

CERTIFICATION OF ENROLLMENT
ENGROSSED SUBSTITUTE SENATE BILL 5811

61st Legislature
2009 Regular Session

Passed by the Senate April 25, 2009
YEAS 49 NAYS 0

President of the Senate

Passed by the House April 23, 2009
YEAS 95 NAYS 0

Speaker of the House of Representatives

Approved

Governor of the State of Washington

CERTIFICATE

I, Thomas Hoemann, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE SENATE BILL 5811** as passed by the Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

**Secretary of State
State of Washington**

ENGROSSED SUBSTITUTE SENATE BILL 5811

AS AMENDED BY THE HOUSE

Passed Legislature - 2009 Regular Session

State of Washington 61st Legislature 2009 Regular Session

By Senate Human Services & Corrections (originally sponsored by
Senators Hargrove, Stevens, Shin, and Roach)

READ FIRST TIME 02/25/09.

1 AN ACT Relating to foster child placements; amending RCW 13.34.065,
2 13.34.145, 13.34.260, 74.13.031, 74.13.109, 74.13.250, and 74.13.333;
3 reenacting and amending RCW 13.34.130 and 13.34.138; adding a new
4 section to chapter 13.34 RCW; and adding a new section to chapter 74.13
5 RCW.

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

7 **Sec. 1.** RCW 13.34.065 and 2008 c 267 s 2 are each amended to read
8 as follows:

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

14 (b) Any parent, guardian, or legal custodian who for good cause is
15 unable to attend the shelter care hearing may request that a subsequent
16 shelter care hearing be scheduled. The request shall be made to the
17 clerk of the court where the petition is filed prior to the initial
18 shelter care hearing. Upon the request of the parent, the court shall

1 schedule the hearing within seventy-two hours of the request, excluding
2 Saturdays, Sundays, and holidays. The clerk shall notify all other
3 parties of the hearing by any reasonable means.

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

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

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

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

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

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

20 (iii) If the parent, guardian, or custodian is not represented by
21 counsel, the right to be represented. If the parent, guardian, or
22 custodian is indigent, the court shall appoint counsel as provided in
23 RCW 13.34.090; and

24 (b) If a parent, guardian, or legal custodian desires to waive the
25 shelter care hearing, the court shall determine, on the record and with
26 the parties present, whether such waiver is knowing and voluntary. A
27 parent may not waive his or her right to the shelter care hearing
28 unless he or she appears in court and the court determines that the
29 waiver is knowing and voluntary. Regardless of whether the court
30 accepts the parental waiver of the shelter care hearing, the court must
31 provide notice to the parents of their rights required under (a) of
32 this subsection and make the finding required under subsection (4) of
33 this section.

34 (4) At the shelter care hearing the court shall examine the need
35 for shelter care and inquire into the status of the case. The
36 paramount consideration for the court shall be the health, welfare, and
37 safety of the child. At a minimum, the court shall inquire into the
38 following:

1 (a) Whether the notice required under RCW 13.34.062 was given to
2 all known parents, guardians, or legal custodians of the child. The
3 court shall make an express finding as to whether the notice required
4 under RCW 13.34.062 was given to the parent, guardian, or legal
5 custodian. If actual notice was not given to the parent, guardian, or
6 legal custodian and the whereabouts of such person is known or can be
7 ascertained, the court shall order the supervising agency or the
8 department of social and health services to make reasonable efforts to
9 advise the parent, guardian, or legal custodian of the status of the
10 case, including the date and time of any subsequent hearings, and their
11 rights under RCW 13.34.090;

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

14 (c) What efforts have been made to place the child with a relative.
15 The court shall ask the parents whether the department discussed with
16 them the placement of the child with a relative or other suitable
17 person described in RCW 13.34.130(1)(b) and shall determine what
18 efforts have been made toward such a placement;

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

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

23 (f) Whether it is in the best interest of the child to remain
24 enrolled in the school, developmental program, or child care the child
25 was in prior to placement and what efforts have been made to maintain
26 the child in the school, program, or child care if it would be in the
27 best interest of the child to remain in the same school, program, or
28 child care;

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

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

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

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

5 (k) The terms and conditions for parental, sibling, and family
6 visitation.

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

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

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

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

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

22 (b) If the court does not release the child to his or her parent,
23 guardian, or legal custodian, the court shall order placement with a
24 relative or other suitable person as described in RCW 13.34.130(1)(b),
25 unless there is reasonable cause to believe the health, safety, or
26 welfare of the child would be jeopardized or that the efforts to
27 reunite the parent and child will be hindered. The court must also
28 determine whether placement with the relative or other suitable person
29 is in the child's best interests. The relative or other suitable
30 person must be willing and available to:

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

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

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

1 (c) If the child was not initially placed with a relative or other
2 suitable person, and the court does not release the child to his or her
3 parent, guardian, or legal custodian, the supervising agency shall make
4 reasonable efforts to locate a relative or other suitable person
5 pursuant to RCW 13.34.060(1).

6 (d) If a relative or other suitable person is not available, the
7 court shall order continued shelter care (~~or order placement with~~
8 ~~another suitable person, and the court~~) and shall set forth its
9 reasons for the order. If the court orders placement of the child with
10 a person not related to the child and not licensed to provide foster
11 care, the placement is subject to all terms and conditions of this
12 section that apply to relative placements.

13 (e) Any placement with a relative, or other suitable person
14 approved by the court pursuant to this section, shall be contingent
15 upon cooperation with the agency case plan and compliance with court
16 orders related to the care and supervision of the child including, but
17 not limited to, court orders regarding parent-child contacts, sibling
18 contacts, and any other conditions imposed by the court. Noncompliance
19 with the case plan or court order is grounds for removal of the child
20 from the home of the relative or other suitable person, subject to
21 review by the court.

22 (f) Uncertainty by a parent, guardian, legal custodian, relative,
23 or other suitable person that the alleged abuser has in fact abused the
24 child shall not, alone, be the basis upon which a child is removed from
25 the care of a parent, guardian, or legal custodian under (a) of this
26 subsection, nor shall it be a basis, alone, to preclude placement with
27 a relative or other suitable person under (b) of this subsection (~~or~~
28 ~~with another suitable person under (d) of this subsection~~)).

29 (6)(a) A shelter care order issued pursuant to this section shall
30 include the requirement for a case conference as provided in RCW
31 13.34.067. However, if the parent is not present at the shelter care
32 hearing, or does not agree to the case conference, the court shall not
33 include the requirement for the case conference in the shelter care
34 order.

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

1 (c) The court may order another conference, case staffing, or
2 hearing as an alternative to the case conference required under RCW
3 13.34.067 so long as the conference, case staffing, or hearing ordered
4 by the court meets all requirements under RCW 13.34.067, including the
5 requirement of a written agreement specifying the services to be
6 provided to the parent.

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

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

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

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

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

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

29 If, after a fact-finding hearing pursuant to RCW 13.34.110, it has
30 been proven by a preponderance of the evidence that the child is
31 dependent within the meaning of RCW 13.34.030 after consideration of
32 the social study prepared pursuant to RCW 13.34.110 and after a
33 disposition hearing has been held pursuant to RCW 13.34.110, the court
34 shall enter an order of disposition pursuant to this section.

35 (1) The court shall order one of the following dispositions of the
36 case:

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

8 (b) Order the child to be removed from his or her home and into the
9 custody, control, and care of a relative or other suitable person or
10 the department or a licensed child placing agency for supervision of
11 the child's placement. The department or agency supervising the
12 child's placement has the authority to place the child, subject to
13 review and approval by the court (i) with a relative as defined in RCW
14 74.15.020(2)(a), (ii) ~~((in a foster family home or group care facility
15 licensed pursuant to chapter 74.15 RCW, or (iii)))~~ in the home of
16 another suitable person if the child or family has a preexisting
17 relationship with that person, and the person has completed all
18 required criminal history background checks and otherwise appears to
19 the department or supervising agency to be suitable and competent to
20 provide care for the child, or (iii) in a foster family home or group
21 care facility licensed pursuant to chapter 74.15 RCW. Absent good
22 cause, the department or supervising agency shall follow the wishes of
23 the natural parent regarding the placement of the child in accordance
24 with RCW 13.34.260. The department or supervising agency may only
25 place a child with a person not related to the child as defined in RCW
26 74.15.020(2)(a) when the court finds that such placement is in the best
27 interest of the child. Unless there is reasonable cause to believe
28 that the health, safety, or welfare of the child would be jeopardized
29 or that efforts to reunite the parent and child will be hindered,
30 ~~((such))~~ the child shall be placed with a person who is: (A) Related
31 to the child as defined in RCW 74.15.020(2)(a) with whom the child has
32 a relationship and is comfortable; or (B) a suitable person as
33 described in this subsection (1)(b); and ~~((+B))~~ (C) willing,
34 appropriate, and available to care for the child. The court shall
35 consider the child's existing relationships and attachments when
36 determining placement.

37 (2) Placement of the child with a relative ~~((under this
38 subsection))~~ or other suitable person as described in subsection (1)(b)

1 of this section shall be given preference by the court. An order for
2 out-of-home placement may be made only if the court finds that
3 reasonable efforts have been made to prevent or eliminate the need for
4 removal of the child from the child's home and to make it possible for
5 the child to return home, specifying the services that have been
6 provided to the child and the child's parent, guardian, or legal
7 custodian, and that preventive services have been offered or provided
8 and have failed to prevent the need for out-of-home placement, unless
9 the health, safety, and welfare of the child cannot be protected
10 adequately in the home, and that:

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

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

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

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

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

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

29 (ii) There is no reasonable cause to believe that the health,
30 safety, or welfare of any child subject to the order of placement,
31 contact, or visitation would be jeopardized or that efforts to reunite
32 the parent and child would be hindered by such placement, contact, or
33 visitation. In no event shall parental visitation time be reduced in
34 order to provide sibling visitation.

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

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

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

11 (6) If there is insufficient information at the time of the
12 disposition hearing upon which to base a determination regarding the
13 suitability of a proposed placement with a relative or other suitable
14 person, the child shall remain in foster care and the court shall
15 direct the supervising agency to conduct necessary background
16 investigations as provided in chapter 74.15 RCW and report the results
17 of such investigation to the court within thirty days. However, if
18 such relative or other person appears otherwise suitable and competent
19 to provide care and treatment, the criminal history background check
20 need not be completed before placement, but as soon as possible after
21 placement. Any placements with relatives or other suitable persons,
22 pursuant to this section, shall be contingent upon cooperation by the
23 relative or other suitable person with the agency case plan and
24 compliance with court orders related to the care and supervision of the
25 child including, but not limited to, court orders regarding parent-
26 child contacts, sibling contacts, and any other conditions imposed by
27 the court. Noncompliance with the case plan or court order shall be
28 grounds for removal of the child from the relative's or other suitable
29 person's home, subject to review by the court.

30 **Sec. 3.** RCW 13.34.138 and 2007 c 413 s 8 and 2007 c 410 s 1 are
31 each reenacted and amended to read as follows:

32 (1) (~~Except for children whose cases are reviewed by a citizen~~
33 ~~review board under chapter 13.70 RCW,~~) The status of all children
34 found to be dependent shall be reviewed by the court at least every six
35 months from the beginning date of the placement episode or the date
36 dependency is established, whichever is first. The purpose of the

1 hearing shall be to review the progress of the parties and determine
2 whether court supervision should continue.

3 (a) The initial review hearing shall be an in-court review and
4 shall be set six months from the beginning date of the placement
5 episode or no more than ninety days from the entry of the disposition
6 order, whichever comes first. The requirements for the initial review
7 hearing, including the in-court review requirement, shall be
8 accomplished within existing resources.

9 (b) The initial review hearing may be a permanency planning hearing
10 when necessary to meet the time frames set forth in RCW 13.34.145
11 (1)(a) or 13.34.134.

12 (2)(a) A child shall not be returned home at the review hearing
13 unless the court finds that a reason for removal as set forth in RCW
14 13.34.130 no longer exists. The parents, guardian, or legal custodian
15 shall report to the court the efforts they have made to correct the
16 conditions which led to removal. If a child is returned, casework
17 supervision shall continue for a period of six months, at which time
18 there shall be a hearing on the need for continued intervention.

19 (b) Prior to the child returning home, the department must complete
20 the following:

21 (i) Identify all adults residing in the home and conduct background
22 checks on those persons;

23 (ii) Identify any persons who may act as a caregiver for the child
24 in addition to the parent with whom the child is being placed and
25 determine whether such persons are in need of any services in order to
26 ensure the safety of the child, regardless of whether such persons are
27 a party to the dependency. The department or supervising agency may
28 recommend to the court and the court may order that placement of the
29 child in the parent's home be contingent on or delayed based on the
30 need for such persons to engage in or complete services to ensure the
31 safety of the child prior to placement. If services are recommended
32 for the caregiver, and the caregiver fails to engage in or follow
33 through with the recommended services, the department or supervising
34 agency must promptly notify the court; and

35 (iii) Notify the parent with whom the child is being placed that he
36 or she has an ongoing duty to notify the department or supervising
37 agency of all persons who reside in the home or who may act as a
38 caregiver for the child both prior to the placement of the child in the

1 home and subsequent to the placement of the child in the home as long
2 as the court retains jurisdiction of the dependency proceeding or the
3 department is providing or monitoring either remedial services to the
4 parent or services to ensure the safety of the child to any caregivers.

5 Caregivers may be required to engage in services under this
6 subsection solely for the purpose of ensuring the present and future
7 safety of a child who is a ward of the court. This subsection does not
8 grant party status to any individual not already a party to the
9 dependency proceeding, create an entitlement to services or a duty on
10 the part of the department or supervising agency to provide services,
11 or create judicial authority to order the provision of services to any
12 person other than for the express purposes of this section or RCW
13 13.34.025 or if the services are unavailable or unsuitable or the
14 person is not eligible for such services.

15 (c) If the child is not returned home, the court shall establish in
16 writing:

17 (i) Whether the agency is making reasonable efforts to provide
18 services to the family and eliminate the need for placement of the
19 child. If additional services, including housing assistance, are
20 needed to facilitate the return of the child to the child's parents,
21 the court shall order that reasonable services be offered specifying
22 such services;

23 (ii) Whether there has been compliance with the case plan by the
24 child, the child's parents, and the agency supervising the placement;

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

27 (iv) Whether the services set forth in the case plan and the
28 responsibilities of the parties need to be clarified or modified due to
29 the availability of additional information or changed circumstances;

30 (v) Whether there is a continuing need for placement;

31 (vi) Whether the child is in an appropriate placement which
32 adequately meets all physical, emotional, and educational needs;

33 (vii) Whether preference has been given to placement with the
34 child's relatives if such placement is in the child's best interests;

35 (viii) Whether both in-state and, where appropriate, out-of-state
36 placements have been considered;

37 (ix) Whether the parents have visited the child and any reasons why
38 visitation has not occurred or has been infrequent;

1 (x) Whether terms of visitation need to be modified;

2 (xi) Whether the court-approved long-term permanent plan for the
3 child remains the best plan for the child;

4 (xii) Whether any additional court orders need to be made to move
5 the case toward permanency; and

6 (xiii) The projected date by which the child will be returned home
7 or other permanent plan of care will be implemented.

8 (d) The court at the review hearing may order that a petition
9 seeking termination of the parent and child relationship be filed.

10 (3)(a) In any case in which the court orders that a dependent child
11 may be returned to or remain in the child's home, the in-home placement
12 shall be contingent upon the following:

13 (i) The compliance of the parents with court orders related to the
14 care and supervision of the child, including compliance with an agency
15 case plan; and

16 (ii) The continued participation of the parents, if applicable, in
17 available substance abuse or mental health treatment if substance abuse
18 or mental illness was a contributing factor to the removal of the
19 child.

20 (b) The following may be grounds for removal of the child from the
21 home, subject to review by the court:

22 (i) Noncompliance by the parents with the agency case plan or court
23 order;

24 (ii) The parent's inability, unwillingness, or failure to
25 participate in available services or treatment for themselves or the
26 child, including substance abuse treatment if a parent's substance
27 abuse was a contributing factor to the abuse or neglect; or

28 (iii) The failure of the parents to successfully and substantially
29 complete available services or treatment for themselves or the child,
30 including substance abuse treatment if a parent's substance abuse was
31 a contributing factor to the abuse or neglect.

32 (c) In a pending dependency case in which the court orders that a
33 dependent child may be returned home and that child is later removed
34 from the home, the court shall hold a review hearing within thirty days
35 from the date of removal to determine whether the permanency plan
36 should be changed, a termination petition should be filed, or other
37 action is warranted. The best interests of the child shall be the
38 court's primary consideration in the review hearing.

1 (4) The court's ability to order housing assistance under RCW
2 13.34.130 and this section is: (a) Limited to cases in which
3 homelessness or the lack of adequate and safe housing is the primary
4 reason for an out-of-home placement; and (b) subject to the
5 availability of funds appropriated for this specific purpose.

6 (5) The court shall consider the child's relationship with siblings
7 in accordance with RCW 13.34.130(3).

8 **Sec. 4.** RCW 13.34.145 and 2008 c 152 s 3 are each amended to read
9 as follows:

10 (1) The purpose of a permanency planning hearing is to review the
11 permanency plan for the child, inquire into the welfare of the child
12 and progress of the case, and reach decisions regarding the permanent
13 placement of the child.

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

20 (b) Whenever a child is removed from the home of a dependency
21 guardian or long-term relative or foster care provider, and the child
22 is not returned to the home of the parent, guardian, or legal custodian
23 but is placed in out-of-home care, a permanency planning hearing shall
24 take place no later than twelve months, as provided in this section,
25 following the date of removal unless, prior to the hearing, the child
26 returns to the home of the dependency guardian or long-term care
27 provider, the child is placed in the home of the parent, guardian, or
28 legal custodian, an adoption decree, guardianship order, or a permanent
29 custody order is entered, or the dependency is dismissed.

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

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

5 (3) At the permanency planning hearing, the court shall conduct the
6 following inquiry:

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

11 (b) In cases where the primary permanency planning goal has not
12 been achieved, the court shall inquire regarding the reasons why the
13 primary goal has not been achieved and determine what needs to be done
14 to make it possible to achieve the primary goal. The court shall
15 review the permanency plan prepared by the agency and make explicit
16 findings regarding each of the following:

17 (i) The continuing necessity for, and the safety and
18 appropriateness of, the placement;

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

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

25 (iv) The progress toward eliminating the causes for the child's
26 placement outside of his or her home and toward returning the child
27 safely to his or her home or obtaining a permanent placement for the
28 child;

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

32 (vi) If the child has been placed outside of his or her home for
33 fifteen of the most recent twenty-two months, not including any period
34 during which the child was a runaway from the out-of-home placement or
35 the first six months of any period during which the child was returned
36 to his or her home for a trial home visit, the appropriateness of the
37 permanency plan, whether reasonable efforts were made by the agency to

1 achieve the goal of the permanency plan, and the circumstances which
2 prevent the child from any of the following:

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

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

6 (C) Being placed for adoption;

7 (D) Being placed with a guardian;

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

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

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

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

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

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

1 (d) If the child has resided in the home of a foster parent or
2 relative for more than six months prior to the permanency planning
3 hearing, the court shall ((also)):

4 (i) Enter a finding regarding whether the foster parent or relative
5 was informed of the hearing as required in RCW 74.13.280, 13.34.215(5),
6 and 13.34.096; and

7 (ii) If the department or supervising agency is recommending a
8 placement other than the child's current placement with a foster
9 parent, relative, or other suitable person, enter a finding as to the
10 reasons for the recommendation for a change in placement.

11 (4) In all cases, at the permanency planning hearing, the court
12 shall:

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

15 (ii) Modify the permanency plan, and order implementation of the
16 modified plan; and

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

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

22 (5) Following the first permanency planning hearing, the court
23 shall hold a further permanency planning hearing in accordance with
24 this section at least once every twelve months until a permanency
25 planning goal is achieved or the dependency is dismissed, whichever
26 occurs first.

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

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

34 (8) The juvenile court may hear a petition for permanent legal
35 custody when: (a) The court has ordered implementation of a permanency
36 plan that includes permanent legal custody; and (b) the party pursuing
37 the permanent legal custody is the party identified in the permanency
38 plan as the prospective legal custodian. During the pendency of such

1 proceeding, the court shall conduct review hearings and further
2 permanency planning hearings as provided in this chapter. At the
3 conclusion of the legal guardianship or permanent legal custody
4 proceeding, a juvenile court hearing shall be held for the purpose of
5 determining whether dependency should be dismissed. If a guardianship
6 or permanent custody order has been entered, the dependency shall be
7 dismissed.

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

12 (10) 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 (11) The approval of a permanency plan that does not contemplate
22 return of the child to the parent does not relieve the supervising
23 agency of its obligation to provide reasonable services, under this
24 chapter, intended to effectuate the return of the child to the parent,
25 including but not limited to, visitation rights. The court shall
26 consider the child's relationships with siblings in accordance with RCW
27 13.34.130.

28 (12) Nothing in this chapter may be construed to limit the
29 procedural due process rights of any party in a termination or
30 guardianship proceeding filed under this chapter.

31 **Sec. 5.** RCW 13.34.260 and 2003 c 226 s 2 are each amended to read
32 as follows:

33 (1) In an attempt to minimize the inherent intrusion in the lives
34 of families involved in the foster care system and to maintain parental
35 authority where appropriate, the department, absent good cause, shall
36 follow the wishes of the natural parent regarding the placement of the
37 child with a relative or other suitable person pursuant to RCW

1 13.34.130. Preferences such as family constellation, sibling
2 relationships, ethnicity, and religion shall be considered when
3 matching children to foster homes. Parental authority is appropriate
4 in areas that are not connected with the abuse or neglect that resulted
5 in the dependency and shall be integrated through the foster care team.

6 (2) When a child is placed in out-of-home care, relatives, other
7 suitable persons, and foster parents are encouraged to:

8 (a) Provide consultation to the foster care team based upon their
9 experience with the child placed in their care;

10 (b) Assist the birth parents by helping them understand their
11 child's needs and correlating appropriate parenting responses;

12 (c) Participate in educational activities, and enter into
13 community-building activities with birth families and other foster
14 families;

15 (d) Transport children to family time visits with birth families
16 and assist children and their families in maximizing the purposefulness
17 of family time.

18 (3) For purposes of this section, "foster care team" means the
19 relative, other suitable person, or foster parent currently providing
20 care, the currently assigned social worker, and the parent or parents;
21 and "birth family" means the persons described in RCW 74.15.020(2)(a).

22 NEW SECTION. Sec. 6. A new section is added to chapter 13.34 RCW
23 to read as follows:

24 (1) The administrative office of the courts shall develop standard
25 court forms and format rules for mandatory use by parties in dependency
26 matters commenced under this chapter or chapter 26.44 RCW. Forms shall
27 be developed not later than November 1, 2009, and the mandatory use
28 requirement shall be effective January 1, 2010. The administrative
29 office of the courts has continuing responsibility to develop and
30 revise mandatory forms and format rules as appropriate.

31 (2) According to rules established by the administrative office of
32 the courts, a party may delete unnecessary portions of the forms and
33 may supplement the mandatory forms with additional material.

34 (3) Failure by a party to use the mandatory forms or follow the
35 format rules shall not be a reason to dismiss a case, refuse a filing,
36 or strike a pleading. The court may, however, require the party to

1 submit a corrected pleading and may impose terms payable to the
2 opposing party or payable to the court, or both.

3 (4) The administrative office of the courts shall distribute a
4 master copy of the mandatory forms to all county court clerks. Upon
5 request, the administrative office of the courts and county clerks must
6 distribute the forms to the public and may charge for the cost of
7 production and distribution of the forms. Private vendors also may
8 distribute the forms. Distribution of forms may be in printed or
9 electronic form.

10 **Sec. 7.** RCW 74.13.031 and 2008 c 267 s 6 are each amended to read
11 as follows:

12 The department shall have the duty to provide child welfare
13 services and shall:

14 (1) Develop, administer, supervise, and monitor a coordinated and
15 comprehensive plan that establishes, aids, and strengthens services for
16 the protection and care of runaway, dependent, or neglected children.

17 (2) Within available resources, recruit an adequate number of
18 prospective adoptive and foster homes, both regular and specialized,
19 i.e. homes for children of ethnic minority, including Indian homes for
20 Indian children, sibling groups, handicapped and emotionally disturbed,
21 teens, pregnant and parenting teens, and annually report to the
22 governor and the legislature concerning the department's success in:
23 (a) Meeting the need for adoptive and foster home placements; (b)
24 reducing the foster parent turnover rate; (c) completing home studies
25 for legally free children; and (d) implementing and operating the
26 passport program required by RCW 74.13.285. The report shall include
27 a section entitled "Foster Home Turn-Over, Causes and Recommendations."

28 (3) Investigate complaints of any recent act or failure to act on
29 the part of a parent or caretaker that results in death, serious
30 physical or emotional harm, or sexual abuse or exploitation, or that
31 presents an imminent risk of serious harm, and on the basis of the
32 findings of such investigation, offer child welfare services in
33 relation to the problem to such parents, legal custodians, or persons
34 serving in loco parentis, and/or bring the situation to the attention
35 of an appropriate court, or another community agency. An investigation
36 is not required of nonaccidental injuries which are clearly not the
37 result of a lack of care or supervision by the child's parents, legal

1 custodians, or persons serving in loco parentis. If the investigation
2 reveals that a crime against a child may have been committed, the
3 department shall notify the appropriate law enforcement agency.

4 (4) Offer, on a voluntary basis, family reconciliation services to
5 families who are in conflict.

6 (5) Monitor placements of children in out-of-home care and in-home
7 dependencies to assure the safety, well-being, and quality of care
8 being provided is within the scope of the intent of the legislature as
9 defined in RCW 74.13.010 and 74.15.010. The policy for monitoring
10 placements under this section shall require that children in out-of-
11 home care and in-home dependencies and their caregivers receive a
12 private and individual face-to-face visit each month.

13 (a) The department shall conduct the monthly visits with children
14 and caregivers required under this section unless the child's placement
15 is being supervised under a contract between the department and a
16 private agency accredited by a national child welfare accrediting
17 entity, in which case the private agency shall, within existing
18 resources, conduct the monthly visits with the child and with the
19 child's caregiver according to the standards described in this
20 subsection and shall provide the department with a written report of
21 the visits within fifteen days of completing the visits.

22 (b) In cases where the monthly visits required under this
23 subsection are being conducted by a private agency, the department
24 shall conduct a face-to-face health and safety visit with the child at
25 least once every ninety days.

26 (6) Have authority to accept custody of children from parents and
27 to accept custody of children from juvenile courts, where authorized to
28 do so under law, to provide child welfare services including placement
29 for adoption, to provide for the routine and necessary medical, dental,
30 and mental health care, or necessary emergency care of the children,
31 and to provide for the physical care of such children and make payment
32 of maintenance costs if needed. Except where required by Public Law
33 95-608 (25 U.S.C. Sec. 1915), no private adoption agency which receives
34 children for adoption from the department shall discriminate on the
35 basis of race, creed, or color when considering applications in their
36 placement for adoption.

37 (7) Have authority to provide temporary shelter to children who

1 have run away from home and who are admitted to crisis residential
2 centers.

3 (8) Have authority to purchase care for children; and shall follow
4 in general the policy of using properly approved private agency
5 services for the actual care and supervision of such children insofar
6 as they are available, paying for care of such children as are accepted
7 by the department as eligible for support at reasonable rates
8 established by the department.

9 (9) Establish a children's services advisory committee which shall
10 assist the secretary in the development of a partnership plan for
11 utilizing resources of the public and private sectors, and advise on
12 all matters pertaining to child welfare, licensing of child care
13 agencies, adoption, and services related thereto. At least one member
14 shall represent the adoption community.

15 (10)(a) Have authority to provide continued foster care or group
16 care as needed to participate in or complete a high school or
17 vocational school program.

18 (b)(i) Beginning in 2006, the department has the authority to allow
19 up to fifty youth reaching age eighteen to continue in foster care or
20 group care as needed to participate in or complete a posthigh school
21 academic or vocational program, and to receive necessary support and
22 transition services.

23 (ii) In 2007 and 2008, the department has the authority to allow up
24 to fifty additional youth per year reaching age eighteen to remain in
25 foster care or group care as provided in (b)(i) of this subsection.

26 (iii) A youth who remains eligible for such placement and services
27 pursuant to department rules may continue in foster care or group care
28 until the youth reaches his or her twenty-first birthday. Eligibility
29 requirements shall include active enrollment in a posthigh school
30 academic or vocational program and maintenance of a 2.0 grade point
31 average.

32 (11) Refer cases to the division of child support whenever state or
33 federal funds are expended for the care and maintenance of a child,
34 including a child with a developmental disability who is placed as a
35 result of an action under chapter 13.34 RCW, unless the department
36 finds that there is good cause not to pursue collection of child
37 support against the parent or parents of the child. Cases involving

1 individuals age eighteen through twenty shall not be referred to the
2 division of child support unless required by federal law.

3 (12) Have authority within funds appropriated for foster care
4 services to purchase care for Indian children who are in the custody of
5 a federally recognized Indian tribe or tribally licensed child-placing
6 agency pursuant to parental consent, tribal court order, or state
7 juvenile court order; and the purchase of such care shall be subject to
8 the same eligibility standards and rates of support applicable to other
9 children for whom the department purchases care.

10 Notwithstanding any other provision of RCW 13.32A.170 through
11 13.32A.200 and 74.13.032 through 74.13.036, or of this section all
12 services to be provided by the department of social and health services
13 under subsections (4), (6), and (7) of this section, subject to the
14 limitations of these subsections, may be provided by any program
15 offering such services funded pursuant to Titles II and III of the
16 federal juvenile justice and delinquency prevention act of 1974.

17 (13) Within amounts appropriated for this specific purpose, provide
18 preventive services to families with children that prevent or shorten
19 the duration of an out-of-home placement.

20 (14) Have authority to provide independent living services to
21 youths, including individuals who have attained eighteen years of age,
22 and have not attained twenty-one years of age who are or have been in
23 foster care.

24 (15) Consult at least quarterly with foster parents, including
25 members of the foster parent association of Washington state, for the
26 purpose of receiving information and comment regarding how the
27 department is performing the duties and meeting the obligations
28 specified in this section and RCW 74.13.250 and 74.13.320 regarding the
29 recruitment of foster homes, reducing foster parent turnover rates,
30 providing effective training for foster parents, and administering a
31 coordinated and comprehensive plan that strengthens services for the
32 protection of children. Consultation shall occur at the regional and
33 statewide levels.

34 (16)(a) Within current funding levels, place on the public web site
35 maintained by the department a document listing the duties and
36 responsibilities the department has to a child subject to a dependency
37 petition including, but not limited to, the following:

1 (i) Reasonable efforts, including the provision of services, toward
2 reunification of the child with his or her family;

3 (ii) Sibling visits subject to the restrictions in RCW
4 13.34.136(2)(b)(ii);

5 (iii) Parent-child visits;

6 (iv) Statutory preference for placement with a relative or other
7 suitable person, if appropriate; and

8 (v) Statutory preference for an out-of-home placement that allows
9 the child to remain in the same school or school district, if practical
10 and in the child's best interests.

11 (b) The document must be prepared in conjunction with a community-
12 based organization and must be updated as needed.

13 NEW SECTION. Sec. 8. A new section is added to chapter 74.13 RCW
14 to read as follows:

15 Once a dependency is established under chapter 13.34 RCW, the
16 social worker assigned to the case shall provide the dependent child
17 age twelve years and older with a document containing the information
18 described in RCW 74.13.031(16). The social worker shall explain the
19 contents of the document to the child and direct the child to the
20 department's web site for further information. The social worker shall
21 document, in the electronic data system, that this requirement was met.

22 **Sec. 9.** RCW 74.13.109 and 1990 c 285 s 7 are each amended to read
23 as follows:

24 (1) The secretary shall issue rules and regulations to assist in
25 the administration of the program of adoption support authorized by RCW
26 26.33.320 and 74.13.100 through 74.13.145.

27 (2) Disbursements from the appropriations available from the
28 general fund shall be made pursuant to such rules and regulations and
29 pursuant to agreements conforming thereto to be made by the secretary
30 with parents for the purpose of supporting the adoption of children in,
31 or likely to be placed in, foster homes or child caring institutions
32 who are found by the secretary to be difficult to place in adoption
33 because of physical or other reasons; including, but not limited to,
34 physical or mental handicap, emotional disturbance, ethnic background,
35 language, race, color, age, or sibling grouping.

36 (3) Such agreements shall meet the following criteria:

1 ~~((+1))~~ (a) The child whose adoption is to be supported pursuant to
2 such agreement shall be or have been a child hard to place in adoption.

3 ~~((+2))~~ (b) Such agreement must relate to a child who was or is
4 residing in a foster home or child-caring institution or a child who,
5 in the judgment of the secretary, is both eligible for, and likely to
6 be placed in, either a foster home or a child-caring institution.

7 ~~((+3))~~ (c) Such agreement shall provide that adoption support
8 shall not continue beyond the time that the adopted child reaches
9 eighteen years of age, becomes emancipated, dies, or otherwise ceases
10 to need support, provided that if the secretary shall find that
11 continuing dependency of such child after such child reaches eighteen
12 years of age warrants the continuation of support pursuant to RCW
13 26.33.320 and 74.13.100 through 74.13.145 the secretary may do so,
14 subject to all the provisions of RCW 26.33.320 and 74.13.100 through
15 74.13.145, including annual review of the amount of such support.

16 ~~((+4))~~ (d) Any prospective parent who is to be a party to such
17 agreement shall be a person who has the character, judgment, sense of
18 responsibility, and disposition which make him or her suitable as an
19 adoptive parent of such child.

20 (4) At least six months before an adoption is finalized under
21 chapter 26.33 RCW and RCW 74.13.100 through 74.13.145, the department
22 must provide to the prospective adoptive parent, in writing,
23 information describing the limits of the adoption support program
24 including the following information:

25 (a) The limits on monthly cash payments to adoptive families;

26 (b) The limits on the availability of children's mental health
27 services and the funds with which to pay for these services;

28 (c) The process for accessing mental health services for children
29 receiving adoption support services;

30 (d) The limits on the one-time cash payments to adoptive families
31 for expenses related to their adopted children; and

32 (e) That payment for residential or group care is not available for
33 adopted children under the adoption support program.

34 **Sec. 10.** RCW 74.13.250 and 1990 c 284 s 2 are each amended to read
35 as follows:

36 (1) Preservice training is recognized as a valuable tool to reduce
37 placement disruptions, the length of time children are in care, and

1 foster parent turnover rates. Preservice training also assists
2 potential foster parents in making their final decisions about foster
3 parenting and assists social service agencies in obtaining information
4 about whether to approve potential foster parents.

5 (2) Foster parent preservice training shall include information
6 about the potential impact of placement on foster children; social
7 service agency administrative processes; the requirements,
8 responsibilities, expectations, and skills needed to be a foster
9 parent; attachment, separation, and loss issues faced by birth parents,
10 foster children, and foster parents; child management and discipline;
11 birth family relationships; information on the limits of the adoption
12 support program as provided in RCW 74.13.109(4); and helping children
13 leave foster care. Preservice training shall assist applicants in
14 making informed decisions about whether they want to be foster parents.
15 Preservice training shall be designed to enable the agency to assess
16 the ability, readiness, and appropriateness of families to be foster
17 parents. As a decision tool, effective preservice training provides
18 potential foster parents with enough information to make an appropriate
19 decision, affords potential foster parents an opportunity to discuss
20 their decision with others and consider its implications for their
21 family, clarifies foster family expectations, presents a realistic
22 picture of what foster parenting involves, and allows potential foster
23 parents to consider and explore the different types of children they
24 might serve.

25 (3) Preservice training shall be completed prior to the issuance of
26 a foster care license, except that the department may, on a case by
27 case basis, issue a written waiver that allows the foster parent to
28 complete the training after licensure, so long as the training is
29 completed within ninety days following licensure.

30 **Sec. 11.** RCW 74.13.333 and 2004 c 181 s 1 are each amended to read
31 as follows:

32 (1) A foster parent who believes that a department employee has
33 retaliated against the foster parent or in any other manner
34 discriminated against the foster parent because:

35 ~~((+1))~~ (a) The foster parent made a complaint with the office of
36 the family and children's ombudsman, the attorney general, law

1 enforcement agencies, or the department, provided information, or
2 otherwise cooperated with the investigation of such a complaint;

3 ~~((+2))~~ (b) The foster parent has caused to be instituted any
4 proceedings under or related to Title 13 RCW;

5 ~~((+3))~~ (c) The foster parent has testified or is about to testify
6 in any proceedings under or related to Title 13 RCW;

7 ~~((+4))~~ (d) The foster parent has advocated for services on behalf
8 of the foster child;

9 ~~((+5))~~ (e) The foster parent has sought to adopt a foster child in
10 the foster parent's care; or

11 ~~((+6))~~ (f) The foster parent has discussed or consulted with
12 anyone concerning the foster parent's rights under this chapter or
13 chapter 74.15 or 13.34 RCW, may file a complaint with the office of the
14 family and children's ombudsman.

15 (2) The ombudsman may investigate the allegations of retaliation.
16 The ombudsman shall have access to all relevant information and
17 resources held by or within the department by which to conduct the
18 investigation. Upon the conclusion of its investigation, the ombudsman
19 shall provide its findings in written form to the department.

20 (3) The department shall notify the office of the family and
21 children's ombudsman in writing, within thirty days of receiving the
22 ombudsman's findings, of any personnel action taken or to be taken with
23 regard to the department employee.

24 (4) The office of the family and children's ombudsman shall also
25 include its recommendations regarding complaints filed under this
26 section in its annual report pursuant to RCW 43.06A.030. The office of
27 the family and children's ombudsman shall identify trends which may
28 indicate a need to improve relations between the department and foster
29 parents.

--- END ---