

2 **ESSB 5413** - H COMM AMD **ADOPTED 4/5/01**
3 By Committee on Appropriations

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, shall
11 facilitate a conference to develop and specify in a written service
12 agreement the expectations of both the department and the parent
13 regarding the care and placement of the child.

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

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

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

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

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

1 (1) The written notice of custody and rights required by RCW
2 13.34.060 shall be in substantially the following form:

3 "NOTICE

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

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

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

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

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

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

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

35 5. You may request that the department facilitate a case conference
36 to develop a written service agreement following the shelter care
37 hearing. The service agreement may not conflict with the court's order
38 of shelter care. You may participate in the case conference."

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

18 (3) Reasonable efforts to advise and to give notice, as required in
19 RCW 13.34.060(2) and subsections (1) and (2) of this section, shall
20 include, at a minimum, investigation of the whereabouts of the parent,
21 guardian, or legal custodian. If such reasonable efforts are not
22 successful, or the parent, guardian, or legal custodian does not appear
23 at the shelter care hearing, the petitioner shall testify at the
24 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 (4) The court shall hear evidence regarding notice given to, and
31 efforts to notify, the parent, guardian, or legal custodian and shall
32 examine the need for shelter care. The court shall hear evidence
33 regarding the efforts made to place the child with a relative. The
34 court shall make an express finding as to whether the notice required
35 under RCW 13.34.060(2) and subsections (1) and (2) of this section was
36 given to the parent, guardian, or legal custodian. All parties have
37 the right to present testimony to the court regarding the need or lack
38 of need for shelter care. Hearsay evidence before the court regarding
39 the need or lack of need for shelter care must be supported by sworn

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

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

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

17 **Sec. 3.** RCW 13.34.065 and 2000 c 122 s 7 are each amended to read
18 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.

37 If the court does not release the child to his or her parent,
38 guardian, or legal custodian, and the child was initially placed with

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

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

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

27 (4) If a child is returned home from shelter care a second time, or
28 if the supervisor of the caseworker deems it necessary, the
29 multidisciplinary team may be reconvened.

30 (5) If a child is returned home from shelter care a second time, a
31 law enforcement officer must be present and file a report.

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

34 (1) A petition seeking termination of a parent and child
35 relationship may be filed in juvenile court by any party to the
36 dependency proceedings concerning that child. Such petition shall
37 conform to the requirements of RCW 13.34.040, shall be served upon the

1 parties as provided in RCW 13.34.070(8), and shall allege all of the
2 following unless subsection (2) or (3) of this section applies:

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

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

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

9 (d) That the services ordered under RCW 13.34.136 have been
10 expressly and understandably offered or provided and all necessary
11 services, reasonably available, capable of correcting the parental
12 deficiencies within the foreseeable future have been expressly and
13 understandably offered or provided;

14 (e) That there is little likelihood that conditions will be
15 remedied so that the child can be returned to the parent in the near
16 future. A parent's failure to substantially improve parental
17 deficiencies within twelve months following entry of the dispositional
18 order shall give rise to a rebuttable presumption that there is little
19 likelihood that conditions will be remedied so that the child can be
20 returned to the parent in the near future. The presumption shall not
21 arise unless the petitioner makes a showing that all necessary services
22 reasonably capable of correcting the parental deficiencies within the
23 foreseeable future have been clearly offered or provided. In
24 determining whether the conditions will be remedied the court may
25 consider, but is not limited to, the following factors:

26 (i) Use of intoxicating or controlled substances so as to render
27 the parent incapable of providing proper care for the child for
28 extended periods of time or for periods of time that present a risk of
29 imminent harm to the child, and documented unwillingness of the parent
30 to receive and complete treatment or documented multiple failed
31 treatment attempts; or

32 (ii) Psychological incapacity or mental deficiency of the parent
33 that is so severe and chronic as to render the parent incapable of
34 providing proper care for the child for extended periods of time or for
35 periods of time that present a risk of imminent harm to the child, and
36 documented unwillingness of the parent to receive and complete
37 treatment or documentation that there is no treatment that can render
38 the parent capable of providing proper care for the child in the near
39 future; and

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

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

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

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

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

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

20 (d) Assault in the first or second degree, as defined in chapter
21 9A.36 RCW, against the surviving child or another child of the parent.

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

25 "NOTICE

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

30 1. You have the right to a fact-finding hearing before
31 a judge.

32 2. You have the right to have a lawyer represent you at
33 the hearing. A lawyer can look at the files in your case, talk
34 to the department of social and health services and other
35 agencies, tell you about the law, help you understand your
36 rights, and help you at hearings. If you cannot afford a
37 lawyer, the court will appoint one to represent you. To get a

1 court-appointed lawyer you must contact: _____ (explain local
2 procedure)_____.

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

7 You should be present at this hearing.

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

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

13 (1) Except for children whose cases are reviewed by a citizen
14 review board under chapter 13.70 RCW, the status of all children found
15 to be dependent shall be reviewed by the court at least every six
16 months from the beginning date of the placement episode or the date
17 dependency is established, whichever is first, at a hearing in which it
18 shall be determined whether court supervision should continue. The
19 initial review hearing shall be set six months from the beginning date
20 of the placement episode or no more than sixty to ninety days from the
21 entry of the disposition order, whichever comes first. The initial
22 review hearing may be a permanency planning hearing when necessary to
23 meet the time frames set forth in RCW 13.34.145(3) or 13.34.134. The
24 review shall include findings regarding the agency and parental
25 completion of disposition plan requirements, and if necessary, revised
26 permanency time limits. This review shall consider both the agency's
27 and parent's efforts that demonstrate consistent measurable progress
28 over time in meeting the disposition plan requirements. The
29 requirements for the initial review hearing shall be accomplished
30 within existing resources. The supervising agency shall provide a
31 foster parent, preadoptive parent, or relative with notice of, and
32 their right to an opportunity to be heard in, a review hearing
33 pertaining to the child, but only if that person is currently providing
34 care to that child at the time of the hearing. This section shall not
35 be construed to grant party status to any person who has been provided
36 an opportunity to be heard.

37 (a) A child shall not be returned home at the review hearing unless
38 the court finds that a reason for removal as set forth in RCW 13.34.130

1 no longer exists. The parents, guardian, or legal custodian shall
2 report to the court the efforts they have made to correct the
3 conditions which led to removal. If a child is returned, casework
4 supervision shall continue for a period of six months, at which time
5 there shall be a hearing on the need for continued intervention.

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

8 (i) Whether reasonable services have been provided to or offered to
9 the parties to facilitate reunion, specifying the services provided or
10 offered;

11 (ii) Whether the child has been placed in the least-restrictive
12 setting appropriate to the child's needs, including whether
13 consideration and preference has been given to placement with the
14 child's relatives;

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

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

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

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

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

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

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

31 (2) The court's ability to order housing assistance under RCW
32 13.34.130 and this section is: (a) Limited to cases in which
33 homelessness or the lack of adequate and safe housing is the primary
34 reason for an out-of-home placement; and (b) subject to the
35 availability of funds appropriated for this specific purpose.

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

1 The department shall inform parents who request a case conference
2 about the process prior to the process being undertaken.

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

5 (1) The court shall hold a fact-finding hearing on the petition
6 and, unless the court dismisses the petition, shall make written
7 findings of fact, stating the reasons therefor. The rules of evidence
8 shall apply at the fact-finding hearing and the parent, guardian, or
9 legal custodian of the child shall have all of the rights provided in
10 RCW 13.34.090(1). The petitioner shall have the burden of establishing
11 by a preponderance of the evidence that the child is dependent within
12 the meaning of RCW 13.34.030.

13 (2)(a) The parent, guardian, or legal custodian of the child may
14 waive his or her right to a fact-finding hearing by stipulating or
15 agreeing to the entry of an order of dependency establishing that the
16 child is dependent within the meaning of RCW 13.34.030. The parent,
17 guardian, or legal custodian may also stipulate or agree to an order of
18 disposition pursuant to RCW 13.34.130 at the same time. Any stipulated
19 or agreed order of dependency or disposition must be signed by the
20 parent, guardian, or legal custodian and his or her attorney, unless
21 the parent, guardian, or legal custodian has waived his or her right to
22 an attorney in open court, and by the petitioner and the attorney,
23 guardian ad litem, or court-appointed special advocate for the child,
24 if any. If the department of social and health services is not the
25 petitioner and is required by the order to supervise the placement of
26 the child or provide services to any party, the department must also
27 agree to and sign the order.

28 (b) Entry of any stipulated or agreed order of dependency or
29 disposition is subject to approval by the court. The court shall
30 receive and review a social study before entering a stipulated or
31 agreed order and shall consider whether the order is consistent with
32 the allegations of the dependency petition and the problems that
33 necessitated the child's placement in out-of-home care. No social file
34 or social study may be considered by the court in connection with the
35 fact-finding hearing or prior to factual determination, except as
36 otherwise admissible under the rules of evidence.

37 (c) Prior to the entry of any stipulated or agreed order of
38 dependency, the parent, guardian, or legal custodian of the child and

1 his or her attorney must complete a Stipulated/Agreed Dependency Fact-
2 Finding/Disposition Statement. The form of this statement shall be
3 determined by the Washington state supreme court pursuant to General
4 Rule GR 9 and shall include the following:

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

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

16 (iii) The parent, guardian, or legal custodian understands that the
17 entry of the stipulated or agreed order of dependency is an admission
18 that the child is dependent within the meaning of RCW 13.34.030 and
19 shall have the same legal effect as a finding by the court that the
20 child is dependent by at least a preponderance of the evidence, and
21 that the parent, guardian, or legal custodian shall not have the right
22 in any subsequent proceeding for termination of parental rights or
23 dependency guardianship pursuant to this chapter or nonparental custody
24 pursuant to chapter 26.10 RCW to challenge or dispute the fact that the
25 child was found to be dependent; and

26 (iv) The parent, guardian, or legal custodian knowingly and
27 willingly stipulated and agreed to and signed the order or orders,
28 without duress, and without misrepresentation or fraud by any other
29 party.

30 (3) Immediately after the entry of the findings of fact, the court
31 shall hold a disposition hearing, unless there is good cause for
32 continuing the matter for up to fourteen days. If good cause is shown,
33 the case may be continued for longer than fourteen days. Notice of the
34 time and place of the continued hearing may be given in open court. If
35 notice in open court is not given to a party, that party shall be
36 notified by certified mail of the time and place of any continued
37 hearing. Unless there is reasonable cause to believe the health,
38 safety, or welfare of the child would be jeopardized or efforts to
39 reunite the parent and child would be hindered, the court shall direct

1 the department to notify those adult persons who: ~~((+1))~~ (a) Are
2 related by blood or marriage to the child in the following degrees:
3 Parent, grandparent, brother, sister, stepparent, stepbrother,
4 stepsister, uncle, or aunt; ~~((+2))~~ (b) are known to the department as
5 having been in contact with the family or child within the past twelve
6 months; and ~~((+3))~~ (c) would be an appropriate placement for the
7 child. Reasonable cause to dispense with notification to a parent
8 under this section must be proved by clear, cogent, and convincing
9 evidence.

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

18 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. Deletes the section addressing child support. Sets forth requirements when a child returns home from shelter care for the second time. Requires that the processes at the initial review be accomplished within available resources. Deletes the section requiring accreditation of children's administration offices. Eliminates the variety of processes listed and replaces them with the term case conference. Deletes the reference to available resources related to informing the parents about the nature of a case conference. Sets forth court requirements for parents to waive a fact-finding hearing or stipulate to dependency findings including a signed statement by the parents and attorney. Deletes the name of the act.

FISCAL IMPACT: Removes fiscal drivers other than section 3 costs related to an officer being present when a child is returned from shelter care a second time.

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