

# SENATE BILL REPORT

## SB 5892

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As of February 14, 2019

**Title:** An act relating to factors to be considered in a shelter care hearing.

**Brief Description:** Concerning factors to be considered in a shelter care hearing.

**Sponsors:** Senators Nguyen, Darneille and Wilson, C..

**Brief History:**

**Committee Activity:** Human Services, Reentry & Rehabilitation: 2/13/19.

**Brief Summary of Bill**

- Provides a list of factors a court must consider before authorizing continued shelter care for a child placed in out-of-home care as part of a dependency proceeding.

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### SENATE COMMITTEE ON HUMAN SERVICES, REENTRY & REHABILITATION

**Staff:** Alison Mendiola (786-7488)

**Background:** The Department of Children, Youth and Families (DCYF), or anyone else, can file a court petition alleging that the child should be a dependent of the state due to abuse, neglect, or because no parent, guardian, or custodian is capable of adequately caring for the child. A court will hold a shelter care hearing following removal of a child from the child's home within 72 hours. At the shelter care hearing the court examines the need for shelter care and inquires into the status of the case. The paramount consideration for the court is the health, welfare, and safety of the child. At a minimum, the court is to inquire into the following:

1. Whether the required notice was given to all known parents, guardians, or legal custodians of the child. The court shall make an express finding as to whether the notice was given to the parent, guardian, or legal custodian. If actual notice was not given to the parent, guardian, or legal custodian and the whereabouts of such person is known or can be ascertained, the court shall order DCYF to make reasonable efforts to advise the parent, guardian, or legal custodian of the status of the case, including the date and time of any subsequent hearings, and their rights.

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2. Whether the child can be safely returned home while the adjudication of the dependency is pending.
3. What efforts have been made to place the child with a relative. The court shall ask the parents whether DCYF discussed with them the placement of the child with a relative or other suitable person and shall determine what efforts have been made toward such a placement.
4. What services were provided to the family to prevent or eliminate the need for removal of the child from the child's home. If the dependency petition or other information before the court alleges that homelessness or the lack of suitable housing was a significant factor contributing to the removal of the child, the court shall inquire as to whether housing assistance was provided to the family to prevent or eliminate the need for removal of the child or children.
5. If the placement proposed by DCYF is the least disruptive and most family-like setting that meets the needs of the child.
6. Whether it is in the best interest of the child to remain enrolled in the school, developmental program, or child care the child was in prior to placement and what efforts have been made to maintain the child in the school, program, or child care if it would be in the best interest of the child to remain in the same school, program, or child care.
7. Appointment of a guardian ad litem or attorney.
8. Whether the child is or may be an Indian child and whether the provisions of the federal Indian Child Welfare Act or state law apply, and whether there is compliance with the federal Indian Child Welfare Act, including notice to the child's tribe.
9. Whether restraining orders, or orders expelling an allegedly abusive household member from the home of a nonabusive parent, guardian, or legal custodian, will allow the child to safely remain in the home.
10. Whether any orders for examinations, evaluations, or immediate services are needed. The court may not order a parent to undergo examinations, evaluation, or services at the shelter care hearing unless the parent agrees.
11. The terms and conditions for parental, sibling, and family visitation.

No child may be placed in shelter care for longer than 30 days without an order, signed by a judge authorizing continued shelter care.

**Summary of Bill:** No child may be placed in shelter care for longer than 30 days without an order signed by the court, authorizing continued shelter care, after considering the following:

1. The names and current contact information for all parties and their representatives, including parents, the assigned social worker, the parents' attorneys, tribal representatives, and the guardian ad litem or attorney for the child.
2. The status of notices to parents, guardians, or legal custodians of the child pursuant to state statute.
3. The status and results of any paternity testing for any alleged genetic parents of the child.
4. An update as to whether there is reason to know the child is or may be an Indian child and whether the provisions of the federal Indian Child Welfare Act and state law apply.
5. A determination as to whether all safety threats to the child can be managed or controlled and the child can be safely returned home.

6. Providing the names and information regarding any additional relatives or other suitable adults as described in statute. Information should include the type of assistance they are willing to provide including, but not limited to, serving as a placement, assistance with sibling or parental visitation, respite support for current or future caregivers, and transportation support.
7. The current status of any background checks or home studies referred or conducted regarding relatives or other suitable persons previously identified.
8. Any changes in placement since prior court orders; the number of placements that have occurred since removal; a determination of whether the current placement is the least disruptive, most familiar and most family like setting that meets the needs of the child; and any efforts of the child's current placement to maintain the child's connection to their parents or community of origin.
9. The current status of parental and sibling visitation, including the number of visits that have occurred, any missed or canceled visitations, and the reasons for the missed or canceled visitations. The court may also consider entering an updated visitation plan that includes visits in the least restrictive setting based on risk factors, existing danger, safety threats, and protective factors. Visitation plans must continue to be in the child's best interests and consider any stated interests of the child and identify what needs to be changed in order to increase visitation and reduce any restrictions on visitation.
10. The current educational or child care enrollment status of the child, including whether there has been a change prior to coming into care, and efforts to maintain educational continuity for the child.
11. Any order for examination, evaluations, or immediate services that are needed for the child, including, if available, the results of the child's health and education tracking report or any other examinations, or recommendation of any of the parties, including any additional resources or supports for the proper care of the child.
12. A list of services or assessments offered to the parents and the status of referrals, as well as any voluntary services or programs the parents have participated in or wish to be referred to, including any specialty dependency court, court programs, or parent ally programs.
13. Other orders by the court.

**Appropriation:** None.

**Fiscal Note:** Requested on February 9, 2019.

**Creates Committee/Commission/Task Force that includes Legislative members:** No.

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

**Staff Summary of Public Testimony:** PRO: When a child is placed in out-of-home care, the ultimate goal is always family reunification when possible. We know that the longer a child is in the foster care system, the more trauma the child experiences. Therefore before signing an order authorizing continued shelter care, the court should consider the status of the case, including what progress has been made. This bill is a result of a number of meetings between interested stakeholders. The interest is to address the gap between the first 72 hour shelter care hearing, where parties are scrambling and may not have representation, and the

dependency hearing which should occur within 75 days. In 2017, that only occurred in 65 percent of dependencies. At the point of this review, the child has been in out-of-home placement for 30 days, the goal is to see what pitfalls can be avoided and gaps may exist. Better to address issues early on, with the goal of returning a child to their home.

**Persons Testifying:** PRO: Senator Joe Nguyen, Prime Sponsor; Ryan Murrey, Washington State CASA.

**Persons Signed In To Testify But Not Testifying:** No one.