

HOUSE BILL REPORT

ESSB 6642

As Reported by House Committee On:
Children & Family Services
Appropriations

Title: An act relating to case conferences following shelter care hearings.

Brief Description: Ordering case conferences following shelter care hearings.

Sponsors: Senate Committee on Children & Family Services & Corrections (originally sponsored by Senators Stevens, Hargrove, Schmidt, Carlson, Mulliken, Hewitt, Roach and McAuliffe).

Brief History:

Committee Activity:

Children & Family Services: 2/19/04, 2/26/04 [DPA];
Appropriations: 3/1/04 [DPA(APP w/o CFS)s].

Brief Summary of Engrossed Substitute Bill
(As Amended by House Committee)

- Requires the Department of Social and Health Services to facilitate a case conference following shelter care and prior to fact-finding.

HOUSE COMMITTEE ON CHILDREN & FAMILY SERVICES

Majority Report: Do pass as amended. Signed by 9 members: Representatives Kagi, Chair; Darneille, Vice Chair; Boldt, Ranking Minority Member; Roach, Assistant Ranking Minority Member; Bailey, Dickerson, Miloscia, Pettigrew and Shabro.

Staff: Cynthia Forland (786-7152).

Background:

Case Conference

Following shelter care and no later than 25 days prior to fact-finding, the Department of Social and Health Services (DSHS), upon the parent's request or counsel for the parent's request, is required to facilitate a conference to develop and specify in a written service

agreement the expectations of both the DSHS and the parent regarding the care and placement of the child. In addition, at any other stage in a dependency proceeding, the DSHS, upon the parent's request, is required to facilitate a case conference.

The DSHS is required to invite to the conference the parent, counsel for the parent, the foster parent or other out-of-home care provider, caseworker, guardian ad litem, counselor or other relevant health care provider, and any other person connected to the development and well-being of the child.

The initial written service agreement expectations must correlate with the court's findings at the shelter care hearing. The written service agreement must set forth specific criteria that enables the court to measure the performance of both the DSHS and the parent, and must be updated throughout the dependency process to reflect changes in expectations. The service agreement must serve as the unifying document for all expectations established in the DSHS' various case planning and case management documents and the findings and orders of the court during dependency proceedings.

The court is required to review the written service agreement at each stage of the dependency proceedings and evaluate the performance of both the DSHS and the parent for consistent, measurable progress in complying with the expectations identified in the agreement.

The case conference agreement must be agreed to and signed by the parties. The court must not consider the content of the discussions at the case conference at the time of the fact-finding hearing for the purposes of establishing that the child is a dependent child, and the court must not consider any documents or written materials presented at the case conference but not incorporated into the case conference agreement, unless the documents or written materials were prepared for purposes other than or as a result of the case conference and are otherwise admissible under the rules of evidence.

Notice of Custody and Rights

The written notice of custody and rights that Child Protective Services (CPS) is required to provide to the parents, guardian, or legal custodian of a child taken into custody must include the following text:

You may request that the DSHS facilitate a case conference to develop a written service agreement following the shelter care hearing. The service agreement may not conflict with the court's order of shelter care. You may request that a multidisciplinary team, family group conference, prognostic staffing, or case conference be convened for your child's case. You may participate in these processes with your counsel present.

Information for Parents

The DSHS is required, within existing resources, to provide to parents requesting a multidisciplinary team, family group conference, prognostic staffing, or case conference information that describes these processes prior to the processes being undertaken.

Summary of Amended Bill:

Case Conference

The conference that the DSHS is required to facilitate following shelter care:

- must take place no later than 30 days, rather than 25 days, prior to fact-finding;
- is no longer limited to a request for the conference by the parent or counsel for the parent;
- is specified to be a *case* conference; and
- is to develop and specify in a written service agreement the expectations of both the DSHS and the parent regarding *voluntary services for the parent*, rather than regarding the care and placement of the child.

A shelter care order must include the requirement for a case conference as provided in the bill. The order must include notice to all parties and establish the date, time, and location of the case conference, which must be no later than 30 days prior to the fact-finding hearing.

The following individuals are added to the identified individuals that the DSHS is required to invite to the case conference: counsel for the state, counsel for the child, and any other person agreed upon by the parties. The DSHS is no longer required to invite the following individuals: the foster parent or other out-of-home care provider, counselor or other relevant health care provider, and any other person connected to the development and well-being of the child.

It is provided that once the shelter care order is entered, the DSHS is not required to provide additional notice of the case conference to any participants in the case conference.

The written service agreement must set forth specific services to be provided to the parent. It is no longer required that the written service agreement:

- set forth specific criteria that enables the court to measure the performance of both the DSHS and the parent;
- be updated throughout the dependency process to reflect changes in expectations; and
- serve as the unifying document for all expectations established in the DSHS' various case planning and case management documents and the findings and orders of the court during dependency proceedings.

It is also no longer required that the court review the written service agreement at each

stage of the dependency proceedings and evaluate the performance of both the DSHS and the parent for consistent, measurable progress in complying with the expectations identified in the agreement.

Notice of Custody and Rights

The written notice of custody and rights, which CPS is required to provide to the parents, guardian, or legal custodian of a child taken into custody, must state that the individual receiving the notice has a right to a case conference facilitated by the DSHS. In addition, case conference is removed from the identified processes that the written notice must specify that the individual receiving the notice may request be convened.

Information for Parents

The requirement that the DSHS provide information to parents describing multidisciplinary teams, family group conferences, prognostic staffings, and case conferences includes not only parents requesting any of these processes but also parents *participating in* these processes.

Amended Bill Compared to Engrossed Substitute Bill:

The conference that the DSHS is required to facilitate following shelter care:

- must take place no later than 30 days, rather than 25 days, prior to fact-finding; and
- is to develop and specify in a written service agreement the expectations of both the DSHS and the parent regarding *voluntary services for the parent*, rather than regarding the care and placement of the child.

A shelter care order must include the requirement for a case conference as provided in the bill. The order must include notice to all parties and establish the date, time, and location of the case conference, which must be no later than 30 days prior to the fact-finding hearing.

The following individuals are added to the identified individuals that the DSHS is required to invite to the case conference: counsel for the state, counsel for the child, and any other person agreed upon by the parties. The DSHS is no longer required to invite the following individuals: the foster parent or other out-of-home care provider, counselor or other relevant health care provider, and any other person connected to the development and well-being of the child. The invitation requirement is no longer limited to those *who are available*.

It is provided that once the shelter care order is entered, the DSHS is not required to provide additional notice of the case conference to any participants in the case conference. The DSHS is no longer required to notify the parents that they may have up

to two advocates accompany them to the case conference. It is also no longer required that all available case conference participants must receive written notice at least seven business days prior to the case conference date, notifying them of the date, time, and location of the case conference.

The written service agreement must set forth specific services to be provided to the parent. It is no longer required that the written service agreement:

- set forth specific criteria that enables the court to measure the performance of both the DSHS and the parent;
- be updated throughout the dependency process to reflect changes in expectations; and
- serve as the unifying document for all expectations established in the DSHS' various case planning and case management documents and the findings and orders of the court during dependency proceedings.

It is also no longer required that the court review the written service agreement at each stage of the dependency proceedings and evaluate the performance of both the DSHS and the parent for consistent, measurable progress in complying with the expectations identified in the agreement.

Appropriation: None.

Fiscal Note: Available on substitute bill. Requested on amended engrossed substitute bill February 26, 2004.

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

Testimony For: This is a follow-up to a bill passed a few years ago. Parents whose children have been removed are in a state of shock and anger. Although there are things that those parents can do to get their children back, they are not in a condition to hear and understand that. This bill requires notification of parents by the DSHS. The bill limits the number of advocates that the parent can bring in order to prevent the meeting from becoming cumbersome. The bill also requires a reasonable number of days' notice of the case conference. This bill should ease the burden on public defenders. The bill should result in savings in foster care, as well as in other areas. The bill should be amended to include counsel to the child in the list of individuals invited to the case conference. There may be some confusion concerning the advocates that the parent is allowed to bring to the conference. It is not clear who those advocates may be or what their role would be. There is the possibility that individuals who are not involved in the case could have access to sensitive and confidential information. ESSB 5413 was not fully implemented by the DSHS. The DSHS is committed to improving implementation of that law with reports to the Legislature on that implementation. This bill would have a fiscal impact since it requires staff to facilitate these conferences in all cases. Courts in

the state with experience with case conferences have found them to be very effective. They reduce out-of-home placements and facilitate reunifications. Any expansion of the use of case conferences is a good thing. The bill should be amended to provide a definition of "case conference" to make the Legislature's expectations clear. ESSB did not become standard practice in the state. The original idea was to get everybody on the same page early on. Families should be involved in a meaningful way throughout the process. Anything that helps parents, children, and advocates become aware of what the situation is, what the opportunities are, and what is expected of them is helpful as soon as possible in the process for the best outcome for those children and families. Parents need to understand what is going on. These kind of meetings help with the stability of placements and will relieve the system of the constant in and out of court. These meetings should be standard procedure.

Testimony Against: None.

Persons Testifying: (In support) Senator Val Stevens, prime sponsor; Ali Pearson, Washington State Defenders Association and Washington State Association of Criminal Defense Lawyers; LaVerne Lamoureux, Children's Administration of the Department of Social and Health Services; Martha Harden, Superior Court Judges Association; Laurie Lippold, Children's Home Society; Kevin Glackin-Coley, Children's Alliance; and Donna Christensen, Washington State Catholic Conference.

Persons Signed In To Testify But Not Testifying: None.

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: Do pass as amended by Committee on Appropriations and without amendment by Committee on Children & Family Services. Signed by 27 members: Representatives Sommers, Chair; Fromhold, Vice Chair; Sehlin, Ranking Minority Member; Pearson, Assistant Ranking Minority Member; Alexander, Anderson, Boldt, Buck, Chandler, Clements, Cody, Conway, Cox, Dunshee, Grant, Hunter, Kagi, Kenney, Kessler, Linville, McDonald, McIntire, Miloscia, Ruderman, Schual-Berke, Sump and Talcott.

Staff: Amy Skei (786-7140).

Summary of Recommendation of Committee On Appropriations Compared to Recommendation of Committee On Children & Family Services:

A shelter care order must include a provision establishing the case conference unless the parent is not present at the shelter care hearing or does not agree to the case conference.

Changes to the bill permit the court to order a conference or meeting as an alternative to

the case conference so long as the ordered conference includes the requirements of the case conference including a written agreement establishing the services to be provided to the parent. The requirement that the DSHS facilitate a case conference is changed to the requirement that the DSHS convene a case conference.

An effective date of July 1, 2004 is added, as is a null and void clause.

Appropriation: None.

Fiscal Note: Requested on March 2, 2004.

Effective Date of Amended Bill: The bill takes effect on July 1, 2004; however, the bill is null and void unless funded in the budget.

Testimony For: Two years ago legislation was passed creating conferences between parents and the Department on a voluntary basis to give parents information regarding what actions a parent needs to take to get their children back; conferences were held when a parent requested. This bill has the Department set forth to parents that case conferences are available to them. It seems that this should be done within existing resources because it is so necessary; however this should also help the Department improve its track record with the federal government and potentially save money in the long run. The sooner we engage the parents, the sooner we can get children home if that is appropriate, and the sooner we can set up a permanency plan for the child if returning home is not appropriate. Neither the House nor the Senate budget includes funding for this bill. We understand that additional funding may not be available but believe funding for this could come from the House version of the supplemental budget. Case conferencing will bring folks together early on in the process and provide an understanding of what needs to happen in order to get kids home. This should result in better outcomes for kids and is likely to save money in the long run.

Testimony Against: None.

Persons Testifying: Senator Stevens, prime sponsor; Laurie Lippold, Childrens Home Society; and Art Cantrall, DSHS.

Persons Signed In To Testify But Not Testifying: None.