

SENATE BILL REPORT

SB 6275

AS REPORTED BY COMMITTEE ON LAW & JUSTICE, FEBRUARY 3, 1994

Brief Description: Providing an administrative remedy for residential interference.

SPONSORS: Senators A. Smith, Owen, Roach, Ludwig, L. Smith, Hochstatter, Erwin, Oke, Skratek, Nelson, Bauer, Vognild and Winsley

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: Do pass.

Signed by Senators A. Smith, Chairman; Ludwig, Vice Chairman; Hargrove, Nelson, Quigley, Roach and Schow.

Staff: Susan Carlson (786-7418)

Hearing Dates: January 25, 1994; February 3, 1994

BACKGROUND:

Statutes provide two avenues for redress of violations of the residential provisions in a parenting plan: criminal charges or civil contempt proceedings. In cases where criminal charges are not filed, the aggrieved parent has the burden to pursue civil contempt. Many parents cannot afford the court costs and attorney fees required to bring such an action.

It has been suggested that an administrative procedure to address violations of parenting plan visitation provisions would allow parent's greater access to an enforcement procedure.

SUMMARY:

The Legislature makes findings that children of broken families have a need for financial and emotional support from both parents. Also, studies show a link between enforcement of support and the payment of child support. The Legislature intends to provide administrative redress for violations of parenting plan residential provisions.

A party to a parenting plan may file a petition with the Department of Social and Health Services alleging residential interference. The department shall give notice of the allegations to the alleged violator of the parenting plan and require that person to either acknowledge the violation or demand a hearing. If the violation is acknowledged, a finding of residential interference is entered. If a hearing is demanded, the Office of Administrative Hearings is required to schedule a hearing.

At the hearing, the petitioner must prove by a preponderance of evidence that a violation of the visitation provisions occurred. If found to be in violation, the parent may be ordered to provide the moving party with additional time with the child, pay court costs, attorney fees, and costs of locating or returning the child, and pay a civil penalty of not less than \$100.

Two administrative findings of violation of the residential provisions constitute a substantial change of circumstances for purposes of filing a petition with the court for modification of the residential schedule in the parenting plan.

Appropriation: none

Revenue: none

Fiscal Note: available

TESTIMONY FOR:

Since the state enforces child support, it is fair that the state also provide a procedure for parents to enforce visitation with their children.

TESTIMONY AGAINST:

Current law provides remedies for violations of residential provisions in a parenting plan. Implementing an administrative procedure for this could be costly.

TESTIFIED: Michele Delo, Cindy Wall, Genie Saline, Rachel Burke, Washington Families for Noncustodial Rights (pro); Ann Simons, Washington Women United (con); Lonnie Johns-Brown, NOW (con); Nancy Hawkins, NW Women's Law Center (con)