

HOUSE BILL REPORT

SSB 5676

As Reported By House Committee On:
Law & Justice

Title: An act relating to restrictions on residential time for abusive parents.

Brief Description: Restricting residential time for abusive parents.

Sponsors: Senate Committee on Law & Justice (originally sponsored by Senators Fraser and Kohl).

Brief History:

Committee Activity:

Law & Justice: 3/29/95, 3/31/95 [DPA].

HOUSE COMMITTEE ON LAW & JUSTICE

Majority Report: Do pass as amended. Signed by 12 members: Representatives Sheahan, Chairman; Delvin, Vice Chairman; Hickel, Vice Chairman; Appelwick, Ranking Minority Member; Campbell; Carrell; Chappell; Lambert; McMahan; Morris; Robertson and Smith.

Minority Report: Do not pass. Signed by 4 members: Representatives Costa, Assistant Ranking Minority Member; Cody; 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 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 Amended 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.

Existing restrictions on residential and visitation time continue to apply when the parent lives with an adult or juvenile sex offender or sex predator.

Amended Bill Compared to Substitute Bill: The underlying bill is stricken and replaced with the provisions of SHB 1907 as passed by the House Law and Justice Committee with a couple of technical corrections.

Appropriation: None.

Fiscal Note: Available.

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

Testimony For: Current law unduly restricts judicial discretion when considering whether a parent may have contact with his or her child following divorce. However, criteria is still needed to direct judges to adequately protect children who may be

subjected to abuse by the parent or a member of the parent's family. The Senate version provides greater protection for children than the House version.

Testimony Against: The Senate bill continues to impose overly restrictive criteria on judges when considering whether to grant a parent residential or visitation time with the parent's child. The bill places undue emphasis on past offenses rather than the parent's current behavior and the relationship of the parent and the child.

Testified: Senator Karen Fraser, prime sponsor (pro); Deborah Ruggles, Washington Coalition for Sexual Assault Programs (pro); and Mary Hammerly, Washington State Bar Association, Family Law Section (con).