

# HOUSE BILL REPORT

## SSB 5510

---

### **As Passed House - Amended:**

April 9, 2009

**Title:** An act relating to notification in dependency matters.

**Brief Description:** Regarding notification in dependency matters.

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

### **Brief History:**

#### **Committee Activity:**

Early Learning & Children's Services: 3/19/09, 3/26/09 [DPA].

#### **Floor Activity**

Passed House - Amended: 4/9/09, 98-0.

### **Brief Summary of Substitute Bill (As Amended by House)**

- Requires additional language be included in the standard notice to parents regarding shelter care hearings and the child dependency process.
- Directs the Department of Social and Health Services to attach a standard reminder note to all individual services and safety plans developed for dependency review hearings.
- Directs the dependency court to consider the impact of placement changes on the child's ability to form secure attachments.
- Permits the court hearing a petition for termination of parental rights to consider a parent's failure to have contact with a child for an extended period of time when the court is analyzing the likelihood conditions will be remedied so that the child may return to the parent's care in the near future.
- Provides that a parent's actual inability to have visitation with a child due to mitigating circumstances, including but not limited to a parent's incarceration or service in the military, is not in and of itself a failure to have contact with a child.

---

*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.*

---

## HOUSE COMMITTEE ON EARLY LEARNING & CHILDREN'S SERVICES

**Majority Report:** Do pass as amended. Signed by 7 members: Representatives Kagi, Chair; Roberts, Vice Chair; Haler, Ranking Minority Member; Walsh, Assistant Ranking Minority Member; Angel, Goodman and Seaquist.

**Staff:** Sydney Forrester (786-7120)

### **Background:**

#### Shelter Care Notices.

When a shelter care hearing is scheduled in a child's dependency case, a standard notice must be provided to the child's parent, guardian, or legal custodian. The notice must be understandable and take into consideration the parent's, guardian's, or custodian's primary language, level of education, and cultural issues, and must include specific information about:

- the date, time, and location of the hearing;
- legal rights, including the right to legal representation; and
- a description of orders the court may enter if the child is placed in out-of-home care.

#### Petitions for Termination of Parental Rights.

Federal and state laws require the filing of a petition to terminate the parental rights (TPR petition) of the parent of a child who has been in out-of-home care when certain criteria are met relating to the length of time the child has been in foster care, the circumstances requiring the foster care placement, and the progress made towards reunification. Unless an exception applies, such as the presence of aggravating circumstances, state law requires a TPR petition to allege specific elements to be proved at trial, one of which relates to the likelihood that conditions will be remedied so that the child can be returned to the parent in the near future. In analyzing this determination, the court may consider:

- a parent's dependence on alcohol or drugs which renders the parent incapable of providing care for and protecting the child for extended periods of time, and the parent's unwillingness to receive and complete treatment or multiple failed treatment attempts; and
- a parent's chronic or severe psychological incapacity or mental deficiency which renders the parent incapable of providing care for and protecting the child for extended periods of time, and the parent's unwillingness to receive and complete treatment or the lack of available treatment that can render the parent capable of providing for the child's needs.

### **Summary of Amended Bill:**

The requirements for the shelter care notice to parents are expanded to include:

- a description of the dependency process, including that a permanent plan of care for the child will be developed if the court orders the child removed from home;
- a statement encouraging the parents to notify their attorneys and the court regarding their wishes for the child's placement, any services the parents believe are needed, and their wishes regarding visitation with their child; and

- a statement reminding parents that shelter care hearings, fact-finding hearings, and dependency review hearings are legal processes with potentially serious consequences and that failure to respond, participate in case planning and visitation, or comply with court orders may lead to the modification of a parenting plan, entry of a third-party custody order, or the eventual permanent loss of parental rights.

The Department of Social and Health Services (DSHS) is required to attach a single-page standard reminder to all individual services and safety plans prepared for dependency review hearings. The standard reminder must inform parents regarding:

- the importance of complying with court orders and participating in visitation and case planning, and maintaining contact with a child in out-of-home care; and
- the potential legal consequences of the long-term failure to comply with services, participate in the child's case plan, or maintain contact with a child in out-of-home care.

During the shelter care hearing when the court is determining where the child will be placed while the dependency petition is pending, the court must weigh the child's length of stay and attachment to the current care provider. During the annual permanency planning process, every effort must be made to provide stability in long-term placement and to avoid disruption of placement, unless the child is being returned home or a change of placement is in the child's best interests. When the court is making decisions regarding the permanency plan for the child, the court must consider factors relating to the child's best interests, including the child's history and attachment status, and how separation from primary caregivers has affected the child.

During the TPR process, when the court is analyzing the likelihood that conditions will be remedied so that the child can be returned to the parent in the near future, the court also may consider the failure of a parent to have contact with a child for an extended period of time after the filing of the dependency petition when two circumstances are present:

- the parent was provided an opportunity to have a relationship with the child by the DSHS or the court; and
- the parent received documented notice of the potential consequences of this failure.

A parent's actual inability to have visitation with a child due to mitigating circumstances, such as a parent's incarceration or service in the military, do not in and of themselves constitute failure to have contact with a child.

**Appropriation:** None.

**Fiscal Note:** Available.

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

**Staff Summary of Public Testimony:**

(In support) This is a simple bill and is intended to get parents' attention early about the potential consequences of refusing to engage in services after a child has been removed from

home under a dependency court order. Parents who are stubborn or unwilling to understand the seriousness of the situation may eventually lose their parental rights, and we should be making sure they understand this clearly as a possible means to motivate them and to get their attention. Children will benefit if parents engage early in remedying the problems that led to the child's removal from home. The sponsor is amenable to adding language from Substitute House Bill 1782, including the bonding and attachment language.

(Opposed) None.

**Persons Testifying:** Senator Stevens, prime sponsor; and Gary Malkasian, Foster Care Justice Alliance.

**Persons Signed In To Testify But Not Testifying:** None.