

HOUSE BILL REPORT

SHB 1815

As Passed Legislature

Title: An act relating to the rights of an alleged parent in dependency proceedings.

Brief Description: Concerning the rights of an alleged parent in dependency proceedings.

Sponsors: House Committee on Early Learning & Human Services (originally sponsored by Representatives Kilduff, Rodne, Senn, Muri, Lovick, Ortiz-Self, Orwall and Frame; by request of Department of Social and Health Services).

Brief History:

Committee Activity:

Early Learning & Human Services: 2/15/17, 2/17/17 [DPS].

Floor Activity:

Passed House: 3/6/17, 87-11.

Passed Senate: 4/11/17, 47-2.

Passed Legislature.

Brief Summary of Substitute Bill

- Changes the existing definition of "parent" for purposes of child welfare proceedings to mean a biological parent, adoptive parent, or an individual who has established a parent-child relationship through the Uniform Parentage Act, unless that person's parental rights have been terminated.

HOUSE COMMITTEE ON EARLY LEARNING & HUMAN SERVICES

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 13 members: Representatives Kagi, Chair; Senn, Vice Chair; Dent, Ranking Minority Member; McDonald, Assistant Ranking Minority Member; Frame, Goodman, Griffey, Kilduff, Klippert, Lovick, McCaslin, Muri and Ortiz-Self.

Staff: Luke Wickham (786-7146).

Background:

Establishing and Disestablishing Parentage.

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.

Parentage may be established under the Uniform Parentage Act (UPA) based on a presumption, acknowledgment, or adjudication. A person is a presumed parent if the child was born in the context of marriage or domestic partnership, or shortly thereafter, or if the person resided with the child and openly held the child out as his or her own for the first two years of the child's life.

A person is an acknowledged parent if the person signs an acknowledgment of paternity that is later filed with the State Registrar of Vital Statistics. A person is an adjudicated parent if the person's parentage was determined in a court proceeding. A judgment and order establishing parentage may include terms requiring provision of child support and payment of birth-related costs, establishing residential provisions for the child, and requiring amendment of the child's birth certificate. Temporary orders may be issued while the action is pending.

The procedures and timelines for challenging parentage vary depending on whether the parentage is presumed, acknowledged, or adjudicated. In general, a challenge must be brought within a maximum of four years of the child's birth or establishment of parentage. A signatory may rescind a paternity acknowledgement by filing an action within 60 days of acknowledgement, or by the next court hearing concerning the child, whichever is sooner, and may challenge the acknowledgement only for limited reasons past that point.

There are specific procedures for when genetic testing can be ordered in a parentage action and when a motion for genetic testing can be denied. With certain exceptions, genetic testing must be ordered when supported by a sworn statement of a party alleging or denying the requisite sexual contact between the parties for conception of a child. Parentage of a presumed, acknowledged, or adjudicated parent may be disproved only by admissible results of genetic testing.

Child Welfare Court Proceedings.

The Department of Social and Health Services (DSHS) may file a petition in court alleging that a child should be a dependent of the state due to abuse, neglect, or because there is no parent, guardian, or custodian capable of adequately caring for the child.

If a court determines that a child is dependent, then the court will conduct periodic reviews and make determinations regarding the child's placement, the provision of services by the DSHS, compliance of the parents, and whether progress has been made by the parents.

Under certain circumstances after a child has been removed from the custody of a parent for at least six months pursuant to a finding of dependency, a petition may be filed seeking termination of parental rights.

The definition of "parent" for purposes of child welfare proceedings is the biological or adoptive parent of a child unless the legal rights have been terminated by a court proceeding.

Summary of Substitute Bill:

The definition of "parent" for purposes of dependency and termination of parental rights court proceedings is changed to mean a biological parent, adoptive parent, or an individual

who has established a parent-child relationship under the UPA, unless the legal rights of that person have been terminated through a court proceeding.

Appropriation: None.

Fiscal Note: Available.

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

Staff Summary of Public Testimony:

(In support) This bill aligns the definition of "parent" in child welfare proceedings with the definition provided in the UPA.

(Opposed) There was opposition to the original bill because it did not include biological and adoptive parents, but it looks like these issues were resolved in the substitute bill. If biological and adoptive parents were not included in the definition of "parent," there could be a constitutional issue. If those parents are not included in the definition, those individuals would receive attorneys later on, and this would delay the process.

(Other) The Washington State Office of Public Defense and the DSHS worked together to create the substitute bill. Language which aligns child welfare with family law provides biological and adoptive parents with the same constitutional rights.

Persons Testifying: (In support) Representative Kilduff, prime sponsor; and Jennifer Strus, Department of Social and Health Services.

(Opposed) D'Adre Cunningham, Washington Defender Association and Washington Association of Criminal Defense Lawyers.

(Other) Jacob D'Annunzio, Washington State Office of Public Defense.

Persons Signed In To Testify But Not Testifying: None.