

SENATE BILL REPORT

SHB 1239

As Reported by Senate Committee On:
Human Services & Corrections, March 26, 2009

Title: An act relating to parenting plans and residential schedules in dependency proceedings.

Brief Description: Addressing parenting plans and residential schedules in dependency proceedings.

Sponsors: House Committee on Early Learning & Children's Services (originally sponsored by Representatives Kagi, Walsh, Goodman, Haler, Roberts, Appleton, Moeller and Kenney).

Brief History: Passed House: 3/04/09, 95-0.

Committee Activity: Human Services & Corrections: 3/20/09, 3/26/09 [DPA].

SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS

Majority Report: Do pass as amended.

Signed by Senators Hargrove, Chair; Regala, Vice Chair; Stevens, Ranking Minority Member; Brandland, Carrell, Kauffman and McAuliffe.

Staff: Jennifer Strus (786-7316)

Background: Children's dependency cases are initiated in the juvenile division of the superior court because Washington's juvenile courts have exclusive original jurisdiction over dependency matters. When the permanency plan for a dependent child calls for a third-party custody arrangement, the juvenile court may hear and decide such matters when:

- the child's parent(s) and the third party agree to the order; and
- the juvenile court finds the order is in the child's best interests and approves the order.

When the permanency plan for a dependent child calls for reunification with only one of the child's parents, or when implementation of the permanent plan requires the entry or modification of a parenting plan, the child's parents must file and pursue a separate action in the family court because the juvenile court does not have authority to hear parenting plan cases. Waiting for the finalization of the parenting plan case through the family court may result in delaying permanency for the child if entry or modification of the parenting plan is necessary for dismissal of the dependency.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Summary of Bill (Recommended Amendments): The juvenile court hearing a dependency petition may also hear and decide matters agreed to by the child's parents, if their whereabouts are known to the court or DSHS, to establish or modify a permanent parenting plan in a dissolution or paternity matter in order to implement a permanent plan of care for the child and dismiss the dependency. The juvenile court's authority over parenting plan matters is subject to the following:

- The court must make a written finding that the parenting plan is in the child's best interests.
- Matters relating to child support and division of marital property must be referred to or retained by the family law division of the superior court.

If the parent, guardian, or legal custodian disagrees with allowing the juvenile court to hear and determine issues regarding the establishment or modification of a parenting plan, a party may move to have the issue transferred to family court. The court may grant the motion only upon a showing that it is in the best interests of the child.

EFFECT OF CHANGES MADE BY HUMAN SERVICES & CORRECTIONS COMMITTEE (Recommended Amendments): Adds that the juvenile court's concurrent jurisdiction applies in paternity matters as well as in dissolution matters. Adds language indicating that if the whereabouts of one of the parents is unknown to the court or DSHS, then agreement by both parents to modify or enter a parenting plan is not needed. Language regarding allowing the court to appoint a GAL or attorney to represent the child is removed and replaced with a reference to the statute that already allows the court to do this. Adds language that states if the parent, guardian, or legal custodian disagrees with allowing the juvenile court to hear and determine issues regarding the establishment or modification of a parenting plan, a party may move to have the issue transferred to family court. The court may grant the motion only upon a showing that it is in the best interests of the child.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

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

Staff Summary of Public Testimony on Substitute House Bill: PRO: This is an efficiency bill. If passed, it will help with quicker reunifications. Language in the bill is pulled from the family court statutes so that the language in the dependency statutes is parallel. Allowing the dependency court to have concurrent jurisdiction to enter and modify residential schedules is a huge asset to families and will lead to speedier resolution of many dependency cases.

OTHER: This bill is a good idea insofar as it makes jurisdiction of the family court voluntary for the parents. The law should be amended to state that the parents should agree on the custodian as well if the court is contemplating a third party custody action under RCW 26.10. We added some of the language in the bill to RCW 26.10 as well so that the two chapters (26.10 and 26.09) are parallel. The language dealing with the prohibition of the

dependency court to order child support is removed because the dependency court can already order child support under RCW 13.34. In general, dependency courts should not be involved with parenting plans; that's a bad idea.

Persons Testifying: PRO: Representative Kagi, prime sponsor; Patrick Dowd, Office of Public Defense.

OTHER: Gary Preble, Preble Law Firm.