

# HOUSE BILL REPORT

## SHB 1955

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**As Passed House:**

February 8, 2022

**Title:** An act relating to creating uniformity in education requirements for students who are the subject of a dependency proceeding.

**Brief Description:** Creating uniformity in education requirements for students who are the subject of a dependency proceeding.

**Sponsors:** House Committee on Education (originally sponsored by Representatives Rule, Ramel, Ormsby and Taylor).

**Brief History:**

**Committee Activity:**

Education: 1/27/22, 2/1/22 [DPS].

**Floor Activity:**

Passed House: 2/8/22, 95-1.

**Brief Summary of Substitute Bill**

- Makes numerous changes to education and other requirements pertaining to students who are the subject of a dependency proceeding, including changes related to the transmission of education records, reviews of unexpected or excessive absences, educational continuity and associated student transportation requirements, and on-time grade level progression and graduation.
- Generally defines "students who are the subject of a dependency proceeding" to mean a child or youth who is located in Washington, and: the subject of a shelter care or dependency order or an equivalent order of a tribal court of a federally recognized Indian tribe; or eligible for benefits under the federal Unaccompanied Refugee Minors Program.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.*

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## HOUSE COMMITTEE ON EDUCATION

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 13 members: Representatives Santos, Chair; Dolan, Vice Chair; Ybarra, Ranking Minority Member; Walsh, Assistant Ranking Minority Member; Berg, Bergquist, Callan, McCaslin, McEntire, Ortiz-Self, Rude, Steele and Stonier.

**Staff:** Ethan Moreno (786-7386).

### **Background:**

#### Dependency Proceedings/Dependent Child.

Anyone, including the Department of Children, Youth, and Families (DCYF), 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. 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.

If a court finds the need to maintain a child out of the home, the shelter care status remains until a dependency fact-finding hearing is held or the parties enter an agreed order of dependency. The fact finding must be held within 75 days after the filing of the petition, unless exceptional reasons for a continuance are found.

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

A child that is determined to be dependent may be under the supervision of the DCYF, a tribe, or the Department of Social and Health Services (DSHS) if the child is within the Unaccompanied Refugee Minors Program.

#### Unaccompanied Refugee Minors Program.

The Unaccompanied Refugee Minors Program (URM Program) is a federal program of the United States Department of Health and Human Services. The URM Program ensures that eligible unaccompanied minors who arrive in the United States without a parent or guardian receive the full range of assistance, care, and services available to all foster children in the state by establishing a legal authority to act in place of the child's unavailable parents. The DSHS administers the URM Program in Washington and provides participants with benefits and services, including foster care maintenance payments and medical assistance.

### Education Related Requirements for Dependent Children.

Numerous education related requirements are prescribed in statute for children who are determined by the court to be dependent. Examples are delineated below.

*Education Records.* Education records of students who are dependent must be transmitted to the DCYF within two days after receiving the request, provided the DCYF certifies that it will not disclose the education records without prior written consent of the parent or student or unless authorized by state law. Education record requirements also direct the K-12 Data Governance Group established in statute to, among other requirements, create a comprehensive needs requirement document pertaining to the education records of students who are dependent.

*Absence Reviews.* School district representatives or school employees must review unexpected or excessive absences with a dependent youth and adults involved with that youth, including the youth's caseworker, educational liaison, attorney if one is appointed, parent or guardians, and foster parents or the person providing placement for the youth. The purpose of the review is to determine the cause of the absences, taking into account specific factors designated in statute. School district representatives or employees are directed to proactively support the youth's school work so that the student does not fall behind, and to avoid suspension or expulsion based on truancy.

*Student Information for Enrollment.* A school that is enrolling a student who has attended school in a different school district may request that the parent and student briefly indicate in writing whether or not the student has:

- any history of placement in special educational programs;
- any past, current, or pending disciplinary action;
- any history of violent or other specific behaviors;
- any unpaid fines or fees imposed by other schools; and
- any health conditions affecting the student's educational needs.

An enrolling school may not prevent a student who is dependent from enrolling if there is incomplete information for the enumerated questions during a 10-day period that the DSHS has to obtain the information.

Upon enrollment of a student who is dependent, the school district must make reasonable efforts to obtain and assess the child's education history within two business days in order to meet the child's unique needs.

*Educational Continuity.* As directed in statute, the DCYF, in collaboration with school districts, has developed protocols for maximizing the educational continuity and achievement for children in out-of-home care, a defined term. The protocols must include protocols for making "best interest determinations" for students in out-of-home care that require consideration of numerous factors when determining whether a student in out-of-home care should remain enrolled in the student's school of origin or transferred to a new

school.

A separate statutory enunciation in child welfare laws specifies that it is the policy of the state that, whenever practical and in the best interest of the child, children placed into foster care must remain enrolled in the schools they were attending at the time they entered foster care.

*Foster Care Liaison.* Each school district must designate a foster care liaison to facilitate district compliance with state and federal laws related to students who are dependent and to collaborate with the DCYF and families to address educational barriers for those students.

*On-time Grade Level Progression.* School districts must incorporate specific procedures for qualifying students, including students who are dependent, for the purpose of eliminating academic barriers and facilitating the on-time grade level progression and graduation of those students.

*Opportunity to Remain in Enrolled School.* Unless safety concerns or specified considerations prevail, the DCYF must provide youth residing in out-of-home care with the opportunity to remain enrolled in the school the youth was attending prior to out-of-home placement. If the parties in the dependency case disagree regarding which school the youth should be enrolled in, the youth, unless DCYF determines that the youth is in immediate danger by remaining enrolled in the school of origin, may remain enrolled in the school of origin until the disagreement is resolved in court.

### **Summary of Substitute Bill:**

Numerous changes are made to education and other requirements pertaining to students who are the subject of a dependency proceeding. A summary of the principal changes is provided below.

*Education Records.* Education records of students who are the subject of a dependency proceeding must be transmitted to the DCYF, the appropriate federally recognized Indian tribe, or the state agency responsible for the implementation of the URM Program within two days after receiving the request, provided that the DCYF or applicable entity certifies that it will not disclose the education records without prior written consent of the parent or student or unless authorized by state law.

"Students who are the subject of a dependency proceeding" is defined to mean a child or youth who is located in Washington and:

- the subject of a shelter care or dependency order issued under statutory requirements governing dependency proceedings or an equivalent order of a tribal court of a federally recognized Indian tribe; or
- eligible for benefits under the federal URM Program.

Provisions directing the K-12 Data Governance Group to, among other requirements, create a comprehensive needs requirement document pertaining to the education records of students who are dependent, are repealed.

*Absence Reviews.* Provisions mandating unexpected absence reviews by school district representatives or school employees are modified and extended to "students who are the subject of a dependency proceeding" as the term is defined in the education records provisions.

*Student Information for Enrollment.* Provisions barring schools from enrolling transferring students if certain student information is not provided in timely manner are extended to "students who are the subject of a dependency proceeding" as the term is defined in the education records provisions.

Upon enrollment of a student who is the subject of a dependency proceeding, the school district must make reasonable efforts to obtain and assess the child's education history within two business days in order to meet the child's unique needs.

If the student who is the subject of a dependency proceeding is subject to an order in a federally recognized tribal court that is the equivalent of a shelter care or dependency order, or the student is eligible for benefits under the URM Program, the school may not prevent the student from enrolling if there is incomplete information during the 10 business days from the date the equivalent order is entered or from a date determined by the DSHS.

*Educational Continuity.* Provisions mandating best interest determinations for qualifying students are modified and extended to "students who are the subject of a dependency proceeding" as the term is defined in the education records provisions.

The best interest determinations for students who are the subject of a dependency proceeding may also be applied to students who are the subject of a federally recognized tribal court shelter care or dependency order that is the equivalent of a shelter care or dependency order, and students who are eligible for benefits under the URM Program

*Student Transportation.* If the student's care placement changes to an area served by another school district, and it is determined to be in the best interest of the student to remain in the school of origin, the school district of origin and the school district in which the student is living must agree upon a method to apportion the responsibility and costs for providing the student with transportation to and from the school of origin. If the school districts are unable to agree upon an apportionment method, the responsibility and costs for transportation shall be shared equally between the districts.

"School of origin" is defined in provisions governing best interest determinations for student transportation to mean the school in which a child is enrolled at the time of placement in foster care. If a child's foster care placement changes, the school of origin

must be considered the school in which the child is enrolled at the time of the placement change.

Additionally, the DCYF will reimburse school districts for half of all excess transportation costs for students under the placement and care authority of the DCYF.

*Foster Care Liaison.* Provisions mandating the designation of foster care liaisons by school districts to facilitate school district compliance with pertinent state and federal laws for qualifying students are modified and extended to "students who are the subject of a dependency proceeding" as the term is defined in the education records provisions.

*On-time Grade Level Progression.* Provisions that require school districts to incorporate procedures for the purpose of eliminating barriers and facilitating on-time grade level progression and graduation for qualifying students are modified and extended to "students who are the subject of a dependency proceeding" as the term is defined in the education records provisions.

*State Policy—Continued Enrollment in Current School.* A provision in child welfare laws that enunciates a state policy of generally having children in foster care remain enrolled in the schools they were attending at the time they entered foster care is modified and extended to "children who are the subject of a dependency proceeding." Provisions referencing "schools they were attending at the time they entered foster care" are changed to "their schools of origin." Additionally, "children who are the subject of a dependency proceeding" is defined to mean a child or youth who is located in Washington and the subject of a shelter care or dependency order pursuant to statutory requirements governing dependency proceedings.

*Agency Requirements: Department of Children, Youth and Families.* Provisions requiring the DCYF to develop protocols for educational continuity and achievement for children placed in out-of-home care are modified and extended to children who are the subject of a dependency proceeding. References to "the school he or she was attending prior to out-of-home placement" are changed to "their school of origin." Additionally, "children who are the subject of a dependency proceeding" is defined to mean a child or youth who is located in Washington and the subject of a shelter care or dependency order pursuant to statutory requirements governing dependency proceedings.

Provisions requiring the DCYF, consistent with the provisions for making best interest determinations, to generally provide youth residing in out-of-home care with the opportunity to remain enrolled in the school the youth was attending prior to out-of-home placement, are modified and extended to students who are the subject of a dependency proceeding. "Students who are the subject of a dependency proceeding" is defined to mean a child or youth who is located in Washington and the subject of a shelter care or dependency order pursuant to statutory requirements governing dependency proceedings.

**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) This bill will support our most vulnerable youth. This bill will help the education and welfare requirements for youth to better work together for the benefit of students.

The state has laws that address the barriers for foster students, but barriers remain for other students, including those in shelter care and in a trial return home period. This bill will align terminology so that students with similar foster care backgrounds can access and receive supports. This bill is an important and technical step for promoting equity.

During the trial return home period, which is a tenuous time, students cannot qualify for school district transportation benefits and they are not legally entitled to remain enrolled in their school of origin. This bill changes those policies. This is a small bill that will have big dividends.

This bill will make the coordination of benefits more consistent for students and allow them to stay in their school of origin. Schools can be lifelines, socially and emotionally, for students. Passing this bill will help students stay connected to their schools of origin and communities.

(Opposed) None.

**Persons Testifying:** Representative Alicia Rule, prime sponsor; Dawn Rains, Treehouse; Peggy Carlson; and Emily Stochel, College Success Foundation.

**Persons Signed In To Testify But Not Testifying:** None.