

HOUSE BILL REPORT

SSB 5744

As Reported By House Committee On:
Judiciary

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

Brief Description: Ordering a proposal to provide for representation of parties in child dependency and termination proceedings.

Sponsors: Senate Committee on Human Services & Corrections (originally sponsored by Senators Haugen, Costa, Sheahan and Deccio).

Brief History:

Committee Activity:

Judiciary: 3/30/99, 4/1/99 [DPA].

Brief Summary of Substitute Bill
(As Amended by House Committee)

- Requires the Office of Public Defense to develop a proposal addressing the costs of legal representation for indigent parents, guardians, custodians, and children involved in dependency and termination proceedings.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: Do pass as amended. Signed by 8 members: Representatives Carrell, Republican Co-Chair; Constantine, Democratic Co-Chair; Lambert, Republican Vice Chair; Cox; Esser; Lantz; McDonald and Schindler.

Minority Report: Do not pass. Signed by 4 members: Representatives Hurst, Democratic Vice Chair; Dickerson; Kastama and Lovick.

Staff: Trudes Hutcheson (786-7384).

Background:

The juvenile court of the county has exclusive original jurisdiction over all dependency and termination proceedings.

Any person may file a petition to declare a child dependent. A "dependent child" is defined as a child who has been abandoned, abused, or neglected, or who has no parent, guardian, or custodian capable of adequately caring for the child. The court holds a hearing to determine if the child is dependent. A party to the dependency proceeding may file a petition seeking to terminate the parent/child relationship. After a hearing, the court may enter an order terminating all parental rights to a child if the court finds certain conditions exist.

At all stages of dependency and termination proceedings the child's parent, guardian, or legal custodian has a right to an attorney and may introduce evidence and examine witnesses. If the child's parent, guardian, or legal custodian is indigent, the court will appoint an attorney unless the parent, guardian, or legal custodian waives his or her right to counsel.

A court must appoint a guardian ad litem for a child subject to a dependency or termination proceeding, unless the court finds that an appointment is not necessary. The requirement for a guardian ad litem is satisfied if the child is represented by independent counsel. If the child is 12 years old or older, the child may request legal counsel.

The Office of Public Defense, which the Legislature created in 1996, administers all criminal appellate indigent defense services. The office does not provide actual legal representation, but manages the funds used to pay attorneys, court reporters, and court clerks for appellate criminal defense. Funds appropriated to the Office of Public Defense come from the Public Safety and Education Account.

Summary of Amended Bill:

The Office of Public Defense must develop a proposal to address the costs of legal representation for indigent parents, guardians, legal custodians, and children in dependency and termination hearings.

The Office of Public Defense must present the proposal to the appropriate legislative committees by December 6, 1999.

Amended Bill Compared to Substitute Bill: The amended bill removes the requirement that the Office of Public Defense also address costs of legal representation for indigent criminal defendants and criminal trials.

Appropriation: None.

Fiscal Note: Available.

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

Testimony For: Dependency and termination petitions have been steadily increasing, and counties do not have control over the amount of filings even though the counties must pay for the proceedings. The costs of such cases vary depending on the county. There is not a lot of information regarding the costs in different counties, and a study would provide reliable statistics. Federal law that requires terminations to be expedited has been a factor in increasing the number of state petitions filed.

Testimony Against: None.

Testified: Joanne Moore, Office of Public Defense; and Mike Shaw, Washington State Association of Counties.