

# HOUSE BILL REPORT

## HB 3048

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**As Reported by House Committee On:**  
Judiciary

**Title:** An act relating to creating a pilot program addressing legal representation for children in dependency proceedings who are age twelve and over.

**Brief Description:** Creating a pilot program addressing legal representation for children in dependency proceedings who are age twelve and over.

**Sponsors:** Representatives Lantz, Goodman, Pettigrew, Roberts, Darneille, Appleton, Hasegawa and Kenney.

**Brief History:**

**Committee Activity:**

Judiciary: 1/25/08, 2/5/08 [DPS].

**Brief Summary of Substitute Bill**

- Establishes a Dependent Youth Representation Pilot Program (Pilot Program) to ensure that in the selected counties, all children ages 12 and over who are in dependency proceedings have legal representation.
- Requests that the University of Washington School of Law, Children and Youth Advocacy Clinic administer the Pilot Program, measure its effectiveness, and issue preliminary and final reports to the Legislature.

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### HOUSE COMMITTEE ON JUDICIARY

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 7 members: Representatives Lantz, Chair; Goodman, Vice Chair; Flannigan, Kirby, Moeller, Pedersen and Williams.

**Minority Report:** Do not pass. Signed by 4 members: Representatives Rodne, Ranking Minority Member; Warnick, Assistant Ranking Minority Member; Ahern and Ross.

**Staff:** Sarah Silbovitz (786-7119) and Trudes Tango (786-7384).

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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 a part of the legislation nor does it constitute a statement of legislative intent.*

**Background:**

When the state determines that a child's health, safety or welfare is seriously endangered, the court will proceed with dependency proceedings to determine the rights and relationship between the parent and child. Under state law, a child must be represented by a Guardian ad Litem (GAL), and may be represented by a Court Appointed Special Advocate (CASA), or an attorney. A GAL is a non-legal advocate required to represent a child's best interest. A CASA is generally a non-legal volunteer from the community who is trained to represent the child's best interest. Children over the age of 12 can request an attorney; however, state law does not require legal representation for children in dependency proceedings. Only an attorney can represent a child's stated interests in a dependency proceeding.

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**Summary of Substitute Bill:**

The Dependent Youth Representation Pilot Program (Pilot Program) is established to provide legal representation for children 12 years and older in dependency proceedings. The Pilot Program will be administered by the University of Washington School of Law, Children and Youth Advocacy Clinic (Clinic).

The Clinic will select at least two counties to participate in the Pilot Program. The selection criteria is based on whether the county has a strong parents' representation project; a strong CASA or GAL program; and lacks a strong system appointing attorneys for dependent children 12 years and older. The Clinic will distribute to the counties the funding for the Pilot Program. The Clinic will ensure that attorneys are appointed for all children 12 years and older that are the subject of a dependency proceeding. The Clinic will also ensure that all of the attorneys involved are trained in dependency matters; that no attorney has a caseload larger than 80 current cases; and that the judges, commissioners, GALs, and CASAs receive training in dependency matters to better understand the attorney's role in the proceedings with respect to their own roles.

The Clinic is responsible for measuring the effectiveness of the Pilot Program. The Pilot Program will be judged on an increase in personal visits between the caseworker and child; an increase in regular visits between siblings in separate placements and between separated children and parents; an increase in completed educational, physical and mental health assessments within the required time period; an increase in shared planning meetings; an increase in timely enrollment of the child in school if he or she was removed due to placement; and a decrease in the number of days a child was on runaway status.

The Clinic is also responsible for measuring the effectiveness of the attorney's activities, including: the amount of time that passes between the time the child enters care and the attorney is assigned to the case; whether the attorney's presence increases the child's courtroom involvement; and whether the attorney's presence increases the number and value of services for the child.

The Clinic will issue a preliminary report to the Legislature by December 31, 2008, and will issue a final report to the Legislature by September 30, 2009.

**Substitute Bill Compared to Original Bill:**

The substitute bill made nonsubstantive changes to clarify how the Pilot Program will be implemented.

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**Appropriation:** None.

**Fiscal Note:** Available.

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

**Staff Summary of Public Testimony:**

(In support) Washington is among the five worst states in the nation when dealing with dependency proceedings. There is a big difference between the type of functions a GAL/CASA can perform and an attorney. The CASAs will admit that they can not always adequately represent the children. Thirty-five states currently require some kind of attorney appointment for children in dependency proceedings. King County has long appointed counsel. Former foster-care kids who did not have an attorney appointed when they were in the system felt as though they did not have a voice. Foster-care kids would have a chance of getting across what they want if they have an attorney to represent them.

(Opposed) None.

**Persons Testifying:** Representative Lantz, prime sponsor; Andrea Khoory, American Bar Association Center on Children and the Law; Erin Shea, Columbia Legal Services; Jim Theofeus, Mockingbird Society; Owen Bunstine, Northwest Alliance for Foster Children; Julio Currenza and Lisa Kelly, University of Washington Children and Youth Action Committee; Delilah Bruskas, Pacific Northwest Alumni of Foster Care; Millissa Kunimoto; Ron Murphy, Casey Family Programs; Kelly Stockman Reid, Washington State Court Appointed Special Advocates; and Jana Heyd, Society of Counsel, Washington Defense Attorneys, Washington Association of Criminal Defense Lawyers.

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