

ESSB 6642 - H COMM AMD  
By Committee on Appropriations

ADOPTED 03/04/2004

1 Strike everything after the enacting clause and insert the  
2 following:

3 "Sec. 1. RCW 13.34.067 and 2001 c 332 s 1 are each amended to read  
4 as follows:

5 (1) Following shelter care and no later than ~~((twenty-five))~~ thirty  
6 days prior to fact-finding, the department ~~((, upon the parent's request~~  
7 ~~or counsel for the parent's request,))~~ shall ~~((facilitate))~~ convene a  
8 case conference as required in the shelter care order to develop and  
9 specify in a written service agreement the expectations of both the  
10 department and the parent regarding ~~((the care and placement of the~~  
11 ~~child))~~ voluntary services for the parent.

12 ~~((The department shall invite to))~~ The case conference shall  
13 include the parent, counsel for the parent, ~~((the foster parent or~~  
14 ~~other out of home care provider,))~~ caseworker, counsel for the state,  
15 guardian ad litem, ~~((counselor, or other relevant health care~~  
16 ~~provider))~~ counsel for the child, and any other person ~~((connected to~~  
17 ~~the development and well being of the child))~~ agreed upon by the  
18 parties. Once the shelter care order is entered, the department is not  
19 required to provide additional notice of the case conference to any  
20 participants in the case conference.

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

30 The court shall review the written service agreement at each stage  
31 of the dependency proceedings and evaluate the performance of both the

1 ~~department and the parent for consistent, measurable progress in~~  
2 ~~complying with the expectations identified in the agreement)) services~~  
3 ~~to be provided to the parent.~~

4 The case conference agreement must be agreed to and signed by the  
5 parties. The court shall not consider the content of the discussions  
6 at the case conference at the time of the fact-finding hearing for the  
7 purposes of establishing that the child is a dependent child, and the  
8 court shall not consider any documents or written materials presented  
9 at the case conference but not incorporated into the case conference  
10 agreement, unless the documents or written materials were prepared for  
11 purposes other than or as a result of the case conference and are  
12 otherwise admissible under the rules of evidence.

13 (2) At any other stage in a dependency proceeding, the department,  
14 upon the parent's request, shall ~~((facilitate))~~ convene a case  
15 conference.

16 **Sec. 2.** RCW 13.34.062 and 2001 c 332 s 2 are each amended to read  
17 as follows:

18 (1) The written notice of custody and rights required by RCW  
19 13.34.060 shall be in substantially the following form:

20 "NOTICE

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

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

30 2. You have the right to have a lawyer represent you at the  
31 hearing. Your right to representation continues after the shelter care  
32 hearing. You have the right to records the department intends to rely  
33 upon. A lawyer can look at the files in your case, talk to child  
34 protective services and other agencies, tell you about the law, help  
35 you understand your rights, and help you at hearings. If you cannot  
36 afford a lawyer, the court will appoint one to represent you. To get  
37 a court-appointed lawyer you must contact: \_\_\_\_(explain local  
38 procedure)\_\_\_\_.

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

4 4. If your hearing occurs before a court commissioner, you have the  
5 right to have the decision of the court commissioner reviewed by a  
6 superior court judge. To obtain that review, you must, within ten days  
7 after the entry of the decision of the court commissioner, file with  
8 the court a motion for revision of the decision, as provided in RCW  
9 2.24.050.

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

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

15 5. You (~~(may request that the department facilitate)~~) have a right  
16 to a case conference to develop a written service agreement following  
17 the shelter care hearing. The service agreement may not conflict with  
18 the court's order of shelter care. You may request that a  
19 multidisciplinary team, family group conference, or prognostic  
20 staffing(~~(, or case conference)~~) be convened for your child's case.  
21 You may participate in these processes with your counsel present."

22 Upon receipt of the written notice, the parent, guardian, or legal  
23 custodian shall acknowledge such notice by signing a receipt prepared  
24 by child protective services. If the parent, guardian, or legal  
25 custodian does not sign the receipt, the reason for lack of a signature  
26 shall be written on the receipt. The receipt shall be made a part of  
27 the court's file in the dependency action.

28 If after making reasonable efforts to provide notification, child  
29 protective services is unable to determine the whereabouts of the  
30 parents, guardian, or legal custodian, the notice shall be delivered or  
31 sent to the last known address of the parent, guardian, or legal  
32 custodian.

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

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

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

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

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

25 (5)(a) A shelter care order issued pursuant to RCW 13.34.065 shall  
26 include the requirement for a case conference as provided in RCW  
27 13.34.067. However, if the parent is not present at the shelter care  
28 hearing, or does not agree to the case conference, the court shall not  
29 include the requirement for the case conference in the shelter care  
30 order.

31 (b) If the court orders a case conference, the shelter care order  
32 shall include notice to all parties and establish the date, time, and  
33 location of the case conference which shall be no later than thirty  
34 days prior to the fact-finding hearing.

35 (c) The court may order a conference or meeting as an alternative  
36 to the case conference required under RCW 13.34.067 so long as the  
37 conference or meeting ordered by the court meets all requirements under  
38 RCW 13.34.067, including the requirement of a written agreement  
39 specifying the services to be provided to the parent.

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

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

15       **Sec. 3.** RCW 13.34.094 and 2001 c 332 s 6 are each amended to read  
16 as follows:

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

22       NEW SECTION. **Sec. 4.** If specific funding for the purposes of this  
23 act, referencing this act by bill or chapter number, is not provided by  
24 June 30, 2004, in the omnibus appropriations act, this act is null and  
25 void.

26       NEW SECTION. **Sec. 5.** This act takes effect July 1, 2004."

27       Correct the title.

EFFECT: Requires the shelter care order to include a provision  
establishing the case conference unless the parent is not present at  
the shelter care hearing or does not agree to the case conference.  
Requires the shelter care order to provide notice to the parties of  
the date, time, and location of the conference.

Removes the requirement that the parties receive written notice beyond the notice in the shelter care order.

Permits the court to order a conference or meeting as an alternative to the case conference so long as the ordered conference includes the requirements of the case conference including a written agreement establishing the services to be provided to the parent.

Changes the requirement that the department facilitate a case conference to the requirement that the department convene the case conference.

Requires the case conference to be held no later than 30 days prior to the fact-finding hearing.

Requires creation of a written service agreement establishing the voluntary services for the parent.

Changes the participants in the case conference to include only the parties, counsel, and other persons agreed upon by the parties.

Removes the requirement that the written service agreement be used as a formal measurement of the parent's progress throughout the dependency process.

Adds an effective date of July 1, 2004.

Adds a null and void clause. The bill is null and void unless funded in the budget.

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