

SENATE BILL REPORT

ESHB 1204

As of March 28, 2013

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

Brief Description: Concerning sibling visitation for children in foster care.

Sponsors: House Committee on Early Learning & Human Services (originally sponsored by Representatives Roberts, Dahlquist, Kagi, Farrell, Walsh, Kochmar, Fey, Seaquist, Johnson, Freeman, Jinkins, Morrell, McCoy, Tarleton, Zeiger, Clibborn, Goodman, MacEwen, Appleton, Habib, Reykdal, Maxwell, Bergquist, Ormsby and Ryu).

Brief History: Passed House: 2/22/13, 96-0.

Committee Activity: Human Services & Corrections: 3/14/13.

SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS

Staff: Joan Miller (786-7784)

Background: In 2002, the Legislature required the Department of Social and Health Services (DSHS) to complete an assessment of a foster child's relationship and emotional bond with any siblings. DSHS was required to develop a plan to ensure ongoing contact with the child's siblings, if appropriate. A statutory preference for child placements able to facilitate sibling visits was established, and courts were required to consider the issue of sibling visits during dependency hearings.

In 2003, the Legislature established that it is in the child's best interest to maintain sibling relationships when that child is removed from the home. Courts were given the authority to order placement, contact, and visitation with a step-sibling, as appropriate. It was further required that parental termination orders include information about the status of sibling relationships and the nature and extent of sibling placements, contact, or visits. Supervising agencies were also required to take reasonable steps to ensure that siblings maintain relationships.

Summary of Bill: Guidelines for DSHS or a supervising agency regarding sibling visits for children involved in the child welfare system are established. Specifically, two sibling visits or contacts per month must be provided to children in out-of-home care. In-person visits are presumed to be in the child's best interest over other forms of contact.

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.

Sibling visits may not be limited or denied unless directed by a court order, DSHS determines that sibling visits are a safety concern, DSHS determines that sibling visits would hinder reunification efforts, or DSHS documents that a child of an appropriate developmental age requests a modification, a parent of a nondependent child objects to visits, a child is on runaway status for the majority of the calendar month, a facility where the child or sibling resides prohibits or limits visits or contacts with siblings, or a child is not complying with visitation arrangements. Any exception to, limitation of, or denial of contact or visits must be approved by the supervisor of the caseworker and documented.

DSHS, the court, or the caregiver in the out-of-home placement may not limit visitation as a sanction for a child's behavior or as an incentive to the child to change the child's behavior. The child, parent, DSHS, guardian ad litem, or court-appointed special advocate may challenge the denial of visits in court.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: Sibling visitation was one of six issues involved in the *Braam* settlement, which indicates that the issue is a very high priority. Because of this, the relevance of the fiscal note should be questioned. We are simply talking about requiring DSHS to do something it is already obligated to do. The importance of sibling visitation is brought up year after year, not only through *Braam* but also through The Mockingbird Society's annual youth summit of foster children. This issue rises to the top of their agenda every single year. The importance of connections and sibling visits is a critical factor both for mitigating post-traumatic stress and for serving as a protective factor to future stress. These visits are essential for surviving the foster care system and for foster children's own human development. The Washington Supreme Court has acknowledged the importance of sibling visits, and this bill will go a long way to ensure transparency, accountability, and enforcement of the *Braam* settlement. Siblings may provide the only relationships that these children ever form, and using visitation as a punishment or incentive is contrary to *Braam*. Behavior will improve when these threats are no longer allowed.

OTHER: The Senate version of the bill is preferred because there is some concern with the language in the House bill. Mandating two visits or contacts per month without any flexibility is problematic. Including parental visits, foster children have eight or nine visits per month, which can be a difficult schedule for both kids and foster parents to manage. Foster children also have health issues that other children do not have. The intent of the bill is supported with respect to not withholding visits as a punishment, but foster parents do need some flexibility because sometimes life gets in the way.

Persons Testifying: PRO: Representative Roberts, prime sponsor; Jim Theofelis, The Mockingbird Society; Carrie Tellefson, Evergreen High School via TVW Capitol Classroom Program.

OTHER: Randy Hart, DSHS Children's Administration; Gary Malkasian, Foster Care Justice Alliance.