

SENATE BILL REPORT

SHB 1988

As Reported by Senate Committee On:
Human Services, Mental Health & Housing, March 14, 2017
Ways & Means, March 28, 2017

Title: An act relating to implementing a vulnerable youth guardianship program.

Brief Description: Implementing a vulnerable youth guardianship program.

Sponsors: House Committee on Judiciary (originally sponsored by Representatives Ortiz-Self, Santos, McBride and Frame).

Brief History: Passed House: 3/01/17, 92-6.

Committee Activity: Human Services, Mental Health & Housing: 3/14/17 [DPA, w/oRec].
Ways & Means: 3/28/17 [DPA(HSMH), w/oRec].

Brief Summary of Amended Bill

- Creates a new legal proceeding, known as a Vulnerable Youth Guardianship, for immigrant youth 18 to 21 years of age who are abandoned, abused, or neglected.
- Requires the Washington State Task Force Against the Trafficking of Persons to evaluate whether appointing a non-relative guardian may increase the risk of the youth being trafficked and recommend ways to reduce this risk, subject to a specific appropriation for this purpose.

SENATE COMMITTEE ON HUMAN SERVICES, MENTAL HEALTH & HOUSING

Majority Report: Do pass as amended.

Signed by Senators O'Ban, Chair; Miloscia, Vice Chair; Darneille, Ranking Minority Member; Carlyle, Hunt and Walsh.

Minority Report: That it be referred without recommendation.

Signed by Senator Padden.

Staff: Melissa Burke-Cain (786-7755)

SENATE COMMITTEE ON WAYS & MEANS

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.

Majority Report: Do pass as amended by Committee on Human Services, Mental Health & Housing.

Signed by Senators Braun, Chair; Brown, Vice Chair; Rossi, Vice Chair; Honeyford, Vice Chair, Capital Budget ; Ranker, Ranking Minority Member; Rolfes, Assistant Ranking Minority Member, Operating Budget; Frockt, Assistant Ranking Minority Member, Capital Budget; Bailey, Billig, Carlyle, Conway, Darneille, Fain, Hasegawa, Keiser, Miloscia, Pedersen, Rivers, Schoesler, Warnick and Zeiger.

Minority Report: That it be referred without recommendation.

Signed by Senator Padden.

Staff: Julie Murray (786-7711)

Background: In 1990, Congress created the Special Immigrant Juveniles (SIJ) status in the Immigration Act of 1990, Sec. 101(a)(27)(J). In 2008, the Trafficking Victims Protection and Reauthorization Act made changes to the eligibility requirements for SIJ status and streamlined certain SIJ procedures. The SIJ status is designed for non-United States citizen children in the United States who do not have a permanent residence. The program protects an undocumented, unmarried immigrant under 21 years of age from deportation if specific state court action occurs and a state court order makes specific findings regarding the child. Foreign born children in the United States under 21 years of age who are abused, abandoned, or neglected, are unmarried, and are unable to reunite with a parent, qualify to apply for the federal SIJ program. The SIJ program authorizes the child to get a green card and permanent resident status in the United States. A child who gets a green card through the SIJ program can never petition for a green card for their parents and cannot petition for a green card for a sibling until the SIJ child becomes a United States citizen.

A foreign born child is not eligible to apply for the SIJ program without first obtaining a predicate order from a state court with jurisdiction over the care and custody of children. Depending on the state-specific court structure, jurisdiction may lie with a state's family court, probate court, juvenile court or district court; either under specific statutes, extended dependency or foster care programs, under a state court's inherent authority, or equity jurisdiction. Many states have processes for obtaining a predicate order, for example: Nebraska, Virginia, Colorado, Texas, Oregon, Idaho, Alaska, Ohio, California, New York, New Jersey, Oklahoma, Florida, Connecticut, Illinois, Iowa, Pennsylvania, North Carolina, South Carolina, Missouri, and Maryland.

In its predicate order, the state court must find:

- the child a dependent of the court, or must place the child in a state agency's custody or the custody of a private agency or private person;
- it is not in the child's best interests to be returned to their home country; and
- the child cannot be reunited with a parent because of any of the following reasons: abuse, abandonment, neglect, or a similar state law-specific reason.

To apply to the program, the SIJ must supply the predicate state court order and other documents to United States Citizenship and Immigration Services (USCIS) and the Department of Homeland Security (DHS), the entities with sole responsibility for adjudicating the SIJ application. The federal SIJ law allows a person under 21 years of age

to qualify for SIJ status. However, immigrant children in Washington State have not been able to qualify for the SIJ program because Washington's juvenile courts have generally been unable to take jurisdiction of these children since Washington's jurisdiction over dependent children is very limited after a child turns 18 years of age. Therefore, children who may otherwise qualify for SIJ status under the federal law have not been able to obtain this status in Washington.

Summary of Amended Bill: Vulnerable Youth Guardianship Petition Requirements. The juvenile divisions of the superior courts are authorized to appoint a guardian for a consenting vulnerable youth between 18 and 21 years of age who files a petition showing the following:

- both the vulnerable youth and the proposed guardian agree to the establishment of a guardianship;
- the youth is between 18 and 21 years of age, is unmarried, and is abandoned, abused, or neglected;
- the youth is prima facie eligible to apply for federal SIJ status; and
- the proposed guardian is a suitable adult over 21 years of age who is capable of performing the specified duties of a guardian and has passed a criminal background check.

The guardianship order may specify the guardian's other rights and responsibilities concerning the care, custody, and nurturing of the vulnerable youth and may require additional court oversight. The guardian may not retain possession of the youth's identity documents. The youth retains all state law rights as an adult. The guardianship terminates when the youth turns 21 years of age or may be modified or terminated earlier at the youth's request or at the guardian's request when a substantial change in circumstances occurs.

The Washington State Task Force Against the Trafficking of Persons (Task Force) will evaluate whether vulnerable youth guardianships may increase the risk that the youth may be trafficked when the guardian is a non relative. If so, the Task Force will research and identify ways to reduce this risk and report its findings to the Legislature by January 1, 2019.

EFFECT OF HUMAN SERVICES, MENTAL HEALTH & HOUSING COMMITTEE AMENDMENT(S):

- Clarifies that the work to be performed by the Washington State Task Force Against the Trafficking of Persons under the bill is made subject to the availability of funds appropriated for that specific person.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

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

Staff Summary of Public Testimony (Human Services, Mental Health & Housing): No public hearing was held.

Persons Testifying (Human Services, Mental Health & Housing): N/A.

Persons Signed In To Testify But Not Testifying (Human Services, Mental Health & Housing): N/A.

Staff Summary of Public Testimony (Ways & Means): No public hearing was held.

Persons Testifying (Ways & Means): N/A.

Persons Signed In To Testify But Not Testifying (Ways & Means): N/A.