

SUBJECT: Allowing court-ordered access to a child by the child's sibling.

COMMITTEE: Juvenile Justice and Family Issues — committee substitute recommended

VOTE: 5 ayes — Dutton, Goodman, Castro, Nixon, Strama
0 nays
4 absent — Y. Davis, Dunnam, J. Moreno, Thompson

WITNESSES: For — Sy Ghose, Happy Healthy Families
Against — Heidi Cox; Roy Getting, Texas Fathers Alliance

DIGEST: CSHB 270 would give an adult sibling of a child the right to file an original suit or suit for modification to request visitation of the child. The child would have to be separated from the petitioning sibling as a result of the child's removal by Child Protective Services and the Department of Family and Protective Services. The adult sibling would have to be at least 18 and could petition for access whether or not an appointment of a managing conservator was at issue in the suit. If found that it would be in the best interest of the child, the court could order that the sibling have reasonable access to the child.

The bill would take effect on September 1, 2005.

SUPPORTERS SAY: When parents are deemed unfit by the state or are no longer able to care for their children, often the children are taken from their families and placed in foster care and, if efforts at reunification fail, are released for adoption. Often overlooked in these situations is the fact that these children rarely enter the system alone. Sibling groups are extremely common. Many of these siblings age out of the system when they turn 18 and are separated from their younger siblings. CSHB 270 would give these and other adult siblings the right to request access to their minor siblings.

For several decades, statutory law has allowed certain third parties, such as grandparents, to petition the court for access to a child. A sibling of a

child, however, has never had the right to petition for visitation. Many experts in psychology believe that aside from the parent-child relationship, the sibling relationship is the most important in a child's development. It provides a context for social development because siblings teach one another social skills through long-term interactions, from which the child develops a foundation for later learning, personality development, and the proper context of sex roles. The sibling relationship is too valuable to ignore and is the longest-lasting relationship of a person's life, outlasting relationships with parents and spouses.

Children who enter foster care already are at a disadvantage. In most cases they have been removed from their parents because their parents were abusive or neglectful. In spite of this, most of these children have bonded to their parents and are traumatized by being taken from their homes and families. When they are separated from family members, such as brothers and sisters, their anxiety is compounded.

In families with a great deal of instability, younger children may form a primary bond with an older sibling. Children under this type of stress may form a sub-family with one child assuming parental responsibility for others. For these children, the sibling bond can be even stronger than the bond with the parent. Self-esteem, capacity for intimacy, trust, and the ability to adapt throughout adult life are all founded upon early childhood attachments. Studies show that those deprived of these attachments are disproportionately represented among the ranks of the unemployed, the mentally ill, drug abusers, and criminals.

One of the main reasons that children report running away from their foster families is to see their biological siblings. Providing adult siblings the right to petition the court for access to younger siblings still within the foster care system would allow sibling relationships to be maintained without children leaving their foster homes.

As of 2000, five states had laws that specifically granted standing to siblings to petition the court for visitation, including Washington, Indiana, Kentucky, New Hampshire, and Utah.

The best interest standard provided in the bill would ensure that a child's access to an adult sibling would be beneficial for the child. The court would evaluate the circumstances involved and would have to find that the

interaction between the siblings would not put the child at risk of harm by the sibling or anyone associated with the sibling.

**OPPONENTS
SAY:**

Children within the foster system often are removed from their homes because of harm they have suffered from parents and other family members. CSHB 270 could open the door for abusive individuals to regain access to the children if the petitioning siblings serve d as conduits. Whether intentionally or not, an abusive family member might have contact with the child while the siblings met if the adult sibling were still associated with the abuser. A court determining whether visitation between the siblings was in the best interest of the child might be unaware of future associations between the adult sibling and abusive family member that could result in harm to the child.

NOTES:

The committee substitute modified the original bill by adding the requirement that a sibling petitioning for access to a minor sibling be at least 18 years of age. The substitute also removed a provision that would have permitted a suit requesting access to a minor sibling in the event of the divorce of the child's parents.