

---

HOUSE BILL 1003

---

State of Washington

61st Legislature

2009 Regular Session

By Representatives Warnick, O'Brien, and Moeller

Prefiled 12/05/08. Read first time 01/12/09. Referred to Committee on Judiciary.

1 AN ACT Relating to responsible parties for issuing notice and  
2 summons in proceedings involving the dissolution of ports and other  
3 districts and in dependency matters; and amending RCW 53.48.030,  
4 13.34.070, and 13.34.080.

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

6 **Sec. 1.** RCW 53.48.030 and 1941 c 87 s 3 are each amended to read  
7 as follows:

8 Upon the filing of such petition for an order of dissolution, the  
9 superior court shall enter an order setting the same for hearing at a  
10 date not less than thirty days from the date of filing, and the (~~clerk~~  
11 ~~of the court of said county~~) petitioner shall give notice of such  
12 hearing by publication in a newspaper of general circulation in the  
13 county in which the district is located once a week for three  
14 successive weeks, and by posting in three public places in the county  
15 in which the district is located at least twenty-one days before said  
16 hearing. At least one notice shall be posted in the district. The  
17 notices shall set forth the filing of the petition, its purpose and the  
18 date and place of the hearing thereon.

1       **Sec. 2.** RCW 13.34.070 and 2004 c 64 s 4 are each amended to read  
2 as follows:

3       (1) Upon the filing of the petition, the (~~clerk of the court~~)  
4 petitioner shall issue a summons, one directed to the child, if the  
5 child is twelve or more years of age, and another to the parents,  
6 guardian, or custodian, and such other persons as appear to the court  
7 to be proper or necessary parties to the proceedings, requiring them to  
8 appear personally before the court at the time fixed to hear the  
9 petition. If the child (~~is developmentally disabled~~) has a  
10 developmental disability and not living at home, the notice shall be  
11 given to the child's custodian as well as to the child's parent. The  
12 (~~developmentally disabled~~) child with a developmental disability  
13 shall not be required to appear unless requested by the court. When  
14 the custodian is summoned, the parent or guardian or both shall also be  
15 served with a summons. The fact-finding hearing on the petition shall  
16 be held no later than seventy-five days after the filing of the  
17 petition, unless exceptional reasons for a continuance are found. The  
18 party requesting the continuance shall have the burden of proving by a  
19 preponderance of the evidence that exceptional circumstances exist. To  
20 ensure that the hearing on the petition occurs within the seventy-five  
21 day time limit, the court shall schedule and hear the matter on an  
22 expedited basis.

23       (2) A copy of the petition shall be attached to each summons.

24       (3) The summons shall advise the parties of the right to counsel.  
25 The summons shall also inform the child's parent, guardian, or legal  
26 custodian of his or her right to appointed counsel, if indigent, and of  
27 the procedure to use to secure appointed counsel.

28       (4) The summons shall advise the parents that they may be held  
29 responsible for the support of the child if the child is placed in out-  
30 of-home care.

31       (5) The judge may endorse upon the summons an order directing any  
32 parent, guardian, or custodian having the custody or control of the  
33 child to bring the child to the hearing.

34       (6) If it appears from affidavit or sworn statement presented to  
35 the judge that there is probable cause for the issuance of a warrant of  
36 arrest or that the child needs to be taken into custody pursuant to RCW  
37 13.34.050, the judge may endorse upon the summons an order that an

1 officer serving the summons shall at once take the child into custody  
2 and take him or her to the place of shelter designated by the court.

3 (7) If the person summoned as provided in this section is subject  
4 to an order of the court pursuant to subsection (5) or (6) of this  
5 section, and if the person fails to abide by the order, he or she may  
6 be proceeded against as for contempt of court. The order endorsed upon  
7 the summons shall conspicuously display the following legend:

8 NOTICE:

9 VIOLATION OF THIS ORDER  
10 IS SUBJECT TO PROCEEDING  
11 FOR CONTEMPT OF COURT  
12 PURSUANT TO RCW 13.34.070.

13 (8) If a party to be served with a summons can be found within the  
14 state, the summons shall be served upon the party personally as soon as  
15 possible following the filing of the petition, but in no case later  
16 than fifteen court days before the fact-finding hearing, or such time  
17 as set by the court. If the party is within the state and cannot be  
18 personally served, but the party's address is known or can with  
19 reasonable diligence be ascertained, the summons may be served upon the  
20 party by mailing a copy by certified mail as soon as possible following  
21 the filing of the petition, but in no case later than fifteen court  
22 days before the hearing, or such time as set by the court. If a party  
23 other than the child is without the state but can be found or the  
24 address is known, or can with reasonable diligence be ascertained,  
25 service of the summons may be made either by delivering a copy to the  
26 party personally or by mailing a copy thereof to the party by certified  
27 mail at least ten court days before the fact-finding hearing, or such  
28 time as set by the court.

29 (9) Service of summons may be made under the direction of the court  
30 by any person eighteen years of age or older who is not a party to the  
31 proceedings or by any law enforcement officer, probation counselor, or  
32 department employee.

33 (10)(a) Whenever the court or the petitioning party in a proceeding  
34 under this chapter knows or has reason to know that an Indian child is  
35 involved, the petitioning party shall promptly provide notice to the  
36 child's parent or Indian custodian and to the agent designated by the  
37 child's Indian tribe to receive such notices. Notice shall be by  
38 certified mail with return receipt requested. If the identity or

1 location of the parent or Indian custodian and the tribe cannot be  
2 determined, notice shall be given to the secretary of the interior in  
3 the manner described in 25 C.F.R. 23.11. If the child may be a member  
4 of more than one tribe, the petitioning party shall send notice to all  
5 tribes the petitioner has reason to know may be affiliated with the  
6 child.

7 (b) The notice shall: (i) Contain a statement notifying the parent  
8 or custodian and the tribe of the pending proceeding; and (ii) notify  
9 the tribe of the tribe's right to intervene and/or request that the  
10 case be transferred to tribal court.

11 **Sec. 3.** RCW 13.34.080 and 2000 c 122 s 9 are each amended to read  
12 as follows:

13 (1) The court shall direct the (~~clerk~~) petitioner to publish  
14 notice in a legal newspaper printed in the county, qualified to publish  
15 summons, once a week for three consecutive weeks, with the first  
16 publication of the notice to be at least twenty-five days prior to the  
17 date fixed for the hearing when it appears by the petition or verified  
18 statement that:

- 19 (a)(i) The parent or guardian is a nonresident of this state; or
- 20 (ii) The name or place of residence or whereabouts of the parent or  
21 guardian is unknown; and

22 (b) After due diligence, the person attempting service of the  
23 summons or notice provided for in RCW 13.34.070 has been unable to make  
24 service, and a copy of the notice has been deposited in the post  
25 office, postage prepaid, directed to such person at his or her last  
26 known place of residence. If the parent, guardian, or legal custodian  
27 is believed to be a resident of another state or a county other than  
28 the county in which the petition has been filed, notice also shall be  
29 published in the county in which the parent, guardian, or legal  
30 custodian is believed to reside.

31 (2) Publication may proceed simultaneously with efforts to provide  
32 service in person or by mail, when the court determines there is reason  
33 to believe that service in person or by mail will not be successful.  
34 Notice shall be directed to the parent, parents, or other person  
35 claiming the right to the custody of the child, if their names are  
36 known. If their names are unknown, the phrase "To whom it may concern"  
37 shall be used, apply to, and be binding upon, those persons whose names

1 are unknown. The name of the court, the name of the child (or children  
2 if of one family), the date of the filing of the petition, the date of  
3 hearing, and the object of the proceeding in general terms shall be set  
4 forth. There shall be filed with the clerk an affidavit showing due  
5 publication of the notice. The cost of publication shall be paid by  
6 the (~~county at a rate not greater than the rate paid for other legal~~  
7 ~~notices~~) state. The publication of notice shall be deemed equivalent  
8 to personal service upon all persons, known or unknown, who have been  
9 designated as provided in this section.

--- END ---