

SENATE BILL REPORT

SB 6643

As Passed Senate, February 11, 2004

Title: An act relating to family visitation for dependent children.

Brief Description: Providing guidelines for family visitation for dependent children.

Sponsors: Senators Stevens, Hargrove, Schmidt and Carlson.

Brief History:

Committee Activity: Children & Family Services & Corrections: 2/3/04, 2/4/04 [DP].
Passed Senate: 2/11/04, 49-0.

SENATE COMMITTEE ON CHILDREN & FAMILY SERVICES & CORRECTIONS

Majority Report: Do pass.

Signed by Senators Stevens, Chair; Parlette, Vice Chair; Carlson, Deccio, Hargrove, McAuliffe and Regala.

Staff: Edith Rice (786-7444)

Background: The 2001 Legislature requested the Chair of the Washington State Office of Public Defense Advisory Committee to appoint a committee to examine specific problem areas in dependency and termination cases. These included court continuances, the appointment of experts, and parents' access to services.

The Dependency and Termination Equal Justice Committee (DTEJ), chaired by Justice Bobbe Bridge, consisted of a multi-disciplinary group of judges, legislators, Department of Social and Health Services representatives, an assistant attorney general, parents' attorneys, court administrators, a county commissioner, and other professionals involved in dependency and termination cases.

Five statewide surveys were conducted and reviewed. Based on the survey results, the extensive experience of its membership, and other information, the DTEJ Committee adopted recommendations to address the areas identified by the Legislature. These recommendations were published in a report in December 2003 and addressed issues relating to caseload, evaluators, services, visitation, family drug courts and parents' representation.

Current law does not prohibit courts from limiting parent-child visitation as a sanction for failure to comply with court directives.

Summary of Bill: Parent child visitation in dependencies is recognized as being a family's right, crucial to maintaining a family bond. A court cannot limit visitation with a child as a sanction against the parent for failure to comply with court orders or services unless the child's health safety or welfare would be at risk. Supervision during visitation shall not be required except when necessary to protect the child's health, safety or welfare. The court and agency should use other community resources to provide transportation for visitation.

Appropriation: None.

Fiscal Note: Not requested.

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

Testimony For: Visitation is of benefit to the child, even when reunification may not be a goal. Limiting visitation to punish parents harms the child. Courts have other means of sanctioning parents.

Testimony Against: None.

Testified: Joanne Moore, Office of Public Defense (pro); Ali Pearson, WA Assoc. of Criminal Defense Lawyers (pro); David Del Villar Fox, Children's Home Society (pro); LaVerne Lamoureux, Director, Program and Policy, Children's Administration (pro).

House Amendment(s): The amendment provides that visitation is the right of the family, including the child and the parent, *in cases in which visitation is in the best interest of the child.*

It limits the current requirement that the agency charged with a child's care encourage the maximum parent and child and sibling contact possible to *when it is in the best interest of the child.*

It provides that reliance upon specified resources to provide transportation and supervision for visitation is limited to the extent that those resources are available, *and appropriate*, and the child's safety would not be compromised.

The provision that supervision of visitation shall not be required except when necessary to protect the child's health, safety, or welfare is *eliminated.*

The court may order expert evaluations of parties, regarding visitation or other issues in a case by appointed evaluators who are mutually agreed upon. If no agreement can be reached, the court shall select the expert evaluator.

The Department of Social and Health Services (DSHS) must develop consistent visitation policies and protocols, to be implemented consistently throughout the state. DSHS is to develop the policies and protocols with researchers, community-based agencies, Court-Appointed Special Advocates, parents' representatives, and court representatives. The policies and protocols shall include the structure and quality of visitations, training, visitation supervisors, and foster parents and visitation. The policies and protocols shall also be consistent with the provisions of Chapter 13.34 RCW and implementation of the policies and protocols shall be consistent with relevant orders of the court.

DSHS must report on the policies and protocols concerning visitation for dependent children to the appropriate committees of the Legislature by January 1, 2005.