

HOUSE BILL REPORT

HB 2529

*As Reported By House Committee on:
Judiciary*

Title: An act relating to restricting residential time and visitation rights of parents who have sexually abused their children.

Brief Description: Restricting residential time and visitation rights of parents who sexually abuse their children.

Sponsor(s): Representatives Belcher, Forner, Paris, H. Myers, Riley, Anderson, Leonard, R. King, Ebersole, Bowman, Orr, Scott, J. Kohl, Morris, Fraser, Rasmussen and Brekke.

Brief History:

Reported by House Committee on:
Judiciary, February 7, 1992, DPS.

**HOUSE COMMITTEE ON
JUDICIARY**

Majority Report: *The substitute bill be substituted therefor and the substitute bill do pass.* Signed by 17 members: Representatives Appelwick, Chair; Ludwig, Vice Chair; Padden, Ranking Minority Member; Paris, Assistant Ranking Minority Member; Belcher; Broback; Forner; Inslee; Locke; R. Meyers; Mielke; H. Myers; Riley; Scott; D. Sommers; Tate; and Vance.

Minority Report: *Do not pass.* Signed by 1 member: Representative Hargrove.

Staff: Pat Shelledy (786-7149).

Background: When parties who have children get divorced, the court establishes a residential schedule.

The court must limit a parent's residential time with the child if the parent has engaged in physical, sexual, or a pattern of emotional abuse of a child. The limitations imposed must be reasonably calculated to protect the child from abuse. If the court finds limiting the residential time will not adequately protect the child from parental abuse, the court must restrain the parent from all contact with the child.

If the court expressly finds that contact between the parent and child will not cause physical, sexual, or emotional abuse to the child and that the probability that the parent's abusive conduct will recur is so remote that imposing limitations would not be in the child's best interest, or, if the court expressly finds that the parent's conduct did not impact the child, the court does not have to impose limitations.

The type of limitations imposed, if any, are within the court's discretion. No mandatory provisions exist requiring the judge to impose limitations when the parent has sexually abused the child.

Similar provisions exist in the chapter governing non-parental actions for custody which may involve setting a visitation schedule for a parent when a third party is awarded custody, such as a grandparent.

Summary of Substitute Bill: When setting a residential schedule for divorced parents, the court must appoint a neutral and independent adult to supervise any court ordered residential time if the court finds that the parent has sexually abused the child or the parent's other children. Unless the non-offending parent approves the supervisor, the offending parent has the burden of proving that the proposed supervisor is neutral, independent, willing to supervise, and is capable of intervening between the child and the parent if necessary. The court may hold the supervisor in contempt if the supervisor does not adequately supervise. The court must order the supervision for a minimum of one year and may not waive the supervision requirement.

An identical provision is included in the chapter governing nonparental actions for custody when the court sets a visitation schedule for a parent not awarded custody of the child.

The bill is silent about who pays for the supervisor and contemplates that the parent will have to pay for the supervisor.

Substitute Bill Compared to Original Bill: The original bill is substantially rewritten. The original bill provided that if the court found that the parent had sexually abused the child, a neutral third party must supervise all residential time the offender spends with the child. The supervisor could not be a member of the offending parent's family. Those provisions were modified as provided in the substitute.

Fiscal Note: Not requested.

Effective Date of Substitute Bill: The bill contains an emergency clause and takes effect immediately.

Testimony For: Courts have too much discretion regarding appointment of supervisors. Courts frequently do not require supervision of visitation even when the parent has been convicted of sexually abusing the child. When the court appoints a supervisor, the appointed person is frequently a relative of the offender who does not believe the offender abused the victim and therefore cannot be trusted to protect the child. Even if the relative wants to do a good job, the relative is in a very awkward position between loyalty to the offending parent and protecting the child.

Testimony Against: None.

Witnesses: (All in favor): Representative Belcher, prime sponsor; Representative Fraser, sponsor; Dardenel Wood, citizen; Clare Hoxie, citizen; Cathy Camithers, citizen; Kathy Canny, citizen; Dawn Larsen, Washington State Coalition of Sexual Assault Programs; and Thelma Hammond, citizen.