

SENATE BILL REPORT

SB 5162

As Reported by Senate Committee On:
Law & Justice, February 21, 2013

Title: An act relating to prohibiting a child custody award to a suspect in an active murder investigation.

Brief Description: Prohibiting a child custody award to a suspect in an active murder investigation.

Sponsors: Senators Roach, Carrell, Rivers, Benton, Sheldon, Dammeier, Holmquist Newbry, Padden, Fraser, Frockt and Chase.

Brief History:

Committee Activity: Law & Justice: 2/01/13, 2/21/13 [DPS, DNP].

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: That Substitute Senate Bill No. 5162 be substituted therefor, and the substitute bill do pass.

Signed by Senators Padden, Chair; Carrell, Vice Chair; Darneille, Kohl-Welles, Pearson and Roach.

Minority Report: Do not pass.

Signed by Senator Kline, Ranking Member.

Staff: Aldo Melchiori (786-7439)

Background: A court may order termination of a parent-child relationship. Reasonable efforts to unify the family are not required if the court determines that it is not in the best interests of the child and at least one of the statutorily enumerated aggravating circumstances has been proven by clear, cogent, and convincing evidence.

During dissolution or legal separation proceedings in which a child is involved, parenting plans are entered that specify the child's residential time with each parent and may also designate mutual decision-making and an alternate dispute resolution process. Mutual decision-making or dispute resolution out of court must not be ordered in cases where a parent has engaged in abandonment, abuse of the child, domestic violence, or assault or

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sexual assault. Similarly, in nonparental actions for child custody, the visitation time of the parent must be limited if it is found that the parent engaged in prohibited conduct.

Summary of Bill (Recommended Substitute): If the Department of Social and Health Services (DSHS) requests investigation details concerning a person identified by Washington law enforcement as a suspect in an active murder investigation, in an aggravated murder, or murder in the first or second degree case, that may be relevant to a child dependency proceeding, the law enforcement agency must provide that information. In termination proceedings, the court must review, in camera, the evidence received from law enforcement when determining whether reunification may be detrimental to the welfare of the child.

If a party or the court in dissolution, legal separation, or non-parental action proceedings requests investigation details concerning a named suspect in an active murder investigation, in an aggravated murder, or murder in the first or second degree case, that may be relevant to child residential provisions, or visitation, decision-making, or dispute resolution determinations, the law enforcement agency must provide that information. A permanent parenting plan cannot require mutual decision making or alternate dispute resolution processes if the parent is a named suspect in an active murder investigation, in an aggravated murder, or murder in the first or second degree case. The parent's residential time must be limited and under no circumstances may that parent be the primary residential parent if that parent is a named suspect in an active murder investigation, in an aggravated murder, or murder in the first or second degree case. Visitation in a nonparental action must be limited if the parent is a named suspect in an active murder investigation, in an aggravated murder, or murder in the first or second degree case.

In child custody proceedings, law enforcement must provide relevant details to the court in writing. When there is an active criminal investigation against a parent or sibling who desires visitation, DSHS must make efforts to consult with law enforcement and communicate results to the court. DSHS can alter visitation plans if a psychosexual evaluation of the parent indicates that the current plan might compromise the safety of the child. Children's administration caseworkers receive additional domestic violence training.

EFFECT OF CHANGES MADE BY LAW & JUSTICE COMMITTEE (Recommended Substitute): A person must be a suspect in an aggravated murder or murder in the first or second degree case for the provisions regarding termination of parental rights and for the child residential provisions, visitation, decision making, and dispute resolution provisions to apply. It is clarified that Washington law enforcement agencies must provide the information. The person must be identified by law enforcement as a suspect in an active murder investigation, aggravated murder, or murder in the first or second degree case. In termination proceedings, the court reviews the evidence in camera. A parent may not be a primary residential parent if the parent is a suspect in a murder investigation. In child custody proceedings, law enforcement provides relevant details to the court in writing. When there is an active criminal investigation against a parent or sibling who desires visitation, DSHS must make efforts to consult with law enforcement and communicate results to the court. DSHS can alter visitation plans if a psychosexual evaluation of the parent indicates that the current plan might compromise the safety of the child. Children's Administration caseworkers get additional domestic violence training.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

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

Staff Summary of Public Testimony on Original Bill: PRO: We need to tighten up the parameters around these laws to ensure the protection of children. The court is not receiving the best available information regarding some parents. If this had been in effect, the police and prosecutors may have treated some cases differently. Too often, the court has limited information on which to base its decisions. This may help prevent the death of children in the future. The court and state agencies need to take this information more seriously. Grandparents should also have standing in the courtroom.

CON: We need language that protects innocent people as well. Murder is not adequately defined in the bill. What is an active investigation? Some investigations can take years. What happens when a parent has been denied adequate visitation and is then found innocent? A criminal could use this information as discovery in their criminal case.

Persons Testifying: PRO: Senator Roach, prime sponsor; Charles Cox, Judith Cox, citizen; Mark Supanich, WA Families United

CON: Rick Bartholomew, WA State Bar Assn. Family Law Section.