

HOUSE BILL REPORT

HB 2770

As Reported By House Committee On:

Law & Justice

Title: An act relating to representation of parties in child dependency and termination proceedings.

Brief Description: Providing for representation of parties in child dependency and termination proceedings.

Sponsors: Representatives Clements and Wood.

Brief History:

Committee Activity:

Law & Justice: 2/4/98, 2/6/98 [DP].

HOUSE COMMITTEE ON LAW & JUSTICE

Majority Report: Do pass. Signed by 12 members: Representatives Sheahan, Chairman; McDonald, Vice Chairman; Sterk, Vice Chairman; Costa, Ranking Minority Member; Constantine, Assistant Ranking Minority Member; Carrell; Cody; Kenney; Lantz; Mulliken; Robertson and Sherstad.

Minority Report: Do not pass. Signed by 1 member: Representative Lambert.

Staff: Edie Adams (786-7180).

Background: State law establishes procedures for the protection of children who are determined to be dependent children. A dependent child is a child who has been abandoned, is abused or neglected by a person legally responsible for the child's care, has no parent or guardian capable of providing necessary care to the child or has a developmental disability and whose parent or guardian can not provide needed services in the home. These procedures allow for a court to determine that a child is dependent and order programs to aid the parents or guardians so that the child will not be endangered in the future. In addition, the court may order the child removed from the home of the parents or guardians. In extreme situations of danger to the child, the court may terminate the parent-child relationship after a hearing if certain findings are made.

In all stages of a proceeding alleging that a child is a dependent child, the parent, guardian or legal custodian has the right to be represented by counsel. If the parent,

guardian or custodian is indigent, the court must appoint an attorney to represent the person.

The court must appoint a guardian ad litem for the child who is the subject of the proceeding unless the court finds the appointment is unnecessary. In addition, the court may appoint independent counsel to represent the child if the court or the guardian ad litem determines that it is necessary, or if the child is at least 12 years old and requests counsel.

The county where the dependency action is taking place is responsible for paying the costs associated with the appointment of attorneys and guardians ad litem.

Summary of Bill: A legislative finding is made that counties have assumed the burden of funding counsel and guardians ad litem in child dependency and termination proceedings, but that the volume of these cases is driven by legislative mandate and state agency action.

The state agrees to accept fiscal responsibility for 25 percent of the cost of representation by counsel and guardians ad litem and related expenses required to represent indigent parents, guardians, legal custodians and children in dependency proceedings after July 1, 1999, and 50 percent of these costs after July 1, 2000.

The Office of Public Defense must develop a proposal to address the costs of representation and expenses related to such representation for indigent criminal defendants and indigent parents, guardians, custodians, and children in dependency and termination proceedings. The proposal must address the increased filings of dependency and termination proceedings and how this increase affects the costs of indigent defense. In addition, the proposal must recommend strategies to ensure the establishment of an equitable method of paying for indigent defense costs in criminal trial proceedings and in dependency and termination proceedings.

Appropriation: None.

Fiscal Note: Available.

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

Testimony For: Past studies have determined that the state should help pay the costs of representation in these cases. The trial courts are performing the functions relating to a state program, and since trial courts are formed at the county level, the county is paying all the costs in these cases. Referrals of dependency and termination actions are driven by state agency actions and are a relatively new and large component of the system. It is very difficult for counties to absorb these costs. In addition, the counties spend a substantial amount of money to support the Court Appointed Special Advocate program, which is also used in these proceedings.

Testimony Against: None.

Testified: Mary Louise Alving, Washington State CASA (pro); Dan Fessler, Yakima County Department Assigned Counsel (pro); Aan Eiker, Pierie County Juvenile Court (pro); Michael Shaw, Association of Counties (pro); and Jim Crane, King County Office of Public Defense (pro).