

HOUSE BILL REPORT

SB 6643

As Reported by House Committee On:
Children & Family Services

Title: An act relating to family visitation for dependent children.

Brief Description: Providing guidelines for family visitation for dependent children.

Sponsors: Senators Stevens, Hargrove, Schmidt and Carlson.

Brief History:

Committee Activity:

Children & Family Services: 2/19/04, 2/26/04 [DPA].

Brief Summary of Bill
(As Amended by House Committee)

- Provides that in dependency cases visitation is the right of the family, including the child and the parent, if visitation is in the best interest of the child.
- Requires that evaluators performing court-ordered expert evaluations of parties, regarding visitation issues or other issues in a case, be mutually agreed upon.
- 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: Do pass as amended. 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:

Permanency Plan

Whenever a child is ordered removed from the child's home, the agency charged with that child's care is required to provide the court with a permanency plan of care that must

identify one of the following outcomes as a primary goal and may identify additional outcomes as alternative goals:

- return of the child to the home of the child's parent, guardian, or legal custodian;
- adoption;
- guardianship;
- permanent legal custody;
- long-term relative or foster care, until the child is age 18, with a written agreement between the parties and the care provider;
- successful completion of a responsible living skills program; or
- independent living, if appropriate and if the child is age 16 or older.

Unless the court has ordered that a termination petition be filed, the agency charged with the child's care is required to 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. All aspects of the plan must include the goal of achieving permanence for the child and 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 is also required to 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. The 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. The agency charged with supervising a child in placement must provide all reasonable services that are available within the agency, or within the community, or those services that the Department of Social and Health Services (DSHS) has existing contracts to purchase, and report to the court if it is unable to provide such services.

Role of the DSHS

The 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.

Role of Foster Parents

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 Amended Bill:

Permanency Plan

Whenever a child is ordered removed from the child's home but the court has not ordered that a termination petition be filed, it is provided that visitation is the right of the family, including the child and the parent, in cases in which visitation is in the best interest of the child. Early, consistent, and frequent visitation is crucial for maintaining parent-child relationships and making it possible for parents and children to safely reunify.

The requirement that the agency charged with a child's care encourage the maximum parent and child and sibling contact possible is limited to when it is in the best interest of the child.

Visitation may not be limited as a sanction for a parent's failure to comply with court orders or services where the health, safety, or welfare of the child is not at risk as a result of the visitation.

The court and the agency charged with the child's care should rely upon community resources, relatives, foster parents, and other appropriate persons to provide transportation and supervision for visitation to the extent that such resources are available, and appropriate, and the child's safety would not be compromised.

Expert Evaluations

The court may order expert evaluations of parties, to obtain information regarding visitation issues or other issues in a case, to be performed by appointed evaluators who are mutually agreed upon by the court, the state, and the parents' counsel, and, if the child is to be evaluated, by the representative for the child. If no agreement can be reached, the court must select the expert evaluator.

Role of the DSHS

The DSHS is required to develop consistent policies and protocols, based on current relevant research, concerning visitation for dependent children 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, parents' representatives, 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 dependent children to the appropriate committees of the Legislature by January 1, 2005.

Amended Bill Compared to Original Bill:

It is specified that visitation is the right of the family, including the child and the parent, *in cases in which visitation is in the best interest of the child.*

The requirement that the agency charged with a child's care encourage the maximum parent and child and sibling contact possible is limited to when it is in the best interest of the child.

It is specified that reliance upon specified resources to provide transportation and supervision for visitation is limited to the extent that those resources are available, *and appropriate*, and the child's safety would not be compromised.

It is no longer provided that supervision of visitation must not be required except when necessary to protect the child's health, safety, or welfare.

The court may order expert evaluations of parties, to obtain information regarding visitation issues or other issues in a case, to be performed by appointed evaluators who are mutually agreed upon by the court, the state, and the parents' counsel, and, if the child is to be evaluated, by the representative for the child. If no agreement can be reached, the court must select the expert evaluator.

The DSHS is required to develop consistent policies and protocols, based on current relevant research, concerning visitation for dependent children 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, parents' representatives, 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 dependent children to the appropriate committees of the Legislature by January 1, 2005.

Appropriation: None.

Fiscal Note: Available.

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

Testimony For: This bill is all about visitation of children with their families. Judges may be thinking about parents' noncompliance with court orders, rather than about the children, in making decisions on visitation, but you cannot punish the children in order to punish the parents. The bill is a product of the Dependency and Termination Equal Justice Committee, which considered the impact and importance of visitation in relation to children's needs and reunification. This bill covers some of the same areas as the House bill. It provides clear direction to the courts and the DSHS concerning their obligations relating to visitation. The bill should be amended to provide clear direction to caseworkers that visitation is appropriate in many cases even if reunification is not the goal. The bill should also be amended to provide that expert evaluators must be jointly selected by the DSHS and counsel to the parent. There is currently no statutory language on this. The DSHS supports the provision in the bill that visitation not be used as a sanction and the language in the bill on supervision. The bill should be amended to provide that visitation should be encouraged even when reunification with the child's parents is not the permanent plan for the child, until parental rights have been terminated. The bill should be amended to amend current law to provide that the agency charged with a child's care shall provide, instead of encourage, the maximum parent and child and sibling contact possible. There is quite a bit of inconsistency across the state around visitation. This bill could be combined with the House bill on visitation for a good final solution.

Testimony Against: None.

Persons Testifying: (In support) Senator Val Stevens, prime sponsor; Joanne Moore, Washington State Office of Public Defense; LaVerne Lamoureux, Children's Administration of the Department of Social and Health Services; Ali Pearson, Washington State Defenders Association and Washington State Association of Criminal Defense Lawyers; Laurie Lippold, Children's Home Society; and Kevin Glackin-Coley, Children's Alliance.

Persons Signed In To Testify But Not Testifying: None.