

SB 137-FN – AS INTRODUCED

2013 SESSION

13-0881  
05/01

SENATE BILL        **137-FN**

AN ACT            relative to sibling visitation rights.

SPONSORS:        Sen. Carson, Dist 14; Rep. Gile, Merr 27

COMMITTEE:      Judiciary

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ANALYSIS

This bill establishes a procedure for siblings to petition the court for visitation rights.

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Explanation:        Matter added to current law appears in **bold italics**.  
                         Matter removed from current law appears [~~in brackets and struck through~~].  
                         Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Thirteen*

AN ACT                   relative to sibling visitation rights.

*Be it Enacted by the Senate and House of Representatives in General Court convened:*

1           1   New Section; Parental Rights and Responsibilities; Sibling Visitation Rights. Amend  
2 RSA 461-A by inserting after section 13 the following new section:

3           461-A:13-a Sibling Visitation Rights.

4           I. The court, upon petition from any person who is brother or sister, regardless of the degree  
5 of blood relationship or, if the person is a minor, upon petition by a parent, step parent, grandparent,  
6 guardian, or next friend in behalf of the minor, shall grant reasonable visitation rights to the  
7 petitioner to allow the petitioner the right to visit any minor brother or sister, regardless of the  
8 degree of blood relationship, whose parent, parents, or guardians have denied such access. The court  
9 may issue any further order that may be necessary to enforce the visitation rights.

10          II. Prior to issuing a sibling visitation order, the court shall find that the petitioner has  
11 repeatedly attempted to visit his or her minor sibling during the 30 days immediately proceeding the  
12 date the petition was filed and was not allowed to visit the child during the 30-day period as a direct  
13 result of the actions of either or both parents of the child and there is no other way that the  
14 petitioner is able to visit his or her sibling without court intervention.

15          III. A sibling, regardless of the degree of blood relationship, is entitled to reasonable  
16 visitation rights unless the court finds, after a hearing, that visitation would seriously endanger the  
17 child's physical, mental, moral, or emotional health and that the petitioner is not a fit and proper  
18 person to have visitation rights with the child.

19          IV. Visitation means in-person time spent between siblings. In appropriate circumstances,  
20 it may include electronic communication under conditions and at times determined by the court.

21          V. Electronic communication means the use of communication tools such as the telephone,  
22 electronic mail, instant messaging, video conferencing, or other wired or wireless technologies via the  
23 Internet, or another medium of communication.

24          VI. In determining whether to grant visitation, the court shall consider the following:

25               (a) The preference of the child if the child is determined to be of sufficient maturity to  
26 express a preference.

27               (b) The mental and physical health of the child.

28               (c) The mental and physical health of the petitioner.

29               (d) The good faith of the party filing the petition.

30               (e) The good faith of the person denying the visitation.

1           (f) The quantity of the visitation time requested and the potential adverse impact that  
2 visitation would have on the child’s customary activities.

3           (g) Whether the child resided with the petitioner for at least 6 consecutive months with  
4 or without the current custodian present.

5           (h) Whether the petitioner had frequent or regular contact or visitation with the child for  
6 at least 12 consecutive months.

7           (i) Any other fact that establishes that the loss of the relationship between the petitioner  
8 and the child is likely to harm the child’s mental, physical, or emotional health.

9           VII. The court may refer the parties to mediation at any time after the petition is filed and  
10 may require that the parties have made a good faith effort to mediate the issue before holding a  
11 hearing. If the court finds that either party failed to make a good faith effort to mediate, the court  
12 may order the parties to submit to mediation, dismiss the action or any part of the action, render a  
13 decision or judgment by default, assess attorney’s fees and costs, or impose any other sanction that is  
14 appropriate in the circumstances. The court may also impose an appropriate sanction upon a party’s  
15 failure with out good cause to appear for mediation after receiving notice of the scheduled time for  
16 mediation.

17           VIII. Any agreement reached by the parties through mediation on an issue shall be reduced  
18 to writing, signed by the parties, and presented to the court for approval as a court order.

19           2 Effective Date. This act shall take effect January 1, 2014.

LBAO  
13-0881  
01/22/13

**SB 137-FN - FISCAL NOTE**

AN ACT                    relative to sibling visitation rights.

**FISCAL IMPACT:**

Due to time constraints, the Office of Legislative Budget Assistant is unable to provide a fiscal note for this bill, **as introduced**, at this time. When completed, the fiscal note will be forwarded to the Senate Clerk's Office.