
SENATE BILL 5988

State of Washington

61st Legislature

2009 Regular Session

By Senator Jacobsen

Read first time 02/12/09. Referred to Committee on Human Services & Corrections.

1 AN ACT Relating to visitation by caregivers in dependency matters;
2 and amending RCW 13.34.385.

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

4 **Sec. 1.** RCW 13.34.385 and 2008 c 259 s 1 are each amended to read
5 as follows:

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

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

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

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

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

17 (2) The court shall give prior notice for any proceeding under this
18 section, or cause prior notice to be given, to the department or public
19 or private agency having custody of the child, the child's attorney or

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

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

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

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

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

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

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

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

23 (4) The court may order visitation with a caregiver only if it
24 finds the requirements in subsection (3) of this section are proved by
25 clear and convincing evidence.

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

32 ~~((+5))~~ (6) The granting of the petition under this section does
33 not grant the relative or caregiver the right to participate in the
34 dependency action and does not grant any rights to the relative or
35 caregiver not otherwise specified in the visitation order.

36 ~~((+6))~~ (7) This section is retroactive and applies to any eligible
37 dependent child at the time of the filing of the petition for
38 visitation, regardless of the date parental rights were terminated.

1 ~~((7))~~ (8) For the purpose of this section, "relative" means a
2 relative as defined in RCW 74.15.020(2)(a), except parents.

3 ~~((8))~~ (9) For the purpose of this section, "caregiver" means a
4 person who has lived with the child in the same household for at least
5 six months and has assumed all parental duties without expectation of
6 compensation. "Compensation" does not include foster care payments or
7 child-only TANF grants.

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

--- END ---