

HOUSE BILL REPORT

SSB 5474

As Reported by House Committee On:
Children & Family Services

Title: An act relating to improving services for kinship caregivers.

Brief Description: Creating a kinship caregiver's authorization affidavit.

Sponsors: Senate Committee on Children & Family Services & Corrections (originally sponsored by Senators Regala, Stevens, McAuliffe, Carlson, Kohl-Welles, Winsley and Rasmussen).

Brief History:

Committee Activity:

Children & Family Services: 3/26/03, 4/2/03 [DPA].

Brief Summary of Substitute Bill
(As Amended by House Committee)

- Establishes a kinship caregiver's authorization affidavit.

HOUSE COMMITTEE ON CHILDREN & FAMILY SERVICES

Majority Report: Do pass as amended. Signed by 8 members: Representatives Kagi, Chair; Darneille, Vice Chair; Boldt, Ranking Minority Member; Bailey, Dickerson, Miloscia, Pettigrew and Shabro.

Staff: Cynthia Forland (786-7152).

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 the 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 anticipation of the release of the WSIPP report, the Department of Social and Health

Services (DSHS) was required to convene a kinship caregivers workgroup to review the report and develop a briefing for the Legislature identifying the policy issues related to kinship caregivers, the federal and state statutes associated with these issues, and options to address the issues.

The Kinship Care Workgroup, which the DSHS formed in response, reported to the Legislature in November 2002 with recommendations identifying a number of steps that could be taken by the Legislature or by the DSHS that encompassed the following areas related to kinship care: financial needs; service delivery and practice; legal issues; social services; and issues for federal action.

The Kinship Care Workgroup put forth a total of 16 high priority recommendations, including the recommendation that the state should adopt a Caregiver's Authorization Affidavit, modeled on one that has operated successfully in California since 1994, which would authorize relative caregivers to enroll a child in school and obtain medical care for the child.

Summary of Amended Bill:

A kinship caregiver's authorization affidavit is created that could be used to authorize a kinship caregiver to: enroll a child in school and consent to school-related medical care on behalf of the child in his or her care; or consent, on behalf of the child in his or her care, to dental care and such medical care as necessary to preserve the life or health of the child. "Kinship caregiver" is defined as a person 18 years of age or older who provides parent-like services and support to a child residing with the caregiver, to whom the child is related by blood, adoption, marriage, or former marriage, including a brother, sister, stepbrother, stepsister, half-brother, half-sister, uncle, aunt, niece, nephew, first cousin, or any person denoted by the prefix "grand" or "great." For a child defined as an "Indian child" under the federal Indian Child Welfare Act, the definition of "extended family member" under that law applies.

A kinship caregiver's authorization affidavit is not valid if the kinship caregiver is unlawfully harboring a minor.

The authority of a kinship caregiver to consent to or to refuse medical or dental care for a child is subordinate to any decision of the parent or other person having legal custody of the child, provided the decision of the parent or other person having legal custody of the child does not jeopardize the life, health, or safety of the child.

A kinship caregiver's authorization affidavit will be in effect for 12 months after the date on which it is executed, and renewable every 12 months thereafter.

The kinship caregiver is required to notify the parent or legal custodian of the affidavit.

If the kinship caregiver is unable to locate the parent or legal custodian of the child, the kinship caregiver must send a certified letter/notice to the parent or legal custodian of the child at that individual's last known address informing the parent or legal custodian of the affidavit. The kinship caregiver must attach the letter/notice to the affidavit along with the certified mail receipt documenting that the letter was not deliverable. In addition, the kinship caregiver must perform and document at least one of the following:

- Visit the last known address of the parent or legal custodian;
- Attempt to determine the location of the parent or legal custodian by contacting that individual's place of employment, health care provider, or friends;
- Place a notice in the newspaper informing the parent or legal custodian of the affidavit; or
- Demonstrate that the parent or legal custodian cannot be found.

If the child ceases to reside with the kinship caregiver, the kinship caregiver must within three days, excluding weekends and holidays, notify any and every school, health care provider, carrier, or other person or entity to whom the kinship caregiver has provided the affidavit that the child no longer resides with the caregiver. No further consent to school enrollment or medical care may be given by the former kinship caregiver once the child ceases to reside with the former caregiver.

A person who acts in good faith reliance on a kinship caregiver's affidavit to provide education services or medical or dental care, without actual knowledge of facts contrary to those stated on the affidavit, is not subject to criminal liability or civil liability to any person or professional disciplinary action for such good faith reliance if the applicable portions of the affidavit are completed.

Amended Bill Compared to Substitute Bill:

The definition of kinship caregiver is clarified to include a caregiver who is 18 years of age, expanded to include caregivers related to the child by adoption, and specified to include a brother, sister, stepbrother, stepsister, half-brother, half-sister, uncle, aunt, niece, nephew, first cousin, or any person denoted by the prefix "grand" or "great."

Medical care, to which a kinship caregiver may be authorized to consent, is no longer limited to emergent medical care.

It is provided that an affidavit is not valid if a kinship caregiver is unlawfully harboring a minor.

The period of validity of an affidavit is extended from six months to 12 months, and it is provided that an affidavit is renewable every 12 months. Upon the expiration of an affidavit, the kinship caregiver is no longer required to: return the child to the parent or parents if available; notify the DSHS that the parent or parents are not available; or petition for permanent legal custody if the parent or parents are not available.

The kinship caregiver is no longer required to obtain the consent of the parent or legal custodian of the child to the affidavit. Instead, the kinship caregiver is required to notify the parent or legal custodian of the affidavit.

The kinship caregiver is no longer required to notify law enforcement if the caregiver is unable to contact the child's parents.

If the kinship caregiver is unable to locate the parent or legal custodian of the child, the kinship caregiver must send a certified letter/notice to the parent or legal custodian of the child at that individual's last known address informing the parent or legal custodian of the affidavit. The kinship caregiver must attach the letter/notice to the affidavit along with the certified mail receipt documenting that the letter was not deliverable. In addition, the kinship caregiver must perform and document at least one of the following:

- Visit the last known address of the parent or legal custodian;
- Attempt to determine the location of the parent or legal custodian by contacting that individual's place of employment, health care provider, or friends;
- Place a notice in the newspaper informing the parent or legal custodian of the affidavit; or
- Demonstrate that the parent or legal custodian cannot be found.

The period of time within which a kinship caregiver must provide notification that the child has ceased to reside with the caregiver is extended from immediately to within three days, excluding weekends and holidays.

The provision of education services is included in the specified services for which an individual may not be subject to criminal or civil liability or professional disciplinary action for providing, in good faith reliance on an affidavit.

Appropriation: None.

Fiscal Note: Available.

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

Testimony For: (In support) This bill addresses an important need for temporary authority for kinship caregivers. The ultimate goal for each child is establishing permanency.

(With concerns) The definition of "kinship caregiver" should be expanded to include individuals related by legal adoption. The affidavit does not include authorization to consent to routine medical care. The affidavit should be valid for 12 months, rather than six months. The DSHS should only be notified if the child is at risk of abuse or neglect.

The kinship caregiver should not have to petition for permanent legal custody. The affidavit should not require the signature of a parent consenting to the affidavit since this could be a barrier to completing an affidavit. There should not be a requirement to contact law enforcement since that contact would not be particularly helpful to law enforcement. The language specifying that a kinship caregiver can no longer give consent, if the child is no longer living with the caregiver, is unclear as to whether or not that kinship caregiver would be able to give consent in the future, if the child were once again living with the caregiver. Substitute House Bill 1233 is much more supportive of kids and families.

Testimony Against: None.

Testified: (In support) Senator Regala, prime sponsor; and Senator Hargrove.

(With concerns) LaVerne Lamoureux, Children's Administration, Department of Social and Health Services; Edith Owen, Pierce County Relatives Raising Children; and Laurie Lippold, Children's Home Society.