

HOUSE BILL REPORT

E2SHB 3205

As Passed House:
February 15, 2008

Title: An act relating to promoting the long-term well-being of children.

Brief Description: Promoting the long-term well-being of children.

Sponsors: By House Committee on Appropriations (originally sponsored by Representatives Jarrett, Walsh, Kagi, Roberts, Hunter, Sullivan, Green, Kelley, Morrell, Chase, McIntire, Seaquist and Kenney).

Brief History:

Committee Activity:

Early Learning & Children's Services: 2/5/08 [DPS];
Appropriations: 2/11/08 [DP2S(w/o sub ELCS)].

Floor Activity:

Passed House: 2/15/08, 94-0.

Brief Summary of Engrossed Second Substitute Bill

- Requires the court to direct the filing of a petition to terminate parental rights when a child has been in foster care for 15 of the past 22 months, unless the court determines there is good cause why a petition should not be filed.
- Adds the concept of a child's long-term well-being as a paramount concern when making reasonable efforts in dependency and termination matters.
- Directs the Department of Social and Health Services to contract for a statewide resource and referral program to provide post-adoption information and referrals to families who adopt children from foster care.
- Establishes a program for voluntary placement agreements to provide temporary group care for adoptive children in crisis.

HOUSE COMMITTEE ON EARLY LEARNING & CHILDREN'S SERVICES

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: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 7 members: Representatives Kagi, Chair; Roberts, Vice Chair; Haler, Ranking Minority Member; Walsh, Assistant Ranking Minority Member; Goodman, Hinkle and Pettigrew.

Staff: Sydney Forrester (786-7120).

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: The second substitute bill be substituted therefor and the second substitute bill do pass and do not pass the substitute bill by Committee on Early Learning & Children's Services. Signed by 32 members: Representatives Sommers, Chair; Dunshee, Vice Chair; Alexander, Ranking Minority Member; Bailey, Assistant Ranking Minority Member; Haler, Assistant Ranking Minority Member; Anderson, Chandler, Cody, Conway, Darneille, Ericks, Fromhold, Grant, Green, Haigh, Hinkle, Hunt, Kagi, Kenney, Kessler, Kretz, Linville, McIntire, Morrell, Pettigrew, Priest, Ross, Schmick, Schual-Berke, Seaquist, Sullivan and Walsh.

Staff: Kelci Karl-Robinson (786-7109).

Background:

The Federal Adoption and Safe Families Act

The Adoption and Safe Families Act (Act) requires states to have a plan for operating a coordinated system of programs of community-based family support services, family preservation services, time-limited family reunification services, and adoption promotion and support services. A state's system of programs and services is intended to demonstrate reasonable efforts to prevent the need for out-of-home placement, and in cases where out-of-home placement is necessary, to make reasonable efforts to reunify the family, and in cases where reunification is not in the child's best interests, to place the child with a permanent family through adoption.

In cases where children have been removed from home, most cases require the offering of time-limited services designed to facilitate the reunification of the child safely and appropriately. The concept of services being time-limited conveys the need to balance the goal of reunification against the child's needs for safety and permanency, with the child's interests being paramount.

The Act also requires that when a child has been in out-of-home care for 15 of the past 22 months, a petition for termination of parental rights be filed, unless one of three exceptions applies:

- (1) At the state's option, the child is being cared for by relatives.
- (2) The child's case plan documents a compelling reason why a termination petition would not be in the child's best interests.
- (3) The state has not provided the necessary family reunification services in the time period set out in the case plan.

Timeliness of Dependency Case Processing

Washington law requires permanency planning and review hearings, and declares a preference for achieving the permanency planning goals before the child has been in out-of-home care for 15 months. There is, however, no requirement for a specific judicial finding on the issue of whether a termination petition should be filed when a dependency case reaches the 15-month threshold and the permanency goal for the child has not been achieved.

A recent review by the Administrative Office of the Courts (AOC) regarding the timeliness of dependency case processing in Washington examined 82 percent of dependency cases for which adequate data was available. Of those cases in which a petition for termination of parental rights was filed during 2004, 2005, and 2006 calendar years, 50 percent of cases met this timeliness standard.

Adoption of Children from Foster Care

Of the approximately 3,000 adoptions finalized in Washington each year, about 1,000 are adoptions of children from the state's foster care system. Almost all children adopted from foster care have special needs, making them and their adoptive families eligible for Washington's adoption support program. There are approximately 12,000 adoption support contracts in place with approximately 6,000 families in Washington. Approximately 750 children in foster care are legally free and waiting for adoptive homes. Washington's Adoption Support Program

Special needs eligibility for adoption support is determined by meeting three main criteria:

- (1) The state has determined that the child can not or should not be returned home
- (2) Efforts to place the child for adoption without adoption support have been unsuccessful.
- (3) The child's age, ethnicity, disability or risk of diagnosis of disability, or placement in a sibling group of three or more, qualifies the child as having special needs.

Post-adoption support benefits for special needs children may include: (1) medical and dental services paid through Medicaid;

- (2) pre-authorized counseling;
- (3) assistance with non-recurring adoption costs;
- (4) pre-authorized training; and
- (5) an adoption subsidy, a negotiated monthly payment to help cover some of the expenses of raising a child with special needs.

The state's standard adoption support contract indicates that adoption support does not pay for residential services and includes a reference to the statute amended in section four of the bill stating that the Department of Social and Health Services (DSHS) can not make payment for a child in group care unless the DSHS has custody of the child.

Resource and Referral Services for Adoptive Families

The North American Council on Adoptable Children recommends all states develop a system for ensuring families who adopt children with special needs, and especially families adopting children from foster care, have access to information and referral from a single entry point, such as a toll-free phone number answered 24 hours-a-day, seven days-a-week. Adoption resource and referral services are intended to provide on-going support to families and assist them with accessing information to solve problems before a crisis ensues. Various states,

including Oregon, Maryland, Virginia, and New York, offer a statewide resource and referral program as part of their post-adoption supports to families. Washington has no such program serving as a resource to adoptive families. *Adoption Disruption and Dissolution* Adoption disruption occurs after a child has been placed with an adoptive family but before the adoption has been finalized. The disruption means the child is returned to foster care either permanently or until the child is returned to the adoptive home or is placed in another adoptive home. Adoption dissolution or termination occurs when a child is returned to foster care after the adoption has been finalized. Various studies of nationwide trends indicate adoption disruption occurs at rates ranging between 8 percent and 16 percent. Research on adoption dissolutions indicates between 1 percent and 7 percent of adoptions are terminated after being finalized. Risk factors associated with adoption disruption and dissolution include: age of child; severity of abuse or neglect; disabilities and behavior problems; ethnicity, family structure, socio-demographics; and family and child characteristics.

Voluntary Placement Agreements for Children with Developmental Disabilities The DSHS may enter into voluntary placement agreements (VPA) with parents of children who are developmentally disabled for the placement of children in group homes or in treatment foster care homes. The VPAs may be needed when the child's age, size, or functioning are beyond the parent's ability to manage or when the child's behavior places other family members at risk of injury. The VPAs for children with developmental disabilities may be entered into only when the sole reason for the placement is the child's disability. Under a VPA regarding a child with a developmental disability, the parent retains legal custody of the child and may terminate the agreement at any time. When a long-term placement is anticipated, judicial review of the agreement is required. Permanency planning for the child is the joint responsibility of the DSHS and the parent.

Summary of Engrossed Second Substitute Bill:

Dependency Case Processing

When a child has been in out-of-home care for 15 of the most recent 22 months, the court must require the filing of a petition to terminate parental rights, unless the court makes a written finding that filing the petition is not appropriate. If the court makes such a finding, it must be reviewed at all subsequent motion and review hearings pertaining to the child.

The concept of the child's long-term well-being is added as a paramount concern when making reasonable efforts in dependency and termination matters.

Resource and Referral Services for Adoptive Families

The DSHS, within amounts appropriated, is directed to contract for a statewide information resource and referral program. The contract must provide for the information and referrals to be provided by someone knowledgeable and experienced in adoption issues. The program may include referrals to community services such as individual and family counseling and relevant training opportunities. The DSHS must develop a simple process for the voluntary sharing of contact information to assist the provider in surveying adoptive parents regarding their service and support needs.

Voluntary Placement Agreements for Adopted Children in Crisis

The DSHS is authorized to enter into VPAs with parents who have adopted a child from the foster care system for the purpose of accessing temporary residential care for a child in crisis. A parent may request and the DSHS may agree to enter into a VPA under the following circumstances: (1) the child resides in Washington;

- (2) less intensive or traditional adoption supports have been unsuccessful or are not likely to be successful in stabilizing the child's behavior and functioning; or
- (3) the parent has no reasonable alternative to accessing the level of care necessary to meet the child's needs and preserve the adoption.

Under a VPA, the parent retains legal custody of the child and the DSHS assumes responsibility for the placement and care of the child. The VPA is developed jointly by the parent, the child's mental health provider, and the DSHS, and must include a plan for the child's eventual return home. If the agreement anticipates the child will be in care longer than 180 days, judicial review is required. For all agreements extending 180 days or more, the parent and the DSHS must jointly file a petition to the court for review of the agreement and a determination by the court that the out-of-home placement is in the child's best interests. Either party to the agreement may terminate the VPA at any time, and upon termination the child must be immediately returned home. The section of law specifying limitations on the DSHS's payment for out-of-home placements in group care is amended and clarified to be consistent with judicial and the DSHS interpretation of the term *custody* as meaning *placement and care authority*, rather than legal custody.

Appropriation: None.

Fiscal Note: Requested on February 7, 2008.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed. However, the bill is null and void unless funded in the budget.

Staff Summary of Public Testimony: (Early Learning & Children's Services)

(In support of original bill) The problems and challenges facing the state's child welfare system are well documented. It is unconscionable that we allow children, especially very young children, to experience multiple placements while they linger in foster care for years on end. This bill is about trying to do two things. First, it is an opportunity to help kids who are in foster care by thinking more about their long-term well-being when making decisions. Second, it is an opportunity to think about the connections between children's developmental experiences at home and in foster care and children's ability to be successful in our educational system.

The recent report produced by the AOC indicates that less than half of child dependency cases meet the federal timeliness standard intended to promote safety, stability, and permanency for children. If the state was appropriately meeting this target for resolving dependency cases, our foster care caseloads would be reduced as more children were expeditiously moved to permanency.

The trend in state law is to place a focus on the rights of parents above the rights of children. The court system is designed to deal with adults, not children. Drawing cases out over several years may work very well for the adults involved, but it leads to damage for the children involved. The most important aspect of this bill is that it requires the court to make a decision about the child's future. For cases where reunification cannot be achieved safely, we must recognize that the longer the child lingers in foster care, the less likely it is the child will be adopted.

Any bill that will put in place concrete timelines in dependency cases deserves support. When children stay in care so long, moving from placement to placement, they fail to thrive and are continually re-traumatized.

(With concerns on original bill) One of the main concerns is regarding section two of the bill, but the Department of Social and Health Services appreciates the bill's focus on children's long-term well-being. An additional concern is with regard to the 15-month timeline. In order for this to work well, other parts of the system need to be resourced, such as the courts and service providers. The decision to file for terminating parental rights is a difficult decision.

Some of the reasons we have such problems in our system is that social workers lack training and education for the tasks they are expected to perform. Current law has too many loopholes allowing for decisions that keep kids in care and out of a permanent placement for too long. It is important to force decisions to be made at critical deadlines. The social workers and assistant Attorneys General are responsible for much of the continuances. Cases get passed around from caseworker to caseworker. The Children's Administration makes careers for people in perpetuity. The system is dysfunctional and hearing about particular cases is disturbing. This bill would help by at least requiring the court to make a decision for children once they have been in foster care for 15 months.

Staff Summary of Public Testimony: (Appropriations)

(In support) The attested admission by the Attorney General that they are not meeting the 15-month standard did not come as a surprise to foster parents. The average time children are in foster care is three years. There is a human cost paid by foster children every day they remain in the system. The more time given to parents to come into compliance is time taken away from children in their critical developmental years. The cost is attachment disorder, low self-esteem, low self-worth, and depression; these problems are evident in preschoolers. The stressors placed on foster children are debilitating for most adults. Fifteen months is enough time to change the lives of children.

(Opposed) None.

Persons Testifying: (Early Learning & Children's Services) (In support of original bill) Representative Jarrett, prime sponsor; and Diana Farrow.

(With concerns on original bill) Dave Wood, Washington Families United; and David Del Villar Fox, Children's Administration, Department of Social and Health Services.

Persons Testifying: (Appropriations) Gary Malkasian.

Persons Signed In To Testify But Not Testifying: (Early Learning & Children's Services)
None.

Persons Signed In To Testify But Not Testifying: (Appropriations) None.