

HOUSE BILL REPORT

SHB 1800

As Passed House:
March 9, 2015

Title: An act relating to filing a petition seeking termination of parental rights.

Brief Description: Concerning filing a petition seeking termination of parental rights.

Sponsors: House Committee on Early Learning & Human Services (originally sponsored by Representatives Hargrove, Kagi and Walsh).

Brief History:

Committee Activity:

Early Learning & Human Services: 2/10/15, 2/17/15 [DPS].

Floor Activity:

Passed House: 3/9/15, 98-0.

Brief Summary of Substitute Bill

- Requires a court to order the filing of a termination of parental rights petition under certain circumstances when a child has been in out-of-home care for at least 12 months following the filing of a dependency petition.

HOUSE COMMITTEE ON EARLY LEARNING & HUMAN SERVICES

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 10 members: Representatives Kagi, Chair; Walkinshaw, Vice Chair; Walsh, Ranking Minority Member; Scott, Assistant Ranking Minority Member; Dent, Hawkins, Kilduff, McCaslin, Ortiz-Self and Senn.

Staff: Luke Wickham (786-7146).

Background:

Dependency Court System.

The Department of Social and Health Services (DSHS) may file a petition in court alleging that a child should be a dependent of the state due to abuse, neglect, or because there is no parent, guardian, or custodian capable of adequately caring for the 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.

If a court determines that a child is dependent, then the court will conduct periodic reviews and make determinations regarding the child's placement, the provision of services by the DSHS, compliance of the parents, and whether progress has been made by the parents.

Under certain circumstances, after a child has been removed from the custody of a parent for at least six months pursuant to a finding of dependency, a petition may be filed seeking termination of parental rights.

Adoption and Safe Families Act.

The Adoption and Safe Families Act of 1997 (ASFA) requires child welfare agencies to file a petition seeking termination of parental rights if a child has been in out-of-home care for 15 of the most recent 22 months, unless the court makes a good cause exception as to why the filing of a termination petition is not appropriate.

Good Cause Exceptions Not to File a Termination Petition.

In Washington, good cause exceptions not to file a termination petition when a child has been in out-of-home care for 15 out of the last 22 months include, but are not limited to, the following:

- The child is cared for by a relative.
- The DSHS has not provided services that the court and the DSHS have deemed necessary for the child to safely return home.
- The DSHS has documented in the case plan a compelling reason why filing a termination petition would not be in the child's best interests.
- The parent is incarcerated or the parent's prior incarceration is a significant factor in why the child has been in out-of-home care, the parent maintains a meaningful role in the child's life, and the DSHS has not documented another reason to file a termination petition.
- The parent has been accepted into a dependency treatment court program or long-term substance abuse program and is demonstrating compliance with treatment goals until June 30, 2015.
- The parent files a declaration stating the parent's financial inability to pay for court-ordered services and the DSHS was unwilling or unable to pay for the same services necessary for the child to safely return home until June 30, 2015.

Department Policy Regarding Filing Termination Petition.

The DSHS may file a termination petition after a child has been removed from the custody of a parent pursuant to a dependency petition for 6 months, and before being ordered to file such petition.

According to the DSHS policy, a termination petition must be submitted to the Office of the Attorney General by the end of the child's twelfth month in out-of-home care or sooner, when it is in the child's best interest and:

- the child is in out-of-home care 12 of the last 19 months;
- the child is determined by the court to be abandoned;
- the child is in out-of-home-care for a period of at least 6 months since a dependency finding; or

- if aggravating circumstances are found by the court, the DSHS must file a termination petition within 60 days.

A termination of parental rights petition may be considered earlier in the dependency process when the parents have failed to engage in services and the child has been in care for 90 days since the disposition.

Summary of Substitute Bill:

The substitute bill requires that the court order a petition seeking termination of the parent and child relationship be filed if:

- the child has been in out-of-home care for at least 12 months following the filing of a dependency petition;
- the parent has had no contact with the DSHS or any service providers; and
- the court does not make a good cause exception.

Appropriation: None.

Fiscal Note: Available.

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

Staff Summary of Public Testimony:

(In support) Parental rights are extremely important, but there is a limit to these rights. This bill makes a very small step in that direction. Instead of waiting 15 of the 22 months, this bill would require filing of a termination petition when a child has been out of the home for 12 months. This bill would start things a little bit earlier and may act as a wake up call for parents and relatives. Foster parents also suffer if they are caring for children and the process is prolonged. There needs to be action taken to get children in long-term, loving homes and this bill makes a small step in that direction. Many parents in dependency cases fluctuate between compliance and non-compliance. By waiting longer to pursue termination of parental rights, there is a greater chance that children will go home and expose themselves to potentially abusive families. It also does not make sense to return children to their parents after allowing them to spend a year or longer with foster parents. This bill is a small step, but a step in the right direction.

(Opposed) Requiring a termination of parental rights petition be filed at 12 months does not give parents enough time to correct parental deficiencies. This could lead to a premature filing of a termination petition before the state can properly assess a parent's ability to reunify with their children. The average time spent in foster care is the same as it was when the federal law required courts to file termination of parental rights petitions after 15 months out-of-home. There is a fear that if a parent disengages in services and then attempts to re-engage, there may be a waitlist for those services that could then result in a filing of termination of parental rights. Individuals who are incarcerated have a difficult time reunifying with their children and this bill could prevent these individuals from reunification. There are often wait times for detox beds, which can lead to delayed

engagement in substance abuse treatment. It is possible to be noncompliant with services while still engaging in services. There is a good cause exception for incarcerated parents, but that requires that parents maintain a meaningful role in their child's life. Parents who engage in services while incarcerated and attempt to maintain meaningful contact can still be denied a good cause exemption because meaningful contact and noncompliance are subjective terms. If this bill passes, many parents could have their rights terminated that might be able to reunify if given a longer period of time to engage in services.

Persons Testifying: (In support) Representative Hargrove, prime sponsor; and Karrie McCrea.

(Opposed) Lillian Hewko, Washington Defender Association; Shane Rochester, Fatherhood Engagement; and Chris Matthies.

Persons Signed In To Testify But Not Testifying: None.