
Judiciary Committee

HB 2401

Title: An act relating to court orders for visitation with adults.

Brief Description: Providing procedures to allow court orders for visitation with adults.

Sponsors: Representatives Kochmar, Griffey, Wylie, Appleton, Walsh, Ryu, Stambaugh, McCabe, S. Hunt and Wilson.

<p style="text-align: center;">Brief Summary of Bill</p> <ul style="list-style-type: none">• Provides a process for a person to obtain a court order for visitation with his or her adult relative, close friend, or neighbor.

Hearing Date: 1/20/16

Staff: Omeara Harrington (786-7136).

Background:

Individuals generally have the right to determine whether or not they want to interact with others, unless that right has been limited through the appointment of a guardian or other court action.

There is no statutory process for a person to establish visitation with another adult in cases where a third party is interfering with or attempting to prevent contact. However, there are processes under the guardianship and vulnerable adult laws to prevent or restrain persons from isolating an incapacitated person or other vulnerable adult. If a guardian is inappropriately isolating an incapacitated person, the court may modify or terminate the guardianship, replace the guardian, or take other action as the court deems just and in the best interest of the incapacitated person. Additionally, a vulnerable adult protection order may be issued to protect an incapacitated person or other vulnerable adult from various types of mistreatment, including isolation. A protection order may include any relief the court deems necessary to protect the vulnerable adult, such as restraining another person from contacting the vulnerable adult.

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.

Summary of Bill:

A process is established to allow a person to petition the court for an order for visitation with his or her relative, close friend, or neighbor.

Petition Requirements.

The bill sets forth specific requirements for adult visitation order petitions. A person may only file one petition per year for visitation with the same proposed visitee absent a substantial change in circumstances or other good cause.

A petition for visitation must describe:

- the nature of the relationship between the petitioner and the proposed visitee;
- the nature of the requested visitation;
- factual information indicating that the proposed visitee desires visitation and that, without a visitation order, visitation will be prevented;
- to the extent known by the petitioner, the condition of the proposed visitee's health and mental functioning; and
- the names and addresses of the proposed visitee's relatives and his or her guardian, if one has been appointed.

Based on a review of the petition, if the court determines that there is a reasonable basis to believe that the proposed visitee would or does desire visitation, and that there is a risk that visitation between the petitioner and the proposed visitee would be prevented absent a court order, the court must set a hearing and appoint a guardian ad litem to conduct an investigation. If a guardian ad litem has performed an investigation of the proposed visitee within the last year, the court may order, upon good cause, that the investigation is omitted or conducted in an abbreviated form.

Guardian ad Litem Investigation.

In performing the investigation, the guardian ad litem must inform the proposed visitee of the petition and conduct interviews with certain persons, including:

- the petitioner and the proposed visitee;
- the proposed visitee's relatives;
- the proposed visitee's guardian or limited guardian, if any; and
- to the extent practical, the proposed visitee's neighbors and close friends.

In addition, the guardian ad litem must determine whether or not the proposed visitee has the desire for, and the capacity to consent to, the proposed visitation with the petitioner, and whether or not the proposed visitee has an attorney or plans to retain an attorney.

The guardian ad litem's report must be filed with the court and mailed to designated persons, including: the petitioner and the proposed visitee; the proposed visitee's guardian, if applicable; the proposed visitee's relatives, unless the court has determined that providing the report to certain relatives would result in harm to the proposed visitee; and any other person designated by the court.

Orders for Visitation.

Following a hearing, the court must grant reasonable visitation if it determines that the proposed visitee has the capacity to make a knowing and intelligent visitation decision, and the proposed visitee desires visitation with the petitioner. If the court determines that the proposed visitee does not have sufficient capacity to make a knowing and intelligent decision regarding visitation, the court must determine whether the proposed visitee would want visitation given historical information, the proposed visitee's statements and advance planning documents, and the guardian ad litem's report. If the court determines that the proposed visitee would want visitation, the court must grant reasonable visitation as long as the visitation is in the best interest of the proposed visitee.

Visitation may include in-person meetings, as well as telephonic, mail, or electronic mail communication. In entering an order for visitation, the court may include reasonable time, place, and manner requirements regarding the visitation.

Penalty for Interference with a Visitation Order.

Knowing interference with an order for visitation by a non-party is punishable by a mandatory monetary civil penalty in the following amounts: \$100 to \$300 for a first violation; \$500 to \$800 for a second violation; and \$1,000 to \$1,500 for a third or subsequent violation.

Appropriation: None.

Fiscal Note: Requested on 1/13/16.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.