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**SENATE BILL 5413**

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**State of Washington**

**57th Legislature**

**2001 Regular Session**

**By** Senators Stevens, Hargrove, Long and Roach

Read first time 01/22/2001. Referred to Committee on Human Services & Corrections.

1 AN ACT Relating to provisions to improve accountability in child  
2 dependency cases; amending RCW 13.34.160, 13.34.062, 74.14B.030,  
3 13.34.180, and 13.34.138; adding new sections to chapter 13.34 RCW; and  
4 creating a new section.

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

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

8 Following shelter care and no later than twenty-five days prior to  
9 fact-finding, the department shall facilitate with the parent, counsel  
10 for the parent, a foster parent or other out-of-home care provider,  
11 caseworker, counselor or other relevant health care provider, guardian  
12 ad litem, if appointed, and any other person connected to the  
13 development and well-being of the child a conference to identify in  
14 writing the department's expectations regarding the care and placement  
15 of the child. The expectations identified must be specific with  
16 criteria that enables the court to measure performance. The  
17 expectations must correlate with the court's findings at shelter care  
18 under the provisions of RCW 13.34.065.



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

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

12        4. If your hearing occurs before a court commissioner, you have the  
13 right to have the decision of the court commissioner reviewed by a  
14 superior court judge. To obtain that review, you must, within ten days  
15 after the entry of the decision of the court commissioner, file with  
16 the court a motion for revision of the decision, as provided in RCW  
17 2.24.050.

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

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

23        5. Your right to counsel continues beyond shelter care. You have  
24 the right to participate in a conference following the shelter care  
25 hearing facilitated by the department. You have the right to request  
26 that a multidisciplinary task force be convened for your child's case,  
27 and participate with the multidisciplinary team in its consultation  
28 process with your counsel present."

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

35        If after making reasonable efforts to provide notification, child  
36 protective services is unable to determine the whereabouts of the  
37 parents, guardian, or legal custodian, the notice shall be delivered or  
38 sent to the last known address of the parent, guardian, or legal  
39 custodian.

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

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

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

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

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

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

37 (6) Any parent, guardian, or legal custodian who for good cause is  
38 unable to attend the initial shelter care hearing may request that a  
39 subsequent shelter care hearing be scheduled. The request shall be

1 made to the clerk of the court where the petition is filed prior to the  
2 initial shelter care hearing. Upon the request of the parent, the  
3 court shall schedule the hearing within seventy-two hours of the  
4 request, excluding Saturdays, Sundays, and holidays. The clerk shall  
5 notify all other parties of the hearing by any reasonable means.

6 **Sec. 4.** RCW 74.14B.030 and 1987 c 503 s 12 are each amended to  
7 read as follows:

8 The department shall establish and maintain one or more  
9 multidisciplinary teams in each state region of the division of  
10 children and family services. The team shall consist of at least four  
11 persons, selected by the department, from professions which provide  
12 services to abused and neglected children and/or the parents of such  
13 children. The teams shall be available for consultation on all cases  
14 where a risk exists of serious harm to the child and where there is  
15 dispute over whether out-of-home placement is appropriate. The child's  
16 family and counsel for the family have a right to request a  
17 multidisciplinary team and to participate in the multidisciplinary team  
18 consultation process. The process shall include identification of  
19 specific expectations and development of measures to evaluate whether  
20 expectations have been met and progress is being made.

21 **Sec. 5.** RCW 13.34.180 and 2000 c 122 s 25 are each amended to read  
22 as follows:

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

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

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

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

35 (d) That the services ordered under RCW 13.34.136 have been  
36 expressly and understandably offered or provided and all necessary  
37 services, reasonably available, capable of correcting the parental

1 deficiencies within the foreseeable future have been expressly and  
2 understandably offered or provided;

3 (e) That there is little likelihood that conditions will be  
4 remedied so that the child can be returned to the parent in the near  
5 future. A parent's failure to substantially improve parental  
6 deficiencies within twelve months following entry of the dispositional  
7 order shall give rise to a rebuttable presumption that there is little  
8 likelihood that conditions will be remedied so that the child can be  
9 returned to the parent in the near future. The presumption shall not  
10 arise unless the petitioner makes a showing that all necessary services  
11 reasonably capable of correcting the parental deficiencies within the  
12 foreseeable future have been clearly offered or provided. In  
13 determining whether the conditions will be remedied the court may  
14 consider, but is not limited to, the following factors:

15 (i) Use of intoxicating or controlled substances so as to render  
16 the parent incapable of providing proper care for the child for  
17 extended periods of time or for periods of time that present a risk of  
18 imminent harm to the child, and documented unwillingness of the parent  
19 to receive and complete treatment or documented multiple failed  
20 treatment attempts; or

21 (ii) Psychological incapacity or mental deficiency of the parent  
22 that is so severe and chronic as to render the parent incapable of  
23 providing proper care for the child for extended periods of time or for  
24 periods of time that present a risk of imminent harm to the child, and  
25 documented unwillingness of the parent to receive and complete  
26 treatment or documentation that there is no treatment that can render  
27 the parent capable of providing proper care for the child in the near  
28 future; and

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

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

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

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

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

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

9 (d) Assault in the first or second degree, as defined in chapter  
10 9A.36 RCW, against the surviving child or another child of the parent.

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

14 "NOTICE

15 A petition for termination of parental rights has been filed  
16 against you. You have important legal rights and you must take  
17 steps to protect your interests. This petition could result in  
18 permanent loss of your parental rights.

19 1. You have the right to a fact-finding hearing before  
20 a judge.

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

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

33 You should be present at this hearing.

34 You may call     (insert agency)     for more information  
35 about your child. The agency's name and telephone number are  
36     (insert name and telephone number)    ."

1       **Sec. 6.** RCW 13.34.138 and 2000 c 122 s 19 are each amended to read  
2 as follows:

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

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

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

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

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

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

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

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

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

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

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

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

13 (2) The court's ability to order housing assistance under RCW  
14 13.34.130 and this section is: (a) Limited to cases in which  
15 homelessness or the lack of adequate and safe housing is the primary  
16 reason for an out-of-home placement; and (b) subject to the  
17 availability of funds appropriated for this specific purpose.

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

20 Ninety days after disposition, the court shall convene a  
21 postdisposition pretermination conference to evaluate the status of the  
22 case and whether the matter is prepared for trial.

23 NEW SECTION. **Sec. 8.** This act shall be known as the Zynia Nobles  
24 accountability act.

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