

2SHB 3205 - H AMD 1104

By Representative Jarrett

WITHDRAWN 02/15/2008

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

3 "NEW SECTION. **Sec. 1.** The legislature finds that meeting the
4 needs of vulnerable children who enter the child welfare system
5 requires a continuum of services available to meet the child's current
6 needs and to promote and support the child's long-term well-being.
7 Children who enter foster care and subsequently achieve permanency
8 through adoption will have ongoing developmental needs relating, in
9 part, to the length of time they spent in care. The legislature
10 intends to encourage a greater focus on children's developmental needs
11 by promoting closer adherence to timeliness standards in the resolution
12 of dependency cases and by elevating the importance of permanency for
13 children.

14 **Sec. 2.** RCW 13.34.136 and 2007 c 413 s 7 are each amended to read
15 as follows:

16 (1) A permanency plan shall be developed no later than sixty days
17 from the time the supervising agency assumes responsibility for
18 providing services, including placing the child, or at the time of a
19 hearing under RCW 13.34.130, whichever occurs first. The permanency
20 planning process continues until a permanency planning goal is achieved
21 or dependency is dismissed. The planning process shall include
22 reasonable efforts to return the child to the parent's home.

23 (2) The agency supervising the dependency shall submit a written
24 permanency plan to all parties and the court not less than fourteen
25 days prior to the scheduled hearing. Responsive reports of parties not
26 in agreement with the supervising agency's proposed permanency plan
27 must be provided to the supervising agency, all other parties, and the
28 court at least seven days prior to the hearing.

29 The permanency plan shall include:

1 (a) A permanency plan of care that shall identify one of the
2 following outcomes as a primary goal and may identify additional
3 outcomes as alternative goals: Return of the child to the home of the
4 child's parent, guardian, or legal custodian; adoption; guardianship;
5 permanent legal custody; long-term relative or foster care, until the
6 child is age eighteen, with a written agreement between the parties and
7 the care provider; successful completion of a responsible living skills
8 program; or independent living, if appropriate and if the child is age
9 sixteen or older. The department shall not discharge a child to an
10 independent living situation before the child is eighteen years of age
11 unless the child becomes emancipated pursuant to chapter 13.64 RCW;

12 (b) Unless the court has ordered, pursuant to RCW 13.34.130(~~(+4)~~)
13 (5), that a termination petition be filed, a specific plan as to where
14 the child will be placed, what steps will be taken to return the child
15 home, what steps the agency will take to promote existing appropriate
16 sibling relationships and/or facilitate placement together or contact
17 in accordance with the best interests of each child, and what actions
18 the agency will take to maintain parent-child ties. All aspects of the
19 plan shall include the goal of achieving permanence for the child.

20 (i) The agency plan shall specify what services the parents will be
21 offered to enable them to resume custody, what requirements the parents
22 must meet to resume custody, and a time limit for each service plan and
23 parental requirement.

24 (ii) Visitation is the right of the family, including the child and
25 the parent, in cases in which visitation is in the best interest of the
26 child. Early, consistent, and frequent visitation is crucial for
27 maintaining parent-child relationships and making it possible for
28 parents and children to safely reunify. The agency shall encourage the
29 maximum parent and child and sibling contact possible, when it is in
30 the best interest of the child, including regular visitation and
31 participation by the parents in the care of the child while the child
32 is in placement. Visitation shall not be limited as a sanction for a
33 parent's failure to comply with court orders or services where the
34 health, safety, or welfare of the child is not at risk as a result of
35 the visitation. Visitation may be limited or denied only if the court
36 determines that such limitation or denial is necessary to protect the
37 child's health, safety, or welfare. The court and the agency should
38 rely upon community resources, relatives, foster parents, and other

1 appropriate persons to provide transportation and supervision for
2 visitation to the extent that such resources are available, and
3 appropriate, and the child's safety would not be compromised.

4 (iii) A child shall be placed as close to the child's home as
5 possible, preferably in the child's own neighborhood, unless the court
6 finds that placement at a greater distance is necessary to promote the
7 child's or parents' well-being.

8 (iv) The plan shall state whether both in-state and, where
9 appropriate, out-of-state placement options have been considered by the
10 department.

11 (v) Unless it is not in the best interests of the child, whenever
12 practical, the plan should ensure the child remains enrolled in the
13 school the child was attending at the time the child entered foster
14 care.

15 (vi) The agency charged with supervising a child in placement shall
16 provide all reasonable services that are available within the agency,
17 or within the community, or those services which the department has
18 existing contracts to purchase. It shall report to the court if it is
19 unable to provide such services; and

20 (c) If the court has ordered, pursuant to RCW 13.34.130(~~(+4)~~) (5),
21 that a termination petition be filed, a specific plan as to where the
22 child will be placed, what steps will be taken to achieve permanency
23 for the child, services to be offered or provided to the child, and, if
24 visitation would be in the best interests of the child, a
25 recommendation to the court regarding visitation between parent and
26 child pending a fact-finding hearing on the termination petition. The
27 agency shall not be required to develop a plan of services for the
28 parents or provide services to the parents if the court orders a
29 termination petition be filed. However, reasonable efforts to ensure
30 visitation and contact between siblings shall be made unless there is
31 reasonable cause to believe the best interests of the child or siblings
32 would be jeopardized.

33 (3) Permanency planning goals should be achieved at the earliest
34 possible date, (~~preferably before~~). If the child has been in out-of-
35 home care for fifteen of the most recent twenty-two months, the court
36 shall require the filing of a petition seeking termination of parental
37 rights in accordance with RCW 13.34.145(2). In cases where parental
38 rights have been terminated, the child is legally free for adoption,

1 and adoption has been identified as the primary permanency planning
2 goal, it shall be a goal to complete the adoption within six months
3 following entry of the termination order.

4 (4) If the court determines that the continuation of reasonable
5 efforts to prevent or eliminate the need to remove the child from his
6 or her home or to safely return the child home should not be part of
7 the permanency plan of care for the child, reasonable efforts shall be
8 made to place the child in a timely manner and to complete whatever
9 steps are necessary to finalize the permanent placement of the child.

10 (5) The identified outcomes and goals of the permanency plan may
11 change over time based upon the circumstances of the particular case.

12 (6) The court shall consider the child's relationships with the
13 child's siblings in accordance with RCW 13.34.130(3).

14 (7) For purposes related to permanency planning:

15 (a) "Guardianship" means a dependency guardianship or a legal
16 guardianship pursuant to chapter 11.88 RCW or equivalent laws of
17 another state or a federally recognized Indian tribe.

18 (b) "Permanent custody order" means a custody order entered
19 pursuant to chapter 26.10 RCW.

20 (c) "Permanent legal custody" means legal custody pursuant to
21 chapter 26.10 RCW or equivalent laws of another state or a federally
22 recognized Indian tribe.

23 **Sec. 3.** RCW 13.34.145 and 2007 c 413 s 9 are each amended to read
24 as follows:

25 (1) The purpose of a permanency planning hearing is to review the
26 permanency plan for the child, inquire into the welfare of the child
27 and progress of the case, and reach decisions regarding the permanent
28 placement of the child.

29 (a) A permanency planning hearing shall be held in all cases where
30 the child has remained in out-of-home care for at least nine months and
31 an adoption decree, guardianship order, or permanent custody order has
32 not previously been entered. The hearing shall take place no later
33 than twelve months following commencement of the current placement
34 episode.

35 (b) Whenever a child is removed from the home of a dependency
36 guardian or long-term relative or foster care provider, and the child
37 is not returned to the home of the parent, guardian, or legal custodian

1 but is placed in out-of-home care, a permanency planning hearing shall
2 take place no later than twelve months, as provided in this section,
3 following the date of removal unless, prior to the hearing, the child
4 returns to the home of the dependency guardian or long-term care
5 provider, the child is placed in the home of the parent, guardian, or
6 legal custodian, an adoption decree, guardianship order, or a permanent
7 custody order is entered, or the dependency is dismissed.

8 (c) Permanency planning goals should be achieved at the earliest
9 possible date, preferably before the child has been in out-of-home care
10 for fifteen months. In cases where parental rights have been
11 terminated, the child is legally free for adoption, and adoption has
12 been identified as the primary permanency planning goal, it shall be a
13 goal to complete the adoption within six months following entry of the
14 termination order.

15 (2) When a child has been in out-of-home care for fifteen of the
16 most recent twenty-two months, the court shall require the filing of a
17 petition seeking termination of parental rights. The court may make a
18 good cause written finding as to why filing a petition for termination
19 of parental rights is not appropriate at this time. Any such good
20 cause finding shall be reviewed at all subsequent motion and review
21 hearings pertaining to the child.

22 (3) No later than ten working days prior to the permanency planning
23 hearing, the agency having custody of the child shall submit a written
24 permanency plan to the court and shall mail a copy of the plan to all
25 parties and their legal counsel, if any.

26 ((+3)) (4) At the permanency planning hearing, the court shall
27 conduct the following inquiry:

28 (a) If a goal of long-term foster or relative care has been
29 achieved prior to the permanency planning hearing, the court shall
30 review the child's status to determine whether the placement and the
31 plan for the child's care remain appropriate.

32 (b) In cases where the primary permanency planning goal has not
33 been achieved, the court shall inquire regarding the reasons why the
34 primary goal has not been achieved and determine what needs to be done
35 to make it possible to achieve the primary goal. The court shall
36 review the permanency plan prepared by the agency and make explicit
37 findings regarding each of the following:

1 (i) The continuing necessity for, and the safety and
2 appropriateness of, the placement;

3 (ii) The extent of compliance with the permanency plan by the
4 agency and any other service providers, the child's parents, the child,
5 and the child's guardian, if any;

6 (iii) The extent of any efforts to involve appropriate service
7 providers in addition to agency staff in planning to meet the special
8 needs of the child and the child's parents;

9 (iv) The progress toward eliminating the causes for the child's
10 placement outside of his or her home and toward returning the child
11 safely to his or her home or obtaining a permanent placement for the
12 child;

13 (v) The date by which it is likely that the child will be returned
14 to his or her home or placed for adoption, with a guardian or in some
15 other alternative permanent placement; and

16 (vi) If the child has been placed outside of his or her home for
17 fifteen of the most recent twenty-two months, not including any period
18 during which the child was a runaway from the out-of-home placement or
19 the first six months of any period during which the child was returned
20 to his or her home for a trial home visit, the appropriateness of the
21 permanency plan, whether reasonable efforts were made by the agency to
22 achieve the goal of the permanency plan, and the circumstances which
23 prevent the child from any of the following:

24 (A) Being returned safely to his or her home;

25 (B) Having a petition for the involuntary termination of parental
26 rights filed on behalf of the child;

27 (C) Being placed for adoption;

28 (D) Being placed with a guardian;

29 (E) Being placed in the home of a fit and willing relative of the
30 child; or

31 (F) Being placed in some other alternative permanent placement,
32 including independent living or long-term foster care.

33 (c)(i) If the permanency plan identifies independent living as a
34 goal, the court shall make a finding that the provision of services to
35 assist the child in making a transition from foster care to independent
36 living will allow the child to manage his or her financial, personal,
37 social, educational, and nonfinancial affairs prior to approving
38 independent living as a permanency plan of care.

1 (ii) The permanency plan shall also specifically identify the
2 services that will be provided to assist the child to make a successful
3 transition from foster care to independent living.

4 (iii) The department shall not discharge a child to an independent
5 living situation before the child is eighteen years of age unless the
6 child becomes emancipated pursuant to chapter 13.64 RCW.

7 (d) If the child has resided in the home of a foster parent or
8 relative for more than six months prior to the permanency planning
9 hearing, the court shall also enter a finding regarding whether the
10 foster parent or relative was informed of the hearing as required in
11 RCW 74.13.280 (~~and 13.34.138~~), 13.34.215(5), and 13.34.096.

12 ~~((4))~~ (5) In all cases, at the permanency planning hearing, the
13 court shall:

14 (a)(i) Order the permanency plan prepared by the agency to be
15 implemented; or

16 (ii) Modify the permanency plan, and order implementation of the
17 modified plan; and

18 (b)(i) Order the child returned home only if the court finds that
19 a reason for removal as set forth in RCW 13.34.130 no longer exists; or

20 (ii) Order the child to remain in out-of-home care for a limited
21 specified time period while efforts are made to implement the
22 permanency plan.

23 ~~((5))~~ (6) Following the first permanency planning hearing, the
24 court shall hold a further permanency planning hearing in accordance
25 with this section at least once every twelve months until a permanency
26 planning goal is achieved or the dependency is dismissed, whichever
27 occurs first.

28 ~~((6))~~ (7) Prior to the second permanency planning hearing, the
29 agency that has custody of the child shall consider whether to file a
30 petition for termination of parental rights.

31 ~~((7))~~ (8) If the court orders the child returned home, casework
32 supervision shall continue for at least six months, at which time a
33 review hearing shall be held pursuant to RCW 13.34.138, and the court
34 shall determine the need for continued intervention.

35 ~~((8))~~ (9) The juvenile court may hear a petition for permanent
36 legal custody when: (a) The court has ordered implementation of a
37 permanency plan that includes permanent legal custody; and (b) the
38 party pursuing the permanent legal custody is the party identified in

1 the permanency plan as the prospective legal custodian. During the
2 pendency of such proceeding, the court shall conduct review hearings
3 and further permanency planning hearings as provided in this chapter.
4 At the conclusion of the legal guardianship or permanent legal custody
5 proceeding, a juvenile court hearing shall be held for the purpose of
6 determining whether dependency should be dismissed. If a guardianship
7 or permanent custody order has been entered, the dependency shall be
8 dismissed.

9 ~~((9))~~ (10) Continued juvenile court jurisdiction under this
10 chapter shall not be a barrier to the entry of an order establishing a
11 legal guardianship or permanent legal custody when the requirements of
12 subsection ~~((8))~~ (9) of this section are met.

13 ~~((10))~~ (11) Nothing in this chapter may be construed to limit the
14 ability of the agency that has custody of the child to file a petition
15 for termination of parental rights or a guardianship petition at any
16 time following the establishment of dependency. Upon the filing of
17 such a petition, a fact-finding hearing shall be scheduled and held in
18 accordance with this chapter unless the agency requests dismissal of
19 the petition prior to the hearing or unless the parties enter an agreed
20 order terminating parental rights, establishing guardianship, or
21 otherwise resolving the matter.

22 ~~((11))~~ (12) The approval of a permanency plan that does not
23 contemplate return of the child to the parent does not relieve the
24 supervising agency of its obligation to provide reasonable services,
25 under this chapter, intended to effectuate the return of the child to
26 the parent, including but not limited to, visitation rights. The court
27 shall consider the child's relationships with siblings in accordance
28 with RCW 13.34.130.

29 ~~((12))~~ (13) Nothing in this chapter may be construed to limit the
30 procedural due process rights of any party in a termination or
31 guardianship proceeding filed under this chapter.

32 **Sec. 4.** RCW 13.34.020 and 1998 c 314 s 1 are each amended to read
33 as follows:

34 The legislature declares that the family unit is a fundamental
35 resource of American life which should be nurtured. Toward the
36 continuance of this principle, the legislature declares that the family
37 unit should remain intact unless a child's right to conditions of basic

1 nurture, health, or safety is jeopardized. When the rights of basic
2 nurture, physical and mental health, and safety of the child and the
3 legal rights of the parents are in conflict, the rights and safety of
4 the child should prevail. In making reasonable efforts under this
5 chapter, the child's health ((and)), safety, and long-term well-being
6 shall be the paramount concern. The right of a child to basic
7 nurturing includes the right to a safe, stable, and permanent home and
8 a speedy resolution of any proceeding under this chapter.

9 NEW SECTION. **Sec. 5.** Subject to the availability of funds
10 appropriated for this purpose, the department shall contract for an
11 information and referral services provider to support families with
12 children adopted out of foster care. The contract shall include
13 components for statewide support of families who may be seeking
14 adoption-specific resources and information, including referrals for
15 individual or family counseling, support groups, or community services;
16 and relevant training programs. The information and referrals must be
17 provided by an entity knowledgeable and experienced in adoption issues.
18 The contract shall specify that the service provider must serve as the
19 central point of contact for Washington families seeking adoption-
20 related information and referral services. The department also shall
21 develop a simple process for voluntary sharing of contact information
22 for adoptive parents for the purpose of facilitating periodic surveys
23 by the contracted information and referral services provider about the
24 service and support needs of families who have adopted children from
25 foster care.

26 NEW SECTION. **Sec. 6.** (1) The definitions in this subsection apply
27 throughout this section unless the context clearly requires otherwise.

28 (a) "Adopted" means that a valid decree of adoption regarding the
29 child and parent was entered and remains intact in Washington or in
30 another jurisdiction.

31 (b) "Child" means any child under the age of eighteen who was found
32 to be dependent, placed in out-of-home care, and subsequently was
33 adopted from an out-of-home placement.

34 (c) "Licensed facility" means a facility licensed under chapter
35 74.15 RCW to provide residential evaluation and treatment services for
36 children.

1 (d) "Parent" means the adoptive and legal parent of a child
2 according to the terms of a valid decree of adoption, or the legal
3 guardian of an adopted child.

4 (e) "Voluntary placement agreement" means a written agreement
5 between the department and a child's parent authorizing the department
6 to place the child in a licensed facility for the purpose of receiving
7 mental health or behavioral health treatment intended to stabilize the
8 child's functioning and support the child's return home. Under the
9 terms of a voluntary placement agreement, the parent retains legal
10 custody of the child while the department temporarily assumes
11 responsibility for the child's placement and care.

12 (2) A parent may request and the department may agree to enter into
13 a voluntary placement agreement whenever the following conditions are
14 met:

15 (a) The child resides in Washington state;

16 (b) Less intensive and traditional family preservation services,
17 community resources, and/or adoption supports have been unsuccessful or
18 are not likely to be successful in stabilizing the child's behavior and
19 functioning; and

20 (c) The parent has no reasonable alternative to access the level of
21 care necessary to meet the child's needs and preserve the adoption.

22 (3)(a) Whenever the department assumes responsibility for the
23 placement and care of a child under this section, the department, in
24 consultation with the child, the child's parent, and a mental health
25 professional, shall develop a plan for the child's eventual return
26 home. If the plan anticipates the child will remain in out-of-home
27 care one hundred eighty days or longer, or if at any time it appears
28 the child will remain in out-of-home care longer than one hundred
29 eighty days, the department and the parent shall jointly seek a
30 judicial determination that the agreement is in the child's best
31 interests. If the child exits the out-of-home placement before one
32 hundred eighty days have elapsed, no judicial determination is
33 required.

34 (b) To obtain the judicial determination required under this
35 section, the department and the parent shall file a joint petition
36 alleging there is located or residing within the county a child who was
37 adopted from the foster care system whose current behavioral health or
38 mental health needs can not be met adequately by the child's parent,

1 and that as a result the child has been placed in out-of-home care
2 pursuant to this section. The petition shall request that the court
3 conduct periodic reviews of the child's placement and make a
4 determination whether continued placement is in the best interests of
5 the child. The petition shall contain the name, date of birth, and
6 residence of the child and the names and residences of the child's
7 parent or legal guardian who has consented to the voluntary placement
8 agreement. The department shall make reasonable attempts to ascertain
9 and set forth in the petition the identity, location, and custodial
10 status of any parent who is not a party to the placement agreement and
11 reasons why that parent cannot assume placement and care authority of
12 the child.

13 (c) Permanency planning for the child shall be the joint
14 responsibility of the department and the parent.

15 (4) A written agreement under this section must specify the legal
16 status of the child and the rights and obligations of the parent, the
17 child, and the department while the child is in the licensed facility.
18 Any party to the agreement may terminate the agreement at any time by
19 providing advance notice to the other party and to the child if he or
20 she is thirteen years of age or older. Upon termination of the
21 agreement, the child must be returned to the care of his or her parent
22 unless the child has been taken into custody pursuant to RCW 13.34.050
23 or 26.44.050, placed in shelter care pursuant to RCW 13.34.060, or
24 placed in foster care pursuant to RCW 13.34.130.

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

27 (1) The legislature finds that as a condition of the state's
28 receipt of federal funds for foster care under Title IV-B and Title IV-
29 E of the social security act, all children in foster care must be
30 subjected to periodic court review. Unfortunately, this requirement
31 includes children who were adopted out of foster care and who
32 subsequently are temporarily returned to a foster care placement solely
33 because their parents have determined that the child's mental health or
34 behavioral health service needs require an out-of-home placement.
35 Except for providing such needed services, the parents of these
36 children are completely competent to care for the children. The
37 legislature intends that court review of out-of-home placements

1 pursuant to section 6 of this act be structured to minimize the stress
2 and inconvenience to families caused by complying with these federal
3 requirements.

4 (2) Upon filing of the petition required under section 6 of this
5 act, the clerk of the court shall schedule the petition for a hearing
6 to be held no later than fourteen calendar days after the petition has
7 been filed. The department shall provide notification of the time,
8 date, and purpose of the hearing to the parent or legal guardian who
9 has agreed to the child's placement in out-of-home care. The
10 department shall also make reasonable attempts to notify any parent who
11 is not a party to the placement agreement, if the parent's identity and
12 location are known. Notification under this section may be given by
13 the most expedient means, including but not limited to mail, personal
14 service, and telephone.

15 **Sec. 8.** RCW 74.13.080 and 1987 c 170 s 11 are each amended to read
16 as follows:

17 Except as provided in RCW 74.13.350 and section 6 of this act, the
18 department shall not make payment for any child in group care placement
19 unless the group home is licensed and the department has the ((~~custody~~
20 ~~of~~)) placement and care authority for the child under a court order or
21 a voluntary placement agreement and the authority to remove the child
22 in a cooperative manner after at least seventy-two hours notice to the
23 child care provider; such notice may be waived in emergency situations.
24 However, this requirement shall not be construed to prohibit the
25 department from making or mandate the department to make payment for
26 Indian children placed in facilities licensed by federally recognized
27 Indian tribes pursuant to chapter 74.15 RCW.

28 NEW SECTION. **Sec. 9.** Sections 5 and 6 of this act are each added
29 to chapter 74.13 RCW.

30 NEW SECTION. **Sec. 10.** If specific funding for the purposes of
31 sections 2 and 3 of this act, referencing sections 2 and 3 of this act
32 by bill or chapter number and section number, is not provided by June
33 30, 2008, in the omnibus appropriations act, sections 2 and 3 of this
34 act are null and void.

1 NEW SECTION. **Sec. 11.** If specific funding for the purposes of
2 section 5 of this act, referencing section 5 of this act by bill or
3 chapter number and section number, is not provided by June 30, 2008, in
4 the omnibus appropriations act, section 5 of this act is null and void.

5 NEW SECTION. **Sec. 12.** If specific funding for the purposes of
6 sections 6, 7, and 8 of this act, referencing sections 6, 7, and 8 of
7 this act by bill or chapter number and section number, is not provided
8 by June 30, 2008, in the omnibus appropriations act, sections 6, 7, and
9 8 of this act are null and void."

10 Correct the title.

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