
SUBSTITUTE HOUSE BILL 1140

State of Washington

63rd Legislature

2013 Regular Session

By House Judiciary (originally sponsored by Representatives Roberts, Pedersen, Moscoso, Reykdal, Rodne, Appleton, Kagi, Walsh, Warnick, Ryu, Jinkins, Freeman, and Fagan)

READ FIRST TIME 02/15/13.

1 AN ACT Relating to sibling visitation after a dependency has been
2 dismissed or concluded; adding a new section to chapter 26.10 RCW; and
3 creating a new section.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** (1) The legislature recognizes that strong
6 sibling bonds are very important to children and sometimes those bonds
7 are threatened at no fault of the siblings. The legislature has
8 enacted statutes encouraging courts and placement agencies to consider
9 a child's continued contact with his or her siblings in the context of
10 dependency proceedings. However, a dependent child may be placed in a
11 separate home from his or her siblings in a dependency proceeding, and
12 this separation may become permanent when one or both siblings achieves
13 permanency and the dependency is dismissed. Stepchildren who have been
14 living together all their lives are sometimes separated from each other
15 when they are placed with their second biological parents.

16 (2) While recognizing that fit parents are presumed to act in their
17 children's best interests, and generally have a right to make
18 parenting decisions for their children without interference, the
19 legislature also recognizes that in limited circumstances it may be

1 appropriate for a court to order visitation between siblings when there
2 is a significant existing bond between the siblings. It is not the
3 legislature's intent in this act to create legal obligations or bonds
4 between siblings that do not already exist. It is also not the
5 legislature's intent to impair or alter the court's ability to order
6 visitation between siblings or other relatives under existing statutes.

7 NEW SECTION. **Sec. 2.** A new section is added to chapter 26.10 RCW
8 to read as follows:

9 (1) A sibling of a minor child may petition the court for sibling
10 visitation with the minor child if:

11 (a) The petitioning sibling or the minor child was a dependent
12 child under chapter 13.34 RCW, and any dependency proceeding concerning
13 either the petitioning sibling or the minor child has been dismissed;

14 (b) The permanent placement of the dependent child resulted in the
15 child being placed in a separate household from his or her sibling;

16 (c) The permanent placement does not provide for visitation between
17 the siblings, the person with whom the minor child has been placed has
18 prevented visitation between the minor child and the petitioning
19 sibling, and there is no other avenue for the petitioning sibling to
20 have visitation with the minor child; and

21 (d) There exists a significant sibling relationship between the
22 petitioning sibling and the minor child.

23 (2) The petition must be filed in the county where the minor child
24 primarily resides. If the petitioning sibling is a minor, the petition
25 may be brought by a guardian ad litem appointed under RCW 4.08.050 on
26 behalf of the petitioning sibling.

27 (3) For the purposes of this section:

28 (a) "Significant sibling relationship" means the petitioning
29 sibling and minor child had a beneficial relationship with substantial
30 continuity while residing in the same household together for a
31 substantial period of time before being separated;

32 (b) "Sibling" means full and half-siblings by blood or adoption and
33 current and former step-siblings. For the purposes of petitioning for
34 visitation under this section, a petitioner may continue to be
35 considered a sibling of a minor child even if one or both of the minor
36 child's or petitioner's parents' rights have been terminated.

1 (4) The petitioning sibling must submit with the petition an
2 affidavit setting forth facts to show:

3 (a) The requirements of subsection (1) of this section have been
4 met;

5 (b) The relationship between the siblings would be substantially
6 reduced or terminated if visitation were not granted; and

7 (c)(i) If the minor child is in the legal custody of his or her
8 parent, the minor child would likely suffer harm or the substantial
9 risk of harm if visitation were not granted; or (ii) if the minor child
10 is in the legal custody of a person who is not the minor child's
11 parent, visitation is in the minor child's best interest.

12 (5) The petitioning sibling must serve notice of the filing to each
13 person having legal custody of, or court-ordered residential time with,
14 the minor child. A person having legal custody or court-ordered
15 residential time with the minor child may submit opposing affidavits.

16 (6) If, based on the petition and affidavits, the court finds that
17 it is more likely than not that visitation will be granted, the court
18 must hold a hearing on the petition.

19 (7)(a) At a hearing under this section, the court shall consider
20 the respondent's reasons for denying visitation. It is presumed that
21 a fit parent's decision to deny visitation is in the best interests of
22 the child and does not create the likelihood of harm or the substantial
23 risk of harm.

24 (b) The court must enter an order granting visitation if it finds
25 that the petitioner has shown by clear and convincing evidence that:

26 (i) The requirements of subsection (1) of this section have been
27 met;

28 (ii) The relationship between the siblings would be substantially
29 reduced or terminated if visitation were not granted; and

30 (iii)(A) If the minor child is in the legal custody of his or her
31 parent, the child would likely suffer harm or the substantial risk of
32 harm if sibling visitation were not granted; or (B) if the minor child
33 is in the legal custody of a person who is not the child's parent,
34 visitation is in the child's best interest.

35 (8) An order granting visitation does not confer any rights or
36 duties of a parent on the petitioner or, if the petitioning sibling is
37 a minor, on the petitioning sibling's parent or custodian.

1 (9) The court may, after considering the financial resources of all
2 parties, award a reasonable amount for attorneys' fees and costs as it
3 determines is appropriate.

4 (10) This section is intended to provide an additional procedure by
5 which a sibling may request visitation with a minor child. It is not
6 intended to impair or alter the ability a court currently has to order
7 visitation under this title.

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