

SENATE BILL REPORT

SB 5389

As Reported by Senate Committee On:
Human Services & Corrections, February 18, 2013
Ways & Means, March 1, 2013

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

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

Sponsors: Senators Billig, Fain, Hargrove, Litzow, Murray, Tom, Kohl-Welles, Rolfes, Harper and Chase.

Brief History:

Committee Activity: Human Services & Corrections: 2/11/13, 2/18/13 [DPS-WM].
Ways & Means: 2/25/13, 3/01/13 [DP2S, w/oRec].

SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS

Majority Report: That Substitute Senate Bill No. 5389 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: Joan Miller (786-7784)

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: That Second Substitute Senate Bill No. 5389 be substituted therefor, and the second substitute bill do pass.

Signed by Senators Hill, Chair; Baumgartner, Vice Chair; Honeyford, Capital Budget Chair; Hargrove, Ranking Member; Nelson, Assistant Ranking Member; Bailey, Braun, Conway, Fraser, Hasegawa, Hatfield, Hewitt, Keiser, Kohl-Welles, Murray, Padden, Ranker, Rivers, Schoesler and Tom.

Minority Report: That it be referred without recommendation.

Signed by Senators Becker and Dammeier.

Staff: Jenny Greenlee (786-7711)

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.

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: The bill as referred to committee not considered.

Summary of Bill (Recommended Second Substitute): Guidelines for DSHS or the supervising agency regarding sibling visits for children involved in the child welfare system are established. Specifically, two sibling visits or contacts a month must be provided to children in out-of-home care. Sibling visits may not be denied unless directed by a court order, DSHS determines that sibling visits are a safety concern, or sibling visits would hinder reunification efforts, or because age differences or geographical distances make visitation not appropriate or feasible.

Sibling visitation can be modified if a child of an appropriate developmental age requests a modification, a parent of a nondependent child objects to visits, the child is on runaway status for the majority of the calendar month, the facility where the child or sibling resides prohibits or limits visits or contact with siblings, or the child is not complying with visitation arrangements. 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, the parent, DSHS, or the court-appointed special advocate may challenge the denial of visits in court.

EFFECT OF CHANGES MADE BY WAYS & MEANS COMMITTEE (Recommended Second Substitute): Gives DSHS additional latitude in determining when visits must occur. Removes language stating that in-person visits are in the best interest of the child.

EFFECT OF CHANGES MADE BY HUMAN SERVICES & CORRECTIONS COMMITTEE (Recommended First Substitute): Two monthly sibling visits or contacts are required, and in-person visits are presumed to be in the child's best interest. Sibling visitation may be denied if a facility where the child or sibling resides prohibits or limits visits or contacts with siblings. The provision granting a child the ability to petition the court to become a party to their sibling's case is removed.

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 Substitute (Human Services & Corrections):

PRO: We as a state are responsible for foster children. One of the things we can do to help foster children succeed is to help them maintain contact with their natural family. This bill codifies into law the requirement for sibling visits and contacts. Sibling visitation is also a requirement of the *Braam* settlement, so this is something we have to do anyway in order to stay in compliance with the settlement agreement. The purpose of this bill is that, when appropriate, sibling visits or contacts would occur twice a month. The proposed substitute bill addresses much of the potential fiscal impact as well as any undue burden on case managers and social workers.

Under the *Braam* settlement, DSHS has made significant progress in a number of areas, including monthly visits, health screens, and multiple placements. One of the areas where it is still struggling, however, is the issue of sibling visitation. In the first half of 2012, only 38 percent of children who were required to have twice-monthly visits with a sibling actually received them. The bill does nothing more than codify the requirement in the *Braam* settlement, but because DSHS is still struggling, we think codifying it in law is absolutely necessary. To be fair, DSHS does have plans to correct this problem, but the Braam Oversight Panel says that the steps are not enough to get DSHS to a solution in a timely manner. The law should spell out what rights children have to maintain contact with their siblings.

Sibling visitation is an issue that comes up every year at the Mockingbird Society's youth summit. Foster care children tell us that they are not getting the contact with their siblings necessary to maintain meaningful and substantial relationships. Rikki Evans was in foster care for nine years with 24 different placements, 22 of them occurring in the first three years she was in care. She has one younger brother who is still in foster care. Rikki spent five years with a controlling foster mom who took away 20 of Rikki's visits with her brother. During that time, her brother had eight major regressions. She does not think that taking away visits as a form of control or behavior modification is right. Kayleigh Olds was in foster care for eight years but had only one placement with her grandmother. She has three siblings also in care. When Kayleigh was in care, a social worker, as well as her supervisor, would threaten to take them away from their grandmother and separate them. All that did was make them worry and not focus on important things such as school. When Kayleigh aged out of foster care and moved out, her siblings stayed with their grandmother. Their social worker stopped threatening to separate them and instead threatened to take away their visits with Kayleigh. The social worker told her brother that he couldn't see Kayleigh until he brought up his grades. Kayleigh's brother packed a bag and left his grandmother's house. He took four city buses by himself to get to Kayleigh's apartment. Kayleigh and her siblings continue to receive threats to limit their visitation.

OTHER: DSHS believes that sibling visitation is critical to the children in the child welfare system, and it certainly applauds the reasons for bringing the bill. But the required two visits or contacts per month are not logical in some circumstances. For example, sibling visits between infants probably doesn't make any sense, but this bill does not permit an exception.

During the last biennium, DSHS spent \$10 million on sibling visitation, and currently, it has already overspent by a \$1 million. Throughout the years, the Legislature has put into place in a variety of areas in a dependency that siblings need to be kept together or receive visits, but the process is not cheap.

Persons Testifying (Human Services & Corrections): PRO: Senator Billig, prime sponsor; Casey Trupin, Columbia Legal Services; Kayleigh Olds, Rikki Evans, Jon Brumbach, Mockingbird Society.

OTHER: Jennifer Strus, DSHS.

Staff Summary of Public Testimony as Heard in Committee (Ways & Means): PRO: Youth want to ensure that withholding visits are not used as punishment. We would like to ensure that the two visits per month are happening, but we are committed to working on language that will bring the fiscal note down to zero. In order to comply with the *Braam* settlement, DSHS must facilitate two visits per month for 90 percent of foster children with siblings. The fiscal note is a surprise because this is already a requirement that DSHS must already meet.

OTHER: DSHS recognizes the importance of the sibling bond and is committed to working on language to bring down the fiscal note.

Persons Testifying (Ways & Means): PRO: Jim Theofelis, The Mockingbird Society; Robin Zukoski, Columbia Legal Services.

OTHER: David Del Villar Fox, DSHS.