SENATE BILL REPORT
SB 5761

As of February 25, 2025

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 and Nobles.

Brief History:
Committee Activity: Ways & Means: 2/25/25.

Brief Summary of Bill

- Delays by four years the implementation schedule for the court appointment of attorneys for children and youth in dependency and termination proceedings.

SENATE COMMITTEE ON WAYS & MEANS

Staff: Josh Hinman (786-7281)

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 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.

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.

Mandatory Appointment of Counsel for Children. In 2021, the Legislature enacted 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. In 2024, the implementation schedule was extended with the passage of SB 5805. The implementation schedule is:

- 3 counties beginning July 1, 2022;
- 8 counties beginning January 1, 2023;
- 15 counties beginning January 1, 2024;
- 20 counties beginning January 1, 2025;
- 30 counties beginning January 1, 2026;
- 36 counties beginning January 1, 2027; and
- statewide implementation by January 1, 2028.

For children ages 0 through 7 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 extended by four years, to the following implementation schedule:

- 3 counties beginning July 1, 2022;
- 8 counties beginning January 1, 2023;
- 15 counties beginning January 1, 2024;
- 20 counties beginning January 1, 2025;
- 30 counties beginning January 1, 2030;
- 36 counties beginning January 1, 2031; and
- statewide implementation by January 1, 2032.

Appropriation: The bill contains a section or sections to limit implementation to the availability of amounts appropriated for that specific purpose.

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: OTHER: I administer the program at OCLA. We

understand the difficult budget situation and appreciate the senator sponsoring this bill. OCLA has made efforts to onboard the next cohort of counties. While the fiscal note is an overall savings, I would like to flag that there is still a fiscal impact and slight increase to existing funding levels by pausing expansion. If the budget outlook improves in the future, we would like to revisit the expansion schedule.

I am the executive director of an organization that provides a variety of legal services to young children. We understand the budget reasons behind this bill, and we recognize that delayed representation means delayed due process. Youth shouldn't face the court system without an attorney. Do not delay this too long and consider an amendment to establish a review of the implementation schedule.

Persons Testifying:

OTHER: Bailey Zydek, Washington State Office of Civil Legal Aid; Rhea Yo, Legal Counsel for Youth and Children.

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