

HOUSE BILL REPORT

HB 2557

As Reported By House Committee On:
Children & Family Services

Title: An act relating to legal custody of children.

Brief Description: Revising legal custody of children.

Sponsors: Representatives Veloria, Cooke and Ogden.

Brief History:

Committee Activity:

Children & Family Services: 1/25/96, 1/30/96 [DPS].

HOUSE COMMITTEE ON CHILDREN & FAMILY SERVICES

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 10 members: Representatives Cooke, Chairman; Stevens, Vice Chairman; Tokuda, Ranking Minority Member; Brown, Assistant Ranking Minority Member; Boldt; Buck; Carrell; Dickerson; Patterson and Sterk.

Staff: Douglas Ruth (786-7134).

Background: As part of a dependency proceeding where a child is removed from the home, the agency that is charged with the child's care must present to the court a permanency plan which identifies the long-term goals for permanent care of the child. The agency may choose from a statutorily defined list of goals. These goals include adoption, long-term relative care, foster care, guardianship, independent living, or return of the child to the parents, to a guardian, or to a legal custodian. The plan must encourage maximum parent-child contact and the resumption of parental custody.

If after a specified amount of time, the permanent care goal selected by the agency has not been implemented, the court must hold a permanency planning hearing to review the agency's progress. These permanency planning hearings are held at least every 12 months until a goal has been implemented or the dependency is dismissed. In addition, the court reviews the status of a dependent child every six months to determine parental progress and whether the child may be returned home.

If the agency has achieved the goal of placing the child in long-term foster or relative care, the court reviews the child's status every nine or 12 months, depending on the child's age, to determine whether placement remains appropriate.

Summary of Substitute Bill: Permanent child custody orders are added to the list of long-term goals that an agency may implement as part of its permanency plan. Under the bill, the agency could identify the awarding of permanent child custody to a non-parental individual, rather than adoption, foster care, etc., as the preferable option for the child's future care.

Current law establishes the content, scope, and procedures for obtaining a permanent child custody order. To grant an order, the court must find that the parent of the child is either unfit, or that placement of the child with the parent would detrimentally affect the child's growth and development. An individual, or individuals, receiving permanent custody of a child has the authority to determine the child's care, upbringing, education, health care, and religious training.

As part of a permanent custody order, the court may award visitation rights to the parents and require them to provide child support and health insurance for the child. Once custody has been established, the court may modify a custodial decree if it finds that there are facts which were unknown to the court at the time of its decree and if the modification is necessary to serve the best interest of the child. However, the court may dissolve custody only if the custodian agrees, or the child has been integrated into the family of the person applying for modification, or if continued custody would be detrimental to the child's physical, mental, or emotional health.

Entry of a permanent custody order would act to dismiss the dependency and end the court's supervision of the child's care. The court is then relieved of conducting periodic permanency planning hearings and status reviews. According to current law, once an order is entered, the individual's custody over the child may be altered only through modification of the custodial decree.

Because the court ordering permanent child custody would be a separate court from the one supervising the child's dependency, the bill explicitly permits concurrent jurisdiction by both courts.

Substitute Bill Compared to Original Bill: The original bill's language regarding continued jurisdiction by Juvenile Court was unclear. The substitute's language is more exact.

Appropriation: None.

Fiscal Note: None requested.

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

Testimony For: The availability of permanent child custody orders as long-term care goals will save the state money, because the state has no obligation to support a child who has been placed in the custody of a non-parental individual as it does with some adoptions or when the child is placed in a foster home. The custodian may receive funds directly from the parent through child support. Currently, grandparents who might assist in the development of a child are denied the opportunity because their grandchildren are placed in foster homes. Foster homes often are inadequate and unsuitable environments for children. It is much better to place a child with family than in these homes.

Testimony Against: None.

Testified: (Pro) Lois Chowen, Department of Social and Health Services; John Weers, Judy Chin, and Dawn James, United Grandparents Raising Grandchildren; and Leo Flanagan, legal guardian.