

2 **ESSB 5413** - H AMD **ADOPTED 4/18/01**

3 By Representative

4

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

7 "NEW SECTION. **Sec. 1.** A new section is added to chapter 13.34 RCW
8 to read as follows:

9 (1) Following shelter care and no later than twenty-five days prior
10 to fact-finding, the department, upon the parent's request or counsel
11 for the parent's request, shall facilitate a conference to develop and
12 specify in a written service agreement the expectations of both the
13 department and the parent regarding the care and placement of the
14 child.

15 The department shall invite to the conference the parent, counsel
16 for the parent, the foster parent or other out-of-home care provider,
17 caseworker, guardian ad litem, counselor, or other relevant health care
18 provider, and any other person connected to the development and well-
19 being of the child.

20 The initial written service agreement expectations must correlate
21 with the court's findings at the shelter care hearing. The written
22 service agreement must set forth specific criteria that enables the
23 court to measure the performance of both the department and the parent,
24 and must be updated throughout the dependency process to reflect
25 changes in expectations. The service agreement must serve as the
26 unifying document for all expectations established in the department's
27 various case planning and case management documents and the findings
28 and orders of the court during dependency proceedings.

29 The court shall review the written service agreement at each stage
30 of the dependency proceedings and evaluate the performance of both the
31 department and the parent for consistent, measurable progress in
32 complying with the expectations identified in the agreement.

33 The case conference agreement must be agreed to and signed by the
34 parties. The court shall not consider the content of the discussions
35 at the case conference at the time of the fact-finding hearing for the
36 purposes of establishing that the child is a dependent child, and the

1 court shall not consider any documents or written materials presented
2 at the case conference but not incorporated into the case conference
3 agreement, unless the documents or written materials were prepared for
4 purposes other than or as a result of the case conference and are
5 otherwise admissible under the rules of evidence.

6 (2) At any other stage in a dependency proceeding, the department,
7 upon the parent's request, shall facilitate a case conference.

8 **Sec. 2.** RCW 13.34.062 and 2000 c 122 s 5 are each amended to read
9 as follows:

10 (1) The written notice of custody and rights required by RCW
11 13.34.060 shall be in substantially the following form:

12 "NOTICE

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

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

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

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

34 4. If your hearing occurs before a court commissioner, you have the
35 right to have the decision of the court commissioner reviewed by a
36 superior court judge. To obtain that review, you must, within ten days
37 after the entry of the decision of the court commissioner, file with

1 the court a motion for revision of the decision, as provided in RCW
2 2.24.050.

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

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

8 5. You may request that the department facilitate a case conference
9 to develop a written service agreement following the shelter care
10 hearing. The service agreement may not conflict with the court's order
11 of shelter care. You may request that a multidisciplinary team, family
12 group conference, prognostic staffing, or case conference be convened
13 for your child's case. You may participate in these processes with
14 your counsel present."

15 Upon receipt of the written notice, the parent, guardian, or legal
16 custodian shall acknowledge such notice by signing a receipt prepared
17 by child protective services. If the parent, guardian, or legal
18 custodian does not sign the receipt, the reason for lack of a signature
19 shall be written on the receipt. The receipt shall be made a part of
20 the court's file in the dependency action.

21 If after making reasonable efforts to provide notification, child
22 protective services is unable to determine the whereabouts of the
23 parents, guardian, or legal custodian, the notice shall be delivered or
24 sent to the last known address of the parent, guardian, or legal
25 custodian.

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

32 (3) Reasonable efforts to advise and to give notice, as required in
33 RCW 13.34.060(2) and subsections (1) and (2) of this section, shall
34 include, at a minimum, investigation of the whereabouts of the parent,
35 guardian, or legal custodian. If such reasonable efforts are not
36 successful, or the parent, guardian, or legal custodian does not appear
37 at the shelter care hearing, the petitioner shall testify at the
38 hearing or state in a declaration:

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

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

6 (4) The court shall hear evidence regarding notice given to, and
7 efforts to notify, the parent, guardian, or legal custodian and shall
8 examine the need for shelter care. The court shall hear evidence
9 regarding the efforts made to place the child with a relative. The
10 court shall make an express finding as to whether the notice required
11 under RCW 13.34.060(2) and subsections (1) and (2) of this section was
12 given to the parent, guardian, or legal custodian. All parties have
13 the right to present testimony to the court regarding the need or lack
14 of need for shelter care. Hearsay evidence before the court regarding
15 the need or lack of need for shelter care must be supported by sworn
16 testimony, affidavit, or declaration of the person offering such
17 evidence.

18 (5) A shelter care order issued pursuant to RCW 13.34.065 may be
19 amended at any time with notice and hearing thereon. The shelter care
20 decision of placement shall be modified only upon a showing of change
21 in circumstances. No child may be placed in shelter care for longer
22 than thirty days without an order, signed by the judge, authorizing
23 continued shelter care.

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

32 **Sec. 3.** RCW 13.34.065 and 2000 c 122 s 7 are each amended to read
33 as follows:

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

1 (2) The court shall release a child alleged to be dependent to the
2 care, custody, and control of the child's parent, guardian, or legal
3 custodian unless the court finds there is reasonable cause to believe
4 that:

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

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

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

13 (iii) The parent, guardian, or custodian to whom the child could be
14 released has been charged with violating RCW 9A.40.060 or 9A.40.070.

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

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

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

5 (4) If a child is returned home from shelter care a second time in
6 the case, or if the supervisor of the caseworker deems it necessary,
7 the multidisciplinary team may be reconvened.

8 (5) If a child is returned home from shelter care a second time in
9 the case a law enforcement officer must be present and file a report to
10 the department.

11 **Sec. 4.** RCW 13.34.180 and 2000 c 122 s 25 are each amended to read
12 as follows:

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

19 (a) That the child has been found to be a dependent child;

20 (b) That the court has entered a dispositional order pursuant to
21 RCW 13.34.130;

22 (c) That the child has been removed or will, at the time of the
23 hearing, have been removed from the custody of the parent for a period
24 of at least six months pursuant to a finding of dependency;

25 (d) That the services ordered under RCW 13.34.136 have been
26 expressly and understandably offered or provided and all necessary
27 services, reasonably available, capable of correcting the parental
28 deficiencies within the foreseeable future have been expressly and
29 understandably offered or provided;

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

1 foreseeable future have been clearly offered or provided. In
2 determining whether the conditions will be remedied the court may
3 consider, but is not limited to, the following factors:

4 (i) Use of intoxicating or controlled substances so as to render
5 the parent incapable of providing proper care for the child for
6 extended periods of time or for periods of time that present a risk of
7 imminent harm to the child, and documented unwillingness of the parent
8 to receive and complete treatment or documented multiple failed
9 treatment attempts; or

10 (ii) Psychological incapacity or mental deficiency of the parent
11 that is so severe and chronic as to render the parent incapable of
12 providing proper care for the child for extended periods of time or for
13 periods of time that present a risk of imminent harm to the child, and
14 documented unwillingness of the parent to receive and complete
15 treatment or documentation that there is no treatment that can render
16 the parent capable of providing proper care for the child in the near
17 future; and

18 (f) That continuation of the parent and child relationship clearly
19 diminishes the child's prospects for early integration into a stable
20 and permanent home.

21 (2) In lieu of the allegations in subsection (1) of this section,
22 the petition may allege that the child was found under such
23 circumstances that the whereabouts of the child's parent are unknown
24 and no person has acknowledged paternity or maternity and requested
25 custody of the child within two months after the child was found.

26 (3) In lieu of the allegations in subsection (1)(b) through (f) of
27 this section, the petition may allege that the parent has been
28 convicted of:

29 (a) Murder in the first degree, murder in the second degree, or
30 homicide by abuse as defined in chapter 9A.32 RCW against another child
31 of the parent;

32 (b) Manslaughter in the first degree or manslaughter in the second
33 degree, as defined in chapter 9A.32 RCW against another child of the
34 parent;

35 (c) Attempting, conspiring, or soliciting another to commit one or
36 more of the crimes listed in (a) or (b) of this subsection; or

37 (d) Assault in the first or second degree, as defined in chapter
38 9A.36 RCW, against the surviving child or another child of the parent.

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

4 "NOTICE

5 A petition for termination of parental rights has been filed
6 against you. You have important legal rights and you must take
7 steps to protect your interests. This petition could result in
8 permanent loss of your parental rights.

9 1. You have the right to a fact-finding hearing before
10 a judge.

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

19 3. At the hearing, you have the right to speak on your
20 own behalf, to introduce evidence, to examine witnesses, and to
21 receive a decision based solely on the evidence presented to
22 the judge.

23 You should be present at this hearing.

24 You may call (insert agency) for more information
25 about your child. The agency's name and telephone number are
26 (insert name and telephone number) ."

27 **Sec. 5.** RCW 13.34.138 and 2000 c 122 s 19 are each amended to read
28 as follows:

29 (1) Except for children whose cases are reviewed by a citizen
30 review board under chapter 13.70 RCW, the status of all children found
31 to be dependent shall be reviewed by the court at least every six
32 months from the beginning date of the placement episode or the date
33 dependency is established, whichever is first, at a hearing in which it
34 shall be determined whether court supervision should continue. The
35 initial review hearing shall be an in-court review and shall be set six
36 months from the beginning date of the placement episode or no more than
37 ninety days from the entry of the disposition order, whichever comes

1 first. The initial review hearing may be a permanency planning hearing
2 when necessary to meet the time frames set forth in RCW 13.34.145(3) or
3 13.34.134. The review shall include findings regarding the agency and
4 parental completion of disposition plan requirements, and if necessary,
5 revised permanency time limits. This review shall consider both the
6 agency's and parent's efforts that demonstrate consistent measurable
7 progress over time in meeting the disposition plan requirements. The
8 requirements for the initial review hearing, including the in-court
9 requirement, shall be accomplished within existing resources. The
10 supervising agency shall provide a foster parent, preadoptive parent,
11 or relative with notice of, and their right to an opportunity to be
12 heard in, a review hearing pertaining to the child, but only if that
13 person is currently providing care to that child at the time of the
14 hearing. This section shall not be construed to grant party status to
15 any person who has been provided an opportunity to be heard.

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

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

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

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

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

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

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

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

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

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

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

9 (2) The court's ability to order housing assistance under RCW
10 13.34.130 and this section is: (a) Limited to cases in which
11 homelessness or the lack of adequate and safe housing is the primary
12 reason for an out-of-home placement; and (b) subject to the
13 availability of funds appropriated for this specific purpose.

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

16 The department shall, within existing resources, provide to parents
17 requesting a multidisciplinary team, family group conference,
18 prognostic staffing, or case conference, information that describes
19 these processes prior to the processes being undertaken.

20 **Sec. 7.** RCW 13.34.110 and 2000 c 122 s 11 are each amended to read
21 as follows:

22 (1) The court shall hold a fact-finding hearing on the petition
23 and, unless the court dismisses the petition, shall make written
24 findings of fact, stating the reasons therefor. The rules of evidence
25 shall apply at the fact-finding hearing and the parent, guardian, or
26 legal custodian of the child shall have all of the rights provided in
27 RCW 13.34.090(1). The petitioner shall have the burden of establishing
28 by a preponderance of the evidence that the child is dependent within
29 the meaning of RCW 13.34.030.

30 (2)(a) The parent, guardian, or legal custodian of the child may
31 waive his or her right to a fact-finding hearing by stipulating or
32 agreeing to the entry of an order of dependency establishing that the
33 child is dependent within the meaning of RCW 13.34.030. The parent,
34 guardian, or legal custodian may also stipulate or agree to an order of
35 disposition pursuant to RCW 13.34.130 at the same time. Any stipulated
36 or agreed order of dependency or disposition must be signed by the
37 parent, guardian, or legal custodian and his or her attorney, unless

1 the parent, guardian, or legal custodian has waived his or her right to
2 an attorney in open court, and by the petitioner and the attorney,
3 guardian ad litem, or court-appointed special advocate for the child,
4 if any. If the department of social and health services is not the
5 petitioner and is required by the order to supervise the placement of
6 the child or provide services to any party, the department must also
7 agree to and sign the order.

8 (b) Entry of any stipulated or agreed order of dependency or
9 disposition is subject to approval by the court. The court shall
10 receive and review a social study before entering a stipulated or
11 agreed order and shall consider whether the order is consistent with
12 the allegations of the dependency petition and the problems that
13 necessitated the child's placement in out-of-home care. No social file
14 or social study may be considered by the court in connection with the
15 fact-finding hearing or prior to factual determination, except as
16 otherwise admissible under the rules of evidence.

17 (c) Prior to the entry of any stipulated or agreed order of
18 dependency, the parent, guardian, or legal custodian of the child and
19 his or her attorney must appear before the court and the court within
20 available resources must inquire and establish on the record that:

21 (i) The parent, guardian, or legal custodian understands the terms
22 of the order or orders he or she has signed, including his or her
23 responsibility to participate in remedial services as provided in any
24 disposition order;

25 (ii) The parent, guardian, or legal custodian understands that
26 entry of the order starts a process that could result in the filing of
27 a petition to terminate his or her relationship with the child within
28 the time frames required by state and federal law if he or she fails to
29 comply with the terms of the dependency or disposition orders or fails
30 to substantially remedy the problems that necessitated the child's
31 placement in out-of-home care;

32 (iii) The parent, guardian, or legal custodian understands that the
33 entry of the stipulated or agreed order of dependency is an admission
34 that the child is dependent within the meaning of RCW 13.34.030 and
35 shall have the same legal effect as a finding by the court that the
36 child is dependent by at least a preponderance of the evidence, and
37 that the parent, guardian, or legal custodian shall not have the right
38 in any subsequent proceeding for termination of parental rights or
39 dependency guardianship pursuant to this chapter or nonparental custody

1 pursuant to chapter 26.10 RCW to challenge or dispute the fact that the
2 child was found to be dependent; and

3 (iv) The parent, guardian, or legal custodian knowingly and
4 willingly stipulated and agreed to and signed the order or orders,
5 without duress, and without misrepresentation or fraud by any other
6 party.

7 If a parent, guardian, or legal custodian fails to appear before
8 the court after stipulating or agreeing to entry of an order of
9 dependency, the court may enter the order upon a finding that the
10 parent, guardian, or legal custodian had actual notice of the right to
11 appear before the court and chose not to do so. The court may require
12 other parties to the order, including the attorney for the parent,
13 guardian, or legal custodian, to appear and advise the court of the
14 parent's, guardian's, or legal custodian's notice of the right to
15 appear and understanding of the factors specified in this subsection.
16 A parent, guardian, or legal custodian may choose to waive his or her
17 presence at the in-court hearing for entry of the stipulated or agreed
18 order of dependency by submitting to the court through counsel a
19 completed stipulated or agreed dependency fact-finding/disposition
20 statement in a form determined by the Washington state supreme court
21 pursuant to General Rule GR 9.

22 (3) Immediately after the entry of the findings of fact, the court
23 shall hold a disposition hearing, unless there is good cause for
24 continuing the matter for up to fourteen days. If good cause is shown,
25 the case may be continued for longer than fourteen days. Notice of the
26 time and place of the continued hearing may be given in open court. If
27 notice in open court is not given to a party, that party shall be
28 notified by certified mail of the time and place of any continued
29 hearing. Unless there is reasonable cause to believe the health,
30 safety, or welfare of the child would be jeopardized or efforts to
31 reunite the parent and child would be hindered, the court shall direct
32 the department to notify those adult persons who: ((+1)) (a) Are
33 related by blood or marriage to the child in the following degrees:
34 Parent, grandparent, brother, sister, stepparent, stepbrother,
35 stepsister, uncle, or aunt; ((+2)) (b) are known to the department as
36 having been in contact with the family or child within the past twelve
37 months; and ((+3)) (c) would be an appropriate placement for the
38 child. Reasonable cause to dispense with notification to a parent

1 under this section must be proved by clear, cogent, and convincing
2 evidence.

3 The parties need not appear at the fact-finding or dispositional
4 hearing if the parties, their attorneys, the guardian ad litem, and
5 court-appointed special advocates, if any, are all in agreement. ((The
6 court shall receive and review a social study before entering an order
7 based on agreement. No social file or social study may be considered
8 by the court in connection with the fact finding hearing or prior to
9 factual determination, except as otherwise admissible under the rules
10 of evidence.))

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

13 The department of social and health services shall promulgate rules
14 that create good cause exceptions to the establishment and enforcement
15 of child support from parents of children in out-of-home placement
16 under chapter 13.34 or 13.32A RCW that do not violate federal funding
17 requirements. The department shall present the rules and the
18 department's plan for implementation of the rules to the appropriate
19 committees of the legislature prior to the 2002 legislative session."

20 Correct the title.

EFFECT: Clarifies that the written service agreement applies to both the department and the parent. Describes the role of the agreement in dependency proceedings. Individuals would not be incriminating themselves by participating in the case conference. Deletes the section addressing child support. Requires the department promulgate rules for a good cause exception for child support payments for children in out-of-home placement. Sets forth requirements when a child returns home from shelter care for the second time. Requires that the in-court processes at the initial review be accomplished within available resources. Deletes the section requiring accreditation of children's administration offices. Reinstates the variety of processes in the department and requires the department to explain them. Sets forth in-court requirements for parents to waive a fact-finding hearing or stipulate to dependency findings including a signed statement by the parents and attorney or to have an opportunity to complete a form with counsel. Deletes the name of the act.

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