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Bill Analysis

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SUMMARY

- Establishes an alternate process for a minor sibling; a minor sibling's parent, legal guardian, or legal custodian; or an adult next friend of the minor sibling to file a motion with the court requesting reasonable sibling companionship or visitation rights in specified circumstances.
- Requires the court to grant a minor sibling reasonable companionship or visitation rights with the minor child if it determines that granting those rights are in the child's best interest and requires the court to consider specified best interest factors.
- Requires the court to make a just and reasonable order permitting a minor sibling to have companionship or visitation rights with the child at the time and under the conditions that the court directs if it is in the child's best interest.
- Allows modification of a prior sibling companionship or visitation order issued if there has been a material change in the circumstances of the child or the minor sibling and a modification is in the child's best interest.
- Prohibits the court from requiring a public children services agency to provide supervision of or other services related to that person's exercise of sibling companionship or visitation rights, unless the child who is the subject of the order has obtained a protection order.
- Subjects the bill's sibling companionship and visitation rights provisions to existing law on companionship and visitation rights and contempt action, effect of adoption, and child support.

DETAILED ANALYSIS

Companionship or visitation rights with minor siblings

Background and overview

Ohio law expressly allows grandparents, other relatives (including siblings), or other persons to request companionship or visitation rights by filing a motion while a divorce, dissolution, annulment, or legal separation proceeding is pending or at any time after the final order is issued in the case.

Additionally, if a child is born to an unmarried woman, her parents or other relatives may file a complaint asking the court to grant them reasonable companionship or visitation rights with the child. The child's father may file a complaint requesting reasonable parenting time if he has acknowledged paternity in accordance with Ohio law or has been determined to be the child's father pursuant to a paternity proceeding. Any of the father's relatives may file a complaint for reasonable companionship or visitation rights if the father's paternity has been acknowledged or determined.

Finally, the parents and other relatives of a child's deceased parent may file a complaint requesting reasonable companionship or visitation rights with the child. The remarriage of the child's surviving parent or adoption of the child by a stepparent does not impact the court's authority to grant companionship or visitation rights to relatives of the child's deceased parent.

In the three circumstances described above, the court may grant reasonable companionship or visitation rights if it determines that the person has an interest in the child's welfare and granting companionship or visitation is in the child's best interest.[1]

The bill establishes a process specifically for minor siblings to file for companionship or visitation rights that is distinct from the existing process described above.

Filing a motion

The bill allows (1) a minor sibling, (2) a minor sibling's parent, legal guardian, or legal custodian, or (3) an adult next friend of the minor sibling to file a motion with the court for a child's minor sibling to be granted reasonable companionship or visitation rights with the child under any of the following circumstances:

- The child's parent or stepparent is deceased.
- A divorce, dissolution, legal separation, or annulment proceeding involving the child is pending.
- The child is born to an unmarried woman and the father of the child has established a parent and child relationship, if the sibling seeking companionship or visitation rights has demonstrated by clear and convincing evidence that the minor children are siblings.

[1] R.C. 3109.051(B), 3109.11, and 3109.12.

When filing the motion, a party must file a proposed schedule and other terms for companionship or visitation between the siblings. Whenever possible, all parties must collaborate to develop a proposed schedule and terms that are in the child's best interest. The court may appoint an attorney for the sibling at the court's expense if the sibling cannot afford an attorney.

The Supreme Court of Ohio must prescribe a form to facilitate ease in filing for sibling companionship and visitation rights and modification of an existing order.

For purposes of the bill, "sibling" includes a sibling, half-sibling, or stepsibling by birth, adoption, or marriage.[2]

Proceedings and orders

Child's best interest

The court must grant a sibling reasonable companionship or visitation rights with the child if it determines that granting those rights are in the child's best interest. In making that determination, the court must consider all relevant factors, including the following:

- The best interest factors set forth in existing law that a court must consider when determining companionship or visitation rights, including, for example, the following:
  - The child's wishes and concerns, if the court has interviewed the child in chambers;
  - The location of each parent's residence and the distance between them and, if the person requesting visitation is not a parent, the location and distance of that person's residence;
  - The child's age;
  - The child's available time and the amount of time available for the child to spend with siblings;
  - Whether either parent or the person requesting visitation previously has abused or neglected a child;
  - The child's prior interaction and interrelationships with parents, siblings, other relatives, and the person requesting companionship or visitation;
  - With respect to companionship or visitation by a nonparent, the parents' wishes and concerns, as expressed by them to the court.
- Evidence that the relationship between the child and the sibling is mutually beneficial.
- Whether granting the sibling companionship or visitation rights with the child will adversely affect the parent and child relationship of either the child or the sibling.

[2] R.C. 3109.111(A), (B)(1) to (3), and (I).

In making its determination, the court cannot consider the sex of the children or the children's parents.[3]

Issuing an order

In any sibling companionship or visitation rights proceeding, the court must make a just and reasonable order permitting a minor sibling to have companionship or visitation rights with the child at the time and under the conditions that the court directs, if the court determines it is in the child's best interest. An order granting companionship or visitation rights must ensure the opportunity for the sibling to have frequent and continuing contact with the child and any other siblings shown to be involved. If the court determines granting sibling companionship and visitation rights would not be in the child's best interest, it must include in the journal its findings of fact and conclusion of law supporting that determination.

The court is prohibited from requiring a hearing on a motion for sibling companionship or visitation if both of the following apply:

- All parties agree to a schedule and all other terms of the order;
- The court determines that the schedule and terms are in the best interest of the children.

The final order must include a specific schedule of companionship or visitation and any other relevant terms.[4]

Modification of sibling companionship or visitation orders

Filing a motion

The bill allows any party permitted to file a motion under the bill to file a motion requesting modification of a prior sibling companionship or visitation order issued under the bill. Generally, the court must schedule a hearing with notice to all parties to determine whether it is in the child's best interest to revise the schedule or other terms of the sibling companionship or visitation order. The hearing must be held no later than 60 days after the motion is filed.[5]

Notice of intent to relocate

If the residential parent has filed a notice of intent to relocate in accordance with continuing law, the court must send a copy of the notice to each sibling who has been awarded companionship or visitation rights with the child who resides with that parent. On receipt of the notice, the court, on its own motion or the motion of any party permitted under the bill who is not the residential parent, may schedule a hearing with notice to all parties to determine whether it is in the child's best interest to revise the schedule or other terms of the companionship or

[3] R.C. 3109.111(C) and (D).

[4] R.C. 3109.111(E).

[5] R.C. 3109.111(F)(1).

visitation order. The hearing must be held no later than 60 days prior to the residential parent's relocation.[6]

Change in circumstances

The court is prohibited from modifying a prior order granting or denying a minor sibling's companionship or visitation rights unless the court determines that there has been a material change in the circumstances of the child or the minor sibling and that modification is necessary to serve the child's best interest. The court must make specific findings of fact to support any modification.[7]

Mediation for modification

If the parties cannot agree on modification of a prior order, the court must refer the matter to mediation in accordance with continuing law. If mediation is not possible without undue delay or hardship to a party, the party may request a waiver from the court. If a waiver is sought, the court must hold an evidentiary hearing and the party seeking the waiver must demonstrate the undue delay or hardship by clear and convincing evidence. Upon making the determination, the court must include in the journal its findings of fact and conclusions of law supporting its decision.[8]

Prohibition on PCSA supervision

The court is prohibited from requiring the public children services agency (PCSA) to provide supervision of or other services related to a person's exercise of companionship or visitation rights with respect to the child. However, that prohibition does not apply if the child has a domestic violence protection order, a consent agreement related to domestic violence, or a temporary protection order and the court requires a PCSA to provide supervision.

The bill states that it does not limit the power of a juvenile court to issue orders with respect to children who are alleged to be abused, neglected, or dependent children or to make dispositions of children who are adjudicated abused, neglected, or dependent children or of a common pleas court to issue domestic violence protection orders.[9]

Existing law

The bill's provisions governing sibling companionship and visitation rights are subject to the following companionship and visitation provisions under continuing law.

[6] R.C. 3109.111(F)(2)

[7] R.C. 3109.111(F)(3).

[8] R.C. 3109.111(G), with conforming changes in R.C. 3109.051.

[9] R.C. 3109.111(H), with conforming changes in R.C. 3113.31 and 5153.16.

Contempt action

Any person who is granted sibling companionship or visitation rights under the bill may initiate a contempt action for failure to comply or interference with the companionship or visitation order in accordance with continuing law.[10]

Effect of adoption

A sibling's right to companionship or visitation is not restricted or curtailed by adoption under continuing law if the relationship of parent and child has not been terminated between the parent and that parent's child and the spouse of the other parent of the child adopts the child.[11]

Child support

The court cannot authorize or permit the escrowing, impoundment, or withholding of any child support payment ordered because of a denial of or interference with a sibling companionship or visitation order issued under the bill or as a method of enforcing the specific provisions of any such order dealing with visitation.[12]

HISTORY

Action	Date
Introduced	03-31-26

ANHB0806IN-136/sb

[10] R.C. 2705.031.

[11] R.C. 3107.15.

[12] R.C. 3109.05.