

HOUSE BILL REPORT

SSB 5315

As Passed House - Amended:

April 16, 2013

Title: An act relating to the implementation of the recommendations made by the Powell fatality team.

Brief Description: Implementing the recommendations made by the Powell fatality team.

Sponsors: Senate Committee on Human Services & Corrections (originally sponsored by Senators Becker, Dammeier, Rivers, Padden and Roach).

Brief History:

Committee Activity:

Early Learning & Human Services: 3/21/13, 3/28/13 [DPA];

Appropriations Subcommittee on Health & Human Services: 4/4/13 [DPA(ELHS)].

Floor Activity:

Passed House - Amended: 4/16/13, 96-0.

Brief Summary of Substitute Bill (As Amended by House)

- Requires the Department of Social and Health Services (DSHS) to make a concerted effort to consult with law enforcement and communicate the results of the consultation with the courts if a parent or sibling is identified as a suspect in a criminal investigation for a violent crime that may have child safety implications.
- Requires law enforcement to share certain information with the DSHS during consultation if law enforcement has information that may have serious implications for child safety or well-being.
- Specifies that information provided to the DSHS by law enforcement during consultation may only be used to inform family visitation plans, may not be shared or distributed, and is exempt from public inspection.
- Requires the DSHS to develop family visitation protocol in consultation with law enforcement in the event that a parent or sibling is identified in an active criminal investigation for a violent crime that, if the allegations are true, would have child safety implications.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

- Requires the courts to articulate on the record if child placement decisions are contrary to the recommendations of a parent or the DSHS.
- Requires the DSHS to reassess family visitation arrangements, when a parent is ordered to complete a psychosexual evaluation.
- Extends authority to the DSHS to restrict family visitation pending court approval if an assessment indicates that children's health, safety, or welfare may be jeopardized.
- Requires the DSHS to provide ongoing domestic violence training and consultation to caseworkers.

HOUSE COMMITTEE ON EARLY LEARNING & HUMAN SERVICES

Majority Report: Do pass as amended. Signed by 9 members: Representatives Kagi, Chair; Freeman, Vice Chair; Walsh, Ranking Minority Member; Goodman, MacEwen, Overstreet, Roberts, Sawyer and Zeiger.

Staff: Lindsay Lanham (786-7120).

HOUSE COMMITTEE ON APPROPRIATIONS SUBCOMMITTEE ON HEALTH & HUMAN SERVICES

Majority Report: Do pass as amended by Committee on Early Learning & Human Services. Signed by 10 members: Representatives Morrell, Chair; Harris, Ranking Minority Member; Cody, Green, Jinkins, Kagi, Ormsby, Pike, Ross and Schmick.

Staff: Mary Mulholland (786-7391).

Background:

According to the Child Fatality Review Report provided by the Department of Social and Health Services (DSHS), Joshua Powell and his two children (Charles Powell: date of birth, January 2005 and Braden Powell: date of birth, January 2007) moved from West Valley City, Utah to the paternal grandfather's home in Washington in January 2010. The family relocated after the disappearance of the children's mother, Susan Powell. The West Valley City law enforcement considered Mr. Powell a "person of interest" in the disappearance of Susan Powell.

Between March 2010 and June 2011, the DSHS received four intakes reports regarding statements made by Charles Powell in school. The reports were not screened in for a child protective services' investigation because the allegations did not meet the statutory definition of child abuse or child neglect. Thus, the DSHS was unable to legally proceed with an investigation; however, reports indicate that the DSHS did forward all intakes to law enforcement for review.

In September 2011 the Pierce County Sheriff's Office requested that Charles and Braden Powell be placed in the protective custody of the state because of allegations of child pornography and voyeurism in the home of the paternal grandfather. At the time of the removal, the Pierce County Sheriff's Office was not clear if Joshua Powell was involved in child pornography or voyeurism. The case was assigned based on allegations of neglect of the children by their father Joshua Powell. At the request of the West Valley City, Utah police, the Pierce County law enforcement did not provide information to the DSHS staff regarding their investigation into the disappearance of Susan Powell.

The children were placed first in a foster home, and later in the home of their maternal grandparents. The court ordered supervised family visitation for three hours a week. The family visits initially occurred at the DSHS's office and later the visits were moved to the office of the Foster Care Resource Network. The Foster Care Resource Network agency has a contractual agreement with the DSHS to provide supervision for family visitation.

During the dependency case, Mr. Powell established a new residence separate from his father's home and requested that family visits move from the office of the Foster Care Resource Network to his home. The DSHS received reports from the visitation supervisor from the Foster Care Resource Network stating that family visitations were well structured and included snacks and activities. Visitation reports further offered that Mr. Powell's interactions with the children were positive and included appropriate limit setting, affection, and attention with both children. In addition to the reports from the Foster Care Resource Network visitation supervisor, the DSHS also consulted with the guardian ad-litem and the psychologist conducting Mr. Powell's psychological evaluation when considering Mr. Powell's request for a venue change for family visits.

After receiving confirmation from parties, visitation was moved to Mr. Powell's home in November 2011. In December 2011 Mr. Powell petitioned the court for additional weekly visitation with his children. His request was approved by the court. In January 2012 Mr. Powell filed a motion with the court requesting that the children be placed in his home or moved from the maternal grandparents' home. A hearing was scheduled. Prior to the hearing, the West Valley City Police Department provided the DSHS with digital computer images that were obtained during a search of the Powell home in August 2011. Although a Utah court had originally restricted access to the images, a court order from January 2012 allowed the images to be released to the Pierce County sheriff detective, the judge presiding over the dependency case, the Assistant Attorney General representing the DSHS, the attorney for the maternal grandparents, the attorney for Mr. Powell, the guardian ad-litem, the psychologist conducting Mr. Powell's psychological evaluation, and the DSHS caseworker.

Upon examination of the images provided by the West Valley City Police Department, the court ordered that the children remain in the home of the maternal grandparents. Additionally, Mr. Powell was ordered to complete a psychosexual evaluation. On February 5, 2012 (four days after the hearing), the children were transported to their father's home for court-ordered visitation. An employee from the Foster Care Resource Network was conducting supervision for the family visit. On this day, Mr. Powell set his home on fire and killed his children and himself.

In June 2012 and August 2012, the DSHS convened a Child Fatality Review Committee of the Powell case. The committee was comprised of members from diverse disciplines. After reviewing the case file, court transcripts, the DSHS procedure manuals, and conducting interviews, the Child Fatality Review Committee issued a report. A component of the report included recommendations.

Summary of Amended Bill:

Recommendations from the Child Fatality Review Committee are incorporated into statute. Specifically, the courts are required to articulate on the record the reason for ordering a child placement that is contrary to the recommendations of a parent or the DSHS. The DSHS is required to make a concerted effort to consult with law enforcement and communicate the results of the consultation with the courts, if a parent or sibling is identified as a suspect in a criminal investigation for a violent crime that may have child safety implications. If law enforcement has information that may have serious implications for child safety or child well-being, law enforcement is required to share this information with the DSHS during the consultation. The DSHS may only use the information to inform family visitation plans. The information provided by law enforcement to the DSHS is considered investigative information and may not be shared or distributed and is exempt from public inspection.

Additionally, the DSHS is required to develop family visitation protocol in consultation with law enforcement, in the event that a parent or sibling is identified in an active criminal investigation for a violent crime that if the allegations were true, would have child safety implications. The DSHS is further required to reassess family visitation arrangements, when a parent is ordered to complete a psychosexual evaluation. If an assessment indicates that a child's health, safety, or welfare may be jeopardized, the DSHS is given the authority to restrict family visitation, pending approval of the court. Finally, the DSHS is also required to provide ongoing domestic violence training and consultation to caseworkers.

Appropriation: None.

Fiscal Note: Available.

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

Staff Summary of Public Testimony (Early Learning & Human Services):

(In support) The training on domestic violence and consultation are important components of the recommendations. People who have worked with domestic violence survivors and watched the events play out in the media, were keenly aware of the allegations that Mr. Powell had killed his spouse and were not surprised at the outcome. Domestic violence is an issue of power and control. When a person who is abusive has his or her power threatened, he or she may take action and engage in violence. This is an important opportunity to continue to train workers on agency policy and the domestic violence manual.

The most important finding from the fatality review pertains to the psychosexual evaluation. When Mr. Powell went to schedule the court-ordered psychosexual evaluation, he asked

many questions. Perhaps the responses to the questions made him realize that he was in trouble and served as the turning point in the case. Only a few days after the court ordered that psychosexual evaluation, Mr. Powell killed his children and himself.

It is difficult to try to plan ahead and anticipate serious incidents; however, the recommendations from the Child Fatality Review Committee strengthen case practice.

(In support with amendment) There are some concerns about the language in the bill. The language is fairly prescriptive; it would be helpful if the DSHS had the ability to alter visitation without having to go back to court.

(Neutral) This is a highly complex case that involved law enforcement investigations from different states, allegations of the disappearance of the children's mother, and pornography. On the other hand, reports indicated that the father was participating in services and was described as acting in an appropriate manner with the children during visitation.

Key findings from the fatality Child Fatality Review Committee focused on domestic violence, communication with law enforcement, and requirements for psychosexual evaluations. There was sufficient information collected throughout the case that would warrant additional questioning around the topic of domestic violence. Ongoing domestic violence training and consultation would be helpful. Improved communication between the DSHS staff and law enforcement is also a recommendation. There is a belief that had the consolation occurred it may have helped break down barriers to sharing information between law enforcement and the DSHS. Finally, when a parent is required to participate in an evaluation that is intrusive, such as the psychosexual evaluation, the requirement should be taken into consideration when determining family visitation.

This is not reactionary legislation. Indeed, incidents of domestic violence, criminal investigations, contentious custody issues between family members, and requirements for intrusive evaluations are common occurrences in dependency cases. The provisions outlined help establish best practice and improves standards for all casework practices.

(Opposed) None.

Staff Summary of Public Testimony (Appropriations Subcommittee on Health & Human Services):

(In support) The Powell case was a particularly difficult child fatality review. The bill includes recommendations made by the review team. There is a domestic violence training manual for child welfare case workers, and the bill helps to ensure that the training is implemented and that the Department of Social and Health Services (DSHS) uses a quality assurance method. When case workers apply their training and assist families in need, dependencies are avoided and there are savings to the foster care system. The Washington State Coalition Against Domestic Violence will work with the DSHS to help determine if the training and consultations are effective.

Often when something bad happens, people want to learn from the tragedy. This bill is a response that incorporates sensible and appropriate practices learned from a tragedy.

Initially, the fiscal note was higher due to a lack of clarity over the definition of "ongoing" training, but that issue is resolved. Funding for domestic violence training is included in the Senate budget proposal.

(Opposed) None.

Persons Testifying (Early Learning & Human Services): (In support) Senator Becker, prime sponsor; Grace Huang, Washington State Coalition Against Domestic Violence; and Laurie Lippold, Partners for Our Children.

(In support with amendment) Jennifer Strus, Department of Social and Health Services, Children's Administration.

(Neutral) Patrick Dowd, Office of the Family and Children's Ombudsman.

Persons Testifying (Appropriations Subcommittee on Health & Human Services): Carey Morris, Washington State Coalition Against Domestic Violence; and Laurie Lippold, Partners for Our Children.

Persons Signed In To Testify But Not Testifying (Early Learning & Human Services): None.

Persons Signed In To Testify But Not Testifying (Appropriations Subcommittee on Health & Human Services): None.