

SENATE BILL REPORT

SHB 1800

As Reported by Senate Committee On:
Human Services, Mental Health & Housing, March 30, 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: Passed House: 3/09/15, 98-0.

Committee Activity: Human Services, Mental Health & Housing: 3/19/15, 3/30/15 [DPA, w/oRec].

SENATE COMMITTEE ON HUMAN SERVICES, MENTAL HEALTH & HOUSING

Majority Report: Do pass as amended.

Signed by Senators O'Ban, Chair; Miloscia, Vice Chair; Hargrove and Padden.

Minority Report: That it be referred without recommendation.

Signed by Senator Darneille, Ranking Minority Member.

Staff: Alison Mendiola (786-7444)

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.

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 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.

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.

Adoption and Safe Families Act. The federal 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;
- DSHS has not provided services that the court and DSHS have deemed necessary for the child to safely return home;
- 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 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; or
- The parent files a declaration stating the parent's financial inability to pay for court-ordered services and 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. DSHS may file a termination petition after a child has been removed from the custody of a parent pursuant to a dependency petition for six months, and before being ordered to file such petition.

According to 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 six months since a dependency finding; or
- if aggravating circumstances are found by the court, 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 Bill (Recommended Amendments): The court must 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 DSHS or any service providers; and

- the court does not make a good-cause exception.

Parents are provided notice at the time of a dependency filing through the summons that if the court finds the child to be a dependent and the parents have no contact with DSHS or any service providers identified in DSHS's case plan, the court must order a petition to be filed seeking termination of the parent and child relationship if the child remains in out-of-home care for at least 12 consecutive months following the filing of this dependency petition, unless the court makes a good cause exception based on the factors described in RCW 13.34.145.

EFFECT OF CHANGES MADE BY HUMAN SERVICES, MENTAL HEALTH & HOUSING COMMITTEE (Recommended Amendments): Parents are provided notice at the time of a dependency filing through the summons that if the court finds the child to be a dependent and the parents have no contact with DSHS or any service providers identified in DSHS' case plan, the court must order a petition to be filed seeking termination of the parent and child relationship if the child remains in out-of-home care for at least 12 consecutive months following the filing of this dependency petition, unless the court makes a good cause exception based on the factors described in RCW 13.34.145.

Appropriation: None.

Fiscal Note: Available.

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 Substitute House Bill: PRO: This bill serves children by achieving permanency sooner, when permanency is in the best interest of the child. This also provides notice to everyone else involved, including the parents. The rug is not yanked out from under the family, as a petition takes time, it's not automatic.

Persons Testifying: PRO: Representative Hargrove, prime sponsor.

Persons Signed in to Testify But Not Testifying: No one.