

---

## Judiciary Committee

---

### SSB 5162

**Title:** An act relating to prohibiting a child custody award to a suspect in an active murder investigation.

**Brief Description:** Prohibiting a child custody award to a suspect in an active murder investigation.

**Sponsors:** Senate Committee on Law & Justice (originally sponsored by Senators Roach, Carrell, Rivers, Benton, Sheldon, Dammeier, Holmquist Newbry, Padden, Fraser, Frockt and Chase).

#### Brief Summary of Substitute Bill

- In proceedings regarding child dependency or child custody, requires the disclosure and consideration of information concerning an active murder investigation where a suspect in the investigation is involved in the dependency or custody proceeding.
- Places limitations on a parent's ability to have residential time or visitation with a child where the parent is a suspect in an active murder investigation.
- Addresses Department of Social and Health Services (DSHS) requirements relating to visitation between a dependent child and a parent or sibling who is the subject of an active criminal investigation or a parent who has received a psychosexual evaluation.
- Requires Children's Administration caseworkers to be provided ongoing domestic violence training and consultation.

**Hearing Date:** 3/26/13

**Staff:** Edie Adams (786-7180).

**Background:**

Child Dependency and Termination Proceedings.

---

*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.*

Child dependency laws provide procedures for the protection and placement of children who have been abused or abandoned by their parents or legal guardians. A child who is alleged to be a dependent child may be taken into custody and placed in shelter care until a dependency hearing takes place to determine whether the child is a dependent child, and the services and interventions that are appropriate for the child and the child's family.

In a dependency proceeding, the court may order that a child be temporarily placed outside the child's home. In this event, the agency that is charged with the child's care must present to the court a permanency plan identifying the long-term goals for permanent care of the child, such as return of the child to the parents, adoption, guardianship, permanent legal custody, long-term relative or foster care, or independent living. Visitation between a parent or sibling and the child must be encouraged to the maximum extent possible during the dependency process if visitation is in the best interest of the child. Visitation may be limited or denied only if the court finds it is necessary to protect the health, safety, or welfare of the child.

A court may order that a petition for termination of the parent-child relationship be filed if the child has been removed from the home, termination is in the best interests of the child, and efforts to unify the family are not required because of the existence of aggravating circumstances. Aggravating circumstances include: conviction of the parent of certain offenses, such as rape, criminal mistreatment, or assault of the child; a finding that the parent is a sexually violent predator; abandonment of a child under the age of three; or failure of the parent to complete ordered treatment which resulted in termination of parental rights to another child.

#### Family Law Proceedings Involving Children.

In dissolution cases in which there are minor children, the court must establish a parenting plan that addresses a number of issues. The parenting plan must set forth a process for resolving future disputes between the parents that does not involve court action, such as mediation or arbitration. The parenting plan must include an allocation of decision-making authority to one or both parents regarding the child's education, health care, and religious upbringing. The parenting plan must also set forth the child's residential time with each parent, designating in which parent's home the child will reside on given days of the year.

The parenting plan must not establish mutual decision-making or a dispute resolution process other than court action if the parent has engaged in certain conduct, such as willful abandonment or physical or sexual abuse of a child, or a history of acts of domestic violence or an assault that causes grievous bodily harm or the fear of such harm.

In a parenting plan or child custody order, the court must limit residential time or visitation between a parent and child if the parent has engaged in certain specified misconduct, including if there has been physical, sexual, or a pattern of emotional abuse of the child; a history of acts of domestic violence or an assault that causes grievous bodily harm or the fear of such harm; or the parent has been convicted as an adult of certain sex offenses. The court must impose limitations that are reasonably calculated to protect the child. Limitations may include requiring supervised contact with a court-approved supervisor. If the court finds that limitations on residential time will not protect the child from harm or abuse, the court must restrain the parent from all contact with the child.

## **Summary of Bill:**

### Child Dependency and Termination Proceedings.

Upon request, a law enforcement agency conducting an active investigation for Aggravated first degree Murder, first degree Murder, or second degree Murder (murder investigation) for which a person who has been identified as a suspect is involved in a child dependency proceeding must provide to the court, for in camera review, any and all details of the investigation that may be relevant to the child dependency proceeding.

When a parent or sibling who is the subject of an active criminal investigation wishes to have visitation with a dependent child, the DSHS must consult with the law enforcement officer in the criminal case, and report this information to the court, before making any recommendation for change in contact between the child and a parent or sibling. The DSHS can alter visitation plans if a court-ordered psychosexual evaluation of the parent indicates that the current plan might compromise the safety of the child. The policies and protocols of the DSHS regarding visitation for dependent children must include consultation with law enforcement officers in the event of an active criminal investigation of the parent.

In a proceeding seeking termination of a parent and child relationship, the court must review, in camera, any evidence received from a law enforcement agency regarding a parent who has been identified as a suspect in an active murder investigation when determining whether reunification may be detrimental to the welfare of the child.

Children's Administration caseworkers must receive ongoing domestic violence training and consultation.

### Family Law Proceedings Involving Children.

A law enforcement agency conducting an active murder investigation for which a named suspect is involved in a child custody proceeding must provide to the court, upon request of the court or a party, any and all details of the investigation that may be relevant to the child custody proceeding.

When entering a parenting plan, the court may not require mutual decision-making or designate a dispute resolution process other than court action if the parent has been identified by law enforcement as a suspect in an active murder investigation. A parent's residential time with a child under a parenting plan, or visitation rights with a child in a child custody order, must be limited if the parent is identified by law enforcement as a suspect in an active murder investigation. The parent may not be designated as the primary residential parent while the murder investigation is pending.

**Appropriation:** None.

**Fiscal Note:** Requested on March 25, 2014.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.