

HB 1194

REQUIREMENTS & IMPLEMENTATION

JULY 21, 2021
12:00 – 1:00 PM



HB 1194

Provides an opportunity to strengthen the parent-child relationship

.....

Reduces feelings of ambiguous loss

.....

Helps keep families connected in the most natural way possible while keeping the child safe

.....

Regular, meaningful family time expedites permanency and increases reunification

OVERVIEW

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Office of Public
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New Family Time Law

E2SHB 1194:

Strengthening parent-child visitation
during child welfare proceedings.

Begins July 25, 2021

Prime Sponsor: Representative Ortiz-Self

General Facts (1194)

AN ACT Relating to strengthening parent-child visitation during child welfare proceedings

- Begins July 25, 2021
- Amends 13.34.065, 13.34.136, 13.34.138
- Funding has been appropriated by the legislature to enact the law
- Generally codifies DCYF's family time visit policy into law, with some additions



First Visit After Child in DCYF Custody

- **Must happen within 72 hours** (previously under DCYF policy 72 hours -5 days excluding weekends and holidays)
 - Weekends and Holidays are included in the 72 hours
 - Unless DCYF determines it's safe the visit **must be supervised** (if in person)
- RCW 13.34.065(9)(d), (e)
- Extraordinary circumstances may exist that require delay

Presumption of Unsupervised Family Time Visits

After 72-Hour Shelter Care

- Presumption unsupervised
- Least restrictive setting*

Permanency Planning Hearing

- Presumption unsupervised
- Least restrictive setting

Review Hearing

- Presumption unsupervised
- Least restrictive setting

- If a party believes the visit should be supervised or monitored, they must:
 - Provide a report to the court
 - Establish through evidence that there is a risk to the child's safety in the context of family time if visit supervision or monitoring is removed
 - The threat or danger to the child requires the constant presence of an adult to ensure the safety of the child*

* RCW 13.34.136(2)(b)(ii)(C) and DCYF policy

Shelter Care Hearing (72 hour)

- Court shall inquire into terms and conditions for visits. Court shall order Family Time Plan that is individualized with a goal of providing the maximum parent, child, sibling contact possible
- Visits shall not be limited as a sanction for failure to comply with services
- May only be limited to ensure health, safety, welfare of the child

30-Day Shelter Care



- Presumption of unsupervised
- Only overcome by evidence establishing removal of supervision creates “risk to safety” of the child
- Court decides level of supervision
- Shelter care orders are amendable at any time with notice / hearing.
- Change of circumstances is only required for placement decisions

Permanent Plan

RCW 13.34.136

- Visits are a right and shall only be limited to protect the child's health, safety, welfare
- Visits – least restrictive setting and unsupervised unless the presence of threats or danger requires supervision
- Presumption that visits are unsupervised – unless evidence provided (report) of “risk to child safety”



Review Hearings

RCW 13.34.138

- If the child isn't returned home the court shall
 - Modify Visits (if necessary)
 - Presumption at the hearing that visits are unsupervised , unless
 - Evidence provided by a party that removal of supervision / monitoring creates a “risk to child safety” overcomes the presumption



Court's Role – Family Time Order

- **Determine the level of supervision for visits**
- **Advise DCYF that a failure to provide court ordered visits may result in a finding that DCYF failed to make reasonable efforts to finalize the permanent plan**
- **Lack of contracted providers is not an excuse.**

RCW 13.34.136(2)(b)(ii)(F) and RCW
13.34.138(6)

What will this look like on the ground?

- DCYF is at work updating policies, training staff, and restructuring contracts.
- Staff is being trained to conduct a 3 step process in order to determine supervision level for family time.
 - Step 1.** Safety Threat (identify the threat being explored): What is the current safety threat(s) that prevents the children from being able to return home?
(This should come from the updated safety assessment)
 - Step 2.** Family Time Safety Threshold Criteria (all 5 criteria=active threat):
Articulate and document each of the 5 threshold criteria to determine if the safety threat(s) identified in Step 1 is active or not for Family Time.
 - Step 3.** Use the Safety Plan Analysis to determine if family time can be monitored:

What else might courts be asked to decide?

- Extraordinary circumstances require delay of the first visit (ie, not within the first 72 hours of the child's transfer of custody to DCYF)
- At which hearing the presumption applies or does not apply
 - Ex: Whether the presumption applies at all 30-day shelter care hearings/orders authorizing continued shelter care or just the first one
 - Ex: Whether the presumption applies at the disposition hearing
- Likely increased contempt motions and/or challenges to reasonable efforts findings

What discussions should local court partners have?

- Discuss what implementation of this bill will look like in your county, such as:
 - What is the process for having the court address the visit presumption? Motion? Notice? 30-day shelter care hearings for all cases?
 - Does this process vary by phase of the case (shelter care v. post-adjudication)?
 - What is the court's expectation for the way the report will be provided?
 - What information does court want included in if a party recommends visit supervision or monitoring? What factors are important for the court's determination of safety as we expand our thinking about how to structure visits in a safe way?

DCYF PREPARATION

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Emergent 72-hour Initial Visits

To help meet the requirements of HB 1194, DCYF utilize Family Time contracted providers. The following was developed and implemented:

- Created a separate contract; “Emergent Initial Family Time”
- Identified contractors to support the Emergent 72-hour initial visit process by utilizing service data, based on current workforce capacity and service metrics.
- Issued one contract per region for improved monitoring of performance.
- Created a streamline referral process to ensure all families referred are served timely (within the 72-hour window).
- This is a “no denial” contract which means providers are expected to accept all of the referrals they receive.
 - Contract is supported by Performance Base Contracting (PBC)



Unsupervised Visitation

- DCYF anticipates an increase in unsupervised cases.
- To support the increase, DCYF in negotiations with the current Family Time contractors has greatly increased the rate for unsupervised visitation to incentivize contractors providing this service.
- Unsupervised visit rate changes will be effective August 1.



HB 1194 Family Time

An initial visit **must** occur within 72 hours of the removal of a child

➤ **UNLESS** the court finds that extraordinary circumstances require a delay.

➤ Unlike the 72-hour timeframe for holding a shelter care hearing, this timeframe does not exclude weekends or holidays.

➤ This visit ***must be supervised*** **UNLESS** the department determines supervision is not necessary.



Visitation becomes unsupervised at 30-day shelter care hearings, orders authorizing continued shelter care, review hearings, and permanency hearings

UNLESS DCYF provides a report to the court that includes evidence establishing that removing visit supervision or monitoring would create a risk to the child's safety and the court determines that visit supervision must continue.

Family Time Documentation

30 Day Shelter Care Hearings/Orders Authorizing Continued Shelter Care

- In Safety Assessment (Analysis/Safety Plan Tab)
- Family Time Supervision Level Evidence for each Parent

Review & Permanency Planning Hearings

- In the Court Report “Family Function Tab, Visitation Section”

ASSESSING & BUILDING SAFETY

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Ryan Murrey

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72-hour Family Time Scenario

- At the first Family Time , on June 1st, 2021, Brenda and Joseph had a supervised visit with daughter 3 month old Amber. During the visit, Brenda and Joseph's eyes were dilated, their speech was slurred and their movements were sluggish. Brenda and Joseph were both sitting on the couch and started to nod off and leaned up against each other. Joseph was holding Amber and she began to slide off his lap. Amber rolled onto the cushion beside Joseph and almost fell on the floor before the visit supervisor came in and repositioned the baby. Joseph and Brenda both made an excuse that the room was too warm and as the visitation supervisor was leaving Brenda made a comment "What a drama queen. Amber was fine".
- Amber is a vulnerable 3-month-old with an inability to protect herself. If she had fallen off the couch, onto the cement floor, she could have been seriously hurt. Brenda and Joseph have a history of heroin use resulting in multiple referrals of physical neglect including leaving Amber in the home alone for 3 hours while they went to pick up heroin. Even in a short family time visit, Brenda and Joseph have demonstrated that they cannot control their drug use impacting their ability to care for Amber's safety.
- There is another possible father Brian Sumner who had a separate Family Time. He was nurturing and responsive to Amber's needs during the Family Time.

Determining the Least Restrictive Level of Supervision

In order to determine the level of supervision recommended to the court for ongoing family time, caseworkers must:

- Look at the safety framework questions as they relate to family time. These can be found in the [Supervision Level Family Time Resource Guide](#)
- Follow the steps below to complete this process:

Step 1. Family Time Safety Threat (identify threat being explored): What is the current safety threats that prevents the children from being able to return home?

- This should come from the most recent Safety Assessment which should be updated at every court hearing including the 30-day shelter care hearings or Orders Authorizing Continued Shelter Care.

Step 2: Determining Level of Supervision

In order to determine the level of supervision recommended to the court for ongoing family **Family Time Safety Threshold Criteria (does it meet all 5 criteria=active threat): Articulate and document each of the 5 threshold criteria to determine if the family time safety threat is active or not. Complete this step for EACH parent/guardian.**

Step 2: Determining Level of Supervision

Family Time Safety Threshold Criteria Questions Mother Brenda

(The alleged father Joseph's evidence would be similar)

- 1. Will the safety threat severely impact child safety, if it's a *limited time* frame, such as family time?** Due to the parents substance use both parents were having a hard time staying awake and the father almost dropped Amber on the concrete floor, which could have caused a serious injury. The mother did not intervene or express concern.
- 2. Will the safety threat occur in the near future in relationship to family time?** The mother is struggling with active substance use that interferes with her functioning to care for Amber.
- 3. Will the vulnerability of the child impact child safety, in a *limited timeframe*, such as family time?** Being only three months old Amber relies on her parents for her every need.
- 4. Is there no responsible parent, that will be a part of family time, that can prevent the safety threat in a *limited timeframe* such as family time?** **Both** parents are using and are physically impacted by substances having a difficulty staying awake to keep Amber safe.
- 5. Do the behaviors, conditions etc. make the safety threat clearly understood and observable and are those behaviors likely to occur in a limited time frame, such as family time?** Even in this short amount of time with Amber the mother was nodding off. She appeared to be under the influence and was immobilized and unable intervene when baby was almost dropped on concrete floor due to the father nodding off.

Step 2: Determining Level of Supervision

Alleged Father Brian Sumner

- 1. Will the safety threat severely impact child safety, if it's a limited time frame, such as family time?** The alleged father Brian demonstrated being able to safely meet Amber's needs during the limited supervised Family Time.
- 2. Will the safety threat occur in the near future in relation to family time?** Brian is able to safely care for Amber as he has shown at supervised Family Time.
- 3. Will the vulnerability of the child impact child safety, in a limited timeframe, such as family time?** The infant relies on adults to meet all of her basic needs and Brian has demonstrated being able to meet infant's needs.
- 4. Is there no responsible parent, that will be a part of family time, that can prevent the safety threat in a limited timeframe such as family time?** Brian has shown the ability to be responsible and attentive to baby's needs during supervised Family Time.
- 5. Do the behaviors, conditions, etc. make the safety threat clearly understood and observable, and are those behaviors likely to occur in a limited time frame, such as family time?** Brian is protective and will not allow the Brenda and the other alleged father Joseph to have contact with the baby when Amber is in his care during Family Time. Brian is fully attentive to Amber.

Family Time Analysis Questions

1. There is a parent/caregiver or adult that will be present during the Family Time (Mom, Dad, etc...).
2. The Designated Family Time location is calm enough to allow safety providers to function.
3. The parents/caregivers agree to cooperate with a monitored Family Time plan.
4. Sufficient, appropriate, reliable resources are available and willing to provide safety services and tasks during the monitored Family Time.



Yes to all 4?
Explore
Monitored
Family Time

Monitored vs. Supervised
Family Time

FamLink Update!



Comment Box: "Document Family Time Supervision Level Evidence for Each Parent"

Comments

Document Family Time Supervision Level Evidence for each parent.

New text box here

Document pertinent safety related information regarding: Conditions for Return Home, Trial Return Home, reunification with a non-custodial parent, etc..

testing safety plan 06-09-21

Determination

Example of Documentation of the Family Time Supervision Level Evidence

Case Participants

Mother: Brenda Wright

Alleged Father: Joseph Paul, Brenda's partner

Alleged Father: Brian Sumner

Child: 3-month-old Amber Wright

DCYF is recommending three supervised visits a week for both **Brenda and Joseph**, at Lithia park when the weather permits and at the office when weather does not. This park is a 3-minute walk from the DCYF office. DCYF has contacted the placement, Brenda's paternal aunt and uncle, and Joseph's father and requested Family Time in their home. Due to the history of stealing from the family, all of these family members have declined to supervise the visits at their homes.

DCYF is recommending unsupervised visits for **Brian Sumner**. Brian has demonstrated, during family time with Amber, that he can safely parent Amber in the limited amount of time required during family time.

SAFETY ANALYSIS

Child's Name: _____

Date: _____

Threat (specific, observable, out of control, immediate or liable to happen soon, & severe consequences)	Is this child vulnerable to this threat? (yes or no; why?)	Missing Parental Protective Capacity (understanding of threat, can physically protect and/or wants to)	Possible Short-Term Offset(s) (safety plan elements needed)	Possible Long-Term Solutions (case plan elements needed)



Which of these threats necessitates supervised or monitored family time?	How when we know it is safe to reduce restrictions to visits?
Which of these threats is causing the child to remain out of home?	How will we know when it is safe return home?



SAFETY ANALYSIS

Child's Name: _____

Date: _____

Threat (specific, observable, out of control, immediate or liable to happen soon, & severe consequences)	Is this child vulnerable to this threat? (yes or no; why?)	Missing Parental Protective Capacity (understanding of threat, can physically protect and/or wants to)	Possible Short-Term Offset(s) (safety plan elements needed)	Possible Long-Term Solutions (case plan elements needed)
Child could fall off the couch during visit on to the cement floor	Yes – 3 month old, can't protect self	Parents falling asleep during visit	Monitored: No furniture in visit room? parents not use before visit? Or only one parent choose to use at a time (one sober) Supervised: Can Mom/Dad Identify a sober "supervisor" for a visit (if choosing to show up high?)	Drug treatment for heroin
Parents lack of insight of how to safely care for their baby	Yes	Understanding of threat	Parent education/coaching? and same as above	Therapy? Drug treatment (defending use)? Trauma informed therapy



Which of these threats necessitates supervised or monitored family time?	How when we know it is safe to reduce restrictions to visits? When mom has attended 6 consecutive (2 weeks) visits not under the influence with demonstrations of proper and safe parenting.
Which of these threats is causing the child to remain out of home? Both	How will we know when it is safe return home? Need more info and a better family assessments and recommendation.

Q & A



THANK YOU FOR ATTENDING

Share your thoughts on this training
by completing the post-training
survey using the link provided in the
Chat box

FOR MORE INFORMATION:
WWW.WACITA.ORG

