

Sections 1 and 2 of this bill will allow the implementation of the 1988 voter-approved Constitutional Amendment, HJR 4223 which extends the conservation authority to add equipment to the prior authorization for structures. Section 4 makes the bill effective immediately. This legislation was requested by the State Energy Office and was supported by my office.

Section 3 is an amendment which authorizes financial assistance for the planting of trees that will cast shade on residential structures in the summer. Shade trees are aesthetically pleasing and have some energy benefits. However, the inclusion of shade trees in this bill arguably goes beyond the public understanding of conservation under the constitutional amendment permitting loans for "... materials and equipment for conservation ...".

I would be favorably inclined to review this issue if, after further public discussion, shade trees or other energy conservation methods are shown to be and generally recognized as cost effective.

With the exception of section 3, Senate Bill No. 5172 is approved."

CHAPTER 269

[House Bill No. 1777]

ALTERNATIVE RESIDENTIAL PLACEMENT OF CHILDREN—DEPARTMENT OF SOCIAL AND HEALTH SERVICES—DUTIES

AN ACT Relating to child welfare services; and amending RCW 13.32A.150, 13.32A.160, 13.32A.170, 13.32A.250, 13.32A.190, and 28A.87.120.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 29, chapter 155, Laws of 1979 as amended by section 11, chapter 298, Laws of 1981 and RCW 13.32A.150 are each amended to read as follows:

(1) Except as otherwise provided in this section the juvenile court shall not accept the filing of an alternative residential placement petition by the child or the parents, unless verification is provided that a family assessment has been completed by the department. The family assessment shall be aimed at family reconciliation and avoidance of the out-of-home placement of the child. If the department is unable to complete an assessment within two working days following a request for assessment the child or the parents may proceed under subsection (2) of this section.

(2) A child or a child's parent may file with the juvenile court a petition to approve an alternative residential placement for the child outside the parent's home. The department shall, when requested, assist either a parent or child in the filing of the petition. The petition shall only ask that the placement of a child outside the home of his or her parent be approved. The filing of a petition to approve such placement is not dependent upon the court's having obtained any prior jurisdiction over the child or his or her parent, and confers upon the court a special jurisdiction to approve or disapprove an alternative residential placement.

Sec. 2. Section 30, chapter 155, Laws of 1979 and RCW 13.32A.160 are each amended to read as follows:

(1) When a proper petition is filed under RCW 13.32A.120, 13.32A.140₂ or 13.32A.150 the juvenile court shall: (a) Schedule a date for a fact-finding hearing; notify the parent (~~and~~), child, and the department of such date; (b) notify the parent of the right to be represented by counsel and, if indigent, to have counsel appointed for him or her by the court; (c) appoint legal counsel for the child; (d) inform the child and his or her parent of the legal consequences of the court approving or disapproving an alternative residential placement petition; and (e) notify all parties, including the department, of their right to present evidence at the fact-finding hearing.

(2) Upon filing of an alternative residential placement petition, the child may be placed, if not already placed, by the department in a crisis residential center, foster family home, group home facility licensed under chapter 74.15 RCW, or any other suitable residence to be determined by the department.

(3) If the child has been placed in a foster family home or group care facility under chapter 74.15 RCW, the child shall remain there, or in any other suitable residence as determined by the department, pending resolution of the alternative residential placement petition by the court. Any placement may be reviewed by the court within three court days upon the request of the juvenile or the juvenile's parent.

Sec. 3. Section 31, chapter 155, Laws of 1979 as last amended by section 1, chapter 524, Laws of 1987 and RCW 13.32A.170 are each amended to read as follows:

(1) The court shall hold a fact-finding hearing to consider a proper petition and may approve or deny alternative residential placement giving due weight to the intent of the legislature that families have the right to place reasonable restrictions and rules upon their children, appropriate to the individual child's developmental level. The court may appoint legal counsel and/or a guardian ad litem to represent the child and advise parents of their right to be represented by legal counsel. The court may approve an order stating that the child shall be placed in a residence other than the home of his or her parent only if it is established by a preponderance of the evidence, including a departmental recommendation for approval or dismissal of the petition, that:

(a) The petition is not capricious;

(b) The petitioner, if a parent or the child, has made a reasonable effort to resolve the conflict;

(c) The conflict which exists cannot be resolved by delivery of services to the family during continued placement of the child in the parental home; (~~and~~)

(d) Reasonable efforts have been made to prevent or eliminate the need for removal of the child from the child's home and to make it possible for the child to return home; and

(e) A suitable out-of-home placement resource is available.

The court may not grant a petition filed by the child or the department if it is established that the petition is based only upon a dislike of reasonable rules or reasonable discipline established by the parent.

(2) The order approving out-of-home placement shall direct the department to submit a disposition plan for a three-month placement of the child that is designed to reunite the family and resolve the family conflict. Such plan shall delineate any conditions or limitations on parental involvement. In making the order, the court shall further direct the department to make recommendations, as to which agency or person should have physical custody of the child, as to which parental powers should be awarded to such agency or person, and as to parental visitation rights. The court may direct the department to consider the cultural heritage of the child in making its recommendations.

(3) The hearing to consider the recommendations of the department for a three-month disposition plan shall be set no later than fourteen days after the approval of the court of a petition to approve alternative residential placement. Each party shall be notified of the time and place of such disposition hearing.

(4) If the court approves or denies a petition for an alternative residential placement, a written statement of the reasons shall be filed. If the court denies a petition requesting that a child be placed in a residence other than the home of his or her parent, the court shall enter an order requiring the child to remain at or return to the home of his or her parent.

(5) If the court denies the petition, the court shall impress upon the party filing the petition of the legislative intent to restrict the proceedings to situations where a family conflict is so great that it cannot be resolved by the provision of in-home services.

(6) A child who fails to comply with a court order directing that the child remain at or return to the home of his or her parent shall be subject to contempt proceedings, as provided in this chapter, but only if the noncompliance occurs within ninety calendar days after the day of the order.

(7) The department may request, and the juvenile court may grant, dismissal of an alternative residential placement order when it is not feasible for the department to provide services due to one or more of the following circumstances:

(a) The child has been absent from court approved placement for thirty consecutive days or more;

(b) The parents or the child, or all of them, refuse to cooperate in available, appropriate intervention aimed at reunifying the family; or

(c) The department has exhausted all available and appropriate resources that would result in reunification.

Sec. 4. Section 14, chapter 298, Laws of 1981 and RCW 13.32A.250 are each amended to read as follows:

(1) In all alternative residential placement proceedings, the court shall verbally notify the parents and the child of the possibility of a finding of contempt for failure to comply with the terms of an alternative residential placement order. The court shall treat the parents and the child equally for the purposes of applying contempt of court processes and penalties under this section.

(2) Failure by a party to comply with an order entered under this chapter is punishable as contempt.

~~((2))~~ (3) Contempt under this section is punishable by a fine of up to one hundred dollars and imprisonment for up to seven days, or both.

~~((3))~~ (4) A child found in contempt under this section shall be imprisoned only in a secure juvenile detention facility operated by or pursuant to a contract with a county.

~~((4))~~ (5) The procedure in a contempt proceeding held under this section is governed by RCW 7.20.040 through 7.20.080, as now law or hereafter amended.

~~((5))~~ (6) A motion for contempt may be made by a parent, a child, juvenile court personnel, or by any public agency, organization, or person having custody of the child under a court order adopted pursuant to this chapter.

Sec. 5. Section 33, chapter 155, Laws of 1979 as last amended by section 2, chapter 188, Laws of 1984 and RCW 13.32A.190 are each amended to read as follows:

(1) Upon making a dispositional order under RCW 13.32A.180, the court shall schedule the matter on the calendar for review within three months, advise the parties of the date thereof, appoint legal counsel and/or a guardian ad litem to represent the child at the review hearing, advise parents of their right to be represented by legal counsel at the review hearing, and notify the parties of their rights to present evidence at the hearing. Where resources are available, the court shall encourage the parent and child to participate in mediation programs for reconciliation of their conflict.

(2) At the review hearing, the court shall approve or disapprove the continuation of the dispositional plan in accordance with the goal of resolving the conflict and reuniting the family which governed the initial approval. The court shall determine whether reasonable efforts have been made to reunify the family and make it possible for the child to return home. The court is authorized to discontinue the placement and order that the child return home if the court has reasonable grounds to believe that the parents have displayed concerted efforts to utilize services and resolve the conflict and the court has reason to believe that the child's refusal to return home is capricious. If out-of-home placement is continued, the court may modify the dispositional plan.

(3) Out-of-home placement may not be continued past one hundred eighty days from the day the review hearing commenced. The court shall order that the child return to the home of the parent at the expiration of the placement. If continued out-of-home placement is disapproved, the court shall enter an order requiring that the child return to the home of the child's parent.

(4) The department may request, and the juvenile court may grant, dismissal of an alternative residential placement order when it is not feasible for the department to provide services due to one or more of the following circumstances:

(a) The child has been absent from court approved placement for thirty consecutive days or more;

(b) The parents or the child, or all of them, refuse to cooperate in available, appropriate intervention aimed at reunifying the family; or

(c) The department has exhausted all available and appropriate resources that would result in reunification.

Sec. 6. Section 28A.87.120, chapter 223, Laws of 1969 ex. sess. as amended by section 1, chapter 38, Laws of 1982 and RCW 28A.87.120 are each amended to read as follows:

(1) Any pupil who shall deface or otherwise injure any school property, shall be liable to suspension and punishment. Any school district whose property has been lost or willfully cut, defaced, or injured, may withhold the grades, diploma, and transcripts of the pupil responsible for the damage or loss until the pupil or the pupil's parent or guardian has paid for the damages. When the pupil and parent or guardian are unable to pay for the damages, the school district shall provide a program of voluntary work for the pupil in lieu of the payment of monetary damages. Upon completion of voluntary work the grades, diploma, and transcripts of the pupil shall be released. The parent or guardian of such pupil shall be liable for damages as otherwise provided by law.

(2) Before any penalties are assessed under this section, a school district board of directors shall adopt procedures which insure that pupils' rights to due process are protected.

(3) If the department of social and health services or a child-placing agency licensed by the department has been granted custody of a child, that child's records, if requested by the department or agency, are not to be withheld for nonpayment of school fees or any other reason.

Passed the House April 18, 1989.

Passed the Senate April 13, 1989.

Approved by the Governor May 5, 1989.

Filed in Office of Secretary of State May 5, 1989.