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SENATE BILL 5210

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State of Washington                      56th Legislature                      1999 Regular Session

By Senators Stevens, Hargrove, Long, Zarelli, Patterson and Franklin

Read first time 01/15/1999. Referred to Committee on Human Services & Corrections.

1            AN ACT Relating to placing children in shelter care; amending RCW  
2 13.34.060; and adding a new section to chapter 13.34 RCW.

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

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

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

15            **Sec. 2.** RCW 13.34.060 and 1998 c 328 s 2 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

1 by a relative of the child in violation of RCW 9A.40.060 or 9A.40.070  
2 shall be placed in shelter care only when permitted under RCW  
3 13.34.055. "Shelter care" means temporary physical care in a facility  
4 licensed pursuant to RCW 74.15.030 or in a home not required to be  
5 licensed pursuant to that section. Whenever a child is taken into  
6 custody pursuant to this section, the supervising agency shall: (a)  
7 First seek to place the child with any person related to the child as  
8 described in RCW 74.15.020(2)(a), who is willing and available to care  
9 for the child, with whom the child has a relationship, and with whom  
10 the child is comfortable; (b) document its efforts to accomplish the  
11 requirements of (a) of this subsection; and (c) if unable to accomplish  
12 the requirements of (a) of this subsection, place the child in a  
13 shelter care facility. Whenever a child is taken into such custody  
14 pursuant to this section, the supervising agency may authorize  
15 evaluations of the child's physical or emotional condition, routine  
16 medical and dental examination and care, and all necessary emergency  
17 care. In no case may a child who is taken into custody pursuant to RCW  
18 13.34.055, 13.34.050, or 26.44.050 be detained in a secure detention  
19 facility. No child may be held longer than seventy-two hours,  
20 excluding Saturdays, Sundays and holidays, after such child is taken  
21 into custody unless a court order has been entered for continued  
22 shelter care. The child and his or her parent, guardian, or custodian  
23 shall be informed that they have a right to a shelter care hearing.  
24 The court shall hold a shelter care hearing within seventy-two hours  
25 after the child is taken into custody, excluding Saturdays, Sundays,  
26 and holidays. If a parent, guardian, or legal custodian desires to  
27 waive the shelter care hearing, the court shall determine, on the  
28 record and with the parties present, that such waiver is knowing and  
29 voluntary.

30 (2) Whenever a child is taken into custody by child protective  
31 services pursuant to a court order issued under RCW 13.34.050 or when  
32 child protective services is notified that a child has been taken into  
33 custody pursuant to RCW 26.44.050 or 26.44.056, child protective  
34 services shall make reasonable efforts to inform the parents, guardian,  
35 or legal custodian of the fact that the child has been taken into  
36 custody, the reasons why the child was taken into custody, and their  
37 legal rights under this title as soon as possible and in no event  
38 longer than twenty-four hours after the child has been taken into  
39 custody or twenty-four hours after child protective services has been

1 notified that the child has been taken into custody. The notice of  
2 custody and rights may be given by any means reasonably certain of  
3 notifying the parents including, but not limited to, written,  
4 telephone, or in person oral notification. If the initial notification  
5 is provided by a means other than writing, child protective services  
6 shall make reasonable efforts to also provide written notification.

7 The written notice of custody and rights shall be in substantially  
8 the following form:

9 "NOTICE

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

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

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

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

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

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

34 Upon receipt of the written notice, the parent, guardian, or legal  
35 custodian shall acknowledge such notice by signing a receipt prepared  
36 by child protective services. If the parent, guardian, or legal  
37 custodian does not sign the receipt, the reason for lack of a signature

1 shall be written on the receipt. The receipt shall be made a part of  
2 the court's file in the dependency action.

3 If after making reasonable efforts to provide notification, child  
4 protective services is unable to determine the whereabouts of the  
5 parents, guardian, or legal custodian, the notice shall be delivered or  
6 sent to the last known address of the parent, guardian, or legal  
7 custodian.

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

14 (4) Reasonable efforts to advise and to give notice, as required in  
15 subsections (2) and (3) of this section, shall include, at a minimum,  
16 investigation of the whereabouts of the parent, guardian, or legal  
17 custodian. If such reasonable efforts are not successful, or the  
18 parent, guardian, or legal custodian does not appear at the shelter  
19 care hearing, the juvenile court counselor or caseworker shall testify  
20 at the hearing or state in a declaration:

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

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

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

32 (6) The court shall hear evidence regarding notice given to, and  
33 efforts to notify, the parent, guardian, or legal custodian and shall  
34 examine the need for shelter care. The court shall make an express  
35 finding as to whether the notice required under subsections (2) and (3)  
36 of this section was given to the parent, guardian, or legal custodian.  
37 All parties have the right to present testimony to the court regarding  
38 the need or lack of need for shelter care. Hearsay evidence before the  
39 court regarding the need or lack of need for shelter care must be

1 supported by sworn testimony, affidavit, or declaration of the person  
2 offering such evidence.

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

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

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

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

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

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

23 If the court does not release the child to his or her parent,  
24 guardian, or legal custodian, the court shall order continued shelter  
25 care or order placement with another suitable person, and the court  
26 shall set forth its reasons for the order. The court shall enter a  
27 finding as to whether subsections (2) and (3) of this section have been  
28 complied with. If actual notice was not given to the parent, guardian,  
29 or legal custodian and the whereabouts of such person is known or can  
30 be ascertained, the court shall order the supervising agency or the  
31 department of social and health services to make reasonable efforts to  
32 advise the parent, guardian, or legal custodian of the status of the  
33 case, including the date and time of any subsequent hearings, and their  
34 rights under RCW 13.34.090.

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

1       The court shall consider whether nonconformance with any conditions  
2 resulted from circumstances beyond the control of the parent and give  
3 weight to that fact before ordering return of the child to shelter  
4 care.

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

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

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