

SENATE BILL REPORT

ESB 5262

As Amended by House, April 14, 2015

Title: An act relating to access to juvenile case records for the Washington state office of civil legal aid.

Brief Description: Releasing juvenile case records to the Washington state office of civil legal aid.

Sponsors: Senators O'Ban, Pedersen, Darneille, Dammeier and Honeyford.

Brief History:

Committee Activity: Human Services, Mental Health & Housing: 1/26/15, 2/02/15 [DP].

Passed Senate: 3/04/15, 49-0.

Passed House: 4/14/15, 97-0.

SENATE COMMITTEE ON HUMAN SERVICES, MENTAL HEALTH & HOUSING

Majority Report: Do pass.

Signed by Senators O'Ban, Chair; Miloscia, Vice Chair; Darneille, Ranking Minority Member; Hargrove and Padden.

Staff: Lindsay Erickson (786-7465)

Background: The Department of Social and Health Services (DSHS) or any person may file a petition in court to determine if a child should be a dependent of the state due to abuse, neglect, abandonment, or because there is no parent or custodian capable of caring for the child. If the court determines that the child is dependent, then the court will conduct periodic reviews and make determinations about the child's placement and the parents' progress in correcting parental deficiencies. Under certain circumstances, the court may order the filing of a petition for the termination of parental rights.

Pursuant to legislation enacted in 2014 – E2SSB 6126, the court must appoint an attorney for a child in a dependency proceeding six months after granting a petition to terminate the parent and child relationship and when there is no remaining parent with parental rights. Subject to the availability of amounts appropriated for this specific purpose, the state must pay the costs for legal services of attorneys appointed to represent children six months after termination of parental rights if those services are provided in accordance with the standards

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.

of practice, voluntary training, and caseload limits developed and recommended by the statewide children's representation workgroup.

The Office of Civil Legal Aid (OCLA) administers funds appropriated for the appointment of an attorney for a child who has no remaining parent with parental rights. OCLA may enter into contracts with counties to disburse state funds and may require a county to use attorneys under contract with OCLA to remain within appropriated amounts. Prior to disbursing state funds, OCLA must verify that the appointed attorneys meet the standards of practice, voluntary training, and caseload limits.

Summary of Engrossed Bill: OCLA must designate a custodian of records within OCLA who will exclusively receive and maintain confidential files.

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: PRO: It is the job of OCLA to make sure the appointed attorneys in these circumstances are complying with practice standards. As the law currently stands, court files are confidential. This makes oversight difficult for OCLA because of the useful information contained within those files. Access to these files would allow OCLA to access pleadings, to monitor if the appointed attorneys are attending hearings, and to provide technical assistance. The language of this bill was modeled after the language that allows the Office of Public Defense to access parental information and files in dependency proceedings.

Persons Testifying: PRO: Senator O'Ban, prime sponsor; Jill Malat, OCLA.

House Amendment(s):

- Removes the requirement that the OCLA designate a custodian of records to exclusively receive and maintain provided records.
- Requires that the OCLA, as soon as possible, destroy any retained notes or records that are not necessary for the agency's functions related to administration of funds for appointment of attorneys to children after termination of parental rights.