

FINAL BILL REPORT

ESHB 1407

C 173 L 99

Synopsis as Enacted

Brief Description: Changing adoption provisions.

Sponsors: By House Committee on Judiciary (Originally sponsored by Representatives Lambert, Benson, Dickerson, Sheahan, Tokuda, Hurst, G. Chandler, Mulliken, Boldt, Koster, Schindler, Ogden, Dunn and Kessler).

House Committee on Judiciary
Senate Committee on Human Services & Corrections

Background:

In an adoption, the legal parent-child relationship is created between persons who do not have a biological parent-child relationship related. Any person may be adopted, although a child 14 years of age or older must consent to an adoption. Any person who is legally competent and 18 years of age or older may become an adoptive parent. In all adoption matters, the best interests of the child are paramount.

Before an adoption may take place, the biological parents must give up their parental rights to control and have custody of their child. This can be done voluntarily or involuntarily by court order. The biological parents must also give their free and knowing consent to the adoption. The biological parents may revoke their consent until the consent is approved by the court. The consent of either parent is not required if a court of competent jurisdiction has terminated the parent's relationship with the child.

If all the statutory provisions are met and the court has found that the placement is in the best interests of the child, the court must enter a decree of adoption. When the adopted child is a Native American, the adoptive parents must be within the placement preferences of the federal law relating to the placement of Native American children before the court may issue a decree of adoption.

In the context of a dependency hearing, before the court may order the filing of a petition to terminate a parent and child relationship, reasonable efforts to unify the family must be made. However, if aggravating circumstances exist, a court may order the filing of a petition to terminate a parent and child relationship without reasonable efforts to unify the family.

Summary:

The consent of an alleged father, birth parent, or parent to a proposed adoption is not required if he or she was found guilty of rape or incest where the child was the victim or was born of the offense, and the court finds that the proposed adoption is in the child's best interest. This does not effect the parent's right to notice of the adoption as required by law.

If an alleged father, birth parent, or parent has voluntarily terminated his or her parental rights and has indicated his or her intention to make a voluntary adoption plan for the child, the Department of Social and Health Services (DSHS) must follow the wishes of the alleged father, birth parent, or parent as to the placement of the child. However, the DSHS does not have to follow the wishes of the alleged father, birth parent, or parent if the prospective adoptive parents do not meet state statutory adoption qualifications, or if the court finds that the adoption is not in the best interest of the child. If the DSHS has filed a petition seeking termination of a parent and child relationship, it must give consideration to the placement wishes of an alleged father, birth parent, or parent.

Conviction of the parent of a sex offense or incest when the child is born of the offense is added as a factor a court must consider when determining whether aggravating circumstances exist that would allow the court to order the filing of a petition to terminate a parent and child relationship without reasonable efforts to unify the family. Aggravating circumstances must be proved by clear, cogent, and convincing evidence.

Votes on Final Passage:

House 97 0
Senate 48 0 (Senate amended)
House 96 0 (House concurred)

Effective: July 25, 1999