
SECOND SUBSTITUTE SENATE BILL 5389

State of Washington

63rd Legislature

2013 Regular Session

By Senate Ways & Means (originally sponsored by Senators Billig, Fain, Hargrove, Litzow, Murray, Tom, Kohl-Welles, Rolfes, Harper, and Chase)

READ FIRST TIME 03/01/13.

1 AN ACT Relating to sibling visitation or contact for children in
2 foster care; 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 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 have
8 not always been provided adequate opportunities for visitation with
9 their siblings. It is the intent of the legislature to encourage
10 appropriate facilitation of sibling visits.

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

13 (1) Whenever a child is ordered removed from the home, a permanency
14 plan shall be developed no later than sixty days from the time the
15 supervising agency assumes responsibility for providing services,
16 including placing the child, or at the time of a hearing under RCW
17 13.34.130, whichever occurs first. The permanency planning process

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

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

11 The permanency plan shall include:

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

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

34 (i) The department's or supervising agency's plan shall specify
35 what services the parents will be offered to enable them to resume
36 custody, what requirements the parents must meet to resume custody, and
37 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 attempt the
21 maximum child and sibling interaction possible, including at least two
22 visits or contacts per month. Contact or visitation may not be limited
23 or denied unless:

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

25 (B) The department has determined that visits or contacts would be
26 contrary to the child's health, safety, or welfare, they would hinder
27 reunification efforts, or because of age differences or geographical
28 distances visitation is not appropriate or feasible; or

29 (C) The department has documented that:

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

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

36 (III) The facility where the child or sibling resides prohibits or
37 limits visits or contacts with siblings;

1 (IV) The child is on the run from his or her placement for a
2 majority of the current calendar month; or

3 (V) The child is not complying with visitation arrangements.

4 Any exceptions, limitation, or denial of contacts or visitation
5 must be approved by the supervisor of the department caseworker and
6 documented. The department, court, or caregiver in the out-of-home
7 placement may not limit visitation as a sanction for a child's behavior
8 or as an incentive to the child to change his or her behavior. The
9 child, parent, department, guardian ad litem, or court-appointed
10 special advocate may challenge the denial of visits in court.

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

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

18 ~~((+v+))~~ (vi) Unless it is not in the best interests of the child,
19 whenever practical, the plan should ensure the child remains enrolled
20 in the school the child was attending at the time the child entered
21 foster care.

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

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

1 unless there is reasonable cause to believe the best interests of the
2 child or siblings would be jeopardized.

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

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

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

20 (6) The court shall consider the child's relationships with the
21 child's siblings in accordance with RCW 13.34.130(~~(4)~~) (6). Whenever
22 the permanency plan for a child is adoption, the court shall encourage
23 the prospective adoptive parents, birth parents, foster parents,
24 kinship caregivers, and the department or other supervising agency to
25 seriously consider the long-term benefits to the child adoptee and his
26 or her siblings of providing for and facilitating continuing
27 postadoption contact between the siblings. To the extent that it is
28 feasible, and when it is in the best interests of the child adoptee and
29 his or her siblings, contact between the siblings should be frequent
30 and of a similar nature as that which existed prior to the adoption.
31 If the child adoptee or his or her siblings are represented by an
32 attorney or guardian ad litem in a proceeding under this chapter or in
33 any other child custody proceeding, the court shall inquire of each
34 attorney and guardian ad litem regarding the potential benefits of
35 continuing contact between the siblings and the potential detriments of
36 severing contact. This section does not require the department of
37 social and health services or other supervising agency to agree to any
38 specific provisions in an open adoption agreement and does not create

1 a new obligation for the department to provide supervision or
2 transportation for visits between siblings separated by adoption from
3 foster care.

4 (7) For purposes related to permanency planning:

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

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

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

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