

SENATE BILL REPORT

SB 5564

As of February 14, 1995

Title: An act relating to enforcement of visitation provisions of parenting plans.

Brief Description: Providing an administrative remedy for residential interference.

Sponsors: Senators Wood, Schow, Hargrove, Owen, Long, Roach, Palmer, Oke, Morton and Hochstatter.

Brief History:

Committee Activity: Law & Justice: 2/16/95.

SENATE COMMITTEE ON LAW & JUSTICE

Staff: Susan Carlson (786-7418)

Background: Current law provides two avenues for redress of violations of the residential provisions in a parenting plan: criminal charges or civil contempt proceedings. In cases where criminal charges are not filed, the aggrieved parent has the burden to pursue civil contempt. However, some parents cannot afford to pay the costs and attorney fees required to bring a court action.

It has been suggested that establishing an administrative procedure to address violations of parenting plan visitation provisions would provide parents more access to an enforcement procedure.

Summary of Bill: The Legislature makes findings that children of dissolution have a need for financial and emotional support from both parents and that studies show a link between enforcement of visitation and the payment of child support. The Legislature intends to provide administrative redress for violations of the residential provisions of a parenting plan.

A party to a parenting plan may file a petition with the Department of Social and Health Services alleging residential interference. The department must give notice of the allegations to the alleged violator of the parenting plan and require that person to either acknowledge the violation or demand a hearing. If the violation is acknowledged, a finding of residential interference is entered. If a hearing is demanded, the Office of Administrative Hearings is required to schedule a hearing.

At a hearing, the petitioner must prove by a preponderance of evidence that a violation of the visitation provisions occurred. If found to be in violation, the parent may be ordered to provide the moving party additional time with the child, pay court costs, attorney fees, and costs of locating or returning the child, and pay a civil penalty of not less than \$100.

Two administrative findings of violation of the residential provisions constitute a substantial change of circumstances for purposes of petitioning a court for modification of the residential schedule in the parenting plan.

Appropriation: None.

Fiscal Note: Requested on February 9, 1995.

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