

FINAL BILL REPORT

ESSB 6792

C 267 L 08
Synopsis as Enacted

Brief Description: Concerning dependency matters.

Sponsors: Senate Committee on Human Services & Corrections (originally sponsored by Senators Hargrove and Stevens).

Senate Committee on Human Services & Corrections
House Committee on Early Learning & Children's Services
House Committee on Appropriations

Background: In 2007 the Children's Administration (CA) at the Department of Social and Health Services (DSHS) began the phase-in of a policy requiring social workers to have monthly visits with children in out-of-home care. This phase-in requires that by April 2007 social workers will have monthly visits with all children aged zero to five who are out-of-home unlicensed relative placements. The next three phases include in the order, children aged six to 18 in out-of-home unlicensed placements; children aged six to 18 in foster care placements; children ages zero to five in foster care placements; and children ages six to 18 in foster care placements. The effective date of the policies affecting the last three phases is to be determined.

CA often enters into agreements with Child Placing Agencies (CPA) to provide foster care and other case management services to children. Generally, the CPAs conduct monthly face-to-face visits with the child in out-of-home care and the child's caregiver. By policy, the CA social worker must also conduct a 30-day visit.

During the 2007 session, the Legislature passed ESSB 1624 which, among other things, provided a process by which a dependent child, in certain situations, can petition the court to reinstate previously terminated parental rights. During the implementation of this bill, several issues came to light: the burden of proof in a parental rights reinstatement petition was not specifically stated; although a child under 12 could file a petition for reinstatement of parental rights, no process for doing so had been established; and no opportunity for the court to grant a final order of reinstatement was included.

Currently, DSHS could be held liable for its negligence in providing services under or administering the reinstatement of parental rights statute.

At a shelter care hearing in a dependency matter, the court must determine whether an order expelling the allegedly abusive parent from the home will allow the child to remain safely in the home rather than placing the child in out-of-home care.

In a judicial proceeding under chapter 26.44 RCW, the court may issue a restraining order removing the alleged abuser from the home if to do so would keep the child safe.

A HOPE center is an agency licensed by DSHS to provide temporary residential placement and other services to street youth. A street youth may remain in a HOPE center for 30 days while services are arranged and a placement coordinated.

A Responsible Living Skills Program (RLSP) is an agency licensed by DSHS to provide transitional living services that emphasize the achievement of independent living skills competency. To be eligible for placement in an RLSP, a minor must be dependent under chapter 13.34 RCW and must have resided in a HOPE center or in a secure crisis residential center.

Summary: To be eligible for placement in a HOPE center, a minor must be either a street youth or a youth who, without placement in a HOPE center will continue to participate in increasingly risky behavior. Minors may also self-refer to a HOPE center. Payment for a HOPE center bed is not contingent upon prior approval by DSHS.

If a minor's caseworker determines that placement in an RLSP would be the most appropriate placement given the minor's current circumstances, prior residence in a HOPE center or secure CRC is not required before placement in an RLSP.

The court may order that a hearing be held on the merits of a petition to reinstate parental rights if it finds by a preponderance of the evidence that reinstatement is in the child's best interests. The court, upon the child's motion, or upon the court's own motion, may hear a petition filed by a child younger than 12. If the court grants the child's petition, a temporary order of reinstatement is entered. After the child has been placed with the parent for six months, and the placement has been successful, the court must hold a hearing and enter a final order restoring the parent's rights and dismissing the dependency.

The state, DSHS, and its employees are not liable for civil damages resulting from acts or omissions under the parental reinstatement section of the law unless the act or omission constituted gross negligence.

At a shelter care hearing, the court must determine whether an order expelling an allegedly abusive household member from the home of the nonabusive parent, guardian, or custodian will allow the child to remain safely in the home.

At a shelter care hearing, uncertainty by a parent, guardian, legal custodian, relative, or other suitable person that the alleged abuser has in fact abused the child cannot be the sole basis upon which the child is removed from the care of the parent, guardian, legal custodian, relative, or suitable other person, nor can it be the sole basis upon which to preclude placement with either a relative or another suitable person.

Under chapter 26.44 RCW, the court may enter a restraining order to protect an allegedly abused or neglected child and if the child's caretaker is willing and does comply with the restraining order, uncertainty by the caretaker that the alleged abuser has abused the alleged victim must not, alone, be a basis to remove the alleged victim from the caretaker, nor must it be considered neglect.

The provision allowing a child to petition the juvenile court to reinstate previously terminated parental rights within three years of the exhaustion of any right to appeal the termination order, if the order is appealed, is removed.

DSHS must monitor children in out-of-home placements and in-home dependencies to assure the safety, well-being, and quality of care being provided is within the scope of the statute. DSHS's policy must be that every child in out-of-home care, or an in-home dependency, and the child's caretaker receive a private and individual face-to-face visit each month. Within existing funds, when a child's case is managed by an accredited CPA, the CPA must conduct the monthly face-to-face visit and provide DSHS with a written report within 15 days of the visit. In these cases, DSHS need only have a face-to-face visit with the child and the child's caretaker every 90 days.

A process is established for the sharing of information between DSHS and the Department of Licensing to facilitate youth in foster care in obtaining a state identification card.

A pilot program is established in the following four Washington counties: Spokane, King, Thurston, and Benton-Franklin. The pilot is to be administered by DSHS and the Administrative Office of the Courts (AOC) and is to be structured as follows:

- 1) For children ages 12 years and older who are the subjects of dependency proceedings, the following rights are established: a) the right to receive notice of hearings; b) the right to be present at hearings; and c) the right to be heard personally.
- 2) Prior to hearings, the child's guardian ad litem (GAL) or attorney must determine if the child wishes to attend the hearing. If the child wishes to attend, the attorney and GAL must coordinate with the child's caregiver and DSHS or other supervising agency to arrange for transportation.
- 3) If the child exercises his or her right to be present, the court may interview the child in chambers to determine the child's wishes regarding issues before the court.

DSHS and AOC are to brief the Legislature regarding the pilot by January 31, 2009, and provide a final report by December 1, 2010.

Prior to making recommendations to the court regarding the child's best interests, a GAL or volunteer advocate must meet with, interview, or observe the child at least once. The GAL or volunteer also must report to the court any preferences or wishes expressed by the child regarding issues to be decided by the court.

When a child has been in out-of-home care for 15 of the most recent 22 months after filing of the dependency petition, the court must require the filing of a petition to terminate parental rights.

Votes on Final Passage:

Senate	47	0	
House	93	0	(House amended)
Senate			(Senate refused to concur)
House	97	0	(House amended)
Senate	49	0	(Senate concurred)

Effective: June 12, 2008

December 31, 2008 (Section 6)