

# HOUSE BILL REPORT

## HB 1366

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**As Reported by House Committee On:**  
Early Learning & Human Services  
Appropriations

**Title:** An act relating to promoting child welfare family reunification.

**Brief Description:** Concerning family reunification in the child welfare process.

**Sponsors:** Representatives Ortiz-Self, Hargrove, Caldier, Tarleton, Pettigrew, Gregerson, Kilduff, Senn, Ryu, Appleton, Goodman, Lovick, Ormsby and Frame.

**Brief History:**

**Committee Activity:**

Early Learning & Human Services: 1/31/17, 2/7/17 [DPS];  
Appropriations: 2/21/17 [DP2S(w/o sub ELHS)].

**Brief Summary of Second Substitute Bill**

- Expands the definition of remedial services offered to families involved in the child welfare system to include visitation services.
- Creates a parent-child visitation workgroup convened by the Department of Social and Health Services.

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### HOUSE COMMITTEE ON EARLY LEARNING & HUMAN SERVICES

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 7 members: Representatives Kagi, Chair; Senn, Vice Chair; Frame, Goodman, Kilduff, Lovick and Ortiz-Self.

**Minority Report:** Do not pass. Signed by 3 members: Representatives Dent, Ranking Minority Member; McDonald, Assistant Ranking Minority Member; Klippert.

**Minority Report:** Without recommendation. Signed by 3 members: Representatives Griffey, McCaslin and Muri.

**Staff:** Luke Wickham (786-7146).

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*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:**

### Remedial Services.

Remedial services for child welfare families include what are defined by the federal Adoption and Safe Families Act (ASFA) as time-limited family reunification services. Time-limited reunification services are defined by ASFA as the services and activities that are provided to a child who has been removed from the home of his or her parents to aid in safe and appropriate reunification within the first 15 months after being removed from the home. The ASFA provides a list of specific services to be included within the definition of time-limited reunification services that includes:

- individual, group, and family counseling;
- inpatient, residential, or outpatient substance abuse treatment;
- mental health services;
- assistance to address domestic violence;
- services to provide child care; and
- transportation to and from any of the above services.

Since the passage of ASFA in 1997, the federal definition of time-limited reunification services has expanded to include:

- peer-to-peer mentoring and support groups for parents and primary caregivers; and
- services and activities designed to facilitate access to and visitation of children by parents and siblings.

One of the elements that is required to be proven by the state before terminating a parent's rights is that services are expressly and understandably offered or provided and that all necessary services, reasonably available, capable of correcting parental deficiencies within the foreseeable future have been expressly and understandably offered or provided. Courts have held that visitation is not a service for purposes of this element and the Department of Social and Health Services (DSHS) is not required to prove that visitation services were provided to prove this element of a termination of parental rights petition.

### Visitation.

State law provides that visitation is the right of the family, including the child and the parent, in cases in which visitation is in the best interest of the child. Early, consistent, and frequent visitation is crucial for maintaining parent-child relationships and making it possible for parents and children to safely reunify. The DSHS shall encourage the maximum parent and child and sibling contact possible, when it is in the best interest of the child.

Visitation cannot be limited as a sanction for a parent's failure to comply with court orders or services where the health, safety, or welfare of the child is not at risk as a result of the visitation. Visitation may be limited or denied only if the court determines that such limitation or denial is necessary to protect the child's health, safety, or welfare.

The DSHS convened a parent-child visitation workgroup in 2015 that resulted in policy revisions including expanding remote visitation options, making the initial parent-child visit within five calendar days of placement, requiring the level of supervision directly relate to the presence of identified safety threats, and caseworkers observing one visit per quarter, among others.

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**Summary of Substitute Bill:****Remedial Services.**

The definition of remedial services is expanded to include services and activities designed to facilitate access to and visitation of children by parents and siblings except in cases where that visitation is not in the child's best interest or a court limits visitation.

**Parent-Child Visitation Work Group.**

The DSHS must convene a parent-child visitation work group with duties that include:

- engaging relevant stakeholders to include biological parents involved in or with experience in the child welfare process;
- developing and implementing changes in policy or practice to increase the amount and quality of parent-child visitation;
- submitting an annual report to the Legislature by November 1 that includes information about different types of visitation provided, the average length of time after visitation is court ordered that visitation is made available, incorporating parent engagement and educational components in visitation, changes made to improve the effectiveness of visitation, and recommendations of policy or statutory changes to improve the effectiveness of visitation.

**Substitute Bill Compared to Original Bill:**

The substitute bill excludes visitation that is not in the child's best interest from the definition of remedial services.

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**Appropriation:** None.**Fiscal Note:** Available.**Effective Date of Substitute Bill:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.**Staff Summary of Public Testimony:**

(In support) There is a Supreme Court decision that indicates the lack of a bond between parents and children can play a role in terminating a parent's rights. If the DSHS does not provide ample visitation services, the bonds between children and parents will diminish. The inability of children to visit with family will incur loss and trauma for a child. The DSHS needs to have the resources available to provide that visitation. When visitations are disrupted or do not occur regularly, there is extensive trauma to children and families.

Visitation is often referred to in the child welfare context as the most important element that allows children to reunify with parents. It is important to incorporate the changes to the

Adoption and Safe Families Act in our definition of remedial services. In some counties, judges are not providing enough visitation for families. The amount of visitation provided to families varies greatly around the state. The DSHS is supportive of visitation. There is so much supervised visitation in this state, and in many cases, this supervision is not necessarily based on the law. There are many situations where supervised visitation goes on without a safety risk to the child as required by law. There is a culture in certain courts that relies on tradition. There is also a concern about funding for visitation, and courts feel that they cannot order visitation without the appropriate funding. There should be an affirmative statement from the Legislature that visitation should be provided to families to promote reunification.

This bill includes a parent-child workgroup convened by the DSHS that would include stakeholders like foster parents to figure out how to reduce the reliance on supervised visitation by creating a standardized framework for determining the appropriate supervision necessary for visitation.

The Children's Administration formed a group to focus on these issues. There were parents who intended to testify on this bill, but there was some miscommunication regarding the hearing time. There are people around the country who have researched this subject, and there is consensus that the more visitation that occurs, the more quickly you will be able to determine whether it will be possible for a parent to reunify a child. Transportation is a huge obstacle for many parents trying to visit with their children. The payment for visitation was taken out of the foster care forecast years ago, and it would be helpful to bring that back into the forecast. If the workgroup could specify the criteria for moving to unsupervised visitation, that would be a good change.

The DSHS has undertaken amazing efforts to partner birth parents with foster parents. The DSHS has instituted icebreakers to build relationships between those two groups. There will be challenges, but whenever possible, visitation should be provided. Unless there is a safety concern, visitation should be offered before termination is pursued.

(Opposed) None.

(Other) Regular and frequent visits are crucial to family reunification and maintaining the family bond and some sense of normalcy after the trauma of abuse or neglect and removal from the home. This bill includes visitation as a remedial visitation service. This will ensure that visitation has been provided when appropriate before a termination of parental rights petition is granted. This bill would also include a workgroup that would allow work toward more and improved visitation for families.

From 2013 to 2015 visitation costs increased from \$14.45 million to \$16.58 million. Twelve percent of the visitation cost is devoted to transportation, whereas it was 4 percent in 2013. By including visitation as a remedial service, it will be impossible to terminate parental rights without providing visitation. The DSHS has collected data on visitation and is looking to determine the frequency of supervised visitation. Visitation is critical to families, but there is also a duty to keep children safe. Removal of the rule that transportation is only provided in a 60-mile radius would help allow for greater visitation.

**Persons Testifying:** (In support) Representative Ortiz-Self, prime sponsor; Joanne Moore, Office of Public Defense; and Laurie Lippold, Partners for Our Children.

(Other) Patrick Dowd, Washington State Office of the Family and Children's Ombuds; and Jennifer Strus, Department of Social and Health Services.

**Persons Signed In To Testify But Not Testifying:** None.

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## HOUSE COMMITTEE ON APPROPRIATIONS

**Majority Report:** The second substitute bill be substituted therefor and the second substitute bill do pass and do not pass the substitute bill by Committee on Early Learning & Human Services. Signed by 18 members: Representatives Ormsby, Chair; Robinson, Vice Chair; Bergquist, Cody, Fitzgibbon, Hansen, Hudgins, Jinkins, Kagi, Lytton, Pettigrew, Pollet, Sawyer, Senn, Springer, Stanford, Sullivan and Tharinger.

**Minority Report:** Do not pass. Signed by 12 members: Representatives Chandler, Ranking Minority Member; Buys, Caldier, Condotta, Haler, Harris, Nealey, Schmick, Taylor, Vick, Volz and Wilcox.

**Minority Report:** Without recommendation. Signed by 3 members: Representatives MacEwen, Assistant Ranking Minority Member; Stokesbary, Assistant Ranking Minority Member; Manweller.

**Staff:** Mary Mulholland (786-7391).

### **Summary of Recommendation of Committee On Appropriations Compared to Recommendation of Committee On Early Learning & Human Services:**

A null and void clause is added, making the bill null and void unless funded in the budget.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date of Second Substitute Bill:** The bill takes effect 90 days after adjournment of the session in which the bill is passed. However, the bill is null and void unless funded in the budget.

### **Staff Summary of Public Testimony:**

(In support) Parents and stakeholders statewide have recognized the lack of consistent, quality visitation as one of the most significant barriers to reunification. Many parents report that they have gone months without a visit with their children. Other parents report that they are not being told what they are being measured on during a supervised visit, and that there is a lack of support to strengthen the quality of the visits.

Research shows that children who have regular, frequent contact with their family have a greater likelihood of a successful reunification, shorter stays in out-of-home care, and overall improved well-being.

Parents are more likely to engage in their case when they are able to visit regularly with their children. It can feel hopeless to engage in the case when a parent has not been able to see his or her children. Visitation is an untapped opportunity to address child and family needs and can be used to build better parenting skills.

Increased oversight can ensure that visitation is more effective for families and can avoid costly lingering of child welfare cases.

Parents want the legal guarantee that visitation be provided. If visitation is not provided, then the lack of visitation can be part of the case for why parental rights should not be terminated.

(Opposed) None.

**Persons Testifying:** Kristina Jorgensen, Washington State Parent Ally Committee; and Sharon Cortez, Partners for Our Children.

**Persons Signed In To Testify But Not Testifying:** None.