

SENATE BILL REPORT

SB 5805

As Passed Senate, February 1, 2024

Title: An act relating to developing a schedule for court appointment of attorneys for children and youth in dependency and termination proceedings.

Brief Description: Developing a schedule for court appointment of attorneys for children and youth in dependency and termination proceedings.

Sponsors: Senators Frame, Boehnke, Kuderer, Nguyen, Nobles, Trudeau and Wilson, C..

Brief History:

Committee Activity: Human Services: 1/09/24, 1/18/24 [DP-WM, DNP, w/oRec].

Floor Activity: Passed Senate: 2/1/24, 46-2.

Brief Summary of Bill

- Changes the full statewide implementation plan for the court appointment of attorneys for children and youth in dependency and termination proceedings date from January 1, 2027 to January 1, 2028.

SENATE COMMITTEE ON HUMAN SERVICES

Majority Report: Do pass and be referred to Committee on Ways & Means.
Signed by Senators Wilson, C., Chair; Kauffman, Vice Chair; Frame and Nguyen.

Minority Report: Do not pass.
Signed by Senator Boehnke, Ranking Member.

Minority Report: That it be referred without recommendation.
Signed by Senators Warnick and Wilson, J..

Staff: Alison Mendiola (786-7488)

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Background: In dependency proceedings, where the court determines whether a child should be a dependent of the state, the Department of Children, Youth, and Families (DCYF) is represented by an assistant attorney general. Parents and guardians have the right to counsel and, if indigent, they have the right to have counsel appointed by the court. The Office of Public Defense contracts with attorneys to represent indigent parents, custodians, and legal guardians involved in child dependency and termination of parental rights proceedings.

Historically, whether or not a court appointed an attorney for a child in a dependency proceeding depended upon the age of the child, the stage of the proceeding, and was, in most cases, a matter of court discretion.

Mandatory Appointment of Counsel for Children. In 2021 the Legislature passed 2SHB 1219 which requires, subject to appropriation, counsel for children in dependency proceedings are to be appointed on a phased-in county-by-county basis over a six-year period as follows:

- at least three counties beginning July 1, 2022;
- at least eight counties beginning January 1, 2023;
- at least 15 counties beginning January 1, 2024;
- at least 20 counties beginning January 1, 2025;
- at least 30 counties beginning January 1, 2026; and
- full-statewide implementation by January 1, 2027.

For children ages zero through seven years, mandatory appointment occurs upon the filing of a termination petition. For children ages 8 through 17, mandatory appointment for new dependency petitions occurs at or before the commencement of the shelter care hearing and, for any pending or open dependency case where the child is unrepresented and is entitled to appointment, mandatory appointment occurs at or before the next hearing.

Counties that have either no current practice of appointment of attorneys in dependency cases or have a significant prevalence of racial disproportionality or disparities in the number of dependent children compared to the population, or both, must be prioritized.

Summary of Bill: The schedule for court appointment of attorneys for every child in dependency proceedings is revised to add 36 counties beginning in January 1, 2027, with full statewide implementation by January 1, 2028. The phased-in schedule must not add more than 1250 cases each fiscal year.

To the extent practicable, counties that have either no current practice of appointment of attorneys in dependency cases or have a significant prevalence of racial disproportionality or disparities in the number of dependent children compared to the population, or both, should be prioritized.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

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

Staff Summary of Public Testimony: PRO: In these proceedings, DCYF has an attorney, the parent has an attorney, but the child doesn't. Under the original bill, this has changed so that all children in a dependency or a termination proceeding will have counsel. The implementation has gone well so far, another year is needed to extend the program statewide and it's helpful to limit the new cases to 1,250 per year.

Persons Testifying: PRO: Senator Noel Frame, Prime Sponsor; Bailey Zydek, Washington State Office of Civil Legal Aid.

Persons Signed In To Testify But Not Testifying: No one.