

SENATE BILL REPORT

SB 6467

As of January 25, 2018

Title: An act relating to families in need of services.

Brief Description: Concerning families in need of services.

Sponsors: Senators Darneille, O'Ban, Hasegawa and Kuderer.

Brief History:

Committee Activity: Human Services & Corrections: 1/22/18.

Brief Summary of Bill

- Creates a families in need of services (FINS) petition model that replaces and merges the at-risk youth (ARY) and child in need of services (CHINS) petition model, while expanding the definition of petitioner to include a youth, parent, or other suitable adult.
- Requires the assignment of a juvenile services case manager who provides family support throughout all stages of the petition.
- Authorizes a youth to request an order for temporary out-of-home placement for 14 days upon filing a FINS petition.
- Requires the creation of a family services plan that is facilitated by the case manager with preference given to a multidisciplinary team (MDT) on plan elements.
- Requires the court to enter an order on fact-finding and issue a disposition to determine a family services plan, with agreed orders to be presented ex parte by the case manager, but if there is no agreement, the court becomes involved.
- Authorizes out-of-home placement in a HOPE/CRC facility, and under a newly created transitional success program if no other out-of-home placement is available.
- Limits juvenile detention for safety purposes and not as a sanction for contempt.
- Requires research on FINS outcome evaluation to determine system effectiveness, including housing stability.

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.

SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS

Staff: Brandon Popovac (786-7465)

Background: Family Reconciliation Act (FRA). In 1990, the Legislature amended the Juvenile Justice Act of 1977 to enact the FRA. The FRA provides services and assistance for families that are in conflict and dealing with children who run away, have substance abuse problems, or who are endangered because of behavior that their parents are unable to control. A parent, child, or the Department of Social and Health Services (DSHS) may seek court assistance by filing an at-risk youth or child in need of services petition.

ARY. An ARY is defined as a child under the age of 18 who meets at least one of the following three requirements:

- is absent from home for at least 72 consecutive hours without parental consent;
- is beyond parental control such that the child's behavior endangers the health, safety, or welfare of the child or any other person; or
- has a substance abuse problem for which there are no pending criminal charges relating to the substance abuse.

Only the parent or guardian of the child may file an ARY petition. The purpose of filing an ARY petition is to obtain assistance and support from the juvenile court in maintaining the care, custody, and control of the child and to assist in the resolution of family conflict, after alternatives to court intervention have been attempted. The ARY proceeding is a voluntary process and a parent or guardian may request dismissal at any time.

CHINS. A CHINS is defined as a child under the age of 18 who meets at least one of the following requirements:

- is beyond parental control such that the child's behavior endangers the health, safety, or welfare of the child or other person;
- has been reported to law enforcement as absent without consent for at least 24 consecutive hours from the parent's home, a crisis residential center (CRC), an out-of-home placement, or a court-ordered placement on two or more separate occasions and has exhibited a serious substance abuse problem or behaviors that create a serious risk of harm to the health, safety, or welfare of the child or any other person;
- is in need of necessary services, including food, shelter, health care, clothing, educational, or services designed to maintain or reunite the family and lacks access to or has declined to utilize these services, and whose parents have evidenced continuing but unsuccessful efforts to maintain the family structure or are unable or unwilling to continue efforts to maintain the family structure; or
- is a sexually exploited child.

A child, parent, or guardian, or DSHS may file a CHINS petition. The purpose of filing a CHINS petition is to obtain a court order mandating temporary placement, for up to six months, of the child in a residence other than the home of the child's parent or guardian. Petitions are filed because a serious conflict exists between the parent and child that cannot be resolved by delivery of services to the family during continued placement of the child in

the parental home, and reasonable efforts have been made to prevent the need for removal of the child from the parental home.

Summary of Bill: The ARY and CHINS petition models under the FRA are replaced with a FINS petition model.

Petition Filing and Contents. A FINS petition may be filed by a youth, parent, or other suitable adult. For filing purposes, other suitable adult is defined as any adult with whom the youth or family has a preexisting relationship. The petition must be filed in the county juvenile court, which has original jurisdiction, where the petitioner physically resides. The petition may not be filed, and the court may not grant a petition filed, by a youth subject to a dependency proceeding. The petition must set forth facts supporting the allegations and request for available relief.

The petition may be filed by a parent or other suitable adult if the youth's behavior presents an imminent risk to self, intervention and case management support are necessary, and previous unsuccessful attempts at court intervention have occurred.

The petition may be filed by a youth if the youth has basic immediate needs, the youth is at a HOPE center or CRC without a place to live and there is no agreement on where the youth will reside, or the youth is at a HOPE center or CRC and has no suitable place to live after best efforts to contact parents within the required 72-hour timeframe.

If a petition is filed by a parent or other suitable adult, the parent or other suitable adult must serve a copy of the petition to the youth. If a petition is filed by a youth, the court must serve a copy of the petition on the parent. The Indian Child Welfare Act applies if a petition is filed and the court or petitioner knows that an Indian child is involved. After a petition is filed, the juvenile court must appoint a juvenile case manager and legal counsel, review any request for temporary out-of-home placement made by the youth, and schedule a fact-finding hearing.

Temporary Placement Order. A youth may request a temporary order for out-of-home placement upon filing a petition if the youth and parents do not agree on placement. Before the request is made, the youth must meet with the juvenile services case manager and provide out-of-home placement options, including the names and birthdates of all adults in the proposed home. The juvenile services case manager must perform a background check that includes a state court database history and Child Protective Services screening, and make a good faith effort to notify the parents or other suitable adult of the youth's request. The court may either grant the request, which is valid for 14 days pending the fact-finding hearing and placement approval, or deny the request.

Family Services Plan. The family services plan must be designed to alleviate threatening situations to the health, safety, or welfare of the child or family and to maintain intact families when possible. The family services plan must include services to help families develop skills and supports to resolve problems or family conflicts. The family services plan must also include a residential plan for the youth, a family-focused or individual service plan, and general conduct of the parties.

Juvenile Services Case Manager and MDT. The juvenile services case manager is an employee of the court—unless the court contracts out for these services—hired to provide support and case management services to the youth and families under a FINS order. The juvenile services case manager must attempt to initiate in-person contact with the youth and parent or other suitable adult if possible, determine if an MDT should be convened to facilitate the family services plan, and, if so, facilitate the MDT discussion in reaching an agreement on the family services plan. An MDT is preferred to help reach an agreement on the family services plan.

An MDT is a group formed and convened by the juvenile services case manager to provide assistance and support to a family in need of services. An MDT must include the youth's attorney or the attorney's designee and may include a parent, certain medical and social service professionals, and extended family members.

Fact-Finding and Disposition Order. After the proper filing of a petition, the court must approve or deny the petition and issue written findings. The court must also enter an order on fact-finding to accept jurisdiction and issue a disposition to the family service plan. The fact-finding and disposition review may be held simultaneously or separately. The court must find beyond a preponderance of the evidence that support and intervention is in the family's best interest to approve a petition. The court must enter an order on the petition on or before the date of the fact-finding hearing. The order on fact-finding, which grants the petition and accepts jurisdiction, may be entered ex parte by agreement of the parties, or the court must conduct fact finding if there is a dispute about the merits or disposition of the petition. A disposition hearing regarding the contents of the family services plan must be held within 14 days.

The disposition order must include provisions for case management support of the order, coordination assistance for providing court-ordered services, and updates at subsequent petition hearings. The disposition order must also schedule the petition case for review within three months and notify the parties of such date. If the disposition order is not ordered simultaneously with the fact-finding order, a disposition review hearing must be held within 14 days after approval of the petition. Notice of the review hearing must be provided to the parties and juvenile services case manager. If there is an agreement on the family services plan that is reviewed by an MDT, if possible, a disposition order may be entered ex parte without the parties being present in court.

Placement. The court must enter an order on placement of the youth as part of the family services plan at the disposition review hearing and any subsequent petition hearings. Placement of the youth in or out of the home must be based on a preponderance of the evidence, and must be discussed with the MDT, if possible. If placement is authorized out of the home by the court, a youth may be placed in a HOPE center or CRC if no other suitable out-of-home placement exists. If placement out of the home is agreed with a parent's permission, a background check is not required. If the parent fails to respond or cannot be found, the court must order out-of-home placement. If there is no agreement on out-of-home placement, the court may require the youth to return to the family, place the youth in a Department of Children, Youth, and Families (DCYF) licensed facility, or place the youth in an out-of-home placement, with review on placement to take place within three judicial days.

The court may approve a disposition order continuing or commencing out-of-home placement if, by a preponderance of the evidence:

- the family is unable to safely reside together while participating in case management and interventions;
- problems cannot be resolved by delivery of services to the family during continued placement in the family home;
- reasonable efforts have been made to prevent the need for removal from the family home; and
- a suitable out-of-home placement resource is authorized.

Upon out-of-home placement in the disposition order, the court must specify the person or agency with whom the youth is placed, the court may extend out-of-home placement no more than 90 days, and the court must give preference on placement to the parent.

Any party to the FINS petition may make a motion to consider a change in placement and, if properly filed, must be scheduled within three judicial days. If the court authorizes placement in a HOPE center or CRC, the placement may continue for as long as permitted by the court in the best interests of the family. Youth are also eligible for placement in a transitional success program, which is intended as an alternative for youth for whom no other services have been successful or appropriate. However, a transitional success program may also be offered as part of a HOPE center. The court may order DCYF to be a party to the case to screen the youth for purposes of filing a dependency petition, or to place the youth in licensed care only if the court finds that all other options for placement have been exhausted.

Disposition Review Hearing. Before the disposition review hearing, the juvenile services case manager must consult with the attorneys of record before determining if an MDT should be convened to review the status of the family and consider changes to the family services plan. If the juvenile services case manager, after consultation with the attorneys of record, determines that an MDT should be convened, the juvenile services case manager must consult with the parties to decide which individuals to invite to the MDT. The MDT must consider the status of the youth and family and discuss modifications to the family services plan, including placement, services, and conduct of the parties. If the parties agree to the family services plan, the disposition review hearing may be canceled and the order presented ex parte by the juvenile services case manager. If the parties do not agree to the family services plan, the disposition review hearing must proceed and the court must determine whether the youth and family are complying with the family services plan. The court may modify the family services plan.

If the juvenile services case manager, after consultation with the attorneys of record, determines that an MDT should not be convened, the juvenile services case manager, and attorneys of record if available, must meet with the parties to review the status of the youth and family and discuss modifications to the family services plan, including placement, services, and conduct of the parties. If the parties agree to the family services plan, the disposition review hearing must be canceled and the order or review presented ex parte. If the parties do not agree to the family services plan, the disposition review hearing must proceed and the court must determine whether the youth and family are complying with the family services plan. The court may modify the family services plan.

If the parties disagree on the family services plan at any other time, a court hearing on review must be scheduled to determine whether reasonable efforts have been made to reunify the family and make it possible for the youth to return home. The court must discontinue the placement and order the youth to return home if the court believes the parents have made reasonable efforts to resolve the conflict and the the child's refusal to return home is capricious.

Violations, Contempt, and Detention. Any party failing to comply with a FINS order is subject to contempt. All parties must be notified in the family services plan and disposition order of the possibility of a contempt finding. If a party fails to comply with the family services plan, the juvenile services case manager must be notified, attempt to address the alleged violation and determine if it can be resolved, and consult with appointed attorneys to determine if an MDT should be convened. If an MDT is convened, the members must review the allegations, determine if there is a violation, and suggest a remedy or consequence. If all resolutions have been exhausted and the violation is not remedied, the juvenile services case manager must inform the parties about possible contempt proceedings.

A court may impose up to \$1,000 for parental noncompliance, and placement in a secure CRC, electronic home monitoring, community service, evaluations, or treatment for youth noncompliance.

Secure confinement in a juvenile detention center is not authorized as a contempt sanction but only for when the court issues an order with written findings that the youth's behavior poses imminent risk to the youth's health, safety, or welfare. Such an order may be entered ex parte without notice to any party. Following the youth's admission to detention, a review hearing must be held within 24 hours where the court must determine to continue to hold or release the youth based on the youth's likelihood of appearing for the next hearing and a risk to self. If continued detention is ordered pending the contempt hearing, the hearing must be held within 72 hours. The use of juvenile detention under the bill is set to expire with the valid court order for juvenile detention provisions under SSB 5596 (2018).

Dismissal. The court may retain jurisdiction in a FINS proceedings as it deems necessary. Support through the court may not exceed 180 days from the date of the disposition review hearing unless there are compelling reasons for an extension, which may not exceed 90 days. The court may dismiss the FINS proceedings at any time for good cause. The court must hold a review hearing nine months from the date it retained jurisdiction on the FINS proceedings to determine if dismissal is in the best interest of the youth based on evaluating the family services plan, housing stability for the youth, and long-term plan recommendations for the youth.

If there is no long-term plan or placement for the youth, the court may retain jurisdiction for up to three additional months to obtain stable housing for the youth or grant concurrent jurisdiction to another court. The court may extend jurisdiction until the youth reaches 18 if the court finds it is not safe for the youth to return home and a dependency or alternative custody has not been established.

72-hour Shelter. Shelter and related services may be provided to a consenting minor for up to 72 hours without the consent of a parent if the provider reasonably believes that the minor

communicated informed consent and the services are necessary to ensure the youth's safety and well-being. The provider must attempt to notify the minor's parent every 24 hours with documentation of such effort.

Evaluation. The Center for Court Research must establish a research plan to determine the effectiveness of the FINS system. The plan must include a collection of demographics and characteristics of system-involved youth and families, the impact of interventions under FINS, and relevant outcomes regarding housing stability, educational progress, and access to publicly funded services. The Center must also make recommendations regarding data collection required under the FINS system.

Appropriation: None.

Fiscal Note: Requested on January 17, 2018.

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

Effective Date: The bill takes effect on July 1, 2018.

Staff Summary of Public Testimony: PRO: The state can step up and implement more evidence-based practices for families. Truancy is not simply a youth skipping school but is also a challenge for families. The current version of the bill is a work in progress. The bill proposal offers a holistic approach to keep kids out of juvenile detention. It is critical for the Legislature to respond to the youth homelessness crisis. The bill would remove procedural roadblocks to receiving services and better facilitate family reunification.

The bill is designed to strengthen families and prevent youth homelessness, and keep youth safe during family crises. Research shows that 90 percent of youth cite family conflict as the cause of their homelessness. Parents have complained that the existing ARY/CHINS system is too complicated and difficult to navigate, or services are just not available. Families still have issues with taking their problems to court. Research shows that detention is traumatic for youth, furthers feelings of alienation, and exacerbates clinical symptoms. Some youth feel aged out of some services while simultaneously too young to receive other services.

The bill is critical to prevent youth from falling through the cracks of our state. A FINS system would allow youth to stay in one shelter and one school. It is very discouraging when a youth asks for family services and is turned away. Most clients need help and support during short-term family crises. The bill would provide youth access to more existing shelter options. The transitional success program is another important step the Legislature should fund and support.

The FINS system would provide immediate counseling services to families. A recent FINS survey of stakeholders with 182 responses collected expressed that the current ARY/CHINS system is burdensome and lacks transparency, but the original intent of the system is still meaningful. There is concern about the FINS system's ability to serve smaller counties with limited capacity.

CON: The bill would remove the use of detention for youth held in contempt of a court order, and such order is a core component of the court process. For chronically non-compliant youth, detention is needed to preserve a safe and secure environment. There are very few CRC and HOPE center beds to meet demand in some counties. There needs to be proper placements and available resources for the bill to work. The role of courts and screening out-of-home placements under the bill would be difficult to implement for training and assignment purposes. Not every county has adequate FFT services.

The detrimental impacts of juvenile detention on youth is significant, but one or two days in detention can be life-saving. Judges prefer not to put kids in juvenile detention, but there are not enough secure CRC beds across the state as an alternative. One possible solution is to place preference with MDT recommendations before remedial sanctions are ordered. If courts cannot enforce an order, it is no longer an order but an invitation. There are funding problems as well. Safety is defined on a fact-dependent, case-by-case basis. Every county sending youth offenders to a secure CRC might be an alternative to detention.

OTHER: The general intent of the bill is supported. Parents may face conflicting information when attempting to file an ARY/CHINS petition. The current Becca bill proceedings needs to be reexamined and perhaps focus on working with the newly created DCYF.

Persons Testifying: PRO: Senator Jeannie Darneille, Prime Sponsor; Laurie Lippold, Partners for Our Children; Mary Van Cleve, Columbia Legal Services; Kim Williams, TeamChild; Blessing Ponder, citizen; Kimberly Ong, Center for Children & Youth Justice; Jim Theofelis, A Way Home Washington; Shoshana Wineburg, YouthCare; Sierra Phillips, The Mockingbird Society; Laurel Simonsen, Managing Attorney, Center for Children & Youth Justice.

CON: Jim Madsen, Juvenile Court Administrator, Mason County; Sean O'Donnell, Superior Court Judge, King County.

OTHER: Patrick Dowd, Office of the Family and Children's Ombuds.

Persons Signed In To Testify But Not Testifying: No one.