

HOUSE BILL REPORT

E2SHB 1194

As Passed House:
February 25, 2021

Title: An act relating to strengthening parent-child visitation during child welfare proceedings.

Brief Description: Strengthening parent-child visitation during child welfare proceedings.

Sponsors: House Committee on Appropriations (originally sponsored by Representatives Ortiz-Self, Senn, Young, Santos, Callan, Morgan, Davis and Harris-Talley).

Brief History:

Committee Activity:

Children, Youth & Families: 1/20/21, 1/27/21 [DPS];
Appropriations: 2/11/21, 2/16/21 [DP2S(w/o sub CYF)].

Floor Activity:

Passed House: 2/25/21, 98-0.

Brief Summary of Engrossed Second Substitute Bill

- Requires that the first visit after a child is placed outside the home of parent, guardian, or legal custodian must take place within 72 hours of removal, unless the court finds that extraordinary circumstances exist.
- Establishes a presumption that if the court previously ordered that visitation between a parent and a child be supervised or monitored, such supervision will no longer be necessary at certain stages of child welfare proceedings.
- Requires that visitation occur in the least restrictive setting and be unsupervised unless the presence of threats or danger to the child requires the constant presence of an adult to ensure the safety of the child.

HOUSE COMMITTEE ON CHILDREN, YOUTH & FAMILIES

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 13 members: Representatives Senn, Chair; Harris-Talley, Vice Chair; Rule, Vice Chair; Dent, Ranking Minority Member; Chase, Assistant Ranking Minority Member; McCaslin, Assistant Ranking Minority Member; Callan, Eslick, Goodman, Klippert, Ortiz-Self, Wicks and Young.

Staff: Luke Wickham (786-7146).

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 Children, Youth & Families. Signed by 31 members: Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Stokesbary, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Corry, Assistant Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Boehnke, Chopp, Cody, Dolan, Dye, Fitzgibbon, Frame, Hansen, Harris, Hoff, Jacobsen, Johnson, J., Lekanoff, Pollet, Rude, Ryu, Schmick, Senn, Springer, Steele, Stonier, Sullivan and Tharinger.

Minority Report: Do not pass. Signed by 1 member: Representative Chandler.

Minority Report: Without recommendation. Signed by 1 member: Representative Caldier.

Staff: Mary Mulholland (786-7391).

Background:

Child Welfare (Dependency) Court Proceedings.

Anyone, including the Department of Children, Youth, and Families (DCYF), may file a petition in court alleging that a child should be a dependent of the state due to abuse, neglect, or because there is no parent, guardian, or custodian capable of adequately caring for the child. These petitions must be verified and contain a statement of facts that constitute a dependency and the names and residence of the parents, if known.

When a child is taken into custody, the court is to hold a shelter care hearing within 72 hours. The primary purpose of the shelter care hearing is to determine whether the child can be immediately and safely returned home while the dependency case is being resolved.

If a court finds the need to maintain a child out of the home, the shelter care status remains until a dependency fact-finding hearing is held or the parties enter an agreed order of dependency. The fact finding must be held within 75 days after the filing of the petition, unless exceptional reasons for a continuance are found.

If a court determines that a child is dependent, the court will conduct periodic reviews and make determinations regarding the child's placement, the provision of services by the DCYF, compliance of the parents, and whether progress has been made by the parents.

The DCYF must develop a permanency plan within 60 days from the date that the DCYF assumes responsibility for the child which must identify primary outcome goals for the case. The DCYF must submit this permanency plan to the parties and the court at least 14 days before a permanency planning court hearing. A permanency planning hearing must be held in all cases where the child has remained in out-of-home care for at least nine months, but no later than 12 months following out of home placement.

Under certain circumstances after a child has been removed from the custody of a parent for at least six months pursuant to a finding of dependency, a petition may be filed seeking termination of parental rights.

Parent Child Visitation During Child Welfare Proceedings.

Visitation, referred to by the DCYF as "family time," is established in law as a right of the family, including the child and parent, in cases in which visitation is in the best interest of the child. The DCYF is required to encourage the maximum parent-child, and sibling contact possible, when it is in the best interest of the child, including regular visitation and participation by the parents in the care of the child while the child is placed out of the parent's home.

Parent-child visitation may not 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. Such 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 DCYF will make a recommendation to the court regarding whether visit supervision or monitoring is necessary, and the court will order that visits be unsupervised, monitored, or supervised. Supervised visits require that someone maintain line of sight and sound supervision of the child during a visit, while monitored visits require periodic check ins.

If visit supervision or monitoring is required, that supervision or monitoring may be provided by a contracted provider, caregiver, social worker, relative, or other suitable person. Eighty percent of families with current visitation plans that require supervision or monitoring receive that service from a provider that contracts with the DCYF, while the remaining 20 percent is provided by caseworkers, family members, caregivers, or other suitable persons.

Summary of Engrossed Second Substitute Bill:

If a child is placed outside the home of a parent, guardian, or legal custodian following a

shelter care hearing, the court shall order the petitioner (usually the Department of Children, Youth, and Families [DCYF]) to provide regular visitation with the parent, guardian, or legal custodian, and siblings. The court must order a visitation plan that is individualized to the needs of the family with the goal of providing the maximum parent, child, and sibling contact. Visitation cannot be limited as a sanction for a parent's failure to comply with recommended services during shelter care and may only be limited where necessary to ensure the health, safety, or welfare of the child.

The first visit after a child is placed outside the home of parent, guardian, or legal custodian must take place within 72 hours of the child's removal, unless the court finds that extraordinary circumstances require delay. If this first visit occurs in an in-person format, the visit must be supervised unless the DCYF determines that visit supervision is not necessary.

A presumption is created that if the court previously ordered that visitation between a parent and a child be supervised or monitored, such supervision will no longer be necessary following:

- a continued shelter care order (30 days after shelter care hearing);
- a case conference (30 days before a fact finding);
- entry of the permanency plan (60 days from the time that the DCYF assumes responsibility of the child); and
- a review hearing (every six months).

The presumption (above) may be overcome if the court determines that removing visit supervision or monitoring would create a risk to the child's safety based on evidence submitted by a party.

Visitation must occur in the least restrictive setting and be unsupervised unless the presence of threats or danger to the child requires the constant presence of an adult to ensure the safety of the child.

Appropriation: None.

Fiscal Note: Available.

Effective Date: 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 (Children, Youth & Families):

(In support) The visitation model that we currently use where an individual supervising a visit just sits there taking notes is not a positive experience for the family. This increases the trauma on the part of the family and child.

There is so much money on visit supervision. Children grow and change during the period they are not living with a parent.

Contact between a child and a biological parent is the largest predictor of children returning to that parent. Parents are anxiously awaiting the opportunity to see that their child is safe. Removal of children often occurs as a result of poverty.

Supervised visits do not allow for natural family contact. Many parents wait months before seeing their children. Parents often are unable to attend visits based on other appointments required for the parent or visit supervisor.

The standard visitation protocol is to provide two hours of supervised visits twice a week. The Department of Children, Youth, and Families (DCYF) established a safety protocol that is often ignored.

Children entering into child welfare have no idea what is going on and wonder what is going on with their parents. Parents wonder the same thing about their children. Imagine what it would be like to separate yourself from a family member for months. The COVID-19 crisis gives society a glimpse as to what it is like to not see your family member for long periods of time.

This bill asks individuals to remove the barriers that prevent families from spending time together.

Family time is not a reward, it is the right of the family and an opportunity to practice positive parenting.

Too often the system uses visit supervision as a convenient mechanism.

This bill puts into statute what is already in the DCYF policy.

Parents rarely receive a visit within 72 hours of removal.

There has been a great deal of collaborative work over a number of years to improve visitation policies. Increased visitation leads to shorter times in care, provides an opportunity for families to heal, and minimizes the trauma.

There is a fragile visitation provider network.

(Opposed) None.

(Other) The quality, frequency, and duration of family visits are a key indicator of family reunification. There is a need to decouple visit supervision and transportation for visits. Otherwise, the default, if there are transportation issues, is to order visit supervision even if

not otherwise necessary.

Once the court orders supervised visitation, that often becomes the default position. Often it is easier for the system to request visitation because it ensures that these visits take place if there are transportation or other logistical issues in carrying out visits.

Staff Summary of Public Testimony (Appropriations):

(In support) An estimated 59 percent of children in out-of-home care are there due to poverty-related issues. Visitation between children and their biological parents is a critical connection, and the first visit may not happen for weeks or months after a child has been removed from the home. The current practice of supervised visits is rooted in a fear of Black people as dangerous and is riddled with stereotypes. While supervision is necessary in some cases, the DCYF would have to document why it is needed for child safety. It will take time to implement because the DCYF staff and others will need training. If the state desires to change the way it interacts with families, especially families of color, it must change the way it interacts with children and their parents in the child welfare system.

The person providing visit supervision is often a stranger who dictates a birth parent's every word and move so that it can be interpreted by someone who was not present at the visit and used to inform important decisions about child and parent contact. Parents do not know what they need to do to be successful. Visitation agencies are not paid for any travel time less than 60 miles, and must sometimes use their own money to pay for gas.

All children deserve personal and private family visitation when it is safe to do so with court approval.

(Opposed) None.

(Other) Resources are needed so that families can keep their children safely at home.

Persons Testifying (Children, Youth & Families): (In support) Representative Ortiz-Self, prime sponsor; Sheila Morley, Family Impact Network; Kristina Jorgensen; Renee Jones; Shrounda Selivanoff; Ryan Murrey; Seth Davidson; and Jacob D'Annunzio.

(Other) Patrick Dowd, Office of the Family and Children's Ombuds.

Persons Testifying (Appropriations): (In support) Shrounda Selivanoff, Children's Home Society of Washington; Heather Cantamessa, Washington State Office of Public Defense; Annie Chung, Legal Counsel for Youth and Children; and Joseph Cooke, Mockingbird Society.

(Other) Sandra Toussaint, American Federation of State, County and Municipal Employees Council 28 and Washington Federation of State Employees.

Persons Signed In To Testify But Not Testifying (Children, Youth & Families): None.

Persons Signed In To Testify But Not Testifying (Appropriations): None.