

HOUSE BILL REPORT

2SSB 5341

As Passed Legislature

Title: An act relating to insurance for foster parents.

Brief Description: Providing liability insurance to foster parents.

Sponsor(s): Senate Committee on Ways & Means (originally sponsored by Senators L. Kreidler, Bailey, Murray, Talmadge, Stratton and Bauer).

Brief History:

Reported by House Committee on:
Human Services, April 4, 1991, DPA;
Passed House, April 9, 1991, 98-0;
Passed Legislature, 98-0.

**HOUSE COMMITTEE ON
HUMAN SERVICES**

Majority Report: *Do pass as amended.* Signed by 11 members: Representatives Leonard, Chair; Riley, Vice Chair; Winsley, Ranking Minority Member; Tate, Assistant Ranking Minority Member; Anderson; Beck; Brekke; Hargrove; Hochstatter; R. King; and H. Myers.

Staff: David Knutson (786-7146).

Background: According to the Foster Parent Liability Task Force study conducted in 1989, there are 6,100 licensed foster homes in the state. They serve a population of children placed for long term, short term and treatment based care. Until 1985, the State purchased commercial insurance for foster parents at an annual cost of between \$73,400 to \$87,054. In 1986, due to an increase in cost to \$137,700, and only one available carrier, the coverage was cancelled. The Department of Social and Health Services (DSHS) began to provide coverage under the Foster Parent Reimbursement Plan for property damage or loss and initial emergency medical treatment. The limits are \$5,000 per occurrence. Under a 1989 law the attorney general will provide a defense, but the act did not provide for payment of judgments against foster parents.

Claims for personal injury liability may be covered by homeowner's policies, although common exclusions apply to

severely limit coverage for claims arising out of the foster parent experience. The carriers serving the homeowner's market reported no plans to extend coverage to foster parent related claims.

Several states have taken steps to provide insurance coverage for foster parents either through the purchase of a group commercial policy, assessment of insurers doing business in the state to fund a pool, or a self-insurance program. Under these state programs, foster homes are typically afforded \$300,000 per occurrence annual coverage. Two commercial carriers reported to the task force that they would make coverage available to the state for an annual premium of approximately \$315,000 but the foster parents report the coverage is not broad enough.

Summary of Bill: The Legislature recognizes that foster parents take unique liability risks caring for foster children that may prevent some foster parents from serving. Assuring insurance to cover those risks may encourage those people to serve.

The State is required to provide foster parents with liability insurance, through either the purchase of commercial coverage or self-insurance at a cost of up to \$500,000 per biennium. In actions for personal injury or property damage done by foster children or their parents against foster parents, the foster parent liability for the care and supervision of their foster children is made identical to natural/adoptive parents.

If the secretary opts to self-insure, he or she may set by rule an upper limit to claims paid. An emergency clause is removed. The act is made contingent upon funding in the budget.

Fiscal Note: Available.

Effective Date: The bill takes effect July 1, 1991. However, the bill is null and void unless funded in the budget.

Testimony For: If the State wants to recruit and keep foster parents, it needs to provide them with some liability coverage.

Testimony Against: Technical amendments are necessary to limit potential liability.

Witnesses: Senator Kreidler (pro); Margaret Casey, Children's Budget Coalition (pro); Laurie Lippold, Children's Home Society (pro); and Steve Gustaveson,

Attorney General's Office (con, unless technical amendments are adopted, which the committee subsequently did).