

# SENATE BILL REPORT

## SHB 2557

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As Reported By Senate Committee On:  
Human Services & Corrections, February 23, 1996

**Title:** An act relating to legal custody of children.

**Brief Description:** Revising legal custody of children.

**Sponsors:** House Committee on Children & Family Services (originally sponsored by Representatives Veloria, Cooke and Ogden).

**Brief History:**

**Committee Activity:** Human Services & Corrections: 2/15/96, 2/23/96 [DPA].

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### SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS

**Majority Report:** Do pass as amended.

Signed by Senators Hargrove, Chair; Franklin, Vice Chair; Kohl, Long, Prentice, Schow, Smith and Zarelli.

**Staff:** Jodi Walker (786-7464)

**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 juvenile 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 juvenile 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.

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.

**Summary of Amended 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 relative, rather than adoption, foster care, etc., as the preferable option for the child's future care.

Because the court ordering permanent child custody or guardianship (superior court) is a separate court from the one supervising the child's dependency (juvenile court), the bill permits concurrent jurisdiction so long as the juvenile court ordered implementation of a permanency plan and the party seeking the guardianship or custody in superior court is a relative identified in the plan. The juvenile court must conduct a hearing after the superior court custody proceeding to determine whether dependency should also be dismissed.

**Amended Bill Compared to Substitute Bill:** In the striking amendment, the definition of "permanent legal custody" and "permanent custody" is clarified to apply to a relative child.

Jurisdiction is also clarified so that if a dependency action is pending, juvenile court jurisdiction will prevent an order for legal guardianship or permanent legal custody unless the juvenile court ordered implementation of a permanency plan and the party seeking the guardianship or custody is a relative identified in the plan. Also, new sections are added to Chapters 11.88 (guardianships) and 26.10 (legal custody) to clarify that orders for guardianships or legal custody under either of these chapters cannot be entered unless they are approved in the permanency plan by the juvenile court.

The requirement to automatically dismiss the dependency if a guardianship or permanent custody order is entered is deleted from the original bill, and the juvenile court hearing held at the end of either proceeding is clarified to be a review hearing, not de novo.

**Appropriation:** None.

**Fiscal Note:** None requested.

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

**Testimony For:** This bill is important to children because they need security. This bill is also important to grandparents that want legal custody but not to adopt their grandchildren. With legal custody, the grandparent can protect the child, legally and emotionally, but custody of the children can also be given back to the parents if they get their life in order. Current law makes placement with caring grandparents and relatives difficult.

**Testimony Against:** None.

**Testified:** Representative Veloria, original prime sponsor (pro), Dick Anderson, DSHS (pro); Susan and Alan Castle (pro); Darrel and Kathleen Vail, United Grandparents Raising Grandchildren (pro); Vivian and John Weers, UGRG (pro); Judy Chin, UGRG (pro).