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**SUBSTITUTE SENATE BILL 5315**

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**State of Washington**

**63rd Legislature**

**2013 Regular Session**

**By** Senate Human Services & Corrections (originally sponsored by Senators Becker, Dammeier, Rivers, Padden, and Roach)

READ FIRST TIME 02/20/13.

1 AN ACT Relating to the implementation of the recommendations made  
2 by the Powell fatality team; amending RCW 13.34.136, 13.34.380, and  
3 74.14B.010; reenacting and amending RCW 13.34.130; and adding a new  
4 section to chapter 13.34 RCW.

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

6 **Sec. 1.** RCW 13.34.130 and 2011 c 309 s 27 and 2011 c 292 s 1 are  
7 each reenacted and amended to read as follows:

8 If, after a fact-finding hearing pursuant to RCW 13.34.110, it has  
9 been proven by a preponderance of the evidence that the child is  
10 dependent within the meaning of RCW 13.34.030 after consideration of  
11 the social study prepared pursuant to RCW 13.34.110 and after a  
12 disposition hearing has been held pursuant to RCW 13.34.110, the court  
13 shall enter an order of disposition pursuant to this section.

14 (1) The court shall order one of the following dispositions of the  
15 case:

16 (a) Order a disposition that maintains the child in his or her  
17 home, which shall provide a program designed to alleviate the immediate  
18 danger to the child, to mitigate or cure any damage the child has  
19 already suffered, and to aid the parents so that the child will not be

1 endangered in the future. In determining the disposition, the court  
2 should choose services to assist the parents in maintaining the child  
3 in the home, including housing assistance, if appropriate, that least  
4 interfere with family autonomy and are adequate to protect the child.

5 (b)(i) Order the child to be removed from his or her home and into  
6 the custody, control, and care of a relative or other suitable person,  
7 the department, or a supervising agency for supervision of the child's  
8 placement. If the court orders that the child be placed with a  
9 caregiver over the objections of the parent, the court shall  
10 articulate, on the record, his or her reasons for ordering the  
11 placement. The court may not order an Indian child, as defined in RCW  
12 13.38.040, to be removed from his or her home unless the court finds,  
13 by clear and convincing evidence including testimony of qualified  
14 expert witnesses, that the continued custody of the child by the parent  
15 or Indian custodian is likely to result in serious emotional or  
16 physical damage to the child.

17 (ii) The department or supervising agency has the authority to  
18 place the child, subject to review and approval by the court (A) with  
19 a relative as defined in RCW 74.15.020(2)(a), (B) in the home of  
20 another suitable person if the child or family has a preexisting  
21 relationship with that person, and the person has completed all  
22 required criminal history background checks and otherwise appears to  
23 the department or supervising agency to be suitable and competent to  
24 provide care for the child, or (C) in a foster family home or group  
25 care facility licensed pursuant to chapter 74.15 RCW.

26 (iii) The department may also consider placing the child, subject  
27 to review and approval by the court, with a person with whom the  
28 child's sibling or half-sibling is residing or a person who has adopted  
29 the sibling or half-sibling of the child being placed as long as the  
30 person has completed all required criminal history background checks  
31 and otherwise appears to the department or supervising agency to be  
32 competent to provide care for the child.

33 (2) Absent good cause, the department or supervising agency shall  
34 follow the wishes of the natural parent regarding the placement of the  
35 child in accordance with RCW 13.34.260.

36 (3) The department or supervising agency may only place a child  
37 with a person not related to the child as defined in RCW  
38 74.15.020(2)(a), including a placement provided for in subsection

1 (1)(b)(iii) of this section, when the court finds that such placement  
2 is in the best interest of the child. Unless there is reasonable cause  
3 to believe that the health, safety, or welfare of the child would be  
4 jeopardized or that efforts to reunite the parent and child will be  
5 hindered, the child shall be placed with a person who is willing,  
6 appropriate, and available to care for the child, and who is: (I)  
7 Related to the child as defined in RCW 74.15.020(2)(a) with whom the  
8 child has a relationship and is comfortable; or (II) a suitable person  
9 as described in subsection (1)(b) of this section. The court shall  
10 consider the child's existing relationships and attachments when  
11 determining placement.

12 (4) When placing an Indian child in out-of-home care, the  
13 department or supervising agency shall follow the placement preference  
14 characteristics in RCW 13.38.180.

15 (5) Placement of the child with a relative or other suitable person  
16 as described in subsection (1)(b) of this section shall be given  
17 preference by the court. An order for out-of-home placement may be  
18 made only if the court finds that reasonable efforts have been made to  
19 prevent or eliminate the need for removal of the child from the child's  
20 home and to make it possible for the child to return home, specifying  
21 the services, including housing assistance, that have been provided to  
22 the child and the child's parent, guardian, or legal custodian, and  
23 that preventive services have been offered or provided and have failed  
24 to prevent the need for out-of-home placement, unless the health,  
25 safety, and welfare of the child cannot be protected adequately in the  
26 home, and that:

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

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

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

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

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

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

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

13 (b) The court may also order placement, contact, or visitation of  
14 a child with a stepbrother or stepsister provided that in addition to  
15 the factors in (a) of this subsection, the child has a relationship and  
16 is comfortable with the stepsibling.

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

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

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

1 cooperation by the relative or other suitable person with the agency  
2 case plan and compliance with court orders related to the care and  
3 supervision of the child including, but not limited to, court orders  
4 regarding parent-child contacts, sibling contacts, and any other  
5 conditions imposed by the court. Noncompliance with the case plan or  
6 court order shall be grounds for removal of the child from the  
7 relative's or other suitable person's home, subject to review by the  
8 court.

9 **Sec. 2.** RCW 13.34.136 and 2011 c 309 s 29 are each amended to read  
10 as follows:

11 (1) Whenever a child is ordered removed from the home, a permanency  
12 plan shall be developed no later than sixty days from the time the  
13 supervising agency assumes responsibility for providing services,  
14 including placing the child, or at the time of a hearing under RCW  
15 13.34.130, whichever occurs first. The permanency planning process  
16 continues until a permanency planning goal is achieved or dependency is  
17 dismissed. The planning process shall include reasonable efforts to  
18 return the child to the parent's home.

19 (2) The agency supervising the dependency shall submit a written  
20 permanency plan to all parties and the court not less than fourteen  
21 days prior to the scheduled hearing. Responsive reports of parties not  
22 in agreement with the department's or supervising agency's proposed  
23 permanency plan must be provided to the department or supervising  
24 agency, all other parties, and the court at least seven days prior to  
25 the hearing.

26 The permanency plan shall include:

27 (a) A permanency plan of care that shall identify one of the  
28 following outcomes as a primary goal and may identify additional  
29 outcomes as alternative goals: Return of the child to the home of the  
30 child's parent, guardian, or legal custodian; adoption, including a  
31 tribal customary adoption as defined in RCW 13.38.040; guardianship;  
32 permanent legal custody; long-term relative or foster care, until the  
33 child is age eighteen, with a written agreement between the parties and  
34 the care provider; successful completion of a responsible living skills  
35 program; or independent living, if appropriate and if the child is age  
36 sixteen or older. The department or supervising agency shall not

1 discharge a child to an independent living situation before the child  
2 is eighteen years of age unless the child becomes emancipated pursuant  
3 to chapter 13.64 RCW;

4 (b) Unless the court has ordered, pursuant to RCW 13.34.130(~~(+6)~~)  
5 (8), that a termination petition be filed, a specific plan as to where  
6 the child will be placed, what steps will be taken to return the child  
7 home, what steps the supervising agency or the department will take to  
8 promote existing appropriate sibling relationships and/or facilitate  
9 placement together or contact in accordance with the best interests of  
10 each child, and what actions the department or supervising agency will  
11 take to maintain parent-child ties. All aspects of the plan shall  
12 include the goal of achieving permanence for the child.

13 (i) The department's or supervising agency's plan shall specify  
14 what services the parents will be offered to enable them to resume  
15 custody, what requirements the parents must meet to resume custody, and  
16 a time limit for each service plan and parental requirement.

17 (ii)(A) Visitation is the right of the family, including the child  
18 and the parent, in cases in which visitation is in the best interest of  
19 the child. Early, consistent, and frequent visitation is crucial for  
20 maintaining parent-child relationships and making it possible for  
21 parents and children to safely reunify. The supervising agency or  
22 department shall encourage the maximum parent and child and sibling  
23 contact possible, when it is in the best interest of the child,  
24 including regular visitation and participation by the parents in the  
25 care of the child while the child is in placement.

26 (B) Visitation shall not be limited as a sanction for a parent's  
27 failure to comply with court orders or services where the health,  
28 safety, or welfare of the child is not at risk as a result of the  
29 visitation.

30 (C) Visitation may be limited or denied only if the court  
31 determines that such limitation or denial is necessary to protect the  
32 child's health, safety, or welfare. When a parent or sibling has been  
33 identified as a suspect in an active criminal investigation that, if  
34 the allegations are true, would impact the safety of the child, the  
35 department shall make a concerted effort to consult with the assigned  
36 law enforcement officer in the criminal case before recommending any  
37 changes in parent/child or child/sibling contact. The results of the  
38 consultation shall be communicated to the court.

1       (D) The court and the department or supervising agency should rely  
2 upon community resources, relatives, foster parents, and other  
3 appropriate persons to provide transportation and supervision for  
4 visitation to the extent that such resources are available, and  
5 appropriate, and the child's safety would not be compromised.

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

10       (iv) The plan shall state whether both in-state and, where  
11 appropriate, out-of-state placement options have been considered by the  
12 department or supervising agency.

13       (v) Unless it is not in the best interests of the child, whenever  
14 practical, the plan should ensure the child remains enrolled in the  
15 school the child was attending at the time the child entered foster  
16 care.

17       (vi) The supervising agency or department shall provide all  
18 reasonable services that are available within the department or  
19 supervising agency, or within the community, or those services which  
20 the department has existing contracts to purchase. It shall report to  
21 the court if it is unable to provide such services; and

22       (c) If the court has ordered, pursuant to RCW 13.34.130(~~(+6+)~~) (8),  
23 that a termination petition be filed, a specific plan as to where the  
24 child will be placed, what steps will be taken to achieve permanency  
25 for the child, services to be offered or provided to the child, and, if  
26 visitation would be in the best interests of the child, a  
27 recommendation to the court regarding visitation between parent and  
28 child pending a fact-finding hearing on the termination petition. The  
29 department or supervising agency shall not be required to develop a  
30 plan of services for the parents or provide services to the parents if  
31 the court orders a termination petition be filed. However, reasonable  
32 efforts to ensure visitation and contact between siblings shall be made  
33 unless there is reasonable cause to believe the best interests of the  
34 child or siblings would be jeopardized.

35       (3) Permanency planning goals should be achieved at the earliest  
36 possible date. If the child has been in out-of-home care for fifteen  
37 of the most recent twenty-two months, the court shall require the  
38 department or supervising agency to file a petition seeking termination

1 of parental rights in accordance with RCW 13.34.145(3)(b)(vi). In  
2 cases where parental rights have been terminated, the child is legally  
3 free for adoption, and adoption has been identified as the primary  
4 permanency planning goal, it shall be a goal to complete the adoption  
5 within six months following entry of the termination order.

6 (4) If the court determines that the continuation of reasonable  
7 efforts to prevent or eliminate the need to remove the child from his  
8 or her home or to safely return the child home should not be part of  
9 the permanency plan of care for the child, reasonable efforts shall be  
10 made to place the child in a timely manner and to complete whatever  
11 steps are necessary to finalize the permanent placement of the child.

12 (5) The identified outcomes and goals of the permanency plan may  
13 change over time based upon the circumstances of the particular case.

14 (6) The court shall consider the child's relationships with the  
15 child's siblings in accordance with RCW 13.34.130(~~(4)~~) (6). Whenever  
16 the permanency plan for a child is adoption, the court shall encourage  
17 the prospective adoptive parents, birth parents, foster parents,  
18 kinship caregivers, and the department or other supervising agency to  
19 seriously consider the long-term benefits to the child adoptee and his  
20 or her siblings of providing for and facilitating continuing  
21 postadoption contact between the siblings. To the extent that it is  
22 feasible, and when it is in the best interests of the child adoptee and  
23 his or her siblings, contact between the siblings should be frequent  
24 and of a similar nature as that which existed prior to the adoption.  
25 If the child adoptee or his or her siblings are represented by an  
26 attorney or guardian ad litem in a proceeding under this chapter or in  
27 any other child custody proceeding, the court shall inquire of each  
28 attorney and guardian ad litem regarding the potential benefits of  
29 continuing contact between the siblings and the potential detriments of  
30 severing contact. This section does not require the department of  
31 social and health services or other supervising agency to agree to any  
32 specific provisions in an open adoption agreement and does not create  
33 a new obligation for the department to provide supervision or  
34 transportation for visits between siblings separated by adoption from  
35 foster care.

36 (7) For purposes related to permanency planning:

37 (a) "Guardianship" means a dependency guardianship or a legal



1 guardianship pursuant to chapter 11.88 RCW or equivalent laws of  
2 another state or a federally recognized Indian tribe.

3 (b) "Permanent custody order" means a custody order entered  
4 pursuant to chapter 26.10 RCW.

5 (c) "Permanent legal custody" means legal custody pursuant to  
6 chapter 26.10 RCW or equivalent laws of another state or a federally  
7 recognized Indian tribe.

8 **Sec. 3.** RCW 13.34.380 and 2009 c 520 s 45 are each amended to read  
9 as follows:

10 The department shall develop consistent policies and protocols,  
11 based on current relevant research, concerning visitation for dependent  
12 children to be implemented consistently throughout the state. The  
13 department shall develop the policies and protocols in consultation  
14 with researchers in the field, community-based agencies, court-  
15 appointed special advocates, parents' representatives, and court  
16 representatives. The policies and protocols shall include, but not be  
17 limited to: The structure and quality of visitations; consultation  
18 with the assigned law enforcement officer in the event the parent or  
19 sibling of the child is identified as a suspect in an active criminal  
20 investigation that may impact the safety of the child; and training for  
21 department and supervising agency caseworkers, visitation supervisors,  
22 and foster parents related to visitation.

23 The policies and protocols shall be consistent with the provisions  
24 of this chapter and implementation of the policies and protocols shall  
25 be consistent with relevant orders of the court.

26 NEW SECTION. **Sec. 4.** A new section is added to chapter 13.34 RCW  
27 to read as follows:

28 In the event a judge orders a parent to undergo a psychosexual  
29 evaluation, and pending the outcome of the evaluation, the department  
30 shall reassess visitation duration, supervision, and location, if  
31 appropriate. If the assessment indicates the current visitation plan  
32 is contrary to the child's health, safety, or welfare, the department,  
33 subject to approval by the court, may alter the visitation plan pending  
34 the outcome of the investigation.

1       **Sec. 5.** RCW 74.14B.010 and 1999 c 389 s 5 are each amended to read  
2 as follows:

3       (1) Caseworkers employed in children services shall meet minimum  
4 standards established by the department of social and health services.  
5 Comprehensive training for caseworkers shall be completed before such  
6 caseworkers are assigned to case-carrying responsibilities without  
7 direct supervision. Intermittent, part-time, and standby workers shall  
8 be subject to the same minimum standards and training.

9       (2) Ongoing specialized training shall be provided for persons  
10 responsible for investigating child sexual abuse. Training  
11 participants shall have the opportunity to practice interview skills  
12 and receive feedback from instructors.

13       (3) The department, the criminal justice training commission, the  
14 Washington association of sheriffs and police chiefs, and the  
15 Washington association of prosecuting attorneys shall design and  
16 implement statewide training that contains consistent elements for  
17 persons engaged in the interviewing of children, including law  
18 enforcement, prosecution, and child protective services.

19       (4) The training shall: (a) Be based on research-based practices  
20 and standards; (b) minimize the trauma of all persons who are  
21 interviewed during abuse investigations; (c) provide methods of  
22 reducing the number of investigative interviews necessary whenever  
23 possible; (d) assure, to the extent possible, that investigative  
24 interviews are thorough, objective, and complete; (e) recognize needs  
25 of special populations, such as persons with developmental  
26 disabilities; (f) recognize the nature and consequences of  
27 victimization; (g) require investigative interviews to be conducted in  
28 a manner most likely to permit the interviewed persons the maximum  
29 emotional comfort under the circumstances; (h) address record retention  
30 and retrieval; and (i) documentation of investigative interviews.

31       (5) The identification of domestic violence is critical in ensuring  
32 the safety of children in the child welfare system. As a result,  
33 ongoing domestic violence training and consultation shall be provided  
34 to caseworkers, including how to use the children's administration's  
35 practice guide to domestic violence.

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