
SUBSTITUTE SENATE BILL 5779

State of Washington

58th Legislature

2003 Regular Session

By Senate Committee on Children & Family Services & Corrections
(originally sponsored by Senators Stevens, Hargrove, Kohl-Welles,
McAuliffe, Winsley and Oke)

READ FIRST TIME 02/24/03.

1 AN ACT Relating to sibling relationships for dependent children;
2 and amending RCW 13.34.030, 13.34.130, 13.34.200, and 13.34.210.

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

4 **Sec. 1.** RCW 13.34.030 and 2002 c 52 s 3 are each amended to read
5 as follows:

6 For purposes of this chapter:

7 (1) "Abandoned" means when the child's parent, guardian, or other
8 custodian has expressed, either by statement or conduct, an intent to
9 forego, for an extended period, parental rights or responsibilities
10 despite an ability to exercise such rights and responsibilities. If
11 the court finds that the petitioner has exercised due diligence in
12 attempting to locate the parent, no contact between the child and the
13 child's parent, guardian, or other custodian for a period of three
14 months creates a rebuttable presumption of abandonment, even if there
15 is no expressed intent to abandon.

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

18 (3) "Current placement episode" means the period of time that
19 begins with the most recent date that the child was removed from the

1 home of the parent, guardian, or legal custodian for purposes of
2 placement in out-of-home care and continues until: (a) The child
3 returns home; (b) an adoption decree, a permanent custody order, or
4 guardianship order is entered; or (c) the dependency is dismissed,
5 whichever occurs first.

6 (4) "Dependency guardian" means the person, nonprofit corporation,
7 or Indian tribe appointed by the court pursuant to this chapter for the
8 limited purpose of assisting the court in the supervision of the
9 dependency.

10 (5) "Dependent child" means any child who:

11 (a) Has been abandoned;

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

14 (c) Has no parent, guardian, or custodian capable of adequately
15 caring for the child, such that the child is in circumstances which
16 constitute a danger of substantial damage to the child's psychological
17 or physical development.

18 (6) "Developmental disability" means a disability attributable to
19 mental retardation, cerebral palsy, epilepsy, autism, or another
20 neurological or other condition of an individual found by the secretary
21 to be closely related to mental retardation or to require treatment
22 similar to that required for individuals with mental retardation, which
23 disability originates before the individual attains age eighteen, which
24 has continued or can be expected to continue indefinitely, and which
25 constitutes a substantial handicap to the individual.

26 (7) "Guardian" means the person or agency that: (a) Has been
27 appointed as the guardian of a child in a legal proceeding other than
28 a proceeding under this chapter; and (b) has the legal right to custody
29 of the child pursuant to such appointment. The term "guardian" shall
30 not include a "dependency guardian" appointed pursuant to a proceeding
31 under this chapter.

32 (8) "Guardian ad litem" means a person, appointed by the court to
33 represent the best interests of a child in a proceeding under this
34 chapter, or in any matter which may be consolidated with a proceeding
35 under this chapter. A "court-appointed special advocate" appointed by
36 the court to be the guardian ad litem for the child, or to perform
37 substantially the same duties and functions as a guardian ad litem,

1 shall be deemed to be guardian ad litem for all purposes and uses of
2 this chapter.

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

10 (10) "Indigent" means a person who, at any stage of a court
11 proceeding, is:

12 (a) Receiving one of the following types of public assistance:
13 Temporary assistance for needy families, general assistance, poverty-
14 related veterans' benefits, food stamps or food stamp benefits
15 transferred electronically, refugee resettlement benefits, medicaid, or
16 supplemental security income; or

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

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

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

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

27 (12) "Preventive services" means preservation services, as defined
28 in chapter 74.14C RCW, and other reasonably available services,
29 including housing services, capable of preventing the need for out-of-
30 home placement while protecting the child. Housing services may
31 include, but are not limited to, referrals to federal, state, local, or
32 private agencies or organizations, assistance with forms and
33 applications, or financial subsidies for housing.

34 (13) "Shelter care" means temporary physical care in a facility
35 licensed pursuant to RCW 74.15.030 or in a home not required to be
36 licensed pursuant to RCW 74.15.030.

37 (14) "Sibling" means a child's birth brother, birth sister,
38 adoptive brother, adoptive sister, half-brother, half-sister, step-

1 brother, or step-sister, or as defined by the law or custom of the
2 Indian child's tribe for an Indian child as defined in 25 U.S.C. Sec.
3 1903(4).

4 (15) "Social study" means a written evaluation of matters relevant
5 to the disposition of the case and shall contain the following
6 information:

7 (a) A statement of the specific harm or harms to the child that
8 intervention is designed to alleviate;

9 (b) A description of the specific services and activities, for both
10 the parents and child, that are needed in order to prevent serious harm
11 to the child; the reasons why such services and activities are likely
12 to be useful; the availability of any proposed services; and the
13 agency's overall plan for ensuring that the services will be delivered.
14 The description shall identify the services chosen and approved by the
15 parent;

16 (c) If removal is recommended, a full description of the reasons
17 why the child cannot be protected adequately in the home, including a
18 description of any previous efforts to work with the parents and the
19 child in the home; the in-home treatment programs that have been
20 considered and rejected; the preventive services that have been offered
21 or provided and have failed to prevent the need for out-of-home
22 placement, unless the health, safety, and welfare of the child cannot
23 be protected adequately in the home; and the parents' attitude toward
24 placement of the child;

25 (d) A statement of the likely harms the child will suffer as a
26 result of removal;

27 (e) A description of the steps that will be taken to minimize the
28 harm to the child that may result if separation occurs including an
29 assessment of the child's relationship and emotional bond with any
30 siblings, and the agency's plan to provide ongoing contact between the
31 child and the child's siblings if appropriate; and

32 (f) Behavior that will be expected before determination that
33 supervision of the family or placement is no longer necessary.

34 **Sec. 2.** RCW 13.34.130 and 2002 c 52 s 5 are each amended to read
35 as follows:

36 If, after a fact-finding hearing pursuant to RCW 13.34.110, it has
37 been proven by a preponderance of the evidence that the child is

1 dependent within the meaning of RCW 13.34.030 after consideration of
2 the social study prepared pursuant to RCW 13.34.110 and after a
3 disposition hearing has been held pursuant to RCW 13.34.110, the court
4 shall enter an order of disposition pursuant to this section.

5 (1) The court shall order one of the following dispositions of the
6 case:

7 (a) Order a disposition other than removal of the child from his or
8 her home, which shall provide a program designed to alleviate the
9 immediate danger to the child, to mitigate or cure any damage the child
10 has already suffered, and to aid the parents so that the child will not
11 be endangered in the future. In determining the disposition, the court
12 should choose those services, including housing assistance, that least
13 interfere with family autonomy and are adequate to protect the child.

14 (b) Order the child to be removed from his or her home and into the
15 custody, control, and care of a relative or the department or a
16 licensed child placing agency for placement in a foster family home or
17 group care facility licensed pursuant to chapter 74.15 RCW or in a home
18 not required to be licensed pursuant to chapter 74.15 RCW. Unless
19 there is reasonable cause to believe that the health, safety, or
20 welfare of the child would be jeopardized or that efforts to reunite
21 the parent and child will be hindered, such child shall be placed with
22 a person who is: (i) Related to the child as defined in RCW
23 74.15.020(2)(a) with whom the child has a relationship and is
24 comfortable; and (ii) willing and available to care for the child.

25 (2) Placement of the child with a relative under this subsection
26 shall be given preference by the court. An order for out-of-home
27 placement may be made only if the court finds that reasonable efforts
28 have been made to prevent or eliminate the need for removal of the
29 child from the child's home and to make it possible for the child to
30 return home, specifying the services that have been provided to the
31 child and the child's parent, guardian, or legal custodian, and that
32 preventive services have been offered or provided and have failed to
33 prevent the need for out-of-home placement, unless the health, safety,
34 and welfare of the child cannot be protected adequately in the home,
35 and that:

36 (a) There is no parent or guardian available to care for such
37 child;

1 (b) The parent, guardian, or legal custodian is not willing to take
2 custody of the child; or

3 (c) The court finds, by clear, cogent, and convincing evidence, a
4 manifest danger exists that the child will suffer serious abuse or
5 neglect if the child is not removed from the home and an order under
6 RCW 26.44.063 would not protect the child from danger.

7 (3) If the court has ordered a child removed from his or her home
8 pursuant to subsection (1)(b) of this section, the court shall make
9 every effort to place the child with siblings who are also placed in
10 out-of-home care, unless there is reasonable cause to believe the
11 health, safety, or welfare of the child or siblings would be
12 jeopardized. In the event that the child is not placed with siblings,
13 the court must consider whether it is in the child's best interest to
14 have contact or visits with siblings. The court must consider ordering
15 that such contact or visits take place provided that:

16 (a) The court has jurisdiction over all siblings subject to the
17 order of contact or visitation pursuant to petitions filed under this
18 chapter;

19 (b) Contact or visitation is in the best interests of each child
20 covered by the court's order; and

21 (c) There is no reasonable cause to believe that the health,
22 safety, or welfare of any child subject to the order of visitation
23 would be jeopardized or that efforts to reunite the parent and child
24 would be hindered by such visitation. In no event shall parental
25 visitation time be reduced in order to provide sibling visitation.

26 (4) If the court has ordered a child removed from his or her home
27 pursuant to subsection (1)(b) of this section, the court may order that
28 a petition seeking termination of the parent and child relationship be
29 filed if the requirements of RCW 13.34.132 are met.

30 (5) If there is insufficient information at the time of the
31 disposition hearing upon which to base a determination regarding the
32 suitability of a proposed placement with a relative, the child shall
33 remain in foster care and the court shall direct the supervising agency
34 to conduct necessary background investigations as provided in chapter
35 74.15 RCW and report the results of such investigation to the court
36 within thirty days. However, if such relative appears otherwise
37 suitable and competent to provide care and treatment, the criminal
38 history background check need not be completed before placement, but as

1 soon as possible after placement. Any placements with relatives,
2 pursuant to this section, shall be contingent upon cooperation by the
3 relative with the agency case plan and compliance with court orders
4 related to the care and supervision of the child including, but not
5 limited to, court orders regarding parent-child contacts, sibling
6 contacts, and any other conditions imposed by the court. Noncompliance
7 with the case plan or court order shall be grounds for removal of the
8 child from the relative's home, subject to review by the court.

9 **Sec. 3.** RCW 13.34.200 and 2000 c 122 s 27 are each amended to read
10 as follows:

11 (1) Upon the termination of parental rights pursuant to RCW
12 13.34.180, all rights, powers, privileges, immunities, duties, and
13 obligations, including any rights to custody, control, visitation, or
14 support existing between the child and parent shall be severed and
15 terminated and the parent shall have no standing to appear at any
16 further legal proceedings concerning the child: PROVIDED, That any
17 support obligation existing prior to the effective date of the order
18 terminating parental rights shall not be severed or terminated. The
19 rights of one parent may be terminated without affecting the rights of
20 the other parent and the order shall so state.

21 (2) An order terminating the parent and child relationship shall
22 not disentitle a child to any benefit due the child from any third
23 person, agency, state, or the United States, nor shall any action under
24 this chapter be deemed to affect any rights and benefits that an Indian
25 child derives from the child's descent from a member of a federally
26 recognized Indian tribe.

27 (3) An order terminating the parent and child relationship shall
28 include a statement addressing the status of the child's sibling
29 relationships pursuant to RCW 13.34.130(3). The order shall state who
30 the child's siblings are, in whose custody they remain or have been
31 placed, and unless the court has determined that there is reasonable
32 cause to believe the health, safety, or welfare of the child or sibling
33 would be jeopardized by contact or visitation it shall be presumed that
34 such contact or visitation is in their best interest.

35 **Sec. 4.** RCW 13.34.210 and 2000 c 122 s 28 are each amended to read
36 as follows:

1 If, upon entering an order terminating the parental rights of a
2 parent, there remains no parent having parental rights, the court shall
3 commit the child to the custody of the department or to a licensed
4 child-placing agency willing to accept custody for the purpose of
5 placing the child for adoption. If an adoptive home has not been
6 identified, the department or agency shall place the child in a
7 licensed foster home, or take other suitable measures for the care and
8 welfare of the child. The custodian shall have authority to consent to
9 the adoption of the child consistent with chapter 26.33 RCW, the
10 marriage of the child, the enlistment of the child in the armed forces
11 of the United States, necessary surgical and other medical treatment
12 for the child, and to consent to such other matters as might normally
13 be required of the parent of the child. The custodian shall ensure
14 that a child with siblings is either placed with them or enabled to
15 contact or visit them unless the court has determined that the health,
16 safety, or welfare of the child or siblings would be jeopardized.

17 If a child has not been adopted within six months after the date of
18 the order and a guardianship of the child under RCW 13.34.231 or
19 chapter 11.88 RCW, or a permanent custody order under chapter 26.10
20 RCW, has not been entered by the court, the court shall review the case
21 every six months until a decree of adoption is entered except for those
22 cases which are reviewed by a citizen review board under chapter 13.70
23 RCW.

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