
SENATE BILL 5811

State of Washington

61st Legislature

2009 Regular Session

By Senators Hargrove, Stevens, Shin, and Roach

Read first time 02/03/09. Referred to Committee on Human Services & Corrections.

1 AN ACT Relating to foster child placements; amending RCW 13.34.060;
2 reenacting and amending RCW 13.34.130; and adding a new section to
3 chapter 13.34 RCW.

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

5 **Sec. 1.** RCW 13.34.060 and 2007 c 413 s 3 are each amended to read
6 as follows:

7 (1) A child taken into custody pursuant to RCW 13.34.050 or
8 26.44.050 shall be immediately placed in shelter care. A child taken
9 by a relative of the child in violation of RCW 9A.40.060 or 9A.40.070
10 shall be placed in shelter care only when permitted under RCW
11 13.34.055. No child may be held longer than seventy-two hours,
12 excluding Saturdays, Sundays, and holidays, after such child is taken
13 into custody unless a court order has been entered for continued
14 shelter care. In no case may a child who is taken into custody
15 pursuant to RCW 13.34.055, 13.34.050, or 26.44.050 be detained in a
16 secure detention facility.

17 (2)(a) Unless there is reasonable cause to believe that the health,
18 safety, or welfare of the child would be jeopardized or that the
19 efforts to reunite the parent and child will be hindered, priority

1 placement for a child in shelter care, pending a court hearing, shall
2 be with any person described in RCW 74.15.020(2)(a) or 13.34.130(1)(b).
3 The person must be willing and available to care for the child and be
4 able to meet any special needs of the child and the court must find
5 that such placement is in the best interests of the child. The person
6 must be willing to facilitate the child's visitation with siblings, if
7 such visitation is part of the supervising agency's plan or is ordered
8 by the court.

9 (b) If a child is not initially placed with a relative or other
10 suitable person requested by the parent pursuant to this section, the
11 supervising agency shall make an effort within available resources to
12 place the child with a relative or other suitable person requested by
13 the parent on the next business day after the child is taken into
14 custody.

15 (c) The supervising agency shall document its effort to place the
16 child with a relative or other suitable person requested by the parent
17 pursuant to this section. Nothing within this subsection (2)
18 establishes an entitlement to services or a right to a particular
19 placement.

20 (d) If a parent requests the relative placement, there is a
21 presumption that the placement does not hinder reunification of the
22 child with the parent. If the parent objects to the relative
23 placement, there is a presumption that the placement does hinder
24 reunification of the child with the parent. The department has the
25 burden to overcome these presumptions by a preponderance of the
26 evidence.

27 (3) When the parent requests that the child be placed with a
28 relative, that placement may not be contingent upon the completion of
29 a home study.

30 (4) Whenever a child is taken into custody pursuant to this
31 section, the supervising agency may authorize evaluations of the
32 child's physical or emotional condition, routine medical and dental
33 examination and care, and all necessary emergency care.

34 **Sec. 2.** RCW 13.34.130 and 2007 c 413 s 6 and 2007 c 412 s 2 are
35 each reenacted and amended to read as follows:

36 If, after a fact-finding hearing pursuant to RCW 13.34.110, it has
37 been proven by a preponderance of the evidence that the child is

1 dependent within the meaning of RCW 13.34.030 after consideration of
2 the social study prepared pursuant to RCW 13.34.110 and after a
3 disposition hearing has been held pursuant to RCW 13.34.110, the court
4 shall enter an order of disposition pursuant to this section.

5 (1) The court shall order one of the following dispositions of the
6 case:

7 (a) Order a disposition other than removal of the child from his or
8 her home, which shall provide a program designed to alleviate the
9 immediate danger to the child, to mitigate or cure any damage the child
10 has already suffered, and to aid the parents so that the child will not
11 be endangered in the future. In determining the disposition, the court
12 should choose those services, including housing assistance, that least
13 interfere with family autonomy and are adequate to protect the child.

14 (b)(i) Order the child to be removed from his or her home and into
15 the custody, control, and care of a relative or the department or a
16 licensed child placing agency for supervision of the child's placement.

17 (ii) Absent good cause, the department or supervising agency shall
18 follow the wishes of the parent regarding placement of the child as
19 provided in RCW 13.34.260.

20 (iii) If the parent requests the relative placement, there is a
21 presumption that the placement does not hinder reunification of the
22 child with the parent. If the parent objects to a relative placement,
23 there is a presumption that the placement does hinder reunification of
24 the child with the parent. The department has the burden of overcoming
25 these presumptions by a preponderance of evidence.

26 (iv) If the child is not placed with a relative as requested by the
27 parent, the department or agency supervising the child's placement has
28 the authority to place the child, subject to review and approval by the
29 court ((+i+)) (A) with a relative as defined in RCW 74.15.020(2)(a),
30 ((+ii+)) (B) in a foster family home or group care facility licensed
31 pursuant to chapter 74.15 RCW, or ((+iii+)) (C) in the home of another
32 suitable person if the child or family has a preexisting relationship
33 with that person, and the person has completed all required criminal
34 history background checks and otherwise appears to the department or
35 supervising agency to be suitable and competent to provide care for the
36 child. ((Absent good cause, the department or supervising agency shall
37 follow the wishes of the natural parent regarding the placement of the
38 child in accordance with RCW 13.34.260.))

1 (v) The department or supervising agency may only place a child
2 with a person not related to the child as defined in RCW
3 74.15.020(2)(a) when the court finds that such placement is in the best
4 interest of the child. Unless there is reasonable cause to believe
5 that the health, safety, or welfare of the child would be jeopardized
6 or that efforts to reunite the parent and child will be hindered, such
7 child shall be placed with a person who is: (A) Related to the child
8 as defined in RCW 74.15.020(2)(a) with whom the child has a
9 relationship and is comfortable; and (B) willing and available to care
10 for the child.

11 (2) When a child is placed with a relative, that placement may not
12 be contingent upon the completion of a home study.

13 (3) Placement of the child with a relative under this subsection
14 shall be given preference by the court. An order for out-of-home
15 placement may be made only if the court finds that reasonable efforts
16 have been made to prevent or eliminate the need for removal of the
17 child from the child's home and to make it possible for the child to
18 return home, specifying the services that have been provided to the
19 child and the child's parent, guardian, or legal custodian, and that
20 preventive services have been offered or provided and have failed to
21 prevent the need for out-of-home placement, unless the health, safety,
22 and welfare of the child cannot be protected adequately in the home,
23 and that:

24 (a) There is no parent or guardian available to care for such
25 child;

26 (b) The parent, guardian, or legal custodian is not willing to take
27 custody of the child; or

28 (c) The court finds, by clear, cogent, and convincing evidence, a
29 manifest danger exists that the child will suffer serious abuse or
30 neglect if the child is not removed from the home and an order under
31 RCW 26.44.063 would not protect the child from danger.

32 (~~(3)~~) (4) If the court has ordered a child removed from his or
33 her home pursuant to subsection (1)(b) of this section, the court shall
34 consider whether it is in a child's best interest to be placed with,
35 have contact with, or have visits with siblings.

36 (a) There shall be a presumption that such placement, contact, or
37 visits are in the best interests of the child provided that:

1 (i) The court has jurisdiction over all siblings subject to the
2 order of placement, contact, or visitation pursuant to petitions filed
3 under this chapter or the parents of a child for whom there is no
4 jurisdiction are willing to agree; and

5 (ii) There is no reasonable cause to believe that the health,
6 safety, or welfare of any child subject to the order of placement,
7 contact, or visitation would be jeopardized or that efforts to reunite
8 the parent and child would be hindered by such placement, contact, or
9 visitation. In no event shall parental visitation time be reduced in
10 order to provide sibling visitation.

11 (b) The court may also order placement, contact, or visitation of
12 a child with a step-brother or step-sister provided that in addition to
13 the factors in (a) of this subsection, the child has a relationship and
14 is comfortable with the step-sibling.

15 ~~((4))~~ (5) If the court has ordered a child removed from his or
16 her home pursuant to subsection (1)(b) of this section and placed into
17 nonparental or nonrelative care, the court shall order a placement that
18 allows the child to remain in the same school he or she attended prior
19 to the initiation of the dependency proceeding when such a placement is
20 practical and in the child's best interest.

21 ~~((5))~~ (6) If the court has ordered a child removed from his or
22 her home pursuant to subsection (1)(b) of this section, the court may
23 order that a petition seeking termination of the parent and child
24 relationship be filed if the requirements of RCW 13.34.132 are met.

25 ~~((6))~~ (7) If there is insufficient information at the time of the
26 disposition hearing upon which to base a determination regarding the
27 suitability of a proposed placement with a relative, the child shall
28 remain in foster care and the court shall direct the supervising agency
29 to conduct necessary background investigations as provided in chapter
30 74.15 RCW and report the results of such investigation to the court
31 within thirty days. However, if such relative appears otherwise
32 suitable and competent to provide care and treatment, and the parent
33 agrees with the relative placement, the criminal history background
34 check need not be completed before placement, but as soon as possible
35 after placement. Any placements with relatives, pursuant to this
36 section, shall be contingent upon cooperation by the relative with the
37 agency case plan and compliance with court orders related to the care
38 and supervision of the child including, but not limited to, court

1 orders regarding parent-child contacts, sibling contacts, and any other
2 conditions imposed by the court. Noncompliance with the case plan or
3 court order shall be grounds for removal of the child from the
4 relative's home, subject to review by the court.

5 NEW SECTION. **Sec. 3.** A new section is added to chapter 13.34 RCW
6 to read as follows:

7 When the placement of a child with a relative or foster parent is
8 currently threatened, the relative or foster parent, with written
9 approval of the parent, has the right to be heard regarding the
10 threatened placement. This right includes the right to be represented
11 by counsel at his or her own expense, the right to cross-examine
12 witnesses on the issue of placement, and the right to receive, two days
13 prior to the hearing on the matter, all documentation filed with the
14 court regarding the relative or foster parent, as well as copies of all
15 information contained in the department's file regarding the child that
16 pertains to the foster parent or relative, subject to the exceptions
17 stated in RCW 13.50.100(7). For purposes of this section, "threatened"
18 means the department or the supervising agency has indicated that it
19 plans to remove the child, or already has removed the child on an
20 alleged emergency basis, from the placement with the relative or foster
21 parent. The rights granted in this section do not confer party status
22 on the relative or foster parent.

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