

SENATE BILL REPORT

SSB 6730

As Amended by House, March 2, 2010

Title: An act relating to implementing recommendations made by the office of the family and children's ombudsman in its 2009 Colville investigation by requiring the department of social and health services to notify parents the relatives that have been considered as a placement resource.

Brief Description: Concerning child welfare.

Sponsors: Senate Committee on Human Services & Corrections (originally sponsored by Senators Becker, Hargrove, Stevens and Roach).

Brief History:

Committee Activity: Human Services & Corrections: 2/02/10, 2/03/10 [DPS].

Passed Senate: 2/11/10, 46-0.

Passed House: 3/02/10, 96-0.

SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS

Majority Report: That Substitute Senate Bill No. 6730 be substituted therefor, and the substitute bill do pass.

Signed by Senators Hargrove, Chair; Regala, Vice Chair; Stevens, Ranking Minority Member; Brandland, Carrell, Kauffman and McAuliffe.

Staff: Jennifer Strus (786-7316)

Background: At the shelter care stage of the dependency proceeding, the court must ask the parents whether the Department of Social and Health Services (DSHS) discussed with them the placement of their child with a relative or other suitable person and must determine what efforts have been made toward such a placement. DSHS is not required to notify the parents of the dependent child what relatives it has considered for placement.

DSHS is required to notify a foster parent with whom a child has been residing for at least 90 consecutive days with at least five days notice prior to moving the child to another placement unless a court order has been entered requiring an immediate change in placement; the child is being returned home; the child's safety is in jeopardy; or the child is residing in a receiving or group home. It is the policy of DSHS to also follow this statute with regard to relatives.

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.

The guardian ad litem in dependency cases has numerous responsibilities including:

- to investigate and collect information about the child's situation;
- to meet with, interview and observe the child;
- to monitor all court orders for compliance;
- to report to the court the child's status in an Indian tribe, if applicable; and
- to represent, be an advocate for, and make recommendations to the court about the best interests of the child.

Summary of Substitute Bill: At the shelter care stage of a dependency proceeding, DSHS or a supervising agency must inform the parent of a dependent child, both verbally and in writing, within ten business days, what relatives the agency has considered for placement and the outcome of that consideration. If DSHS or the supervising agency does not recommend placement with a relative who was willing and available to be a placement resource for the child, then it must inform the relative, in writing within ten business days, why it is not recommending that the child be placed with that relative.

At the dispositional stage of a dependency proceeding, DSHS or a supervising agency must inform the parent of a dependent child, both verbally and in writing, what relatives the agency has considered for placement and the outcome of that consideration. If DSHS or the supervising agency does not recommend placement with a relative who was willing and available to be a placement resource for the child, then it must inform the relative, in writing, why it is not recommending that the child be placed with that relative.

Whenever a child has been placed with a relative by DSHS or a supervising agency, and the child has resided with that relative for at least 90 consecutive days, DSHS or supervising agency must notify the relative at least five days before moving the child to another placement unless:

- a court order has been entered requiring an immediate change in placement;
- the child is being returned home;
- the child's safety is in jeopardy; or
- the child is residing in a receiving or group home.

If the relative is the subject of a child abuse or neglect referral, DSHS must meet with the relative in person to explain the nature of the allegations and provide the relative a reasonable opportunity to respond to the allegations. Neither DSHS nor a supervising agency may remove a child from the relative's care unless DSHS has made a finding that the relative has abused or neglected the child, clearly violated a court order, the child is at imminent risk of harm if the removal does not occur, a court order has been entered moving the child to a different placement, or the child is returned home.

A relative of a dependent child may petition the juvenile court to be heard on DSHS or a supervising agency's decision to remove the child from the relative's care if:

- the child has been found to be a dependent child;
- the parents of the child have consented to the relative filing a petition to be heard on the placement decision;
- the child is in the custody of DSHS or a supervising agency at the time the petition is filed;

- DSHS or a supervising agency has decided to remove or has already removed the child from the relative's care; and
- the child had been in the relative's care for 12 months or more prior to the decision to remove or the removal of the child.

The relative has ten business days from the date the relative learns of the removal decision, or the child is removed from the relative's care, whichever is later, to file the petition to be heard.

If the requirements to file a petition to be heard are met, the court must grant the petition to be heard on the sole issue of the placement decision and shall schedule an expedited hearing on the matter. The relative has the right to be represented by counsel, at his or her own expense, at the hearing on the petition to be heard. The relative may call and cross-examine witnesses at the hearing.

The granting of the petition to be heard under this section does not grant the relative party status in the underlying dependency.

Appropriation: None.

Fiscal Note: Requested on February 1, 2010.

Committee/Commission/Task Force Created: No.

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

Staff Summary of Public Testimony on Proposed Substitute As Heard in Committee:
PRO: Based upon the report issued by the Office of the Family and Children's Ombudsman (OFCO) after its investigation of children's cases in Colville, this bill incorporates those recommendations by OFCO that lent themselves to a legislative fix. This bill will improve the level of communication between parents and DSHS. Notice should be given to the relative care provider before the child is moved; not the way the bill is written. Children in dependency cases must have an advocate in court and the Court Appointed Special Advocates (CASA) is the only one with any investigative ability to look into abuse or neglect allegations. The courts depend on CASAs doing an independent investigation. If DSHS is the only entity that can conduct an investigation, why have CASAs at all. DSHS needs to be accountable and this bill is a good start.

OTHER: DSHS does not follow its own policies. This bill is a good beginning but it does not go far enough. Disagree with the section dealing with CASAs not conducting an independent child abuse or neglect investigation. No one seems to have the authority to make DSHS stop what it is doing. DSHS accountability and transparency is important across the state. OFCO and DSHS will continue to spend time reviewing the cases in Colville and elsewhere to ensure that policies are followed. The bill strengthens relative rights. As DSHS relies more and more on relatives to provide placement resources, DSHS needs to have better communication and accountability for its actions with those relatives.

Persons Testifying: PRO: Senator Becker, prime sponsor; Tim Rasmussen, Stevens County Prosecuting Attorney.

OTHER: Patty Markel, CASA; Marte Willoughby, foster parent; Denise Revels Robinson, DSHS; Mary Meinig, OFCO.

House Amendment(s): Current law requires that DSHS provide a foster parent with five days notice if a foster child who has resided with the foster parent for at least 90 consecutive days is going to be moved. The amendment requires that the same notice also be provided to relative caregivers or other suitable persons if the child has resided with them for at least 90 consecutive days. Requires that if a child has resided with a relative or other suitable person for less than 90 days and it is not possible to provide five days notice, then DSHS must notify the relative or other suitable person as soon as reasonably possible (already required for foster parents). Requires that when a child has resided with a foster family, relative or other suitable person for 12 continuous months or longer, the required notice must be in writing and specify the reasons for the change in the child's placement.

Requires DSHS to report annually to the Legislature regarding placement changes for children who have resided with a foster family, relative, or suitable person for 12 continuous months or more, including the reasons for the change in placements. The first report is due September 1, 2011, and a final report is due September 1, 2015.

Removes the provision stating that the duties of a GAL do not include conducting child abuse or neglect investigations and replaces that with the requirement that a GAL, when a child in the course of the GAL's normal investigation discloses abuse or neglect, to make an immediate CPS referral.

The following provisions have also been removed from the bill:

- requiring DSHS to provide written and verbal notice to parents and relatives regarding considerations and decisions about placement of children with specific relatives in dependency matters;
- granting relatives meeting certain requirements the right to petition to be heard in court on the issue of a dependent child's removal from the relative's home; and
- limiting the authority of the DSHS and child welfare case management agencies to change the placement of dependent children who have been placed with relatives.

Adds a null and void clause.