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HOUSE BILL 1512

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By Representatives Brough, Leonard, Chappell, Romero, Voloria, Riley, Karahalios, Horn, Wolfe, Ballasiotes, Talcott, G. Cole, Flemming and J. Kohl

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1 AN ACT Relating to dependent children; and amending RCW 13.34.130,  
2 13.34.145, 13.34.180, 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 there are no reasonably available services that are capable of  
31 correcting the parental deficiencies in the near future;

32 (i) Severe abuse of a child under age five inflicted by a parent,  
33 or by any person known by the parent, if the parent knew or reasonably  
34 should have known that the person was abusing the child. For the  
35 purposes of this subsection, "severe abuse" means any of the following:  
36 Any single act of abuse that causes physical trauma of sufficient  
37 severity that, if left untreated, would cause death; any single act of  
38 sexual abuse that causes significant bleeding, deep bruising, or  
39 significant external or internal swelling; or more than one act of

1 physical abuse, each of which causes bleeding, deep bruising,  
2 significant external or internal swelling, bone fracture, or  
3 unconsciousness.

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

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

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

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

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

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

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

35 (c) If the court has ordered, pursuant to subsection (2) of this  
36 section, that a termination petition be filed, a specific plan as to  
37 where the child will be placed, what steps will be taken to achieve  
38 permanency for the child, services to be offered or provided to the  
39 child, and, if visitation would be in the best interests of the child,

1 a recommendation to the court regarding visitation between parent and  
2 child pending a fact-finding hearing on the termination petition. The  
3 agency shall not be required to develop a plan of services for the  
4 parents or provide services to the parents.

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

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

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

38 (b) If the child is not returned home, the court shall establish in  
39 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.

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

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

29 (2) At the permanency planning hearing, the court shall enter  
30 findings as required by RCW 13.34.130((4))(5). In addition the court  
31 shall: (a) ~~((Approve a permanent plan of care))~~ Accept the permanency  
32 plan which ((can)) shall include one of the following: Adoption,  
33 guardianship, ((or)) placement of the child in the home of the child's  
34 parent, relative placement with written permanency plan, or family  
35 foster care with written permanency agreement; (b) require filing of a  
36 petition for termination of parental rights; or (c) dismiss the  
37 dependency, unless the court finds, based on clear, cogent, and  
38 convincing evidence, that it is in the best interest of the child to

1 continue the dependency beyond eighteen months, based on ((a permanent  
2 ~~plan of care~~) the permanency plan. Extensions may only be granted in  
3 increments of twelve months or less.

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

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

11 (1) That the child has been found to be a dependent child under RCW  
12 13.34.030(2); and

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

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

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

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

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

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

35 A parent's failure to substantially improve parental deficiencies  
36 within twelve months following entry of the dispositional order shall  
37 give rise to a rebuttable presumption that there is little likelihood

1 that conditions will be remedied so that the child can be returned to  
2 the parent in the near future.

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

6 "NOTICE

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

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

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

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

25 You should be present at this hearing.

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

29 **Sec. 4.** RCW 13.34.232 and 1981 c 195 s 3 are each amended to read  
30 as follows:

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

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

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



1       (3) Specify an appropriate frequency of visitation between the  
2 parent and the child; and

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

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

--- END ---