
SUBSTITUTE HOUSE BILL 1782

State of Washington

61st Legislature

2009 Regular Session

By House Early Learning & Children's Services (originally sponsored by Representatives Goodman, Roberts, Walsh, Dickerson, Darneille, Kagi, and Nelson)

READ FIRST TIME 02/23/09.

1 AN ACT Relating to encouraging early and consistent engagement of
2 parents in children's dependency matters; amending RCW 13.34.065,
3 13.34.145, and 13.34.132; reenacting and amending RCW 13.34.062; adding
4 a new section to chapter 13.34 RCW; and creating a new section.

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

6 NEW SECTION. **Sec. 1.** The legislature finds that when children
7 have been found dependent and placed in out-of-home care, the
8 likelihood of reunification with their parents diminishes significantly
9 after fifteen months. The legislature also finds that early and
10 consistent parental engagement in services and participation in
11 appropriate parent-child contact and visitation increases the
12 likelihood of successful reunifications. The legislature intends to
13 promote greater awareness among parents in dependency cases of the
14 importance of active participation in services, visitation, and case
15 planning for the child, and the risks created by failure to participate
16 in their child's case over the long term.

17 **Sec. 2.** RCW 13.34.062 and 2007 c 413 s 4 and 2007 c 409 s 5 are
18 each reenacted and amended to read as follows:

1 (1)(a) Whenever a child is taken into custody by child protective
2 services pursuant to a court order issued under RCW 13.34.050 or when
3 child protective services is notified that a child has been taken into
4 custody pursuant to RCW 26.44.050 or 26.44.056, child protective
5 services shall make reasonable efforts to inform the parent, guardian,
6 or legal custodian of the fact that the child has been taken into
7 custody, the reasons why the child was taken into custody, and their
8 legal rights under this title, including the right to a shelter care
9 hearing, as soon as possible. Notice must be provided in an
10 understandable manner and take into consideration the parent's,
11 guardian's, or legal custodian's primary language, level of education,
12 and cultural issues.

13 (b) In no event shall the notice required by this section be
14 provided to the parent, guardian, or legal custodian more than twenty-
15 four hours after the child has been taken into custody or twenty-four
16 hours after child protective services has been notified that the child
17 has been taken into custody.

18 (2)(a) The notice of custody and rights may be given by any means
19 reasonably certain of notifying the parents including, but not limited
20 to, written, telephone, or in person oral notification. If the initial
21 notification is provided by a means other than writing, child
22 protective services shall make reasonable efforts to also provide
23 written notification.

24 (b) The written notice of custody and rights required by this
25 section shall be in substantially the following form:

26 "NOTICE

27 Your child has been placed in temporary custody under the
28 supervision of Child Protective Services (or other person or agency).
29 You have important legal rights and you must take steps to protect your
30 interests.

31 1. A court hearing will be held before a judge within 72 hours of
32 the time your child is taken into custody excluding Saturdays, Sundays,
33 and holidays. You should call the court at (insert appropriate
34 phone number here) for specific information about the date, time,
35 and location of the court hearing.

36 2. You have the right to have a lawyer represent you at the
37 hearing. Your right to representation continues after the shelter care
38 hearing. You have the right to records the department intends to rely

1 upon. A lawyer can look at the files in your case, talk to child
2 protective services and other agencies, tell you about the law, help
3 you understand your rights, and help you at hearings. If you cannot
4 afford a lawyer, the court will appoint one to represent you. To get
5 a court-appointed lawyer you must contact: (explain local
6 procedure) .

7 3. At the hearing, you have the right to speak on your own behalf,
8 to introduce evidence, to examine witnesses, and to receive a decision
9 based solely on the evidence presented to the judge.

10 4. If your hearing occurs before a court commissioner, you have the
11 right to have the decision of the court commissioner reviewed by a
12 superior court judge. To obtain that review, you must, within ten days
13 after the entry of the decision of the court commissioner, file with
14 the court a motion for revision of the decision, as provided in RCW
15 2.24.050.

16 You should be present at any shelter care hearing. If you do not
17 come, the judge will not hear what you have to say.

18 You may call the Child Protective Services' caseworker for more
19 information about your child. The caseworker's name and telephone
20 number are: (insert name and telephone number) .

21 5. You have a right to a case conference to develop a written
22 service agreement following the shelter care hearing. The service
23 agreement may not conflict with the court's order of shelter care. You
24 may request that a multidisciplinary team, family group conference, or
25 prognostic staffing be convened for your child's case. You may
26 participate in these processes with your counsel present.

27 6. If your child is placed in the custody of the department of
28 social and health services or other supervising agency, immediately
29 following the shelter care hearing, the court will enter an order
30 granting the department or other supervising agency the right to
31 inspect and copy all health, medical, mental health, and education
32 records of the child, directing health care providers to release such
33 information without your further consent, and granting the department
34 or supervising agency or its designee the authority and responsibility,
35 where applicable, to:

36 (1) Notify the child's school that the child is in out-of-home
37 placement;

38 (2) Enroll the child in school;

- 1 (3) Request the school transfer records;
- 2 (4) Request and authorize evaluation of special needs;
- 3 (5) Attend parent or teacher conferences;
- 4 (6) Excuse absences;
- 5 (7) Grant permission for extracurricular activities;
- 6 (8) Authorize medications which need to be administered during
- 7 school hours and sign for medical needs that arise during school hours;
- 8 and
- 9 (9) Complete or update school emergency records.

10 7. If the court decides to place your child in the custody of the
11 department of social and health services or other supervising agency,
12 the department or agency will create a permanency plan for your child,
13 including a primary placement goal and secondary placement goal. The
14 department or agency also will recommend that the court order services
15 for your child and for you, if needed. The department or agency is
16 required to make reasonable efforts to provide you with services to
17 address your parenting problems, and to provide you with visitation
18 with your child according to court orders. Failure to promptly engage
19 in services or to maintain contact with your child may lead to the
20 filing of a petition to terminate your parental rights.

21 8. Primary and secondary permanency plans are intended to run at
22 the same time so that your child will have a permanent home as quickly
23 as possible. Absent good cause, and when appropriate, the department
24 or other supervising agency must follow the wishes of a natural parent
25 regarding placement of a child. You should tell your lawyer and the
26 court where you wish your child placed immediately, including whether
27 you want your child placed with you, with a relative, or with another
28 suitable person. You also should tell your lawyer and the court what
29 services you feel are necessary and your wishes regarding visitation
30 with your child. Even if you want another parent or person to be the
31 primary placement choice for your child, you should tell your lawyer,
32 the department or other supervising agency, and the court if you want
33 to be a secondary placement option, and you should comply with court
34 orders for services and participate in visitation with your child.
35 Early and consistent involvement in your child's case plan is important
36 for the well-being of your child.

1 9. A dependency petition begins a judicial process, which, if the
2 court finds your child dependent, could result in substantial
3 restrictions including, the entry or modification of a parenting plan
4 or residential schedule, nonparental custody order or decree,
5 guardianship order, or permanent loss of your parental rights."

6 Upon receipt of the written notice, the parent, guardian, or legal
7 custodian shall acknowledge such notice by signing a receipt prepared
8 by child protective services. If the parent, guardian, or legal
9 custodian does not sign the receipt, the reason for lack of a signature
10 shall be written on the receipt. The receipt shall be made a part of
11 the court's file in the dependency action.

12 If after making reasonable efforts to provide notification, child
13 protective services is unable to determine the whereabouts of the
14 parents, guardian, or legal custodian, the notice shall be delivered or
15 sent to the last known address of the parent, guardian, or legal
16 custodian.

17 (3) If child protective services is not required to give notice
18 under this section, the juvenile court counselor assigned to the matter
19 shall make all reasonable efforts to advise the parents, guardian, or
20 legal custodian of the time and place of any shelter care hearing,
21 request that they be present, and inform them of their basic rights as
22 provided in RCW 13.34.090.

23 (4) Reasonable efforts to advise and to give notice, as required in
24 this section, shall include, at a minimum, investigation of the
25 whereabouts of the parent, guardian, or legal custodian. If such
26 reasonable efforts are not successful, or the parent, guardian, or
27 legal custodian does not appear at the shelter care hearing, the
28 petitioner shall testify at the hearing or state in a declaration:

29 (a) The efforts made to investigate the whereabouts of, and to
30 advise, the parent, guardian, or (~~legal~~) custodian; and

31 (b) Whether actual advice of rights was made, to whom it was made,
32 and how it was made, including the substance of any oral communication
33 or copies of written materials used.

34 NEW SECTION. Sec. 3. A new section is added to chapter 13.34 RCW
35 to read as follows:

36 (1) After entry of a dispositional order pursuant to RCW 13.34.130

1 ordering placement of a child in out-of-home care, the department shall
2 continue to encourage the parent, guardian, or custodian of the child
3 to engage in services and maintain contact with the child, which shall
4 be accomplished by attaching a standard notice to the services and
5 safety plan to be provided in advance of hearings conducted pursuant to
6 RCW 13.34.138.

7 (2) The notice shall be photocopied on contrasting paper to
8 distinguish it from the services and safety plan to which it is
9 attached, and shall be in substantially the following form:

10 "NOTICE

11 If you have not had contact with your child in out-of-home care for
12 six months or longer, your ability to reunify with your child may be
13 jeopardized. If this is your situation, you need to be aware that you
14 have important legal rights and must take steps to protect your
15 interests.

16 1. The department of social and health services (or other
17 supervising agency) and the court have created a permanency plan for
18 your child, including a primary placement plan and a secondary
19 placement plan, and recommending services needed before your child can
20 be placed in the primary or secondary placement. If you want the court
21 to order that your child be reunified with you, you should notify your
22 lawyer and the department, and you should carefully comply with court
23 orders for services and participate regularly in visitation with your
24 child. Failure to promptly engage in services or to maintain contact
25 with your child may lead to the filing of a petition to terminate your
26 rights as a parent.

27 2. Primary and secondary permanency plans are intended to run at
28 the same time so that your child will have a permanent home as quickly
29 as possible. Even if you want another parent or person to be the
30 primary placement choice for your child, you should tell your lawyer,
31 the department, and the court if you want to be the secondary placement
32 option, and you should comply with any court orders for services and
33 participate in visitation with your child. Early and consistent
34 involvement in your child's case plan is important for the well-being
35 of your child.

1 3. Dependency review hearings, and all other dependency case
2 hearings, are legal proceedings with potentially serious consequences.
3 Failure to participate, respond, or comply with court orders may lead
4 to the loss of your parental rights."

5 **Sec. 4.** RCW 13.34.065 and 2008 c 267 s 2 are each amended to read
6 as follows:

7 (1)(a) When a child is taken into custody, the court shall hold a
8 shelter care hearing within seventy-two hours, excluding Saturdays,
9 Sundays, and holidays. The primary purpose of the shelter care hearing
10 is to determine whether the child can be immediately and safely
11 returned home while the adjudication of the dependency is pending.

12 (b) Any parent, guardian, or legal custodian who for good cause is
13 unable to attend the shelter care hearing may request that a subsequent
14 shelter care hearing be scheduled. The request shall be made to the
15 clerk of the court where the petition is filed prior to the initial
16 shelter care hearing. Upon the request of the parent, the court shall
17 schedule the hearing within seventy-two hours of the request, excluding
18 Saturdays, Sundays, and holidays. The clerk shall notify all other
19 parties of the hearing by any reasonable means.

20 (2)(a) The department of social and health services shall submit a
21 recommendation to the court as to the further need for shelter care in
22 all cases in which it is the petitioner. In all other cases, the
23 recommendation shall be submitted by the juvenile court probation
24 counselor.

25 (b) All parties have the right to present testimony to the court
26 regarding the need or lack of need for shelter care.

27 (c) Hearsay evidence before the court regarding the need or lack of
28 need for shelter care must be supported by sworn testimony, affidavit,
29 or declaration of the person offering such evidence.

30 (3)(a) At the commencement of the hearing, the court shall notify
31 the parent, guardian, or custodian of the following:

32 (i) The parent, guardian, or custodian has the right to a shelter
33 care hearing;

34 (ii) The nature of the shelter care hearing, the rights of the
35 parents, and the proceedings that will follow; and

36 (iii) If the parent, guardian, or custodian is not represented by

1 counsel, the right to be represented. If the parent, guardian, or
2 custodian is indigent, the court shall appoint counsel as provided in
3 RCW 13.34.090; and

4 (b) If a parent, guardian, or legal custodian desires to waive the
5 shelter care hearing, the court shall determine, on the record and with
6 the parties present, whether such waiver is knowing and voluntary. A
7 parent may not waive his or her right to the shelter care hearing
8 unless he or she appears in court and the court determines that the
9 waiver is knowing and voluntary. Regardless of whether the court
10 accepts the parental waiver of the shelter care hearing, the court must
11 provide notice to the parents of their rights required under (a) of
12 this subsection and make the finding required under subsection (4) of
13 this section.

14 (4) At the shelter care hearing the court shall examine the need
15 for shelter care and inquire into the status of the case. The
16 paramount consideration for the court shall be the health, welfare, and
17 safety of the child. At a minimum, the court shall inquire into the
18 following:

19 (a) Whether the notice required under RCW 13.34.062 was given to
20 all known parents, guardians, or legal custodians of the child. The
21 court shall make an express finding as to whether the notice required
22 under RCW 13.34.062 was given to the parent, guardian, or legal
23 custodian. If actual notice was not given to the parent, guardian, or
24 legal custodian and the whereabouts of such person is known or can be
25 ascertained, the court shall order the supervising agency or the
26 department of social and health services to make reasonable efforts to
27 advise the parent, guardian, or legal custodian of the status of the
28 case, including the date and time of any subsequent hearings, and their
29 rights under RCW 13.34.090;

30 (b) Whether the child can be safely returned home while the
31 adjudication of the dependency is pending;

32 (c) What efforts have been made to place the child with a relative;

33 (d) What services were provided to the family to prevent or
34 eliminate the need for removal of the child from the child's home;

35 (e) Is the placement proposed by the agency the least disruptive
36 and most family-like setting that meets the needs of the child;

37 (f) Whether it is in the best interest of the child to remain
38 enrolled in the school, developmental program, or child care the child

1 was in prior to placement and what efforts have been made to maintain
2 the child in the school, program, or child care if it would be in the
3 best interest of the child to remain in the same school, program, or
4 child care;

5 (g) Appointment of a guardian ad litem or attorney;

6 (h) Whether the child is or may be an Indian child as defined in 25
7 U.S.C. Sec. 1903, whether the provisions of the Indian child welfare
8 act apply, and whether there is compliance with the Indian child
9 welfare act, including notice to the child's tribe;

10 (i) Whether, as provided in RCW 26.44.063, restraining orders, or
11 orders expelling an allegedly abusive household member from the home of
12 a nonabusive parent, guardian, or legal custodian, will allow the child
13 to safely remain in the home;

14 (j) Whether any orders for examinations, evaluations, or immediate
15 services are needed. The court may not order a parent to undergo
16 examinations, evaluation, or services at the shelter care hearing
17 unless the parent agrees to the examination, evaluation, or service;

18 (k) The terms and conditions for parental, sibling, and family
19 visitation.

20 (5)(a) The court shall release a child alleged to be dependent to
21 the care, custody, and control of the child's parent, guardian, or
22 legal custodian unless the court finds there is reasonable cause to
23 believe that:

24 (i) After consideration of the specific services that have been
25 provided, reasonable efforts have been made to prevent or eliminate the
26 need for removal of the child from the child's home and to make it
27 possible for the child to return home; and

28 (ii)(A) The child has no parent, guardian, or legal custodian to
29 provide supervision and care for such child; or

30 (B) The release of such child would present a serious threat of
31 substantial harm to such child, notwithstanding an order entered
32 pursuant to RCW 26.44.063; or

33 (C) The parent, guardian, or custodian to whom the child could be
34 released has been charged with violating RCW 9A.40.060 or 9A.40.070.

35 (b) If the court does not release the child to his or her parent,
36 guardian, or legal custodian, the court shall order placement with a
37 relative, unless there is reasonable cause to believe the health,

1 safety, or welfare of the child would be jeopardized or that the
2 efforts to reunite the parent and child will be hindered. The relative
3 must be willing and available to:

4 (i) Care for the child and be able to meet any special needs of the
5 child;

6 (ii) Facilitate the child's visitation with siblings, if such
7 visitation is part of the supervising agency's plan or is ordered by
8 the court; and

9 (iii) Cooperate with the department in providing necessary
10 background checks and home studies.

11 (c) If the child was not initially placed with a relative, and the
12 court does not release the child to his or her parent, guardian, or
13 legal custodian, the supervising agency shall make reasonable efforts
14 to locate a relative pursuant to RCW 13.34.060(1). In determining
15 placement, the court shall weigh the child's length of stay and
16 attachment to the current provider in determining what is in the best
17 interest of the child.

18 (d) If a relative is not available, the court shall order continued
19 shelter care or order placement with another suitable person, and the
20 court shall set forth its reasons for the order. If the court orders
21 placement of the child with a person not related to the child and not
22 licensed to provide foster care, the placement is subject to all terms
23 and conditions of this section that apply to relative placements.

24 (e) Any placement with a relative, or other person approved by the
25 court pursuant to this section, shall be contingent upon cooperation
26 with the agency case plan and compliance with court orders related to
27 the care and supervision of the child including, but not limited to,
28 court orders regarding parent-child contacts, sibling contacts, and any
29 other conditions imposed by the court. Noncompliance with the case
30 plan or court order is grounds for removal of the child from the home
31 of the relative or other person, subject to review by the court.

32 (f) Uncertainty by a parent, guardian, legal custodian, relative,
33 or other suitable person that the alleged abuser has in fact abused the
34 child shall not, alone, be the basis upon which a child is removed from
35 the care of a parent, guardian, or legal custodian under (a) of this
36 subsection, nor shall it be a basis, alone, to preclude placement with
37 a relative under (b) of this subsection or with another suitable person
38 under (d) of this subsection.

1 (6)(a) A shelter care order issued pursuant to this section shall
2 include the requirement for a case conference as provided in RCW
3 13.34.067. However, if the parent is not present at the shelter care
4 hearing, or does not agree to the case conference, the court shall not
5 include the requirement for the case conference in the shelter care
6 order.

7 (b) If the court orders a case conference, the shelter care order
8 shall include notice to all parties and establish the date, time, and
9 location of the case conference which shall be no later than thirty
10 days before the fact-finding hearing.

11 (c) The court may order another conference, case staffing, or
12 hearing as an alternative to the case conference required under RCW
13 13.34.067 so long as the conference, case staffing, or hearing ordered
14 by the court meets all requirements under RCW 13.34.067, including the
15 requirement of a written agreement specifying the services to be
16 provided to the parent.

17 (7)(a) A shelter care order issued pursuant to this section may be
18 amended at any time with notice and hearing thereon. The shelter care
19 decision of placement shall be modified only upon a showing of change
20 in circumstances. No child may be placed in shelter care for longer
21 than thirty days without an order, signed by the judge, authorizing
22 continued shelter care.

23 (b)(i) An order releasing the child on any conditions specified in
24 this section may at any time be amended, with notice and hearing
25 thereon, so as to return the child to shelter care for failure of the
26 parties to conform to the conditions originally imposed.

27 (ii) The court shall consider whether nonconformance with any
28 conditions resulted from circumstances beyond the control of the
29 parent, guardian, or legal custodian and give weight to that fact
30 before ordering return of the child to shelter care.

31 (8)(a) If a child is returned home from shelter care a second time
32 in the case, or if the supervisor of the caseworker deems it necessary,
33 the multidisciplinary team may be reconvened.

34 (b) If a child is returned home from shelter care a second time in
35 the case a law enforcement officer must be present and file a report to
36 the department.

1 **Sec. 5.** RCW 13.34.145 and 2008 c 152 s 3 are each amended to read
2 as follows:

3 (1) The purpose of a permanency planning hearing is to review the
4 permanency plan for the child, inquire into the welfare of the child
5 and progress of the case, and reach decisions regarding the permanent
6 placement of the child.

7 (a) A permanency planning hearing shall be held in all cases where
8 the child has remained in out-of-home care for at least nine months and
9 an adoption decree, guardianship order, or permanent custody order has
10 not previously been entered. The hearing shall take place no later
11 than twelve months following commencement of the current placement
12 episode.

13 (b) Whenever a child is removed from the home of a dependency
14 guardian or long-term relative or foster care provider, and the child
15 is not returned to the home of the parent, guardian, or legal custodian
16 but is placed in out-of-home care, a permanency planning hearing shall
17 take place no later than twelve months, as provided in this section,
18 following the date of removal unless, prior to the hearing, the child
19 returns to the home of the dependency guardian or long-term care
20 provider, the child is placed in the home of the parent, guardian, or
21 legal custodian, an adoption decree, guardianship order, or a permanent
22 custody order is entered, or the dependency is dismissed. Every effort
23 shall be made to provide stability in long-term placement, and to avoid
24 disruption of placement, unless the child is being returned home or it
25 is in the best interest of the child.

26 (c) Permanency planning goals should be achieved at the earliest
27 possible date, preferably before the child has been in out-of-home care
28 for fifteen months. In cases where parental rights have been
29 terminated, the child is legally free for adoption, and adoption has
30 been identified as the primary permanency planning goal, it shall be a
31 goal to complete the adoption within six months following entry of the
32 termination order.

33 (2) No later than ten working days prior to the permanency planning
34 hearing, the agency having custody of the child shall submit a written
35 permanency plan to the court and shall mail a copy of the plan to all
36 parties and their legal counsel, if any.

37 (3) At the permanency planning hearing, the court shall conduct the
38 following inquiry:

1 (a) If a goal of long-term foster or relative care has been
2 achieved prior to the permanency planning hearing, the court shall
3 review the child's status to determine whether the placement and the
4 plan for the child's care remain appropriate.

5 (b) In cases where the primary permanency planning goal has not
6 been achieved, the court shall inquire regarding the reasons why the
7 primary goal has not been achieved and determine what needs to be done
8 to make it possible to achieve the primary goal. The court shall
9 review the permanency plan prepared by the agency and make explicit
10 findings regarding each of the following:

11 (i) The continuing necessity for, and the safety and
12 appropriateness of, the placement;

13 (ii) The extent of compliance with the permanency plan by the
14 agency and any other service providers, the child's parents, the child,
15 and the child's guardian, if any;

16 (iii) The extent of any efforts to involve appropriate service
17 providers in addition to agency staff in planning to meet the special
18 needs of the child and the child's parents;

19 (iv) The progress toward eliminating the causes for the child's
20 placement outside of his or her home and toward returning the child
21 safely to his or her home or obtaining a permanent placement for the
22 child;

23 (v) The date by which it is likely that the child will be returned
24 to his or her home or placed for adoption, with a guardian or in some
25 other alternative permanent placement; and

26 (vi) If the child has been placed outside of his or her home for
27 fifteen of the most recent twenty-two months, not including any period
28 during which the child was a runaway from the out-of-home placement or
29 the first six months of any period during which the child was returned
30 to his or her home for a trial home visit, the appropriateness of the
31 permanency plan, whether reasonable efforts were made by the agency to
32 achieve the goal of the permanency plan, and the circumstances which
33 prevent the child from any of the following:

34 (A) Being returned safely to his or her home;

35 (B) Having a petition for the involuntary termination of parental
36 rights filed on behalf of the child;

37 (C) Being placed for adoption;

38 (D) Being placed with a guardian;

1 (E) Being placed in the home of a fit and willing relative of the
2 child; or

3 (F) Being placed in some other alternative permanent placement,
4 including independent living or long-term foster care.

5 At this hearing, the court shall order the department to file a
6 petition seeking termination of parental rights if the child has been
7 in out-of-home care for fifteen of the last twenty-two months since the
8 date the dependency petition was filed unless the court makes a good
9 cause exception as to why the filing of a termination of parental
10 rights petition is not appropriate. Any good cause finding shall be
11 reviewed at all subsequent hearings pertaining to the child. For
12 purposes of this section, "good cause exception" includes but is not
13 limited to the following: The child is being cared for by a relative;
14 the department has not provided to the child's family such services as
15 the court and the department have deemed necessary for the child's safe
16 return home; or the department has documented in the case plan a
17 compelling reason for determining that filing a petition to terminate
18 parental rights would not be in the child's best interests.

19 (c)(i) If the permanency plan identifies independent living as a
20 goal, the court shall make a finding that the provision of services to
21 assist the child in making a transition from foster care to independent
22 living will allow the child to manage his or her financial, personal,
23 social, educational, and nonfinancial affairs prior to approving
24 independent living as a permanency plan of care.

25 (ii) The permanency plan shall also specifically identify the
26 services that will be provided to assist the child to make a successful
27 transition from foster care to independent living.

28 (iii) The department shall not discharge a child to an independent
29 living situation before the child is eighteen years of age unless the
30 child becomes emancipated pursuant to chapter 13.64 RCW.

31 (d) If the child has resided in the home of a foster parent or
32 relative for more than six months prior to the permanency planning
33 hearing, the court shall also enter a finding regarding whether the
34 foster parent or relative was informed of the hearing as required in
35 RCW 74.13.280, 13.34.215(5), and 13.34.096.

36 (4) In all cases, at the permanency planning hearing, the court
37 shall enter one of the following orders for a child. The court shall
38 utilize a developmentally appropriate child-centered perspective to

1 consider the child's history and attachment status, how separation from
2 primary caregivers has affected the child, and how an additional
3 separation and change in placement may affect the child's attachment
4 system or create a risk of psychological harm with potentially lifelong
5 consequences:

6 (a)(i) Order the permanency plan prepared by the agency to be
7 implemented; or

8 (ii) Modify the permanency plan, and order implementation of the
9 modified plan; and

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

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

15 (5) Following the first permanency planning hearing, the court
16 shall hold a further permanency planning hearing in accordance with
17 this section at least once every twelve months until a permanency
18 planning goal is achieved or the dependency is dismissed, whichever
19 occurs first.

20 (6) Prior to the second permanency planning hearing, the agency
21 that has custody of the child shall consider whether to file a petition
22 for termination of parental rights.

23 (7) If the court orders the child returned home, casework
24 supervision shall continue for at least six months, at which time a
25 review hearing shall be held pursuant to RCW 13.34.138, and the court
26 shall determine the need for continued intervention.

27 (8) The juvenile court may hear a petition for permanent legal
28 custody when: (a) The court has ordered implementation of a permanency
29 plan that includes permanent legal custody; and (b) the party pursuing
30 the permanent legal custody is the party identified in the permanency
31 plan as the prospective legal custodian. During the pendency of such
32 proceeding, the court shall conduct review hearings and further
33 permanency planning hearings as provided in this chapter. At the
34 conclusion of the legal guardianship or permanent legal custody
35 proceeding, a juvenile court hearing shall be held for the purpose of
36 determining whether dependency should be dismissed. If a guardianship
37 or permanent custody order has been entered, the dependency shall be
38 dismissed.

1 (9) Continued juvenile court jurisdiction under this chapter shall
2 not be a barrier to the entry of an order establishing a legal
3 guardianship or permanent legal custody when the requirements of
4 subsection (8) of this section are met.

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

14 (11) The approval of a permanency plan that does not contemplate
15 return of the child to the parent does not relieve the supervising
16 agency of its obligation to provide reasonable services, under this
17 chapter, intended to effectuate the return of the child to the parent,
18 including but not limited to, visitation rights. The court shall
19 consider the child's relationships with siblings in accordance with RCW
20 13.34.130.

21 (12) 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 13.34.132 and 2000 c 122 s 16 are each amended to read
25 as follows:

26 A court may order that a petition seeking termination of the parent
27 and child relationship be filed if the following requirements are met:

28 (1) The court has removed the child from his or her home pursuant
29 to RCW 13.34.130;

30 (2) Termination is recommended by the supervising agency;

31 (3) Termination is in the best interests of the child; and

32 (4) Because of the existence of aggravated circumstances,
33 reasonable efforts to unify the family are not required.
34 Notwithstanding the existence of aggravated circumstances, reasonable
35 efforts may be required if the court or department determines it is in
36 the best interests of the child. In determining whether aggravated

1 circumstances exist by clear, cogent, and convincing evidence, the
2 court shall consider one or more of the following:

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

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

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

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

15 (e) Conviction of the parent of attempting, soliciting, or
16 conspiring to commit a crime listed in (a), (b), (c), or (d) of this
17 subsection;

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

20 (g) Failure of the parent to complete available treatment ordered
21 under this chapter or the equivalent laws of another state, where such
22 failure has resulted in a prior termination of parental rights to
23 another child and the parent has failed to effect significant change in
24 the interim. In the case of a parent of an Indian child, as defined in
25 the Indian Child Welfare Act, P.L. 95-608 (25 U.S.C. Sec. 1903), the
26 court shall also consider tribal efforts to assist the parent in
27 completing treatment and make it possible for the child to return home;

28 (h) An infant under three years of age has been abandoned;

29 (i) Conviction of the parent, when a child has been born of the
30 offense, of: (A) A sex offense under chapter 9A.44 RCW; or (B) incest
31 under RCW 9A.64.020; or

32 (j) Failure of the parent to have contact with the child for
33 fifteen consecutive months, but only if the parent was properly
34 notified of the consequences of this failure, was provided an
35 opportunity to have a relationship with the child after the dependency
36 petition was filed, and termination of parental rights is in the
37 child's best interest. The inability of an incarcerated parent to have

1 visitation with the child does not in and of itself constitute a
2 failure to have contact with the child.

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