
SENATE BILL 6345

State of Washington

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By Senators Roach and Oke

Read first time 01/27/92. Referred to Committee on Children & Family Services.

1 AN ACT Relating to nonparental relationships with a child; and
2 amending RCW 13.34.130, 13.34.190, 13.34.260, and 26.09.240.

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

4 **Sec. 1.** RCW 13.34.130 and 1991 c 127 s 4 are each amended to read
5 as follows:

6 If, after a fact-finding hearing pursuant to RCW 13.34.110, as now
7 or hereafter amended, it has been proven by a preponderance of the
8 evidence that the child is dependent within the meaning of RCW
9 13.34.030(2); after consideration of the predisposition report prepared
10 pursuant to RCW 13.34.110 and after a disposition hearing has been held
11 pursuant to RCW 13.34.110, the court shall enter an order of
12 disposition pursuant to this section.

13 (1) The court shall order one of the following dispositions of the
14 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 and the placement with such relatives
20 may not be denied solely upon the relative's belief or disbelief
21 concerning alleged criminal acts, or criminal convictions, of the
22 child's parent. An order for out-of-home placement may be made only if
23 the court finds that reasonable efforts have been made to prevent or
24 eliminate the need for removal of the child from the child's home and
25 to make it possible for the child to return home, specifying the
26 services that have been provided to the child and the child's parent,
27 guardian, or legal custodian, and that:

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

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

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

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

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

21 (a) Conviction of the parent of rape of the child in the first,
22 second, or third degree as defined in RCW 9A.44.073, 9A.44.076, and
23 9A.44.079;

24 (b) Conviction of the parent of criminal mistreatment of the child
25 in the first or second degree as defined in RCW 9A.42.020 and
26 9A.42.030;

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

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

1 (e) A finding by a court that a parent is a sexually violent
2 predator as defined in RCW 71.09.020;

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

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

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

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

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

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

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

5 (iv) The agency charged with supervising a child in placement shall
6 provide all reasonable services that are available within the agency,
7 or within the community, or those services which the department of
8 social and health services has existing contracts to purchase. It
9 shall report to the court if it is unable to provide such services.

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

19 (4) If there is insufficient information at the time of the
20 disposition hearing upon which to base a determination regarding the
21 suitability of a proposed placement with a relative, the child shall
22 remain in foster care and the court shall direct the supervising agency
23 to conduct necessary background investigations as provided in chapter
24 74.15 RCW and report the results of such investigation to the court
25 within thirty days. However, if such relative appears otherwise
26 suitable and competent to provide care and treatment, the criminal
27 history background check need not be completed before placement, but as
28 soon as possible after placement. Any placements with relatives,
29 pursuant to this section, shall be contingent upon cooperation by the
30 relative with the agency case plan and compliance with court orders

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

6 (5) Except for children whose cases are reviewed by a citizen
7 review board under chapter 13.70 RCW, the status of all children found
8 to be dependent shall be reviewed by the court at least every six
9 months from the beginning date of the placement episode or the date
10 dependency is established, whichever is first, at a hearing in which it
11 shall be determined whether court supervision should continue. The
12 review shall include findings regarding the agency and parental
13 completion of disposition plan requirements, and if necessary, revised
14 permanency time limits.

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

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

24 (i) Whether reasonable services have been provided to or offered to
25 the parties to facilitate reunion, specifying the services provided or
26 offered;

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

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

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

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

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

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

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

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

16 **Sec. 2.** RCW 13.34.190 and 1990 c 284 s 33 are each amended to read
17 as follows:

18 After hearings pursuant to RCW 13.34.110, the court may enter an
19 order terminating all parental rights to a child if the court finds
20 that:

21 (1) The allegations contained in the petition as provided in RCW
22 13.34.180 (1) through (6) are established by clear, cogent, and
23 convincing evidence; or

24 (2) RCW 13.34.180 (3) and (4) may be waived because the allegations
25 under RCW 13.34.180 (1), (2), (5), and (6) are established beyond a
26 reasonable doubt; or

27 (~~((e) — [(3)]~~)) (3) The allegation under RCW 13.34.180(7) is
28 established beyond a reasonable doubt. In determining whether RCW

1 13.34.180 (5) and (6) are established beyond a reasonable doubt, the
2 court shall consider one or more of the following:

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

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

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

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

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

14 (f) Failure of the parent to complete available treatment ordered
15 under this chapter or the equivalent laws of another state, where such
16 failure has resulted in a prior termination of parental rights to
17 another child and the parent has failed to effect significant change in
18 the interim; and

19 (~~((3)-(4))~~) (4) Such an order is in the best interests of the
20 child.

21 **Sec. 3.** RCW 13.34.260 and 1990 c 284 s 25 are each amended to read
22 as follows:

23 In an attempt to minimize the inherent intrusion in the lives of
24 families involved in the foster care system and to maintain parental
25 authority where appropriate, the department, absent good cause, shall
26 follow the wishes of the natural parent regarding the placement of the
27 child. Preferences such as family constellation, ethnicity, and
28 religion shall be given consideration when matching children to foster
29 homes. The preferential placement may not be denied solely upon the

1 person's belief or disbelief concerning alleged criminal acts, or
2 criminal convictions, of the child's parent. Parental authority is
3 appropriate in areas that are not connected with the abuse or neglect
4 that resulted in the dependency and should be integrated through the
5 foster care team.

6 **Sec. 4.** RCW 26.09.240 and 1989 c 375 s 13 are each amended to read
7 as follows:

8 The court may order visitation rights for a person other than a
9 parent when visitation may serve the best interest of the child whether
10 or not there has been any change of circumstances. The court may not
11 deny visitation solely upon the person's belief or disbelief concerning
12 alleged criminal acts, or criminal convictions, of the child's parent.

13 A person other than a parent may petition the court for visitation
14 rights at any time.

15 The court may modify an order granting or denying visitation rights
16 whenever modification would serve the best interests of the child.