

SENATE BILL REPORT

ESHB 1407

As Reported By Senate Committee On:
Human Services & Corrections, April 1, 1999

Title: An act relating to adoption.

Brief Description: Changing adoption provisions.

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

Brief History:

Committee Activity: Human Services & Corrections: 3/25/99, 4/1/99 [DPA].

SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS

Majority Report: Do pass as amended.

Signed by Senators Hargrove, Chair; Franklin, Long, Patterson, Sheahan, Stevens and Zarelli.

Staff: Joan K. Mell (786-7447)

Background: Before an adoption can 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.

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

Summary of Amended Bill: Consent of the child's birth mother or an alleged father, birth parent, or parent who is convicted of rape or incest of the child is not required for an adoption in the best interests of the child. Proper notice must still be given according to the statutory provisions.

If the biological parents have voluntarily terminated their parental rights and have indicated their intention to make a voluntary adoption plan for the child, the Department of Social and Health Services (DSHS) must follow the wishes of the biological parents as to the placement of the child. DSHS does not have to follow the biological parents' wishes 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 a petition seeking termination of a parent and child relationship has been filed against the biological parents, then the court can consider the parents' wishes.

A parent's conviction of a sex offense or incest is an aggravating factor in a dependency action concerning a child born as a result of the crime. Aggravating factors must be established by clear, cogent and convincing evidence.

Amended Bill Compared to Substitute Bill: A clarification is made indicating notice is still required, but consent need not be established. The department's petition for termination does not eliminate consideration of parents' wishes. Aggravating factors must be established by clear, cogent and convincing evidence.

Appropriation: None.

Fiscal Note: Requested on March 15, 1999.

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

Testimony For: Rapists have further victimized family victims by asserting parental rights. The consent of a rapist should not be required to adopt a child.

Testimony Against: None.

Testified: PRO: Mark Demaray, adoption attorney; Judy Thornton, Spokane County Juvenile Court CASA/GAL Program; Jody Rosentswieg, WA State CASA; Laurie Lippold, Children's Home Society.