

SENATE BILL REPORT

ESSB 5491

As Passed Senate, March 17, 1997

Title: An act relating to termination of the parent and child relationship.

Brief Description: Revising provisions for termination of parent and child relationship.

Sponsors: Senate Committee on Human Services & Corrections (originally sponsored by Senators Stevens, Swecker, Strannigan, Schow and Hochstatter).

Brief History:

Committee Activity: Human Services & Corrections: 2/27/97, 3/4/97 (DPS).
Passed Senate, 3/17/97, 47-0.

SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS

Majority Report: That Substitute Senate Bill No. 5491 be substituted therefor, and the substitute bill do pass.

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

Staff: Richard Rodger (786-7461)

Background: A "dependent child" means any child who has been abandoned, who is abused or neglected by a person legally responsible for the child's care, or who has a developmental disability and whose care cannot be provided in the home. At a fact-finding hearing held 75 days after filing a dependency petition, the court may continue the removal of a child from the home. This decision is made based upon a preponderance of the evidence.

A petition seeking the termination of a parent and child relationship may be filed in juvenile court by any party to the dependency proceeding concerning that child. The petition for the termination of a parent and child relationship must allege (1) the child has been determined to be a dependent child; (2) the child has been removed from the custody of the parent for a period of at least six months; (3) services capable of correcting parental deficiencies have been provided; (4) there is little likelihood that conditions will be remedied so that the child may be returned home; and (5) that continuation of the parent and child relationship clearly diminishes the child's prospects for early integration into a stable and permanent home.

Summary of Bill: The court is required to use the standard of clear and convincing evidence to remove a child from the home on the basis that a manifest danger exists that the child will suffer serious abuse of neglect unless removed.

A petition seeking the termination of parent and child relationship must allege that the parent is currently unfit, notwithstanding any judicial findings entered in the dependency proceeding. This allegation must be proved by clear, cogent and convincing evidence.

Appropriation: None.

Fiscal Note: Available.

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

Testimony For: This bill will clarify the process for the termination of parental rights and raise the proof requirements for the department.

Testimony Against: The bill will make it more difficult for the department to terminate parental rights in appropriate cases. It will be very difficult for the department to prove that the child is "currently unfit" because the child will have been in foster care and not in the custody of the parents of the parents during the pendency of the dependency and termination petitions. The bill will result in a large fiscal impact because it will force more children to remain in foster care for a longer period of time.

Testified: Senator Val Stevens, prime sponsor, (pro); Jennifer Strus, DSHS, (concerns).

House Amendment(s): The higher legal standard is eliminated at a dependency fact-finding hearing for the department's removal of a child from his or her parents. The requirement that a court find a parent is unfit before terminating parental rights is replaced with the requirement that the court find that the child is currently dependent. The courts are prohibited from using the findings in a dependency action to establish the requirements for termination.