

HOUSE BILL REPORT

SSB 6416

As Reported by House Committee On:
Early Learning & Children's Services

Title: An act relating to relatives in dependency proceedings.

Brief Description: Concerning relatives in dependency proceedings.

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

Brief History:

Committee Activity:

Early Learning & Children's Services: 2/23/10 [DPA].

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

- Grants caregivers meeting certain requirements the right to be heard in court on the issue of a dependent child's removal from the caregiver's home.

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:

Placement Preferences.

Throughout the child dependency process, the preferred placement for a child needing out-of-home care is with a relative of the child, with a suitable person who has an existing relationship with the child or the child's family, or with a foster family the child was placed with previously, if the child is re-entering foster care. Absent good cause, the Department of Social and Health Services (DSHS) is required to follow a parent's wishes regarding placement of a child for whom an out-of-home placement is needed.

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.

The required shelter care hearing notice to parents encourages parents to notify the court and their attorneys regarding placement preferences, including placements with relatives and other suitable persons with whom the child or the child's family has a relationship. At the shelter care hearing and after fact-finding, during the disposition hearing, the court must inquire regarding the efforts made to place the child with a relative. During the dependency the court may order visitation between the child and his or her relatives, and in certain circumstances, relatives of a dependent child have the right to petition for visitation with the child.

Notice Regarding Change in Placement.

Prior to changing the placement of a child who has resided with a foster parent for 90 days or longer, the DSHS must provide the foster parent with at least five days notice unless:

- the court has ordered an immediate change in placement;
- the child is being returned home;
- the child's safety is in jeopardy; or
- the child is residing in a receiving or group home.

The policy of the DSHS is to also follow this statute with regard to relatives.

Summary of Amended Bill:

A caregiver who is a relative of the child, another suitable person with whom the child or child's family has an existing relationship, or a licensed foster parent may petition the court to be heard regarding a decision to remove the child from the caregiver's home if the following requirements are met:

- the child has been found to be a dependent child;
- the child had been placed with and resided in the home of the caregiver for 12 or more continuous months prior to the decision to remove or the removal of the child;
- the child is in the custody of the DSHS or a supervising agency at the time the petition is filed; or
- the DSHS or supervising agency has decided to remove or has already removed the child from the caregiver's home.

The caregiver may file such a petition within not more than 10 days after receiving notice of the decision to remove or the actual removal of the child from the caregiver's home, whichever is later. If the requirements to file a petition to be heard are met, the court must grant the petition and schedule an expedited hearing on the sole issue of the decision to change the child's placement. The caregiver has the right to be represented by counsel, at his or her own expense. The granting of a petition to be heard regarding placement does not serve to confer party status on the caregiver in the underlying dependency.

Amended Bill Compared to Substitute Bill:

The amended bill removes the provisions creating a legal presumption that a parent's request for relative placement is in the child's best interests, and shifting the burden of proof to the

DSHS to overcome that presumption by a preponderance of the evidence. The provision relating to the right to petition to be heard on the issue of changing the placement of a dependent child who has resided with a caregiver for 12 or more continuous months is expanded to grant that right to licensed foster parents and other suitable persons with whom a child has been placed. The original bill granted the right to petition only to relative caregivers. The requirements for filing a petition to be heard no longer include the requirement that the child's parent consent to the filing of the petition. At the hearing on the issue of changing the child's placement, the caregiver may not cross examine witnesses.

Appropriation: None.

Fiscal Note: Available. A new fiscal note on amended bill requested on February 23, 2010.

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) Government needs to be tweaked every once in awhile, especially where children are concerned. When relatives have no opportunity to be heard, it is very difficult to defend against untrue information presented to the court. Washington law should be focused on keeping the family intact. Reunification and living conditions of parents are important for the success of the reunification, and relatives should not be punished for speaking out when they have concerns about the child's living conditions during reunification. Relatives can be devastated when they are portrayed in the court as unfit to care for the child and they have no ability to defend themselves.

Grandparents Rights of Washington State advocates for grandchildren. Keeping the continuity of family structure intact is important. The medical history of a child is best known by grandparents. No child should feel abandoned by his or her family. Our prisons are filled with abandoned children. We should stop this terrible erosion of the family. Grandparents have no standing in this state.

(Opposed) None.

Persons Testifying: Senator Roach, prime sponsor; Doug and AnneMarie Stuth; and Bob Rudolph, Grandparents Rights of Washington State.

Persons Signed In To Testify But Not Testifying: None.