
ENGROSSED SUBSTITUTE HOUSE BILL 2595

State of Washington

53rd Legislature

1994 Regular Session

By House Committee on Human Services (originally sponsored by Representatives Leonard, Padden, Karahalios, Thibaudeau, Patterson, Rust, Pruitt, Ogden, Caver, G. Cole, Scott, King, J. Kohl and L. Johnson; by request of Attorney General)

Read first time 02/04/94.

1 AN ACT Relating to permanency planning and guardianship for
2 dependent children; and amending RCW 13.34.030, 13.34.120, 74.14C.070,
3 13.34.130, 13.34.145, 13.04.011, 13.34.231, 13.34.232, 13.34.233,
4 13.34.234, and 13.34.236.

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

6 **Sec. 1.** RCW 13.34.030 and 1993 c 241 s 1 are each amended to read
7 as follows:

8 For purposes of this chapter:

9 (1) "Child" and "juvenile" means any individual under the age of
10 eighteen years;

11 (2) "Dependent child" means any child:

12 (a) Who has been abandoned; that is, where the child's parent,
13 guardian, or other custodian has evidenced either by statement or
14 conduct, a settled intent to forego, for an extended period, all
15 parental rights or all parental responsibilities despite an ability to
16 do so;

17 (b) Who is abused or neglected as defined in chapter 26.44 RCW by
18 a person legally responsible for the care of the child;

1 (c) Who has no parent, guardian, or custodian capable of adequately
2 caring for the child, such that the child is in circumstances which
3 constitute a danger of substantial damage to the child's psychological
4 or physical development; or

5 (d) Who has a developmental disability, as defined in RCW
6 71A.10.020 and whose parent, guardian, or legal custodian together with
7 the department determines that services appropriate to the child's
8 needs can not be provided in the home. However, (a), (b), and (c) of
9 this subsection may still be applied if other reasons for removal of
10 the child from the home exist;

11 (3) "Guardian ad litem" means a person, appointed by the court to
12 represent the best interest of a child in a proceeding under this
13 chapter, or in any matter which may be consolidated with a proceeding
14 under this chapter. A "court-appointed special advocate" appointed by
15 the court to be the guardian ad litem for the child, or to perform
16 substantially the same duties and functions as a guardian ad litem,
17 shall be deemed to be guardian ad litem for all purposes and uses of
18 this chapter;

19 (4) "Guardian ad litem program" means a court-authorized volunteer
20 program, which is or may be established by the superior court of the
21 county in which such proceeding is filed, to manage all aspects of
22 volunteer guardian ad litem representation for children alleged or
23 found to be dependent. Such management shall include but is not
24 limited to: Recruitment, screening, training, supervision, assignment,
25 and discharge of volunteers;

26 (5) "Preventive services" means family preservation services and
27 other services delivered primarily in the home, with demonstrated
28 effectiveness in reducing or avoiding the need for unnecessary foster
29 care placement.

30 **Sec. 2.** RCW 13.34.120 and 1993 c 412 s 8 are each amended to read
31 as follows:

32 (1) To aid the court in its decision on disposition, a social
33 study, consisting of a written evaluation of matters relevant to the
34 disposition of the case, shall be made by the person or agency filing
35 the petition. The study shall include all social records and may also
36 include facts relating to the child's cultural heritage, and shall be
37 made available to the court. The court shall consider the social file,
38 social study, guardian ad litem report, the court-appointed special

1 advocates report, if any, and any reports filed by a party at the
2 disposition hearing in addition to evidence produced at the fact-
3 finding hearing. At least ten working days before the disposition
4 hearing, the department shall mail to the parent and his or her
5 attorney a copy of the agency's social study and proposed service plan,
6 which shall be in writing or in a form understandable to the parents or
7 custodians. In addition, the department shall provide an opportunity
8 for parents to review and comment on the plan at the community service
9 office. If the parents disagree with the agency's plan or any part
10 thereof, the parents shall submit to the court at least twenty-four
11 hours before the hearing, in writing, or signed oral statement, an
12 alternative plan to correct the problems which led to the finding of
13 dependency. This section shall not interfere with the right of the
14 parents or custodians to submit oral arguments regarding the
15 disposition plan at the hearing.

16 (2) In addition to the requirements set forth in subsection (1) of
17 this section, a predisposition study to the court in cases of
18 dependency alleged pursuant to RCW 13.34.030(2) (b) or (c) shall
19 contain the following information:

20 (a) A statement of the specific harm or harms to the child that
21 intervention is designed to alleviate;

22 (b) A description of the specific programs, for both the parents
23 and child, that are needed in order to prevent serious harm to the
24 child; the reasons why such programs are likely to be useful; the
25 availability of any proposed services; and the agency's overall plan
26 for ensuring that the services will be delivered;

27 (c) If removal is recommended, a full description of the reasons
28 why the child cannot be protected adequately in the home, including a
29 description of any previous efforts to work with the parents and the
30 child in the home; the in-home treatment programs which have been
31 considered and rejected; the preventive services, including those
32 authorized under RCW 74.14C.070, designed to address the causes of the
33 dependency that have been provided and have failed to resolve the
34 problem, unless the safety of the child cannot be protected adequately
35 in the home; and the parents' attitude toward placement of the child;

36 (d) A statement of the likely harms the child will suffer as a
37 result of removal. This section should include an exploration of the
38 nature of the parent-child attachment and the meaning of separation and
39 loss to both the parents and the child;

1 (e) A description of the steps that will be taken to minimize harm
2 to the child that may result if separation occurs; and

3 (f) Behavior that will be expected before determination that
4 supervision of the family or placement is no longer necessary.

5 **Sec. 3.** RCW 74.14C.070 and 1992 c 214 s 9 are each amended to read
6 as follows:

7 After July 1, 1993, the secretary of social and health services, or
8 the secretary's regional designee, may transfer funds appropriated for
9 foster care services to purchase family preservation services and other
10 preventive services for children at imminent risk of foster care
11 placement. The secretary shall notify the appropriate committees of
12 the senate and house of representatives of any transfers under this
13 section. The secretary shall include caseload, expenditure, cost
14 avoidance, identified improvements to the foster care system, and
15 outcome data related to the transfer in the notification.

16 **Sec. 4.** RCW 13.34.130 and 1992 c 145 s 14 are each amended to read
17 as follows:

18 If, after a fact-finding hearing pursuant to RCW 13.34.110, (~~as~~
19 ~~now or hereafter amended,~~) it has been proven by a preponderance of
20 the evidence that the child is dependent within the meaning of RCW
21 13.34.030(2); after consideration of the predisposition report prepared
22 pursuant to RCW 13.34.110 and after a disposition hearing has been held
23 pursuant to RCW 13.34.110, the court shall enter an order of
24 disposition pursuant to this section.

25 (1) The court shall order one of the following dispositions of the
26 case:

27 (a) Order a disposition other than removal of the child from his or
28 her home, which shall provide a program designed to alleviate the
29 immediate danger to the child, to mitigate or cure any damage the child
30 has already suffered, and to aid the parents so that the child will not
31 be endangered in the future. In selecting a program, the court should
32 choose those services that least interfere with family autonomy,
33 provided that the services are adequate to protect the child.

34 (b) Order that the child be removed from his or her home and
35 ordered into the custody, control, and care of a relative or the
36 department of social and health services or a licensed child placing
37 agency for placement in a foster family home or group care facility

1 licensed pursuant to chapter 74.15 RCW or in a home not required to be
2 licensed pursuant to chapter 74.15 RCW, only after a finding that
3 preventive services, including those authorized under RCW 74.14C.070,
4 designed to address the causes of the dependency have been provided and
5 have failed to resolve the problem, unless the safety of the child
6 cannot be protected adequately in the home. Unless there is reasonable
7 cause to believe that the safety or welfare of the child would be
8 jeopardized or that efforts to reunite the parent and child will be
9 hindered, such child shall be placed with a grandparent, brother,
10 sister, stepbrother, stepsister, uncle, aunt, or first cousin with whom
11 the child has a relationship and is comfortable, and who is willing and
12 available to care for the child. An order for out-of-home placement
13 may be made only if the court finds that reasonable efforts have been
14 made to prevent or eliminate the need for removal of the child from the
15 child's home and to make it possible for the child to return home,
16 specifying the services that have been provided to the child and the
17 child's parent, guardian, or legal custodian, and that preventive
18 services, including those authorized under RCW 74.14C.070, designed to
19 address the causes of the dependency have been provided and have failed
20 to resolve the problem, unless the safety of the child cannot be
21 protected adequately in the home, and that:

22 (i) There is no parent or guardian available to care for such
23 child;

24 (ii) The parent, guardian, or legal custodian is not willing to
25 take custody of the child;

26 (iii) A manifest danger exists that the child will suffer serious
27 abuse or neglect if the child is not removed from the home and an order
28 under RCW 26.44.063 would not protect the child from danger; or

29 (iv) The extent of the child's disability is such that the parent,
30 guardian, or legal custodian is unable to provide the necessary care
31 for the child and the parent, guardian, or legal custodian has
32 determined that the child would benefit from placement outside of the
33 home.

34 (2) If the court has ordered a child removed from his or her home
35 pursuant to subsection (1)(b) of this section, the court may order that
36 a petition seeking termination of the parent and child relationship be
37 filed if the court finds it is recommended by the supervising agency,
38 that it is in the best interests of the child and that it is not
39 reasonable to provide further services to reunify the family because

1 the existence of aggravated circumstances make it unlikely that
2 services will effectuate the return of the child to the child's parents
3 in the near future. In determining whether aggravated circumstances
4 exist, the court shall consider one or more of the following:

5 (a) Conviction of the parent of rape of the child in the first,
6 second, or third degree as defined in RCW 9A.44.073, 9A.44.076, and
7 9A.44.079;

8 (b) Conviction of the parent of criminal mistreatment of the child
9 in the first or second degree as defined in RCW 9A.42.020 and
10 9A.42.030;

11 (c) Conviction of the parent of one of the following assault
12 crimes, when the child is the victim: Assault in the first or second
13 degree as defined in RCW 9A.36.011 and 9A.36.021 or assault of a child
14 in the first or second degree as defined in RCW 9A.36.120 or 9A.36.130;

15 (d) Conviction of the parent of murder, manslaughter, or homicide
16 by abuse of the child's other parent, sibling, or another child;

17 (e) A finding by a court that a parent is a sexually violent
18 predator as defined in RCW 71.09.020;

19 (f) Failure of the parent to complete available treatment ordered
20 under this chapter or the equivalent laws of another state, where such
21 failure has resulted in a prior termination of parental rights to
22 another child and the parent has failed to effect significant change in
23 the interim.

24 (3) Whenever a child is ordered removed from the child's home, the
25 agency charged with his or her care shall provide the court with:

26 (a) (~~(A permanent plan of care that may include one of the~~
27 ~~following: Return of the child to the home of the child's parent,~~
28 ~~adoption, guardianship, or long-term placement with a relative or in~~
29 ~~foster care with a written agreement.)) A permanency plan of care that
30 shall identify one of the following outcomes as a primary goal and may
31 identify additional outcomes as alternative goals: Return of the child
32 to the home of the child's parent, guardian, or legal custodian;
33 adoption; guardianship; long-term relative or foster care, until the
34 child is age eighteen, with a written agreement between the parties and
35 the care provider; and independent living, if appropriate and if the
36 child is age sixteen or older. The goal of independent living cannot
37 be fully achieved before the child is eighteen years of age unless the
38 child becomes emancipated pursuant to chapter 13.64 RCW. Whenever a
39 permanency plan identifies independent living as a goal, the plan shall~~

1 also specifically identify the services that will be provided to assist
2 the child to make a successful transition from foster care to
3 independent living.

4 (b) Unless the court has ordered, pursuant to subsection (2) of
5 this section, that a termination petition be filed, a specific plan as
6 to where the child will be placed, what steps will be taken to return
7 the child home, and what actions the agency will take to maintain
8 parent-child ties. All aspects of the plan shall include the goal of
9 achieving permanence for the child.

10 (i) The agency plan shall specify what services the parents will be
11 offered in order to enable them to resume custody, what requirements
12 the parents must meet in order to resume custody, and a time limit for
13 each service plan and parental requirement.

14 (ii) The agency shall be required to encourage the maximum parent-
15 child contact possible, including regular visitation and participation
16 by the parents in the care of the child while the child is in
17 placement. Visitation may be limited or denied only if the court
18 determines that such limitation or denial is necessary to protect the
19 child's health, safety, or welfare.

20 (iii) A child shall be placed as close to the child's home as
21 possible, preferably in the child's own neighborhood, unless the court
22 finds that placement at a greater distance is necessary to promote the
23 child's or parents' well-being.

24 (iv) The agency charged with supervising a child in placement shall
25 provide all reasonable services that are available within the agency,
26 or within the community, or those services which the department of
27 social and health services has existing contracts to purchase. It
28 shall report to the court if it is unable to provide such services.

29 (c) If the court has ordered, pursuant to subsection (2) of this
30 section, that a termination petition be filed, a specific plan as to
31 where the child will be placed, what steps will be taken to achieve
32 permanency for the child, services to be offered or provided to the
33 child, and, if visitation would be in the best interests of the child,
34 a recommendation to the court regarding visitation between parent and
35 child pending a fact-finding hearing on the termination petition. The
36 agency shall not be required to develop a plan of services for the
37 parents or provide services to the parents.

38 (4) If there is insufficient information at the time of the
39 disposition hearing upon which to base a determination regarding the

1 suitability of a proposed placement with a relative, the child shall
2 remain in foster care and the court shall direct the supervising agency
3 to conduct necessary background investigations as provided in chapter
4 74.15 RCW and report the results of such investigation to the court
5 within thirty days. However, if such relative appears otherwise
6 suitable and competent to provide care and treatment, the criminal
7 history background check need not be completed before placement, but as
8 soon as possible after placement. Any placements with relatives,
9 pursuant to this section, shall be contingent upon cooperation by the
10 relative with the agency case plan and compliance with court orders
11 related to the care and supervision of the child including, but not
12 limited to, court orders regarding parent-child contacts and any other
13 conditions imposed by the court. Noncompliance with the case plan or
14 court order shall be grounds for removal of the child from the
15 relative's home, subject to review by the court.

16 (5) Except for children whose cases are reviewed by a citizen
17 review board under chapter 13.70 RCW, the status of all children found
18 to be dependent shall be reviewed by the court at least every six
19 months from the beginning date of the placement episode or the date
20 dependency is established, whichever is first, at a hearing in which it
21 shall be determined whether court supervision should continue. The
22 review shall include findings regarding the agency and parental
23 completion of disposition plan requirements, and if necessary, revised
24 permanency time limits.

25 (a) A child shall not be returned home at the review hearing unless
26 the court finds that a reason for removal as set forth in this section
27 no longer exists. The parents, guardian, or legal custodian shall
28 report to the court the efforts they have made to correct the
29 conditions which led to removal. If a child is returned, casework
30 supervision shall continue for a period of six months, at which time
31 there shall be a hearing on the need for continued intervention.

32 (b) If the child is not returned home, the court shall establish in
33 writing:

34 (i) Whether reasonable services have been provided to or offered to
35 the parties to facilitate reunion, specifying the services provided or
36 offered;

37 (ii) Whether the child has been placed in the least-restrictive
38 setting appropriate to the child's needs, including whether
39 consideration has been given to placement with the child's relatives;

1 (iii) Whether there is a continuing need for placement and whether
2 the placement is appropriate;

3 (iv) Whether there has been compliance with the case plan by the
4 child, the child's parents, and the agency supervising the placement;

5 (v) Whether progress has been made toward correcting the problems
6 that necessitated the child's placement in out-of-home care;

7 (vi) Whether the parents have visited the child and any reasons why
8 visitation has not occurred or has been infrequent;

9 (vii) Whether additional services are needed to facilitate the
10 return of the child to the child's parents; if so, the court shall
11 order that reasonable services be offered specifying such services; and

12 (viii) The projected date by which the child will be returned home
13 or other permanent plan of care will be implemented.

14 (c) The court at the review hearing may order that a petition
15 seeking termination of the parent and child relationship be filed.

16 **Sec. 5.** RCW 13.34.145 and 1993 c 412 s 1 are each amended to read
17 as follows:

18 ~~(1) ((In all cases where a child has been placed in substitute care
19 for at least fifteen months, the agency having custody of the child
20 shall prepare a permanency plan and present it in a hearing held before
21 the court no later than eighteen months following commencement of the
22 placement episode.~~

23 ~~(2) At the permanency planning hearing, the court shall enter
24 findings as required by RCW 13.34.130(5). In addition the court shall:~~

25 ~~(a) Approve a permanency plan which shall include one of the following:
26 Adoption, guardianship, placement of the child in the home of the
27 child's parent, relative placement with written permanency plan, or
28 family foster care with written permanency agreement; (b) require
29 filing of a petition for termination of parental rights; or (c) dismiss
30 the dependency, unless the court finds, based on clear, cogent, and
31 convincing evidence, that it is in the best interest of the child to
32 continue the dependency beyond eighteen months, based on the permanency
33 plan. Extensions may only be granted in increments of twelve months or
34 less.)) Permanency planning is a process that should begin at the time
35 that child welfare services are initially provided to the child and
36 family and should continue whenever a child is removed from parental
37 custody until a permanency planning goal is achieved or dependency is
38 dismissed. Whenever a child is placed in out-of-home care pursuant to~~

1 RCW 13.34.130, the agency that has custody of the child shall provide
2 the court with a written permanency plan of care directed towards
3 securing a safe, stable, and permanent home for the child as soon as
4 possible. The plan shall identify one of the following outcomes as the
5 primary goal and may also identify additional outcomes as alternative
6 goals: Return of the child to the home of the child's parent,
7 guardian, or legal custodian; adoption; guardianship; long-term
8 relative or foster care, until the child is age eighteen, with a
9 written agreement between the parties and the care provider; and
10 independent living, if appropriate and if the child is age sixteen or
11 older. The identified outcomes and goals of the permanency plan may
12 change over time based upon the circumstances of the particular case.
13 Permanency planning goals should be achieved at the earliest possible
14 date, preferably before the child has been in out-of-home care for
15 fifteen months.

16 (2) The goal of independent living cannot be fully achieved before
17 the child is eighteen years of age unless the child becomes emancipated
18 pursuant to chapter 13.64 RCW. Whenever a permanency plan identifies
19 independent living as a goal, the plan shall also specifically identify
20 the services that will be provided to assist the child to make a
21 successful transition from foster care to independent living.

22 (3) A permanency planning hearing shall be held in all cases where
23 a child has remained in out-of-home care for at least fifteen months
24 and an adoption decree or guardianship order has not previously been
25 entered. The hearing shall take place no later than eighteen months
26 following commencement of the current placement episode.

27 (a) For purposes of this chapter, "current placement episode" means
28 the period of time that begins with the most recent date that the child
29 was removed from the home of the parent, guardian, or legal custodian
30 for purposes of placement in out-of-home care and continues until the
31 child returns home, an adoption decree or guardianship order is
32 entered, or the dependency is dismissed, whichever occurs soonest. For
33 purposes of this chapter, "out-of-home care" means placement in a
34 foster family home or group care facility licensed pursuant to chapter
35 74.15 RCW or placement in a home, other than that of the child's
36 parent, guardian, or legal custodian, not required to be licensed
37 pursuant to chapter 74.15 RCW.

38 (i) If the most recent date of removal occurred prior to the filing
39 of a dependency petition under this chapter or after filing but prior

1 to entry of a disposition order, such time periods shall be included
2 when calculating the length of a child's current placement episode.

3 (ii) Whenever a child is removed from the home of a dependency
4 guardian or long-term relative or foster care provider, and the child
5 is not returned to the home of the parent, guardian, or legal custodian
6 but is placed in out-of-home care, a permanency planning hearing shall
7 take place no later than eighteen months following the date of removal
8 unless, prior to the hearing, the child returns to the home of the
9 dependency guardian or long-term care provider, the child is placed in
10 the home of the parent, guardian, or legal custodian, an adoption
11 decree or guardianship order is entered, or the dependency is
12 dismissed.

13 (b) No later than ten working days prior to the permanency planning
14 hearing, the agency having custody of the child shall submit a written
15 permanency plan to the court and shall mail a copy of the plan to all
16 parties and their legal counsel, if any.

17 (4) At the permanency planning hearing, the court shall enter
18 findings as required by RCW 13.34.130(5) and shall review the
19 permanency plan prepared by the agency. If a goal of long-term foster
20 or relative care has been achieved prior to the permanency planning
21 hearing, the court shall review the child's status to determine whether
22 the placement and the plan for the child's care remain appropriate. In
23 cases where the primary permanency planning goal has not yet been
24 achieved, the court shall inquire regarding the reasons why the primary
25 goal has not been achieved and determine what needs to be done to make
26 it possible to achieve the primary goal. In all cases, the court shall
27 either:

28 (a) Order the permanency plan prepared by the agency to be
29 implemented; or

30 (b) Modify the permanency plan, order implementation of the
31 modified plan, and order one of the following:

32 (i) Order the child returned home only if the court finds that a
33 reason for removal as set forth in RCW 13.34.130 no longer exists; or

34 (ii) Order the child to remain in out-of-home care for a limited
35 specified time period while efforts are made to implement the
36 permanency plan.

37 (5) If the court orders the child returned home, casework
38 supervision shall continue for at least six months, at which time a

1 review hearing shall be held pursuant to RCW 13.34.130(5), and the
2 court shall determine the need for continued intervention.

3 (6) Following the first permanency planning hearing, the court
4 shall hold a further permanency planning hearing in accordance with
5 this section at least once every twelve months until a permanency
6 planning goal is achieved or the dependency is dismissed, whichever
7 occurs soonest.

8 (7) Except as otherwise provided in RCW 13.34.235, the status of
9 all dependent children shall continue to be reviewed by the court at
10 least once every six months, in accordance with RCW 13.34.130(5), until
11 the dependency is dismissed.

12 (8) Nothing in this chapter may be construed to limit the ability
13 of the agency that has custody of the child to file a petition for
14 termination of parental rights or a guardianship petition at any time
15 following the establishment of dependency. Upon the filing of such a
16 petition, a fact-finding hearing shall be scheduled and held in
17 accordance with this chapter unless the agency requests dismissal of
18 the petition prior to the hearing or unless the parties enter an agreed
19 order terminating parental rights, establishing guardianship, or
20 otherwise resolving the matter.

21 (9) Nothing in this chapter may be construed to limit the
22 procedural due process rights of any party in a termination or
23 guardianship proceeding filed under this chapter.

24 **Sec. 6.** RCW 13.04.011 and 1992 c 205 s 119 are each amended to
25 read as follows:

26 For purposes of this title:

27 (1) Except as specifically provided in RCW 13.40.020 and chapter
28 13.24 RCW, (~~as now or hereafter amended,~~) "juvenile," "youth," and
29 "child" mean any individual who is under the chronological age of
30 eighteen years;

31 (2) "Juvenile offender" and "juvenile offense" have the meaning
32 ascribed in RCW 13.40.020;

33 (3) "Court" when used without further qualification means the
34 juvenile court judge(s) or commissioner(s);

35 (4) "Parent" or "parents," except as used in chapter 13.34 RCW,
36 (~~as now or hereafter amended,~~) means that parent or parents who have
37 the right of legal custody of the child. "Parent" or "parents" as used
38 in chapter 13.34 RCW, means the biological or adoptive parents of a

1 child unless the legal rights of that person have been terminated by
2 judicial proceedings;

3 (5) "Custodian" means that person who has the legal right to
4 custody of the child;

5 (6) "Dependency guardian" means the person, nonprofit corporation,
6 or Indian tribe appointed by the court pursuant to RCW 13.34.232 for
7 the limited purpose of assisting the court in the supervision of the
8 dependency;

9 (7) "Guardian" means the person or agency that: (a) Has been
10 appointed as the guardian of a child in a legal proceeding other than
11 a proceeding under chapter 13.34 RCW; and (b) has the legal right to
12 custody of the child pursuant to such appointment. The term "guardian"
13 shall not include a "dependency guardian" appointed pursuant to a
14 proceeding under chapter 13.34 RCW.

15 **Sec. 7.** RCW 13.34.231 and 1981 c 195 s 2 are each amended to read
16 as follows:

17 At the hearing on a guardianship petition, all parties have the
18 right to present evidence and cross examine witnesses. The rules of
19 evidence apply to the conduct of the hearing. A guardianship ((may))
20 shall be established if the court finds by a preponderance of the
21 evidence that:

22 (1) The child has been found to be a dependent child under RCW
23 13.34.030(2);

24 (2) A dispositional order has been entered pursuant to RCW
25 13.34.130;

26 (3) The child has been removed or will, at the time of the hearing,
27 have been removed from the custody of the parent for a period of at
28 least six months pursuant to a finding of dependency under RCW
29 13.34.030(2);

30 (4) The services ordered under RCW 13.34.130 have been offered or
31 provided and all necessary services, reasonably available, capable of
32 correcting the parental deficiencies within the foreseeable future have
33 been offered or provided;

34 (5) There is little likelihood that conditions will be remedied so
35 that the child can be returned to the parent in the near future; and

36 (6) A guardianship rather than termination of the parent-child
37 relationship or continuation of (~~the child's current dependent~~

1 ~~status~~) efforts to return the child to the custody of the parent would
2 be in the best interest of the ~~((family))~~ child.

3 **Sec. 8.** RCW 13.34.232 and 1993 c 412 s 4 are each amended to read
4 as follows:

5 (1) If the court has made a finding under RCW 13.34.231, it shall
6 enter an order establishing a guardianship for the child. The order
7 shall:

8 ~~((+1))~~ (a) Appoint a person or agency to serve as dependency
9 guardian for the limited purpose of assisting the court to supervise
10 the dependency;

11 ~~((+2))~~ (b) Specify the dependency guardian's rights and
12 responsibilities concerning the care, custody, and control of the
13 child. A dependency guardian shall not have the authority to consent
14 to the child's adoption;

15 ~~((+3))~~ (c) Specify the dependency guardian's authority, if any,
16 to receive, invest, and expend funds, benefits, or property belonging
17 to the child;

18 (d) Specify an appropriate frequency of visitation between the
19 parent and the child; and

20 ~~((+4))~~ (e) Specify the need for any continued involvement of the
21 supervising agency and the nature of that involvement, if any.

22 ~~((The order shall not affect the child's status as a dependent~~
23 ~~child, and the child shall remain dependent for the duration of the~~
24 ~~guardianship.))~~

25 (2) Unless the court specifies otherwise in the guardianship order,
26 the dependency guardian shall have the following rights and duties to:

27 (a) Maintain the physical custody of the child;

28 (b) Protect, discipline, and educate the child;

29 (c) Provide food, clothing, shelter, education as required by law,
30 and routine health care for the child;

31 (d) Consent to necessary health and surgical care and to sign a
32 release of health care information to appropriate authorities, pursuant
33 to law;

34 (e) Consent to social, school, and religious activities of the
35 child; and

36 (f) Provide an annual written accounting to the court regarding
37 receipt by the guardian of any funds, benefits, or property belonging
38 to the child and expenditures made therefrom.

1 (3) As used in this section, the term "health care" includes, but
2 is not limited to, medical, dental, psychological, and psychiatric care
3 and treatment.

4 (4) The child shall remain dependent for the duration of the
5 guardianship. While the guardianship remains in effect, the dependency
6 guardian shall be a party to any dependency proceedings pertaining to
7 the child.

8 (5) The guardianship shall remain in effect only until the child is
9 eighteen years of age or until the court terminates the guardianship
10 order, whichever occurs sooner.

11 **Sec. 9.** RCW 13.34.233 and 1981 c 195 s 4 are each amended to read
12 as follows:

13 (1) Any party may ((seek a modification of)) request the court to
14 modify or terminate the guardianship order under RCW 13.34.150. Notice
15 of any motion to modify or terminate the guardianship shall be served
16 on all other parties, including any agency that was responsible for
17 supervising the child's placement at the time the guardianship petition
18 was filed. Notice shall in all cases be served upon the department of
19 social and health services. If the department was not previously a
20 party to the guardianship proceeding, the department shall nevertheless
21 have the right to initiate a proceeding to modify or terminate a
22 guardianship and the right to intervene at any stage of such a
23 proceeding.

24 (2) The guardianship may be modified or terminated upon the motion
25 of any party or the department if the court finds by a preponderance of
26 the evidence that there has been a change of circumstances subsequent
27 to the establishment of the guardianship and that it is in the child's
28 best interest to modify or terminate the guardianship. Unless all
29 parties agree to entry of an order modifying or terminating the
30 guardianship, the court shall hold a hearing on the motion.

31 (3) Upon entry of an order terminating the guardianship, the
32 dependency guardian shall not have any rights or responsibilities with
33 respect to the child and shall not have legal standing to participate
34 as a party in further dependency proceedings pertaining to the child.

35 (4) Upon entry of an order terminating the guardianship, the child
36 shall remain dependent and the court shall either return the child to
37 the child's parent or order the child into the custody, control, and
38 care of the department of social and health services or a licensed

1 child-placing agency for placement in a foster home or group care
2 facility licensed pursuant to chapter 74.15 RCW or in a home not
3 required to be licensed pursuant to such chapter. The court shall not
4 place a child in the custody of the child's parent unless the court
5 finds that a reason for removal as set forth in RCW 13.34.130 no longer
6 exists and that such placement is in the child's best interest. The
7 court shall thereafter conduct reviews as provided in RCW 13.34.130(5)
8 and, where applicable, shall hold a permanency planning hearing in
9 accordance with RCW 13.34.145.

10 **Sec. 10.** RCW 13.34.234 and 1981 c 195 s 5 are each amended to read
11 as follows:

12 Establishment of a guardianship under RCW 13.34.231 and 13.34.232
13 does not preclude a dependency guardian from receiving foster care
14 payments.

15 **Sec. 11.** RCW 13.34.236 and 1981 c 195 s 7 are each amended to read
16 as follows:

17 Any person over the age of twenty-one years who is not otherwise
18 disqualified by this section, any nonprofit corporation, or any Indian
19 tribe may be appointed the dependency guardian of a child under RCW
20 13.34.232. No person is qualified to serve as a dependency guardian
21 who: (1) Is of unsound mind; (2) has been convicted of a felony or
22 misdemeanor involving moral turpitude; or (3) is a person whom the
23 court finds unsuitable.

--- END ---