

SENATE BILL REPORT

SB 5315

As Reported by Senate Committee On:
Human Services & Corrections, February 19, 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: Senators Becker, Dammeier, Rivers, Padden and Roach.

Brief History:

Committee Activity: Human Services & Corrections: 2/04/13, 2/19/13 [DPS-WM].

SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS

Majority Report: That Substitute Senate Bill No. 5315 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Carrell, Chair; Pearson, Vice Chair; Darneille, Ranking Member; Hargrove, Harper and Padden.

Staff: Shani Bauer (786-7468)

Background: In January 2010, Joshua Powell and his two young boys moved from West Valley City, Utah to Mr. Powell's father's home in Puyallup, WA. The family moved following the suspicious disappearance of Mr. Powell's wife and the children's mother. Mr. Powell was a person of interest in his wife's disappearance.

In September 2011, the children were removed from their father's home and placed into protective custody with Children's Administration as the result of an arrest warrant issued against the children's paternal grandfather on charges related to child pornography. The children were subsequently placed in a relative foster care placement with their maternal grandparents. Following a hearing on February 1, 2012, where Mr. Powell was seeking the return of his children, Mr. Powell was ordered to undergo a psychosexual evaluation. On February 5, 2012, Charlie and Braden Powell were killed by their father while on a supervised visit in their father's home.

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.

In April and June of 2012, the Department of Social and Health Services (DSHS) conducted a Child Fatality Review of the children's deaths. Upon completion of the review, the committee made the following recommendations:

- In dependency proceedings when there is an active criminal investigation, Children's Administration should make concerted efforts to include and consult with the assigned detective prior to making changes in parent/child contact.
- Given the intrusive nature of a psychosexual evaluation, Children's Administration should reassess parent/child contact prior to the next parent-child visit when a judge orders a parent to undergo such psycho-sexual evaluation in the course of a dependency proceeding.
- Because the identification of domestic violence is critical when making case decisions intended to increase safety for children, Children's Administration staff should receive on-going training and regular consultation on domestic violence.
- In cases where the judge orders a child's placement with a specific caregiver over the objection of a parent, the reasons should be articulated in the court record.

Summary of Bill (Recommended Substitute): In a dependency hearing and upon determining that the child should be removed from the home, if a court orders the child to be placed with a caregiver over the objections of the parent, the court must articulate on the record the court's reasons for ordering the placement.

When a parent or sibling who desires visitation with a child is an identified suspect in an active criminal investigation that, if the allegations are true, would impact the safety of the child, DSHS must make a concerted effort to consult with the assigned law enforcement officer in the criminal case before recommending any changes in parent/child or child/sibling contact. The results of the consultation must be communicated to the court. DSHS must develop policies and protocols for consultation with the assigned law enforcement officer in the event of an active criminal investigation of the parent.

In the event a judge orders a parent to undergo a psychosexual evaluation, and pending the outcome of the evaluation, DSHS must reassess visitation duration, supervision, and location, if appropriate. If the assessment indicates the current visitation plan might compromise the safety of the child, DSHS, subject to approval by the court, may alter the plan, pending the outcome of the evaluation.

Caseworkers employed in child services must receive ongoing domestic violence training and consultation, including how to use the Children's Administration's practice guide to domestic violence.

EFFECT OF CHANGES MADE BY HUMAN SERVICES & CORRECTIONS COMMITTEE (Recommended Substitute): DSHS must consult with law enforcement when a parent or sibling who desires visitation with the child is an identified suspect in an active criminal investigation that, if the allegations are true, would impact the safety of the child. If DSHS determines that visitation of the child should be altered pending the outcome of a parent's psychosexual evaluation, it must seek the approval of the 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 on Original Bill: PRO: This fatality had a big impact on the community. In participating on the fatality review, it became apparent that the state takes its responsibility seriously and wanted constructive input into its review. The review committee found that caseworkers have a practice guide available for domestic violence, but it is rarely used and there is very little training. DSHS also does not consult with law enforcement when there is a case against one of the parents. Nothing will ever resolve every issue, but the fatality review recommendations are a step in the right direction and better protect children from these types of events. Domestic violence and mental health issues are co-occurring in a substantial percentage of cases. It is imperative that staff be better trained to recognize these issues. There also needs to be quality assurance to make sure that the training meets the needs of caseworkers and uses real life fact scenarios.

OTHER: This bill fails to address the root issue in putting the safety of the child above the interests of reunification. In this case, DSHS attempted to reunify Charlie and Braden with their father as soon as possible without regard to the special circumstances. Reunification should be secondary to the safety, welfare, and best interests of the child. Language in the bill needs to be stronger. It is unclear what concerted effort and if appropriate mean in this context.

Persons Testifying: PRO: Senator Becker, prime sponsor; Grace Huang, WA State Coalition Against Domestic Violence; Laurie Lippold, Partners for Our Children.

OTHER: Senator Roach, sponsor; Mary Meinig, Office of Family & Children's Ombudsman; Charles Cox, citizen.