

SENATE BILL REPORT

SB 5061

AS REPORTED BY COMMITTEE ON LAW & JUSTICE, MARCH 3, 1993

Brief Description: Limiting residential time in parenting plans and visitation orders for abusive parents.

SPONSORS: Senators Fraser, Winsley and A. Smith

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: That Substitute Senate Bill No. 5061 be substituted therefor, and the substitute bill do pass.

Signed by Senators A. Smith, Chairman; Quigley, Vice Chairman; Hargrove, McCaslin, Nelson, Niemi, and Spanel.

Staff: Lidia Mori (786-7755)

Hearing Dates: January 22, 1993; March 3, 1993

BACKGROUND:

There is no law in Washington that prohibits a parent from obtaining residential time with a child even though the child was conceived as a result of the rape of the mother. A parent who has sexually, physically, or emotionally abused a child may also obtain unsupervised residential time with that child if the court finds that such contact would not harm the child and the chance of the abusive behavior reoccurring is so remote that limitations on residential time are not in the child's best interests.

SUMMARY:

The court is directed to deny residential time to a parent and enter a permanent restraining order if the court finds that the child was conceived as a result of a sex offense committed by that parent against the child's other parent or if the court finds that the parent requesting residential time has sexually abused the child. The court is also required to deny residential time with the child if it finds that the parent requesting residential time has sexually abused any other child within the previous ten years.

If the court finds that a parent has physically abused the child or has shown a pattern of emotional abuse of the child, the court is required to allow only supervised residential time with the child. The supervision is to be done by a neutral third party over whom the court has jurisdiction and the court may hold the supervisor in contempt if he or she fails to adequately supervise the residential time.

EFFECT OF PROPOSED SUBSTITUTE:

There is a rebuttable presumption that the court will deny residential time or visitation and enter a permanent restraining order if there has been a conviction in a criminal court or the court finds by clear and convincing evidence that the parent requesting residential time or visitation has sexually abused a child living in the parent's household at any time during the parent's life or any other child within the previous ten years. The presumption can be rebutted if the court finds that the offending parent is engaged in and making progress in treatment for sexual offenders and the treatment provider believes such contact is appropriate and poses minimal risk to the child and there is an adequate plan for supervision of the residential time or visitation which the court has approved. If the presumption is rebutted, the court may order supervised residential time or visitation. If the nonoffending parent does not approve of the supervisor, the court must make a finding that such person is neutral and capable of intervening if necessary and shall notify the supervisor of the court's requirements regarding supervision. The court is authorized to remove the supervisor immediately if the supervision is not adequately performed.

If a parent who is requesting residential time or visitation with a child is living with a person who has physically or sexually abused a child in the past, the court is instructed to require that all residential time or visitation take place outside the presence of that person.

Appropriation: none

Revenue: none

Fiscal Note: none requested

TESTIMONY FOR:

This bill is necessary because it will provide greater protection for children that have been sexually abused. It also provides some specificity as to who constitutes a proper supervisor and the important role that person plays.

TESTIMONY AGAINST:

This bill is draconian in its approach and goes too far. The discretion of the judge is too limited. There may be some situations where it would not be necessary for a judge to deny visitation or even require that it be supervised.

TESTIFIED: Senator Karen Fraser, prime sponsor; Donna Deleno, Washington Coalition of Sexual Assault Programs (pro); Cathy Carruthers (pro); Amy Crewsden, Evergreen Legal Services (pro); Bill Harrington, Fathers' Rights (con); Robert Taub, Washington State Bar Association Family Law Section (con); Judy Turpin, Northwest Women's Law Center; Lonnie Johns Brown, National Organization of Women (pro); Michele Delo, Washington Families; Bob Hoyden, Washington Families

