
SENATE BILL 5491

State of Washington 55th Legislature 1997 Regular Session

By Senators Stevens, Swecker, Strannigan, Schow and Hochstatter

Read first time 01/28/97. Referred to Committee on Law & Justice.

1 AN ACT Relating to termination of the parent and child
2 relationship; amending RCW 13.34.190; and reenacting and amending RCW
3 13.34.180.

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

5 **Sec. 1.** RCW 13.34.180 and 1993 c 412 s 2 and 1993 c 358 s 3 are
6 each reenacted and amended to read as follows:

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

12 (1) That the child previously has been found to be a dependent
13 child under RCW 13.34.030(~~(+2)~~) (4); and

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

16 (3) That the child is currently a dependent child under RCW
17 13.34.030(4); and

18 (4) That the child has been removed or will, at the time of the
19 hearing, have been removed from the custody of the parent for a period

1 of at least six months pursuant to a finding of dependency under RCW
2 13.34.030(~~((+2))~~) (4); and

3 ~~((+4))~~ (5) That the services ordered under RCW 13.34.130 have been
4 offered or provided and all necessary services, reasonably available,
5 capable of correcting the parental deficiencies within the foreseeable
6 future have been offered or provided; and

7 ~~((+5))~~ (6) That there is little likelihood that conditions will be
8 remedied so that the child can be returned to the parent in the near
9 future. In determining whether the conditions will be remedied the
10 court may consider, but is not limited to, the following factors:

11 (a) Use of intoxicating or controlled substances so as to render
12 the parent incapable of providing proper care for the child for
13 extended periods of time and documented unwillingness of the parent to
14 receive and complete treatment or documented multiple failed treatment
15 attempts; or

16 (b) Psychological incapacity or mental deficiency of the parent
17 that is so severe and chronic as to render the parent incapable of
18 providing proper care for the child for extended periods of time, and
19 documented unwillingness of the parent to receive and complete
20 treatment or documentation that there is no treatment that can render
21 the parent capable of providing proper care for the child in the near
22 future; and

23 ~~((+6))~~ (7) That continuation of the parent and child relationship
24 clearly diminishes the child's prospects for early integration into a
25 stable and permanent home; or

26 ~~((+7))~~ (8) In lieu of the allegations in subsections (1) through
27 ~~((+6))~~ (7) of this section, the petition may allege that the child was
28 found under such circumstances that the whereabouts of the child's
29 parent are unknown and no person has acknowledged paternity or
30 maternity and requested custody of the child within two months after
31 the child was found.

32 ~~((A parent's failure to substantially improve parental deficiencies
33 within twelve months following entry of the dispositional order shall
34 give rise to a rebuttable presumption that there is little likelihood
35 that conditions will be remedied so that the child can be returned to
36 the parent in the near future. The presumption shall not arise unless
37 the petitioner makes a showing that all necessary services reasonably
38 capable of correcting the parental deficiencies within the foreseeable
39 future have been offered or provided.))~~

1 Evidence before a court in a prior dependency proceeding may not be
2 the sole basis upon which the court finds by clear, cogent, and
3 convincing evidence that the child is currently a dependent child under
4 subsection (3) of this section or that there is little likelihood that
5 conditions will be remedied under subsection (6) of this section.

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

9 "NOTICE

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

14 1. You have the right to a fact-finding hearing before
15 a judge.

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

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

28 You should be present at this hearing.

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

32 **Sec. 2.** RCW 13.34.190 and 1993 c 412 s 3 are each amended to read
33 as follows:

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

1 (1) The allegations contained in the petition as provided in RCW
2 13.34.180 (1) through ~~((+6+))~~ (7) are established by clear, cogent, and
3 convincing evidence; or

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

7 (3) The allegation under RCW 13.34.180~~((+7+))~~(8) is established
8 beyond a reasonable doubt. In determining whether RCW 13.34.180 ~~((+5+)~~
9 ~~and))~~ (6) and (7) are established beyond a reasonable doubt, the court
10 shall consider whether one or more of the aggravated circumstances
11 listed in RCW 13.34.130(2) exist; and

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

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