
SUBSTITUTE HOUSE BILL 1512

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By House Committee on Human Services (originally sponsored by Representatives Brough, Leonard, Chappell, Romero, Veloria, Riley, Karahalios, Horn, Wolfe, Ballasiotes, Talcott, G. Cole, Flemming and J. Kohl)

Read first time 03/03/93.

1 AN ACT Relating to dependent children; and amending RCW 13.34.130,
2 13.34.145, 13.34.180, 13.34.190, and 13.34.232.

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

4 **Sec. 1.** RCW 13.34.130 and 1992 c 145 s 14 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:

15 (a) Order a disposition other than removal of the child from his or
16 her home, which shall provide a program designed to alleviate the
17 immediate danger to the child, to mitigate or cure any damage the child
18 has already suffered, and to aid the parents so that the child will not
19 be endangered in the future. In selecting a program, the court should

1 choose those services that least interfere with family autonomy,
2 provided that the services are adequate to protect the child.

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

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

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

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

27 (iv) The extent of the child's disability is such that the parent,
28 guardian, or legal custodian is unable to provide the necessary care
29 for the child and the parent, guardian, or legal custodian has
30 determined that the child would benefit from placement outside of the
31 home.

32 (2) If the court has ordered a child removed from his or her home
33 pursuant to subsection (1)(b) of this section, the court may order that
34 a petition seeking termination of the parent and child relationship be
35 filed if the court finds it is recommended by the supervising agency,
36 that it is in the best interests of the child and that it is not
37 reasonable to provide further services to reunify the family because
38 the existence of aggravated circumstances make it unlikely that
39 services will effectuate the return of the child to the child's parents

1 in the near future. In determining whether aggravated circumstances
2 exist, the 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 and
8 9A.42.030;

9 (c) Conviction of the parent of one of the following assault
10 crimes, when the child is the victim: Assault in the first or second
11 degree as defined in RCW 9A.36.011 and 9A.36.021 or assault of a child
12 in the first or second degree as defined in RCW 9A.36.120 or 9A.36.130;

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

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

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

22 (g) Use of intoxicating or controlled substances so as to render
23 the parent incapable of providing proper care for the child for
24 extended periods of time and documented unwillingness of the parent to
25 receive and complete treatment or documented multiple failed treatment
26 attempts;

27 (h) Psychological incapacity or mental deficiency of the parent
28 that is so severe and chronic as to render the parent incapable of
29 providing proper care for the child for extended periods of time, and
30 documented unwillingness of the parent to receive and complete
31 treatment or documentation that there is no treatment that can render
32 the parent capable of providing proper care for the child in the near
33 future;

34 (i) Severe abuse of a child under age thirteen inflicted by a
35 parent, or by any person known by the parent, if the parent knew or
36 reasonably should have known that the person was abusing the child.
37 For the purposes of this subsection, "severe abuse" means any of the
38 following: Any single act of abuse that causes physical trauma of
39 sufficient severity that, if left untreated, could cause death; any

1 single act of sexual abuse that causes significant bleeding, deep
2 bruising, or significant external or internal swelling; or more than
3 one act of physical abuse, each of which causes bleeding, deep
4 bruising, significant external or internal swelling, bone fracture, or
5 unconsciousness.

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 subsection (2) of
13 this section, that a termination petition be filed, a specific plan as
14 to where the child will be placed, what steps will be taken to return
15 the child home, and what actions the agency will take to maintain
16 parent-child ties. All aspects of the plan shall include the goal of
17 achieving 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
30 finds that placement at a greater distance is necessary to promote the
31 child's or parents' well-being.

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

37 (c) If the court has ordered, pursuant to subsection (2) of this
38 section, that a termination petition be filed, a specific plan as to
39 where the child will be placed, what steps will be taken to achieve

1 permanency for the child, services to be offered or provided to the
2 child, and, if visitation would be in the best interests of the child,
3 a recommendation to the court regarding visitation between parent and
4 child pending a fact-finding hearing on the termination petition. The
5 agency shall not be required to develop a plan of services for the
6 parents or provide services to the parents.

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

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

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

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

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

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

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

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

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

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

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

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

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

24 **Sec. 2.** RCW 13.34.145 and 1989 1st ex.s. c 17 s 18 are each
25 amended to read as follows:

26 (1) In all cases where a child has been placed in substitute care
27 for at least fifteen months, the agency having custody of the child
28 shall prepare a permanency ((planning)) plan and present it in a
29 hearing ((shall be)) held before the court no later than eighteen
30 months following commencement of the placement episode.

31 (2) At the permanency planning hearing, the court shall enter
32 findings as required by RCW 13.34.130((+4))(5). In addition the court
33 shall: (a) ((Approve a permanent plan of care)) Accept the permanency
34 plan which ((can)) shall include one of the following: Adoption,
35 guardianship, ((or)) placement of the child in the home of the child's
36 parent, relative placement with written permanency plan, or family
37 foster care with written permanency agreement; (b) require filing of a
38 petition for termination of parental rights; or (c) dismiss the

1 dependency, unless the court finds, based on clear, cogent, and
2 convincing evidence, that it is in the best interest of the child to
3 continue the dependency beyond eighteen months, based on ((a permanent
4 ~~plan of care~~)) the permanency plan. Extensions may only be granted in
5 increments of twelve months or less.

6 **Sec. 3.** RCW 13.34.180 and 1990 c 246 s 7 are each amended to read
7 as follows:

8 A petition seeking termination of a parent and child relationship
9 may be filed in juvenile court by any party to the dependency
10 proceedings concerning that child. Such petition shall conform to the
11 requirements of RCW 13.34.040, shall be served upon the parties as
12 provided in RCW 13.34.070(7), and shall allege:

13 (1) That the child has been found to be a dependent child under RCW
14 13.34.030(2); and

15 (2) That the court has entered a dispositional order pursuant to
16 RCW 13.34.130; and

17 (3) That the child has been removed or will, at the time of the
18 hearing, have been removed from the custody of the parent for a period
19 of at least six months pursuant to a finding of dependency under RCW
20 13.34.030(2); and

21 (4) That the services ordered under RCW 13.34.130 have been offered
22 or provided and all necessary services, reasonably available, capable
23 of correcting the parental deficiencies within the foreseeable future
24 have been offered or provided; and

25 (5) That there is little likelihood that conditions will be
26 remedied so that the child can be returned to the parent in the near
27 future; and

28 (6) That continuation of the parent and child relationship clearly
29 diminishes the child's prospects for early integration into a stable
30 and permanent home; or

31 (7) In lieu of the allegations in subsections (1) through (6) of
32 this section, the petition may allege that the child was found under
33 such circumstances that the whereabouts of the child's parent are
34 unknown and no person has acknowledged paternity or maternity and
35 requested custody of the child within two months after the child was
36 found.

37 A parent's failure to substantially improve parental deficiencies
38 within twelve months following entry of the dispositional order shall

1 give rise to a rebuttable presumption that there is little likelihood
2 that conditions will be remedied so that the child can be returned to
3 the parent in the near future.

4 Notice of rights shall be served upon the parent, guardian, or
5 legal custodian with the petition and shall be in substantially the
6 following form:

7 "NOTICE

8 A petition for termination of parental rights has been filed
9 against you. You have important legal rights and you must take
10 steps to protect your interests. This petition could result in
11 permanent loss of your parental rights.

12 1. You have the right to a fact-finding hearing before
13 a judge.

14 2. You have the right to have a lawyer represent you at
15 the hearing. A lawyer can look at the files in your case, talk
16 to the department of social and health services and other
17 agencies, tell you about the law, help you understand your
18 rights, and help you at hearings. If you cannot afford a
19 lawyer, the court will appoint one to represent you. To get a
20 court-appointed lawyer you must contact: (explain local
21 procedure) .

22 3. At the hearing, you have the right to speak on your
23 own behalf, to introduce evidence, to examine witnesses, and to
24 receive a decision based solely on the evidence presented to
25 the judge.

26 You should be present at this hearing.

27 You may call (insert agency) for more information
28 about your child. The agency's name and telephone number are
29 (insert name and telephone number) ."

30 **Sec. 4.** RCW 13.34.190 and 1992 c 145 s 15 are each amended to read
31 as follows:

32 After hearings pursuant to RCW 13.34.110, the court may enter an
33 order terminating all parental rights to a child if the court finds
34 that:

35 (1) The allegations contained in the petition as provided in RCW
36 13.34.180 (1) through (6) are established by clear, cogent, and
37 convincing evidence; or

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

4 (3) The allegation under RCW 13.34.180(7) is established beyond a
5 reasonable doubt. In determining whether RCW 13.34.180 (5) and (6) are
6 established beyond a reasonable doubt, the court shall consider whether
7 one or more of the (~~following~~:

8 ~~(a) Conviction of the parent of rape of the child in the first,~~
9 ~~second, or third degree as defined in RCW 9A.44.073, 9A.44.076, and~~
10 ~~9A.44.079;~~

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

13 ~~(c) Conviction of the parent of one of the following assault~~
14 ~~crimes, when the child is the victim: Assault in the first or second~~
15 ~~degree as defined in RCW 9A.36.011 and 9A.36.021 or assault of a child~~
16 ~~in the first or second degree as defined in RCW 9A.36.120 or 9A.36.130;~~

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

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

21 ~~(f) Failure of the parent to complete available treatment ordered~~
22 ~~under this chapter or the equivalent laws of another state, where such~~
23 ~~failure has resulted in a prior termination of parental rights to~~
24 ~~another child and the parent has failed to effect significant change in~~
25 ~~the interim)) aggravated circumstances listed in RCW 13.34.130(2)~~
26 ~~exist; and~~

27 (4) Such an order is in the best interests of the child.

28 **Sec. 5.** RCW 13.34.232 and 1981 c 195 s 3 are each amended to read
29 as follows:

30 If the court has made a finding under RCW 13.34.231, it shall enter
31 an order establishing a guardianship for the child. The order shall:

32 (1) Appoint a person or agency to serve as guardian;

33 (2) Specify the guardian's rights and responsibilities concerning
34 the care, custody, and control of the child. A guardian shall not have
35 the authority to consent to the child's adoption;

36 (3) Specify an appropriate frequency of visitation between the
37 parent and the child; and

1 (4) Specify the need for any continued involvement of the
2 supervising agency and the nature of that involvement, if any.

3 The order shall not affect the child's status as a dependent child,
4 and the child shall remain dependent for the duration of the
5 guardianship.

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