
SENATE BILL 5389

State of Washington 63rd Legislature 2013 Regular Session
By Senators Billig, Fain, Hargrove, Litzow, Murray, Tom, and Kohl-Welles

1 AN ACT Relating to sibling visitation for children in foster care;
2 amending RCW 13.34.136; and creating a new section.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 NEW SECTION. **Sec. 1.** The Washington state legislature recognizes
5 the importance of ensuring frequent and meaningful contact for siblings
6 separated due to involvement in the foster care system. The
7 legislature also recognizes that children and youth in foster care are
8 not being provided adequate opportunities for visitation with their
9 siblings. It is the intent of the legislature to ensure appropriate
10 facilitation of sibling visits by enumerating the specific and
11 appropriate limitations for such visits for the information of case
12 managers, caregivers, birth families, and youth.

13 **Sec. 2.** RCW 13.34.136 and 2011 c 309 s 29 are each amended to read
14 as follows:

15 (1) Whenever a child is ordered removed from the home, a permanency
16 plan shall be developed no later than sixty days from the time the
17 supervising agency assumes responsibility for providing services,
18 including placing the child, or at the time of a hearing under RCW

1 13.34.130, whichever occurs first. The permanency planning process
2 continues until a permanency planning goal is achieved or dependency is
3 dismissed. The planning process shall include reasonable efforts to
4 return the child to the parent's home.

5 (2) The agency supervising the dependency shall submit a written
6 permanency plan to all parties and the court not less than fourteen
7 days prior to the scheduled hearing. Responsive reports of parties not
8 in agreement with the department's or supervising agency's proposed
9 permanency plan must be provided to the department or supervising
10 agency, all other parties, and the court at least seven days prior to
11 the hearing.

12 The permanency plan shall include:

13 (a) A permanency plan of care that shall identify one of the
14 following outcomes as a primary goal and may identify additional
15 outcomes as alternative goals: Return of the child to the home of the
16 child's parent, guardian, or legal custodian; adoption, including a
17 tribal customary adoption as defined in RCW 13.38.040; guardianship;
18 permanent legal custody; long-term relative or foster care, until the
19 child is age eighteen, with a written agreement between the parties and
20 the care provider; successful completion of a responsible living skills
21 program; or independent living, if appropriate and if the child is age
22 sixteen or older. The department or supervising agency shall not
23 discharge a child to an independent living situation before the child
24 is eighteen years of age unless the child becomes emancipated pursuant
25 to chapter 13.64 RCW;

26 (b) Unless the court has ordered, pursuant to RCW 13.34.130(~~(+6)~~)
27 (8), that a termination petition be filed, a specific plan as to where
28 the child will be placed, what steps will be taken to return the child
29 home, what steps the supervising agency or the department will take to
30 promote existing appropriate sibling relationships and/or facilitate
31 placement together or contact in accordance with the best interests of
32 each child, and what actions the department or supervising agency will
33 take to maintain parent-child ties. All aspects of the plan shall
34 include the goal of achieving permanence for the child.

35 (i) The department's or supervising agency's plan shall specify
36 what services the parents will be offered to enable them to resume
37 custody, what requirements the parents must meet to resume custody, and
38 a time limit for each service plan and parental requirement.

1 (ii) Visitation is the right of the family, including the child and
2 the parent, in cases in which visitation is in the best interest of the
3 child. Early, consistent, and frequent visitation is crucial for
4 maintaining parent-child relationships and making it possible for
5 parents and children to safely reunify. The supervising agency or
6 department shall encourage the maximum parent and child (~~and sibling~~)
7 contact possible, when it is in the best interest of the child,
8 including regular visitation and participation by the parents in the
9 care of the child while the child is in placement. Visitation shall
10 not be limited as a sanction for a parent's failure to comply with
11 court orders or services where the health, safety, or welfare of the
12 child is not at risk as a result of the visitation. Visitation may be
13 limited or denied only if the court determines that such limitation or
14 denial is necessary to protect the child's health, safety, or welfare.
15 The court and the department or supervising agency should rely upon
16 community resources, relatives, foster parents, and other appropriate
17 persons to provide transportation and supervision for visitation to the
18 extent that such resources are available, and appropriate, and the
19 child's safety would not be compromised.

20 (iii) The supervising agency or department shall facilitate the
21 maximum child and sibling contact possible, including at least two
22 visits per month. Visitation may not be limited or denied unless:

23 (A) A court order prevents or limits visits or contacts;

24 (B) The department has determined that visits or contacts would be
25 contrary to the child's health, safety, or welfare or that they would
26 hinder reunification efforts; or

27 (C) The department has documented that:

28 (I) The child or sibling is developmentally able to determine his
29 or her needs for sibling visits or contacts and has requested that
30 there be no contact with his or her sibling or that such contact should
31 occur less than two times per month;

32 (II) The parent of a nondependent sibling objects to or requests a
33 limitation of visits or contacts with the dependent child;

34 (III) The child is on the run from his or her placement for a
35 majority of the current calendar month; or

36 (IV) The child is not complying with visitation arrangements.

37 Any exceptions, limitation, or denial of visitation must be
38 approved by the supervisor of the department case worker and

1 documented. The department, court, or caregiver in the out-of-home
2 placement may not limit visitation as a sanction for a child's behavior
3 or as an incentive to the child to change his or her behavior. Any
4 party, including the child, the parent, the department, or the court-
5 appointed special advocate, may challenge the denial of visits in the
6 court which has jurisdiction over the child's case. If visitation has
7 been denied in a proceeding regarding a sibling, the court may allow,
8 for good cause, the child to initiate or to be added as a party to a
9 motion filed in the sibling's case to challenge the denial of visits
10 between the sibling and the child. If the child is allowed to
11 participate in a motion to challenge the denial of visitation in a
12 sibling's case, the court which authorized the participation must
13 ensure that confidential information contained in the sibling's case is
14 not disclosed to the child.

15 (iv) A child shall be placed as close to the child's home as
16 possible, preferably in the child's own neighborhood, unless the court
17 finds that placement at a greater distance is necessary to promote the
18 child's or parents' well-being.

19 ((+iv+)) (v) The plan shall state whether both in-state and, where
20 appropriate, out-of-state placement options have been considered by the
21 department or supervising agency.

22 ((+v+)) (vi) Unless it is not in the best interests of the child,
23 whenever practical, the plan should ensure the child remains enrolled
24 in the school the child was attending at the time the child entered
25 foster care.

26 ((+vi+)) (vii) The supervising agency or department shall provide
27 all reasonable services that are available within the department or
28 supervising agency, or within the community, or those services which
29 the department has existing contracts to purchase. It shall report to
30 the court if it is unable to provide such services; and

31 (c) If the court has ordered, pursuant to RCW 13.34.130((+6+)) (8),
32 that a termination petition be filed, a specific plan as to where the
33 child will be placed, what steps will be taken to achieve permanency
34 for the child, services to be offered or provided to the child, and, if
35 visitation would be in the best interests of the child, a
36 recommendation to the court regarding visitation between parent and
37 child pending a fact-finding hearing on the termination petition. The
38 department or supervising agency shall not be required to develop a

1 plan of services for the parents or provide services to the parents if
2 the court orders a termination petition be filed. However, reasonable
3 efforts to ensure visitation and contact between siblings shall be made
4 unless there is reasonable cause to believe the best interests of the
5 child or siblings would be jeopardized.

6 (3) Permanency planning goals should be achieved at the earliest
7 possible date. If the child has been in out-of-home care for fifteen
8 of the most recent twenty-two months, the court shall require the
9 department or supervising agency to file a petition seeking termination
10 of parental rights in accordance with RCW 13.34.145(3)(b)(vi). In
11 cases where parental rights have been terminated, the child is legally
12 free for adoption, and adoption has been identified as the primary
13 permanency planning goal, it shall be a goal to complete the adoption
14 within six months following entry of the termination order.

15 (4) If the court determines that the continuation of reasonable
16 efforts to prevent or eliminate the need to remove the child from his
17 or her home or to safely return the child home should not be part of
18 the permanency plan of care for the child, reasonable efforts shall be
19 made to place the child in a timely manner and to complete whatever
20 steps are necessary to finalize the permanent placement of the child.

21 (5) The identified outcomes and goals of the permanency plan may
22 change over time based upon the circumstances of the particular case.

23 (6) The court shall consider the child's relationships with the
24 child's siblings in accordance with RCW 13.34.130(~~((4))~~) (6). Whenever
25 the permanency plan for a child is adoption, the court shall encourage
26 the prospective adoptive parents, birth parents, foster parents,
27 kinship caregivers, and the department or other supervising agency to
28 seriously consider the long-term benefits to the child adoptee and his
29 or her siblings of providing for and facilitating continuing
30 postadoption contact between the siblings. To the extent that it is
31 feasible, and when it is in the best interests of the child adoptee and
32 his or her siblings, contact between the siblings should be frequent
33 and of a similar nature as that which existed prior to the adoption.
34 If the child adoptee or his or her siblings are represented by an
35 attorney or guardian ad litem in a proceeding under this chapter or in
36 any other child custody proceeding, the court shall inquire of each
37 attorney and guardian ad litem regarding the potential benefits of
38 continuing contact between the siblings and the potential detriments of

1 severing contact. This section does not require the department of
2 social and health services or other supervising agency to agree to any
3 specific provisions in an open adoption agreement and does not create
4 a new obligation for the department to provide supervision or
5 transportation for visits between siblings separated by adoption from
6 foster care.

7 (7) For purposes related to permanency planning:

8 (a) "Guardianship" means a dependency guardianship or a legal
9 guardianship pursuant to chapter 11.88 RCW or equivalent laws of
10 another state or a federally recognized Indian tribe.

11 (b) "Permanent custody order" means a custody order entered
12 pursuant to chapter 26.10 RCW.

13 (c) "Permanent legal custody" means legal custody pursuant to
14 chapter 26.10 RCW or equivalent laws of another state or a federally
15 recognized Indian tribe.

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