency plan of care regarding how an incarcerated parent will participate in the case to cases where the incarcerated parent has a preexisting relationship with the child before the parent's incarceration. The good cause exception not to file a termination petition when a child has been in out-of-home care for 15 of the last 22 months related to incarcerated parents is limited to parents who maintain a meaningful role in the child's life that began before a child's incarceration. The element of a termination of parental rights petition relating to incarcerated parents is limited to parents who had a preexisting relationship with the child before incarceration.

Review or Permanency Planning Hearings.

Requires a court to weigh the importance of establishing timely permanency for a child when considering a request for continuance of a review or permanency planning hearing and only grant a continuance after a finding that the continuance is in the best interest of the child. The DSHS must include within its permanency plan the steps that the agency has taken to promote stable, nurturing relationships in the child's life.

The findings that a court must make following a review hearing are modified such that the court must establish in writing whether preference has been given to relative placement if that placement is in the child's best interest and does not disrupt a child's attachment to a long-term caregiver. The court must also find whether the child has established an attachment to a long-term caregiver which should be maintained in the child's best interest.

If a child is returned home and that child is later removed from the home, the court must determine whether the child should be returned to a previous out-of-home placement, among other existing considerations.

Appropriation: None.

Fiscal Note: Requested on February 7, 2017.

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