

SENATE BILL REPORT

SB 6453

As Reported by Senate Committee On:
Human Services & Corrections, January 30, 2018
Ways & Means, February 6, 2018

Title: An act relating to legal support for kinship caregivers.

Brief Description: Concerning legal support for kinship caregivers.

Sponsors: Senators King, Carlyle, Hobbs, Zeiger, O'Ban, Walsh, Brown, Darneille, Miloscia, Palumbo and Saldaña.

Brief History:

Committee Activity: Human Services & Corrections: 1/23/18, 1/30/18 [DPS-WM].
Ways & Means: 2/05/18, 2/06/18 [DP2S].

Brief Summary of Second Substitute Bill

- Authorizes the Department of Social and Health Services (DSHS) to purchase legal representation for kinship caregivers of children who are dependent or at risk of being dependent for the purposes of establishing other relevant civil legal relationships within existing appropriations.

SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS

Majority Report: That Substitute Senate Bill No. 6453 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Darneille, Chair; Dhingra, Vice Chair; O'Ban, Ranking Member; Carlyle, Frockt and Miloscia.

Staff: Brandon Popovac (786-7465)

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: That Second Substitute Senate Bill No. 6453 be substituted therefor, and the second substitute bill do pass.

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.

Signed by Senators Rolfes, Chair; Frockt, Vice Chair; Braun, Ranking Member; Bailey, Becker, Billig, Brown, Carlyle, Conway, Darneille, Fain, Hasegawa, Hunt, Keiser, Mullet, Palumbo, Pedersen, Ranker, Rivers, Schoesler, Van De Wege, Wagoner and Warnick.

Staff: Maria Hovde (786-7474)

Background: In 2001, the Legislature directed the Washington State Institute for Public Policy (WSIPP) to study the prevalence and needs of families who are raising related children. In June 2002, WSIPP issued a report describing the prevalence and characteristics of kinship care, needs of kinship care providers in the state, policies and services available in Washington and other states, and policy options that may increase appropriate kinship care placements.

In 2001-2002, a Kinship Caregivers Workgroup and Task Force for Kinship Care were formed and made a number of recommendations to the Legislature, including for DSHS to expand efforts to locate kin for children in need of services and that special efforts should be taken to assist kin in their interaction with DSHS when providing services to children.

In 2003, the Legislature directed DSHS to implement strategies to increase the number of children placed with willing and able relatives when out-of-home placement is required. At a minimum, DSHS was required to develop a standardized, statewide protocol to be used for relative search activities, and develop a policy for conducting active outreach efforts to identify and locate relatives during initial and ongoing searches. Kin was and remains defined as any person 18 years of age or older to whom a child is related by blood, adoption, or marriage, and means any persons denoted by the prefix grand or great, a full, half, or step sibling, an uncle or aunt, a nephew or niece, or a first cousin.

In 2017, the Legislature authorized DSHS to purchase legal representation for parents of children who are dependent or at risk of being dependent to establish a parenting plan when necessary for the child's safety, permanence, or well-being, but that such authority does not create an entitlement for the receipt of legal representation.

On July 1, 2018, the Department of Children, Youth, and Families will assume child welfare services from DSHS.

Summary of Bill (Second Substitute): Within existing appropriations, DSHS may purchase legal representation for parents or kinship caregivers, or both, of children who are dependent or at risk of being dependent for the purposes of modifying a parenting plan as part of a non-parental action for child custody or establishing other relevant civil legal relationships. Legal representation purchased by DSHS for kinship caregivers is not an entitlement.

DSHS is encouraged to work with the office of public defense parent representation program and office of civil legal aid to develop a cost-effective system for providing civil legal representation for parents and kinship caregivers.

EFFECT OF CHANGES MADE BY WAYS & MEANS COMMITTEE (Second Substitute):

- Declares that DSHS' purchase of legal representation for kinship caregivers must be within existing appropriations.

EFFECT OF CHANGES MADE BY HUMAN SERVICES & CORRECTIONS COMMITTEE (First Substitute):

- Authorizes DSHS to purchase legal representation for parents and kinship caregivers involved in non-parental actions for child custody.
- Clarifies the definition of “kinship caregiver” to mean a caregiver that meets the definition of “kin” in statute.
- Clarifies that if the child under the kinship caregiver’s care is an Indian child, the term “kinship caregiver” means a caregiver who is an extended family member as defined under the Indian Child Welfare Act.
- Clarifies that DSHS is encouraged to work with the Office of Public Defense and Office of Civil Legal Aid if DSHS exercises its authority to provide legal representation.

Appropriation: None.

Fiscal Note: Available.

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

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

Staff Summary of Public Testimony on Original Bill (Human Services & Corrections):

The committee recommended a different version of the bill than what was heard. PRO: The best placement for a foster child is with a relative. Kinship caregivers do not receive the same benefits that other non-relative foster parents receive. For every one child in foster care there are eight in the care of a relative. The objective of the bill is to achieve stability for children. The state currently does a good job of placing kids with relatives. Many kinship caregivers are attempting third-party custodies, which can be expensive and time consuming. In Washington State, over 39,000 children are being raised by 43,000 caregivers. About 80 percent of kinship caregivers are providing care due to parental addiction issues. The bill will help caregivers to achieve permanency to get kids out of the system and keep them out of the system. Some caregivers have to file for non-parental custody to achieve a form of permanency. Legal representation is the second highest request among caregivers after financial need. Third-party custody paperwork is difficult for caregivers to navigate. Some local clinics are extremely overbooked for legal services. Kinship caregivers keep children safe from parents that are unable to care or support them. The Center for Children & Youth Justice has been conducting a pilot project for the last two years that is addressing issues covered under the bill. About one-third of families served under the pilot project are kinship caregivers. There is inconsistency among counties in providing legal services for caregivers. It can take an additional three to six months of legal representation for cases involving certain parenting plans. Clarifying amendments are needed for the bill to move forward. The kinship caregiver definition should include the extended family member definition under the Indian Child Welfare Act. The bill should have no fiscal impact since it does not create an entitlement to legal representation.

Persons Testifying (Human Services & Corrections): PRO: Senator Curtis King, Prime Sponsor; Laurie Lippold, Partners for Our Children; Mary Pleger, Catholic Charities; LeAnn LaBissoniere, Parish Outreach Coordinator, Catholic Charities; Shelly Willis, Executive Director, Family Education and Support Services; Jim Bamberger, Director, Office of Civil Legal Aid; Gina Cumbo, Center for Children & Youth Justice; Joanne Moore, Washington State Office of Public Defense.

Persons Signed In To Testify But Not Testifying (Human Services & Corrections): No one.

Staff Summary of Public Testimony on First Substitute on First Substitute (Ways & Means): *The committee recommended a different version of the bill than what was heard.*
PRO: This bill will prevent some cases from entering the foster care system and will facilitate more cases leaving the system. This bill gives DSHS the legal authority to purchase legal representation for kinship caregivers, it does not mandate them to do so. Legal services are a very high priority need for kinship caregivers according to a study by the Washington State Institute for Public Policy.

Persons Testifying (Ways & Means): PRO: Jim Bamberger, Office of Civil Legal Aid; Laurie Lippold, Partners for Our Children.

Persons Signed In To Testify But Not Testifying (Ways & Means): No one.