
SUBSTITUTE SENATE BILL 5210

State of Washington

56th Legislature

1999 Regular Session

By Senate Committee on Human Services & Corrections (originally sponsored by Senators Stevens, Hargrove, Long, Zarelli, Patterson and Franklin)

Read first time 02/15/1999.

1 AN ACT Relating to placement of children with a relative prior to
2 and at a shelter care hearing; amending RCW 13.34.060; and adding a new
3 section to chapter 13.34 RCW.

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

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

7 The legislature has found that any intervention into the life of a
8 child is also an intervention in the life of the parent, guardian, or
9 legal custodian, and that the bond between child and parent is a
10 critical element of child development. The legislature now also finds
11 that children who cannot be with their parents, guardians, or legal
12 custodians are best cared for, whenever possible and appropriate by
13 family members with whom they have a relationship. This is
14 particularly important when a child cannot be in the care of a parent,
15 guardian, or legal custodian as a result of a court intervention.

16 **Sec. 2.** RCW 13.34.060 and 1998 c 328 s 2 are each amended to read
17 as follows:

1 (1) A child taken into custody pursuant to RCW 13.34.050 or
2 26.44.050 shall be immediately placed in shelter care. A child taken
3 by a relative of the child in violation of RCW 9A.40.060 or 9A.40.070
4 shall be placed in shelter care only when permitted under RCW
5 13.34.055. "Shelter care" means temporary physical care in a facility
6 licensed pursuant to RCW 74.15.030 or in a home not required to be
7 licensed pursuant to that section. Unless there is reasonable cause to
8 believe that the safety or welfare of the child would be jeopardized or
9 that the efforts to reunite the parent and child will be hindered,
10 priority placement for a child in shelter care shall be with any person
11 described in RCW 74.15.020(2)(a). The person must be willing and
12 available to care for the child and be able to meet any special needs
13 of the child. If a child is not initially placed with a relative
14 pursuant to this section, the supervising agency shall make an effort
15 to place the child with a relative on the next business day. The
16 supervising agency shall document its effort to place the child with a
17 relative pursuant to this section. Whenever a child is taken into such
18 custody pursuant to this section, the supervising agency may authorize
19 evaluations of the child's physical or emotional condition, routine
20 medical and dental examination and care, and all necessary emergency
21 care. In no case may a child who is taken into custody pursuant to RCW
22 13.34.055, 13.34.050, or 26.44.050 be detained in a secure detention
23 facility. No child may be held longer than seventy-two hours,
24 excluding Saturdays, Sundays and holidays, after such child is taken
25 into custody unless a court order has been entered for continued
26 shelter care. The child and his or her parent, guardian, or custodian
27 shall be informed that they have a right to a shelter care hearing.
28 The court shall hold a shelter care hearing within seventy-two hours
29 after the child is taken into custody, excluding Saturdays, Sundays,
30 and holidays. If a parent, guardian, or legal custodian desires to
31 waive the shelter care hearing, the court shall determine, on the
32 record and with the parties present, that such waiver is knowing and
33 voluntary.

34 (2) Whenever a child is taken into custody by child protective
35 services pursuant to a court order issued under RCW 13.34.050 or when
36 child protective services is notified that a child has been taken into
37 custody pursuant to RCW 26.44.050 or 26.44.056, child protective
38 services shall make reasonable efforts to inform the parents, guardian,
39 or legal custodian of the fact that the child has been taken into

1 custody, the reasons why the child was taken into custody, and their
2 legal rights under this title as soon as possible and in no event
3 longer than twenty-four hours after the child has been taken into
4 custody or twenty-four hours after child protective services has been
5 notified that the child has been taken into custody. The notice of
6 custody and rights may be given by any means reasonably certain of
7 notifying the parents including, but not limited to, written,
8 telephone, or in person oral notification. If the initial notification
9 is provided by a means other than writing, child protective services
10 shall make reasonable efforts to also provide written notification.

11 The written notice of custody and rights shall be in substantially
12 the following form:

13 "NOTICE

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

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

22 2. You have the right to have a lawyer represent you at the
23 hearing. You have the right to records the department intends to rely
24 upon. A lawyer can look at the files in your case, talk to child
25 protective services and other agencies, tell you about the law, help
26 you understand your rights, and help you at hearings. If you cannot
27 afford a lawyer, the court will appoint one to represent you. To get
28 a court-appointed lawyer you must contact: (explain local
29 procedure) .

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

33 4. If your hearing occurs before a court commissioner, you have the
34 right to have the decision of the court commissioner reviewed by a
35 superior court judge. To obtain that review, you must, within ten days
36 after the entry of the decision of the court commissioner, file with
37 the court a motion for revision of the decision, as provided in RCW
38 2.24.050.

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

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

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

12 If after making reasonable efforts to provide notification, child
13 protective services is unable to determine the whereabouts of the
14 parents, guardian, or legal custodian, the notice shall be delivered or
15 sent to the last known address of the parent, guardian, or legal
16 custodian.

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

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

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

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

35 (5) At the commencement of the shelter care hearing the court shall
36 advise the parties of their basic rights as provided in RCW 13.34.090
37 and shall appoint counsel pursuant to RCW 13.34.090 if counsel has not
38 been retained by the parent or guardian and if the parent or guardian

1 is indigent, unless the court finds that the right to counsel has been
2 expressly and voluntarily waived in court.

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

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

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

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

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

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

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

34 If the court does not release the child to his or her parent,
35 guardian, or legal custodian, and the child was initially placed with
36 a relative pursuant to subsection (1) of this section, the court shall
37 order continued placement with a relative, unless there is reasonable
38 cause to believe the safety or welfare of the child would be
39 jeopardized. If the child was not initially placed with a relative,

1 and the court does not release the child to his or her parent,
2 guardian, or legal custodian, the supervising agency shall make
3 reasonable efforts to locate a relative pursuant to subsection (1) of
4 this section. If a relative is not available, the court shall order
5 continued shelter care or order placement with another suitable person,
6 and the court shall set forth its reasons for the order. The court
7 shall enter a finding as to whether subsections (2) and (3) of this
8 section have been complied with. If actual notice was not given to the
9 parent, guardian, or legal custodian and the whereabouts of such person
10 is known or can be ascertained, the court shall order the supervising
11 agency or the department of social and health services to make
12 reasonable efforts to advise the parent, guardian, or legal custodian
13 of the status of the case, including the date and time of any
14 subsequent hearings, and their rights under RCW 13.34.090.

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

19 The court shall consider whether nonconformance with any conditions
20 resulted from circumstances beyond the control of the parent and give
21 weight to that fact before ordering return of the child to shelter
22 care.

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

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

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