

SENATE BILL REPORT

SB 5811

As Reported by Senate Committee On:
Human Services & Corrections, February 23, 2009

Title: An act relating to foster child placements.

Brief Description: Concerning the placement of foster children.

Sponsors: Senators Hargrove, Stevens, Shin and Roach.

Brief History:

Committee Activity: Human Services & Corrections: 2/19/09, 2/23/09 [DPS].

SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS

Majority Report: That Substitute Senate Bill No. 5811 be substituted therefor, and the substitute bill do pass.

Signed by Senators Hargrove, Chair; Regala, Vice Chair; Stevens, Ranking Minority Member; Brandland, Carrell, Kauffman and McAuliffe.

Staff: Jennifer Strus (786-7316)

Background: Currently, when a child is placed in out-of-home care, the priority placement for the child is with a relative unless there is reasonable cause to believe that the health, safety, or welfare of the child would be jeopardized or that the efforts to reunify the parent and child would be hindered. Before the child is placed with a relative, the court must find that the person is willing and available to care for the child and be able to meet the child's special needs. The court must also find that the placement with a relative is in the child's best interests. The Department of Social and Health Services (DSHS) or a child placing agency (CPA) must document its effort to place the child with a relative or other suitable person requested by the parent.

Placement with a relative must be given preference by the court at the dispositional stage of the dependency proceeding. If there is insufficient information at the time of the disposition hearing upon which to base a determination regarding the suitability of a proposed placement with a relative, the child is to remain in foster care and DSHS or CPA is to conduct necessary background checks and report the results of those checks to the court within 30 days. If the relative appears otherwise suitable and competent, the criminal history check need not be

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completed before placement but must be completed as soon after the placement occurs as possible.

DSHS or a CPA must provide foster parents with notice of their right to be heard before each proceeding in a dependency matter. The right to be heard applies only to persons providing care to the child at the time of the proceeding.

Summary of Bill (Recommended Substitute): At shelter care, dispositional, and review hearings, the court must inquire of the parents whether DSHS has discussed a relative placement with them. The court must make an express finding in this regard. At disposition, if the court does not place the child with a relative, the court must make an express finding as to the reasons it did not.

When DSHS or a supervising agency recommends against continued placement with either a relative or a foster parent, and the court agrees with that recommendation, the court must make an express finding as to its reasons for its agreement with DSHS or supervising agency.

The Family and Children's Ombudsman may investigate allegations of retaliation against a foster parent if the ombudsman is already involved in the case. At the conclusion of its investigation, the ombudsman must provide DSHS with written findings. DSHS must take personnel action against an involved employee if the allegations against them are proved.

EFFECT OF CHANGES MADE BY HUMAN SERVICES & CORRECTIONS COMMITTEE (Recommended Substitute): Removes the portions of the bill creating presumptions for and against hindering reunification depending upon the parent's agreement or disagreement with a relative placement. Also removes language regarding a foster parent's or relative's right to be heard regarding a threatened placement.

Requires that the court make an express finding of whether DSHS discussed relative placement with the parents at different points in the process. Also requires the court to make an express finding if DSHS or the supervising agency recommends against continued placement with a foster parent or relative and the court agrees with that recommendation.

Allows the Family and Children's Ombudsman to investigate allegations of retaliation against a foster parent if the ombudsman is already involved in the case. At the conclusion of the investigation, the ombudsman must provide written findings to DSHS. If the retaliation allegations are proved, DSHS must take personnel action against the involved employee.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Original Bill: PRO: This bill addresses proper parental authority when the safety of the child is not at issue. The law already states that the

child's preferred placement is with a relative; this bill gives teeth to that law. When the safety of the child is not at issue, the court follows DSHS's recommendations without independent evaluation, and this bill would require, rather than just doing what DSHS wants in a case. This bill would not place the foster parent's wants above that of the child's parents because the parent's approval is needed.

OTHER: This bill would result in increased hearings in dependency cases and in some situations, the needs of the child and parents might be lost in the litigation over a threatened placement. Protecting foster parents from retaliation is the better way to handle these situations than the method suggested in this bill. There could be a number of situations in which a parent may say no to the placement of his or her child with a relative and that placement with that relative would be in the child's best interests. The bill is too rigid; there are not enough options included depending upon the different situations. It is also not clear how family team decision meetings would fit in.

Persons Testifying: PRO: Gary Preble, citizen.

OTHER: Gary Malkasian, Foster Care Justice Alliance; Kenneth Burlile, Amy Langley, foster parents; David Del Villar Fox, Nicole Muller, DSHS; Laurie Lippold, Children's Home Society.