

HOUSE BILL REPORT

HB 2361

As Reported by House Committee On:
Children & Family Services

Title: An act relating to visitation for children in foster care.

Brief Description: Requiring development and implementation of policies concerning visitation for children in foster care.

Sponsors: Representatives Kagi, O'Brien, Kenney, Wood, Dickerson, Schual-Berke, Boldt, Morrell and Darneille.

Brief History:

Committee Activity:

Children & Family Services: 1/21/04, 1/29/04 [DPS].

Brief Summary of Substitute Bill

- Requires the Department of Social and Health Services to develop policies and protocols concerning visitation for children in foster care.

HOUSE COMMITTEE ON CHILDREN & FAMILY SERVICES

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 9 members: Representatives Kagi, Chair; Darneille, Vice Chair; Boldt, Ranking Minority Member; Roach, Assistant Ranking Minority Member; Bailey, Dickerson, Miloscia, Pettigrew and Shabro.

Staff: Cynthia Forland (786-7152).

Background:

The Department of Social and Health Services (DSHS) is required to develop methods for coordination of services to parents and children in child dependency cases. This requirement includes coordinating and integrating services to children and families, and using service plans and activities that address the children's and families' multiple needs, including ensuring that siblings have regular visits with each other, as appropriate.

If the court has ordered a dependent child removed from the child's home and into the

custody, control, and care of a relative, the DSHS, or a licensed child placing agency for placement in a licensed foster family home or group care facility or in a home not required to be licensed, the court must consider whether it is in that child's best interest to be placed with, have contact with, or have visits with siblings or step-siblings. There must be a presumption that such placement, contact, or visits are in the best interests of the child provided that:

- the court has jurisdiction over all siblings subject to the order of placement, contact, or visitation or the parents of a child for whom there is no jurisdiction are willing to agree; and
- there is no reasonable cause to believe that the health, safety, or welfare of any child subject to the order of placement, contact, or visitation would be jeopardized or that efforts to reunite the parent and child would be hindered by such placement, contact, or visitation. In no event may parental visitation time be reduced in order to provide sibling visitation.

Unless the court has ordered that a termination petition be filed, whenever a dependent child is ordered removed from the child's home, the agency charged with that child's care must provide the court with a specific plan as to where the child will be placed, what steps will be taken to return the child home, what steps the agency will take to promote existing appropriate sibling relationships and/or facilitate placement together or contact in accordance with the best interests of each child, and what actions the agency will take to maintain parent-child ties. The agency plan must specify what services the parents will be offered to enable them to resume custody, what requirements the parents must meet to resume custody, and a time limit for each service plan and parental requirement. The agency must encourage the maximum parent and child and sibling contact possible, including regular visitation and participation by the parents in the care of the child while the child is in placement. Visitation may be limited or denied only if the court determines that such limitation or denial is necessary to protect the child's health, safety, or welfare. A child must be placed as close to the child's home as possible, preferably in the child's own neighborhood, unless the court finds that placement at a greater distance is necessary to promote the child's or parents' well-being.

If the court has ordered that a termination petition be filed, the agency charged with that child's care must provide the court with a specific plan as to where the child will be placed, what steps will be taken to achieve permanency for the child, services to be offered or provided to the child, and, if visitation would be in the best interests of the child, a recommendation to the court regarding visitation between parent and child pending a fact-finding hearing on the termination petition. The agency may not be required to develop a plan of services for the parents or provide services to the parents if the court orders a termination petition be filed. However, reasonable efforts to ensure visitation and contact between siblings must be made unless there is reasonable cause to believe the best interests of the child or siblings would be jeopardized.

If the court enters an order establishing a dependency guardianship for a child, that order must include a specification of an appropriate frequency of visitation between the parent and the child.

Whenever a child is placed in out-of-home care, foster parents are encouraged to:

- provide consultation to the foster care team based upon their experience with the child placed in their care;
- assist the birth parents by helping them understand their child's needs and correlating appropriate parenting responses;
- participate in educational activities, and enter into community-building activities with birth families and other foster families; and
- transport children to family time visits with birth families and assist children and their families in maximizing the purposefulness of family time.

Summary of Substitute Bill:

It is provided that in all cases the best interest of the child must be the primary concern in planning visitation with families. When planning visitation with families, appropriate levels of visitation should be determined for each family, taking into consideration their individual circumstances, including parental follow-through and the parent-child bond, among other factors, and consistent with the health, safety, and welfare of the child. Under no circumstances should visitation be used as a sanction for a parent's failure to engage in other court-ordered services.

The DSHS is required to develop consistent policies and protocols, based on current relevant research, concerning visitation for children in foster care to be implemented consistently throughout the state. The DSHS is required to develop the policies and protocols in consultation with researchers in the field, community-based agencies, Court-Appointed Special Advocates, and court representatives. The policies and protocols must include, but not be limited to:

- the structure and quality of visitations; and
- training for caseworkers, visitation supervisors, and foster parents related to visitation.

The policies and protocols must be consistent with the provisions of chapter 13.34 RCW and implementation of the policies and protocols must be consistent with relevant orders of the court.

The DSHS is required to report on the policies and protocols concerning visitation for children in foster care to the appropriate committees of the Legislature by January 1, 2005.

Substitute Bill Compared to Original Bill:

It is provided that in all cases the best interest of the child must be the primary concern in planning visitation with families. When planning visitation with families, appropriate levels of visitation should be determined for each family, taking into consideration their individual circumstances, including parental follow-through and the parent-child bond, among other factors, and consistent with the health, safety, and welfare of the child. Under no circumstances should visitation be used as a sanction for a parent's failure to engage in other court-ordered services.

The DSHS is not required to include the frequency of visitation in the policies and protocols concerning visitation for children in foster care that the DSHS is required to develop.

Court-Appointed Special Advocates and court representatives are included in the groups with which the DSHS is required to consult in developing the policies and protocols concerning visitation.

The DSHS is not required to implement the policies and protocols concerning visitation for children in foster care across the state by January 1, 2005. The DSHS is required to report on the policies and protocols to the appropriate committees of the Legislature by January 1, 2005.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of session in which bill is passed.

Testimony For: (Original bill) Visitation provides an opportunity to impact parent-child relationships. This bill is an effort to focus on evidence-based practice relating to visitation. It is important to determine what visitation is. Some regions are doing well on visitation, while others are not. Visitation increases the likelihood of continued contact or reunification. It is important that the bill specifically addresses standards and training relating to visitation, but may not be appropriate for the bill to specifically address frequency of visitation. The bill could result in increased costs, although would probably provide savings over the long term. This is another step in putting family time at the forefront. However, questions need to be addressed relating to what the purpose of that family time is and how that purpose can be realized. There is potential for foster parents to play a significant role in this family time. Relevant parties should be included in the process to establish guidance around visitation.

(Neutral) The term "biological families" should be defined in the bill.

(With concerns) Visitation is important for reunification and the healthy development of children. The DSHS currently contracts with service providers for visitation services. This bill could result in increased costs for the DSHS. The bill should be amended to prohibit the withholding of visitation as a sanction against parents. The bill should also be amended to provide a policy statement directing the DSHS to encourage visitation and to support visitation to the extent that funding is appropriated for that purpose. A broad-based group should be convened, including judges, foster parents, and biological parents. The intent section should be amended to reflect that visitation may not be appropriate in all cases and at all times, and that reunification is not always appropriate.

Testimony Against: None.

Persons Testifying: (In support) Representative Kagi, prime sponsor; Susan Brook, Lutheran Community Services; David Del Villar Fox, Children's Home Society of Washington; Charyl Gerring, Birth Family-Foster Family Project in the Division of Children and Family Services; Joanne Moore, Office of Public Defense; and Mary Fischer, Institute for Family Development.

(Neutral) Edith Owen, Pierce County Relatives Raising Children.

(With concerns) Uma Ahluwalia, DSHS; and Martha Harden, Superior Court Judges Association.

Persons Signed In To Testify But Not Testifying: None.