

HOUSE BILL REPORT

HB 1907

As Reported By House Committee On:

Law & Justice

Title: An act relating to restrictions in residential time.

Brief Description: Revising restrictions on residential time for abusive parents.

Sponsors: Representative Appelwick.

Brief History:

Committee Activity:

Law & Justice: 2/24/95, 2/28/95 [DPS].

HOUSE COMMITTEE ON LAW & JUSTICE

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 17 members: Representatives Padden, Chairman; Delvin, Vice Chairman; Hickel, Vice Chairman; Appelwick, Ranking Minority Member; Costa, Assistant Ranking Minority Member; Campbell; Carrell; Chappell; Cody; Lambert; McMahan; Morris; Robertson; Sheahan; Smith; Thibaudeau and Veloria.

Staff: Pat Shelledy (786-7149).

Background: When parents obtain a divorce, the court approves a residential schedule establishing the residential time the child spends with each parent.

The court must restrain a parent from contact with a child if the parent has been:

- (1) Convicted as an adult of a sex offense; or
- (2) Found to be a sexual predator.

If the parent lives with an adult or juvenile who has been convicted of a sex offense or found to be a sexual predator, the court must restrain the parent from contact with the parent's child, except contact that occurs outside the presence of that person.

A parent's residential time must be limited, but not necessarily completely denied, if the court finds that the parent or a person who resides with the parent has engaged in any of the following conduct:

- (1) Willful abandonment that continues for an extended period of time, or substantial refusal to perform parenting functions;
- (2) Physical, sexual, or a pattern of emotional abuse of a child; or
- (3) A history of acts of domestic violence or a serious assault or sexual assault.

The limitations imposed must be reasonably calculated to protect the child from physical, sexual, or emotional abuse or harm. If the court finds that limitations on residential time will not adequately protect the child, the court must restrain the parent from all contact with the child. On the other hand, if the court finds that contact between the parent and child will not cause physical, sexual, or emotional abuse or harm to the child and that imposing limitations is not in the child's best interest, the court does not have to impose limitations.

Similar rules apply in third-party actions for child custody when the parent seeks visitation.

Summary of Substitute Bill: A parent's residential time with the child shall be limited but not necessarily completely denied if the parent has been convicted as an adult of a sex offense. Existing rules regarding limitations apply.

If the parent has been found to be a sexual predator, current law remains the same and the court must restrain the parent from contact. If the parent resides with an adult who has been found to be a sexual predator, the parent may only have contact with the child outside the sexual predator's presence.

If a parent resides with a person who as an adult has been convicted or as a juvenile has been adjudicated of a sex offense, or resides with a juvenile who has been adjudicated of a sex offense, the parent's contact with the child must occur outside the presence of that person.

Substitute Bill Compared to Original Bill: The substitute bill provides that contact must be outside the presence of a person with whom the parent lives if the person was convicted of a sex offense when the person was a juvenile, not just when the person was an adult.

Appropriation: None.

Fiscal Note: Not requested.

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

Testimony For: Current law is overly onerous and restricts judges' discretion to consider the facts of an individual case. For example, a person may have been convicted of a sex offense prior to getting married and having children. The parent may have lived with the children for years prior to obtaining a divorce, and then upon divorce is prevented from having contact with the children because of the prior conviction.

Testimony Against: None.

Testified: Judge Evan Sperline, Superior Court Judges Association (pro).