

2 ESSB 5491 - CONF REPT
3 By Conference Committee

4 ADOPTED 4/26/97

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

7 "Sec. 1. RCW 13.34.130 and 1995 c 313 s 2, 1995 c 311 s 19, and
8 1995 c 53 s 1 are each reenacted and amended to read as follows:

9 If, after a fact-finding hearing pursuant to RCW 13.34.110, it has
10 been proven by a preponderance of the evidence that the child is
11 dependent within the meaning of RCW 13.34.030; after consideration of
12 the predisposition report prepared pursuant to RCW 13.34.110 and after
13 a disposition hearing has been held pursuant to RCW 13.34.110, the
14 court shall enter an order of 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 person who is related to
33 the child as defined in RCW 74.15.020(4)(a) and with whom the child has
34 a relationship and is comfortable, and who is willing and available to
35 care for the child. Placement of the child with a relative under this
36 subsection shall be given preference by the court. An order for out-

1 of-home placement may be made only if the court finds that reasonable
2 efforts have been made to prevent or eliminate the need for removal of
3 the child from the child's home and to make it possible for the child
4 to return home, specifying the services that have been provided to the
5 child and the child's parent, guardian, or legal custodian, and that
6 preventive services have been offered or provided and have failed to
7 prevent the need for out-of-home placement, unless the health, safety,
8 and welfare of the child cannot be protected adequately in the home,
9 and that:

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

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

14 (iii) The court finds, by clear, cogent, and convincing evidence,
15 a manifest danger exists that the child will suffer serious abuse or
16 neglect if the child is not removed from the home and an order under
17 RCW 26.44.063 would not protect the child from danger; or

18 (iv) The extent of the child's disability is such that the parent,
19 guardian, or legal custodian is unable to provide the necessary care
20 for the child and the parent, guardian, or legal custodian has
21 determined that the child would benefit from placement outside of the
22 home.

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

33 (a) Conviction of the parent of rape of the child in the first,
34 second, or third degree as defined in RCW 9A.44.073, 9A.44.076, and
35 9A.44.079;

36 (b) Conviction of the parent of criminal mistreatment of the child
37 in the first or second degree as defined in RCW 9A.42.020 and
38 9A.42.030;

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

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

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

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

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

16 (a) A permanency plan of care that shall identify one of the
17 following outcomes as a primary goal and may identify additional
18 outcomes as alternative goals: Return of the child to the home of the
19 child's parent, guardian, or legal custodian; adoption; guardianship;
20 or long-term relative or foster care, until the child is age eighteen,
21 with a written agreement between the parties and the care provider; and
22 independent living, if appropriate and if the child is age sixteen or
23 older. Whenever a permanency plan identifies independent living as a
24 goal, the plan shall also specifically identify the services that will
25 be provided to assist the child to make a successful transition from
26 foster care to independent living. Before the court approves
27 independent living as a permanency plan of care, the court shall make
28 a finding that the provision of services to assist the child in making
29 a transition from foster care to independent living will allow the
30 child to manage his or her financial affairs and to manage his or her
31 personal, social, educational, and nonfinancial affairs. The
32 department shall not discharge a child to an independent living
33 situation before the child is eighteen years of age unless the child
34 becomes emancipated pursuant to chapter 13.64 RCW.

35 (b) Unless the court has ordered, pursuant to subsection (2) of
36 this section, that a termination petition be filed, a specific plan as
37 to where the child will be placed, what steps will be taken to return
38 the child home, and what actions the agency will take to maintain

1 parent-child ties. All aspects of the plan shall include the goal of
2 achieving permanence for the child.

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

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

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

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

22 (c) If the court has ordered, pursuant to subsection (2) of this
23 section, that a termination petition be filed, a specific plan as to
24 where the child will be placed, what steps will be taken to achieve
25 permanency for the child, services to be offered or provided to the
26 child, and, if visitation would be in the best interests of the child,
27 a recommendation to the court regarding visitation between parent and
28 child pending a fact-finding hearing on the termination petition. The
29 agency shall not be required to develop a plan of services for the
30 parents or provide services to the parents.

31 (4) If there is insufficient information at the time of the
32 disposition hearing upon which to base a determination regarding the
33 suitability of a proposed placement with a relative, the child shall
34 remain in foster care and the court shall direct the supervising agency
35 to conduct necessary background investigations as provided in chapter
36 74.15 RCW and report the results of such investigation to the court
37 within thirty days. However, if such relative appears otherwise
38 suitable and competent to provide care and treatment, the criminal
39 history background check need not be completed before placement, but as

1 soon as possible after placement. Any placements with relatives,
2 pursuant to this section, shall be contingent upon cooperation by the
3 relative with the agency case plan and compliance with court orders
4 related to the care and supervision of the child including, but not
5 limited to, court orders regarding parent-child contacts and any other
6 conditions imposed by the court. Noncompliance with the case plan or
7 court order shall be grounds for removal of the child from the
8 relative's home, subject to review by the court.

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

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

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

27 (i) Whether reasonable services have been provided to or offered to
28 the parties to facilitate reunion, specifying the services provided or
29 offered;

30 (ii) Whether the child has been placed in the least-restrictive
31 setting appropriate to the child's needs, including whether
32 consideration and preference has been given to placement with the
33 child's relatives;

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

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

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

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

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

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

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

10 **Sec. 2.** RCW 13.34.180 and 1993 c 412 s 2 and 1993 c 358 s 3 are
11 each reenacted and amended to read as follows:

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

17 (1) That the child has been found to be a dependent child under RCW
18 13.34.030(~~((2))~~) (4); and

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

21 (3) That the child has been removed or will, at the time of the
22 hearing, have been removed from the custody of the parent for a period
23 of at least six months pursuant to a finding of dependency under RCW
24 13.34.030(~~((2))~~) (4); and

25 (4) That the services ordered under RCW 13.34.130 have been offered
26 or provided and all necessary services, reasonably available, capable
27 of correcting the parental deficiencies within the foreseeable future
28 have been offered or provided; and

29 (5) That there is little likelihood that conditions will be
30 remedied so that the child can be returned to the parent in the near
31 future. In determining whether the conditions will be remedied the
32 court may consider, but is not limited to, the following factors:

33 (a) Use of intoxicating or controlled substances so as to render
34 the parent incapable of providing proper care for the child for
35 extended periods of time and documented unwillingness of the parent to
36 receive and complete treatment or documented multiple failed treatment
37 attempts; or

1 (b) Psychological incapacity or mental deficiency of the parent
2 that is so severe and chronic as to render the parent incapable of
3 providing proper care for the child for extended periods of time, and
4 documented unwillingness of the parent to receive and complete
5 treatment or documentation that there is no treatment that can render
6 the parent capable of providing proper care for the child in the near
7 future; and

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

11 (7) In lieu of the allegations in subsections (1) through (6) of
12 this section, the petition may allege that the child was found under
13 such circumstances that the whereabouts of the child's parent are
14 unknown and no person has acknowledged paternity or maternity and
15 requested custody of the child within two months after the child was
16 found.

17 A parent's failure to substantially improve parental deficiencies
18 within twelve months following entry of the dispositional order shall
19 give rise to a rebuttable presumption that there is little likelihood
20 that conditions will be remedied so that the child can be returned to
21 the parent in the near future. The presumption shall not arise unless
22 the petitioner makes a showing that all necessary services reasonably
23 capable of correcting the parental deficiencies within the foreseeable
24 future have been offered or provided.

25 Notice of rights shall be served upon the parent, guardian, or
26 legal custodian with the petition and shall be in substantially the
27 following form:

28 "NOTICE

29 A petition for termination of parental rights has been filed
30 against you. You have important legal rights and you must take
31 steps to protect your interests. This petition could result in
32 permanent loss of your parental rights.

33 1. You have the right to a fact-finding hearing before
34 a judge.

35 2. You have the right to have a lawyer represent you at
36 the hearing. A lawyer can look at the files in your case, talk
37 to the department of social and health services and other
38 agencies, tell you about the law, help you understand your

1 rights, and help you at hearings. If you cannot afford a
2 lawyer, the court will appoint one to represent you. To get a
3 court-appointed lawyer you must contact: (explain local
4 procedure) .

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

9 You should be present at this hearing.

10 You may call (insert agency) for more information
11 about your child. The agency's name and telephone number are
12 (insert name and telephone number) ."

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16 On page 1, line 2 of the title, after "relationship;" strike the
17 remainder of the title and insert "and reenacting and amending RCW
18 13.34.130 and 13.34.180."

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