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**SUBSTITUTE SENATE BILL 5995**

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**State of Washington**

**59th Legislature**

**2005 Regular Session**

**By** Senate Committee on Human Services & Corrections (originally sponsored by Senator Hargrove)

READ FIRST TIME 02/28/05.

1 AN ACT Relating to placement of children in shelter care; amending  
2 RCW 13.34.060, 74.15.120, and 13.34.065; and amending 1999 c 17 s 1  
3 (uncodified).

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

5 **Sec. 1.** RCW 13.34.060 and 2002 c 52 s 4 are each amended to read  
6 as follows:

7 (1) A child taken into custody pursuant to RCW 13.34.050 or  
8 26.44.050 shall be immediately placed in shelter care. A child taken  
9 by a relative of the child in violation of RCW 9A.40.060 or 9A.40.070  
10 shall be placed in shelter care only when permitted under RCW  
11 13.34.055.

12 (a) Unless there is reasonable cause to believe that the health,  
13 safety, or welfare of the child would be jeopardized or that the  
14 efforts to reunite the parent and child will be hindered, priority  
15 placement for a child in shelter care shall be with ~~((any))~~ a person  
16 preferred by the parent, or if no preference is indicated by the  
17 parent, any person as described in RCW 74.15.020(2)(a). The person  
18 must be willing and available to care for the child and be able to meet  
19 any special needs of the child. The person must be willing to

1 facilitate the child's visitation with siblings, if such visitation is  
2 part of the supervising agency's plan or is ordered by the court. If  
3 a child is not initially placed with a person preferred by the parent  
4 or a relative pursuant to this section, the supervising agency shall  
5 make an effort within available resources to place the child with a  
6 person preferred by the parent or a relative on the next business day  
7 after the child is taken into custody unless there is reasonable cause  
8 to believe that the health, safety, or welfare of the child would be  
9 jeopardized or that the efforts to reunite the parent and child will be  
10 hindered. The supervising agency shall document its effort to place  
11 the child with a person preferred by the parent or a relative pursuant  
12 to this section. The person preferred by the parent must apply for a  
13 foster care license within seventy-two hours, excluding weekends and  
14 holidays, of the child's placement with the person preferred by the  
15 parent. Nothing within this subsection (1)(a) establishes an  
16 entitlement to services or a right to a particular placement.

17 (b) Whenever a child is taken into custody pursuant to this  
18 section, the supervising agency may authorize evaluations of the  
19 child's physical or emotional condition, routine medical and dental  
20 examination and care, and all necessary emergency care. In no case may  
21 a child who is taken into custody pursuant to RCW 13.34.055, 13.34.050,  
22 or 26.44.050 be detained in a secure detention facility. No child may  
23 be held longer than seventy-two hours, excluding Saturdays, Sundays and  
24 holidays, after such child is taken into custody unless a court order  
25 has been entered for continued shelter care. The child and his or her  
26 parent, guardian, or custodian shall be informed that they have a right  
27 to a shelter care hearing. The court shall hold a shelter care hearing  
28 within seventy-two hours after the child is taken into custody,  
29 excluding Saturdays, Sundays, and holidays. If a parent, guardian, or  
30 legal custodian desires to waive the shelter care hearing, the court  
31 shall determine, on the record and with the parties present, whether  
32 such waiver is knowing and voluntary.

33 (2) Whenever a child is taken into custody by child protective  
34 services pursuant to a court order issued under RCW 13.34.050 or when  
35 child protective services is notified that a child has been taken into  
36 custody pursuant to RCW 26.44.050 or 26.44.056, child protective  
37 services shall make reasonable efforts to inform the parents, guardian,  
38 or legal custodian of the fact that the child has been taken into

1 custody, the reasons why the child was taken into custody, and their  
2 legal rights under this title as soon as possible and in no event shall  
3 notice be provided more than twenty-four hours after the child has been  
4 taken into custody or twenty-four hours after child protective services  
5 has been notified that the child has been taken into custody. The  
6 notice of custody and rights may be given by any means reasonably  
7 certain of notifying the parents including, but not limited to,  
8 written, telephone, or in person oral notification. If the initial  
9 notification is provided by a means other than writing, child  
10 protective services shall make reasonable efforts to also provide  
11 written notification.

12 (3) The department and its employees shall be immune from civil  
13 liability for damages arising out of the placement of children with  
14 persons preferred by their parents unless it is shown that an employee  
15 acted with gross negligence or bad faith.

16 **Sec. 2.** RCW 74.15.120 and 1995 c 311 s 22 are each amended to read  
17 as follows:

18 The secretary of social and health services may, at his or her  
19 discretion, issue an initial license instead of a full license, to an  
20 agency or facility for a period not to exceed six months, renewable for  
21 a period not to exceed two years, to allow such agency or facility  
22 reasonable time to become eligible for full license. An initial  
23 license shall not be granted to any foster-family home except as  
24 specified in this section. An initial license may be granted to a  
25 foster-family home only if the following three conditions are met: (1)  
26 The license is limited so that the licensee is authorized to provide  
27 care only to a specific child or specific children; (2) the department  
28 has determined that the licensee has a relationship with the child, and  
29 the child is comfortable with the licensee, or that it would otherwise  
30 be in the child's best interest to remain or be placed in the  
31 licensee's home; ~~((and))~~ (3) the licensee passes background checks  
32 conducted through the Washington state patrol and through the  
33 department's system of checking histories of abuse and neglect as soon  
34 as practicable, within a maximum of fifteen days of the child's  
35 placement and, if the licensee has resided outside the state within the  
36 last three years, a background check through the other jurisdictions

1 where the licensee has resided or through the federal bureau of  
2 investigation within thirty days of the child's placement; and (4) the  
3 initial license is issued for a period not to exceed ninety days.

4 **Sec. 3.** 1999 c 17 s 1 (uncodified) is amended to read as follows:

5 The legislature has found that any intervention into the life of a  
6 child is also an intervention in the life of the parent, guardian, or  
7 legal custodian, and that the bond between child and parent is a  
8 critical element of child development. The legislature now also finds  
9 that children who cannot be with their parents, guardians, or legal  
10 custodians are best cared for, whenever possible and appropriate by a  
11 person preferred by the parent, or if no preference is indicated by the  
12 parent, then by family members with whom they have a relationship.  
13 This is particularly important when a child cannot be in the care of a  
14 parent, guardian, or legal custodian as a result of a court  
15 intervention.

16 **Sec. 4.** RCW 13.34.065 and 2001 c 332 s 3 are each amended to read  
17 as follows:

18 (1) The juvenile court probation counselor shall submit a  
19 recommendation to the court as to the further need for shelter care  
20 unless the petition has been filed by the department, in which case the  
21 recommendation shall be submitted by the department.

22 (2) The court shall release a child alleged to be dependent to the  
23 care, custody, and control of the child's parent, guardian, or legal  
24 custodian unless the court finds there is reasonable cause to believe  
25 that:

26 (a) After consideration of the specific services that have been  
27 provided, reasonable efforts have been made to prevent or eliminate the  
28 need for removal of the child from the child's home and to make it  
29 possible for the child to return home; and

30 (b)(i) The child has no parent, guardian, or legal custodian to  
31 provide supervision and care for such child; or

32 (ii) The release of such child would present a serious threat of  
33 substantial harm to such child; or

34 (iii) The parent, guardian, or custodian to whom the child could be  
35 released has been charged with violating RCW 9A.40.060 or 9A.40.070.

1        If the court does not release the child to his or her parent,  
2 guardian, or legal custodian, and the child was initially placed with  
3 a person preferred by the parent or a relative pursuant to RCW  
4 13.34.060(1), the court shall order continued placement with a person  
5 preferred by the parent or a relative, unless there is reasonable cause  
6 to believe the health, safety, or welfare of the child would be  
7 jeopardized. If the child was not initially placed with a person  
8 preferred by the parent or a relative, and the court does not release  
9 the child to his or her parent, guardian, or legal custodian, the  
10 supervising agency shall make reasonable efforts to locate a person  
11 preferred by the parent or a relative pursuant to RCW 13.34.060(1). If  
12 a person preferred by the parent or a relative is not available, the  
13 court shall order continued shelter care or order placement with  
14 another suitable person, and the court shall set forth its reasons for  
15 the order. The court shall enter a finding as to whether RCW  
16 13.34.060(2) and subsections (1) and (2) of this section have been  
17 complied with. If actual notice was not given to the parent, guardian,  
18 or legal custodian and the whereabouts of such person is known or can  
19 be ascertained, the court shall order the supervising agency or the  
20 department of social and health services to make reasonable efforts to  
21 advise the parent, guardian, or legal custodian of the status of the  
22 case, including the date and time of any subsequent hearings, and their  
23 rights under RCW 13.34.090. If, in the course of its investigation,  
24 the department discovers that the person preferred by the parent is not  
25 eligible for licensing, the department may place the child with any  
26 person described in RCW 74.15.020(2)(a).

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

31        The court shall consider whether nonconformance with any conditions  
32 resulted from circumstances beyond the control of the parent and give  
33 weight to that fact before ordering return of the child to shelter  
34 care.

35        (4) If a child is returned home from shelter care a second time in  
36 the case, or if the supervisor of the caseworker deems it necessary,  
37 the multidisciplinary team may be reconvened.

1           (5) If a child is returned home from shelter care a second time in  
2 the case a law enforcement officer must be present and file a report to  
3 the department.

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