
HOUSE BILL 2725

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By Representatives Stevens, Casada, Talcott, Schoesler, Fuhrman, Sheahan, Brough, L. Thomas, Wood, Campbell, Long, Van Luven, B. Thomas, Dyer, Backlund, Cooke, Chandler and Kremen

Read first time 01/21/94. Referred to Committee on Human Services.

1 AN ACT Relating to giving grandparents and family members priority
2 in alternative placement situations; amending RCW 13.04.011,
3 13.32A.130, 13.32A.140, 13.32A.150, 13.32A.160, 13.32A.170, 13.32A.180,
4 13.32A.190, 13.34.236, 13.34.060, 13.34.070, 13.34.130, 13.34.145, and
5 13.34.210; and adding new sections to chapter 13.34 RCW.

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

7 **Sec. 1.** RCW 13.04.011 and 1992 c 205 s 119 are each amended to
8 read as follows:

9 For purposes of this title:

10 (1) Except as specifically provided in RCW 13.40.020 and chapter
11 13.24 RCW, as now or hereafter amended, "juvenile," "youth," and
12 "child" mean any individual who is under the chronological age of
13 eighteen years;

14 (2) "Juvenile offender" and "juvenile offense" have the meaning
15 ascribed in RCW 13.40.020;

16 (3) "Court" when used without further qualification means the
17 juvenile court judge(s) or commissioner(s);

18 (4) "Parent" or "parents," except as used in chapter 13.34 RCW, as
19 now or hereafter amended, means that parent or parents who have the

1 right of legal custody of the child. "Parent" or "parents" as used in
2 chapter 13.34 RCW, means the biological or adoptive parents of a child
3 unless the legal rights of that person have been terminated by judicial
4 proceedings;

5 (5) "Custodian" means that person who has the legal right to
6 custody of the child;

7 (6) "Extended family member" means a competent adult related to a
8 minor child by blood, marriage, or adoption.

9 **Sec. 2.** RCW 13.32A.130 and 1992 c 205 s 206 are each amended to
10 read as follows:

11 A child admitted to a crisis residential center under this chapter
12 who is not returned to the home of his or her parent, not placed in the
13 home of a grandparent or extended family member under an agreement
14 between the child and the grandparent or extended family member, or who
15 is not placed in an alternative residential placement under an
16 agreement between the parent and child, shall, except as provided for
17 by RCW 13.32A.140 and 13.32A.160(2), reside in such placement under the
18 rules and regulations established for the center for a period not to
19 exceed five consecutive days from the time of intake, except as
20 otherwise provided by this chapter. Crisis residential center staff
21 shall make a concerted effort to achieve a reconciliation of the
22 family. If a reconciliation and voluntary return of the child has not
23 been achieved within forty-eight hours from the time of intake, and if
24 the person in charge of the center does not consider it likely that
25 reconciliation will be achieved within the five-day period, then the
26 person in charge shall inform the parent and child of (1) the
27 availability of counseling services; (2) the right to file a petition
28 for an alternative residential placement, the right of a parent to file
29 an at-risk youth petition, and the right of the parent and child to
30 obtain assistance in filing the petition; and (3) the right to request
31 a review of any alternative residential placement: PROVIDED, That at
32 no time shall information regarding a parent's or child's rights be
33 withheld if requested: PROVIDED FURTHER, That the department shall
34 develop and distribute to all law enforcement agencies and to each
35 crisis residential center administrator a written statement delineating
36 such services and rights. Every officer taking a child into custody
37 shall provide the child and his or her parent(s) or responsible adult
38 with whom the child is placed with a copy of such statement. In

1 addition, the administrator of the facility or his or her designee
2 shall provide every resident and parent with a copy of such statement.

3 **Sec. 3.** RCW 13.32A.140 and 1990 c 276 s 9 are each amended to read
4 as follows:

5 The department shall file a petition to approve an alternative
6 residential placement on behalf of a child under any of the following
7 sets of circumstances:

8 (1) The child has been admitted to a crisis residential center or
9 has been placed with a grandparent, extended family member, or
10 responsible person other than his or her parent, and:

11 (a) The parent has been notified that the child was so admitted or
12 placed;

13 (b) Seventy-two hours, including Saturdays, Sundays, and holidays,
14 have passed since such notification;

15 (c) No agreement between the parent and the child as to where the
16 child shall live has been reached;

17 (d) No petition requesting approval of an alternative residential
18 placement has been filed by ~~((either))~~ the child ~~((or))~~, parent,
19 grandparent, extended family member, or legal custodian;

20 (e) The parent has not filed an at-risk youth petition; and

21 (f) The child has no suitable place to live other than the home of
22 his or her parent.

23 (2) The child has been admitted to a crisis residential center and:

24 (a) Seventy-two hours, including Saturdays, Sundays, and holidays,
25 have passed since such placement;

26 (b) The staff, after searching with due diligence, have been unable
27 to contact the parent of such child; and

28 (c) The child has no suitable place to live other than the home of
29 his or her parent.

30 (3) An agreement between parent and child made pursuant to RCW
31 13.32A.090(2)(e) or pursuant to RCW 13.32A.120(1) is no longer
32 acceptable to parent or child or the grandparent or extended family
33 member, and:

34 (a) The party to whom the arrangement is no longer acceptable has
35 so notified the department;

36 (b) Seventy-two hours, including Saturdays, Sundays, and holidays,
37 have passed since such notification;

1 (c) No new agreement between parent and child or the grandparent or
2 extended family member and child as to where the child shall live has
3 been reached;

4 (d) No petition requesting approval of an alternative residential
5 placement has been filed by (~~either~~) the child (~~or~~), the parent, or
6 the grandparent or extended family member;

7 (e) The parent has not filed an at-risk youth petition; and

8 (f) The child has no suitable place to live other than the home of
9 his or her parent.

10 Under the circumstances of subsections (1), (2), or (3) of this
11 section, the child shall remain in a licensed child care facility,
12 including but not limited to a crisis residential center, or in any
13 other suitable residence to be determined by the department until an
14 alternative residential placement petition filed by the department on
15 behalf of the child is reviewed by the juvenile court and is resolved
16 by such court. The department may authorize emergency medical or
17 dental care for a child placed under this section. The state, when the
18 department files a petition for alternative residential placement under
19 this section, shall be represented as provided for in RCW 13.04.093.

20 **Sec. 4.** RCW 13.32A.150 and 1992 c 205 s 208 are each amended to
21 read as follows:

22 (1) Except as otherwise provided in this section the juvenile court
23 shall not accept the filing of an alternative residential placement
24 petition by the child (~~or~~), the parents, or the grandparent or
25 extended family member, or the filing of an at-risk youth petition by
26 the parent, unless verification is provided that a family assessment
27 has been completed by the department. The family assessment shall be
28 aimed at family reconciliation and avoidance of the out-of-home
29 placement of the child. If the department is unable to complete an
30 assessment within two working days following a request for assessment
31 the child (~~or~~), the parents, or the grandparent or extended family
32 member, may proceed under subsection (2) of this section or the parent
33 may proceed under subsection (3) of this section.

34 (2) A child (~~or~~), a child's parent, grandparent, or extended
35 family member may file with the juvenile court a petition to approve an
36 alternative residential placement for the child outside the parent's
37 home. The department shall, when requested, assist either a parent or
38 child in the filing of the petition. The petition shall only ask that

1 the placement of a child outside the home of his or her parent be
2 approved. The filing of a petition to approve such placement is not
3 dependent upon the court's having obtained any prior jurisdiction over
4 the child or his or her parent, and confers upon the court a special
5 jurisdiction to approve or disapprove an alternative residential
6 placement.

7 (3) A child's parent may file with the juvenile court a petition in
8 the interest of a child alleged to be an at-risk youth. The department
9 shall, when requested, assist the parent in filing the petition. The
10 petition shall be filed in the county where the petitioning parent
11 resides. The petition shall set forth the name, age, and residence of
12 the child and the names and residence of the child's parents and shall
13 allege that:

14 (a) The child is an at-risk youth as defined in this chapter;

15 (b) The petitioning parent has the right to legal custody of the
16 child;

17 (c) Court intervention and supervision are necessary to assist the
18 parent to maintain the care, custody, and control of the child; and

19 (d) Alternatives to court intervention have been attempted or there
20 is good cause why such alternatives have not been attempted.

21 The petition shall set forth facts that support the allegations in
22 this subsection and shall generally request relief available under this
23 chapter. The petition need not specify any proposed disposition
24 following adjudication of the petition. The filing of an at-risk youth
25 petition is not dependent upon the court's having obtained any prior
26 jurisdiction over the child or his or her parent and confers upon the
27 court the special jurisdiction to assist the parent in maintaining
28 parental authority and responsibility for the child. An at-risk youth
29 petition may not be filed if the court has approved an alternative
30 residential placement petition regarding the child or if the child is
31 the subject of a proceeding under chapter 13.34 RCW. A petition may be
32 accepted for filing only if alternatives to court intervention have
33 been attempted. Juvenile court personnel may screen all at-risk youth
34 petitions and may refuse to allow the filing of any petition that lacks
35 merit, fails to comply with the requirements of this section, or fails
36 to allege sufficient facts in support of allegations in the petition.

37 **Sec. 5.** RCW 13.32A.160 and 1990 c 276 s 11 are each amended to
38 read as follows:

1 (1) When a proper petition to approve an alternative residential
2 placement is filed under RCW 13.32A.120, 13.32A.140, or 13.32A.150 the
3 juvenile court shall: (a) Schedule a date for a fact-finding hearing;
4 notify the parent, child, an interested grandparent or extended family
5 member who has filed a proper request with the court to receive such
6 notice, and the department of such date; (b) notify the parent of the
7 right to be represented by counsel and, if indigent, to have counsel
8 appointed for him or her by the court; (c) appoint legal counsel for
9 the child; (d) inform the child and his or her parent of the legal
10 consequences of the court approving or disapproving an alternative
11 residential placement petition; and (e) notify all parties, including
12 the grandparent or extended family member and the department, of their
13 right to present evidence at the fact-finding hearing.

14 (2) Upon filing of an alternative residential placement petition,
15 the child may be placed, if not already placed, by the department with
16 a suitable grandparent or extended family member, or if no suitable
17 grandparent or extended family member is willing or able to take the
18 child, then in a crisis residential center, foster family home, group
19 home facility licensed under chapter 74.15 RCW, or any other suitable
20 residence to be determined by the department.

21 (3) If the child has been placed in a foster family home or group
22 care facility under chapter 74.15 RCW, the child shall remain there, or
23 in any other suitable residence with a grandparent, extended family
24 member, or responsible adult as determined by the department, pending
25 resolution of the alternative residential placement petition by the
26 court. Any placement may be reviewed by the court within three court
27 days upon the request of the juvenile or the juvenile's parent.

28 **Sec. 6.** RCW 13.32A.170 and 1989 c 269 s 3 are each amended to read
29 as follows:

30 (1) The court shall hold a fact-finding hearing to consider a
31 proper petition and may approve or deny alternative residential
32 placement giving due weight to the intent of the legislature that
33 families have the right to place reasonable restrictions and rules upon
34 their children, appropriate to the individual child's developmental
35 level. The court may appoint legal counsel and/or a guardian ad litem
36 to represent the child and advise parents of their right to be
37 represented by legal counsel. The court may approve an order stating
38 that the child shall be placed in a residence other than the home of

1 his or her parent only if it is established by a preponderance of the
2 evidence, including a departmental recommendation for approval or
3 dismissal of the petition, that:

4 (a) The petition is not capricious;

5 (b) The petitioner, if a parent or the child, has made a reasonable
6 effort to resolve the conflict;

7 (c) The conflict which exists cannot be resolved by delivery of
8 services to the family during continued placement of the child in the
9 parental home;

10 (d) Reasonable efforts have been made to prevent or eliminate the
11 need for removal of the child from the child's home and to make it
12 possible for the child to return home; and

13 (e) A suitable out-of-home placement resource is available.

14 The court may not grant a petition filed by the child, the
15 grandparent, extended family member, or the department if it is
16 established that the petition is based only upon a dislike of
17 reasonable rules or reasonable discipline established by the parent.

18 (2) The order approving out-of-home placement shall direct the
19 department to submit a disposition plan for a three-month placement of
20 the child that is designed to reunite the family and resolve the family
21 conflict. Such plan shall delineate any conditions or limitations on
22 parental involvement. In making the order, the court shall further
23 direct the department to make recommendations, as to which agency or
24 person should have physical custody of the child, as to which parental
25 powers should be awarded to such agency or person, and as to parental
26 visitation rights. The court shall give priority to placement with a
27 suitable grandparent or extended family member. The court may direct
28 the department to consider the cultural heritage of the child in making
29 its recommendations.

30 (3) The hearing to consider the recommendations of the department
31 for a three-month disposition plan shall be set no later than fourteen
32 days after the approval of the court of a petition to approve
33 alternative residential placement. Each party shall be notified of the
34 time and place of such disposition hearing.

35 (4) If the court approves or denies a petition for an alternative
36 residential placement, a written statement of the reasons shall be
37 filed. If the court denies a petition requesting that a child be
38 placed in a residence other than the home of his or her parent, the

1 court shall enter an order requiring the child to remain at or return
2 to the home of his or her parent.

3 (5) If the court denies the petition, the court shall impress upon
4 the party filing the petition of the legislative intent to restrict the
5 proceedings to situations where a family conflict is so great that it
6 cannot be resolved by the provision of in-home services.

7 (6) A child who fails to comply with a court order directing that
8 the child remain at or return to the home of his or her parent shall be
9 subject to contempt proceedings, as provided in this chapter, but only
10 if the noncompliance occurs within ninety calendar days after the day
11 of the order.

12 (7) The department may request, and the juvenile court may grant,
13 dismissal of an alternative residential placement order when it is not
14 feasible for the department to provide services due to one or more of
15 the following circumstances:

16 (a) The child has been absent from court approved placement for
17 thirty consecutive days or more;

18 (b) The parents or the child, or all of them, refuse to cooperate
19 in available, appropriate intervention aimed at reunifying the family;
20 or

21 (c) The department has exhausted all available and appropriate
22 resources that would result in reunification.

23 **Sec. 7.** RCW 13.32A.180 and 1979 c 155 s 32 are each amended to
24 read as follows:

25 (1) At a dispositional hearing held to consider the three-month
26 dispositional plan presented by the department the court shall consider
27 all such recommendations included therein. The court, consistent with
28 the stated goal of resolving the family conflict and reuniting the
29 family, may modify such plan and shall make its dispositional order for
30 a three-month out-of-home placement for the child, giving preference to
31 placement with a grandparent or extended family member. The court
32 dispositional order shall specify the person or agency with whom the
33 child shall be placed, those parental powers which will be temporarily
34 awarded to such agency or person including but not limited to the right
35 to authorize medical, dental, and optical treatment, and parental
36 visitation rights. Any agency or residence at which the child is
37 placed must, at a minimum, comply with minimum standards for licensed
38 family foster homes.

1 (2) No placement made pursuant to this section may be in a secure
2 residence as defined by the federal Juvenile Justice and Delinquency
3 Prevention Act of 1974 and clarifying interpretations and regulations
4 promulgated thereunder.

5 **Sec. 8.** RCW 13.32A.190 and 1989 c 269 s 5 are each amended to read
6 as follows:

7 (1) Upon making a dispositional order under RCW 13.32A.180, the
8 court shall schedule the matter on the calendar for review within three
9 months, advise the parties of the date thereof, appoint legal counsel
10 and/or a guardian ad litem to represent the child at the review
11 hearing, advise parents of their right to be represented by legal
12 counsel at the review hearing, and notify the parties of their rights
13 to present evidence at the hearing. Where resources are available, the
14 court shall encourage the parent and child to participate in mediation
15 programs for reconciliation of their conflict.

16 (2) At the review hearing, the court shall approve or disapprove
17 the continuation of the dispositional plan in accordance with the goal
18 of resolving the conflict and reuniting the family which governed the
19 initial approval. The court shall determine whether reasonable efforts
20 have been made to reunify the family and make it possible for the child
21 to return home. The court is authorized to discontinue the placement
22 and order that the child return home if the court has reasonable
23 grounds to believe that the parents have displayed concerted efforts to
24 utilize services and resolve the conflict and the court has reason to
25 believe that the child's refusal to return home is capricious. If out-
26 of-home placement is continued, the court may modify the dispositional
27 plan.

28 (3) Out-of-home placement may not be continued past one hundred
29 eighty days from the day the review hearing commenced. The court shall
30 order that the child return to the home of the parent at the expiration
31 of the placement. If continued out-of-home placement is disapproved,
32 the court shall enter an order requiring that the child return to the
33 home of the child's parent.

34 (4) The department may request, and the juvenile court may grant,
35 dismissal of an alternative residential placement order when it is not
36 feasible for the department to provide services due to one or more of
37 the following circumstances:

1 (a) The child has been absent from court approved placement for
2 thirty consecutive days or more;

3 (b) The parents ~~((or))~~, the child, the grandparent, extended family
4 member, or all of them, refuse to cooperate in available, appropriate
5 intervention aimed at reunifying the family; or

6 (c) The department has exhausted all available and appropriate
7 resources that would result in reunification.

8 **Sec. 9.** RCW 13.34.236 and 1981 c 195 s 7 are each amended to read
9 as follows:

10 ~~((Any))~~ (1) A person over the age of twenty-one years ~~((who is not~~
11 ~~otherwise disqualified by this section, any))~~, a nonprofit corporation,
12 or ~~((any))~~ an Indian tribe may be appointed the guardian of a child
13 under RCW 13.34.232~~((— No person is qualified to serve as a guardian~~
14 ~~who:—(1)))~~ if the person, corporation, or tribe: (a) Is not of
15 unsound mind; ~~((+2))~~ (b) has not been convicted of a felony or
16 misdemeanor involving moral turpitude; or ~~((+3))~~ (c) is not a person
17 whom the court finds unsuitable.

18 (2) An interested person may petition the court to remove the
19 guardian if the guardian is not acting in the child's best interest.
20 If the court finds that the guardian is not acting in the child's best
21 interest, the court shall remove the guardian and appoint a new
22 guardian who meets the criteria of subsection (1) of this section.

23 **Sec. 10.** RCW 13.34.060 and 1990 c 246 s 1 are each amended to read
24 as follows:

25 (1) A child taken into custody pursuant to RCW 13.34.050 or
26 26.44.050 shall be immediately placed in shelter care. A child taken
27 by a relative of the child in violation of RCW 9A.40.060 or 9A.40.070
28 shall be placed in shelter care only when permitted under RCW
29 13.34.055. "Shelter care" means temporary physical care in a facility
30 licensed pursuant to RCW 74.15.030 or in a home not required to be
31 licensed pursuant to that section. Whenever a child is taken into such
32 custody pursuant to this section, the supervising agency may authorize
33 evaluations of the child's physical or emotional condition, routine
34 medical and dental examination and care, and all necessary emergency
35 care. In no case may a child who is taken into custody pursuant to RCW
36 13.34.055, 13.34.050, or 26.44.050 be detained in a secure detention
37 facility. No child may be held longer than seventy-two hours,

1 excluding Saturdays, Sundays and holidays, after such child is taken
2 into custody unless a court order has been entered for continued
3 shelter care. The child and his or her parent, guardian, or custodian
4 shall be informed that they have a right to a shelter care hearing.
5 The court shall hold a shelter care hearing within seventy-two hours
6 after the child is taken into custody, excluding Saturdays, Sundays,
7 and holidays. If a parent, guardian, or legal custodian desires to
8 waive the shelter care hearing, the court shall determine, on the
9 record and with the parties present, that such waiver is knowing and
10 voluntary.

11 (2) Whenever a child is taken into custody by child protective
12 services pursuant to a court order issued under RCW 13.34.050 or when
13 child protective services is notified that a child has been taken into
14 custody pursuant to RCW 26.44.050 or 26.44.056, child protective
15 services shall make reasonable efforts to inform the parents, guardian,
16 or legal custodian of the fact that the child has been taken into
17 custody, the reasons why the child was taken into custody, and their
18 legal rights under this title as soon as possible and in no event
19 longer than twenty-four hours after the child has been taken into
20 custody or twenty-four hours after child protective services has been
21 notified that the child has been taken into custody. The notice of
22 custody and rights may be given by any means reasonably certain of
23 notifying the parents including, but not limited to, written,
24 telephone, or in person oral notification. If the initial notification
25 is provided by a means other than writing, child protective services
26 shall make reasonable efforts to also provide written notification.

27 The written notice of custody and rights shall be in substantially
28 the following form:

29 "NOTICE

30 Your child has been placed in temporary custody under the
31 supervision of Child Protective Services (or other person or agency).
32 You have important legal rights and you must take steps to protect your
33 interests.

34 1. A court hearing will be held before a judge within 72 hours of
35 the time your child is taken into custody. You should call the court
36 at (insert appropriate phone number here) for specific
37 information about the date, time, and location of the court hearing.

1 2. You have the right to have a lawyer represent you at the
2 hearing. A lawyer can look at the files in your case, talk to child
3 protective services and other agencies, tell you about the law, help
4 you understand your rights, and help you at hearings. If you cannot
5 afford a lawyer, the court will appoint one to represent you. To get
6 a court-appointed lawyer you must contact: (explain local
7 procedure) .

8 3. At the hearing, you have the right to speak on your own behalf,
9 to introduce evidence, to examine witnesses, and to receive a decision
10 based solely on the evidence presented to the judge.

11 You should be present at this hearing. If you do not come, the
12 judge will not hear what you have to say.

13 You may call the Child Protective Services' caseworker for more
14 information about your child. The caseworker's name and telephone
15 number are: (insert name and telephone number) ."

16 Upon receipt of the written notice, the parent, guardian, or legal
17 custodian shall acknowledge such notice by signing a receipt prepared
18 by child protective services. If the parent, guardian, or legal
19 custodian does not sign the receipt, the reason for lack of a signature
20 shall be written on the receipt. The receipt shall be made a part of
21 the court's file in the dependency action.

22 If after making reasonable efforts to provide notification, child
23 protective services is unable to determine the whereabouts of the
24 parents, guardian, or legal custodian, the notice shall be delivered or
25 sent to the last known address of the parent, guardian, or legal
26 custodian.

27 (3) If child protective services is not required to give notice
28 under subsection (2) of this section, the juvenile court counselor
29 assigned to the matter shall make all reasonable efforts to advise the
30 parents, guardian, or legal custodian of the time and place of any
31 shelter care hearing, request that they be present, and inform them of
32 their basic rights as provided in RCW 13.34.090.

33 (4) Reasonable efforts to advise and to give notice, as required in
34 subsections (2) and (3) of this section, shall include, at a minimum,
35 investigation of the whereabouts of the parent, guardian, or legal
36 custodian. If such reasonable efforts are not successful, or the
37 parent, guardian, or legal custodian does not appear at the shelter
38 care hearing, the juvenile court counselor or caseworker shall testify
39 at the hearing or state in a declaration:

1 (a) The efforts made to investigate the whereabouts of, and to
2 advise, the parent, guardian, or legal custodian; and

3 (b) Whether actual advice of rights was made, to whom it was made,
4 and how it was made, including the substance of any oral communication
5 or copies of written materials used.

6 (5) At the commencement of the shelter care hearing the court shall
7 advise the parties of their basic rights as provided in RCW 13.34.090
8 and shall appoint counsel pursuant to RCW 13.34.090 if counsel has not
9 been retained by the parent or guardian and if the parent or guardian
10 is indigent, unless the court finds that the right to counsel has been
11 expressly and voluntarily waived in court.

12 (6) The court shall hear evidence regarding notice given to, and
13 efforts to notify, the parent, guardian, or legal custodian and shall
14 examine the need for shelter care. The court shall make an express
15 finding as to whether the notice required under subsections (2) and (3)
16 of this section was given to the parent, guardian, or legal custodian.
17 All parties have the right to present testimony to the court regarding
18 the need or lack of need for shelter care. Hearsay evidence before the
19 court regarding the need or lack of need for shelter care must be
20 supported by sworn testimony, affidavit, or declaration of the person
21 offering such evidence.

22 (7) The juvenile court probation counselor shall submit a
23 recommendation to the court as to the further need for shelter care,
24 except that such recommendation shall be submitted by the department of
25 social and health services in cases where the petition alleging
26 dependency has been filed by the department of social and health
27 services, unless otherwise ordered by the court.

28 (8) The court shall release a child alleged to be dependent to the
29 care, custody, and control of the child's parent, guardian, or legal
30 custodian unless the court finds there is reasonable cause to believe
31 that:

32 (a) After consideration of the specific services that have been
33 provided, reasonable efforts have been made to prevent or eliminate the
34 need for removal of the child from the child's home and to make it
35 possible for the child to return home; and

36 (b)(i) The child has no parent, guardian, or legal custodian to
37 provide supervision and care for such child; or

38 (ii) The release of such child would present a serious threat of
39 substantial harm to such child; or

1 (iii) The parent, guardian, or custodian to whom the child could be
2 released is alleged to have violated RCW 9A.40.060 or 9A.40.070.

3 If the court does not release the child to his or her parent,
4 guardian, or legal custodian, the court shall order continued shelter
5 care or order placement preferably with a grandparent or extended
6 family member or another suitable person, and the court shall set forth
7 its reasons for the order. The court shall enter a finding as to
8 whether subsections (2) and (3) of this section have been complied
9 with. If actual notice was not given to the parent, guardian, or legal
10 custodian and the whereabouts of such person is known or can be
11 ascertained, the court shall order the supervising agency or the
12 department of social and health services to make reasonable efforts to
13 advise the parent, guardian, or legal custodian of the status of the
14 case, including the date and time of any subsequent hearings, and their
15 rights under RCW 13.34.090.

16 (9) An order releasing the child on any conditions specified in
17 this section may at any time be amended, with notice and hearing
18 thereon, so as to return the child to shelter care for failure of the
19 parties to conform to the conditions originally imposed.

20 (10) A shelter care order issued pursuant to this section may be
21 amended at any time with notice and hearing thereon. The shelter care
22 decision of placement shall be modified only upon a showing of change
23 in circumstances. No child may be detained for longer than thirty days
24 without an order, signed by the judge, authorizing continued shelter
25 care.

26 (11) Any parent, guardian, or legal custodian who for good cause is
27 unable to attend the initial shelter care hearing may request that a
28 subsequent shelter care hearing be scheduled. The request shall be
29 made to the clerk of the court where the petition is filed prior to the
30 initial shelter care hearing. The hearing shall be held within
31 seventy-two hours of the request, excluding Saturdays, Sundays, and
32 holidays. The clerk shall notify all other parties of the hearing by
33 any reasonable means.

34 **Sec. 11.** RCW 13.34.070 and 1993 c 358 s 1 are each amended to read
35 as follows:

36 (1) Upon the filing of the petition, the clerk of the court shall
37 issue a summons, one directed to the child, if the child is twelve or
38 more years of age, and another to the parents, guardian, or custodian,

1 and such other persons as appear to the court to be proper or necessary
2 parties to the proceedings, requiring them to appear personally before
3 the court at the time fixed to hear the petition. The clerk of the
4 court shall provide notice by sending a copy of the petition to a
5 grandparent or extended family member if he or she has filed a request
6 with the clerk of the court. If the child is developmentally disabled
7 and not living at home, the notice shall be given to the child's
8 custodian as well as to the child's parent. The developmentally
9 disabled child shall not be required to appear unless requested by the
10 court. Where the custodian is summoned, the parent or guardian or both
11 shall also be served with a summons. The fact-finding hearing on the
12 petition shall be held no later than seventy-five days after the filing
13 of the petition, unless exceptional reasons for a continuance are
14 found. The party requesting the continuance shall have the burden of
15 proving by a preponderance of the evidence that exceptional
16 circumstances do exist. To ensure that the hearing on the petition
17 occurs within the seventy-five day time limit, the court shall schedule
18 and hear the matter on an expedited basis.

19 (2) A copy of the petition shall be attached to each summons.

20 (3) The summons shall advise the parties of the right to counsel.
21 The summons shall also inform the child's parent, guardian, or legal
22 custodian of his or [her] right to appointed counsel, if indigent, and
23 of the procedure to use to secure appointed counsel.

24 (4) The summons shall advise the parents that they may be held
25 responsible for the support of the child if the child is placed in out-
26 of-home care.

27 (5) The judge may endorse upon the summons an order directing any
28 parent, guardian, or custodian having the custody or control of the
29 child to bring the child to the hearing.

30 (6) If it appears from affidavit or sworn statement presented to
31 the judge that there is probable cause for the issuance of a warrant of
32 arrest or that the child needs to be taken into custody pursuant to RCW
33 13.34.050, the judge may endorse upon the summons an order that an
34 officer serving the summons shall at once take the child into custody
35 and take him to the place of shelter designated by the court.

36 (7) If the person summoned as provided in this section is subject
37 to an order of the court pursuant to subsection (5) or (6) of this
38 section, and if the person fails to abide by the order, he may be

1 proceeded against as for contempt of court. The order endorsed upon
2 the summons shall conspicuously display the following legend:

3 NOTICE:

4 VIOLATION OF THIS ORDER
5 IS SUBJECT TO PROCEEDING
6 FOR CONTEMPT OF COURT
7 PURSUANT TO RCW 13.34.070.

8 (8) If a party to be served with a summons can be found within the
9 state, the summons shall be served upon the party personally as soon as
10 possible following the filing of the petition, but in no case later
11 than fifteen court days before the fact-finding hearing, or such time
12 as set by the court. If the party is within the state and cannot be
13 personally served, but the party's address is known or can with
14 reasonable diligence be ascertained, the summons may be served upon the
15 party by mailing a copy thereof by certified mail as soon as possible
16 following the filing of the petition, but in no case later than fifteen
17 court days before the hearing, or such time as set by the court. If a
18 party other than the child is without the state but can be found or the
19 address is known, or can with reasonable diligence be ascertained,
20 service of the summons may be made either by delivering a copy thereof
21 to the party personally or by mailing a copy thereof to the party by
22 certified mail at least ten court days before the fact-finding hearing,
23 or such time as set by the court.

24 (9) Service of summons may be made under the direction of the court
25 by any person eighteen years of age or older who is not a party to the
26 proceedings or by any law enforcement officer, probation counselor, or
27 department of social and health services social worker.

28 (10) In any proceeding brought under this chapter where the court
29 knows or has reason to know that the child involved is a member of an
30 Indian tribe, notice of the pendency of the proceeding shall also be
31 sent by registered mail, return receipt requested, to the child's
32 tribe. If the identity or location of the tribe cannot be determined,
33 such notice shall be transmitted to the secretary of the interior of
34 the United States.

35 (11) In any proceeding filed under this chapter, grandparents or
36 extended family members shall have the right to receive notice of all
37 hearings and the dispositions of those hearings if the grandparent or
38 family member has filed a request with the clerk of the court to

1 receive such notices. The grandparent or extended family member shall
2 have the right to present testimony, and may obtain copies of all
3 pleadings. The clerk of the court may collect a fee from the requester
4 to cover the costs of copying and mailing the pleadings under this
5 subsection.

6 **Sec. 12.** RCW 13.34.130 and 1992 c 145 s 14 are each amended to
7 read as follows:

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

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

17 (a) Order a disposition other than removal of the child from his or
18 her home, which shall provide a program designed to alleviate the
19 immediate danger to the child, to mitigate or cure any damage the child
20 has already suffered, and to aid the parents so that the child will not
21 be endangered in the future. In selecting a program, the court should
22 choose those services that least interfere with family autonomy,
23 provided that the services are adequate to protect the child.

24 (b) Order that the child be removed from his or her home and
25 ordered into the custody, control, and care of a relative or the
26 department of social and health services or a licensed child placing
27 agency for placement in a foster family home or group care facility
28 licensed pursuant to chapter 74.15 RCW or in a home not required to be
29 licensed pursuant to chapter 74.15 RCW. Unless there is reasonable
30 cause to believe that the safety or welfare of the child would be
31 jeopardized or that efforts to reunite the parent and child will be
32 hindered, such child shall be placed with a grandparent, brother,
33 sister, stepbrother, stepsister, uncle, aunt, ~~((or))~~ first cousin, or
34 extended family member with whom the child has a relationship and is
35 comfortable, and who is willing and available to care for the child.
36 An order for out-of-home placement may be made only if the court finds
37 that reasonable efforts have been made to prevent or eliminate the need
38 for removal of the child from the child's home and to make it possible

1 for the child to return home, specifying the services that have been
2 provided to the child and the child's parent, guardian, or legal
3 custodian, and that:

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

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

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

11 (iv) The extent of the child's disability is such that the parent,
12 guardian, or legal custodian is unable to provide the necessary care
13 for the child and the parent, guardian, or legal custodian has
14 determined that the child would benefit from placement outside of the
15 home.

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

26 (a) Conviction of the parent of rape of the child in the first,
27 second, or third degree as defined in RCW 9A.44.073, 9A.44.076, and
28 9A.44.079;

29 (b) Conviction of the parent of criminal mistreatment of the child
30 in the first or second degree as defined in RCW 9A.42.020 and
31 9A.42.030;

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

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

38 (e) A finding by a court that a parent is a sexually violent
39 predator as defined in RCW 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 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. 13.** RCW 13.34.145 and 1993 c 412 s 1 are each amended to read
25 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 plan and present it in a hearing held before
29 the court no later than eighteen months following commencement of the
30 placement episode.

31 (2) At the permanency planning hearing, the court shall enter
32 findings as required by RCW 13.34.130(5). In addition the court shall:

33 (a) Approve a permanency plan which shall include one of the following:
34 Adoption with priority given to grandparents and extended family
35 members, guardianship, placement of the child in the home of the
36 child's parent, relative placement with written permanency plan, or
37 family foster care with written permanency agreement; (b) require
38 filing of a petition for termination of parental rights; or (c) dismiss

1 the 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 the permanency
4 plan. Extensions may only be granted in increments of twelve months or
5 less.

6 **Sec. 14.** RCW 13.34.210 and 1991 c 127 s 6 are each amended to read
7 as follows:

8 If, upon entering an order terminating the parental rights of a
9 parent, there remains no parent having parental rights, the court shall
10 commit the child to the custody of the department of social and health
11 services or to a licensed child-placing agency willing to accept
12 custody for the purpose of placing the child for adoption, or in the
13 absence thereof in a licensed foster home, or take other suitable
14 measures for the care and welfare of the child. Grandparents and other
15 extended family members shall be given priority in obtaining adoption
16 of the child. In determining who shall be the custodian or guardian,
17 the court shall give extra weight and consideration to the testamentary
18 declarations of grandparents or extended family members if they had
19 legal custody or were legal guardians of the minor child. The
20 custodian shall have authority to consent to the adoption of the child
21 consistent with chapter 26.33 RCW, the marriage of the child, the
22 enlistment of the child in the armed forces of the United States,
23 necessary surgical and other medical treatment for the child, and to
24 consent to such other matters as might normally be required of the
25 parent of the child.

26 If a child has not been adopted within six months after the date of
27 the order and a general guardian of the child has not been appointed by
28 the court, the child shall be returned to the court for entry of
29 further orders for his or her care, custody, and control, and, except
30 for children whose cases are reviewed by a citizen review board under
31 chapter 13.70 RCW, the court shall review the case every six months
32 thereafter until a decree of adoption is entered.

33 NEW SECTION. **Sec. 15.** A new section is added to chapter 13.34 RCW
34 to read as follows:

35 In any proceeding brought under this chapter, the court shall give
36 extra weight and consideration to the requests of grandparents and
37 extended family members for visitation rights to see the minor child.

1 NEW SECTION. **Sec. 16.** A new section is added to chapter 13.34 RCW
2 to read as follows:

3 Grandparents or extended family members who have custody of a minor
4 child as foster parents under this chapter may receive financial
5 assistance if they are otherwise unable to provide care for the child.

--- END ---