
**Human Services, Youth, & Early
Learning Committee**

HB 1591

Brief Description: Concerning open adoption agreements.

Sponsors: Representatives Orwall, Taylor, Goodman, Stearns and Lekanoff.

Brief Summary of Bill

- Requires the Administrative Office of the Courts to engage with a broad group of stakeholders to discuss certain issues related to open adoption agreements (Agreements).
- Requires that, by October 1, 2023, the Department of Children, Youth, and Families (DCYF) contract for the development of training for foster parents regarding the benefits of and best practices as it relates to including biological parents and relatives, including siblings, in the lives of children which certain prospective adoptive parents must complete.
- Requires that the DCYF identify culturally appropriate mental health and other related services that are designed to support people after being adopted and provide information on obtaining those services to any adopted child who was in the custody of the DCYF.
- Provides detail on the information that must be included in an Agreement entered into for a child who was dependent and how that Agreement may be modified or enforced.

Hearing Date: 2/8/23

Staff: Luke Wickham (786-7146).

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.

Background:

Child Welfare (Dependency) Court Proceedings.

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 based on a risk of imminent harm to the child, 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 hearing 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.

The DCYF must develop a permanency plan within 60 days from the date that the DCYF assumes responsibility for the child which must identify primary outcome goals for the case. The DCYF must submit this permanency plan to the parties and the court at least 14 days before a permanency planning court hearing. A permanency planning hearing must be held in all cases where the child has remained in out-of-home care for at least nine months, but no later than 12 months following out-of-home placement.

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 proving by clear, cogent, and convincing evidence that the:

- child is dependent;
- court entered a dispositional order;
- child was removed from the parent for a period of at least six months;
- services ordered under the dependency court order and all necessary services, reasonably available, capable of correcting parental deficiencies have been expressly and understandably offered or provided; and
- continuation of the parent relationship clearly diminishes the child's prospects for early integration into a stable and permanent home.

The court may also terminate a parent's rights under certain circumstances if the whereabouts of the child's parent are unknown or if the parent has been convicted of certain crimes. If a court terminates a parent's rights, all rights, powers privileges, immunities, duties, and obligations,

including any rights to custody, control, visitation, or support existing between the child and parent are severed and terminated, and the parent has no standing to appear at any future legal proceedings involving the child.

Open Adoption Agreements.

Child adoptees, adoptive parents, siblings of child adoptees, and birth parents may enter into agreements regarding communication or contact. These agreements are often referred to as open adoption agreements (Agreements). These agreements are not legally enforceable unless the terms of the agreement are set forth in a written court order.

Courts may not enter Agreements unless the terms are approved in writing by the prospective adoptive parents, a birth parent whose parental rights have not previously been terminated, and a representative of the DCYF or child-placing agency if the child or siblings of the child are in the custody of the DCYF or a child-placing agency.

Failure to comply with an Agreement is not grounds for setting aside an adoption decree.

Agreements may be enforced by a civil action, and the prevailing party may be awarded a reasonable amount of attorney's fees. Courts may not modify Agreements unless it finds that the modification is necessary to serve the best interests of the child adoptee and that:

- the modification is agreed to by the adoptive parent and the birth parent; or
- exceptional circumstances have arisen since the agreed order was entered that justify modification.

Summary of Bill:

Biological parents are authorized to appear in proceedings to enforce or modify an open adoption agreement (Agreement) following an order terminating the parent's rights.

Agreements that do not include the name of a party must include the name of an agent used for the purpose of receiving court notices. An Agreement is enforceable from the date the court enters an Agreement.

The court must file the Agreement under the cause number in which parental rights are terminated and direct the petitioner to file the agreement in any subsequent adoption proceeding involving the child. Parties to an Agreement have access to the Agreement entered in their case through the court clerk in the county in which the Agreement was entered.

The Administrative Office of the Courts (AOC) must develop mandatory pattern court forms to allow birth parents who have had their parental rights terminated to access Agreements and for the enforcement or modification of Agreements.

Any party to an Agreement may:

- modify the terms of an Agreement based on agreement by the parties to the Agreement or

- through a filing in juvenile court; and
- enforce the Agreement.

By October 1, 2023, the DCYF must contract for the development of training for prospective adoptive parents regarding the benefits of and best practices related to including biological parents and relatives, including siblings, in the lives of children. After that, prospective adoptive parents must complete the training as soon as practicable following a court order identifying adoption as a primary or concurrent goal, and must complete the training before adopting a child who was dependent. Child welfare workers must complete this training as well.

The DCYF must identify culturally appropriate mental health and other related services that are designed to support people after being adopted and provide information on obtaining those services to any adopted child who was in the custody of the DCYF.

The AOC is required to engage with a broad group of stakeholders to discuss certain issues related to Agreements, along with any other issues identified by the stakeholder group.

The term "open adoption agreement" is defined as a written agreement between a birth parent, prospective adoptive or adoptive parent, and a child, and in cases governed by the state Indian Child Welfare Act, the child's tribe, that establishes enforceable conditions regarding the amount of visitation or contact, if any, following termination of parental rights between the individuals agreeing to such visitation or contact.

Appropriation: None.

Fiscal Note: Requested on February 2, 2023.

Effective Date: The bill contains multiple effective dates. Please see the bill.