

SENATE BILL 5061

State of Washington

52nd Legislature

1991 Regular Session

By Senators L. Smith, Stratton, Craswell and Johnson.

Read first time January 17, 1991. Referred to Committee on Children & Family Services.

1 AN ACT Relating to monitoring out-of-home placement of children;
2 amending RCW 74.13.031; and reenacting and amending RCW 13.34.130.

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

4 **Sec. 1.** RCW 74.13.031 and 1990 c 146 s 9 are each amended to read
5 as follows:

6 The department shall have the duty to provide child welfare
7 services as defined in RCW 74.13.020, and shall:

8 (1) Develop, administer, supervise, and monitor a coordinated and
9 comprehensive plan that establishes, aids, and strengthens services for
10 the protection and care of homeless, runaway, dependent, or neglected
11 children.

12 (2) Develop a recruiting plan for recruiting an adequate number of
13 prospective adoptive and foster homes, both regular and specialized,
14 i.e. homes for children of ethnic minority, including Indian homes for

1 Indian children, sibling groups, handicapped and emotionally disturbed,
2 and annually submit the plan for review to the house and senate
3 committees on social and health services. The plan shall include a
4 section entitled "Foster Home Turn-Over, Causes and Recommendations."

5 (3) Investigate complaints of neglect, abuse, or abandonment of
6 children, and on the basis of the findings of such investigation, offer
7 child welfare services in relation to the problem to such parents,
8 legal custodians, or persons serving in loco parentis, and/or bring the
9 situation to the attention of an appropriate court, or another
10 community agency: PROVIDED, That an investigation is not required of
11 nonaccidental injuries which are clearly not the result of a lack of
12 care or supervision by the child's parents, legal custodians, or
13 persons serving in loco parentis. If the investigation reveals that a
14 crime may have been committed, the department shall notify the
15 appropriate law enforcement agency.

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

18 (5) Monitor out-of-home placements(~~(, on a timely and routine~~
19 ~~basis,)~~) to assure that the safety, well-being, and quality of care
20 being provided is within the scope of the intent of the legislature as
21 defined in RCW 74.13.010 and 74.15.010(~~(, and)~~). The monitoring shall
22 include a face to face visit by a caseworker, from a public or private
23 agency, with a child in a foster home or relative's home within twenty-
24 four hours of an initial placement or any subsequent placement. Visits
25 shall occur at least once a month throughout the placement. If, after
26 a dispositional hearing provided for in RCW 13.34.130, the child has
27 remained in the same placement for at least six months, visits shall
28 occur at least once every sixty consecutive days. Neither telephone
29 contact nor accompanying the child to court constitutes a required
30 visit. Verification of all required visits under this subsection shall

1 be included as part of any report submitted to the court concerning the
2 child. The department shall annually submit a report delineating the
3 results to the house and senate committees on social and health
4 services.

5 (6) Have authority to accept custody of children from parents and
6 to accept custody of children from juvenile courts, where authorized to
7 do so under law, to provide child welfare services including placement
8 for adoption, and to provide for the physical care of such children and
9 make payment of maintenance costs if needed. Except where required by
10 Public Law 95-608 (25 U.S.C. Sec. 1915), no private adoption agency
11 which receives children for adoption from the department shall
12 discriminate on the basis of race, creed, or color when considering
13 applications in their placement for adoption.

14 (7) Have authority to provide temporary shelter to children who
15 have run away from home and who are admitted to crisis residential
16 centers.

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

23 (9) Establish a children's services advisory committee which shall
24 assist the secretary in the development of a partnership plan for
25 utilizing resources of the public and private sectors, and advise on
26 all matters pertaining to child welfare, day care, licensing of child
27 care agencies, adoption, and services related thereto. At least one-
28 third of the membership shall be composed of child care providers, and
29 at least one member shall represent the adoption community.

1 (10) Have authority to provide continued foster care or group care
2 for individuals from eighteen through twenty years of age to enable
3 them to complete their high school or vocational school program.

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

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

18 **Sec. 2.** RCW 13.34.130 and 1990 c 284 s 32 & 1990 c 246 s 5 are
19 each reenacted and amended to read as follows:

20 If, after a fact-finding hearing pursuant to RCW 13.34.110, as now
21 or hereafter amended, it has been proven by a preponderance of the
22 evidence that the child is dependent within the meaning of RCW
23 13.34.030(2); after consideration of the predisposition report prepared
24 pursuant to RCW 13.34.110 and after a disposition hearing has been held
25 pursuant to RCW 13.34.110, the court shall enter an order of
26 disposition pursuant to this section.

27 (1) The court shall order one of the following dispositions of the
28 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 selecting a program, the court should
6 choose those services that least interfere with family autonomy,
7 provided that the services are adequate to protect the child.

8 (b) Order that the child be removed from his or her home and
9 ordered into the custody, control, and care of a relative or the
10 department of social and health services or a licensed child placing
11 agency for placement in a foster family home or group care facility
12 licensed pursuant to chapter 74.15 RCW or in a home not required to be
13 licensed pursuant to chapter 74.15 RCW. Unless there is reasonable
14 cause to believe that the safety or welfare of the child would be
15 jeopardized or that efforts to reunite the parent and child will be
16 hindered, such child shall be placed with a grandparent, brother,
17 sister, stepbrother, stepsister, uncle, aunt, or first cousin with whom
18 the child has a relationship and is comfortable, and who is willing and
19 available to care for the child. An order for out-of-home placement
20 may be made only if the court finds that reasonable efforts have been
21 made to prevent or eliminate the need for removal of the child from the
22 child's home and to make it possible for the child to return home,
23 specifying the services that have been provided to the child and the
24 child's parent, guardian, or legal custodian, and that:

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

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

1 (iii) A manifest danger exists that the child will suffer serious
2 abuse or neglect if the child is not removed from the home and an order
3 under RCW 26.44.063 would not protect the child from danger; or

4 (iv) The extent of the child's disability is such that the parent,
5 guardian, or legal custodian is unable to provide the necessary care
6 for the child and the parent, guardian, or legal custodian has
7 determined that the child would benefit from placement outside of the
8 home.

9 (2) If the court has ordered a child removed from his or her home
10 pursuant to RCW 13.34.130(1)(b), the court may order that a petition
11 seeking termination of the parent and child relationship be filed if
12 the court finds it is recommended by the supervising agency, that it is
13 in the best interests of the child and that it is not reasonable to
14 provide further services to reunify the family because the existence of
15 aggravated circumstances make it unlikely that services will effectuate
16 the return of the child to the child's parents in the near future. In
17 determining whether aggravated circumstances exist, the court shall
18 consider one or more of the following:

19 (a) Conviction of the parent of rape of the child in the first,
20 second, or third degree as defined in RCW 9A.44.073, 9A.44.076, and
21 9A.44.079;

22 (b) Conviction of the parent of criminal mistreatment of the child
23 in the first or second degree as defined in RCW 9A.42.020 and
24 9A.42.030;

25 (c) Conviction of the parent of assault of the child in the first
26 or second degree as defined in RCW 9A.36.011 and 9A.36.021;

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

29 (e) A finding by a court that a parent is a sexually violent
30 predator as defined in RCW (~~(9A.88.010)~~) 71.09.020;

1 (f) Failure of the parent to complete available treatment ordered
2 under this chapter or the equivalent laws of another state, where such
3 failure has resulted in a prior termination of parental rights to
4 another child and the parent has failed to effect significant change in
5 the interim.

6 (3) Whenever a child is ordered removed from the child's home, the
7 agency charged with his or her care shall provide the court with:

8 (a) A permanent plan of care that may include one of the following:
9 Return of the child to the home of the child's parent, adoption,
10 guardianship, or long-term placement with a relative or in foster care
11 with a written agreement.

12 (b) Unless the court has ordered, pursuant to RCW 13.34.130(2),
13 that a termination petition be filed, a specific plan as to where the
14 child will be placed, what steps will be taken to return the child
15 home, and what actions the agency will take to maintain parent-child
16 ties. All aspects of the plan shall include the goal of achieving
17 permanence for the child.

18 (i) The agency plan shall specify what services the parents will be
19 offered in order to enable them to resume custody, what requirements
20 the parents must meet in order to resume custody, and a time limit for
21 each service plan and parental requirement.

22 (ii) The agency shall be required to encourage the maximum parent-
23 child contact possible, including regular visitation and participation
24 by the parents in the care of the child while the child is in
25 placement. Visitation may be limited or denied only if the court
26 determines that such limitation or denial is necessary to protect the
27 child's health, safety, or welfare.

28 (iii) A child shall be placed as close to the child's home as
29 possible, preferably in the child's own neighborhood, unless the court

1 finds that placement at a greater distance is necessary to promote the
2 child's or parents' well-being.

3 (iv) The agency charged with supervising a child in placement shall
4 provide all reasonable services that are available within the agency,
5 or within the community, or those services which the department of
6 social and health services has existing contracts to purchase. As part
7 of such supervision, the agency's caseworker shall have a face to face
8 visit with the child in a foster home or relative's home within twenty-
9 four hours of the initial placement or any subsequent placement.
10 Visits shall occur at least once a month throughout the placement. If
11 the child has remained in the same placement for at least six months,
12 visits shall occur at least once every sixty consecutive days. Neither
13 telephone contact nor accompanying the child to court constitutes a
14 required visit. Verification of all required visits under this
15 subsection shall be included as part of any report submitted to the
16 court concerning the child. It shall report to the court if it is
17 unable to provide such services.

18 (c) If the court has ordered, pursuant to RCW 13.34.130(2), that a
19 termination petition be filed, a specific plan as to where the child
20 will be placed, what steps will be taken to achieve permanency for the
21 child, services to be offered or provided to the child, and, if
22 visitation would be in the best interests of the child, a
23 recommendation to the court regarding visitation between parent and
24 child pending a fact-finding hearing on the termination petition. The
25 agency shall not be required to develop a plan of services for the
26 parents or provide services to the parents.

27 (4) 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, the child shall
30 remain in foster care and the court shall direct the supervising agency

1 to conduct necessary background investigations as provided in chapter
2 74.15 RCW and report the results of such investigation to the court
3 within thirty days. However, if such relative appears otherwise
4 suitable and competent to provide care and treatment, the criminal
5 history background check need not be completed before placement, but as
6 soon as possible after placement. Any placements with relatives,
7 pursuant to this section, shall be contingent upon cooperation by the
8 relative with the agency case plan and compliance with court orders
9 related to the care and supervision of the child including, but not
10 limited to, court orders regarding parent-child contacts and any other
11 conditions imposed by the court. Noncompliance with the case plan or
12 court order shall be grounds for removal of the child from the
13 relative's home, subject to review by the court.

14 (5) The status of all children found to be dependent shall be
15 reviewed by the court at least every six months from the beginning date
16 of the placement episode or the date dependency is established,
17 whichever is first, at a hearing in which it shall be determined
18 whether court supervision should continue. The review shall include
19 findings regarding the agency and parental completion of disposition
20 plan requirements, and if necessary, revised permanency time limits.

21 (a) A child shall not be returned home at the review hearing unless
22 the court finds that a reason for removal as set forth in this section
23 no longer exists. The parents, guardian, or legal custodian shall
24 report to the court the efforts they have made to correct the
25 conditions which led to removal. If a child is returned, casework
26 supervision shall continue for a period of six months, at which time
27 there shall be a hearing on the need for continued intervention.

28 (b) If the child is not returned home, the court shall establish in
29 writing:

1 (i) Whether reasonable services have been provided to or offered to
2 the parties to facilitate reunion, specifying the services provided or
3 offered;

4 (ii) Whether the child has been placed in the least-restrictive
5 setting appropriate to the child's needs, including whether
6 consideration has been given to placement with the child's relatives;

7 (iii) Whether there is a continuing need for placement and whether
8 the placement is appropriate;

9 (iv) Whether there has been compliance with the case plan by the
10 child, the child's parents, and the agency supervising the placement;

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

13 (vi) Whether the parents have visited the child and any reasons why
14 visitation has not occurred or has been infrequent;

15 (vii) Whether additional services are needed to facilitate the
16 return of the child to the child's parents; if so, the court shall
17 order that reasonable services be offered specifying such services; and

18 (viii) The projected date by which the child will be returned home
19 or other permanent plan of care will be implemented.

20 (c) The court at the review hearing may order that a petition
21 seeking termination of the parent and child relationship be filed.