

HOUSE BILL REPORT

SSB 6306

As Passed House:

March 7, 2008

Title: An act relating to visitation rights for relatives of dependent children.

Brief Description: Providing an additional procedure for visitation rights for relatives of dependent children.

Sponsors: By Senate Committee on Human Services & Corrections (originally sponsored by Senators Rockefeller, Fairley, Kline and Shin).

Brief History:

Committee Activity:

Early Learning & Children's Services: 2/26/08, 2/28/08 [DP].

Floor Activity:

Passed House: 3/7/08, 94-0.

Brief Summary of Substitute Bill

- Establishes a process for relatives of a dependent child to petition the court for visitation with the child in certain circumstances.

HOUSE COMMITTEE ON EARLY LEARNING & CHILDREN'S SERVICES

Majority Report: Do pass. Signed by 7 members: Representatives Kagi, Chair; Roberts, Vice Chair; Haler, Ranking Minority Member; Walsh, Assistant Ranking Minority Member; Goodman, Hinkle and Pettigrew.

Staff: Sydney Forrester (786-7120).

Background:

In dependency matters, the court has the authority to order visitation between the parent and the child, as well as the child and his or her siblings and step-siblings. Visitation is declared to be the right of the family, including the child and the parent, when visitation is in the best interests of the child.

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.

Summary of Bill:

A dependent child's relative may petition the juvenile court for reasonable visitation with the child under the following circumstances:

- (1) The child has been found dependent under RCW 13.34 or through voluntary relinquishment under the adoption statutes;
- (2) The parental rights of both of the child's parents have been terminated;
- (3) The child is in the custody of the Department of Social and Health Services (DSHS) or other supervising agency; and
- (4) The child has not been adopted and is not in a pre-adoptive home or other permanent placement at the time the petition is filed.

The court must provide notice of hearings on the matter of relative visitation to the DSHS or other supervising agency, the child, and the child's attorney or guardian ad litem if applicable. The DSHS or other supervising agency must provide notice to the child's current caregiver and the child's tribe, if applicable.

If the court finds that unsupervised visits between the child and the relative do not present a risk to the child's safety or well-being, and that the visitation is in the best interests of the child, the court may grant visitation. In determining the best interests of the child, the court must consider at least the following:

- (1) the love, affection, and strength of the relationship between the child and the relative;
- (2) the length and quality of the prior relationship between the child and the relative;
- (3) any criminal convictions for or founded abuse history by the relative;
- (4) whether the visitation will present a risk to the child's health, welfare, or safety;
- (5) the child's reasonable preference; and
- (6) any other factor relevant to the child's best interest.

The court may modify the visitation order at any time upon a showing that the visitation poses a risk to the child's safety or well-being. The visitation order must state that it will terminate upon the child's placement in a pre-adoptive home or if a subsequent abuse or neglect allegation is found against the relative.

The term *relative* does not include the child's parent.

Appropriation: None.

Fiscal Note: Available.

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

Staff Summary of Public Testimony:

(In support) This bill does not modify any existing provisions regarding visitation for children who are in foster care. It does, however, attempt to address the unique circumstances where

parental rights have been terminated and the child's relatives wish to remain connected to the child, even though they cannot adopt or otherwise take full-time care of the child. It provides a process where the court can order visitation when it finds the child can benefit by maintaining relationships with extended family.

There currently is no statutory process for a relative of a child in foster care to petition for visitation after the parental rights of the child's parents have been terminated. In cases where the child must remain in foster care, this bill will allow the child to at least continue those beneficial relationships with other family members while in care.

(Neutral) This bill offers a measured approach to those cases where there is an opportunity for a child to benefit from maintaining family contact even though parental rights have been terminated. The Office of the Family and Children's Ombudsman recommended in its 2004-05 annual report that relatives who have an established relationship be allowed ongoing contact with the child through the dependency, including afterwards, if parental rights are terminated. We frequently hear from youth in foster care and those who have aged out of the system about the sadness they feel in sometimes losing their entire family connection as a result of the dependency or the termination of parental rights. This bill would support continued involvement of relatives in children's lives in those cases where relatives may not be able to serve as a placement resource due to health, financial, or work restrictions, but still can provide continuity of important relationships beneficial to the child's development.

(Opposed) It is the wrong approach to limit visitation to those cases where the child is not in a pre-adoptive home because the DSHS can use this to preclude visitation with relatives even before the dependency is filed or the parental right have been terminated. Children should spend as much time as possible with their relatives.

This bill should address the rights of extended family in general. The DSHS will probably use this bill to prevent family visitation until parental rights have been terminated. The judicial system is not working. The judge has already made up his mind when he takes the bench. There is no due process in the court system for relatives of children in foster care.

Persons Testifying: (In support) Senator Rockefeller, prime sponsor; Edith Owen, Pierce County Relatives Raising Children; Geraldine Laemmle, Grandparents Rights of Washington; and Jan Smith, Washington State Extended Family.

(Neutral) Mary Meinig, Office of the Family and Children's Ombudsman.

(Opposed) Deborah Boudreau; and Jan Smith, Washington State Extended Family.

Persons Signed In To Testify But Not Testifying: None.