

ESSB 6792 - H COMM AMD

By Committee on Appropriations

ADOPTED AND ENGROSSED 03/06/2008

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

3 "Sec. 1. RCW 13.34.215 and 2007 c 413 s 1 are each amended to read
4 as follows:

5 (1) A child may petition the juvenile court to reinstate the
6 previously terminated parental rights of his or her parent under the
7 following circumstances:

8 (a) The child was previously found to be a dependent child under
9 this chapter;

10 (b) The child's parent's rights were terminated in a proceeding
11 under this chapter;

12 (c) The child has not achieved his or her permanency plan within
13 three years of a final order of termination(~~(, or if the final order~~
14 ~~was appealed, within three years of exhaustion of any right to appeal~~
15 ~~the order terminating parental rights)); and~~

16 (d) (~~Absent good cause,~~) The child must be at least twelve years
17 old at the time the petition is filed. Upon the child's motion for
18 good cause shown, or on its own motion, the court may hear a petition
19 filed by a child younger than twelve years old.

20 (2) A child seeking to petition under this section shall be
21 provided counsel at no cost to the child.

22 (3) The petition must be signed by the child in the absence of a
23 showing of good cause as to why the child could not do so.

24 (4) If, after a threshold hearing to consider the parent's apparent
25 fitness and interest in reinstatement of parental rights, (~~it~~
26 ~~appears)) the court finds by a preponderance of the evidence that the
27 best interests of the child may be served by reinstatement of parental
28 rights, the juvenile court shall order that a hearing on the merits of
29 the petition be held.~~

1 (5) The court shall give prior notice for any proceeding under this
2 section, or cause prior notice to be given, to the department, the
3 child's attorney, and the child. The court shall also order the
4 department to give prior notice of any hearing to the child's former
5 parent whose parental rights are the subject of the petition, any
6 parent whose rights have not been terminated, the child's current
7 foster parent, relative caregiver, guardian or custodian, and the
8 child's tribe, if applicable.

9 (6) The juvenile court shall conditionally grant the petition if it
10 finds by clear and convincing evidence that the child has not achieved
11 his or her permanency plan and is not likely to imminently achieve his
12 or her permanency plan and that reinstatement of parental rights is in
13 the child's best interest. In determining whether reinstatement is in
14 the child's best interest the court shall consider, but is not limited
15 to, the following:

16 (a) Whether the parent whose rights are to be reinstated is a fit
17 parent and has remedied his or her deficits as provided in the record
18 of the prior termination proceedings and prior termination order;

19 (b) The age and maturity of the child, and the ability of the child
20 to express his or her preference;

21 (c) Whether the reinstatement of parental rights will present a
22 risk to the child's health, welfare, or safety; and

23 (d) Other material changes in circumstances, if any, that may have
24 occurred which warrant the granting of the petition.

25 (7) In determining whether the child has or has not achieved his or
26 her permanency plan or whether the child is likely to achieve his or
27 her permanency plan, the department shall provide the court, and the
28 court shall review, information related to any efforts to achieve the
29 permanency plan including efforts to achieve adoption or a permanent
30 guardianship.

31 (8)(a) If the court conditionally grants the petition under
32 subsection (6) of this section, the case will be continued for six
33 months and a temporary order of reinstatement entered. During this
34 period, the child shall be placed in the custody of the parent. The
35 department shall develop a permanency plan for the child reflecting the
36 plan to be reunification and shall provide transition services to the
37 family as appropriate.

1 (b) If the child must be removed from the parent due to abuse or
2 neglect allegations prior to the expiration of the conditional six-
3 month period, the court shall dismiss the petition for reinstatement of
4 parental rights if the court finds the allegations have been proven by
5 a preponderance of the evidence.

6 (c) If the child has been successfully placed with the parent for
7 six months, the court order reinstating parental rights remains in
8 effect and the court shall dismiss the dependency.

9 (9) After the child has been placed with the parent for six months,
10 the court shall hold a hearing. If the placement with the parent has
11 been successful, the court shall enter a final order of reinstatement
12 of parental rights, which shall restore all rights, powers, privileges,
13 immunities, duties, and obligations of the parent as to the child,
14 including those relating to custody, control, and support of the child.
15 The court shall dismiss the dependency and direct the clerk's office to
16 provide a certified copy of the final order of reinstatement of
17 parental rights to the parent at no cost.

18 (10) The granting of the petition under this section does not
19 vacate or otherwise affect the validity of the original termination
20 order.

21 ((+10+)) (11) Any parent whose rights are reinstated under this
22 section shall not be liable for any child support owed to the
23 department pursuant to RCW 13.34.160 or Title 26 RCW or costs of other
24 services provided to a child for the time period from the date of
25 termination of parental rights to the date parental rights are
26 reinstated.

27 ((+11+)) (12) A proceeding to reinstate parental rights is a
28 separate action from the termination of parental rights proceeding and
29 does not vacate the original termination of parental rights. An order
30 granted under this section reinstates the parental rights to the child.
31 This reinstatement is a recognition that the situation of the parent
32 and child have changed since the time of the termination of parental
33 rights and reunification is now appropriate.

34 ((+12+)) (13) This section is retroactive and applies to any child
35 who is under the jurisdiction of the juvenile court at the time of the
36 hearing regardless of the date parental rights were terminated.

37 (14) The state, the department, and its employees are not liable
38 for civil damages resulting from any act or omission in the provision

1 of services under this section, unless the act or omission constitutes
2 gross negligence. This section does not create any duty and shall not
3 be construed to create a duty where none exists. This section does not
4 create a cause of action against the state, the department, or its
5 employees concerning the original termination.

6 **Sec. 2.** RCW 13.34.065 and 2007 c 413 s 5 are each amended to read
7 as follows:

8 (1)(a) When a child is taken into custody, the court shall hold a
9 shelter care hearing within seventy-two hours, excluding Saturdays,
10 Sundays, and holidays. The primary purpose of the shelter care hearing
11 is to determine whether the child can be immediately and safely
12 returned home while the adjudication of the dependency is pending.

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

21 (2)(a) The department of social and health services shall submit a
22 recommendation to the court as to the further need for shelter care in
23 all cases in which it is the petitioner. In all other cases, the
24 recommendation shall be submitted by the juvenile court probation
25 counselor.

26 (b) All parties have the right to present testimony to the court
27 regarding the need or lack of need for shelter care.

28 (c) Hearsay evidence before the court regarding the need or lack of
29 need for shelter care must be supported by sworn testimony, affidavit,
30 or declaration of the person offering such evidence.

31 (3)(a) At the commencement of the hearing, the court shall notify
32 the parent, guardian, or custodian of the following:

33 (i) The parent, guardian, or custodian has the right to a shelter
34 care hearing;

35 (ii) The nature of the shelter care hearing, the rights of the
36 parents, and the proceedings that will follow; and

1 (iii) If the parent, guardian, or custodian is not represented by
2 counsel, the right to be represented. If the parent, guardian, or
3 custodian is indigent, the court shall appoint counsel as provided in
4 RCW 13.34.090; and

5 (b) If a parent, guardian, or legal custodian desires to waive the
6 shelter care hearing, the court shall determine, on the record and with
7 the parties present, whether such waiver is knowing and voluntary. A
8 parent may not waive his or her right to the shelter care hearing
9 unless he or she appears in court and the court determines that the
10 waiver is knowing and voluntary. Regardless of whether the court
11 accepts the parental waiver of the shelter care hearing, the court must
12 provide notice to the parents of their rights required under (a) of
13 this subsection and make the finding required under subsection (4) of
14 this section.

15 (4) At the shelter care hearing the court shall examine the need
16 for shelter care and inquire into the status of the case. The
17 paramount consideration for the court shall be the health, welfare, and
18 safety of the child. At a minimum, the court shall inquire into the
19 following:

20 (a) Whether the notice required under RCW 13.34.062 was given to
21 all known parents, guardians, or legal custodians of the child. The
22 court shall make an express finding as to whether the notice required
23 under RCW 13.34.062 was given to the parent, guardian, or legal
24 custodian. If actual notice was not given to the parent, guardian, or
25 legal custodian and the whereabouts of such person is known or can be
26 ascertained, the court shall order the supervising agency or the
27 department of social and health services to make reasonable efforts to
28 advise the parent, guardian, or legal custodian of the status of the
29 case, including the date and time of any subsequent hearings, and their
30 rights under RCW 13.34.090;

31 (b) Whether the child can be safely returned home while the
32 adjudication of the dependency is pending;

33 (c) What efforts have been made to place the child with a relative;

34 (d) What services were provided to the family to prevent or
35 eliminate the need for removal of the child from the child's home;

36 (e) Is the placement proposed by the agency the least disruptive
37 and most family-like setting that meets the needs of the child;

1 (f) Whether it is in the best interest of the child to remain
2 enrolled in the school, developmental program, or child care the child
3 was in prior to placement and what efforts have been made to maintain
4 the child in the school, program, or child care if it would be in the
5 best interest of the child to remain in the same school, program, or
6 child care;

7 (g) Appointment of a guardian ad litem or attorney;

8 (h) Whether the child is or may be an Indian child as defined in 25
9 U.S.C. Sec. 1903, whether the provisions of the Indian child welfare
10 act apply, and whether there is compliance with the Indian child
11 welfare act, including notice to the child's tribe;

12 (i) Whether, as provided in RCW 26.44.063, restraining orders, or
13 orders expelling an allegedly abusive (~~parent~~) household member from
14 the home of a nonabusive parent, guardian, or legal custodian, will
15 allow the child to safely remain in the home;

16 (j) Whether any orders for examinations, evaluations, or immediate
17 services are needed. (~~However,~~) The court may not order a parent to
18 undergo examinations, evaluation, or services at the shelter care
19 hearing unless the parent agrees to the examination, evaluation, or
20 service, except that if the court determines there is reasonable cause
21 to believe the abuse of alcohol or controlled substances or unmet
22 mental health needs are contributing factors to the alleged abuse or
23 neglect or inability to properly provide care for the child, the court
24 may order the parent to participate in a comprehensive chemical
25 dependency or mental health evaluation as arranged by the department;

26 (k) The terms and conditions for parental, sibling, and family
27 visitation.

28 (5)(a) The court shall release a child alleged to be dependent to
29 the care, custody, and control of the child's parent, guardian, or
30 legal custodian unless the court finds there is reasonable cause to
31 believe that:

32 (i) After consideration of the specific services that have been
33 provided, reasonable efforts have been made to prevent or eliminate the
34 need for removal of the child from the child's home and to make it
35 possible for the child to return home; and

36 (ii)(A) The child has no parent, guardian, or legal custodian to
37 provide supervision and care for such child; or

1 (B) The release of such child would present a serious threat of
2 substantial harm to such child, notwithstanding an order entered
3 pursuant to RCW 26.44.063; or

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

6 (b) If the court does not release the child to his or her parent,
7 guardian, or legal custodian, (~~and the child was initially placed with~~
8 ~~a relative pursuant to RCW 13.34.060(1),~~) the court shall order
9 (~~continued~~) placement with a relative, unless there is reasonable
10 cause to believe the health, safety, or welfare of the child would be
11 jeopardized or that the efforts to reunite the parent and child will be
12 hindered. The relative must be willing and available to:

13 (i) Care for the child and be able to meet any special needs of the
14 child;

15 (ii) Facilitate the child's visitation with siblings, if such
16 visitation is part of the supervising agency's plan or is ordered by
17 the court; and

18 (iii) Cooperate with the department in providing necessary
19 background checks and home studies.

20 (c) If the child was not initially placed with a relative, and the
21 court does not release the child to his or her parent, guardian, or
22 legal custodian, the supervising agency shall make reasonable efforts
23 to locate a relative pursuant to RCW 13.34.060(1).

24 (d) If a relative is not available, the court shall order continued
25 shelter care or order placement with another suitable person, and the
26 court shall set forth its reasons for the order. If the court orders
27 placement of the child with a person not related to the child and not
28 licensed to provide foster care, the placement is subject to all terms
29 and conditions of this section that apply to relative placements.

30 (e) Any placement with a relative, or other person approved by the
31 court pursuant to this section, shall be contingent upon cooperation
32 with the agency case plan and compliance with court orders related to
33 the care and supervision of the child including, but not limited to,
34 court orders regarding parent-child contacts, sibling contacts, and any
35 other conditions imposed by the court. Noncompliance with the case
36 plan or court order is grounds for removal of the child from the home
37 of the relative or other person, subject to review by the court.

1 (f) Uncertainty by a parent, guardian, legal custodian, relative,
2 or other suitable person that the alleged abuser has in fact abused the
3 child shall not, alone, be the basis upon which a child is removed from
4 the care of a parent, guardian, or legal custodian under (a) of this
5 subsection, nor shall it be a basis, alone, to preclude placement with
6 a relative under (b) of this subsection or with another suitable person
7 under (d) of this subsection.

8 (6)(a) A shelter care order issued pursuant to this section shall
9 include the requirement for a case conference as provided in RCW
10 13.34.067. However, if the parent is not present at the shelter care
11 hearing, or does not agree to the case conference, the court shall not
12 include the requirement for the case conference in the shelter care
13 order.

14 (b) If the court orders a case conference, the shelter care order
15 shall include notice to all parties and establish the date, time, and
16 location of the case conference which shall be no later than thirty
17 days before the fact-finding hearing.

18 (c) The court may order another conference, case staffing, or
19 hearing as an alternative to the case conference required under RCW
20 13.34.067 so long as the conference, case staffing, or hearing ordered
21 by the court meets all requirements under RCW 13.34.067, including the
22 requirement of a written agreement specifying the services to be
23 provided to the parent.

24 (7)(a) A shelter care order issued pursuant to this section may be
25 amended at any time with notice and hearing thereon. The shelter care
26 decision of placement shall be modified only upon a showing of change
27 in circumstances. No child may be placed in shelter care for longer
28 than thirty days without an order, signed by the judge, authorizing
29 continued shelter care.

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

34 (ii) The court shall consider whether nonconformance with any
35 conditions resulted from circumstances beyond the control of the
36 parent, guardian, or legal custodian and give weight to that fact
37 before ordering return of the child to shelter care.

1 (8)(a) If a child is returned home from shelter care a second time
2 in the case, or if the supervisor of the caseworker deems it necessary,
3 the multidisciplinary team may be reconvened.

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

7 **Sec. 3.** RCW 13.34.136 and 2007 c 413 s 7 are each amended to read
8 as follows:

9 (1) Whenever a child is ordered removed from the home, a permanency
10 plan shall be developed no later than sixty days from the time the
11 supervising agency assumes responsibility for providing services,
12 including placing the child, or at the time of a hearing under RCW
13 13.34.130, whichever occurs first. The permanency planning process
14 continues until a permanency planning goal is achieved or dependency is
15 dismissed. The planning process shall include reasonable efforts to
16 return the child to the parent's home.

17 (2) The agency supervising the dependency shall submit a written
18 permanency plan to all parties and the court not less than fourteen
19 days prior to the scheduled hearing. Responsive reports of parties not
20 in agreement with the supervising agency's proposed permanency plan
21 must be provided to the supervising agency, all other parties, and the
22 court at least seven days prior to the hearing.

23 The permanency plan shall include:

24 (a) A permanency plan of care that shall identify one of the
25 following outcomes as a primary goal and may identify additional
26 outcomes as alternative goals: Return of the child to the home of the
27 child's parent, guardian, or legal custodian; adoption; guardianship;
28 permanent legal custody; long-term relative or foster care, until the
29 child is age eighteen, with a written agreement between the parties and
30 the care provider; successful completion of a responsible living skills
31 program; or independent living, if appropriate and if the child is age
32 sixteen or older. The department shall not discharge a child to an
33 independent living situation before the child is eighteen years of age
34 unless the child becomes emancipated pursuant to chapter 13.64 RCW;

35 (b) Unless the court has ordered, pursuant to RCW 13.34.130(~~(+4)~~)
36 (5), that a termination petition be filed, a specific plan as to where
37 the child will be placed, what steps will be taken to return the child

1 home, what steps the agency will take to promote existing appropriate
2 sibling relationships and/or facilitate placement together or contact
3 in accordance with the best interests of each child, and what actions
4 the agency will take to maintain parent-child ties. All aspects of the
5 plan shall include the goal of achieving permanence for the child.

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

10 (ii) Visitation is the right of the family, including the child and
11 the parent, in cases in which visitation is in the best interest of the
12 child. Early, consistent, and frequent visitation is crucial for
13 maintaining parent-child relationships and making it possible for
14 parents and children to safely reunify. The agency shall encourage the
15 maximum parent and child and sibling contact possible, when it is in
16 the best interest of the child, including regular visitation and
17 participation by the parents in the care of the child while the child
18 is in placement. Visitation shall not be limited as a sanction for a
19 parent's failure to comply with court orders or services where the
20 health, safety, or welfare of the child is not at risk as a result of
21 the visitation. Visitation may be limited or denied only if the court
22 determines that such limitation or denial is necessary to protect the
23 child's health, safety, or welfare. The court and the agency should
24 rely upon community resources, relatives, foster parents, and other
25 appropriate persons to provide transportation and supervision for
26 visitation to the extent that such resources are available, and
27 appropriate, and the child's safety would not be compromised.

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

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

35 (v) Unless it is not in the best interests of the child, whenever
36 practical, the plan should ensure the child remains enrolled in the
37 school the child was attending at the time the child entered foster
38 care.

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

6 (c) If the court has ordered, pursuant to RCW 13.34.130(~~(+4)~~) (5),
7 that a termination petition be filed, a specific plan as to where the
8 child will be placed, what steps will be taken to achieve permanency
9 for the child, services to be offered or provided to the child, and, if
10 visitation would be in the best interests of the child, a
11 recommendation to the court regarding visitation between parent and
12 child pending a fact-finding hearing on the termination petition. The
13 agency shall not be required to develop a plan of services for the
14 parents or provide services to the parents if the court orders a
15 termination petition be filed. However, reasonable efforts to ensure
16 visitation and contact between siblings shall be made unless there is
17 reasonable cause to believe the best interests of the child or siblings
18 would be jeopardized.

19 (3) Permanency planning goals should be achieved at the earliest
20 possible date(~~(, preferably before)~~). If the child has been in out-of-
21 home care for fifteen of the most recent twenty-two months, the court
22 shall require the department to file a petition seeking termination of
23 parental rights in accordance with RCW 13.34.145(3)(b)(vi). In cases
24 where parental rights have been terminated, the child is legally free
25 for adoption, and adoption has been identified as the primary
26 permanency planning goal, it shall be a goal to complete the adoption
27 within six months following entry of the termination order.

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

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

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

38 (7) For purposes related to permanency planning:

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

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

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

9 **Sec. 4.** RCW 13.34.145 and 2007 c 413 s 9 are each amended to read
10 as follows:

11 (1) The purpose of a permanency planning hearing is to review the
12 permanency plan for the child, inquire into the welfare of the child
13 and progress of the case, and reach decisions regarding the permanent
14 placement of the child.

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

21 (b) Whenever a child is removed from the home of a dependency
22 guardian or long-term relative or foster care provider, and the child
23 is not returned to the home of the parent, guardian, or legal custodian
24 but is placed in out-of-home care, a permanency planning hearing shall
25 take place no later than twelve months, as provided in this section,
26 following the date of removal unless, prior to the hearing, the child
27 returns to the home of the dependency guardian or long-term care
28 provider, the child is placed in the home of the parent, guardian, or
29 legal custodian, an adoption decree, guardianship order, or a permanent
30 custody order is entered, or the dependency is dismissed.

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

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

5 (3) At the permanency planning hearing, the court shall conduct the
6 following inquiry:

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

11 (b) In cases where the primary permanency planning goal has not
12 been achieved, the court shall inquire regarding the reasons why the
13 primary goal has not been achieved and determine what needs to be done
14 to make it possible to achieve the primary goal. The court shall
15 review the permanency plan prepared by the agency and make explicit
16 findings regarding each of the following:

17 (i) The continuing necessity for, and the safety and
18 appropriateness of, the placement;

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

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

25 (iv) The progress toward eliminating the causes for the child's
26 placement outside of his or her home and toward returning the child
27 safely to his or her home or obtaining a permanent placement for the
28 child;

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

32 (vi) If the child has been placed outside of his or her home for
33 fifteen of the most recent twenty-two months, not including any period
34 during which the child was a runaway from the out-of-home placement or
35 the first six months of any period during which the child was returned
36 to his or her home for a trial home visit, the appropriateness of the
37 permanency plan, whether reasonable efforts were made by the agency to

1 achieve the goal of the permanency plan, and the circumstances which
2 prevent the child from any of the following:

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

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

6 (C) Being placed for adoption;

7 (D) Being placed with a guardian;

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

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

12 At this hearing, the court shall order the department to file a
13 petition seeking termination of parental rights if the child has been
14 in out-of-home care for fifteen of the last twenty-two months since the
15 date the dependency petition was filed unless the court makes a good
16 cause exception as to why the filing of a termination of parental
17 rights petition is not appropriate. Any good cause finding shall be
18 reviewed at all subsequent hearings pertaining to the child. For
19 purposes of this section, "good cause exception" includes but is not
20 limited to the following: The child is being cared for by a relative;
21 the department has not provided to the child's family such services as
22 the court and the department have deemed necessary for the child's safe
23 return home; or the department has documented in the case plan a
24 compelling reason for determining that filing a petition to terminate
25 parental rights would not be in the child's best interests.

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

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

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

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

6 (4) In all cases, at the permanency planning hearing, the court
7 shall:

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

10 (ii) Modify the permanency plan, and order implementation of the
11 modified plan; and

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

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

17 (5) Following the first permanency planning hearing, the court
18 shall hold a further permanency planning hearing in accordance with
19 this section at least once every twelve months until a permanency
20 planning goal is achieved or the dependency is dismissed, whichever
21 occurs first.

22 (6) Prior to the second permanency planning hearing, the agency
23 that has custody of the child shall consider whether to file a petition
24 for termination of parental rights.

25 (7) If the court orders the child returned home, casework
26 supervision shall continue for at least six months, at which time a
27 review hearing shall be held pursuant to RCW 13.34.138, and the court
28 shall determine the need for continued intervention.

29 (8) The juvenile court may hear a petition for permanent legal
30 custody when: (a) The court has ordered implementation of a permanency
31 plan that includes permanent legal custody; and (b) the party pursuing
32 the permanent legal custody is the party identified in the permanency
33 plan as the prospective legal custodian. During the pendency of such
34 proceeding, the court shall conduct review hearings and further
35 permanency planning hearings as provided in this chapter. At the
36 conclusion of the legal guardianship or permanent legal custody
37 proceeding, a juvenile court hearing shall be held for the purpose of

1 determining whether dependency should be dismissed. If a guardianship
2 or permanent custody order has been entered, the dependency shall be
3 dismissed.

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

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

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

24 (12) Nothing in this chapter may be construed to limit the
25 procedural due process rights of any party in a termination or
26 guardianship proceeding filed under this chapter.

27 **Sec. 5.** RCW 26.44.063 and 2000 c 119 s 12 are each amended to read
28 as follows:

29 (1) It is the intent of the legislature to minimize trauma to a
30 child involved in an allegation of sexual or physical abuse. The
31 legislature declares that removing the child from the home or the care
32 of a parent, guardian, or legal custodian often has the effect of
33 further traumatizing the child. It is, therefore, the legislature's
34 intent that the alleged (~~offender~~) abuser, rather than the child,
35 shall be removed or restrained from the (~~home~~) child's residence and
36 that this should be done at the earliest possible point of intervention

1 in accordance with RCW 10.31.100, (~~(13.34.130)~~) chapter 13.34 RCW, this
2 section, and RCW 26.44.130.

3 (2) In any judicial proceeding in which it is alleged that a child
4 has been subjected to sexual or physical abuse, if the court finds
5 reasonable grounds to believe that an incident of sexual or physical
6 abuse has occurred, the court may, on its own motion, or the motion of
7 the guardian ad litem or other parties, issue a temporary restraining
8 order or preliminary injunction restraining or enjoining the person
9 accused of committing the abuse from:

10 (a) Molesting or disturbing the peace of the alleged victim;

11 (b) Entering the family home of the alleged victim except as
12 specifically authorized by the court;

13 (c) Having any contact with the alleged victim, except as
14 specifically authorized by the court;

15 (d) Knowingly coming within, or knowingly remaining within, a
16 specified distance of a specified location.

17 (3) If the caretaker is willing, and does comply with the duties
18 prescribed in subsection (8) of this section, uncertainty by the
19 caretaker that the alleged abuser has in fact abused the alleged victim
20 shall not, alone, be a basis to remove the alleged victim from the
21 caretaker, nor shall it be considered neglect.

22 (4) In issuing a temporary restraining order or preliminary
23 injunction, the court may impose any additional restrictions that the
24 court in its discretion determines are necessary to protect the child
25 from further abuse or emotional trauma pending final resolution of the
26 abuse allegations.

27 (~~(4)~~) (5) The court shall issue a temporary restraining order
28 prohibiting a person from entering the family home if the court finds
29 that the order would eliminate the need for an out-of-home placement to
30 protect the child's right to nurturance, health, and safety and is
31 sufficient to protect the child from further sexual or physical abuse
32 or coercion.

33 (~~(5)~~) (6) The court may issue a temporary restraining order
34 without requiring notice to the party to be restrained or other parties
35 only if it finds on the basis of the moving affidavit or other evidence
36 that irreparable injury could result if an order is not issued until
37 the time for responding has elapsed.

1 ~~((6))~~ (7) A temporary restraining order or preliminary
2 injunction:

3 (a) Does not prejudice the rights of a party or any child which are
4 to be adjudicated at subsequent hearings in the proceeding; and

5 (b) May be revoked or modified.

6 ~~((7))~~ (8) The person having physical custody of the child shall
7 have an affirmative duty to assist in the enforcement of the
8 restraining order including but not limited to a duty to notify the
9 court as soon as practicable of any violation of the order, a duty to
10 request the assistance of law enforcement officers to enforce the
11 order, and a duty to notify the department of social and health
12 services of any violation of the order as soon as practicable if the
13 department is a party to the action. Failure by the custodial party to
14 discharge these affirmative duties shall be subject to contempt
15 proceedings.

16 ~~((8))~~ (9) Willful violation of a court order entered under this
17 section is a misdemeanor. A written order shall contain the court's
18 directive and shall bear the legend: "Violation of this order with
19 actual notice of its terms is a criminal offense under chapter 26.44
20 RCW, is also subject to contempt proceedings, and will subject a
21 violator to arrest."

22 ~~((9))~~ (10) If a restraining order issued under this section is
23 modified or terminated, the clerk of the court shall notify the law
24 enforcement agency specified in the order on or before the next
25 judicial day. Upon receipt of notice that an order has been
26 terminated, the law enforcement agency shall remove the order from any
27 computer-based criminal intelligence system.

28 **Sec. 6.** RCW 71.24.035 and 2007 c 414 s 2, 2007 c 410 s 8, and 2007
29 c 375 s 12 are each reenacted and amended to read as follows:

30 (1) The department is designated as the state mental health
31 authority.

32 (2) The secretary shall provide for public, client, and licensed
33 service provider participation in developing the state mental health
34 program, developing contracts with regional support networks, and any
35 waiver request to the federal government under medicaid.

36 (3) The secretary shall provide for participation in developing the

1 state mental health program for children and other underserved
2 populations, by including representatives on any committee established
3 to provide oversight to the state mental health program.

4 (4) The secretary shall be designated as the regional support
5 network if the regional support network fails to meet state minimum
6 standards or refuses to exercise responsibilities under RCW 71.24.045.

7 (5) The secretary shall:

8 (a) Develop a biennial state mental health program that
9 incorporates regional biennial needs assessments and regional mental
10 health service plans and state services for adults and children with
11 mental illness. The secretary shall also develop a six-year state
12 mental health plan;

13 (b) Assure that any regional or county community mental health
14 program provides access to treatment for the region's residents,
15 including parents who are ((defendants)) respondents in dependency
16 cases, in the following order of priority: (i) Persons with acute
17 mental illness; (ii) adults with chronic mental illness and children
18 who are severely emotionally disturbed; and (iii) persons who are
19 seriously disturbed. Such programs shall provide:

20 (A) Outpatient services;

21 (B) Emergency care services for twenty-four hours per day;

22 (C) Day treatment for persons with mental illness which includes
23 training in basic living and social skills, supported work, vocational
24 rehabilitation, and day activities. Such services may include
25 therapeutic treatment. In the case of a child, day treatment includes
26 age-appropriate basic living and social skills, educational and
27 prevocational services, day activities, and therapeutic treatment;

28 (D) Screening for patients being considered for admission to state
29 mental health facilities to determine the appropriateness of admission;

30 (E) Employment services, which may include supported employment,
31 transitional work, placement in competitive employment, and other work-
32 related services, that result in persons with mental illness becoming
33 engaged in meaningful and gainful full or part-time work. Other
34 sources of funding such as the division of vocational rehabilitation
35 may be utilized by the secretary to maximize federal funding and
36 provide for integration of services;

37 (F) Consultation and education services; and

38 (G) Community support services;

1 (c) Develop and adopt rules establishing state minimum standards
2 for the delivery of mental health services pursuant to RCW 71.24.037
3 including, but not limited to:

4 (i) Licensed service providers. These rules shall permit a county-
5 operated mental health program to be licensed as a service provider
6 subject to compliance with applicable statutes and rules. The
7 secretary shall provide for deeming of compliance with state minimum
8 standards for those entities accredited by recognized behavioral health
9 accrediting bodies recognized and having a current agreement with the
10 department;

11 (ii) Regional support networks; and

12 (iii) Inpatient services, evaluation and treatment services and
13 facilities under chapter 71.05 RCW, resource management services, and
14 community support services;

15 (d) Assure that the special needs of persons who are minorities,
16 elderly, disabled, children, low-income, and parents who are
17 (~~defendants~~) respondents in dependency cases are met within the
18 priorities established in this section;

19 (e) Establish a standard contract or contracts, consistent with
20 state minimum standards and RCW 71.24.320(~~(7)~~) and 71.24.330(~~(7—~~
21 ~~71.24.3201)~~), which shall be used in contracting with regional support
22 networks. The standard contract shall include a maximum fund balance,
23 which shall be consistent with that required by federal regulations or
24 waiver stipulations;

25 (f) Establish, to the extent possible, a standardized auditing
26 procedure which minimizes paperwork requirements of regional support
27 networks and licensed service providers. The audit procedure shall
28 focus on the outcomes of service and not the processes for
29 accomplishing them;

30 (g) Develop and maintain an information system to be used by the
31 state and regional support networks that includes a tracking method
32 which allows the department and regional support networks to identify
33 mental health clients' participation in any mental health service or
34 public program on an immediate basis. The information system shall not
35 include individual patient's case history files. Confidentiality of
36 client information and records shall be maintained as provided in this
37 chapter and in RCW 71.05.390, 71.05.420, and 71.05.440;

38 (h) License service providers who meet state minimum standards;

- 1 (i) Certify regional support networks that meet state minimum
2 standards;
- 3 (j) Periodically monitor the compliance of certified regional
4 support networks and their network of licensed service providers for
5 compliance with the contract between the department, the regional
6 support network, and federal and state rules at reasonable times and in
7 a reasonable manner;
- 8 (k) Fix fees to be paid by evaluation and treatment centers to the
9 secretary for the required inspections;
- 10 (l) Monitor and audit regional support networks and licensed
11 service providers as needed to assure compliance with contractual
12 agreements authorized by this chapter;
- 13 (m) Adopt such rules as are necessary to implement the department's
14 responsibilities under this chapter;
- 15 (n) Assure the availability of an appropriate amount, as determined
16 by the legislature in the operating budget by amounts appropriated for
17 this specific purpose, of community-based, geographically distributed
18 residential services;
- 19 (o) Certify crisis stabilization units that meet state minimum
20 standards; and
- 21 (p) Certify clubhouses that meet state minimum standards.
- 22 (6) The secretary shall use available resources only for regional
23 support networks, except to the extent authorized, and in accordance
24 with any priorities or conditions specified, in the biennial
25 appropriations act.
- 26 (7) Each certified regional support network and licensed service
27 provider shall file with the secretary, on request, such data,
28 statistics, schedules, and information as the secretary reasonably
29 requires. A certified regional support network or licensed service
30 provider which, without good cause, fails to furnish any data,
31 statistics, schedules, or information as requested, or files fraudulent
32 reports thereof, may have its certification or license revoked or
33 suspended.
- 34 (8) The secretary may suspend, revoke, limit, or restrict a
35 certification or license, or refuse to grant a certification or license
36 for failure to conform to: (a) The law; (b) applicable rules and
37 regulations; (c) applicable standards; or (d) state minimum standards.

1 (9) The superior court may restrain any regional support network or
2 service provider from operating without certification or a license or
3 any other violation of this section. The court may also review,
4 pursuant to procedures contained in chapter 34.05 RCW, any denial,
5 suspension, limitation, restriction, or revocation of certification or
6 license, and grant other relief required to enforce the provisions of
7 this chapter.

8 (10) Upon petition by the secretary, and after hearing held upon
9 reasonable notice to the facility, the superior court may issue a
10 warrant to an officer or employee of the secretary authorizing him or
11 her to enter at reasonable times, and examine the records, books, and
12 accounts of any regional support network or service provider refusing
13 to consent to inspection or examination by the authority.

14 (11) Notwithstanding the existence or pursuit of any other remedy,
15 the secretary may file an action for an injunction or other process
16 against any person or governmental unit to restrain or prevent the
17 establishment, conduct, or operation of a regional support network or
18 service provider without certification or a license under this chapter.

19 (12) The standards for certification of evaluation and treatment
20 facilities shall include standards relating to maintenance of good
21 physical and mental health and other services to be afforded persons
22 pursuant to this chapter and chapters 71.05 and 71.34 RCW, and shall
23 otherwise assure the effectuation of the purposes of these chapters.

24 (13) The standards for certification of crisis stabilization units
25 shall include standards that:

26 (a) Permit location of the units at a jail facility if the unit is
27 physically separate from the general population of the jail;

28 (b) Require administration of the unit by mental health
29 professionals who direct the stabilization and rehabilitation efforts;
30 and

31 (c) Provide an environment affording security appropriate with the
32 alleged criminal behavior and necessary to protect the public safety.

33 (14) The standards for certification of a clubhouse shall at a
34 minimum include:

35 (a) The facilities may be peer-operated and must be
36 recovery-focused;

37 (b) Members and employees must work together;

1 (c) Members must have the opportunity to participate in all the
2 work of the clubhouse, including administration, research, intake and
3 orientation, outreach, hiring, training and evaluation of staff, public
4 relations, advocacy, and evaluation of clubhouse effectiveness;

5 (d) Members and staff and ultimately the clubhouse director must be
6 responsible for the operation of the clubhouse, central to this
7 responsibility is the engagement of members and staff in all aspects of
8 clubhouse operations;

9 (e) Clubhouse programs must be comprised of structured activities
10 including but not limited to social skills training, vocational
11 rehabilitation, employment training and job placement, and community
12 resource development;

13 (f) Clubhouse programs must provide in-house educational programs
14 that significantly utilize the teaching and tutoring skills of members
15 and assist members by helping them to take advantage of adult education
16 opportunities in the community;

17 (g) Clubhouse programs must focus on strengths, talents, and
18 abilities of its members;

19 (h) The work-ordered day may not include medication clinics, day
20 treatment, or other therapy programs within the clubhouse.

21 (15) The department shall distribute appropriated state and federal
22 funds in accordance with any priorities, terms, or conditions specified
23 in the appropriations act.

24 (16) The secretary shall assume all duties assigned to the
25 nonparticipating regional support networks under chapters 71.05, 71.34,
26 and 71.24 RCW. Such responsibilities shall include those which would
27 have been assigned to the nonparticipating counties in regions where
28 there are not participating regional support networks.

29 The regional support networks, or the secretary's assumption of all
30 responsibilities under chapters 71.05, 71.34, and 71.24 RCW, shall be
31 included in all state and federal plans affecting the state mental
32 health program including at least those required by this chapter, the
33 medicaid program, and P.L. 99-660. Nothing in these plans shall be
34 inconsistent with the intent and requirements of this chapter.

35 (17) The secretary shall:

36 (a) Disburse funds for the regional support networks within sixty
37 days of approval of the biennial contract. The department must either
38 approve or reject the biennial contract within sixty days of receipt.

1 (b) Enter into biennial contracts with regional support networks.
2 The contracts shall be consistent with available resources. No
3 contract shall be approved that does not include progress toward
4 meeting the goals of this chapter by taking responsibility for: (i)
5 Short-term commitments; (ii) residential care; and (iii) emergency
6 response systems.

7 (c) Notify regional support networks of their allocation of
8 available resources at least sixty days prior to the start of a new
9 biennial contract period.

10 (d) Deny all or part of the funding allocations to regional support
11 networks based solely upon formal findings of noncompliance with the
12 terms of the regional support network's contract with the department.
13 Regional support networks disputing the decision of the secretary to
14 withhold funding allocations are limited to the remedies provided in
15 the department's contracts with the regional support networks.

16 (18) The department, in cooperation with the state congressional
17 delegation, shall actively seek waivers of federal requirements and
18 such modifications of federal regulations as are necessary to allow
19 federal medicaid reimbursement for services provided by free-standing
20 evaluation and treatment facilities certified under chapter 71.05 RCW.
21 The department shall periodically report its efforts to the appropriate
22 committees of the senate and the house of representatives.

23 **Sec. 7.** RCW 74.13.031 and 2007 c 413 s 10 are each amended to read
24 as follows:

25 The department shall have the duty to provide child welfare
26 services and shall:

27 (1) Develop, administer, supervise, and monitor a coordinated and
28 comprehensive plan that establishes, aids, and strengthens services for
29 the protection and care of runaway, dependent, or neglected children.

30 (2) Within available resources, recruit an adequate number of
31 prospective adoptive and foster homes, both regular and specialized,
32 i.e. homes for children of ethnic minority, including Indian homes for
33 Indian children, sibling groups, handicapped and emotionally disturbed,
34 teens, pregnant and parenting teens, and annually report to the
35 governor and the legislature concerning the department's success in:

36 (a) Meeting the need for adoptive and foster home placements; (b)
37 reducing the foster parent turnover rate; (c) completing home studies

1 for legally free children; and (d) implementing and operating the
2 passport program required by RCW 74.13.285. The report shall include
3 a section entitled "Foster Home Turn-Over, Causes and Recommendations."

4 (3) Investigate complaints of any recent act or failure to act on
5 the part of a parent or caretaker that results in death, serious
6 physical or emotional harm, or sexual abuse or exploitation, or that
7 presents an imminent risk of serious harm, and on the basis of the
8 findings of such investigation, offer child welfare services in
9 relation to the problem to such parents, legal custodians, or persons
10 serving in loco parentis, and/or bring the situation to the attention
11 of an appropriate court, or another community agency(~~(+—PROVIDED,~~
12 ~~That~~)). An investigation is not required of nonaccidental injuries
13 which are clearly not the result of a lack of care or supervision by
14 the child's parents, legal custodians, or persons serving in loco
15 parentis. If the investigation reveals that a crime against a child
16 may have been committed, the department shall notify the appropriate
17 law enforcement agency.

18 (4) Offer, on a voluntary basis, family reconciliation services to
19 families who are in conflict.

20 (~~Monitor out-of-home placements, on a timely and routine~~
21 ~~basis, to assure the safety, well being, and quality of care being~~
22 ~~provided is within the scope of the intent of the legislature as~~
23 ~~defined in RCW 74.13.010 and 74.15.010, and annually submit a report~~
24 ~~measuring the extent to which the department achieved the specified~~
25 ~~goals to the governor and the legislature)) Monitor placements of
26 children in out-of-home care and in-home dependencies to assure the
27 safety, well-being, and quality of care being provided is within the
28 scope of the intent of the legislature as defined in RCW 74.13.010 and
29 74.15.010. The policy for monitoring placements under this section
30 shall require that children in out-of-home care and in-home
31 dependencies and their caregivers receive a private and individual
32 face-to-face visit each month.~~

33 (a) The department shall conduct the monthly visits with children
34 and caregivers required under this section unless the child's placement
35 is being supervised under a contract between the department and a
36 private agency accredited by a national child welfare accrediting
37 entity, in which case the private agency shall, within existing
38 resources, conduct the monthly visits with the child and with the

1 child's caregiver according to the standards described in this
2 subsection and shall provide the department with a written report of
3 the visits within fifteen days of completing the visits.

4 (b) In cases where the monthly visits required under this
5 subsection are being conducted by a private agency, the department
6 shall conduct a face-to-face health and safety visit with the child at
7 least once every ninety days.

8 (6) Have authority to accept custody of children from parents and
9 to accept custody of children from juvenile courts, where authorized to
10 do so under law, to provide child welfare services including placement
11 for adoption, to provide for the routine and necessary medical, dental,
12 and mental health care, or necessary emergency care of the children,
13 and to provide for the physical care of such children and make payment
14 of maintenance costs if needed. Except where required by Public Law
15 95-608 (25 U.S.C. Sec. 1915), no private adoption agency which receives
16 children for adoption from the department shall discriminate on the
17 basis of race, creed, or color when considering applications in their
18 placement for adoption.

19 (7) Have authority to provide temporary shelter to children who
20 have run away from home and who are admitted to crisis residential
21 centers.

22 (8) Have authority to purchase care for children; and shall follow
23 in general the policy of using properly approved private agency
24 services for the actual care and supervision of such children insofar
25 as they are available, paying for care of such children as are accepted
26 by the department as eligible for support at reasonable rates
27 established by the department.

28 (9) Establish a children's services advisory committee which shall
29 assist the secretary in the development of a partnership plan for
30 utilizing resources of the public and private sectors, and advise on
31 all matters pertaining to child welfare, licensing of child care
32 agencies, adoption, and services related thereto. At least one member
33 shall represent the adoption community.

34 (10)(a) Have authority to provide continued foster care or group
35 care as needed to participate in or complete a high school or
36 vocational school program.

37 (b)(i) Beginning in 2006, the department has the authority to allow
38 up to fifty youth reaching age eighteen to continue in foster care or

1 group care as needed to participate in or complete a posthigh school
2 academic or vocational program, and to receive necessary support and
3 transition services.

4 (ii) In 2007 and 2008, the department has the authority to allow up
5 to fifty additional youth per year reaching age eighteen to remain in
6 foster care or group care as provided in (b)(i) of this subsection.

7 (iii) A youth who remains eligible for such placement and services
8 pursuant to department rules may continue in foster care or group care
9 until the youth reaches his or her twenty-first birthday. Eligibility
10 requirements shall include active enrollment in a posthigh school
11 academic or vocational program and maintenance of a 2.0 grade point
12 average.

13 (11) Refer cases to the division of child support whenever state or
14 federal funds are expended for the care and maintenance of a child,
15 including a child with a developmental disability who is placed as a
16 result of an action under chapter 13.34 RCW, unless the department
17 finds that there is good cause not to pursue collection of child
18 support against the parent or parents of the child. Cases involving
19 individuals age eighteen through twenty shall not be referred to the
20 division of child support unless required by federal law.

21 (12) Have authority within funds appropriated for foster care
22 services to purchase care for Indian children who are in the custody of
23 a federally recognized Indian tribe or tribally licensed child-placing
24 agency pursuant to parental consent, tribal court order, or state
25 juvenile court order; and the purchase of such care shall be subject to
26 the same eligibility standards and rates of support applicable to other
27 children for whom the department purchases care.

28 Notwithstanding any other provision of RCW 13.32A.170 through
29 13.32A.200 and 74.13.032 through 74.13.036, or of this section all
30 services to be provided by the department of social and health services
31 under subsections (4), (6), and (7) of this section, subject to the
32 limitations of these subsections, may be provided by any program
33 offering such services funded pursuant to Titles II and III of the
34 federal juvenile justice and delinquency prevention act of 1974.

35 (13) Within amounts appropriated for this specific purpose, provide
36 preventive services to families with children that prevent or shorten
37 the duration of an out-of-home placement.

1 (14) Have authority to provide independent living services to
2 youths, including individuals who have attained eighteen years of age,
3 and have not attained twenty-one years of age who are or have been in
4 foster care.

5 (15) Consult at least quarterly with foster parents, including
6 members of the foster parent association of Washington state, for the
7 purpose of receiving information and comment regarding how the
8 department is performing the duties and meeting the obligations
9 specified in this section and RCW 74.13.250 and 74.13.320 regarding the
10 recruitment of foster homes, reducing foster parent turnover rates,
11 providing effective training for foster parents, and administering a
12 coordinated and comprehensive plan that strengthens services for the
13 protection of children. Consultation shall occur at the regional and
14 statewide levels.

15 NEW SECTION. **Sec. 8.** A new section is added to chapter 74.13 RCW
16 to read as follows:

17 (1) For the purpose of assisting foster youth in obtaining a
18 Washington state identicard, submission of the information and
19 materials listed in this subsection from the department to the
20 department of licensing is sufficient proof of identity and residency
21 and shall serve as the necessary authorization for the youth to apply
22 for and obtain a Washington state identicard:

23 (a) A written signed statement prepared on department letterhead,
24 verifying the following:

25 (i) The youth is a minor who resides in Washington;

26 (ii) Pursuant to a court order, the youth is dependent and the
27 department or other supervising agency is the legal custodian of the
28 youth under chapter 13.34 RCW or under the interstate compact on the
29 placement of children;

30 (iii) The youth's full name and date of birth;

31 (iv) The youth's social security number, if available;

32 (v) A brief physical description of the youth;

33 (vi) The appropriate address to be listed on the youth's
34 identicard; and

35 (vii) Contact information for the appropriate person at the
36 department.

1 (b) A photograph of the youth, which may be digitized and
2 integrated into the statement.

3 (2) The department may provide the statement and the photograph via
4 any of the following methods, whichever is most efficient or
5 convenient:

6 (a) Delivered via first-class mail or electronically to the
7 headquarters office of the department of licensing; or

8 (b) Hand-delivered to a local office of the department of licensing
9 by a department case worker.

10 (3) A copy of the statement shall be provided to the youth who
11 shall provide the copy to the department of licensing when making an
12 in-person application for a Washington state identicard.

13 (4) To the extent other identifying information is readily
14 available, the department shall include the additional information with
15 the submission of information required under subsection (1) of this
16 section.

17 **Sec. 9.** RCW 46.20.035 and 2004 c 249 s 2 are each amended to read
18 as follows:

19 The department may not issue an identicard or a Washington state
20 driver's license that is valid for identification purposes unless the
21 applicant meets the identification requirements of subsection (1), (2),
22 or (3) of this section.

23 (1) A driver's license or identicard applicant must provide the
24 department with at least one of the following pieces of valid
25 identifying documentation that contains the signature and a photograph
26 of the applicant:

27 (a) A valid or recently expired driver's license or instruction
28 permit that includes the date of birth of the applicant;

29 (b) A Washington state identicard or an identification card issued
30 by another state;

31 (c) An identification card issued by the United States, a state, or
32 an agency of either the United States or a state, of a kind commonly
33 used to identify the members or employees of the government agency;

34 (d) A military identification card;

35 (e) A United States passport; or

36 (f) An Immigration and Naturalization Service form.

1 (2) An applicant who is a minor may establish identity by providing
2 an affidavit of the applicant's parent or guardian. The parent or
3 guardian must accompany the minor and display or provide:

4 (a) At least one piece of documentation in subsection (1) of this
5 section establishing the identity of the parent or guardian; and

6 (b) Additional documentation establishing the relationship between
7 the parent or guardian and the applicant.

8 (3) A person unable to provide identifying documentation as
9 specified in subsection (1) or (2) of this section may request that the
10 department review other available documentation in order to ascertain
11 identity. The department may waive the requirement if it finds that
12 other documentation clearly establishes the identity of the applicant.
13 Notwithstanding the requirements in subsection (2) of this section, the
14 department shall issue an identicard to an applicant for whom it
15 receives documentation pursuant to section 8 of this act.

16 (4) An identicard or a driver's license that includes a photograph
17 that has been renewed by mail or by electronic commerce is valid for
18 identification purposes if the applicant met the identification
19 requirements of subsection (1), (2), or (3) of this section at the time
20 of previous issuance.

21 (5) The form of an applicant's name, as established under this
22 section, is the person's name of record for the purposes of this
23 chapter.

24 (6) If the applicant is unable to prove his or her identity under
25 this section, the department shall plainly label the license "not valid
26 for identification purposes."

27 **Sec. 10.** RCW 41.06.142 and 2002 c 354 s 208 are each amended to
28 read as follows:

29 (1) Any department, agency, or institution of higher education may
30 purchase services, including services that have been customarily and
31 historically provided by employees in the classified service under this
32 chapter, by contracting with individuals, nonprofit organizations,
33 businesses, employee business units, or other entities if the following
34 criteria are met:

35 (a) The invitation for bid or request for proposal contains
36 measurable standards for the performance of the contract;

1 (b) Employees in the classified service whose positions or work
2 would be displaced by the contract are provided an opportunity to offer
3 alternatives to purchasing services by contract and, if these
4 alternatives are not accepted, compete for the contract under
5 competitive contracting procedures in subsection (4) of this section;

6 (c) The contract with an entity other than an employee business
7 unit includes a provision requiring the entity to consider employment
8 of state employees who may be displaced by the contract;

9 (d) The department, agency, or institution of higher education has
10 established a contract monitoring process to measure contract
11 performance, costs, service delivery quality, and other contract
12 standards, and to cancel contracts that do not meet those standards;
13 and

14 (e) The department, agency, or institution of higher education has
15 determined that the contract results in savings or efficiency
16 improvements. The contracting agency must consider the consequences
17 and potential mitigation of improper or failed performance by the
18 contractor.

19 (2) Any provision contrary to or in conflict with this section in
20 any collective bargaining agreement in effect on July 1, 2005, is not
21 effective beyond the expiration date of the agreement.

22 (3) Contracting for services that is expressly mandated by the
23 legislature or was authorized by law prior to July 1, 2005, including
24 contracts and agreements between public entities, shall not be subject
25 to the processes set forth in subsections (1) (~~and~~), (4) (~~through~~
26 ~~+6~~), and (5) of this section.

27 (4) Competitive contracting shall be implemented as follows:

28 (a) At least ninety days prior to the date the contracting agency
29 requests bids from private entities for a contract for services
30 provided by classified employees, the contracting agency shall notify
31 the classified employees whose positions or work would be displaced by
32 the contract. The employees shall have sixty days from the date of
33 notification to offer alternatives to purchasing services by contract,
34 and the agency shall consider the alternatives before requesting bids.

35 (b) If the employees decide to compete for the contract, they shall
36 notify the contracting agency of their decision. Employees must form
37 one or more employee business units for the purpose of submitting a bid
38 or bids to perform the services.

1 (c) The director of personnel, with the advice and assistance of
2 the department of general administration, shall develop and make
3 available to employee business units training in the bidding process
4 and general bid preparation.

5 (d) The director of general administration, with the advice and
6 assistance of the department of personnel, shall, by rule, establish
7 procedures to ensure that bids are submitted and evaluated in a fair
8 and objective manner and that there exists a competitive market for the
9 service. Such rules shall include, but not be limited to: (i)
10 Prohibitions against participation in the bid evaluation process by
11 employees who prepared the business unit's bid or who perform any of
12 the services to be contracted; (ii) provisions to ensure no bidder
13 receives an advantage over other bidders and that bid requirements are
14 applied equitably to all parties; and (iii) procedures that require the
15 contracting agency to receive complaints regarding the bidding process
16 and to consider them before awarding the contract. Appeal of an
17 agency's actions under this subsection is an adjudicative proceeding
18 and subject to the applicable provisions of chapter 34.05 RCW, the
19 administrative procedure act, with the final decision to be rendered by
20 an administrative law judge assigned under chapter 34.12 RCW.

21 (e) An employee business unit's bid must include the fully
22 allocated costs of the service, including the cost of the employees'
23 salaries and benefits, space, equipment, materials, and other costs
24 necessary to perform the function. An employee business unit's cost
25 shall not include the state's indirect overhead costs unless those
26 costs can be attributed directly to the function in question and would
27 not exist if that function were not performed in state service.

28 (f) A department, agency, or institution of higher education may
29 contract with the department of general administration to conduct the
30 bidding process.

31 (5) As used in this section:

32 (a) "Employee business unit" means a group of employees who perform
33 services to be contracted under this section and who submit a bid for
34 the performance of those services under subsection (4) of this section.

35 (b) "Indirect overhead costs" means the pro rata share of existing
36 agency administrative salaries and benefits, and rent, equipment costs,
37 utilities, and materials associated with those administrative
38 functions.

1 (c) "Competitive contracting" means the process by which classified
2 employees of a department, agency, or institution of higher education
3 compete with businesses, individuals, nonprofit organizations, or other
4 entities for contracts authorized by subsection (1) of this section.

5 ~~(6) ((The joint legislative audit and review committee shall
6 conduct a performance audit of the implementation of this section,
7 including the adequacy of the appeals process in subsection (4)(d) of
8 this section, and report to the legislature by January 1, 2007, on the
9 results of the audit.))~~ The requirements of this section do not apply
10 to RCW 74.13.031(5).

11 NEW SECTION. **Sec. 11.** A new section is added to chapter 74.15 RCW
12 to read as follows:

13 To be eligible for placement in a HOPE center, a minor must be
14 either a street youth, as that term is defined in this chapter, or a
15 youth who, without placement in a HOPE center, will continue to
16 participate in increasingly risky behavior. Youth may also self-refer
17 to a HOPE center. Payment for a HOPE center bed is not contingent upon
18 prior approval by the department.

19 **Sec. 12.** RCW 74.15.240 and 1999 c 267 s 14 are each amended to
20 read as follows:

21 To be eligible for placement in a responsible living skills
22 program, the minor must be dependent under chapter 13.34 RCW and must
23 have lived in a HOPE center or in a secure crisis residential center.
24 However, if the minor's caseworker determines that placement in a
25 responsible living skills program would be the most appropriate
26 placement given the minor's current circumstances, prior residence in
27 a HOPE center or secure crisis residential center before placement in
28 a responsible living program is not required. Responsible living
29 skills centers are intended as a placement alternative for dependent
30 youth that the department chooses for the youth because no other
31 services or alternative placements have been successful. Responsible
32 living skills centers are not for dependent youth whose permanency plan
33 includes return to home or family reunification.

34 NEW SECTION. **Sec. 13.** A new section is added to chapter 13.34 RCW
35 to read as follows:

1 (1) A child who is age twelve years or older and who is the subject
2 of a dependency under this chapter has the following rights with
3 respect to all hearings conducted on his or her behalf under this
4 chapter:

5 (a) The right to receive notice of the proceedings and hearings;

6 (b) The right to be present at hearings; and

7 (c) The right to be heard personally.

8 (2) At the request of the child, the child's guardian ad litem or
9 attorney, or upon the court's own motion, the court may conduct an
10 interview with the child in chambers to determine the child's wishes as
11 to the issues pending before the court. The court may permit counsel
12 to be present at the interview. The court shall cause a record of the
13 interview to be made and to be made part of the record in the case.

14 (3) A child's right to attend a hearing conducted on his or her
15 behalf and to be heard by the court cannot be denied or limited by the
16 court absent a specific written finding by the court that such denial
17 or limitation is in the best interests of the child and necessary for
18 the health, safety, and welfare of the child.

19 (4) Prior to each hearing, the child's guardian ad litem or
20 attorney shall determine if the child wishes to be present and to be
21 heard at the hearing. If the child wishes to attend the hearing, the
22 guardian ad litem or attorney shall coordinate with the child's
23 caregiver and the department or supervising agency to make arrangements
24 for the child to attend the hearing. Nothing in this subsection shall
25 be construed to create a duty on the department or supervising agency
26 to transport the child.

27 **Sec. 14.** RCW 13.34.096 and 2007 c 409 s 1 are each amended to read
28 as follows:

29 (1) Prior to each proceeding held with respect to a child in
30 juvenile court under this chapter, the department of social and health
31 services or other supervising agency shall provide notice of the right
32 to be present and to be heard:

33 (a) To the child's foster parents, preadoptive parents, or other
34 caregivers (~~(with notice of their right to be heard prior to each~~
35 ~~proceeding held with respect to the child in juvenile court under this~~
36 ~~chapter))~~; and

37 (b) To the child if the child is age twelve years or older.

1 (2) The rights to notice and to be heard apply only to the child
2 and persons with whom ~~((a))~~ the child has been placed by the department
3 or other supervising agency and who are providing care to the child at
4 the time of the proceeding. This section shall not be construed to
5 grant party status to any person solely on the basis of such notice and
6 right to be heard.

7 **Sec. 15.** RCW 13.34.105 and 2000 c 124 s 4 are each amended to read
8 as follows:

9 (1) Unless otherwise directed by the court, the duties of the
10 guardian ad litem for a child subject to a proceeding under this
11 chapter, including an attorney specifically appointed by the court to
12 serve as a guardian ad litem, include but are not limited to the
13 following:

14 (a) To investigate, collect relevant information about the child's
15 situation, and report to the court factual information regarding the
16 best interests of the child;

17 (b) To meet with, interview, or observe the child, depending on the
18 child's age and developmental status, and report to the court any views
19 or positions expressed by the child on issues pending before the court;

20 (c) To monitor all court orders for compliance and to bring to the
21 court's attention any change in circumstances that may require a
22 modification of the court's order;

23 ~~((e))~~ (d) To report to the court information on the legal status
24 of a child's membership in any Indian tribe or band;

25 ~~((d))~~ (e) Court-appointed special advocates and guardians ad
26 litem may make recommendations based upon an independent investigation
27 regarding the best interests of the child, which the court may consider
28 and weigh in conjunction with the recommendations of all of the
29 parties; and

30 ~~((e))~~ (f) To represent and be an advocate for the best interests
31 of the child.

32 (2) A guardian ad litem shall be deemed an officer of the court for
33 the purpose of immunity from civil liability.

34 (3) Except for information or records specified in RCW
35 13.50.100~~((5))~~ (7), the guardian ad litem shall have access to all
36 information available to the state or agency on the case. Upon
37 presentation of the order of appointment by the guardian ad litem, any

1 agency, hospital, school organization, division or department of the
2 state, doctor, nurse, or other health care provider, psychologist,
3 psychiatrist, police department, or mental health clinic shall permit
4 the guardian ad litem to inspect and copy any records relating to the
5 child or children involved in the case, without the consent of the
6 parent or guardian of the child, or of the child if the child is under
7 the age of thirteen years, unless such access is otherwise specifically
8 prohibited by law.

9 (4) A guardian ad litem may release confidential information,
10 records, and reports to the office of the family and children's
11 ombudsman for the purposes of carrying out its duties under chapter
12 43.06A RCW.

13 (5) The guardian ad litem shall release case information in
14 accordance with the provisions of RCW 13.50.100.

15 NEW SECTION. **Sec. 16.** Section 7 of this act takes effect December
16 31, 2008.

17 NEW SECTION. **Sec. 17.** If specific funding for the purposes of
18 this act, referencing this act by bill or chapter number, is not
19 provided by June 30, 2008, in the omnibus appropriations act, this act
20 is null and void."

21 Correct the title.

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