
SENATE BILL 5875

State of Washington

59th Legislature

2005 Regular Session

By Senator Hargrove

Read first time 02/10/2005. Referred to Committee on Human Services & Corrections.

1 AN ACT Relating to interests of parents and alleged fathers under
2 the juvenile court act; amending RCW 13.34.030; and adding a new
3 section to chapter 13.34 RCW.

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

5 **Sec. 1.** RCW 13.34.030 and 2003 c 227 s 2 are each amended to read
6 as follows:

7 For purposes of this chapter:

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

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

1 (3) "Current placement episode" means the period of time that
2 begins with the most recent date that the child was removed from the
3 home of the parent, guardian, or legal custodian for purposes of
4 placement in out-of-home care and continues until: (a) The child
5 returns home; (b) an adoption decree, a permanent custody order, or
6 guardianship order is entered; or (c) the dependency is dismissed,
7 whichever occurs first.

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

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

13 (a) Has been abandoned;

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

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

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

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

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

1 substantially the same duties and functions as a guardian ad litem,
2 shall be deemed to be guardian ad litem for all purposes and uses of
3 this chapter.

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

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

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

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

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

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

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

28 (12) "Parent" means an individual who has established a parent-
29 child relationship under RCW 26.26.101, unless the legal rights of that
30 person have been terminated by a judicial proceeding pursuant to this
31 chapter, chapter 26.33 RCW, or the equivalent laws of another state or
32 a federally recognized Indian tribe.

33 (13) "Preventive services" means preservation services, as defined
34 in chapter 74.14C RCW, and other reasonably available services,
35 including housing services, capable of preventing the need for out-of-
36 home placement while protecting the child. Housing services may
37 include, but are not limited to, referrals to federal, state, local, or

1 private agencies or organizations, assistance with forms and
2 applications, or financial subsidies for housing.

3 ~~((13))~~ (14) "Shelter care" means temporary physical care in a
4 facility licensed pursuant to RCW 74.15.030 or in a home not required
5 to be licensed pursuant to RCW 74.15.030.

6 ~~((14))~~ (15) "Sibling" means a child's birth brother, birth
7 sister, adoptive brother, adoptive sister, half-brother, or half-
8 sister, or as defined by the law or custom of the Indian child's tribe
9 for an Indian child as defined in 25 U.S.C. Sec. 1903(4).

10 ~~((15))~~ (16) "Social study" means a written evaluation of matters
11 relevant to the disposition of the case and shall contain the following
12 information:

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

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

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

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

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

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

3 NEW SECTION. **Sec. 2.** A new section is added to chapter 13.34 RCW
4 to read as follows:

5 (1) For the purposes of this section, "alleged father" means a man
6 who alleges himself to be, or is alleged to be by the mother or another
7 relative of a child subject to a petition filed under this chapter, the
8 genetic father or a possible genetic father of the child, but whose
9 parentage has not been established under RCW 26.26.101(2) or the
10 equivalent laws of another state or a federally recognized Indian
11 tribe.

12 (2) Whenever a parent-child relationship as defined in RCW
13 26.26.101(2) has not been established as to another person and a child
14 only has an alleged father, the alleged father shall receive notice of
15 the petition and shelter care hearing in a proceeding under this
16 chapter to the same extent as a parent. The court may provide counsel
17 to the alleged father if he appears in the proceeding or requests that
18 the court appoint him counsel upon a finding that the alleged father
19 believes he is or may be the genetic father of the child and is willing
20 to cooperate in establishing parentage and is financially unable to
21 obtain counsel because of indigency.

22 (3) The department of social and health services shall refer the
23 alleged father to a support enforcement agency as defined in RCW
24 26.26.011 for a determination of parentage. The department of social
25 and health services has no obligation to offer or provide remedial
26 services to the alleged father, and the court may not order the
27 department to do so, until parentage is legally established under RCW
28 26.26.101(2) or the equivalent laws of another state or a federally
29 recognized Indian tribe. The department of social and health services
30 may offer services to the alleged father on a voluntary basis while a
31 determination of parentage is pending.

32 (4) The department of social and health services has no obligation
33 to place a child with or provide visits to the alleged father or any
34 relatives of the alleged father, and the court may not order the
35 department to do so, until parentage is legally established under RCW
36 26.26.101(2) or the equivalent laws of another state or a federally
37 recognized Indian tribe. The department of social and health services

1 may recommend placement of a child with or visits to the alleged father
2 or relatives of the alleged father while a determination of parentage
3 is pending if such a placement or visitation is in the best interests
4 of the child.

5 (5) Upon a finding that the alleged father has failed to cooperate
6 with a referral to a support enforcement agency, the court, on its own
7 motion or the motion of a party, may order genetic testing of the
8 alleged father, child, or any other party to the proceeding pursuant to
9 RCW 26.26.405. An order for genetic testing is enforceable by
10 contempt.

11 (6) If the court finds that the department of social and health
12 services has made reasonable efforts to refer the alleged father to a
13 support enforcement agency and the alleged father has failed to submit
14 to genetic testing as ordered by the court within a reasonable period
15 of time, the court may on that basis adjudicate parentage contrary to
16 the position of the alleged father pursuant to RCW 26.26.575(2) and
17 find that the alleged father's failure to cooperate constitutes
18 aggravated circumstances pursuant to RCW 13.34.132.

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