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SENATE BILL 6217

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State of Washington

56th Legislature

2000 Regular Session

By Senators Hargrove, Long, Costa and Winsley

Read first time 01/11/2000. Referred to Committee on Human Services & Corrections.

1 AN ACT Relating to technical and clarifying amendments to the  
2 dependency and termination of parental rights statutes; amending RCW  
3 13.34.030, 13.34.040, 13.34.050, 13.34.060, 13.34.070, 13.34.080,  
4 13.34.120, 13.34.145, 13.34.165, 13.34.170, 13.34.174, 13.34.176,  
5 13.34.180, 13.34.190, 13.34.200, 13.34.210, 13.34.231, 13.34.232,  
6 13.34.233, 13.34.235, 13.34.260, 13.34.270, 13.34.300, 13.34.340,  
7 13.70.003, 13.70.110, 13.70.140, 26.44.115, and 74.15.030; reenacting  
8 and amending RCW 13.34.090, 13.34.110, and 13.34.130; adding new  
9 sections to chapter 13.34 RCW; recodifying RCW 13.34.170; and repealing  
10 RCW 13.34.162 and 13.34.220.

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

12 **Sec. 1.** RCW 13.34.030 and 1999 c 267 s 6 are each amended to read  
13 as follows:

14 For purposes of this chapter:

15 (1) "Abandoned" means when the child's parent, guardian, or other  
16 custodian has expressed, either by statement or conduct, an intent to  
17 forego, for an extended period, parental rights or responsibilities  
18 despite an ability to exercise such rights and responsibilities. If  
19 the court finds that the petitioner has exercised due diligence in

1 attempting to locate the parent, no contact between the child and the  
2 child's parent, guardian, or other custodian for a period of three  
3 months creates a rebuttable presumption of abandonment, even if there  
4 is no expressed intent to abandon.

5 (2) "Child" and "juvenile" means any individual under the age of  
6 eighteen years.

7 ((+2)) (3) "Current placement episode" means the period of time  
8 that begins with the most recent date that the child was removed from  
9 the home of the parent, guardian, or legal custodian for purposes of  
10 placement in out-of-home care and continues until: (a) The child  
11 returns home((+)) i (b) an adoption decree, a permanent custody order,  
12 or guardianship order is entered((+))i or (c) the dependency is  
13 dismissed, whichever occurs ((soonest)) first. ((If the most recent  
14 date of removal occurred prior to the filing of a dependency petition  
15 under this chapter or after filing but prior to entry of a disposition  
16 order, such time periods shall be included when calculating the length  
17 of a child's current placement episode.

18 (+3)) (4) "Dependency guardian" means the person, nonprofit  
19 corporation, or Indian tribe appointed by the court pursuant to ((RCW  
20 13.34.232)) this chapter for the limited purpose of assisting the court  
21 in the supervision of the dependency.

22 ((+4)) (5) "Dependent child" means any child who:

23 (a) ((Who)) Has been abandoned; ((that is, where the child's  
24 parent, guardian, or other custodian has expressed either by statement  
25 or conduct, an intent to forego, for an extended period, parental  
26 rights or parental responsibilities despite an ability to do so. If  
27 the court finds that the petitioner has exercised due diligence in  
28 attempting to locate the parent, no contact between the child and the  
29 child's parent, guardian, or other custodian for a period of three  
30 months creates a rebuttable presumption of abandonment, even if there  
31 is no expressed intent to abandon;))

32 (b) ((Who)) Is abused or neglected as defined in chapter 26.44 RCW  
33 by a person legally responsible for the care of the child; or

34 (c) ((Who)) Has no parent, guardian, or custodian capable of  
35 adequately caring for the child, such that the child is in  
36 circumstances which constitute a danger of substantial damage to the  
37 child's psychological or physical development.

38 ((+5)) (6) "Developmental disability" means a disability  
39 attributable to mental retardation, cerebral palsy, epilepsy, autism,

1 or another neurological or other condition of an individual found by  
2 the secretary to be closely related to mental retardation or to require  
3 treatment similar to that required for individuals with mental  
4 retardation, which disability originates before the individual attains  
5 age eighteen, which has continued or can be expected to continue  
6 indefinitely, and which constitutes a substantial handicap to the  
7 individual.

8 (7) "Guardian" means the person or agency that: (a) Has been  
9 appointed as the guardian of a child in a legal proceeding other than  
10 a proceeding under this chapter; and (b) has the legal right to custody  
11 of the child pursuant to such appointment. The term "guardian" shall  
12 not include a "dependency guardian" appointed pursuant to a proceeding  
13 under this chapter.

14 ((+6)) (8) "Guardian ad litem" means a person, appointed by the  
15 court to represent the best interests of a child in a proceeding under  
16 this chapter, or in any matter which may be consolidated with a  
17 proceeding under this chapter. A "court-appointed special advocate"  
18 appointed by the court to be the guardian ad litem for the child, or to  
19 perform substantially the same duties and functions as a guardian ad  
20 litem, shall be deemed to be guardian ad litem for all purposes and  
21 uses of this chapter.

22 ((+7)) (9) "Guardian ad litem program" means a court-authorized  
23 volunteer program, which is or may be established by the superior court  
24 of the county in which such proceeding is filed, to manage all aspects  
25 of volunteer guardian ad litem representation for children alleged or  
26 found to be dependent. Such management shall include but is not  
27 limited to: Recruitment, screening, training, supervision, assignment,  
28 and discharge of volunteers.

29 ((+8)) (10) "Indigent" means a person who, at any stage of a court  
30 proceeding, is:

31 (a) Receiving one of the following types of public assistance:  
32 Temporary assistance for needy families, general assistance, poverty-  
33 related veterans' benefits, food stamps or food stamp benefits  
34 transferred electronically, refugee resettlement benefits, medicaid, or  
35 supplemental security income; or

36 (b) Involuntarily committed to a public mental health facility; or

37 (c) Receiving an annual income, after taxes, of one hundred twenty-  
38 five percent or less of the federally established poverty level; or

1 (d) Unable to pay the anticipated cost of counsel for the matter  
2 before the court because his or her available funds are insufficient to  
3 pay any amount for the retention of counsel.

4 (11) "Out-of-home care" means placement in a foster family home or  
5 group care facility licensed pursuant to chapter 74.15 RCW or placement  
6 in a home, other than that of the child's parent, guardian, or legal  
7 custodian, not required to be licensed pursuant to chapter 74.15 RCW.

8 ~~((+9))~~ (12) "Preventive services" means preservation services, as  
9 defined in chapter 74.14C RCW, and other reasonably available services,  
10 including housing services, capable of preventing the need for out-of-  
11 home placement while protecting the child. Housing services may  
12 include, but are not limited to, referrals to federal, state, local, or  
13 private agencies or organizations, assistance with forms and  
14 applications, or financial subsidies for housing.

15 (13) "Shelter care" means temporary physical care in a facility  
16 licensed pursuant to RCW 74.15.030 or in a home not required to be  
17 licensed pursuant to RCW 74.15.030.

18 (14) "Social study" means a written evaluation of matters relevant  
19 to the disposition of the case.

20 **Sec. 2.** RCW 13.34.040 and 1977 ex.s. c 291 s 32 are each amended  
21 to read as follows:

22 (1) Any person may file with the clerk of the superior court a  
23 petition showing that there is within the county, or residing within  
24 the county, a dependent child and ~~((praying))~~ requesting that the  
25 superior court deal with such child as provided in this chapter~~((+)~~  
26 PROVIDED, That)). There shall be no fee for filing such petitions.

27 (2) In counties having paid probation officers, ~~((such))~~ these  
28 officers shall, ~~((as far as))~~ to the extent possible, first determine  
29 if ~~((such))~~ a petition filed by any person other than the department is  
30 reasonably justifiable. ~~((Such))~~ Each petition shall be verified and  
31 ~~((shall))~~ contain a statement of facts constituting ~~((such))~~ a  
32 dependency, ~~((as defined in this chapter,))~~ and the names and  
33 residence, if known to the petitioner, of the parents, guardian, or  
34 custodian of ~~((such))~~ the alleged dependent child. ~~((There shall be no~~  
35 fee for filing such petitions.))

36 **Sec. 3.** RCW 13.34.050 and 1998 c 328 s 1 are each amended to read  
37 as follows:

1 (1) The court may enter an order directing a law enforcement  
2 officer, probation counselor, or child protective services official to  
3 take a child into custody if: (a) A petition is filed with the  
4 juvenile court alleging that the child is dependent and that the  
5 child's health, safety, and welfare will be seriously endangered if not  
6 taken into custody; (b) an affidavit or declaration is filed by the  
7 department in support of the petition setting forth specific factual  
8 information evidencing reasonable grounds that the child's health,  
9 safety, and welfare will be seriously endangered if not taken into  
10 custody and at least one of the grounds set forth demonstrates a risk  
11 of imminent harm to the child. "Imminent harm" for purposes of this  
12 section shall include, but not be limited to, circumstances of sexual  
13 abuse, or sexual exploitation as defined in RCW 26.44.020; and (c) the  
14 court finds reasonable grounds to believe the child is dependent and  
15 that the child's health, safety, and welfare will be seriously  
16 endangered if not taken into custody.

17 (2) Any petition that does not have the necessary affidavit or  
18 declaration demonstrating a risk of imminent harm requires that the  
19 parents are provided notice and an opportunity to be heard (~~((by the~~  
20 ~~parents))~~ before the order may be entered.

21 (3) The petition and supporting documentation must be served on the  
22 parent, and (~~(the entity with whom))~~ if the child is in custody at the  
23 time the child is removed, on the entity with custody other than the  
24 parent. Failure to effect service does not invalidate the petition if  
25 service was attempted and the parent could not be found.

26 **Sec. 4.** RCW 13.34.060 and 1999 c 17 s 2 are each amended to read  
27 as follows:

28 (1) A child taken into custody pursuant to RCW 13.34.050 or  
29 26.44.050 shall be immediately placed in shelter care. A child taken  
30 by a relative of the child in violation of RCW 9A.40.060 or 9A.40.070  
31 shall be placed in shelter care only when permitted under RCW  
32 13.34.055. (~~("Shelter care" means temporary physical care in a~~  
33 ~~facility licensed pursuant to RCW 74.15.030 or in a home not required~~  
34 ~~to be licensed pursuant to that section.))~~

35 (a) Unless there is reasonable cause to believe that the health,  
36 safety, or welfare of the child would be jeopardized or that the  
37 efforts to reunite the parent and child will be hindered, priority  
38 placement for a child in shelter care shall be with any person

1 described in RCW 74.15.020(2)(a). The person must be willing and  
2 available to care for the child and be able to meet any special needs  
3 of the child. If a child is not initially placed with a relative  
4 pursuant to this section, the supervising agency shall make an effort  
5 within available resources to place the child with a relative on the  
6 next business day after the child is taken into custody. The  
7 supervising agency shall document its effort to place the child with a  
8 relative pursuant to this section. Nothing within this subsection  
9 (1)(a) establishes an entitlement to services or a right to a  
10 particular placement.

11 (b) Whenever a child is taken into (~~such~~) custody pursuant to  
12 this section, the supervising agency may authorize evaluations of the  
13 child's physical or emotional condition, routine medical and dental  
14 examination and care, and all necessary emergency care. In no case may  
15 a child who is taken into custody pursuant to RCW 13.34.055, 13.34.050,  
16 or 26.44.050 be detained in a secure detention facility. No child may  
17 be held longer than seventy-two hours, excluding Saturdays, Sundays and  
18 holidays, after such child is taken into custody unless a court order  
19 has been entered for continued shelter care. The child and his or her  
20 parent, guardian, or custodian shall be informed that they have a right  
21 to a shelter care hearing. The court shall hold a shelter care hearing  
22 within seventy-two hours after the child is taken into custody,  
23 excluding Saturdays, Sundays, and holidays. If a parent, guardian, or  
24 legal custodian desires to waive the shelter care hearing, the court  
25 shall determine, on the record and with the parties present, (~~that~~)  
26 whether such waiver is knowing and voluntary.

27 (2) Whenever a child is taken into custody by child protective  
28 services pursuant to a court order issued under RCW 13.34.050 or when  
29 child protective services is notified that a child has been taken into  
30 custody pursuant to RCW 26.44.050 or 26.44.056, child protective  
31 services shall make reasonable efforts to inform the parents, guardian,  
32 or legal custodian of the fact that the child has been taken into  
33 custody, the reasons why the child was taken into custody, and their  
34 legal rights under this title (~~as soon as possible and in no event~~  
35 ~~longer~~). Notice shall be provided not more than twenty-four hours  
36 after the child has been taken into custody or twenty-four hours after  
37 child protective services has been notified that the child has been  
38 taken into custody. The notice of custody and rights may be given by  
39 any means reasonably certain of notifying the parents including, but

1 not limited to, written, telephone, or in person oral notification. If  
2 the initial notification is provided by a means other than writing,  
3 child protective services shall make reasonable efforts to also provide  
4 written notification.

5 ((The written notice of custody and rights shall be in  
6 substantially the following form:

7 "NOTICE

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

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

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

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

27 4. If your hearing occurs before a court commissioner, you have the  
28 right to have the decision of the court commissioner reviewed by a  
29 superior court judge. To obtain that review, you must, within ten days  
30 after the entry of the decision of the court commissioner, file with  
31 the court a motion for revision of the decision, as provided in RCW  
32 2.24.050.

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

35 You may call the Child Protective Services' caseworker for more  
36 information about your child. The caseworker's name and telephone  
37 number are: \_\_\_\_\_ (insert name and telephone number) \_\_\_\_\_."

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

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

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

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

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

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

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

36 (6) The court shall hear evidence regarding notice given to, and  
37 efforts to notify, the parent, guardian, or legal custodian and shall  
38 examine the need for shelter care. The court shall hear evidence  
39 regarding the efforts made to place the child with a relative. The



1 court shall make an express finding as to whether the notice required  
2 under subsections (2) and (3) of this section was given to the parent,  
3 guardian, or legal custodian. All parties have the right to present  
4 testimony to the court regarding the need or lack of need for shelter  
5 care. Hearsay evidence before the court regarding the need or lack of  
6 need for shelter care must be supported by sworn testimony, affidavit,  
7 or declaration of the person offering such evidence.

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

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

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

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

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

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

28 If the court does not release the child to his or her parent,  
29 guardian, or legal custodian, and the child was initially placed with  
30 a relative pursuant to subsection (1) of this section, the court shall  
31 order continued placement with a relative, unless there is reasonable  
32 cause to believe the safety or welfare of the child would be  
33 jeopardized. If the child was not initially placed with a relative,  
34 and the court does not release the child to his or her parent,  
35 guardian, or legal custodian, the supervising agency shall make  
36 reasonable efforts to locate a relative pursuant to subsection (1) of  
37 this section. If a relative is not available, the court shall order  
38 continued shelter care or order placement with another suitable person,  
39 and the court shall set forth its reasons for the order. The court

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

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

13 The court shall consider whether nonconformance with any conditions  
14 resulted from circumstances beyond the control of the parent and give  
15 weight to that fact before ordering return of the child to shelter  
16 care.

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

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

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

33 (1) The written notice of custody and rights required by RCW  
34 13.34.060 shall be in substantially the following form:

35 "NOTICE

36 Your child has been placed in temporary custody under the  
37 supervision of Child Protective Services (or other person or agency).

1 You have important legal rights and you must take steps to protect your  
2 interests.

3 1. A court hearing will be held before a judge within 72 hours of  
4 the time your child is taken into custody excluding Saturdays, Sundays,  
5 and holidays. You should call the court at \_\_\_\_(insert appropriate  
6 phone number here)\_\_\_\_ for specific information about the date, time,  
7 and location of the court hearing.

8 2. You have the right to have a lawyer represent you at the  
9 hearing. You have the right to records the department intends to rely  
10 upon. A lawyer can look at the files in your case, talk to child  
11 protective services and other agencies, tell you about the law, help  
12 you understand your rights, and help you at hearings. If you cannot  
13 afford a lawyer, the court will appoint one to represent you. To get  
14 a court-appointed lawyer you must contact: \_\_\_\_(explain local  
15 procedure)\_\_\_\_.

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

19 4. If your hearing occurs before a court commissioner, you have the  
20 right to have the decision of the court commissioner reviewed by a  
21 superior court judge. To obtain that review, you must, within ten days  
22 after the entry of the decision of the court commissioner, file with  
23 the court a motion for revision of the decision, as provided in RCW  
24 2.24.050.

25 You should be present at any shelter care hearing. If you do not  
26 come, the judge will not hear what you have to say.

27 You may call the Child Protective Services' caseworker for more  
28 information about your child. The caseworker's name and telephone  
29 number are: \_\_\_\_(insert name and telephone number)\_\_\_\_."

30 Upon receipt of the written notice, the parent, guardian, or legal  
31 custodian shall acknowledge such notice by signing a receipt prepared  
32 by child protective services. If the parent, guardian, or legal  
33 custodian does not sign the receipt, the reason for lack of a signature  
34 shall be written on the receipt. The receipt shall be made a part of  
35 the court's file in the dependency action.

36 If after making reasonable efforts to provide notification, child  
37 protective services is unable to determine the whereabouts of the  
38 parents, guardian, or legal custodian, the notice shall be delivered or

1 sent to the last known address of the parent, guardian, or legal  
2 custodian.

3 (2) If child protective services is not required to give notice  
4 under RCW 13.34.060(2) and subsection (1) of this section, the juvenile  
5 court counselor assigned to the matter shall make all reasonable  
6 efforts to advise the parents, guardian, or legal custodian of the time  
7 and place of any shelter care hearing, request that they be present,  
8 and inform them of their basic rights as provided in RCW 13.34.090.

9 (3) Reasonable efforts to advise and to give notice, as required in  
10 RCW 13.34.060(2) and subsections (1) and (2) of this section, shall  
11 include, at a minimum, investigation of the whereabouts of the parent,  
12 guardian, or legal custodian. If such reasonable efforts are not  
13 successful, or the parent, guardian, or legal custodian does not appear  
14 at the shelter care hearing, the petitioner shall testify at the  
15 hearing or state in a declaration:

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

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

21 (4) The court shall hear evidence regarding notice given to, and  
22 efforts to notify, the parent, guardian, or legal custodian and shall  
23 examine the need for shelter care. The court shall hear evidence  
24 regarding the efforts made to place the child with a relative. The  
25 court shall make an express finding as to whether the notice required  
26 under RCW 13.34.060(2) and subsections (1) and (2) of this section was  
27 given to the parent, guardian, or legal custodian. All parties have  
28 the right to present testimony to the court regarding the need or lack  
29 of need for shelter care. Hearsay evidence before the court regarding  
30 the need or lack of need for shelter care must be supported by sworn  
31 testimony, affidavit, or declaration of the person offering such  
32 evidence.

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

1 (6) Any parent, guardian, or legal custodian who for good cause is  
2 unable to attend the initial shelter care hearing may request that a  
3 subsequent shelter care hearing be scheduled. The request shall be  
4 made to the clerk of the court where the petition is filed prior to the  
5 initial shelter care hearing. Upon the request of the parent, the  
6 court shall schedule the hearing within seventy-two hours of the  
7 request, excluding Saturdays, Sundays, and holidays. The clerk shall  
8 notify all other parties of the hearing by any reasonable means.

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

11 At the commencement of the shelter care hearing the court shall  
12 advise the parties of basic rights as provided in RCW 13.34.090 and  
13 appoint counsel pursuant to RCW 13.34.090 if the parent or guardian is  
14 indigent unless counsel has been retained by the parent or guardian or  
15 the court finds that the right to counsel has been expressly and  
16 voluntarily waived in court.

17 NEW SECTION. **Sec. 7.** A new section is added to chapter 13.34 RCW  
18 to read as follows:

19 (1) The juvenile court probation counselor shall submit a  
20 recommendation to the court as to the further need for shelter care  
21 unless the petition has been filed by the department, in which case the  
22 recommendation shall be submitted by the department.

23 (2) 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 has been charged with violating RCW 9A.40.060 or 9A.40.070.

1 If the court does not release the child to his or her parent,  
2 guardian, or legal custodian, and the child was initially placed with  
3 a relative pursuant to RCW 13.34.060(1), the court shall order  
4 continued placement with a relative, unless there is reasonable cause  
5 to believe the health, safety, or welfare of the child would be  
6 jeopardized. If the child was not initially placed with a relative,  
7 and the court does not release the child to his or her parent,  
8 guardian, or legal custodian, the supervising agency shall make  
9 reasonable efforts to locate a relative pursuant to RCW 13.34.060(1).  
10 If a relative is not available, the court shall order continued shelter  
11 care or order placement with another suitable person, and the court  
12 shall set forth its reasons for the order. The court shall enter a  
13 finding as to whether RCW 13.34.060(2) and subsections (1) and (2) of  
14 this section have been complied with. If actual notice was not given  
15 to the parent, guardian, or legal custodian and the whereabouts of such  
16 person is known or can be ascertained, the court shall order the  
17 supervising agency or the department of social and health services to  
18 make reasonable efforts to advise the parent, guardian, or legal  
19 custodian of the status of the case, including the date and time of any  
20 subsequent hearings, and their rights under RCW 13.34.090.

21 (3) An order releasing the child on any conditions specified in  
22 this section may at any time be amended, with notice and hearing  
23 thereon, so as to return the child to shelter care for failure of the  
24 parties to conform to the conditions originally imposed.

25 The court shall consider whether nonconformance with any conditions  
26 resulted from circumstances beyond the control of the parent and give  
27 weight to that fact before ordering return of the child to shelter  
28 care.

29 **Sec. 8.** RCW 13.34.070 and 1993 c 358 s 1 are each amended to read  
30 as follows:

31 (1) Upon the filing of the petition, the clerk of the court shall  
32 issue a summons, one directed to the child, if the child is twelve or  
33 more years of age, and another to the parents, guardian, or custodian,  
34 and such other persons as appear to the court to be proper or necessary  
35 parties to the proceedings, requiring them to appear personally before  
36 the court at the time fixed to hear the petition. If the child is  
37 developmentally disabled and not living at home, the notice shall be  
38 given to the child's custodian as well as to the child's parent. The

1 developmentally disabled child shall not be required to appear unless  
2 requested by the court. ((Where)) When the custodian is summoned, the  
3 parent or guardian or both shall also be served with a summons. The  
4 fact-finding hearing on the petition shall be held no later than  
5 seventy-five days after the filing of the petition, unless exceptional  
6 reasons for a continuance are found. The party requesting the  
7 continuance shall have the burden of proving by a preponderance of the  
8 evidence that exceptional circumstances ((~~do~~)) exist. To ensure that  
9 the hearing on the petition occurs within the seventy-five day time  
10 limit, the court shall schedule and hear the matter on an expedited  
11 basis.

12 (2) A copy of the petition shall be attached to each summons.

13 (3) The summons shall advise the parties of the right to counsel.  
14 The summons shall also inform the child's parent, guardian, or legal  
15 custodian of his or ((~~her~~)) her right to appointed counsel, if  
16 indigent, and of the procedure to use to secure appointed counsel.

17 (4) The summons shall advise the parents that they may be held  
18 responsible for the support of the child if the child is placed in out-  
19 of-home care.

20 (5) The judge may endorse upon the summons an order directing any  
21 parent, guardian, or custodian having the custody or control of the  
22 child to bring the child to the hearing.

23 (6) If it appears from affidavit or sworn statement presented to  
24 the judge that there is probable cause for the issuance of a warrant of  
25 arrest or that the child needs to be taken into custody pursuant to RCW  
26 13.34.050, the judge may endorse upon the summons an order that an  
27 officer serving the summons shall at once take the child into custody  
28 and take him or her to the place of shelter designated by the court.

29 (7) If the person summoned as provided in this section is subject  
30 to an order of the court pursuant to subsection (5) or (6) of this  
31 section, and if the person fails to abide by the order, he or she may  
32 be proceeded against as for contempt of court. The order endorsed upon  
33 the summons shall conspicuously display the following legend:

34 NOTICE:  
35 VIOLATION OF THIS ORDER  
36 IS SUBJECT TO PROCEEDING  
37 FOR CONTEMPT OF COURT  
38 PURSUANT TO RCW 13.34.070.

1 (8) If a party to be served with a summons can be found within the  
2 state, the summons shall be served upon the party personally as soon as  
3 possible following the filing of the petition, but in no case later  
4 than fifteen court days before the fact-finding hearing, or such time  
5 as set by the court. If the party is within the state and cannot be  
6 personally served, but the party's address is known or can with  
7 reasonable diligence be ascertained, the summons may be served upon the  
8 party by mailing a copy ((thereof)) by certified mail as soon as  
9 possible following the filing of the petition, but in no case later  
10 than fifteen court days before the hearing, or such time as set by the  
11 court. If a party other than the child is without the state but can be  
12 found or the address is known, or can with reasonable diligence be  
13 ascertained, service of the summons may be made either by delivering a  
14 copy ((thereof)) to the party personally or by mailing a copy thereof  
15 to the party by certified mail at least ten court days before the fact-  
16 finding hearing, or such time as set by the court.

17 (9) Service of summons may be made under the direction of the court  
18 by any person eighteen years of age or older who is not a party to the  
19 proceedings or by any law enforcement officer, probation counselor, or  
20 department ((of social and health services social worker)) employee.

21 (10) In any proceeding brought under this chapter where the court  
22 knows or has reason to know that the child involved is a member or is  
23 eligible to be a member of an Indian tribe, notice of the pendency of  
24 the proceeding shall also be sent by registered mail, return receipt  
25 requested, to the child's tribe. If the identity or location of the  
26 tribe cannot be determined, such notice shall be transmitted to the  
27 secretary of the interior of the United States.

28 **Sec. 9.** RCW 13.34.080 and 1990 c 246 s 3 are each amended to read  
29 as follows:

30 ((In a dependency case where it appears by the petition or verified  
31 statement, that the person standing in the position of natural or legal  
32 guardian of the person of any child, is a nonresident of this state, or  
33 that the name or place of residence or whereabouts of such person is  
34 unknown, as well as in all cases where, after due diligence, the  
35 officer has been unable to make service of the summons or notice  
36 provided for in RCW 13.34.070, and a copy of the notice has been  
37 deposited in the post office, postage prepaid, directed to such person  
38 at his last known place of residence,)) (1) The court shall direct the



1 clerk to publish notice in a legal newspaper printed in the county,  
2 qualified to publish summons, once a week for three consecutive weeks,  
3 with the first publication of the notice to be at least twenty-five  
4 days prior to the date fixed for the hearing when it appears by the  
5 petition or verified statement that:

6 (a) The parent or guardian is a nonresident of this state;

7 (b) The name or place of residence or whereabouts of the parent or  
8 guardian is unknown; or

9 (c) After due diligence, the person attempting service of the  
10 summons or notice provided for in RCW 13.34.070 has been unable to make  
11 service, and a copy of the notice has been deposited in the post  
12 office, postage prepaid, directed to such person at his or her last  
13 known place of residence. If the parent, guardian, or legal custodian  
14 is believed to be a resident of another state or a county other than  
15 the county in which the petition has been filed, notice also shall be  
16 published in the county in which the parent, guardian, or legal  
17 custodian is believed to reside.

18 ~~((Additionally,))~~ (2) Publication may proceed simultaneously with  
19 efforts to provide ~~((personal))~~ service in person or ~~((service))~~ by  
20 mail ~~((for good cause shown))~~, when the court determines there is  
21 reason to believe that ~~((personal))~~ service in person or ~~((service))~~ by  
22 mail will not be successful. ~~((Such))~~ Notice shall be directed to the  
23 parent, parents, or other person claiming the right to the custody of  
24 the child, if their names are known~~((, or))~~. If their names are  
25 unknown, the phrase "To whom it may concern" shall be used ~~((and))~~,  
26 apply to, and be binding upon, ~~((any such))~~ those persons whose names  
27 are unknown. The name of the court, the name of the child (or children  
28 if of one family), the date of the filing of the petition, the date of  
29 hearing, and the object of the proceeding in general terms shall be set  
30 forth~~((, and the whole shall be subscribed by the clerk))~~. There shall  
31 be filed with the clerk an affidavit showing due publication of the  
32 notice~~((, and))~~. The cost of publication shall be paid by the county  
33 at a rate not ~~((to exceed))~~ greater than the rate paid ~~((by the~~  
34 ~~county))~~ for other legal notices. The publication of notice shall be  
35 deemed equivalent to personal service upon all persons, known or  
36 unknown, who have been designated as provided in this section.

37 **Sec. 10.** RCW 13.34.090 and 1998 c 328 s 3 and 1998 c 141 s 1 are  
38 each reenacted and amended to read as follows:

1 (1) Any party has a right to be represented by an attorney in all  
2 proceedings under this chapter, to introduce evidence, to be heard in  
3 his or her own behalf, to examine witnesses, to receive a decision  
4 based solely on the evidence adduced at the hearing, and to an unbiased  
5 fact-finder.

6 (2) ~~((At all stages of a proceeding in which a child is alleged to  
7 be dependent as defined in RCW 13.34.030(4), the child's parent,  
8 guardian, or legal custodian has the right to be represented by  
9 counsel, and))~~ If indigent, ~~((to))~~ the child's parent, guardian, or  
10 legal custodian may have counsel appointed for him or her by the court.  
11 Unless waived in court, counsel shall be provided to the child's  
12 parent, guardian, or legal custodian, if such person (a) has appeared  
13 in the proceeding or requested the court to appoint counsel and (b) is  
14 financially unable to obtain counsel because of indigency ~~((as defined~~  
15 ~~in chapter 10.101 RCW))~~.

16 (3) ~~((If a party to an action under this chapter is represented by  
17 counsel, no order shall be provided to that party for his or her  
18 signature without prior notice and provision of the order to counsel.~~

19 ~~(4))~~ Copies of department of social and health services or  
20 supervising agency records to which parents have legal access pursuant  
21 to chapter 13.50 RCW shall be given to the child's parent, guardian,  
22 legal custodian, or his or her legal counsel, prior to any shelter care  
23 hearing and within fifteen days after the department or supervising  
24 agency receives a written request for such records from the parent,  
25 guardian, legal custodian, or his or her legal counsel. These records  
26 shall be provided to the child's parents, guardian, legal custodian, or  
27 legal counsel a reasonable period of time prior to the shelter care  
28 hearing in order to allow an opportunity to review the records prior to  
29 the hearing. These records shall be legible and shall be provided at  
30 no expense to the parents, guardian, legal custodian, or his or her  
31 counsel. When the records are served on legal counsel, legal counsel  
32 shall have the opportunity to review the records with the parents and  
33 shall review the records with the parents prior to the shelter care  
34 hearing.

35 **Sec. 11.** RCW 13.34.110 and 1995 c 313 s 1 and 1995 c 311 s 27 are  
36 each reenacted and amended to read as follows:

37 The court shall hold a fact-finding hearing on the petition and,  
38 unless the court dismisses the petition, shall make written findings of

1 fact, stating the reasons therefor(~~(, and after it has announced its~~  
2 ~~findings of fact shall hold a hearing to consider disposition of the~~  
3 ~~case immediately following the fact-finding hearing or at a continued~~  
4 ~~hearing within fourteen days or longer for good cause shown)~~).  
5 Immediately after the entry of the findings of fact, the court shall  
6 hold a disposition hearing, unless there is good cause for continuing  
7 the matter. If good cause is shown, the hearing must be held within  
8 fourteen days. Notice of the time and place of the continued hearing  
9 may be given in open court. If notice in open court is not given to a  
10 party, that party shall be notified by mail of the time and place of  
11 any continued hearing. Unless there is reasonable cause to believe the  
12 health, safety, or welfare of the child would be jeopardized or efforts  
13 to reunite the parent and child would be hindered, the court shall  
14 direct the department to notify those adult persons who: (1) Are  
15 related by blood or marriage to the child in the following degrees:  
16 Parent, grandparent, brother, sister, stepparent, stepbrother,  
17 stepsister, uncle, or aunt; (2) are known to the department as having  
18 been in contact with the family or child within the past twelve months;  
19 and (3) would be an appropriate placement for the child. Reasonable  
20 cause to dispense with notification to a parent under this section must  
21 be proved by clear, cogent, and convincing evidence.

22 The parties need not appear at the fact-finding or dispositional  
23 hearing if the parties, their attorneys, the guardian ad litem, and  
24 court-appointed special advocates, if any, are all in agreement. The  
25 court shall receive and review a social study before entering an order  
26 based on agreement. No social file or social study may be considered  
27 by the court in connection with the fact-finding hearing or prior to  
28 factual determination, except as otherwise admissible under the rules  
29 of evidence. (~~Notice of the time and place of the continued hearing~~  
30 ~~may be given in open court. If notice in open court is not given to a~~  
31 ~~party, that party shall be notified by mail of the time and place of~~  
32 ~~any continued hearing.~~

33 All hearings may be conducted at any time or place within the  
34 limits of the county, and such cases may not be heard in conjunction  
35 with other business of any other division of the superior court. The  
36 general public shall be excluded, and only such persons may be admitted  
37 who are found by the judge to have a direct interest in the case or in  
38 the work of the court. Unless the court states on the record the  
39 reasons to disallow attendance, the court shall allow a child's

1 relatives and, if a child resides in foster care, the child's foster  
2 parent, to attend all hearings and proceedings pertaining to the child  
3 for the sole purpose of providing oral and written information about  
4 the child and the child's welfare to the court.

5 Stenographic notes or any device which accurately records the  
6 proceedings may be required as provided in other civil cases pursuant  
7 to RCW 2.32.200.))

8 NEW SECTION. **Sec. 12.** A new section is added to chapter 13.34 RCW  
9 to read as follows:

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

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

24 **Sec. 13.** RCW 13.34.120 and 1998 c 328 s 4 are each amended to read  
25 as follows:

26 ((+1)) To aid the court in its decision on disposition, a social  
27 study(~~(, consisting of a written evaluation of matters relevant to the~~  
28 ~~disposition of the case,~~) shall be made by the person or agency filing  
29 the petition. A parent may submit a counselor's or health care  
30 provider's evaluation of the parent, which shall either be included in  
31 the social study or considered in conjunction with the social study.  
32 The study shall include all social ~~((records))~~ files and may also  
33 include facts relating to the child's cultural heritage, and shall be  
34 made available to the court. The court shall consider the social file,  
35 social study, guardian ad litem report, the court-appointed special  
36 advocate's report, if any, and any reports filed by a party at the  
37 disposition hearing in addition to evidence produced at the fact-

1 finding hearing. At least ten working days before the disposition  
2 hearing, the department shall mail to the parent and his or her  
3 attorney a copy of the agency's social study and proposed service plan,  
4 which shall be in writing or in a form understandable to the parents or  
5 custodians. In addition, the department shall provide an opportunity  
6 for parents to review and comment on the plan at the ((community  
7 service)) local office closest to the parents' residence. If the  
8 parents disagree with the agency's plan or any part thereof, the  
9 parents shall submit to the court at least twenty-four hours before the  
10 hearing, in writing, or signed oral statement, an alternative plan to  
11 correct the problems which led to the finding of dependency. This  
12 section shall not interfere with the right of the parents or custodians  
13 to submit oral arguments regarding the disposition plan at the hearing.

14 ~~((2) In addition to the requirements set forth in subsection (1)~~  
15 ~~of this section, a predisposition study to the court in cases of~~  
16 ~~dependency alleged pursuant to RCW 13.34.030(4) (b) or (c) shall~~  
17 ~~contain the following information:~~

18 ~~(a) A statement of the specific harm or harms to the child that~~  
19 ~~intervention is designed to alleviate;~~

20 ~~(b) A description of the specific programs, for both the parents~~  
21 ~~and child, that are needed in order to prevent serious harm to the~~  
22 ~~child; the reasons why such programs are likely to be useful; the~~  
23 ~~availability of any proposed services; and the agency's overall plan~~  
24 ~~for ensuring that the services will be delivered. The description~~  
25 ~~shall identify services chosen and approved by the parent;~~

26 ~~(c) If removal is recommended, a full description of the reasons~~  
27 ~~why the child cannot be protected adequately in the home, including a~~  
28 ~~description of any previous efforts to work with the parents and the~~  
29 ~~child in the home; the in-home treatment programs which have been~~  
30 ~~considered and rejected; the preventive services that have been offered~~  
31 ~~or provided and have failed to prevent the need for out-of-home~~  
32 ~~placement, unless the health, safety, and welfare of the child cannot~~  
33 ~~be protected adequately in the home; and the parents' attitude toward~~  
34 ~~placement of the child;~~

35 ~~(d) A statement of the likely harms the child will suffer as a~~  
36 ~~result of removal. This section should include an exploration of the~~  
37 ~~nature of the parent-child attachment and the meaning of separation and~~  
38 ~~loss to both the parents and the child;~~

1       ~~(e) A description of the steps that will be taken to minimize harm~~  
2 ~~to the child that may result if separation occurs; and~~  
3       ~~(f) Behavior that will be expected before determination that~~  
4 ~~supervision of the family or placement is no longer necessary.)~~

5       NEW SECTION.   **Sec. 14.** A new section is added to chapter 13.34 RCW  
6 to read as follows:

7       If the most recent date that a child was removed from the home of  
8 the parent, guardian, or legal custodian for purposes of placement in  
9 out-of-home care occurred prior to the filing of a dependency petition  
10 or after filing but prior to entry of a disposition order, such time  
11 periods shall be included when calculating the length of the child's  
12 current placement episode.

13       **Sec. 15.** RCW 13.34.130 and 1999 c 267 s 16, 1999 c 267 s 9, and  
14 1999 c 173 s 3 are each reenacted and amended to read as follows:

15       If, after a fact-finding hearing pursuant to RCW 13.34.110, it has  
16 been proven by a preponderance of the evidence that the child is  
17 dependent within the meaning of RCW 13.34.030(~~(+)~~) after consideration  
18 of the (~~(predisposition report)~~) social study prepared pursuant to RCW  
19 13.34.110 and after a disposition hearing has been held pursuant to RCW  
20 13.34.110, the court shall enter an order of disposition pursuant to  
21 this section.

22       (1) The court shall order one of the following dispositions of the  
23 case:

24       (a) Order a disposition other than removal of the child from his or  
25 her home, which shall provide a program designed to alleviate the  
26 immediate danger to the child, to mitigate or cure any damage the child  
27 has already suffered, and to aid the parents so that the child will not  
28 be endangered in the future. In (~~(selecting a program)~~) determining  
29 the disposition, the court should choose those services, including  
30 housing assistance, that least interfere with family autonomy(~~(-)~~  
31 ~~provided that the services~~) and are adequate to protect the child.

32       (b) Order (~~(that)~~) the child to be removed from his or her home and  
33 (~~(ordered)~~) into the custody, control, and care of a relative or the  
34 department (~~(of social and health services)~~) or a licensed child  
35 placing agency for placement in a foster family home or group care  
36 facility licensed pursuant to chapter 74.15 RCW or in a home not  
37 required to be licensed pursuant to chapter 74.15 RCW. Unless there is

1 reasonable cause to believe that the health, safety, or welfare of the  
2 child would be jeopardized or that efforts to reunite the parent and  
3 child will be hindered, such child shall be placed with a person who  
4 is: (i) Related to the child as defined in RCW 74.15.020(2)(a) (~~and~~)  
5 with whom the child has a relationship and is comfortable(~~(7)~~); and  
6 (~~who is~~) (ii) willing and available to care for the child.

7 (2) Placement of the child with a relative under this subsection  
8 shall be given preference by the court. An order for out-of-home  
9 placement may be made only if the court finds that reasonable efforts  
10 have been made to prevent or eliminate the need for removal of the  
11 child from the child's home and to make it possible for the child to  
12 return home, specifying the services that have been provided to the  
13 child and the child's parent, guardian, or legal custodian, and that  
14 preventive services have been offered or provided and have failed to  
15 prevent the need for out-of-home placement, unless the health, safety,  
16 and welfare of the child cannot be protected adequately in the home,  
17 and that:

18 (~~(i)~~) (a) There is no parent or guardian available to care for  
19 such child;

20 (~~(ii)~~) (b) The parent, guardian, or legal custodian is not  
21 willing to take custody of the child; or

22 (~~(iii)~~) (c) The court finds, by clear, cogent, and convincing  
23 evidence, a manifest danger exists that the child will suffer serious  
24 abuse or neglect if the child is not removed from the home and an order  
25 under RCW 26.44.063 would not protect the child from danger(~~(i or~~

26 ~~(iv)~~ The extent of the child's disability is such that the parent,  
27 guardian, or legal custodian is unable to provide the necessary care  
28 for the child and the parent, guardian, or legal custodian has  
29 determined that the child would benefit from placement outside of the  
30 home)).

31 (~~(2)~~) (3) If the court has ordered a child removed from his or  
32 her home pursuant to subsection (1)(b) of this section, the court may  
33 order that a petition seeking termination of the parent and child  
34 relationship be filed if the (~~court finds: (a) Termination is~~  
35 ~~recommended by the supervising agency; (b) termination is in the best~~  
36 ~~interests of the child; and (c) that because of the existence of~~  
37 ~~aggravated circumstances, reasonable efforts to unify the family are~~  
38 ~~not required. Notwithstanding the existence of aggravated~~  
39 ~~circumstances, reasonable efforts may be required if the court or~~

1 department determines it is in the best interest of the child. In  
2 determining whether aggravated circumstances exist by clear, cogent,  
3 and convincing evidence, the court shall consider one or more of the  
4 following:

5 (i) Conviction of the parent of rape of the child in the first,  
6 second, or third degree as defined in RCW 9A.44.073, 9A.44.076, and  
7 9A.44.079;

8 (ii) Conviction of the parent of criminal mistreatment of the child  
9 in the first or second degree as defined in RCW 9A.42.020 and  
10 9A.42.030;

11 (iii) Conviction of the parent of one of the following assault  
12 crimes, when the child is the victim: Assault in the first or second  
13 degree as defined in RCW 9A.36.011 and 9A.36.021 or assault of a child  
14 in the first or second degree as defined in RCW 9A.36.120 or 9A.36.130;

15 (iv) Conviction of the parent of murder, manslaughter, or homicide  
16 by abuse of the child's other parent, sibling, or another child;

17 (v) Conviction of the parent of attempting, soliciting, or  
18 conspiracy to commit a crime listed in (c)(i), (ii), (iii), or (iv) of  
19 this subsection;

20 (vi) A finding by a court that a parent is a sexually violent  
21 predator as defined in RCW 71.09.020;

22 (vii) Failure of the parent to complete available treatment ordered  
23 under this chapter or the equivalent laws of another state, where such  
24 failure has resulted in a prior termination of parental rights to  
25 another child and the parent has failed to effect significant change in  
26 the interim. In the case of a parent of an Indian child, as defined in  
27 the Indian Child Welfare Act, P.L. 95-608 (25 U.S.C. Sec. 1903), the  
28 court shall also consider tribal efforts to assist the parent in  
29 completing treatment and make it possible for the child to return home;

30 (viii) An infant under three years of age has been abandoned as  
31 defined in RCW 13.34.030(4)(a);

32 (ix) The mother has given birth to three or more drug-affected  
33 infants, resulting in the department filing a petition under section  
34 23, chapter 314, Laws of 1998;

35 (x) Conviction of the parent of a sex offense under chapter 9A.44  
36 RCW or incest under RCW 9A.64.020 when the child is born of the  
37 offense.

38 (3) If reasonable efforts are not ordered under subsection (2) of  
39 this section a permanency planning hearing shall be held within thirty



1 days. Reasonable efforts shall be made to place the child in a timely  
2 manner in accordance with the permanency plan, and to complete whatever  
3 steps are necessary to finalize the permanent placement of the child.

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

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

26 (b) Unless the court has ordered, pursuant to subsection (2) of  
27 this section, that a termination petition be filed, a specific plan as  
28 to where the child will be placed, what steps will be taken to return  
29 the child home, and what actions the agency will take to maintain  
30 parent child ties. All aspects of the plan shall include the goal of  
31 achieving permanence for the child.

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

36 (ii) The agency shall be required to encourage the maximum parent-  
37 child contact possible, including regular visitation and participation  
38 by the parents in the care of the child while the child is in  
39 placement. Visitation may be limited or denied only if the court

1 determines that such limitation or denial is necessary to protect the  
2 child's health, safety, or welfare.

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

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

12 (c) If the court has ordered, pursuant to subsection (2) of this  
13 section, that a termination petition be filed, a specific plan as to  
14 where the child will be placed, what steps will be taken to achieve  
15 permanency for the child, services to be offered or provided to the  
16 child, and, if visitation would be in the best interests of the child,  
17 a recommendation to the court regarding visitation between parent and  
18 child pending a fact-finding hearing on the termination petition. The  
19 agency shall not be required to develop a plan of services for the  
20 parents or provide services to the parents.

21 (5) If the court determines that the continuation of reasonable  
22 efforts to prevent or eliminate the need to remove the child from his  
23 or her home or to safely return the child home should not be part of  
24 the permanency plan of care for the child, reasonable efforts shall be  
25 made to place the child in a timely manner and to complete whatever  
26 steps are necessary to finalize the permanent placement of the child.

27 (6)) requirements of section 16 of this act are met.

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

1 related to the care and supervision of the child including, but not  
2 limited to, court orders regarding parent-child contacts and any other  
3 conditions imposed by the court. Noncompliance with the case plan or  
4 court order shall be grounds for removal of the child from the  
5 relative's home, subject to review by the court.

6 ~~((7) Except for children whose cases are reviewed by a citizen~~  
7 ~~review board under chapter 13.70 RCW, the status of all children found~~  
8 ~~to be dependent shall be reviewed by the court at least every six~~  
9 ~~months from the beginning date of the placement episode or the date~~  
10 ~~dependency is established, whichever is first, at a hearing in which it~~  
11 ~~shall be determined whether court supervision should continue. The~~  
12 ~~review shall include findings regarding the agency and parental~~  
13 ~~completion of disposition plan requirements, and if necessary, revised~~  
14 ~~permanency time limits. The supervising agency shall provide a foster~~  
15 ~~parent, preadoptive parent, or relative with notice of, and their right~~  
16 ~~to an opportunity to be heard in, a review hearing pertaining to the~~  
17 ~~child, but only if that person is currently providing care to that~~  
18 ~~child at the time of the hearing. This section shall not be construed~~  
19 ~~to grant party status to any person who has been provided an~~  
20 ~~opportunity to be heard.~~

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

28 ~~(b) If the child is not returned home, the court shall establish in~~  
29 ~~writing:~~

30 ~~(i) Whether reasonable services have been provided to or offered to~~  
31 ~~the parties to facilitate reunion, specifying the services provided or~~  
32 ~~offered;~~

33 ~~(ii) Whether the child has been placed in the least restrictive~~  
34 ~~setting appropriate to the child's needs, including whether~~  
35 ~~consideration and preference has been given to placement with the~~  
36 ~~child's relatives;~~

37 ~~(iii) Whether there is a continuing need for placement and whether~~  
38 ~~the placement is appropriate;~~

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

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

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

7 ~~(vii) Whether additional services, including housing assistance,~~  
8 ~~are needed to facilitate the return of the child to the child's~~  
9 ~~parents; if so, the court shall order that reasonable services be~~  
10 ~~offered specifying such services; and~~

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

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

15 ~~(8) The court's ability to order housing assistance under this~~  
16 ~~section is: (a) Limited to cases in which homelessness or the lack of~~  
17 ~~adequate and safe housing is the primary reason for an out of home~~  
18 ~~placement; and (b) subject to the availability of funds appropriated~~  
19 ~~for this specific purpose.))~~

20 NEW SECTION. Sec. 16. A new section is added to chapter 13.34 RCW  
21 to read as follows:

22 A court may order that a petition seeking termination of the parent  
23 and child relationship be filed if the following requirements are met:

24 (1) The court has removed the child from his or her home pursuant  
25 to RCW 13.34.130;

26 (2) Termination is recommended by the supervising agency;

27 (3) Termination is in the best interests of the child; and

28 (4) Because of the existence of aggravated circumstances,  
29 reasonable efforts to unify the family are not required.  
30 Notwithstanding the existence of aggravated circumstances, reasonable  
31 efforts may be required if the court or department determines it is in  
32 the best interests of the child. In determining whether aggravated  
33 circumstances exist by clear, cogent, and convincing evidence, the  
34 court shall consider one or more of the following:

35 (a) Conviction of the parent of rape of the child in the first,  
36 second, or third degree as defined in RCW 9A.44.073, 9A.44.076, and  
37 9A.44.079;

1 (b) Conviction of the parent of criminal mistreatment of the child  
2 in the first or second degree as defined in RCW 9A.42.020 and  
3 9A.42.030;

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

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

10 (e) Conviction of the parent of attempting, soliciting, or  
11 conspiring to commit a crime listed in (a), (b), (c), or (d) of this  
12 subsection;

13 (f) A finding by a court that a parent is a sexually violent  
14 predator as defined in RCW 71.09.020;

15 (g) Failure of the parent to complete available treatment ordered  
16 under this chapter or the equivalent laws of another state, where such  
17 failure has resulted in a prior termination of parental rights to  
18 another child and the parent has failed to effect significant change in  
19 the interim. In the case of a parent of an Indian child, as defined in  
20 the Indian Child Welfare Act, P.L. 95-608 (25 U.S.C. Sec. 1903), the  
21 court shall also consider tribal efforts to assist the parent in  
22 completing treatment and make it possible for the child to return home;

23 (h) An infant under three years of age has been abandoned;

24 (i) Conviction of the parent of a sex offense under chapter 9A.44  
25 RCW or incest under RCW 9A.64.020 when the child is born of the  
26 offense.

27 NEW SECTION. **Sec. 17.** A new section is added to chapter 13.34 RCW  
28 to read as follows:

29 (1) If reasonable efforts are not ordered under section 16 of this  
30 act, a permanency planning hearing shall be held within thirty days of  
31 the court order to file a petition to terminate parental rights.  
32 Reasonable efforts shall be made to place the child in a timely manner  
33 in accordance with the permanency plan, and to complete whatever steps  
34 are necessary to finalize the permanent placement of the child.

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

37 (a) A permanency plan of care that shall identify one of the  
38 following outcomes as a primary goal and may identify additional

1 outcomes as alternative goals: Return of the child to the home of the  
2 child's parent, guardian, or legal custodian; adoption; guardianship;  
3 permanent legal custody; long-term relative or foster care, until the  
4 child is age eighteen, with a written agreement between the parties and  
5 the care provider; independent living, if appropriate and if the child  
6 is age sixteen or older; or a responsible living skills program. The  
7 department shall not discharge a child to an independent living  
8 situation before the child is eighteen years of age unless the child  
9 becomes emancipated pursuant to chapter 13.64 RCW;

10 (b) Unless the court has ordered, pursuant to RCW 13.34.130(3),  
11 that a termination petition be filed, a specific plan as to where the  
12 child will be placed, what steps will be taken to return the child  
13 home, and what actions the agency will take to maintain parent-child  
14 ties. All aspects of the plan shall include the goal of achieving  
15 permanence for the child.

16 (i) The agency plan shall specify what services the parents will be  
17 offered to enable them to resume custody, what requirements the parents  
18 must meet to resume custody, and a time limit for each service plan and  
19 parental requirement.

20 (ii) The agency shall encourage the maximum parent-child contact  
21 possible, including regular visitation and participation by the parents  
22 in the care of the child while the child is in placement. Visitation  
23 may be limited or denied only if the court determines that such  
24 limitation or denial is necessary to protect the child's health,  
25 safety, or welfare.

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

30 (iv) The agency charged with supervising a child in placement shall  
31 provide all reasonable services that are available within the agency,  
32 or within the community, or those services which the department has  
33 existing contracts to purchase. It shall report to the court if it is  
34 unable to provide such services; and

35 (c) If the court has ordered, pursuant to RCW 13.34.130(3), that a  
36 termination petition be filed, a specific plan as to where the child  
37 will be placed, what steps will be taken to achieve permanency for the  
38 child, services to be offered or provided to the child, and, if  
39 visitation would be in the best interests of the child, a

1 recommendation to the court regarding visitation between parent and  
2 child pending a fact-finding hearing on the termination petition. The  
3 agency shall not be required to develop a plan of services for the  
4 parents or provide services to the parents if the court orders a  
5 termination petition be filed.

6 (3) If the court determines that the continuation of reasonable  
7 efforts to prevent or eliminate the need to remove the child from his  
8 or her home or to safely return the child home should not be part of  
9 the permanency plan of care for the child, reasonable efforts shall be  
10 made to place the child in a timely manner and to complete whatever  
11 steps are necessary to finalize the permanent placement of the child.

12 NEW SECTION. Sec. 18. A new section is added to chapter 13.34 RCW  
13 to read as follows:

14 (1) Except for children whose cases are reviewed by a citizen  
15 review board under chapter 13.70 RCW, the status of all children found  
16 to be dependent shall be reviewed by the court at least every six  
17 months from the beginning date of the placement episode or the date  
18 dependency is established, whichever is first, at a hearing in which it  
19 shall be determined whether court supervision should continue. The  
20 review shall include findings regarding the agency and parental  
21 completion of disposition plan requirements, and if necessary, revised  
22 permanency time limits. The supervising agency shall provide a foster  
23 parent, preadoptive parent, or relative with notice of, and their right  
24 to an opportunity to be heard in, a review hearing pertaining to the  
25 child, but only if that person is currently providing care to that  
26 child at the time of the hearing. This section shall not be construed  
27 to grant party status to any person who has been provided an  
28 opportunity to be heard.

29 (a) A child shall not be returned home at the review hearing unless  
30 the court finds that a reason for removal as set forth in RCW 13.34.130  
31 no longer exists. The parents, guardian, or legal custodian shall  
32 report to the court the efforts they have made to correct the  
33 conditions which led to removal. If a child is returned, casework  
34 supervision shall continue for a period of six months, at which time  
35 there shall be a hearing on the need for continued intervention.

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

1 (i) Whether reasonable services have been provided to or offered to  
2 the parties to facilitate reunion, specifying the services provided or  
3 offered;

4 (ii) Whether the child has been placed in the least-restrictive  
5 setting appropriate to the child's needs, including whether  
6 consideration and preference has been given to placement with the  
7 child's relatives;

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

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

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

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

16 (vii) Whether additional services, including housing assistance,  
17 are needed to facilitate the return of the child to the child's  
18 parents; if so, the court shall order that reasonable services be  
19 offered specifying such services; and

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

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

24 (2) The court's ability to order housing assistance under RCW  
25 13.34.130 and this section is: (a) Limited to cases in which  
26 homelessness or the lack of adequate and safe housing is the primary  
27 reason for an out-of-home placement; and (b) subject to the  
28 availability of funds appropriated for this specific purpose.

29 **Sec. 19.** RCW 13.34.145 and 1999 c 267 s 17 are each amended to  
30 read as follows:

31 (1) A permanency plan shall be developed no later than sixty days  
32 from the time the supervising agency assumes responsibility for  
33 providing services, including placing the child, or at the time of a  
34 hearing under RCW 13.34.130, whichever occurs first. The permanency  
35 planning process continues until a permanency planning goal is achieved  
36 or dependency is dismissed. The planning process shall include  
37 reasonable efforts to return the child to the parent's home.



1 (a) Whenever a child is placed in out-of-home care pursuant to RCW  
2 13.34.130, the agency that has custody of the child shall provide the  
3 court with a written permanency plan of care directed towards securing  
4 a safe, stable, and permanent home for the child as soon as possible.  
5 The plan shall identify one of the following outcomes as the primary  
6 goal and may also identify additional outcomes as alternative goals:  
7 Return of the child to the home of the child's parent, guardian, or  
8 legal custodian; adoption; guardianship; permanent legal custody; long-  
9 term relative or foster care, until the child is age eighteen, with a  
10 written agreement between the parties and the care provider; a  
11 responsible living skills program; and independent living, if  
12 appropriate and if the child is age sixteen or older and the provisions  
13 of subsection (2) of this section are met.

14 (b) The identified outcomes and goals of the permanency plan may  
15 change over time based upon the circumstances of the particular case.

16 (c) Permanency planning goals should be achieved at the earliest  
17 possible date, preferably before the child has been in out-of-home care  
18 for fifteen months. In cases where parental rights have been  
19 terminated, the child is legally free for adoption, and adoption has  
20 been identified as the primary permanency planning goal, it shall be a  
21 goal to complete the adoption within six months following entry of the  
22 termination order.

23 (d) For purposes related to permanency planning:

24 (i) "Guardianship" means a dependency guardianship (~~pursuant to~~  
25 ~~this chapter~~), a legal guardianship pursuant to chapter 11.88 RCW, or  
26 equivalent laws of another state or a federally recognized Indian  
27 tribe.

28 (ii) "Permanent custody order" means a custody order entered  
29 pursuant to chapter 26.10 RCW.

30 (iii) "Permanent legal custody" means legal custody pursuant to  
31 chapter 26.10 RCW or equivalent laws of another state or of a federally  
32 recognized Indian tribe.

33 (2) Whenever a permanency plan identifies independent living as a  
34 goal, the plan shall also specifically identify the services that will  
35 be provided to assist the child to make a successful transition from  
36 foster care to independent living. Before the court approves  
37 independent living as a permanency plan of care, the court shall make  
38 a finding that the provision of services to assist the child in making  
39 a transition from foster care to independent living will allow the

1 child to manage his or her financial (~~affairs and to manage his or~~  
2 ~~her~~), personal, social, educational, and nonfinancial affairs. The  
3 department shall not discharge a child to an independent living  
4 situation before the child is eighteen years of age unless the child  
5 becomes emancipated pursuant to chapter 13.64 RCW.

6 (3) A permanency planning hearing shall be held in all cases where  
7 the child has remained in out-of-home care for at least nine months and  
8 an adoption decree, guardianship order, or permanent custody order has  
9 not previously been entered. The hearing shall take place no later  
10 than twelve months following commencement of the current placement  
11 episode.

12 (4) Whenever a child is removed from the home of a dependency  
13 guardian or long-term relative or foster care provider, and the child  
14 is not returned to the home of the parent, guardian, or legal custodian  
15 but is placed in out-of-home care, a permanency planning hearing shall  
16 take place no later than twelve months, as provided in subsection (3)  
17 of this section, following the date of removal unless, prior to the  
18 hearing, the child returns to the home of the dependency guardian or  
19 long-term care provider, the child is placed in the home of the parent,  
20 guardian, or legal custodian, an adoption decree, guardianship order,  
21 or a permanent custody order is entered, or the dependency is  
22 dismissed.

23 (5) No later than ten (~~working~~) judicial days prior to the  
24 permanency planning hearing, the agency having custody of the child  
25 shall submit a written permanency plan to the court and shall mail a  
26 copy of the plan to all parties and their legal counsel, if any.

27 (6) At the permanency planning hearing, the court shall enter  
28 findings as required by (~~RCW 13.34.130(7)~~) section 18 of this act and  
29 shall review the permanency plan prepared by the agency. If the child  
30 has resided in the home of a foster parent or relative for more than  
31 six months prior to the permanency planning hearing, the court shall  
32 also enter a finding regarding whether the foster parent or relative  
33 was informed of the hearing as required in RCW 74.13.280 and  
34 (~~13.34.130(7)~~) section 18 of this act. If a goal of long-term foster  
35 or relative care has been achieved prior to the permanency planning  
36 hearing, the court shall review the child's status to determine whether  
37 the placement and the plan for the child's care remain appropriate. In  
38 cases where the primary permanency planning goal has not (~~yet~~) been  
39 achieved, the court shall inquire regarding the reasons why the primary

1 goal has not been achieved and determine what needs to be done to make  
2 it possible to achieve the primary goal. In all cases, the court  
3 shall:

4 (a)(i) Order the permanency plan prepared by the agency to be  
5 implemented; or

6 (ii) Modify the permanency plan, and order implementation of the  
7 modified plan; and

8 (b)(i) Order the child returned home only if the court finds that  
9 a reason for removal as set forth in RCW 13.34.130 no longer exists; or

10 (ii) Order the child to remain in out-of-home care for a limited  
11 specified time period while efforts are made to implement the  
12 permanency plan.

13 (7) If the court orders the child returned home, casework  
14 supervision shall continue for at least six months, at which time a  
15 review hearing shall be held pursuant to ~~((RCW 13.34.130(7)))~~ section  
16 18 of this act, and the court shall determine the need for continued  
17 intervention.

18 (8) Continued juvenile court jurisdiction under this chapter shall  
19 not be a barrier to the entry of an order establishing a legal  
20 guardianship or permanent legal custody when~~((7))~~: (a) The court has  
21 ordered implementation of a permanency plan that includes legal  
22 guardianship or permanent legal custody~~((7))~~; and (b) the party  
23 pursuing the legal guardianship or permanent legal custody is the party  
24 identified in the permanency plan as the prospective legal guardian or  
25 custodian. During the pendency of such proceeding, ~~((juvenile))~~ the  
26 court shall conduct review hearings and further permanency planning  
27 hearings as provided in this chapter. At the conclusion of the legal  
28 guardianship or permanent legal custody proceeding, a juvenile court  
29 hearing shall be held for the purpose of determining whether dependency  
30 should be dismissed. If a guardianship or permanent custody order has  
31 been entered, the dependency shall be dismissed.

32 (9) Following the first permanency planning hearing, the court  
33 shall hold a further permanency planning hearing in accordance with  
34 this section at least once every twelve months until a permanency  
35 planning goal is achieved or the dependency is dismissed, whichever  
36 occurs first.

37 (10) Except as ~~((otherwise))~~ provided in RCW 13.34.235, the status  
38 of all dependent children shall continue to be reviewed by the court at  
39 least once every six months, in accordance with ~~((RCW 13.34.130(7)))~~

1 section 18 of this act, until the dependency is dismissed. Prior to  
2 the second permanency planning hearing, the agency that has custody of  
3 the child shall consider whether to file a petition for termination of  
4 parental rights.

5 (11) Nothing in this chapter may be construed to limit the ability  
6 of the agency that has custody of the child to file a petition for  
7 termination of parental rights or a guardianship petition at any time  
8 following the establishment of dependency. Upon the filing of such a  
9 petition, a fact-finding hearing shall be scheduled and held in  
10 accordance with this chapter unless the agency requests dismissal of  
11 the petition prior to the hearing or unless the parties enter an agreed  
12 order terminating parental rights, establishing guardianship, or  
13 otherwise resolving the matter.

14 (12) The approval of a permanency plan that does not contemplate  
15 return of the child to the parent does not relieve the supervising  
16 agency of its obligation to provide reasonable services, under this  
17 chapter, intended to effectuate the return of the child to the parent,  
18 including but not limited to, visitation rights.

19 (13) Nothing in this chapter may be construed to limit the  
20 procedural due process rights of any party in a termination or  
21 guardianship proceeding filed under this chapter.

22 **Sec. 20.** RCW 13.34.165 and 1998 c 296 s 38 are each amended to  
23 read as follows:

24 (1) Failure by a party to comply with an order entered under this  
25 chapter is civil contempt of court as provided in RCW 7.21.030(2)(e).

26 (2) The maximum term of (~~imprisonment~~) confinement that may be  
27 imposed as a remedial sanction for contempt of court under this section  
28 is confinement for up to seven days.

29 (3) A child (~~imprisoned~~) held for contempt under this section  
30 shall be confined only in a secure juvenile detention facility operated  
31 by or pursuant to a contract with a county.

32 (4) A motion for contempt may be made by a parent, juvenile court  
33 personnel, or by any public agency, organization, or person having  
34 custody of the child under a court order entered pursuant to this  
35 chapter.

36 (5) Whenever the court finds probable cause to believe, based upon  
37 consideration of a motion for contempt and the information set forth in  
38 a supporting declaration, that a child has violated a placement order

1 entered under this chapter, the court may issue an order directing law  
2 enforcement to pick up and take the child to detention. The order may  
3 be entered ex parte without prior notice to the child or other parties.  
4 Following the child's admission to detention, a detention review  
5 hearing must be held in accordance with RCW 13.32A.065.

6 **Sec. 21.** RCW 13.34.170 and 1981 c 195 s 9 are each amended to read  
7 as follows:

8 In any case in which ~~((an order or decree of))~~ the ~~((juvenile))~~  
9 court ~~((requiring))~~ has ordered a parent or parents, guardian, or other  
10 person having custody of a child to pay ~~((for shelter care and/or))~~  
11 support ~~((of such child is))~~ under RCW 13.34.160 and the order has not  
12 been complied with, the court may~~((, upon such person or persons being~~  
13 ~~duly summoned or voluntarily appearing, proceed to))~~ inquire into the  
14 amount due upon ~~((said))~~ the order ~~((or decree))~~ and enter judgment for  
15 ~~((such))~~ that amount against the defaulting party or parties, and  
16 ~~((such))~~ the judgment shall be docketed as are other judgments for the  
17 payment of money.

18 In such judgments, the county in which the ~~((same are))~~ order is  
19 entered shall be ~~((denominated))~~ the judgment creditor, or the state  
20 may be the judgment creditor where the child is in the custody of a  
21 state agency ~~((and said))~~. Judgments may be enforced by the  
22 prosecuting attorney of ~~((such))~~ the county, or the attorney general  
23 where the state is the judgment creditor and any moneys recovered  
24 ~~((thereon))~~ shall be paid into the registry of the juvenile court and  
25 shall be disbursed to such person, persons, agency, or governmental  
26 department as the court ~~((shall find to be))~~ finds is entitled  
27 ~~((thereto))~~ to it.

28 Such judgments shall remain ~~((as))~~ valid and enforceable  
29 ~~((judgments))~~ for a period of ten years ~~((subsequent to the))~~ after the  
30 date of entry ~~((thereof))~~.

31 **Sec. 22.** RCW 13.34.174 and 1993 c 412 s 5 are each amended to read  
32 as follows:

33 (1) The provisions of this section shall apply when a court orders  
34 a party to undergo an alcohol or substance abuse diagnostic  
35 investigation and evaluation.

36 (2) The facility conducting the investigation and evaluation shall  
37 make a written report to the court stating its findings and

1 recommendations including family-based services or treatment when  
2 appropriate. If its findings and recommendations support treatment, it  
3 shall also recommend a treatment plan setting out:

- 4 (a) Type of treatment;
- 5 (b) Nature of treatment;
- 6 (c) Length of treatment;
- 7 (d) A treatment time schedule; and
- 8 (e) Approximate cost of the treatment.

9 The affected person shall be included in developing the appropriate  
10 ~~((plan of))~~ treatment plan. The ~~((plan of))~~ treatment plan must be  
11 signed by ~~((the))~~ the treatment provider and the affected person.  
12 The initial written progress report based on the treatment plan ~~((and~~  
13 ~~response to treatment))~~ shall be sent to the appropriate persons six  
14 weeks after initiation of treatment~~((, and))~~. Subsequent progress  
15 reports shall be provided after three months, ~~((after))~~ six months,  
16 ~~((after))~~ twelve months, and thereafter every six months if treatment  
17 exceeds twelve months. Reports are to be filed with the court in a  
18 timely manner. Close-out of the treatment record must include summary  
19 of pretreatment and posttreatment, with final outcome and disposition.  
20 The report shall also include recommendations for ongoing stability and  
21 decrease in destructive behavior.

22 ~~((The))~~ Each report ~~((with the treatment plan))~~ shall also be filed  
23 with the court and a copy given to the person evaluated and the  
24 person's counsel. A copy of the treatment plan shall also be given to  
25 the department's caseworker and to the guardian ad litem. Any program  
26 for chemical dependency shall meet the program requirements contained  
27 in chapter 70.96A RCW.

28 (3) If the court has ordered treatment pursuant to a dependency  
29 proceeding it shall also require the treatment program to provide, in  
30 the reports required by subsection (2) of this section, status reports  
31 to the court, the department, the supervising child-placing agency if  
32 any, and the person or person's counsel regarding~~((:—(a)))~~ the  
33 person's cooperation with the treatment plan proposed~~((+))~~ and ~~((+b))~~  
34 the person's progress in treatment.

35 (4) ~~((In addition,))~~ If ~~((the party))~~ a person subject to this  
36 section fails or neglects to carry out and fulfill any term or  
37 condition of the treatment plan, the program or agency administering  
38 the treatment shall report such breach to the court, the department,  
39 the guardian ad litem, the supervising child-placing agency if any, and

1 the person or person's counsel, within twenty-four hours, together with  
2 its recommendation. These reports shall be made as a declaration by  
3 the person who is personally responsible for providing the treatment.

4 (5) Nothing in this chapter may be construed as allowing the court  
5 to require the department to pay for the cost of any alcohol or  
6 substance abuse evaluation or treatment program.

7 **Sec. 23.** RCW 13.34.176 and 1993 c 412 s 6 are each amended to read  
8 as follows:

9 (1) The court (~~(or the department)~~), upon receiving a report under  
10 RCW 13.34.174(4) or at the department's request, may schedule a show  
11 cause hearing to determine whether the person is in violation of the  
12 treatment conditions. All parties shall be given notice of the  
13 hearing. The court shall hold the hearing within ten days of the  
14 request for a hearing or as provided by local rule. At the hearing,  
15 testimony, declarations, reports, or other relevant information may be  
16 presented on the person's alleged failure to comply with the treatment  
17 plan and the person shall have the right to present similar information  
18 on his or her own behalf.

19 (2) If the court finds that there has been a violation of the  
20 treatment conditions it shall modify the dependency order, as  
21 necessary, to ensure the safety of the child. The modified order shall  
22 remain in effect until the party is in full compliance with the  
23 treatment requirements.

24 **Sec. 24.** RCW 13.34.180 and 1998 c 314 s 4 are each amended to read  
25 as follows:

26 (1) A petition seeking termination of a parent and child  
27 relationship may be filed in juvenile court by any party to the  
28 dependency proceedings concerning that child. Such petition shall  
29 conform to the requirements of RCW 13.34.040, shall be served upon the  
30 parties as provided in RCW 13.34.070(8), and shall allege all of the  
31 following unless subsection (2) or (3) of this section applies:

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

34 ~~(2))~~ (b) That the court has entered a dispositional order pursuant  
35 to RCW 13.34.130; ~~((and~~

36 ~~(3))~~ (c) That the child has been removed or will, at the time of  
37 the hearing, have been removed from the custody of the parent for a

1 period of at least six months pursuant to a finding of dependency  
2 (~~(under RCW 13.34.030(4))~~); (~~and~~  
3 ~~(4)~~) (d) That the services ordered under (~~(RCW 13.34.130)~~) section  
4 17 of this act have been expressly and understandably offered or  
5 provided and all necessary services, reasonably available, capable of  
6 correcting the parental deficiencies within the foreseeable future have  
7 been expressly and understandably offered or provided; (~~and~~  
8 ~~(5)~~) (e) That there is little likelihood that conditions will be  
9 remedied so that the child can be returned to the parent in the near  
10 future. A parent's failure to substantially improve parental  
11 deficiencies within twelve months following entry of the dispositional  
12 order shall give rise to a rebuttable presumption that there is little  
13 likelihood that conditions will be remedied so that the child can be  
14 returned to the parent in the near future. The presumption shall not  
15 arise unless the petitioner makes a showing that all necessary services  
16 reasonably capable of correcting the parental deficiencies within the  
17 foreseeable future have been clearly offered or provided. In  
18 determining whether the conditions will be remedied the court may  
19 consider, but is not limited to, the following factors:  
20 (~~(a)~~) (i) Use of intoxicating or controlled substances so as to  
21 render the parent incapable of providing proper care for the child for  
22 extended periods of time and documented unwillingness of the parent to  
23 receive and complete treatment or documented multiple failed treatment  
24 attempts; or  
25 (~~(b)~~) (ii) Psychological incapacity or mental deficiency of the  
26 parent that is so severe and chronic as to render the parent incapable  
27 of providing proper care for the child for extended periods of time,  
28 and documented unwillingness of the parent to receive and complete  
29 treatment or documentation that there is no treatment that can render  
30 the parent capable of providing proper care for the child in the near  
31 future; and  
32 (~~(6)~~) (f) That continuation of the parent and child relationship  
33 clearly diminishes the child's prospects for early integration into a  
34 stable and permanent home(~~(7-8)~~).  
35 (~~(7)~~) (2) In lieu of the allegations in subsection(~~(8)~~) (1)  
36 (~~through (6)~~) of this section, the petition may allege that the child  
37 was found under such circumstances that the whereabouts of the child's  
38 parent are unknown and no person has acknowledged paternity or



1 maternity and requested custody of the child within two months after  
2 the child was found(~~(i-or)~~).

3 ~~((+8+))~~ (3) In lieu of the allegations in subsection(~~(s-(2) through~~  
4 ~~(6+))~~) (1)(b) through (f) of this section, the petition may allege that  
5 the parent has been (~~found by a court of competent jurisdiction~~)  
6 convicted of:

7 (a) (~~To have committed, against another child of such parent,~~)  
8 Murder in the first degree, murder in the second degree, or homicide by  
9 abuse as defined in chapter 9A.32 RCW against another child of the  
10 parent;

11 (b) (~~To have committed, against another child of such parent,~~)  
12 Manslaughter in the first degree or manslaughter in the second degree,  
13 as defined in chapter 9A.32 RCW against another child of the parent;

14 (c) (~~To have attempted, conspired, or solicited~~) Attempting,  
15 conspiring, or soliciting another to commit one or more of the crimes  
16 listed in (a) or (b) of this subsection; or

17 (d) (~~To have committed~~) Assault in the first or second degree, as  
18 defined in chapter 9A.36 RCW, against the surviving child or another  
19 child of the parent.

20 (4) Notice of rights shall be served upon the parent, guardian, or  
21 legal custodian with the petition and shall be in substantially the  
22 following form:

23 "NOTICE

24 A petition for termination of parental rights has been filed  
25 against you. You have important legal rights and you must take  
26 steps to protect your interests. This petition could result in  
27 permanent loss of your parental rights.

28 1. You have the right to a fact-finding hearing before  
29 a judge.

30 2. You have the right to have a lawyer represent you at  
31 the hearing. A lawyer can look at the files in your case, talk  
32 to the department of social and health services and other  
33 agencies, tell you about the law, help you understand your  
34 rights, and help you at hearings. If you cannot afford a  
35 lawyer, the court will appoint one to represent you. To get a  
36 court-appointed lawyer you must contact: \_\_\_\_\_ (explain local  
37 procedure)\_\_\_\_\_.

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

5           You should be present at this hearing.

6           You may call      (insert agency)      for more information  
7 about your child. The agency's name and telephone number are  
8      (insert name and telephone number)     ."

9           **Sec. 25.** RCW 13.34.190 and 1998 c 314 s 5 are each amended to read  
10 as follows:

11           After hearings pursuant to RCW 13.34.110 or 13.34.130, the court  
12 may enter an order terminating all parental rights to a child only if  
13 the court finds that:

14           (1)(a) The allegations contained in the petition as provided in RCW  
15 13.34.180(1) (~~((through-(6)))~~) are established by clear, cogent, and  
16 convincing evidence; or

17           (b) (~~((RCW 13.34.180-(3) and-(4) may be waived because the~~  
18 ~~allegations under))~~ The provisions of RCW 13.34.180 (1)((, -(2), -(5),  
19 and-(6))) (a), (b), (e), and (f) are established beyond a reasonable  
20 doubt and if so, then RCW 13.34.180(1) (c) and (d) may be waived. When  
21 an infant has been abandoned, as defined in RCW 13.34.030, and the  
22 abandonment has been proved beyond a reasonable doubt, then RCW  
23 13.34.180(1) (c) and (d) may be waived; or

24           (c) The allegation under RCW 13.34.180(~~((+7))~~) (2) is established  
25 beyond a reasonable doubt. In determining whether RCW 13.34.180 (~~((+5)~~  
26 ~~and-(6)))~~ (1) (e) and (f) are established beyond a reasonable doubt,  
27 the court shall consider whether one or more of the aggravated  
28 circumstances listed in (~~((RCW 13.34.130(2)))~~) section 16 of this act  
29 exist; or

30           (d) The allegation under RCW 13.34.180(~~((+8))~~) (3) is established  
31 beyond a reasonable doubt; and

32           (2) Such an order is in the best interests of the child.

33           **Sec. 26.** RCW 13.34.200 and 1977 ex.s. c 291 s 48 are each amended  
34 to read as follows:

35           (1) Upon the termination of parental rights pursuant to RCW  
36 13.34.180, all rights, powers, privileges, immunities, duties, and  
37 obligations, including any rights to custody, control, visitation, or

1 support existing between the child and parent shall be severed and  
2 terminated and the parent shall have no standing to appear at any  
3 further legal proceedings concerning the child: PROVIDED, That any  
4 support obligation existing prior to the effective date of the order  
5 terminating parental rights shall not be severed or terminated. The  
6 rights of one parent may be terminated without affecting the rights of  
7 the other parent and the order shall so state.

8 (2) An order terminating the parent and child relationship shall  
9 not disentitle a child to any benefit due the child from any third  
10 person, agency, state, or the United States, nor shall any action under  
11 this chapter be deemed to affect any rights and benefits that ((a  
12 native American)) an Indian child derives from the child's descent from  
13 a member of a federally recognized Indian tribe.

14 **Sec. 27.** RCW 13.34.210 and 1991 c 127 s 6 are each amended to read  
15 as follows:

16 If, upon entering an order terminating the parental rights of a  
17 parent, there remains no parent having parental rights, the court shall  
18 commit the child to the custody of the department ((of social and  
19 health services)) or to a licensed child-placing agency willing to  
20 accept custody for the purpose of placing the child for adoption((,  
21 in the absence thereof)). If an adoptive home has not been identified,  
22 the department or agency shall place the child in a licensed foster  
23 home, or take other suitable measures for the care and welfare of the  
24 child. The custodian shall have authority to consent to the adoption  
25 of the child consistent with chapter 26.33 RCW, the marriage of the  
26 child, the enlistment of the child in the armed forces of the United  
27 States, necessary surgical and other medical treatment for the child,  
28 and to consent to such other matters as might normally be required of  
29 the parent of the child.

30 If a child has not been adopted within six months after the date of  
31 the order and a ((general guardian)) guardianship of the child under  
32 RCW 13.34.231 or chapter 11.88 RCW, or a permanent custody order under  
33 chapter 26.10 RCW, has not been ((appointed)) entered by the court,  
34 ((the child shall be returned to the court for entry of further orders  
35 for his or her care, custody, and control, and, except for children  
36 whose cases are reviewed by a citizen review board under chapter 13.70  
37 RCW,)) the court shall review the case every six months ((thereafter))

1 until a decree of adoption is entered except for those cases which are  
2 reviewed by a citizen review board under chapter 13.70 RCW.

3 **Sec. 28.** RCW 13.34.231 and 1994 c 288 s 6 are each amended to read  
4 as follows:

5 At the hearing on a dependency guardianship petition, all parties  
6 have the right to present evidence and cross examine witnesses. The  
7 rules of evidence apply to the conduct of the hearing. A guardianship  
8 shall be established if the court finds by a preponderance of the  
9 evidence that:

10 (1) The child has been found to be a dependent child under RCW  
11 13.34.030;

12 (2) A dispositional order has been entered pursuant to RCW  
13 13.34.130;

14 (3) The child has been removed or will, at the time of the hearing,  
15 have been removed from the custody of the parent for a period of at  
16 least six months pursuant to a finding of dependency under RCW  
17 13.34.030;

18 (4) The services ordered under RCW 13.34.130 and section 17 of this  
19 act have been offered or provided and all necessary services,  
20 reasonably available, capable of correcting the parental deficiencies  
21 within the foreseeable future have been offered or provided;

22 (5) There is little likelihood that conditions will be remedied so  
23 that the child can be returned to the parent in the near future; and

24 (6) A guardianship, rather than termination of the parent-child  
25 relationship or continuation of efforts to return the child to the  
26 custody of the parent, would be in the best interest of the child.

27 **Sec. 29.** RCW 13.34.232 and 1994 c 288 s 7 are each amended to read  
28 as follows:

29 (1) If the court has made a finding under RCW 13.34.231, it shall  
30 enter an order establishing a dependency guardianship for the child.  
31 The order shall:

32 (a) Appoint a person or agency to serve as dependency guardian for  
33 the limited purpose of assisting the court to supervise the dependency;

34 (b) Specify the dependency guardian's rights and responsibilities  
35 concerning the care, custody, and control of the child. A dependency  
36 guardian shall not have the authority to consent to the child's  
37 adoption;

1 (c) Specify the dependency guardian's authority, if any, to  
2 receive, invest, and expend funds, benefits, or property belonging to  
3 the child;

4 (d) Specify an appropriate frequency of visitation between the  
5 parent and the child; and

6 (e) Specify the need for any continued involvement of the  
7 supervising agency and the nature of that involvement, if any. The  
8 court shall order continued involvement of the agency unless the  
9 department or guardian persuades it that such involvement would be  
10 detrimental to the child's success in the guardian's home.

11 (2) Unless the court specifies otherwise in the guardianship order,  
12 the dependency guardian shall maintain the physical custody of the  
13 child and have the following rights and duties:

14 (a) Protect, discipline, and educate the child;

15 (b) Provide food, clothing, shelter, education as required by law,  
16 and routine health care for the child;

17 (c) Consent to necessary health and surgical care and sign a  
18 release of health care information to appropriate authorities, pursuant  
19 to law;

20 (d) Consent to social and school activities of the child; and

21 (e) Provide an annual written accounting to the court regarding  
22 receipt by the dependency guardian of any funds, benefits, or property  
23 belonging to the child and expenditures made therefrom.

24 (3) As used in this section, the term "health care" includes, but  
25 is not limited to, medical, dental, psychological, and psychiatric care  
26 and treatment.

27 (4) The child shall remain dependent for the duration of the  
28 guardianship. While the guardianship remains in effect, the dependency  
29 guardian shall be a party to any dependency proceedings pertaining to  
30 the child.

31 (5) The guardianship shall remain in effect only until the child is  
32 eighteen years of age or until the court terminates the guardianship  
33 order, whichever occurs sooner.

34 **Sec. 30.** RCW 13.34.233 and 1995 c 311 s 24 are each amended to  
35 read as follows:

36 (1) Any party may request the court under RCW 13.34.150 to modify  
37 or terminate a dependency guardianship order (~~under RCW 13.34.150~~).  
38 Notice of any motion to modify or terminate the guardianship shall be

1 served on all other parties, including any agency that was responsible  
2 for supervising the child's placement at the time the guardianship  
3 petition was filed. Notice (~~(shall)~~) in all cases shall be served upon  
4 the department (~~(of social and health services)~~). If the department  
5 was not previously a party to the guardianship proceeding, the  
6 department shall nevertheless have the right to: (a) Initiate a  
7 proceeding to modify or terminate a guardianship; and (~~(the right to)~~)  
8 (b) intervene at any stage of such a proceeding.

9 (2) The guardianship may be modified or terminated upon the motion  
10 of any party or the department if the court finds by a preponderance of  
11 the evidence that there has been a substantial change of circumstances  
12 subsequent to the establishment of the guardianship and that it is in  
13 the child's best interest to modify or terminate the guardianship. The  
14 court shall hold a hearing on the motion before modifying or  
15 terminating a guardianship.

16 (3) Upon entry of an order terminating the guardianship, the  
17 dependency guardian shall not have any rights or responsibilities with  
18 respect to the child and shall not have legal standing to participate  
19 as a party in further dependency proceedings pertaining to the child.  
20 The court may allow the child's dependency guardian to attend  
21 dependency review proceedings pertaining to the child for the sole  
22 purpose of providing information about the child to the court.

23 (4) Upon entry of an order terminating the guardianship, the child  
24 shall remain dependent and the court shall either return the child to  
25 the child's parent or order the child into the custody, control, and  
26 care of the department (~~(of social and health services)~~) or a licensed  
27 child-placing agency for placement in a foster home or group care  
28 facility licensed pursuant to chapter 74.15 RCW or in a home not  
29 required to be licensed pursuant to such chapter. The court shall not  
30 place a child in the custody of the child's parent unless the court  
31 finds that (~~(a)~~) reasons for removal as set forth in RCW 13.34.130 no  
32 longer exist(~~(s)~~) and that such placement is in the child's best  
33 interest. The court shall thereafter conduct reviews as provided in  
34 (~~(RCW 13.34.130(5))~~) section 18 of this act and, where applicable,  
35 shall hold a permanency planning hearing in accordance with RCW  
36 13.34.145.

37 **Sec. 31.** RCW 13.34.235 and 1981 c 195 s 6 are each amended to read  
38 as follows:

1 A dependency guardianship (~~established under RCW 13.34.231 and~~  
2 ~~13.34.232~~) is not subject to the review hearing requirements of (~~RCW~~  
3 ~~13.34.130~~) section 18 of this act unless ordered by the court under  
4 RCW 13.34.232(1)(e).

5 **Sec. 32.** RCW 13.34.260 and 1990 c 284 s 25 are each amended to  
6 read as follows:

7 In an attempt to minimize the inherent intrusion in the lives of  
8 families involved in the foster care system and to maintain parental  
9 authority where appropriate, the department, absent good cause, shall  
10 follow the wishes of the natural parent regarding the placement of the  
11 child. Preferences such as family constellation, ethnicity, and  
12 religion shall be (~~given consideration~~) considered when matching  
13 children to foster homes. Parental authority is appropriate in areas  
14 that are not connected with the abuse or neglect that resulted in the  
15 dependency and (~~should~~) shall be integrated through the foster care  
16 team. For purposes of this section, "foster care team" means the  
17 foster parent currently providing care, the currently assigned  
18 caseworker, and the parent.

19 **Sec. 33.** RCW 13.34.270 and 1998 c 229 s 2 are each amended to read  
20 as follows:

21 (1) Whenever the department (~~of social and health services~~)  
22 places a developmentally disabled child in out-of-home care pursuant to  
23 RCW 74.13.350, the department shall obtain a judicial determination  
24 within one hundred eighty days of the placement that continued  
25 placement is in the best interests of the child. If the child's out-  
26 of-home placement ends before one hundred eighty days have elapsed, no  
27 judicial determination is required.

28 (2) To obtain the judicial determination, the department shall file  
29 a petition alleging that there is located or residing within the county  
30 a child who has a developmental disability(~~(, as defined in RCW~~  
31 ~~71A.10.020,~~) and that the child has been placed in out-of-home care  
32 pursuant to RCW 74.13.350. The petition shall request that the court  
33 review the child's placement, make a determination (~~that~~) whether  
34 continued placement is in the best interests of the child, and take  
35 other necessary action as provided in this section. The petition shall  
36 contain the name, date of birth, and residence of the child and the  
37 names and residences of the child's parent or legal guardian who has

1 agreed to the child's placement in out-of-home care. Reasonable  
2 attempts shall be made by the department to ascertain and set forth in  
3 the petition the identity, location, and custodial status of any parent  
4 who is not a party to the placement agreement and why that parent  
5 cannot assume custody of the child.

6 (3) Upon filing of the petition, the clerk of the court shall  
7 schedule the petition for a hearing to be held no later than fourteen  
8 calendar days after the petition has been filed. The department shall  
9 provide notification of the time, date, and purpose of the hearing to  
10 the parent or legal guardian who has agreed to the child's placement in  
11 out-of-home care. The department shall also make reasonable attempts  
12 to notify any parent who is not a party to the placement agreement, if  
13 the parent's identity and location is known. Notification under this  
14 section may be given by the most expedient means, including but not  
15 limited to, mail, personal service, and telephone(~~(, and telegraph)~~).

16 (4) The court shall appoint a guardian ad litem for the child as  
17 provided in RCW 13.34.100, unless the court for good cause finds the  
18 appointment unnecessary.

19 (5) Permanency planning hearings shall be held as provided in this  
20 (~~subsection~~) section. At the hearing, the court shall review whether  
21 the child's best interests are served by continued out-of-home  
22 placement and determine the future legal status of the child.

23 (a) For children age ten and under, a permanency planning hearing  
24 shall be held in all cases where the child has remained in out-of-home  
25 care for at least nine months and an adoption decree or guardianship  
26 order under chapter 11.88 RCW has not previously been entered. The  
27 hearing shall take place no later than twelve months following  
28 commencement of the child's current placement episode.

29 (b) For children over age ten, a permanency planning hearing shall  
30 be held in all cases where the child has remained in out-of-home care  
31 for at least fifteen months and an adoption decree or guardianship  
32 order under chapter 11.88 RCW has not previously been entered. The  
33 hearing shall take place no later than eighteen months following  
34 commencement of the current placement episode.

35 (c) No later than ten working days before the permanency planning  
36 hearing, the department shall submit a written permanency plan to the  
37 court and shall mail a copy of the plan to all parties. The plan shall  
38 be directed toward securing a safe, stable, and permanent home for the  
39 child as soon as possible. The plan shall identify one of the



1 following outcomes as the primary goal and may also identify additional  
2 outcomes as alternative goals: Return of the child to the home of the  
3 child's parent or legal guardian; adoption; guardianship; or long-term  
4 out-of-home care, until the child is age eighteen, with a written  
5 agreement between the parties and the child's care provider.

6 (d) If a goal of long-term out-of-home care has been achieved  
7 before the permanency planning hearing, the court shall review the  
8 child's status to determine whether the placement and the plan for the  
9 child's care remains appropriate. In cases where the primary  
10 permanency planning goal has not been achieved, the court shall inquire  
11 regarding the reasons why the primary goal has not been achieved and  
12 determine what needs to be done to make it possible to achieve the  
13 primary goal.

14 (e) Following the first permanency planning hearing, the court  
15 shall hold a further permanency planning hearing in accordance with  
16 this section at least once every twelve months until a permanency  
17 planning goal is achieved or the voluntary placement agreement is  
18 terminated.

19 (6) Any party to the voluntary placement agreement may terminate  
20 the agreement at any time. Upon termination of the agreement, the  
21 child shall be returned to the care of the child's parent or legal  
22 guardian, unless the child has been taken into custody pursuant to RCW  
23 13.34.050 or 26.44.050, placed in shelter care pursuant to RCW  
24 13.34.060, or placed in foster care pursuant to RCW 13.34.130. The  
25 department shall notify the court upon termination of the voluntary  
26 placement agreement and return of the child to the care of the child's  
27 parent or legal guardian. Whenever a voluntary placement agreement is  
28 terminated, an action under this section shall be dismissed.

29 (7) This section does not prevent the department from filing a  
30 dependency petition if there is reason to believe that the child is a  
31 dependent child as defined in RCW 13.34.030. An action filed under  
32 this section shall be dismissed upon the filing of a dependency  
33 petition regarding a child who is the subject of the action under this  
34 section.

35 **Sec. 34.** RCW 13.34.300 and 1979 ex.s. c 201 s 3 are each amended  
36 to read as follows:

37 The legislature finds that it is the responsibility of the  
38 custodial parent, parents or guardian to ensure that children within

1 the custody of such individuals attend school as provided for by law.  
2 To this end, while a parent's failure to cause a juvenile to attend  
3 school should not alone provide a basis for a neglect petition against  
4 the parent or guardian, when a neglect petition is filed on the basis  
5 of other evidence, a parent or guardian's failure to take reasonable  
6 steps to ensure that the juvenile attends school may be (~~used as~~  
7 ~~evidence with respect~~) relevant to the question of the appropriate  
8 disposition of a neglect petition.

9 **Sec. 35.** RCW 13.34.340 and 1999 c 188 s 4 are each amended to read  
10 as follows:

11 For minors who cannot consent to the release of their records with  
12 the department because they are not old enough to consent to treatment,  
13 or, if old enough, lack the capacity to consent, or if the minor is  
14 receiving treatment involuntarily with a provider the department has  
15 authorized to provide mental health treatment under RCW 13.34.320, the  
16 department shall disclose, upon the treating physician's request, all  
17 relevant records, including the minor's passport as established under  
18 RCW 74.13.285, in the department's possession that the treating  
19 physician determines contain information required for treatment of the  
20 minor. The treating physician shall maintain all records received from  
21 the department in a manner that distinguishes the records from any  
22 other records in the minor's file with the treating physician and the  
23 department records may not be disclosed by the treating physician to  
24 any other person or entity absent a court order except that, for  
25 medical purposes only, a treating physician may disclose the department  
26 records to another treating physician.

27 **Sec. 36.** RCW 13.70.003 and 1989 1st ex.s. c 17 s 1 are each  
28 amended to read as follows:

29 The legislature recognizes the importance of permanency and  
30 continuity to children and of fairness to parents in the provision of  
31 child welfare services.

32 The legislature intends to create a citizen review board system  
33 that will function in an advisory capacity to the judiciary, the  
34 department, and the legislature. The purpose of the citizen review  
35 board system is to:

36 (1) Provide periodic review of cases involving substitute care of  
37 children in a manner that complies with case review requirements and

1 time lines imposed by federal laws pertaining to child welfare  
2 services;

3 (2) Improve the quality of case review provided to children in  
4 substitute care and their families; and

5 (3) Provide a means for community involvement in monitoring cases  
6 of children in substitute care.

7 In order to accomplish the foregoing purposes, the citizen review  
8 board system shall not be subject to the procedures and standards  
9 usually applicable to judicial and administrative hearings, except as  
10 otherwise specifically provided in this chapter and ((RCW 13.34.130))  
11 section 18 of this act, 13.34.145, and 26.44.115. Nothing in this  
12 chapter and ((RCW 13.34.130)) section 18 of this act, 13.34.145, and  
13 26.44.115 shall limit the ability of the department to utilize court  
14 review hearings and administrative reviews to meet the periodic review  
15 requirements imposed by federal law.

16 **Sec. 37.** RCW 13.70.110 and 1991 c 127 s 5 are each amended to read  
17 as follows:

18 (1) This section shall apply to cases where a child has been placed  
19 in substitute care pursuant to a proceeding under chapter 13.34 RCW.

20 (2) Within forty-five days following commencement of the placement  
21 episode, the court shall assign the child's case to a board and forward  
22 to the board a copy of the dependency petition and any shelter care or  
23 dependency disposition orders which have been entered in the case by  
24 the court.

25 (3) The board shall review the case plan for each child whose case  
26 is assigned to the board by the court. The review shall take place at  
27 times set by the board. The first review shall occur within ninety  
28 days following commencement of the placement episode. The second  
29 review shall occur within six months following commencement of the  
30 placement episode. The next review shall occur within one year after  
31 commencement of the placement episode. Within eighteen months  
32 following commencement of the placement episode, a permanency planning  
33 hearing shall be held before the court in accordance with RCW  
34 13.34.145. Thereafter, the court shall assign the child's case for a  
35 board review or a court review hearing pursuant to ((RCW 13.34.130(5)))  
36 section 17 of this act. A board review or a court review hearing shall  
37 take place at least once every six months until the child is no longer  
38 within the jurisdiction of the court or no longer in substitute care or

1 until a guardianship order or adoption decree is entered. After the  
2 permanency planning hearing, a court review hearing must occur at least  
3 once a year as provided in (~~RCW 13.34.130~~) section 18 of this act.  
4 The board shall review any case where a petition to terminate parental  
5 rights has been denied, and such review shall occur as soon as  
6 practical but no later than forty-five days after the denial.

7 (4) The board shall prepare written findings and recommendations  
8 with respect to:

9 (a) Whether reasonable efforts were made before the placement to  
10 prevent or eliminate the need for removal of the child from the home,  
11 including whether consideration was given to removing the alleged  
12 offender, rather than the child, from the home;

13 (b) Whether reasonable efforts have been made subsequent to the  
14 placement to make it possible for the child to be returned home;

15 (c) Whether the child has been placed in the least-restrictive  
16 setting appropriate to the child's needs, including whether  
17 consideration has been given to placement with the child's relatives;

18 (d) Whether there is a continuing need for placement and whether  
19 the placement is appropriate;

20 (e) Whether there has been compliance with the case plan;

21 (f) Whether progress has been made toward alleviating the need for  
22 placement;

23 (g) A likely date by which the child may be returned home or other  
24 permanent plan of care may be implemented; and

25 (h) Other problems, solutions, or alternatives the board determines  
26 should be explored.

27 (5) Within ten working days following the review, the board shall  
28 send a copy of its findings and recommendations to the parents and  
29 their attorneys, the child's custodians and their attorneys, mature  
30 children and their attorneys, other attorneys or guardians ad litem  
31 appointed by the court to represent children, the department and other  
32 child placement agencies directly responsible for supervising the  
33 child's placement, and any prosecuting attorney or attorney general  
34 actively involved in the case. If the child is an Indian as defined in  
35 the Indian child welfare act, 25 U.S.C. Sec. 1901 et seq., a copy of  
36 the board's findings and recommendations shall also be sent to the  
37 child's Indian tribe.

38 (6) If the department is unable or unwilling to implement the board  
39 recommendations, the department shall submit to the board, within ten

1 working days after receipt of the findings and recommendations, an  
2 implementation report setting forth the reasons why the department is  
3 unable or unwilling to implement the board's recommendations. The  
4 report will also set forth the case plan which the department intends  
5 to implement.

6 (7) Within forty-five days following the review, the board shall  
7 either:

8 (a) Schedule the case for further review by the board; or

9 (b) Submit to the court the board's findings and recommendations  
10 and the department's implementation reports, if any. If the board's  
11 recommendations are different from the existing court-ordered case  
12 plan, the board shall also file with the court a motion for a review  
13 hearing.

14 (8) Within ten days of receipt of the board's written findings and  
15 recommendations and the department's implementation report, if any, the  
16 court shall review the findings and recommendations and implementation  
17 reports, if any. The court may on its own motion schedule a review  
18 hearing.

19 (9) Unless modified by subsequent court order, the court-ordered  
20 case plan and court orders that are in effect at the time that a board  
21 reviews a case shall remain in full force and effect. Board findings  
22 and recommendations are advisory only and do not in any way modify  
23 existing court orders or court-ordered case plans.

24 (10) The findings and recommendations of the board and the  
25 department's implementation report, if any, shall become part of the  
26 department's case file and the court social file pertaining to the  
27 child.

28 (11) Nothing in this section shall limit or otherwise modify the  
29 rights of any party to a dependency proceeding to request and receive  
30 a court review hearing pursuant to the provisions of chapter 13.34 RCW  
31 or applicable court rules.

32 **Sec. 38.** RCW 13.70.140 and 1993 c 505 s 4 are each amended to read  
33 as follows:

34 A permanency planning hearing shall be held before the court in  
35 accordance with RCW 13.34.145. Thereafter, court review hearings shall  
36 occur at least once every six months, under ((RCW 13.34.130(5)))  
37 section 18 of this act, until the child is no longer within the  
38 jurisdiction of the court or the child returns home or a guardianship

1 order or adoption decree is entered. The court may review the case  
2 more frequently upon the court's own motion or upon the request of any  
3 party to the proceeding.

4 **Sec. 39.** RCW 26.44.115 and 1990 c 246 s 10 are each amended to  
5 read as follows:

6 If a child is taken into custody by child protective services  
7 pursuant to a court order issued under (~~RCW 13.34.050~~) section 5 of  
8 this act, the child protective services worker shall take reasonable  
9 steps to advise the parents immediately, regardless of the time of day,  
10 that the child has been taken into custody, the reasons why the child  
11 was taken into custody, and general information about the child's  
12 placement. The department shall comply with RCW 13.34.060 when  
13 providing notice under this section.

14 **Sec. 40.** RCW 74.15.030 and 1997 c 386 s 33 are each amended to  
15 read as follows:

16 The secretary shall have the power and it shall be the secretary's  
17 duty:

18 (1) In consultation with the children's services advisory  
19 committee, and with the advice and assistance of persons representative  
20 of the various type agencies to be licensed, to designate categories of  
21 facilities for which separate or different requirements shall be  
22 developed as may be appropriate whether because of variations in the  
23 ages, sex and other characteristics of persons served, variations in  
24 the purposes and services offered or size or structure of the agencies  
25 to be licensed hereunder, or because of any other factor relevant  
26 thereto;

27 (2) In consultation with the children's services advisory  
28 committee, and with the advice and assistance of persons representative  
29 of the various type agencies to be licensed, to adopt and publish  
30 minimum requirements for licensing applicable to each of the various  
31 categories of agencies to be licensed.

32 The minimum requirements shall be limited to:

33 (a) The size and suitability of a facility and the plan of  
34 operation for carrying out the purpose for which an applicant seeks a  
35 license;

36 (b) The character, suitability and competence of an agency and  
37 other persons associated with an agency directly responsible for the

1 care and treatment of children, expectant mothers or developmentally  
2 disabled persons. In consultation with law enforcement personnel, the  
3 secretary shall investigate the conviction record or pending charges  
4 and dependency record information under chapter 43.43 RCW of each  
5 agency and its staff seeking licensure or relicensure. In order to  
6 determine the suitability of applicants for an agency license,  
7 licensees, their employees, and other persons who have unsupervised  
8 access to children in care, and who have not resided in the state of  
9 Washington during the three-year period before being authorized to care  
10 for children shall be fingerprinted. The fingerprints shall be  
11 forwarded to the Washington state patrol and federal bureau of  
12 investigation for a criminal history records check. The fingerprint  
13 criminal history records checks will be at the expense of the licensee  
14 except that in the case of a foster family home, if this expense would  
15 work a hardship on the licensee, the department shall pay the expense.  
16 The licensee may not pass this cost on to the employee or prospective  
17 employee, unless the employee is determined to be unsuitable due to his  
18 or her criminal history record. The secretary shall use the  
19 information solely for the purpose of determining eligibility for a  
20 license and for determining the character, suitability, and competence  
21 of those persons or agencies, excluding parents, not required to be  
22 licensed who are authorized to care for children, expectant mothers,  
23 and developmentally disabled persons. Criminal justice agencies shall  
24 provide the secretary such information as they may have and that the  
25 secretary may require for such purpose;

26 (c) The number of qualified persons required to render the type of  
27 care and treatment for which an agency seeks a license;

28 (d) The safety, cleanliness, and general adequacy of the premises  
29 to provide for the comfort, care and well-being of children, expectant  
30 mothers or developmentally disabled persons;

31 (e) The provision of necessary care, including food, clothing,  
32 supervision and discipline; physical, mental and social well-being; and  
33 educational, recreational and spiritual opportunities for those served;

34 (f) The financial ability of an agency to comply with minimum  
35 requirements established pursuant to chapter 74.15 RCW and RCW  
36 74.13.031; and

37 (g) The maintenance of records pertaining to the admission,  
38 progress, health and discharge of persons served;

1 (3) To investigate any person, including relatives by blood or  
2 marriage except for parents, for character, suitability, and competence  
3 in the care and treatment of children, expectant mothers, and  
4 developmentally disabled persons prior to authorizing that person to  
5 care for children, expectant mothers, and developmentally disabled  
6 persons. However, if a child is placed with a relative under ((RCW  
7 ~~13.34.060~~) section 7 of this act or RCW 13.34.130, and if such  
8 relative appears otherwise suitable and competent to provide care and  
9 treatment the criminal history background check required by this  
10 section need not be completed before placement, but shall be completed  
11 as soon as possible after placement;

12 (4) On reports of alleged child abuse and neglect, to investigate  
13 agencies in accordance with chapter 26.44 RCW, including child day-care  
14 centers and family day-care homes, to determine whether the alleged  
15 abuse or neglect has occurred, and whether child protective services or  
16 referral to a law enforcement agency is appropriate;

17 (5) To issue, revoke, or deny licenses to agencies pursuant to  
18 chapter 74.15 RCW and RCW 74.13.031. Licenses shall specify the  
19 category of care which an agency is authorized to render and the ages,  
20 sex and number of persons to be served;

21 (6) To prescribe the procedures and the form and contents of  
22 reports necessary for the administration of chapter 74.15 RCW and RCW  
23 74.13.031 and to require regular reports from each licensee;

24 (7) To inspect agencies periodically to determine whether or not  
25 there is compliance with chapter 74.15 RCW and RCW 74.13.031 and the  
26 requirements adopted hereunder;

27 (8) To review requirements adopted hereunder at least every two  
28 years and to adopt appropriate changes after consultation with the  
29 child care coordinating committee and other affected groups for child  
30 day-care requirements and with the children's services advisory  
31 committee for requirements for other agencies; and

32 (9) To consult with public and private agencies in order to help  
33 them improve their methods and facilities for the care of children,  
34 expectant mothers and developmentally disabled persons.

35 NEW SECTION. **Sec. 41.** RCW 13.34.170 shall be recodified to appear  
36 immediately following RCW 13.34.160.



1        NEW SECTION.    **Sec. 42.**    The following acts or parts of acts are  
2 each repealed:

3        (1) RCW 13.34.162 (Child support schedule) and 1993 c 412 s 10 and  
4 1988 c 275 s 15; and

5        (2) RCW 13.34.220 (Order terminating parent and child  
6 relationship--Prevailing party to present findings, etc., to court,  
7 when) and 1979 c 155 s 50.

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