
Early Learning & Children's Services Committee

HB 2729

Brief Description: Increasing the period of confinement available for contempt of court.

Sponsors: Representatives Hope, O'Brien, Haler, Pearson and Ross.

Brief Summary of Bill

- Increases from seven to sixty the number of days of confinement a court may order when a child or parent fails to comply with an order entered in a Child in Need of Services (CHNS), an At-Risk Youth (ARY), or child dependency proceeding.
- Permits the court to apply its inherent contempt authority without first exhausting remedial options when a child or parent fails to comply with an order entered in a CHNS, ARY, or child dependency proceeding.

Hearing Date: 1/26/10

Staff: Sydney Forrester (786-7120).

Background:

Child in Need of Services (CHNS), At-Risk Youth (ARY), and child dependency proceedings are civil proceedings and do not include allegations of criminal conduct. In general, these proceedings all arise out of actual or perceived crisis or conflict within the family. Both CHNS and ARY proceedings are within the Family Reconciliation Act. Dependency and termination proceedings are within the Juvenile Court Act. In all cases, the court may enter orders directing the parent or the child to take or refrain from taking certain actions. The scope of the court's orders in these civil proceedings may include: where the child will live (at home or in an out-of-home placement); child support (if the parent is able to pay, and if the parent does not oppose the out-of-home placement); school attendance; counseling; substance abuse treatment or outpatient mental health treatment; and regular reporting to the Department of Social and Health Services (DSHS) or other agency.

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At-Risk Youth

An At-Risk Youth is a child under the age of 18 years who meets one or more of the following criteria:

- has been absent from home for 72 hours or more without parental consent;
- is beyond control of the parent such that the child's behavior endangers the health, safety, or welfare of the child or someone else; or
- has a substance abuse problem for which no related criminal charges are pending.

A parent may file an ARY petition requesting assistance from the juvenile court in providing appropriate care, treatment, and supervision, subject to the availability of juvenile court services and resources. The Legislature's intent in enacting the ARY process was to preserve, strengthen, and reconcile families experiencing problems with at-risk youth.

Child in Need of Services

A Child in Need of Services is a child under the age of 18 years:

- who is beyond the control of his or her parent such that the child's behavior endangers the health, safety, or welfare of the child or someone else;
- who has been reported to law enforcement as absent without consent for 24 hours or more on two or more separate occasions from the child's own home or from a foster home or other out-of-home placement; and
 - a. has exhibited a serious substance abuse problem; or
 - b. has exhibited behaviors that create a serious risk of harm to the health, safety, or welfare of the child or any other person; or
- who is in need of food, shelter, health care, clothing, or education; or family preservation services, but lacks access to these services or has declined to utilize them, and whose parents have evidenced continuing but unsuccessful efforts to maintain the family structure or are unable or unwilling to continue efforts to maintain the family structure.

A parent, child, or the DSHS may file a CHNS petition requesting the court order placement for the child. In certain circumstances the DSHS is required to file a CHNS petition to obtain court approval for a youth to remain in a crisis residential center for longer than 72 hours.

Dependent Child

A dependency petition may be filed by any person alleging a child is has been abandoned; had been abused or neglected by a person legally responsible for his or her care; or has no parent, guardian, or custodian capable of adequately caring for the child. A dependency proceeding supersedes a CHNS or ARY proceeding.

Contempt

Contempt of court can be classified in a number of ways depending on the context. Indirect contempt, also called civil contempt, can be broken down into two subcategories categories: remedial or punitive. In general, remedial contempt is designed to coerce compliance with an order of the court and should allow the contemnor the opportunity to purge the contempt through compliance. Punitive contempt, on the other hand, is designed to punish an offensive or disrespectful behavior, and does not include an opportunity to purge the contempt.

In CHNS, ARY, and child dependency proceedings, the court has statutory authority to order confinement of up to seven days for a child or parent who fails to comply with a provision of a court order.

Summary of Bill:

In a CHNS, ARY, or dependency proceeding, if the court finds a parent or child in civil contempt of court for failure to comply with any provision of an order entered in the proceeding, the court may order confinement of the parent or child for up to 60 days. The court is not required to exhaust its remedial options before applying its inherent contempt authority, including ordering confinement for contempt of court.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.