
Early Learning & Human Services Committee

HB 2761

Brief Description: Improving placement stability for children and youth involved with child welfare services.

Sponsors: Representatives Kagi, Griffey, Dent, Orwall, Senn, Eslick, Kilduff, Graves, Stonier, Jinkins, Tharinger and Reeves.

Brief Summary of Bill

- The Department of Social and Health Services (DSHS), and after July 1, 2018, the Department of Children, Youth, and Families (DCYF), is required to conduct an extensive family search beginning at the time a child is placed in out-of-home care.
- The DSHS, and after July 1, 2018 the DCYF, is required to report efforts taken to identify relatives when filing a dependency petition and when seeking continued out-of-home placement of a child beyond 30 days.
- Requires that courts give weight to the child's stability of placement, length of stay, and attachment to a long-term caregiver in determining what is in the best interest of a child during a permanency planning hearing.
- Requires courts to weigh the benefits of relative placement with the stability provided by and attachment to a long-term caregiver after a child has remained in out-of-home care for one year.

Hearing Date: 1/19/18

Staff: Luke Wickham (786-7146).

Background:

Child Welfare Court Proceedings.

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.

Anyone, including 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. These petitions must be verified and contain a statement of facts that constitute a dependency and the names and residence of the parents if known.

When a child is taken into custody, the court is to hold a shelter care hearing within 72 hours. The primary purpose of the shelter care hearing is to determine whether the child can be immediately and safely returned home while the dependency case is being resolved.

If a court finds the need to maintain a child out of the home, the shelter care status remains until a dependency fact-finding hearing is held or the parties enter an agreed order of dependency. The fact-finding must be held within 75 days after the filing of the petition, unless exceptional reasons for a continuance are found.

If a court determines that a child is dependent, 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.

The DSHS must develop a permanency plan within 60 days from the date the DSHS assumes responsibility for the child which must identify primary outcome goals for the case. The DSHS must submit this permanency plan to the parties and the court at least 14 days before a permanency planning court hearing. A permanency planning hearing must be held in all cases where the child has remained in out-of-home care for at least nine months, but no later than 12 months following out of home placement.

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.

Relative Search and Preference.

The DSHS must make efforts to search for relatives when:

- a child is placed in out-of-home care or disrupts from placement or re-enters out-of-home care;
- 12 months have passed since the previous relative search and the child is not currently placed with a relative; and
- paternity is established or presumed.

At the shelter care hearing, out-of-home placement of a child must be with a relative or other suitable person if the family has a preexisting relationship with that person unless there is reasonable cause to believe the health, safety or welfare of the child would be jeopardized. A court must also determine whether placement with the relative or other suitable person is in the child's best interests.

Indian Child Welfare Acts.

The federal Indian Child Welfare Act (ICWA) of 1978 governs the removal of Indian children from their families and the placement of such children in foster care or adoptive homes. In 2011 the state incorporated many of the ICWA provisions into state law. Both the federal and state

ICWA recognize exclusive tribal jurisdiction over child custody proceedings involving an Indian child living within tribal territory.

The ICWA requires that the DSHS make active efforts to provide remedial services for parents. No involuntary foster care placement may be ordered in a child custody proceeding in the absence of a determination, supported by clear and convincing evidence, including testimony of qualified expert witnesses, that the continued custody of the child by the parent or Indian custodian is likely to result in serious emotional or physical damage to the child.

If the Indian child's tribe has not established a different order of preference than what is established in ICWA, out-of-home placement preference must be given in descending order to:

- a member of the Indian child's extended family;
- other members of the Indian child's Tribe; or
- other Indian families.

A placement may not depart from the above preferences based on ordinary bonding or attachment that flowed from time spent in a non-preferred placement.

Department of Children, Youth, and Families.

On July 1, 2018, the child welfare functions currently performed by the DSHS transfer to the Department of Children, Youth, and Families.

Summary of Bill:

Relative Efforts.

Every dependency petition must include the Department of Social and Health Services (DSHS) or Department of Children, Youth, and Families (DCYF) efforts to identify relatives and other suitable persons who can provide support for the family and potential placement of the child.

If the DSHS or DCYF request an order continuing shelter care beyond 30 days, the DSHS or the DCYF must submit a report to the court that includes the efforts taken by the DSHS or the DCYF to:

- identify relatives and other suitable persons who can provide support for the family and potential placement of the child; and
- support natural connections to the family.

During permanency planning hearings, the court must make an explicit finding regarding the efforts that the DSHS or DCYF has made to identify relatives and other suitable persons for potential placement.

A Family Assessment Response social worker must make reasonable efforts to locate relatives or other suitable persons to provide support for the family if authorized by the family.

The DSHS and DCYF are required to conduct an extensive family search beginning at the time a child is placed in out-of-home care.

Out-of-Home Placement Criteria.

The requirement that courts weigh the child's length of stay and attachment to a current provider during a shelter care hearing is removed.

When determining a child's out-of-home placement during a permanency planning hearing, the court shall give weight to the child's stability of placement, length of stay, and attachment to the long-term provider in determining what is in the best interest of the child.

After a child has remained in out-of-home care for one year since the filing of a dependency petition, the court shall weigh the benefits of relative placement with the stability provided by and attachment to a long-term caregiver.

Indian Child Welfare Act.

A section is added to the dependency and termination of parent child relationship RCW chapter restating current law that the state and federal Indian Child Welfare Acts apply in child custody proceedings as defined in those acts and if there is a conflict between state child welfare provisions and the Indian Child Welfare Acts, the Indian Child Welfare Acts will apply.

Appropriation: None.

Fiscal Note: Requested on January 15, 2018.

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