

# FINAL BILL REPORT

## ESSB 6238

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### PARTIAL VETO

C 328 L 98

Synopsis as Enacted

**Brief Description:** Changing provisions relating to dependent children.

**Sponsors:** Senate Committee on Human Services & Corrections (originally sponsored by Senators Stevens and Swecker).

**Senate Committee on Human Services & Corrections**

**Senate Committee on Ways & Means**

**House Committee on Children & Family Services**

**House Committee on Appropriations**

**Background:** Parents have experienced an inability to provide input to the courts regarding their opinions with respect to their children. Further, in cases of negligent treatment, there exists a perception that families have been harmed by state intervention in situations where the conduct of the parents has not been egregious enough to outweigh the harm resulting from state intervention.

Under current law, a law enforcement officer, probation counselor, or child protective services official may, pursuant to a juvenile court order, remove a child and place the child in state custody if a petition is filed that alleges the child is dependent and the child's health, safety and welfare will be seriously endangered if the child is not taken into custody. The court can issue an order without notice to the parents or guardians, and without a preliminary hearing where the parents, guardians or their counsel can present opinions and challenge information.

There is no statutory requirement that the petition be served upon the parent or guardian at the time the child is removed if ordered by the court. Child dependency statutes provide that a shelter care hearing must follow and will occur no later than 72 hours after the child is taken into state custody, with customary exceptions for weekends when the court may not be in session. To aid the court in its decision for disposition, the person or agency filing the petition is charged with the task of providing a social study of matters relevant to the case.

**Summary:** Any petition to take a child into custody must be accompanied by an affidavit or declaration, setting forth specific factual information evidencing reasonable grounds that the child's health, safety and welfare are seriously endangered if not taken into custody. At least one of the grounds set forth by the petitioner must demonstrate a risk of imminent harm to the child. Imminent harm is defined to include sexual abuse or sexual exploitation of a child. The petition, affidavit or declaration and order must be served upon the guardian or parent at the time the child is removed from the home. An order must not be issued and a child must not be removed via this statute without an affidavit or if the affidavit is insufficient.

Records the Department of Social and Health Services intends to rely upon in support of its shelter care hearing must be produced within 15 days of a written request and prior to any shelter care hearing. If the records are served upon legal counsel, legal counsel must have an opportunity to review these records prior to the shelter care hearing with the parents.

A summons served giving notice of a hearing on child custody must state that the parent or guardian has a right to records the department intends to rely upon at the time of its hearing.

Courts must consider whether nonconformance with any conditions upon the parent or custodian as it relates to child placement resulted from circumstances beyond the control of the parent or custodian.

The parent may submit a counselor's or health care provider's evaluation of the parents which is included in the social study or considered in conjunction with the social study. The social study identifies any services chosen and approved by the parents.

Substance abuse is a risk factor in the department's risk assessment for services. The department must report to the Legislature statistical information annually regarding the relationship between dependency cases and abuse and neglect.

**Votes on Final Passage:**

Senate	45	2	
House	97	0	(House amended)
Senate			(Senate refused to concur)

Conference Committee

House	98	0
Senate	46	0

**Effective:** June 11, 1998

**Partial Veto Summary:** The Governor struck Section 6, which required the department to report to the Legislature statistical information annually regarding the relationship between dependency cases and abuse and neglect.