
HOUSE BILL 1938

State of Washington

61st Legislature

2009 Regular Session

By Representatives Roberts, Kagi, Angel, Walsh, Dunshee, Pettigrew, Green, Goodman, Haler, and Kenney

Read first time 02/03/09. Referred to Committee on Early Learning & Children's Services.

1 AN ACT Relating to children's interests in maintaining postadoption
2 contact with their siblings; amending RCW 26.33.295 and 26.33.190; and
3 adding a new section to chapter 26.33 RCW.

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

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 26.33 RCW
6 to read as follows:

7 The legislature finds that the importance of children's
8 relationships with their siblings is well recognized in law and
9 science. The bonds between siblings are often irreplaceable, leading
10 some experts to believe that sibling relationships can be longer
11 lasting and more influential than any other over a person's lifetime.
12 For children who have been removed from home due to abuse or neglect,
13 these bonds are often much stronger because siblings have learned early
14 the importance of depending on one another and cooperating in order to
15 cope with their common problems. The legislature further finds that
16 when children are in the foster care system they typically have some
17 degree of contact or visitation with their siblings even when they are
18 not living together. The legislature finds, however, that when one or
19 more of the siblings is adopted, these relationships may be severed

1 completely if the adoption agreement fails to attend to the needs of
2 the siblings for continuing postadoption contact. The legislature
3 intends to promote a greater focus, in adoption proceedings, on the
4 interests of siblings separated by adoptive placements and to encourage
5 the inclusion in adoption agreements of provisions to support ongoing
6 postadoption contact between siblings.

7 **Sec. 2.** RCW 26.33.295 and 1990 c 285 s 4 are each amended to read
8 as follows:

9 (1) Nothing in this chapter shall be construed to prohibit the
10 parties to a proceeding under this chapter from entering into
11 agreements regarding communication with or contact between child
12 adoptees, adoptive parents, siblings of child adoptees, and a birth
13 parent or parents.

14 (2) The court, in reviewing and approving an agreement under this
15 section, shall encourage the adoptive parents, birth parents, foster
16 parents, kinship caregivers, and the department or other supervising
17 agency to seriously consider the long-term benefits to the child
18 adoptee and siblings of the child adoptee of providing for and
19 facilitating continuing postadoption contact between siblings. To the
20 extent feasible and practical, and when in the best interests of the
21 child adoptee and siblings of the child adoptee, contact between the
22 siblings should be at least as frequent and of a similar nature as that
23 which existed prior to the adoption. If the child adoptee or siblings
24 of the child adoptee are represented by an attorney or guardian ad
25 litem in a proceeding under this chapter or in any other child custody
26 proceeding, the court shall inquire of each attorney and guardian ad
27 litem regarding the potential benefits of continuing contact between
28 the siblings and the potential detriments of severing contact.

29 (3) Agreements regarding communication with or contact between
30 child adoptees, adoptive parents, siblings of child adoptees, and a
31 birth parent or parents shall not be legally enforceable unless the
32 terms of the agreement are set forth in a written court order entered
33 in accordance with the provisions of this section. The court shall not
34 enter a proposed order unless the terms of such order have been
35 approved in writing by the prospective adoptive parents, any birth
36 parent whose parental rights have not previously been terminated, and,
37 if the child (~~is~~) or siblings of the child are in the custody of the

1 department or a licensed child-placing agency, a representative of the
2 department or child-placing agency. If the child (~~(is)~~) or siblings of
3 the child are represented by an attorney or guardian ad litem in a
4 proceeding under this chapter or in any other child(~~(-)~~)custody
5 proceeding, the terms of the proposed order also must be approved in
6 writing by (~~(the)~~) each child's representative. An agreement under
7 this section need not disclose the identity of the parties to be
8 legally enforceable. The court shall not enter a proposed order unless
9 the court finds that the communication or contact between the child
10 adoptee, the adoptive parents, siblings of the child adoptee, and a
11 birth parent or parents as agreed upon and as set forth in the proposed
12 order, would be in the child adoptee's best interests.

13 (~~(+3)~~) (4) Failure to comply with the terms of an agreed order
14 regarding communication or contact that has been entered by the court
15 pursuant to this section shall not be grounds for setting aside an
16 adoption decree or revocation of a written consent to an adoption after
17 that consent has been approved by the court as provided in this
18 chapter.

19 (~~(+4)~~) (5) An agreed order entered pursuant to this section may be
20 enforced by a civil action and the prevailing party in that action may
21 be awarded, as part of the costs of the action, a reasonable amount to
22 be fixed by the court as attorneys' fees. The court shall not modify
23 an agreed order under this section unless it finds that the
24 modification is necessary to serve the best interests of the child
25 adoptee, and that: (a) The modification is agreed to by the adoptive
26 parent and the birth parent or parents; or (b) exceptional
27 circumstances have arisen since the agreed order was entered that
28 justify modification of the order.

29 **Sec. 3.** RCW 26.33.190 and 2007 c 387 s 2 are each amended to read
30 as follows:

31 (1) Any person may at any time request an agency, the department,
32 an individual approved by the court, or a qualified salaried court
33 employee to prepare a preplacement report. A certificate signed under
34 penalty of perjury by the person preparing the report specifying his or
35 her qualifications as required in this chapter shall be attached to or
36 filed with each preplacement report and shall include a statement of
37 training or experience that qualifies the person preparing the report

1 to discuss relevant adoption issues. A person may have more than one
2 preplacement report prepared. All preplacement reports shall be filed
3 with the court in which the petition for adoption is filed.

4 (2) The preplacement report shall be a written document setting
5 forth all relevant information relating to the fitness of the person
6 requesting the report as an adoptive parent. The report shall be based
7 on a study which shall include an investigation of the home
8 environment, family life, health, facilities, and resources of the
9 person requesting the report. The report shall include a list of the
10 sources of information on which the report is based. The report shall
11 include a recommendation as to the fitness of the person requesting the
12 report to be an adoptive parent. The report shall also verify that the
13 following issues were discussed with the prospective adoptive parents:

14 (a) The concept of adoption as a lifelong developmental process and
15 commitment;

16 (b) The potential for the child to have feelings of identity
17 confusion and loss regarding separation from the birth parents;

18 (c) The relevance of the child's relationship with siblings and the
19 potential benefit to the child of providing for a continuing
20 relationship and contact between the child and siblings;

21 (d) Disclosure of the fact of adoption to the child;

22 ~~((d))~~ (e) The child's possible questions about birth parents and
23 relatives; and

24 ~~((e))~~ (f) The relevance of the child's racial, ethnic, and
25 cultural heritage.

26 (3) All preplacement reports shall include a background check of
27 any conviction records, pending charges, or disciplinary board final
28 decisions of prospective adoptive parents. The background check shall
29 include an examination of state and national criminal identification
30 data provided by the Washington state patrol criminal identification
31 system including, but not limited to, a fingerprint-based background
32 check of national crime information databases for any person being
33 investigated. It shall also include a review of any child abuse and
34 neglect history of any adult living in the prospective adoptive
35 parents' home. The background check of the child abuse and neglect
36 history shall include a review of the child abuse and neglect
37 registries of all states in which the prospective adoptive parents or

1 any other adult living in the home have lived during the five years
2 preceding the date of the preplacement report.

3 (4) An agency, the department, or a court approved individual may
4 charge a reasonable fee based on the time spent in conducting the study
5 and preparing the preplacement report. The court may set a reasonable
6 fee for conducting the study and preparing the report when a court
7 employee has prepared the report. An agency, the department, a court
8 approved individual, or the court may reduce or waive the fee if the
9 financial condition of the person requesting the report so warrants.
10 An agency's, the department's, or court approved individual's, fee is
11 subject to review by the court upon request of the person requesting
12 the report.

13 (5) The person requesting the report shall designate to the agency,
14 the department, the court approved individual, or the court in writing
15 the county in which the preplacement report is to be filed. If the
16 person requesting the report has not filed a petition for adoption, the
17 report shall be indexed in the name of the person requesting the report
18 and a cause number shall be assigned. A fee shall not be charged for
19 filing the report. The applicable filing fee may be charged at the
20 time a petition governed by this chapter is filed. Any subsequent
21 preplacement reports shall be filed together with the original report.

22 (6) A copy of the completed preplacement report shall be delivered
23 to the person requesting the report.

24 (7) A person may request that a report not be completed. A
25 reasonable fee may be charged for the value of work done.

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