

CERTIFICATION OF ENROLLMENT  
ENGROSSED SECOND SUBSTITUTE SENATE BILL 5389

63rd Legislature  
2013 Regular Session

Passed by the Senate April 23, 2013  
YEAS 48 NAYS 0

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**President of the Senate**

Passed by the House April 11, 2013  
YEAS 95 NAYS 2

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**Speaker of the House of Representatives**

Approved

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**Governor of the State of Washington**

CERTIFICATE

I, Hunter G. Goodman, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **ENGROSSED SECOND SUBSTITUTE SENATE BILL 5389** as passed by the Senate and the House of Representatives on the dates hereon set forth.

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**Secretary**

FILED

**Secretary of State  
State of Washington**

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**ENGROSSED SECOND SUBSTITUTE SENATE BILL 5389**

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AS AMENDED BY THE HOUSE

Passed Legislature - 2013 Regular Session

**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)(A) The department, court, or caregiver in the out-of-home  
21 placement may not limit visitation or contact between a child and  
22 sibling as a sanction for a child's behavior or as an incentive to the  
23 child to change his or her behavior.

24 (B) Any exceptions, limitation, or denial of contacts or visitation  
25 must be approved by the supervisor of the department caseworker and  
26 documented. The child, parent, department, guardian ad litem, or  
27 court-appointed special advocate may challenge the denial of visits in  
28 court.

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

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

36 ~~((v))~~ (vi) Unless it is not in the best interests of the child,  
37 whenever practical, the plan should ensure the child remains enrolled

1 in the school the child was attending at the time the child entered  
2 foster care.

3 ~~((vi))~~ (vii) The supervising agency or department shall provide  
4 all reasonable services that are available within the department or  
5 supervising agency, or within the community, or those services which  
6 the department has existing contracts to purchase. It shall report to  
7 the court if it is unable to provide such services; and

8 (c) If the court has ordered, pursuant to RCW 13.34.130~~((6))~~ (8),  
9 that a termination petition be filed, a specific plan as to where the  
10 child will be placed, what steps will be taken to achieve permanency  
11 for the child, services to be offered or provided to the child, and, if  
12 visitation would be in the best interests of the child, a  
13 recommendation to the court regarding visitation between parent and  
14 child pending a fact-finding hearing on the termination petition. The  
15 department or supervising agency shall not be required to develop a  
16 plan of services for the parents or provide services to the parents if  
17 the court orders a termination petition be filed. However, reasonable  
18 efforts to ensure visitation and contact between siblings shall be made  
19 unless there is reasonable cause to believe the best interests of the  
20 child or siblings would be jeopardized.

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

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

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

1           (6) The court shall consider the child's relationships with the  
2 child's siblings in accordance with RCW 13.34.130(~~(+4)~~) (6). Whenever  
3 the permanency plan for a child is adoption, the court shall encourage  
4 the prospective adoptive parents, birth parents, foster parents,  
5 kinship caregivers, and the department or other supervising agency to  
6 seriously consider the long-term benefits to the child adoptee and his  
7 or her siblings of providing for and facilitating continuing  
8 postadoption contact between the siblings. To the extent that it is  
9 feasible, and when it is in the best interests of the child adoptee and  
10 his or her siblings, contact between the siblings should be frequent  
11 and of a similar nature as that which existed prior to the adoption.  
12 If the child adoptee or his or her siblings are represented by an  
13 attorney or guardian ad litem in a proceeding under this chapter or in  
14 any other child custody proceeding, the court shall inquire of each  
15 attorney and guardian ad litem regarding the potential benefits of  
16 continuing contact between the siblings and the potential detriments of  
17 severing contact. This section does not require the department of  
18 social and health services or other supervising agency to agree to any  
19 specific provisions in an open adoption agreement and does not create  
20 a new obligation for the department to provide supervision or  
21 transportation for visits between siblings separated by adoption from  
22 foster care.

23           (7) For purposes related to permanency planning:

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

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

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

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