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**SUBSTITUTE SENATE BILL 6306**

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**State of Washington**

**60th Legislature**

**2008 Regular Session**

**By** Senate Human Services & Corrections (originally sponsored by Senators Rockefeller, Fairley, Kline, and Shin)

READ FIRST TIME 02/04/08.

1 AN ACT Relating to visitation rights for relatives of dependent  
2 children; amending RCW 26.09.405; and adding a new section to chapter  
3 13.34 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 13.34 RCW  
6 to read as follows:

7 (1) A relative of a dependent child may petition the juvenile court  
8 for reasonable visitation with the child if:

9 (a) The child has been found to be a dependent child under this  
10 chapter;

11 (b) The parental rights of both of the child's parents have been  
12 terminated;

13 (c) The child is in the custody of the department or another public  
14 or private agency; and

15 (d) The child has not been adopted and is not in a preadoptive home  
16 or other permanent placement at the time the petition for visitation is  
17 filed.

18 (2) The court shall give prior notice for any proceeding under this  
19 section, or cause prior notice to be given, to the department or public

1 or private agency having custody of the child, the child's attorney or  
2 guardian ad litem if applicable, and the child. The court shall also  
3 order the custodial agency to give prior notice of any hearing to the  
4 child's current foster parent, relative caregiver, guardian or  
5 custodian, and the child's tribe, if applicable.

6 (3) The juvenile court may grant the petition for visitation if it  
7 finds that the requirements of subsection (1) of this section have been  
8 met, and that unsupervised visitation between the child and the  
9 relative does not present a risk to the child's safety or well-being  
10 and that the visitation is in the best interests of the child. In  
11 determining the best interests of the child the court shall consider,  
12 but is not limited to, the following:

13 (a) The love, affection, and strength of the relationship between  
14 the child and the relative;

15 (b) The length and quality of the prior relationship between the  
16 child and the relative;

17 (c) Any criminal convictions for or founded history of abuse or  
18 neglect of a child by the relative;

19 (d) Whether the visitation will present a risk to the child's  
20 health, welfare, or safety;

21 (e) The child's reasonable preference, if the court considers the  
22 child to be of sufficient age to express a preference;

23 (f) Any other factor relevant to the child's best interest.

24 (4) The visitation order may be modified at any time upon a showing  
25 that the visitation poses a risk to the child's safety or well-being.  
26 The visitation order shall state that visitation will automatically  
27 terminate upon the child's placement in a preadoptive home, if the  
28 child is adopted, or if there is a subsequent founded abuse or neglect  
29 allegation against the relative.

30 (5) The granting of the petition under this section does not grant  
31 the relative the right to participate in the dependency action and does  
32 not grant any rights to the relative not otherwise specified in the  
33 visitation order.

34 (6) This section is retroactive and applies to any eligible  
35 dependent child at the time of the filing of the petition for  
36 visitation, regardless of the date parental rights were terminated.

37 (7) For the purpose of this section, "relative" means a relative as  
38 defined in RCW 74.15.020(2)(a), except parents.

1 (8) This section is intended to provide an additional procedure by  
2 which a relative may request visitation with a dependent child. It is  
3 not intended to impair or alter the ability a court currently has to  
4 order visitation with a relative under the dependency statutes.

5 **Sec. 2.** RCW 26.09.405 and 2000 c 21 s 3 are each amended to read  
6 as follows:

7 (1) The provisions of RCW 26.09.405 through 26.09.560 and the  
8 chapter 21, Laws of 2000 amendments to RCW 26.09.260, 26.10.190, and  
9 26.26.160 apply to a court order regarding residential time or  
10 visitation with a child issued:

11 (a) After June 8, 2000; and

12 (b) Before June 8, 2000, if the existing court order does not  
13 expressly govern relocation of the child.

14 (2) To the extent that a provision of RCW 26.09.405 through  
15 26.09.560 and the chapter 21, Laws of 2000 amendments to RCW 26.09.260,  
16 26.10.190, and 26.26.160 conflicts with the express terms of a court  
17 order existing prior to June 8, 2000, then RCW 26.09.405 through  
18 26.09.560 and the chapter 21, Laws of 2000 amendments to RCW 26.09.260,  
19 26.10.190, and 26.26.160 do not apply to those terms of that order  
20 governing relocation of the child.

21 (3) The provisions of RCW 26.09.405 through 26.09.560 do not apply  
22 to visitation orders entered in dependency proceedings as provided in  
23 section 1 of this act.

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