

2 **SHB 1858** - S COMM AMD

3 By Committee on Human Services & Corrections

4

5 Strike everything after the enacting clause and insert the
6 following:

7 "NEW SECTION. **Sec. 1.** A new section is added to chapter 26.44 RCW
8 to read as follows:

9 Whenever child protective services is investigating allegations of
10 child abuse and neglect, the parents of the child who are the subject
11 of the allegation shall be advised orally and in writing of their legal
12 rights under this chapter. Notification is not required under this
13 section if there is reason to believe that notification would
14 jeopardize the child's welfare or the pending investigation.

15 **Sec. 2.** RCW 13.34.060 and 1990 c 246 s 1 are each amended to read
16 as follows:

17 (1) A child taken into custody pursuant to RCW 13.34.050 or
18 26.44.050 shall be immediately placed in shelter care. A child taken
19 by a relative of the child in violation of RCW 9A.40.060 or 9A.40.070
20 shall be placed in shelter care only when permitted under RCW
21 13.34.055. "Shelter care" means temporary physical care in a facility
22 licensed pursuant to RCW 74.15.030 or in a home not required to be
23 licensed pursuant to that section. Whenever a child is taken into such
24 custody pursuant to this section, the supervising agency may authorize
25 evaluations of the child's physical or emotional condition, routine
26 medical and dental examination and care, and all necessary emergency
27 care. In no case may a child who is taken into custody pursuant to RCW
28 13.34.055, 13.34.050, or 26.44.050 be detained in a secure detention
29 facility. No child may be held longer than seventy-two hours,
30 excluding Saturdays, Sundays and holidays, after such child is taken
31 into custody unless a court order has been entered for continued
32 shelter care. The child and his or her parent, guardian, or custodian
33 shall be informed that they have a right to a shelter care hearing.
34 The court shall hold a shelter care hearing within seventy-two hours
35 after the child is taken into custody, excluding Saturdays, Sundays,

1 and holidays. If a parent, guardian, or legal custodian desires to
2 waive the shelter care hearing, the court shall determine, on the
3 record and with the parties present, that such waiver is knowing and
4 voluntary.

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

23 The written notice of custody and rights shall be in substantially
24 the following form:

25 "NOTICE

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

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

34 2. You have the right to have a lawyer represent you at the
35 hearing. A lawyer can look at the files in your case, talk to child
36 protective services and other agencies, tell you about the law, help
37 you understand your rights, and help you at hearings. If you cannot
38 afford a lawyer, the court will appoint one to represent you. To get

1 a court-appointed lawyer you must contact: (explain local
2 procedure)_____.

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

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

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

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

17 If after making reasonable efforts to provide notification, child
18 protective services is unable to determine the whereabouts of the
19 parents, guardian, or legal custodian, the notice shall be delivered or
20 sent to the last known address of the parent, guardian, or legal
21 custodian.

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

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

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

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

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

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

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

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

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

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

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

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

37 If the court does not release the child to his or her parent,
38 guardian, or legal custodian, the court shall order continued shelter
39 care or order placement with another suitable person, and the court

1 shall set forth its reasons for the order. The court shall enter a
2 finding as to whether subsections (2) and (3) of this section have been
3 complied with. If actual notice was not given to the parent, guardian,
4 or legal custodian and the whereabouts of such person is known or can
5 be ascertained, the court shall order the supervising agency or the
6 department of social and health services to make reasonable efforts to
7 advise the parent, guardian, or legal custodian of the status of the
8 case, including the date and time of any subsequent hearings, and their
9 rights under RCW 13.34.090.

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

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

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

28 **Sec. 3.** RCW 13.34.110 and 1995 c 313 s 1 and 1995 c 311 s 27 are
29 each reenacted and amended to read as follows:

30 The court shall hold a fact-finding hearing on the petition and,
31 unless the court dismisses the petition, shall make written findings of
32 fact, stating the reasons therefor, and after it has announced its
33 findings of fact shall hold a hearing to consider disposition of the
34 case immediately following the fact-finding hearing or at a continued
35 hearing within fourteen days or longer for good cause shown. Unless
36 there is reasonable cause to believe the safety or welfare of the child
37 would be jeopardized or efforts to reunite the parent and child would
38 be hindered, the court shall direct the department to notify those

1 adult persons who: (1) Are related by blood or marriage to the child
2 in the following degrees: Parent, grandparent, brother, sister,
3 stepparent, stepbrother, stepsister, uncle, or aunt; (2) are known to
4 the department as having been in contact with the family or child
5 within the past twelve months; and (3) would be an appropriate
6 placement for the child. The parties need not appear at the fact-
7 finding or dispositional hearing if the parties, their attorneys, the
8 guardian ad litem, and court-appointed special advocates, if any, are
9 all in agreement. The court shall receive and review a social study
10 before entering an order based on agreement. No social file or social
11 study may be considered by the court in connection with the fact-
12 finding hearing or prior to factual determination, except as otherwise
13 admissible under the rules of evidence. Notice of the time and place
14 of the continued hearing may be given in open court. If notice in open
15 court is not given to a party, that party shall be notified by mail of
16 the time and place of any continued hearing. The department shall
17 provide a copy of the case plan to the parents at least ten days prior
18 to the fact-finding hearing.

19 All hearings may be conducted at any time or place within the
20 limits of the county, and such cases may not be heard in conjunction
21 with other business of any other division of the superior court. The
22 general public shall be excluded, and only such persons may be admitted
23 who are found by the judge to have a direct interest in the case or in
24 the work of the court. Unless the court states on the record the
25 reasons to disallow attendance, the court shall allow a child's
26 relatives and, if a child resides in foster care, the child's foster
27 parent, to attend all hearings and proceedings pertaining to the child
28 for the sole purpose of providing oral and written information about
29 the child and the child's welfare to the court.

30 Stenographic notes or any device which accurately records the
31 proceedings may be required as provided in other civil cases pursuant
32 to RCW 2.32.200.

33 **Sec. 4.** RCW 26.44.120 and 1985 c 183 s 5 are each amended to read
34 as follows:

35 Whenever the child protective services worker is required to notify
36 parents and children of their basic rights and other specific
37 information as set forth in RCW 26.44.105 through 26.44.115 and section
38 1 of this act, the child protective services worker shall also make a

1 reasonable effort to notify the noncustodial parent of the same
2 information in a timely manner."

3 **SHB 1858** - S COMM AMD

4 By Committee on Human Services & Corrections

5

6 On page 1, line 1 of the title, after "rights;" strike the
7 remainder of the title and insert "amending RCW 13.34.060 and
8 26.44.120; reenacting and amending RCW 13.34.110; and adding a new
9 section to chapter 26.44 RCW."

--- END ---