

# SENATE BILL REPORT

## E2SHB 1194

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As of March 12, 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:** Passed House: 2/25/21, 98-0.

**Committee Activity:** Human Services, Reentry & Rehabilitation: 3/12/21.

### Brief Summary of Bill

- Provides clear guidelines on parental visitation during dependency proceedings including requiring 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 extraordinary circumstances exist.
- Establishes a presumption that if the court previously ordered 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.

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### SENATE COMMITTEE ON HUMAN SERVICES, REENTRY & REHABILITATION

**Staff:** Alison Mendiola (786-7488)

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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 part of the legislation nor does it constitute a statement of legislative intent.*

**Background:** Dependency Court Proceedings. Anyone, including the Department of Children, Youth, and Families (DCYF), may file a petition in court alleging 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.

Shelter Care, Fact Finding, Status and Permanency Plan Hearings. 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 a child is dependent, the court will conduct periodic reviews and make determinations regarding the child's placement, the provision of services by DCYF, compliance of the parents, and whether progress has been made by the parents.

DCYF must develop a permanency plan within 60 days from the date DCYF assumes responsibility for the child, which must identify primary outcome goals for the case. 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 Dependency Proceedings. Visitation, referred to by 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. DCYF is required to encourage the maximum parentchild, 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 it is necessary to protect the child's health, safety, or welfare.

DCYF will make a recommendation to the court regarding whether visit supervision or monitoring is necessary, and the court will order visits be unsupervised, monitored, or supervised. Supervised visits require 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 DCYF, while the remaining 20 percent is provided by caseworkers, family members, caregivers, or other suitable persons.

**Summary of Bill:** Shelter Care. If a child is placed in out-of-home care following a shelter care hearing, the court is to order the petitioner to provide regular visitation with the parent, guardian, or legal custodian, and siblings. The court is to order a visitation plan individualized to the needs of the family with the goal of providing the maximum parent, child, and sibling contact possible.

Visitation must not be limited as a sanction for a parent's failure to comply with recommended services during shelter care and visitation may only be limited when necessary to ensure the health, safety, or welfare of the child.

The first visit must take place within 72 hours of the child's removal, unless the court finds extraordinary circumstances require delay. If this visit occurs in-person, the first visit is to be supervised unless DCYF determines visitation is not necessary.

Permanency Plan. 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.

Shelter Care, Permanency Plans, Case Conferences and Review Hearings. For shelter care orders, permanency planning, case conferences, and status hearings, if the court previously ordered visitation between a parent and child be supervised or monitored, there is a presumption the supervision or monitoring will no longer be necessary. To overcome this presumption, a party must provide the court a report including evidence establishing that removing visitation or monitoring would create a risk to the child's safety, and the court is to make a determination as to whether the supervision or monitoring is to continue. The court is to advise the petitioner that failure to provide court-ordered visitation may result in a finding the petitioner failed to make reasonable efforts to finalize the permanency plan. The lack of sufficient contracted visitation providers does not excuse the failure to provide court-ordered visitation.

**Appropriation:** The bill contains a null and void clause requiring specific funding be provided in an omnibus appropriation act.

**Fiscal Note:** Available.

**Creates Committee/Commission/Task Force that includes Legislative members:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony:** PRO: Many aspects of this bill are already policy. The initial visit between the parent and child after the child is removed is crucial as the child goes through so much trauma when removed from the home. Visitation helps with reunification. We also need to look at the disproportionality of who is removed and who has supervised/monitored visitation, and the trauma we perpetuate with limited visitation. The goal is strengthen families while keeping kids safe. Consider eliminating the requirement that the initial visit is supervised as this visit often does not even happen within the first 72 hours although it is supposed to. Some parents who comply with their terms never see their supervised visitation go away. Some families do not want increased visitation because they experienced trauma at the end of each visit with their child. Supervision feels more like surveillance. We should respect the bond between families.

OTHER: Child welfare workers are working hard to implement policies, codifying policies will not change that. There is a lack of resources and support, rampant under staffing and low reimbursement rates. Since the Great Recession there have more been regulations but not more funding to carry these responsibilities out.

**Persons Testifying:** PRO: Representative Lillian Ortiz-Self, Prime Sponsor; Sakara Remmu, The Washington Black Lives Matter Alliance; Jason Bragg, Washington State Parent Ally Committee; Ryan Murray, Washington Association of Child Advocate Programs; Erin Shea McCann, Legal Counsel for Youth and Children; Samuel Martin, The Mockingbird Society; Terreca DeFehr.

OTHER: Sandra Toussaint, AFSCME Council 28 and Washington Federation of State Employees.

**Persons Signed In To Testify But Not Testifying:** No one.