

ESHB 1624 - S COMM AMD
By Committee on Ways & Means

ADOPTED AS AMENDED 04/09/2007

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

3 "NEW SECTION. **Sec. 1.** A new section is added to chapter 13.34 RCW
4 to read 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; and

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 was
14 appealed, within three years of exhaustion of any right to appeal the
15 order terminating parental rights.

16 (2) The child may file the petition prior to the expiration of this
17 three-year period if the department or the supervising or custodial
18 agency that is responsible for the custody or supervision of the child
19 and the child stipulate that the child is not likely to achieve his or
20 her permanency plan.

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

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

25 (5) If, after a threshold hearing to consider the parent's apparent
26 fitness and interest in reinstatement of parental rights, it appears
27 that the best interests of the child may be served by reinstatement of
28 parental rights, the juvenile court shall order that a hearing be held.

29 (6) The court shall give prior notice for any proceeding under this
30 section, or cause prior notice to be given, to the department, the

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

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

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

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

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

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

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

29 (9) The court shall grant the petition and dismiss the dependency
30 only if the child and the parent or parents who were the subject of a
31 petition under this section and whose parental rights were reinstated
32 agree that the child will return to the legal custody of the parent or
33 parents and the court finds that returning to the legal custody of the
34 parent or parents is in the best interests of the child and will not
35 present a risk to the child's health, welfare, or safety. The court
36 shall order the department to provide services necessary to ensure the
37 child's health, welfare, and safety, including a home study, as the
38 child transitions back into the parent's legal custody.

1 (10) The granting of the petition under this section does not
2 vacate or otherwise affect the validity of the original termination
3 order.

4 (11) Any parent whose rights are reinstated under this section
5 shall not be liable for any child support owed to the department
6 pursuant to RCW 13.34.160 for the time period from the date of
7 termination of parental rights to the date parental rights are
8 reinstated.

9 (12) The state, the department, and its employees are not liable
10 for civil damages resulting from any act or omission in the provision
11 of services under this section, unless the act or omission constitutes
12 gross negligence. This section does not create any duty and shall not
13 be construed to create a duty where none exists. This section does not
14 create a cause of action against the state, the department, or its
15 employees concerning the original termination.

16 (13) This section is retroactive and applies to any child who is
17 under the jurisdiction of the juvenile court at the time of the hearing
18 regardless of the date parental rights were terminated.

19 **Sec. 2.** RCW 13.34.200 and 2003 c 227 s 7 are each amended to read
20 as follows:

21 (1) Upon the termination of parental rights pursuant to RCW
22 13.34.180, all rights, powers, privileges, immunities, duties, and
23 obligations, including any rights to custody, control, visitation, or
24 support existing between the child and parent shall be severed and
25 terminated and the parent shall have no standing to appear at any
26 further legal proceedings concerning the child, except as provided in
27 section 1 of this act: PROVIDED, That any support obligation existing
28 prior to the effective date of the order terminating parental rights
29 shall not be severed or terminated. The rights of one parent may be
30 terminated without affecting the rights of the other parent and the
31 order shall so state.

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

1 (3) An order terminating the parent-child relationship shall
2 include a statement addressing the status of the child's sibling
3 relationships and the nature and extent of sibling placement, contact,
4 or visits.

5 NEW SECTION. **Sec. 3.** A new section is added to chapter 43.20A RCW
6 to read as follows:

7 The state is not liable for civil damages resulting from any act or
8 omission in the delivery of child welfare services or child protective
9 services through the children's administration of the department of
10 social and health services unless the act or omission constitutes gross
11 negligence. This section does not create any duty and shall not be
12 construed to create a duty where none exists.

13 **Sec. 4.** RCW 13.34.060 and 2002 c 52 s 4 are each amended to read
14 as follows:

15 (1) A child taken into custody pursuant to RCW 13.34.050 or
16 26.44.050 shall be immediately placed in shelter care. A child taken
17 by a relative of the child in violation of RCW 9A.40.060 or 9A.40.070
18 shall be placed in shelter care only when permitted under RCW
19 13.34.055. No child may be held longer than seventy-two hours,
20 excluding Saturdays, Sundays, and holidays, after such child is taken
21 into custody unless a court order has been entered for continued
22 shelter care. In no case may a child who is taken into custody
23 pursuant to RCW 13.34.055, 13.34.050, or 26.44.050 be detained in a
24 secure detention facility.

25 ~~((a))~~ (2) Unless there is reasonable cause to believe that the
26 health, safety, or welfare of the child would be jeopardized or that
27 the efforts to reunite the parent and child will be hindered, priority
28 placement for a child in shelter care, pending a court hearing, shall
29 be with any person described in RCW 74.15.020(2)(a). The person must
30 be willing and available to care for the child and be able to meet any
31 special needs of the child. The person must be willing to facilitate
32 the child's visitation with siblings, if such visitation is part of the
33 supervising agency's plan or is ordered by the court. If a child is
34 not initially placed with a relative or other person requested by the
35 parent pursuant to this section, the supervising agency shall make an
36 effort within available resources to place the child with a relative or

1 other person requested by the parent on the next business day after the
2 child is taken into custody. The supervising agency shall document its
3 effort to place the child with a relative or other person requested by
4 the parent pursuant to this section. Nothing within this subsection
5 ~~((1)(a))~~ (2) establishes an entitlement to services or a right to a
6 particular placement.

7 ~~((b))~~ (3) Whenever a child is taken into custody pursuant to this
8 section, the supervising agency may authorize evaluations of the
9 child's physical or emotional condition, routine medical and dental
10 examination and care, and all necessary emergency care. ~~((In no case~~
11 ~~may a child who is taken into custody pursuant to RCW 13.34.055,~~
12 ~~13.34.050, or 26.44.050 be detained in a secure detention facility. No~~
13 ~~child may be held longer than seventy two hours, excluding Saturdays,~~
14 ~~Sundays and holidays, after such child is taken into custody unless a~~
15 ~~court order has been entered for continued shelter care. The child and~~
16 ~~his or her parent, guardian, or custodian shall be informed that they~~
17 ~~have a right to a shelter care hearing. The court shall hold a shelter~~
18 ~~care hearing within seventy two hours after the child is taken into~~
19 ~~custody, excluding Saturdays, Sundays, and holidays. If a parent,~~
20 ~~guardian, or legal custodian desires to waive the shelter care hearing,~~
21 ~~the court shall determine, on the record and with the parties present,~~
22 ~~whether such waiver is knowing and voluntary.~~

23 ~~(2) Whenever a child is taken into custody by child protective~~
24 ~~services pursuant to a court order issued under RCW 13.34.050 or when~~
25 ~~child protective services is notified that a child has been taken into~~
26 ~~custody pursuant to RCW 26.44.050 or 26.44.056, child protective~~
27 ~~services shall make reasonable efforts to inform the parents, guardian,~~
28 ~~or legal custodian of the fact that the child has been taken into~~
29 ~~custody, the reasons why the child was taken into custody, and their~~
30 ~~legal rights under this title as soon as possible and in no event shall~~
31 ~~notice be provided more than twenty four hours after the child has been~~
32 ~~taken into custody or twenty four hours after child protective services~~
33 ~~has been notified that the child has been taken into custody. The~~
34 ~~notice of custody and rights may be given by any means reasonably~~
35 ~~certain of notifying the parents including, but not limited to,~~
36 ~~written, telephone, or in person oral notification. If the initial~~
37 ~~notification is provided by a means other than writing, child~~

1 ~~protective services shall make reasonable efforts to also provide~~
2 ~~written notification.))~~

3 **Sec. 5.** RCW 13.34.062 and 2004 c 147 s 2 are each amended to read
4 as follows:

5 (1)(a) Whenever a child is taken into custody by child protective
6 services pursuant to a court order issued under RCW 13.34.050 or when
7 child protective services is notified that a child has been taken into
8 custody pursuant to RCW 26.44.050 or 26.44.056, child protective
9 services shall make reasonable efforts to inform the parent, guardian,
10 or legal custodian of the fact that the child has been taken into
11 custody, the reasons why the child was taken into custody, and their
12 legal rights under this title, including the right to a shelter care
13 hearing, as soon as possible. Notice must be provided in an
14 understandable manner and take into consideration the parent's,
15 guardian's, or legal custodian's primary language, level of education,
16 and cultural issues.

17 (b) In no event shall the notice required by this section be
18 provided to the parent, guardian, or legal custodian more than twenty-
19 four hours after the child has been taken into custody or twenty-four
20 hours after child protective services has been notified that the child
21 has been taken into custody.

22 (2)(a) The notice of custody and rights may be given by any means
23 reasonably certain of notifying the parents including, but not limited
24 to, written, telephone, or in person oral notification. If the initial
25 notification is provided by a means other than writing, child
26 protective services shall make reasonable efforts to also provide
27 written notification.

28 (b) The written notice of custody and rights required by ((RCW
29 13.34.060)) this section shall be in substantially the following form:

30 "NOTICE

31 Your child has been placed in temporary custody under the
32 supervision of Child Protective Services (or other person or agency).
33 You have important legal rights and you must take steps to protect your
34 interests.

35 1. A court hearing will be held before a judge within 72 hours of
36 the time your child is taken into custody excluding Saturdays, Sundays,

1 If after making reasonable efforts to provide notification, child
2 protective services is unable to determine the whereabouts of the
3 parents, guardian, or legal custodian, the notice shall be delivered or
4 sent to the last known address of the parent, guardian, or legal
5 custodian.

6 ~~((2))~~ (3) If child protective services is not required to give
7 notice under ~~((RCW 13.34.060(2) and subsection (1) of))~~ this section,
8 the juvenile court counselor assigned to the matter shall make all
9 reasonable efforts to advise the parents, guardian, or legal custodian
10 of the time and place of any shelter care hearing, request that they be
11 present, and inform them of their basic rights as provided in RCW
12 13.34.090.

13 ~~((3))~~ (4) Reasonable efforts to advise and to give notice, as
14 required in ~~((RCW 13.34.060(2) and subsections (1) and (2) of))~~ this
15 section, shall include, at a minimum, investigation of the whereabouts
16 of the parent, guardian, or legal custodian. If such reasonable
17 efforts are not successful, or the parent, guardian, or legal custodian
18 does not appear at the shelter care hearing, the petitioner shall
19 testify at the hearing or state in a declaration:

20 (a) The efforts made to investigate the whereabouts of, and to
21 advise, the parent, guardian, or legal custodian; and

22 (b) Whether actual advice of rights was made, to whom it was made,
23 and how it was made, including the substance of any oral communication
24 or copies of written materials used.

25 ~~((4) The court shall hear evidence regarding notice given to, and
26 efforts to notify, the parent, guardian, or legal custodian and shall
27 examine the need for shelter care. The court shall hear evidence
28 regarding the efforts made to place the child with a relative. The
29 court shall make an express finding as to whether the notice required
30 under RCW 13.34.060(2) and subsections (1) and (2) of this section was
31 given to the parent, guardian, or legal custodian. All parties have
32 the right to present testimony to the court regarding the need or lack
33 of need for shelter care. Hearsay evidence before the court regarding
34 the need or lack of need for shelter care must be supported by sworn
35 testimony, affidavit, or declaration of the person offering such
36 evidence.~~

37 ~~(5)(a) A shelter care order issued pursuant to RCW 13.34.065 shall
38 include the requirement for a case conference as provided in RCW~~

1 ~~13.34.067. However, if the parent is not present at the shelter care~~
2 ~~hearing, or does not agree to the case conference, the court shall not~~
3 ~~include the requirement for the case conference in the shelter care~~
4 ~~order.~~

5 ~~(b) If the court orders a case conference, the shelter care order~~
6 ~~shall include notice to all parties and establish the date, time, and~~
7 ~~location of the case conference which shall be no later than thirty~~
8 ~~days prior to the fact finding hearing.~~

9 ~~(c) The court may order a conference or meeting as an alternative~~
10 ~~to the case conference required under RCW 13.34.067 so long as the~~
11 ~~conference or meeting ordered by the court meets all requirements under~~
12 ~~RCW 13.34.067, including the requirement of a written agreement~~
13 ~~specifying the services to be provided to the parent.~~

14 ~~(6) A shelter care order issued pursuant to RCW 13.34.065 may be~~
15 ~~amended at any time with notice and hearing thereon. The shelter care~~
16 ~~decision of placement shall be modified only upon a showing of change~~
17 ~~in circumstances. No child may be placed in shelter care for longer~~
18 ~~than thirty days without an order, signed by the judge, authorizing~~
19 ~~continued shelter care.~~

20 ~~(7) Any parent, guardian, or legal custodian who for good cause is~~
21 ~~unable to attend the initial shelter care hearing may request that a~~
22 ~~subsequent shelter care hearing be scheduled. The request shall be~~
23 ~~made to the clerk of the court where the petition is filed prior to the~~
24 ~~initial shelter care hearing. Upon the request of the parent, the~~
25 ~~court shall schedule the hearing within seventy two hours of the~~
26 ~~request, excluding Saturdays, Sundays, and holidays. The clerk shall~~
27 ~~notify all other parties of the hearing by any reasonable means.))~~

28 **Sec. 6.** RCW 13.34.065 and 2001 c 332 s 3 are each amended to read
29 as follows:

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

35 (b) Any parent, guardian, or legal custodian who for good cause is
36 unable to attend the shelter care hearing may request that a subsequent
37 shelter care hearing be scheduled. The request shall be made to the

1 clerk of the court where the petition is filed prior to the initial
2 shelter care hearing. Upon the request of the parent, the court shall
3 schedule the hearing within seventy-two hours of the request, excluding
4 Saturdays, Sundays, and holidays. The clerk shall notify all other
5 parties of the hearing by any reasonable means.

6 (2)(a) The ((juvenile court probation counselor)) department of
7 social and health services shall submit a recommendation to the court
8 as to the further need for shelter care ((unless the petition has been
9 filed by the department, in which case the recommendation shall be
10 submitted by the department)) in all cases in which it is the
11 petitioner. In all other cases, the recommendation shall be submitted
12 by the juvenile court probation counselor.

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

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

18 (3) At the commencement of the hearing, the court shall notify the
19 parent, guardian, or custodian of the following:

20 (a) The parent, guardian, or custodian has the right to a shelter
21 care hearing;

22 (b) The nature of the shelter care hearing and the proceedings that
23 will follow; and

24 (c) If the parent, guardian, or custodian is not represented by
25 counsel, the right to be represented. If the parent, guardian, or
26 custodian is indigent, the court shall appoint counsel as provided in
27 RCW 13.34.090.

28 (4) At the shelter care hearing the court shall examine the need
29 for shelter care and inquire into the status of the case. The
30 paramount consideration for the court shall be the health, welfare, and
31 safety of the child. At a minimum, the court shall inquire into the
32 following:

33 (a) Whether the notice required under RCW 13.34.062 was given to
34 all known parents, guardians, or legal custodians of the child. The
35 court shall make an express finding as to whether the notice required
36 under RCW 13.34.062 was given to the parent, guardian, or legal
37 custodian. If actual notice was not given to the parent, guardian, or
38 legal custodian and the whereabouts of such person is known or can be

1 ascertained, the court shall order the supervising agency or the
2 department of social and health services to make reasonable efforts to
3 advise the parent, guardian, or legal custodian of the status of the
4 case, including the date and time of any subsequent hearings, and their
5 rights under RCW 13.34.090;

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

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

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

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

13 (f) Whether it is in the best interest of the child to remain
14 enrolled in the school, developmental program, or child care the child
15 was in prior to placement;

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

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

21 (i) Whether restraining orders, or orders expelling an allegedly
22 abusive parent from the home, will allow the child to safely remain in
23 the home;

24 (j) Whether any orders, agreed to by all parties, for examinations,
25 evaluations, or immediate services are needed;

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

28 ~~((+2))~~ (5)(a) The court shall release a child alleged to be
29 dependent to the care, custody, and control of the child's parent,
30 guardian, or legal custodian unless the court finds there is reasonable
31 cause to believe that:

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

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

1 ~~((+ii))~~ (B) The release of such child would present a serious
2 threat of substantial harm to such child; or

3 ~~((+iii))~~ (C) The parent, guardian, or custodian to whom the child
4 could be released has been charged with violating RCW 9A.40.060 or
5 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 cause
10 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. ~~((The court shall~~
27 ~~enter a finding as to whether RCW 13.34.060(2) and subsections (1) and~~
28 ~~(2) of this section have been complied with. If actual notice was not~~
29 ~~given to the parent, guardian, or legal custodian and the whereabouts~~
30 ~~of such person is known or can be ascertained, the court shall order~~
31 ~~the supervising agency or the department of social and health services~~
32 ~~to make reasonable efforts to advise the parent, guardian, or legal~~
33 ~~custodian of the status of the case, including the date and time of any~~
34 ~~subsequent hearings, and their rights under RCW 13.34.090.~~

35 ~~(3))~~ If the court orders placement of the child with a person not
36 related to the child and not licensed to provide foster care, the
37 placement is subject to all terms and conditions of this section that
38 apply to relative placements.

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

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

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

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

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

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

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

1 (~~(4)~~) (8)(a) If a child is returned home from shelter care a
2 second time in the case, or if the supervisor of the caseworker deems
3 it necessary, the multidisciplinary team may be reconvened.

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

7 **Sec. 7.** RCW 13.34.110 and 2001 c 332 s 7 are each amended to read
8 as follows:

9 (1) The court shall hold a fact-finding hearing on the petition
10 and, unless the court dismisses the petition, shall make written
11 findings of fact, stating the reasons therefor. The rules of evidence
12 shall apply at the fact-finding hearing and the parent, guardian, or
13 legal custodian of the child shall have all of the rights provided in
14 RCW 13.34.090(1). The petitioner shall have the burden of establishing
15 by a preponderance of the evidence that the child is dependent within
16 the meaning of RCW 13.34.030.

17 (2) The court in a fact-finding hearing may consider the history of
18 past involvement of child protective services or law enforcement
19 agencies with the family for the purpose of establishing a pattern of
20 conduct, behavior, or inaction with regard to the health, safety, or
21 welfare of the child on the part of the child's parent, guardian, or
22 legal custodian, or for the purpose of establishing that reasonable
23 efforts have been made by the department to prevent or eliminate the
24 need for removal of the child from the child's home. No report of
25 child abuse or neglect that has been destroyed or expunged under RCW
26 26.44.031 may be used for such purposes.

27 (3)(a) The parent, guardian, or legal custodian of the child may
28 waive his or her right to a fact-finding hearing by stipulating or
29 agreeing to the entry of an order of dependency establishing that the
30 child is dependent within the meaning of RCW 13.34.030. The parent,
31 guardian, or legal custodian may also stipulate or agree to an order of
32 disposition pursuant to RCW 13.34.130 at the same time. Any stipulated
33 or agreed order of dependency or disposition must be signed by the
34 parent, guardian, or legal custodian and his or her attorney, unless
35 the parent, guardian, or legal custodian has waived his or her right to
36 an attorney in open court, and by the petitioner and the attorney,
37 guardian ad litem, or court-appointed special advocate for the child,

1 if any. If the department of social and health services is not the
2 petitioner and is required by the order to supervise the placement of
3 the child or provide services to any party, the department must also
4 agree to and sign the order.

5 (b) Entry of any stipulated or agreed order of dependency or
6 disposition is subject to approval by the court. The court shall
7 receive and review a social study before entering a stipulated or
8 agreed order and shall consider whether the order is consistent with
9 the allegations of the dependency petition and the problems that
10 necessitated the child's placement in out-of-home care. No social file
11 or social study may be considered by the court in connection with the
12 fact-finding hearing or prior to factual determination, except as
13 otherwise admissible under the rules of evidence.

14 (c) Prior to the entry of any stipulated or agreed order of
15 dependency, the parent, guardian, or legal custodian of the child and
16 his or her attorney must appear before the court and the court within
17 available resources must inquire and establish on the record that:

18 (i) The parent, guardian, or legal custodian understands the terms
19 of the order or orders he or she has signed, including his or her
20 responsibility to participate in remedial services as provided in any
21 disposition order;

22 (ii) The parent, guardian, or legal custodian understands that
23 entry of the order starts a process that could result in the filing of
24 a petition to terminate his or her relationship with the child within
25 the time frames required by state and federal law if he or she fails to
26 comply with the terms of the dependency or disposition orders or fails
27 to substantially remedy the problems that necessitated the child's
28 placement in out-of-home care;

29 (iii) The parent, guardian, or legal custodian understands that the
30 entry of the stipulated or agreed order of dependency is an admission
31 that the child is dependent within the meaning of RCW 13.34.030 and
32 shall have the same legal effect as a finding by the court that the
33 child is dependent by at least a preponderance of the evidence, and
34 that the parent, guardian, or legal custodian shall not have the right
35 in any subsequent proceeding for termination of parental rights or
36 dependency guardianship pursuant to this chapter or nonparental custody
37 pursuant to chapter 26.10 RCW to challenge or dispute the fact that the
38 child was found to be dependent; and

1 (iv) The parent, guardian, or legal custodian knowingly and
2 willingly stipulated and agreed to and signed the order or orders,
3 without duress, and without misrepresentation or fraud by any other
4 party.

5 If a parent, guardian, or legal custodian fails to appear before
6 the court after stipulating or agreeing to entry of an order of
7 dependency, the court may enter the order upon a finding that the
8 parent, guardian, or legal custodian had actual notice of the right to
9 appear before the court and chose not to do so. The court may require
10 other parties to the order, including the attorney for the parent,
11 guardian, or legal custodian, to appear and advise the court of the
12 parent's, guardian's, or legal custodian's notice of the right to
13 appear and understanding of the factors specified in this subsection.
14 A parent, guardian, or legal custodian may choose to waive his or her
15 presence at the in-court hearing for entry of the stipulated or agreed
16 order of dependency by submitting to the court through counsel a
17 completed stipulated or agreed dependency fact-finding/disposition
18 statement in a form determined by the Washington state supreme court
19 pursuant to General Rule GR 9.

20 ((+3)) (4) Immediately after the entry of the findings of fact,
21 the court shall hold a disposition hearing, unless there is good cause
22 for continuing the matter for up to fourteen days. If good cause is
23 shown, the case may be continued for longer than fourteen days. Notice
24 of the time and place of the continued hearing may be given in open
25 court. If notice in open court is not given to a party, that party
26 shall be notified by certified mail of the time and place of any
27 continued hearing. Unless there is reasonable cause to believe the
28 health, safety, or welfare of the child would be jeopardized or efforts
29 to reunite the parent and child would be hindered, the court shall
30 direct the department to notify those adult persons who: (a) Are
31 related by blood or marriage to the child in the following degrees:
32 Parent, grandparent, brother, sister, stepparent, stepbrother,
33 stepsister, uncle, or aunt; (b) are known to the department as having
34 been in contact with the family or child within the past twelve months;
35 and (c) would be an appropriate placement for the child. Reasonable
36 cause to dispense with notification to a parent under this section must
37 be proved by clear, cogent, and convincing evidence.

1 The parties need not appear at the fact-finding or dispositional
2 hearing if the parties, their attorneys, the guardian ad litem, and
3 court-appointed special advocates, if any, are all in agreement.

4 **Sec. 8.** RCW 13.34.136 and 2004 c 146 s 1 are each amended to read
5 as follows:

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

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

21 The permanency plan shall include:

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

33 (b) Unless the court has ordered, pursuant to RCW 13.34.130(4),
34 that a termination petition be filed, a specific plan as to where the
35 child will be placed, what steps will be taken to return the child
36 home, what steps the agency will take to promote existing appropriate
37 sibling relationships and/or facilitate placement together or contact

1 in accordance with the best interests of each child, and what actions
2 the agency will take to maintain parent-child ties. All aspects of the
3 plan shall include the goal of achieving permanence for the child.

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

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

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

30 (iv) Unless it is not in the best interests of the child, the plan
31 should ensure the child remains enrolled in the school the child was
32 attending at the time the child entered foster care.

33 (v) The agency charged with supervising a child in placement shall
34 provide all reasonable services that are available within the agency,
35 or within the community, or those services which the department has
36 existing contracts to purchase. It shall report to the court if it is
37 unable to provide such services; and

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

14 ~~((+2))~~ (3) Permanency planning goals should be achieved at the
15 earliest possible date, preferably before the child has been in out-of-
16 home care for fifteen months. In cases where parental rights have been
17 terminated, the child is legally free for adoption, and adoption has
18 been identified as the primary permanency planning goal, it shall be a
19 goal to complete the adoption within six months following entry of the
20 termination order.

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

27 ~~((+3))~~ (5) The identified outcomes and goals of the permanency
28 plan may change over time based upon the circumstances of the
29 particular case.

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

32 (7) For purposes related to permanency planning:

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

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

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

4 **Sec. 9.** RCW 13.34.138 and 2005 c 512 s 3 are each amended to read
5 as follows:

6 (1) Except for children whose cases are reviewed by a citizen
7 review board under chapter 13.70 RCW, the status of all children found
8 to be dependent shall be reviewed by the court at least every six
9 months from the beginning date of the placement episode or the date
10 dependency is established, whichever is first(~~(, at a)~~). The purpose
11 of the hearing ((in which it)) shall be ((determined)) to review the
12 progress of the parties and determine whether court supervision should
13 continue.

14 (a) The initial review hearing shall be an in-court review and
15 shall be set six months from the beginning date of the placement
16 episode or no more than ninety days from the entry of the disposition
17 order, whichever comes first. The requirements for the initial review
18 hearing, including the in-court review requirement, shall be
19 accomplished within existing resources.

20 (b) The supervising agency shall provide a foster parent or
21 relative with notice of, and his or her right to an opportunity to be
22 heard in, a review hearing pertaining to the child, but only if that
23 person is currently providing care to the child at the time of the
24 hearing. This section shall not be construed to grant party status to
25 any person who has been provided an opportunity to be heard.

26 (c) The initial review hearing may be a permanency planning hearing
27 when necessary to meet the time frames set forth in RCW
28 13.34.145(~~(+3)~~) (1)(a) or 13.34.134. (~~The review shall include~~
29 ~~findings regarding the agency and parental completion of disposition~~
30 ~~plan requirements, and if necessary, revised permanency time limits.~~
31 ~~This review shall consider both the agency's and parent's efforts that~~
32 ~~demonstrate consistent measurable progress over time in meeting the~~
33 ~~disposition plan requirements. The requirements for the initial review~~
34 ~~hearing, including the in-court requirement, shall be accomplished~~
35 ~~within existing resources. The supervising agency shall provide a~~
36 ~~foster parent, preadoptive parent, or relative with notice of, and~~
37 ~~their right to an opportunity to be heard in, a review hearing~~

1 ~~pertaining to the child, but only if that person is currently providing~~
2 ~~care to that child at the time of the hearing. This section shall not~~
3 ~~be construed to grant party status to any person who has been provided~~
4 ~~an opportunity to be heard.))~~

5 (2)(a) A child shall not be returned home at the review hearing
6 unless the court finds that a reason for removal as set forth in RCW
7 13.34.130 no longer exists. The parents, guardian, or legal custodian
8 shall report to the court the efforts they have made to correct the
9 conditions which led to removal. If a child is returned, casework
10 supervision shall continue for a period of six months, at which time
11 there shall be a hearing on the need for continued intervention.

12 (b) If the child is not returned home, the court shall establish in
13 writing:

14 (i) ~~((Whether reasonable services have been provided to or offered~~
15 ~~to the parties to facilitate reunion, specifying the services provided~~
16 ~~or offered)) Whether the agency is making reasonable efforts to provide~~
17 ~~services to the family and eliminate the need for placement of the~~
18 ~~child. If additional services, including housing assistance, are~~
19 ~~needed to facilitate the return of the child to the child's parents,~~
20 ~~the court shall order that reasonable services be offered specifying~~
21 ~~such services;~~

22 (ii) Whether there has been compliance with the case plan by the
23 child, the child's parents, and the agency supervising the placement;

24 (iii) Whether progress has been made toward correcting the problems
25 that necessitated the child's placement in out-of-home care;

26 (iv) Whether the services set forth in the case plan and the
27 responsibilities of the parties need to be clarified or modified due to
28 the availability of additional information or changed circumstances;

29 (v) Whether there is a continuing need for placement;

30 (vi) Whether the child is in an appropriate placement which
31 adequately meets all physical, emotional, and educational needs;

32 ~~((ii)) (vii) Whether ~~((the child has been placed in the least-~~~~
33 ~~restrictive setting appropriate to the child's needs, including whether~~
34 ~~consideration and)) preference has been given to placement with the~~
35 ~~child's relatives;~~

36 ~~((iii) Whether there is a continuing need for placement and~~
37 ~~whether the placement is appropriate;~~

1 ~~(iv) Whether there has been compliance with the case plan by the~~
2 ~~child, the child's parents, and the agency supervising the placement;~~

3 ~~(v) Whether progress has been made toward correcting the problems~~
4 ~~that necessitated the child's placement in out-of-home care;~~

5 ~~(vi))~~ (viii) Whether the parents have visited the child and any
6 reasons why visitation has not occurred or has been infrequent;

7 ~~((vii) Whether additional services, including housing assistance,~~
8 ~~are needed to facilitate the return of the child to the child's~~
9 ~~parents; if so, the court shall order that reasonable services be~~
10 ~~offered specifying such services; and~~

11 ~~(viii))~~ (ix) Whether terms of visitation need to be modified;

12 (x) Whether the court-approved long-term permanent plan for the
13 child remains the best plan for the child;

14 (xi) Whether any additional court orders need to be made to move
15 the case toward permanency; and

16 (xii) The projected date by which the child will be returned home
17 or other permanent plan of care will be implemented.

18 (c) The court at the review hearing may order that a petition
19 seeking termination of the parent and child relationship be filed.

20 ~~((2))~~ (3)(a) In any case in which the court orders that a
21 dependent child may be returned to or remain in the child's home, the
22 in-home placement shall be contingent upon the following:

23 (i) The compliance of the parents with court orders related to the
24 care and supervision of the child, including compliance with an agency
25 case plan; and

26 (ii) The continued participation of the parents, if applicable, in
27 available substance abuse or mental health treatment if substance abuse
28 or mental illness was a contributing factor to the removal of the
29 child.

30 (b) The following may be grounds for removal of the child from the
31 home, subject to review by the court:

32 (i) Noncompliance by the parents with the agency case plan or court
33 order;

34 (ii) The parent's inability, unwillingness, or failure to
35 participate in available services or treatment for themselves or the
36 child, including substance abuse treatment if a parent's substance
37 abuse was a contributing factor to the abuse or neglect; or

1 (iii) The failure of the parents to successfully and substantially
2 complete available services or treatment for themselves or the child,
3 including substance abuse treatment if a parent's substance abuse was
4 a contributing factor to the abuse or neglect.

5 ~~((3))~~ (4) The court's ability to order housing assistance under
6 RCW 13.34.130 and this section is: (a) Limited to cases in which
7 homelessness or the lack of adequate and safe housing is the primary
8 reason for an out-of-home placement; and (b) subject to the
9 availability of funds appropriated for this specific purpose.

10 ~~((4))~~ (5) The court shall consider the child's relationship with
11 siblings in accordance with RCW 13.34.130(3).

12 **Sec. 10.** RCW 13.34.145 and 2003 c 227 s 6 are each amended to read
13 as follows:

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

21 ~~(a) Whenever a child is placed in out-of-home care pursuant to RCW
22 13.34.130, the agency that has custody of the child shall provide the
23 court with a written permanency plan of care directed towards securing
24 a safe, stable, and permanent home for the child as soon as possible.
25 The plan shall identify one of the following outcomes as the primary
26 goal and may also identify additional outcomes as alternative goals:
27 Return of the child to the home of the child's parent, guardian, or
28 legal custodian; adoption; guardianship; permanent legal custody; long-
29 term relative or foster care, until the child is age eighteen, with a
30 written agreement between the parties and the care provider; a
31 responsible living skills program; and independent living, if
32 appropriate and if the child is age sixteen or older and the provisions
33 of subsection (2) of this section are met.~~

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

36 ~~(c) Permanency planning goals should be achieved at the earliest
37 possible date, preferably before the child has been in out-of-home care~~

1 for fifteen months. In cases where parental rights have been
2 terminated, the child is legally free for adoption, and adoption has
3 been identified as the primary permanency planning goal, it shall be a
4 goal to complete the adoption within six months following entry of the
5 termination order.

6 ~~(d) For purposes related to permanency planning:~~

7 ~~(i) "Guardianship" means a dependency guardianship, a legal~~
8 ~~guardianship pursuant to chapter 11.88 RCW, or equivalent laws of~~
9 ~~another state or a federally recognized Indian tribe.~~

10 ~~(ii) "Permanent custody order" means a custody order entered~~
11 ~~pursuant to chapter 26.10 RCW.~~

12 ~~(iii) "Permanent legal custody" means legal custody pursuant to~~
13 ~~chapter 26.10 RCW or equivalent laws of another state or of a federally~~
14 ~~recognized Indian tribe.~~

15 ~~(2) Whenever a permanency plan identifies independent living as a~~
16 ~~goal, the plan shall also specifically identify the services that will~~
17 ~~be provided to assist the child to make a successful transition from~~
18 ~~foster care to independent living. Before the court approves~~
19 ~~independent living as a permanency plan of care, the court shall make~~
20 ~~a finding that the provision of services to assist the child in making~~
21 ~~a transition from foster care to independent living will allow the~~
22 ~~child to manage his or her financial, personal, social, educational,~~
23 ~~and nonfinancial affairs. The department shall not discharge a child~~
24 ~~to an independent living situation before the child is eighteen years~~
25 ~~of age unless the child becomes emancipated pursuant to chapter 13.64~~
26 ~~RCW.~~

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

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

37 ~~((4))~~ (b) Whenever a child is removed from the home of a
38 dependency guardian or long-term relative or foster care provider, and

1 the child is not returned to the home of the parent, guardian, or legal
2 custodian but is placed in out-of-home care, a permanency planning
3 hearing shall take place no later than twelve months, as provided in
4 (~~subsection (3) of~~) this section, following the date of removal
5 unless, prior to the hearing, the child returns to the home of the
6 dependency guardian or long-term care provider, the child is placed in
7 the home of the parent, guardian, or legal custodian, an adoption
8 decree, guardianship order, or a permanent custody order is entered, or
9 the dependency is dismissed.

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

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

21 ~~((+6))~~ (3) At the permanency planning hearing, the court shall
22 ~~((enter findings as required by RCW 13.34.138 and shall review the~~
23 ~~permanency plan prepared by the agency)) conduct the following inquiry:~~

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

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

34 (i) The continuing necessity for, and the safety and
35 appropriateness of, the placement;

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

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

4 (iv) The progress toward eliminating the causes for the child's
5 placement outside of his or her home and toward returning the child
6 safely to his or her home or obtaining a permanent placement for the
7 child;

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

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

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

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

22 (C) Being placed for adoption;

23 (D) Being placed with a guardian;

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

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

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

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

37 (iii) The department shall not discharge a child to an independent

1 living situation before the child is eighteen years of age unless the
2 child becomes emancipated pursuant to chapter 13.64 RCW.

3 (d) If the child has resided in the home of a foster parent or
4 relative for more than six months prior to the permanency planning
5 hearing, the court shall also enter a finding regarding whether the
6 foster parent or relative was informed of the hearing as required in
7 RCW 74.13.280 and 13.34.138. ((If a goal of long term foster or
8 relative care has been achieved prior to the permanency planning
9 hearing, the court shall review the child's status to determine whether
10 the placement and the plan for the child's care remain appropriate. In
11 cases where the primary permanency planning goal has not been achieved,
12 the court shall inquire regarding the reasons why the primary goal has
13 not been achieved and determine what needs to be done to make it
14 possible to achieve the primary goal.))

15 (4) In all cases, at the permanency planning hearing, the court
16 shall:

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

19 (ii) Modify the permanency plan, and order implementation of the
20 modified plan; and

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

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

26 ~~((7))~~ (5) Following the first permanency planning hearing, the
27 court shall hold a further permanency planning hearing in accordance
28 with this section at least once every twelve months until a permanency
29 planning goal is achieved or the dependency is dismissed, whichever
30 occurs first.

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

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

1 (8) The juvenile court may hear a petition for permanent legal
2 custody when: (a) The court has ordered implementation of a permanency
3 plan that includes permanent legal custody; and (b) the party pursuing
4 the permanent legal custody is the party identified in the permanency
5 plan as the prospective legal custodian. During the pendency of such
6 proceeding, the court shall conduct review hearings and further
7 permanency planning hearings as provided in this chapter. At the
8 conclusion of the legal guardianship or permanent legal custody
9 proceeding, a juvenile court hearing shall be held for the purpose of
10 determining whether dependency should be dismissed. If a guardianship
11 or permanent custody order has been entered, the dependency shall be
12 dismissed.

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

17 ~~(10) ((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 ~~(11) Except as provided in RCW 13.34.235, the status of all
23 dependent children shall continue to be reviewed by the court at least
24 once every six months, in accordance with RCW 13.34.138, until the
25 dependency is dismissed. Prior to the second permanency planning
26 hearing, the agency that has custody of the child shall consider
27 whether to file a petition for termination of parental rights.~~

28 ~~(12))~~ Nothing in this chapter may be construed to limit the
29 ability of the agency that has custody of the child to file a petition
30 for termination of parental rights or a guardianship petition at any
31 time following the establishment of dependency. Upon the filing of
32 such a petition, a fact-finding hearing shall be scheduled and held in
33 accordance with this chapter unless the agency requests dismissal of
34 the petition prior to the hearing or unless the parties enter an agreed
35 order terminating parental rights, establishing guardianship, or
36 otherwise resolving the matter.

37 ~~((13))~~ (11) The approval of a permanency plan that does not
38 contemplate return of the child to the parent does not relieve the

1 supervising agency of its obligation to provide reasonable services,
2 under this chapter, intended to effectuate the return of the child to
3 the parent, including but not limited to, visitation rights. The court
4 shall consider the child's relationships with siblings in accordance
5 with RCW 13.34.130.

6 ~~((14))~~ (12) Nothing in this chapter may be construed to limit the
7 procedural due process rights of any party in a termination or
8 guardianship proceeding filed under this chapter.

9 **Sec. 11.** RCW 74.13.031 and 2006 c 266 s 1 and 2006 c 221 s 3 are
10 each reenacted and amended to read as follows:

11 The department shall have the duty to provide child welfare
12 services and shall:

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

16 (2) Within available resources, recruit an adequate number of
17 prospective adoptive and foster homes, both regular and specialized,
18 i.e. homes for children of ethnic minority, including Indian homes for
19 Indian children, sibling groups, handicapped and emotionally disturbed,
20 teens, pregnant and parenting teens, and annually report to the
21 governor and the legislature concerning the department's success in:
22 (a) Meeting the need for adoptive and foster home placements; (b)
23 reducing the foster parent turnover rate; (c) completing home studies
24 for legally free children; and (d) implementing and operating the
25 passport program required by RCW 74.13.285. The report shall include
26 a section entitled "Foster Home Turn-Over, Causes and Recommendations."

27 (3) Investigate complaints of any recent act or failure to act on
28 the part of a parent or caretaker that results in death, serious
29 physical or emotional harm, or sexual abuse or exploitation, or that
30 presents an imminent risk of serious harm, and on the basis of the
31 findings of such investigation, offer child welfare services in
32 relation to the problem to such parents, legal custodians, or persons
33 serving in loco parentis, and/or bring the situation to the attention
34 of an appropriate court, or another community agency: PROVIDED, That
35 an investigation is not required of nonaccidental injuries which are
36 clearly not the result of a lack of care or supervision by the child's
37 parents, legal custodians, or persons serving in loco parentis. If the

1 investigation reveals that a crime against a child may have been
2 committed, the department shall notify the appropriate law enforcement
3 agency.

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

6 (5) Monitor out-of-home placements, on a timely and routine basis,
7 to assure the safety, well-being, and quality of care being provided is
8 within the scope of the intent of the legislature as defined in RCW
9 74.13.010 and 74.15.010, and annually submit a report measuring the
10 extent to which the department achieved the specified goals to the
11 governor and the legislature.

12 (6) Have authority to accept custody of children from parents and
13 to accept custody of children from juvenile courts, where authorized to
14 do so under law, to provide child welfare services including placement
15 for adoption, to provide for the routine and necessary medical, dental,
16 and mental health care, or necessary emergency care of the children,
17 and to provide for the physical care of such children and make payment
18 of maintenance costs if needed. Except where required by Public Law
19 95-608 (25 U.S.C. Sec. 1915), no private adoption agency which receives
20 children for adoption from the department shall discriminate on the
21 basis of race, creed, or color when considering applications in their
22 placement for adoption.

23 (7) Have authority to provide temporary shelter to children who
24 have run away from home and who are admitted to crisis residential
25 centers.

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

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

1 (10)(a) Have authority to provide continued foster care or group
2 care as needed to participate in or complete a high school or
3 vocational school program.

4 (b)(i) Beginning in 2006, the department has the authority to allow
5 up to fifty youth reaching age eighteen to continue in foster care or
6 group care as needed to participate in or complete a posthigh school
7 academic or vocational program, and to receive necessary support and
8 transition services.

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

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

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

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

33 Notwithstanding any other provision of RCW 13.32A.170 through
34 13.32A.200 and 74.13.032 through 74.13.036, or of this section all
35 services to be provided by the department of social and health services
36 under subsections (4), (6), and (7) of this section, subject to the
37 limitations of these subsections, may be provided by any program

1 offering such services funded pursuant to Titles II and III of the
2 federal juvenile justice and delinquency prevention act of 1974.

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

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

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

20 NEW SECTION. Sec. 12. (1) The secretary of the department of
21 social and health services shall work in conjunction with the
22 University of Washington to study the need for and the feasibility of
23 creating tiered classifications for foster parent licensing, including
24 a professional foster parent classification. The secretary of the
25 department of social and health services and the dean of the school of
26 social work, or his or her designee, at the University of Washington
27 jointly shall facilitate a work group composed of: (a) The president
28 of the senate shall appoint two members from each of the two largest
29 caucuses of the senate; and the speaker of the house of representatives
30 shall appoint two members from each of the two largest caucuses of the
31 house of representatives; (b) four foster parents representing a
32 diverse number of foster parent organizations throughout Washington
33 state; (c) the director of the institute for children and families at
34 the University of Washington; and (d) four or more child welfare
35 professionals with subject matter expertise from the public, private,
36 or academic communities.

1 (2) To promote the exchange of ideas and collaboration, the
2 secretary and the director also shall convene at least two focused
3 stakeholder meetings seeking input from a broad range of foster
4 parents, social workers, and community members. To facilitate the
5 exchange of ideas, the department of social and health services shall
6 provide to the work group the contact information for licensed foster
7 parents for the sole purpose of communicating with foster parents
8 regarding issues relevant to foster parents. The work group shall keep
9 the contact information confidential and shall develop guidelines for
10 the use and maintenance of this contact information among work group
11 members.

12 (3) The secretary of the department of social and health services
13 and the dean of the school of social work, or his or her designee, at
14 the University of Washington shall report the recommendations of the
15 work group to the appropriate committees of the legislature by January
16 1, 2008.

17 **Sec. 13.** RCW 26.44.020 and 2006 c 339 s 108 are each amended to
18 read as follows:

19 The definitions in this section apply throughout this chapter
20 unless the context clearly requires otherwise.

21 ~~((1) "Court" means the superior court of the state of Washington,
22 juvenile department.~~

23 ~~(2) "Law enforcement agency" means the police department, the
24 prosecuting attorney, the state patrol, the director of public safety,
25 or the office of the sheriff.~~

26 ~~(3) "Practitioner of the healing arts" or "practitioner" means a
27 person licensed by this state to practice podiatric medicine and
28 surgery, optometry, chiropractic, nursing, dentistry, osteopathic
29 medicine and surgery, or medicine and surgery or to provide other
30 health services. The term "practitioner" includes a duly accredited
31 Christian Science practitioner: PROVIDED, HOWEVER, That a person who
32 is being furnished Christian Science treatment by a duly accredited
33 Christian Science practitioner will not be considered, for that reason
34 alone, a neglected person for the purposes of this chapter.~~

35 ~~(4) "Institution" means a private or public hospital or any other
36 facility providing medical diagnosis, treatment or care.~~

1 ~~(5) "Department" means the state department of social and health~~
2 ~~services.~~

3 ~~(6) "Child" or "children" means any person under the age of~~
4 ~~eighteen years of age.~~

5 ~~(7) "Professional school personnel" include, but are not limited~~
6 ~~to, teachers, counselors, administrators, child care facility~~
7 ~~personnel, and school nurses.~~

8 ~~(8) "Social service counselor" means anyone engaged in a~~
9 ~~professional capacity during the regular course of employment in~~
10 ~~encouraging or promoting the health, welfare, support or education of~~
11 ~~children, or providing social services to adults or families, including~~
12 ~~mental health, drug and alcohol treatment, and domestic violence~~
13 ~~programs, whether in an individual capacity, or as an employee or agent~~
14 ~~of any public or private organization or institution.~~

15 ~~(9) "Psychologist" means any person licensed to practice psychology~~
16 ~~under chapter 18.83 RCW, whether acting in an individual capacity or as~~
17 ~~an employee or agent of any public or private organization or~~
18 ~~institution.~~

19 ~~(10) "Pharmacist" means any registered pharmacist under chapter~~
20 ~~18.64 RCW, whether acting in an individual capacity or as an employee~~
21 ~~or agent of any public or private organization or institution.~~

22 ~~(11) "Clergy" means any regularly licensed or ordained minister,~~
23 ~~priest, or rabbi of any church or religious denomination, whether~~
24 ~~acting in an individual capacity or as an employee or agent of any~~
25 ~~public or private organization or institution.~~

26 ~~(12) "Abuse or neglect" means sexual abuse, sexual exploitation, or~~
27 ~~injury of a child by any person under circumstances which cause harm to~~
28 ~~the child's health, welfare, or safety, excluding conduct permitted~~
29 ~~under RCW 9A.16.100; or the negligent treatment or maltreatment of a~~
30 ~~child by a person responsible for or providing care to the child. An~~
31 ~~abused child is a child who has been subjected to child abuse or~~
32 ~~neglect as defined in this section.~~

33 ~~(13) "Child protective services section" means the child protective~~
34 ~~services section of the department.~~

35 ~~(14) "Sexual exploitation" includes: (a) Allowing, permitting, or~~
36 ~~encouraging a child to engage in prostitution by any person; or (b)~~
37 ~~allowing, permitting, encouraging, or engaging in the obscene or~~

1 pornographic photographing, filming, or depicting of a child by any
2 person.

3 (15) "Negligent treatment or maltreatment" means an act or a
4 failure to act, or the cumulative effects of a pattern of conduct,
5 behavior, or inaction, that evidences a serious disregard of
6 consequences of such magnitude as to constitute a clear and present
7 danger to a child's health, welfare, or safety, including but not
8 limited to conduct prohibited under RCW 9A.42.100. When considering
9 whether a clear and present danger exists, evidence of a parent's
10 substance abuse as a contributing factor to negligent treatment or
11 maltreatment shall be given great weight. The fact that siblings share
12 a bedroom is not, in and of itself, negligent treatment or
13 maltreatment. Poverty, homelessness, or exposure to domestic violence
14 as defined in RCW 26.50.010 that is perpetrated against someone other
15 than the child does not constitute negligent treatment or maltreatment
16 in and of itself.

17 (16) "Child protective services" means those services provided by
18 the department designed to protect children from child abuse and
19 neglect and safeguard such children from future abuse and neglect, and
20 conduct investigations of child abuse and neglect reports.
21 Investigations may be conducted regardless of the location of the
22 alleged abuse or neglect. Child protective services includes referral
23 to services to ameliorate conditions that endanger the welfare of
24 children, the coordination of necessary programs and services relevant
25 to the prevention, intervention, and treatment of child abuse and
26 neglect, and services to children to ensure that each child has a
27 permanent home. In determining whether protective services should be
28 provided, the department shall not decline to provide such services
29 solely because of the child's unwillingness or developmental inability
30 to describe the nature and severity of the abuse or neglect.

31 (17) "Malice" or "maliciously" means an evil intent, wish, or
32 design to vex, annoy, or injure another person. Such malice may be
33 inferred from an act done in willful disregard of the rights of
34 another, or an act wrongfully done without just cause or excuse, or an
35 act or omission of duty betraying a willful disregard of social duty.

36 (18) "Sexually aggressive youth" means a child who is defined in
37 RCW 74.13.075(1)(b) as being a sexually aggressive youth.

1 ~~(19) "Unfounded" means available information indicates that, more~~
2 ~~likely than not, child abuse or neglect did not occur. No unfounded~~
3 ~~allegation of child abuse or neglect may be disclosed to a child-~~
4 ~~placing agency, private adoption agency, or any other provider licensed~~
5 ~~under chapter 74.15 RCW.)~~)

6 (1) "Abuse or neglect" means sexual abuse, sexual exploitation, or
7 injury of a child by any person under circumstances which cause harm to
8 the child's health, welfare, or safety, excluding conduct permitted
9 under RCW 9A.16.100; or the negligent treatment or maltreatment of a
10 child by a person responsible for or providing care to the child. An
11 abused child is a child who has been subjected to child abuse or
12 neglect as defined in this section.

13 (2) "Child" or "children" means any person under the age of
14 eighteen years of age.

15 (3) "Child protective services" means those services provided by
16 the department designed to protect children from child abuse and
17 neglect and safeguard such children from future abuse and neglect, and
18 conduct investigations of child abuse and neglect reports.
19 Investigations may be conducted regardless of the location of the
20 alleged abuse or neglect. Child protective services includes referral
21 to services to ameliorate conditions that endanger the welfare of
22 children, the coordination of necessary programs and services relevant
23 to the prevention, intervention, and treatment of child abuse and
24 neglect, and services to children to ensure that each child has a
25 permanent home. In determining whether protective services should be
26 provided, the department shall not decline to provide such services
27 solely because of the child's unwillingness or developmental inability
28 to describe the nature and severity of the abuse or neglect.

29 (4) "Child protective services section" means the child protective
30 services section of the department.

31 (5) "Clergy" means any regularly licensed or ordained minister,
32 priest, or rabbi of any church or religious denomination, whether
33 acting in an individual capacity or as an employee or agent of any
34 public or private organization or institution.

35 (6) "Court" means the superior court of the state of Washington,
36 juvenile department.

37 (7) "Department" means the state department of social and health
38 services.

1 (8) "Founded" means the determination following an investigation by
2 the department that, based on available information, it is more likely
3 than not that child abuse or neglect did occur.

4 (9) "Inconclusive" means the determination following an
5 investigation by the department, prior to the effective date of this
6 section, that based on available information a decision cannot be made
7 that more likely than not, child abuse or neglect did or did not occur.

8 (10) "Institution" means a private or public hospital or any other
9 facility providing medical diagnosis, treatment, or care.

10 (11) "Law enforcement agency" means the police department, the
11 prosecuting attorney, the state patrol, the director of public safety,
12 or the office of the sheriff.

13 (12) "Malice" or "maliciously" means an evil intent, wish, or
14 design to vex, annoy, or injure another person. Such malice may be
15 inferred from an act done in willful disregard of the rights of
16 another, or an act wrongfully done without just cause or excuse, or an
17 act or omission of duty betraying a willful disregard of social duty.

18 (13) "Negligent treatment or maltreatment" means an act or a
19 failure to act, or the cumulative effects of a pattern of conduct,
20 behavior, or inaction, that evidences a serious disregard of
21 consequences of such magnitude as to constitute a clear and present
22 danger to a child's health, welfare, or safety, including but not
23 limited to conduct prohibited under RCW 9A.42.100. When considering
24 whether a clear and present danger exists, evidence of a parent's
25 substance abuse as a contributing factor to negligent treatment or
26 maltreatment shall be given great weight. The fact that siblings share
27 a bedroom is not, in and of itself, negligent treatment or
28 maltreatment. Poverty, homelessness, or exposure to domestic violence
29 as defined in RCW 26.50.010 that is perpetrated against someone other
30 than the child does not constitute negligent treatment or maltreatment
31 in and of itself.

32 (14) "Pharmacist" means any registered pharmacist under chapter
33 18.64 RCW, whether acting in an individual capacity or as an employee
34 or agent of any public or private organization or institution.

35 (15) "Practitioner of the healing arts" or "practitioner" means a
36 person licensed by this state to practice podiatric medicine and
37 surgery, optometry, chiropractic, nursing, dentistry, osteopathic
38 medicine and surgery, or medicine and surgery or to provide other

1 health services. The term "practitioner" includes a duly accredited
2 Christian Science practitioner: PROVIDED, HOWEVER, That a person who
3 is being furnished Christian Science treatment by a duly accredited
4 Christian Science practitioner will not be considered, for that reason
5 alone, a neglected person for the purposes of this chapter.

6 (16) "Professional school personnel" include, but are not limited
7 to, teachers, counselors, administrators, child care facility
8 personnel, and school nurses.

9 (17) "Psychologist" means any person licensed to practice
10 psychology under chapter 18.83 RCW, whether acting in an individual
11 capacity or as an employee or agent of any public or private
12 organization or institution.

13 (18) "Screened-out report" means a report of alleged child abuse or
14 neglect that the department has determined does not rise to the level
15 of a credible report of abuse or neglect and is not referred for
16 investigation.

17 (19) "Sexual exploitation" includes: (a) Allowing, permitting, or
18 encouraging a child to engage in prostitution by any person; or (b)
19 allowing, permitting, encouraging, or engaging in the obscene or
20 pornographic photographing, filming, or depicting of a child by any
21 person.

22 (20) "Sexually aggressive youth" means a child who is defined in
23 RCW 74.13.075(1)(b) as being a sexually aggressive youth.

24 (21) "Social service counselor" means anyone engaged in a
25 professional capacity during the regular course of employment in
26 encouraging or promoting the health, welfare, support or education of
27 children, or providing social services to adults or families, including
28 mental health, drug and alcohol treatment, and domestic violence
29 programs, whether in an individual capacity, or as an employee or agent
30 of any public or private organization or institution.

31 (22) "Unfounded" means the determination following an investigation
32 by the department that available information indicates that, more
33 likely than not, child abuse or neglect did not occur, or that there is
34 insufficient evidence for the department to determine whether the
35 alleged child abuse did or did not occur.

36 **Sec. 14.** RCW 26.44.030 and 2005 c 417 s 1 are each amended to read
37 as follows:

1 (1)(a) When any practitioner, county coroner or medical examiner,
2 law enforcement officer, professional school personnel, registered or
3 licensed nurse, social service counselor, psychologist, pharmacist,
4 licensed or certified child care providers or their employees, employee
5 of the department, juvenile probation officer, placement and liaison
6 specialist, responsible living skills program staff, HOPE center staff,
7 or state family and children's ombudsman or any volunteer in the
8 ombudsman's office has reasonable cause to believe that a child has
9 suffered abuse or neglect, he or she shall report such incident, or
10 cause a report to be made, to the proper law enforcement agency or to
11 the department as provided in RCW 26.44.040.

12 (b) When any person, in his or her official supervisory capacity
13 with a nonprofit or for-profit organization, has reasonable cause to
14 believe that a child has suffered abuse or neglect caused by a person
15 over whom he or she regularly exercises supervisory authority, he or
16 she shall report such incident, or cause a report to be made, to the
17 proper law enforcement agency, provided that the person alleged to have
18 caused the abuse or neglect is employed by, contracted by, or
19 volunteers with the organization and coaches, trains, educates, or
20 counsels a child or children or regularly has unsupervised access to a
21 child or children as part of the employment, contract, or voluntary
22 service. No one shall be required to report under this section when he
23 or she obtains the information solely as a result of a privileged
24 communication as provided in RCW 5.60.060.

25 Nothing in this subsection (1)(b) shall limit a person's duty to
26 report under (a) of this subsection.

27 For the purposes of this subsection, the following definitions
28 apply:

29 (i) "Official supervisory capacity" means a position, status, or
30 role created, recognized, or designated by any nonprofit or for-profit
31 organization, either for financial gain or without financial gain,
32 whose scope includes, but is not limited to, overseeing, directing, or
33 managing another person who is employed by, contracted by, or
34 volunteers with the nonprofit or for-profit organization.

35 (ii) "Regularly exercises supervisory authority" means to act in
36 his or her official supervisory capacity on an ongoing or continuing
37 basis with regards to a particular person.

1 (c) The reporting requirement also applies to department of
2 corrections personnel who, in the course of their employment, observe
3 offenders or the children with whom the offenders are in contact. If,
4 as a result of observations or information received in the course of
5 his or her employment, any department of corrections personnel has
6 reasonable cause to believe that a child has suffered abuse or neglect,
7 he or she shall report the incident, or cause a report to be made, to
8 the proper law enforcement agency or to the department as provided in
9 RCW 26.44.040.

10 (d) The reporting requirement shall also apply to any adult who has
11 reasonable cause to believe that a child who resides with them, has
12 suffered severe abuse, and is able or capable of making a report. For
13 the purposes of this subsection, "severe abuse" means any of the
14 following: Any single act of abuse that causes physical trauma of
15 sufficient severity that, if left untreated, could cause death; any
16 single act of sexual abuse that causes significant bleeding, deep
17 bruising, or significant external or internal swelling; or more than
18 one act of physical abuse, each of which causes bleeding, deep
19 bruising, significant external or internal swelling, bone fracture, or
20 unconsciousness.

21 (e) The report must be made at the first opportunity, but in no
22 case longer than forty-eight hours after there is reasonable cause to
23 believe that the child has suffered abuse or neglect. The report must
24 include the identity of the accused if known.

25 (2) The reporting requirement of subsection (1) of this section
26 does not apply to the discovery of abuse or neglect that occurred
27 during childhood if it is discovered after the child has become an
28 adult. However, if there is reasonable cause to believe other children
29 are or may be at risk of abuse or neglect by the accused, the reporting
30 requirement of subsection (1) of this section does apply.

31 (3) Any other person who has reasonable cause to believe that a
32 child has suffered abuse or neglect may report such incident to the
33 proper law enforcement agency or to the department of social and health
34 services as provided in RCW 26.44.040.

35 (4) The department, upon receiving a report of an incident of
36 alleged abuse or neglect pursuant to this chapter, involving a child
37 who has died or has had physical injury or injuries inflicted upon him
38 or her other than by accidental means or who has been subjected to

1 alleged sexual abuse, shall report such incident to the proper law
2 enforcement agency. In emergency cases, where the child's welfare is
3 endangered, the department shall notify the proper law enforcement
4 agency within twenty-four hours after a report is received by the
5 department. In all other cases, the department shall notify the law
6 enforcement agency within seventy-two hours after a report is received
7 by the department. If the department makes an oral report, a written
8 report must also be made to the proper law enforcement agency within
9 five days thereafter.

10 (5) Any law enforcement agency receiving a report of an incident of
11 alleged abuse or neglect pursuant to this chapter, involving a child
12 who has died or has had physical injury or injuries inflicted upon him
13 or her other than by accidental means, or who has been subjected to
14 alleged sexual abuse, shall report such incident in writing as provided
15 in RCW 26.44.040 to the proper county prosecutor or city attorney for
16 appropriate action whenever the law enforcement agency's investigation
17 reveals that a crime may have been committed. The law enforcement
18 agency shall also notify the department of all reports received and the
19 law enforcement agency's disposition of them. In emergency cases,
20 where the child's welfare is endangered, the law enforcement agency
21 shall notify the department within twenty-four hours. In all other
22 cases, the law enforcement agency shall notify the department within
23 seventy-two hours after a report is received by the law enforcement
24 agency.

25 (6) Any county prosecutor or city attorney receiving a report under
26 subsection (5) of this section shall notify the victim, any persons the
27 victim requests, and the local office of the department, of the
28 decision to charge or decline to charge a crime, within five days of
29 making the decision.

30 (7) The department may conduct ongoing case planning and
31 consultation with those persons or agencies required to report under
32 this section, with consultants designated by the department, and with
33 designated representatives of Washington Indian tribes if the client
34 information exchanged is pertinent to cases currently receiving child
35 protective services. Upon request, the department shall conduct such
36 planning and consultation with those persons required to report under
37 this section if the department determines it is in the best interests

1 of the child. Information considered privileged by statute and not
2 directly related to reports required by this section must not be
3 divulged without a valid written waiver of the privilege.

4 (8) Any case referred to the department by a physician licensed
5 under chapter 18.57 or 18.71 RCW on the basis of an expert medical
6 opinion that child abuse, neglect, or sexual assault has occurred and
7 that the child's safety will be seriously endangered if returned home,
8 the department shall file a dependency petition unless a second
9 licensed physician of the parents' choice believes that such expert
10 medical opinion is incorrect. If the parents fail to designate a
11 second physician, the department may make the selection. If a
12 physician finds that a child has suffered abuse or neglect but that
13 such abuse or neglect does not constitute imminent danger to the
14 child's health or safety, and the department agrees with the
15 physician's assessment, the child may be left in the parents' home
16 while the department proceeds with reasonable efforts to remedy
17 parenting deficiencies.

18 (9) Persons or agencies exchanging information under subsection (7)
19 of this section shall not further disseminate or release the
20 information except as authorized by state or federal statute.
21 Violation of this subsection is a misdemeanor.

22 (10) Upon receiving a report((s)) of alleged abuse or neglect, the
23 department shall make reasonable efforts to learn the name, address,
24 and telephone number of each person making a report of abuse or neglect
25 under this section. The department shall provide assurances of
26 appropriate confidentiality of the identification of persons reporting
27 under this section. If the department is unable to learn the
28 information required under this subsection, the department shall only
29 investigate cases in which:

30 (a) The department believes there is a serious threat of
31 substantial harm to the child;

32 (b) The report indicates conduct involving a criminal offense that
33 has, or is about to occur, in which the child is the victim; or

34 (c) The department has a prior founded report of abuse or neglect
35 with regard to a member of the household that is within three years of
36 receipt of the referral.

37 (11)(a) For reports of alleged abuse or neglect that are accepted
38 for investigation by the department, the investigation shall be

1 conducted within time frames established by the department in rule. In
2 no case shall the investigation extend longer than ninety days from the
3 date the report is received, unless the investigation is being
4 conducted under a written protocol pursuant to RCW 26.44.180 and a law
5 enforcement agency or prosecuting attorney has determined that a longer
6 investigation period is necessary. At the completion of the
7 investigation, the department shall make a finding that the report of
8 child abuse or neglect is founded or unfounded.

9 (b) If a court in a civil or criminal proceeding, considering the
10 same facts or circumstances as are contained in the report being
11 investigated by the department, makes a judicial finding by a
12 preponderance of the evidence or higher that the subject of the pending
13 investigation has abused or neglected the child, the department shall
14 adopt the finding in its investigation.

15 (12) In conducting an investigation of alleged abuse or neglect,
16 the department or law enforcement agency:

17 (a) May interview children. The interviews may be conducted on
18 school premises, at day-care facilities, at the child's home, or at
19 other suitable locations outside of the presence of parents. Parental
20 notification of the interview must occur at the earliest possible point
21 in the investigation that will not jeopardize the safety or protection
22 of the child or the course of the investigation. Prior to commencing
23 the interview the department or law enforcement agency shall determine
24 whether the child wishes a third party to be present for the interview
25 and, if so, shall make reasonable efforts to accommodate the child's
26 wishes. Unless the child objects, the department or law enforcement
27 agency shall make reasonable efforts to include a third party in any
28 interview so long as the presence of the third party will not
29 jeopardize the course of the investigation((-

30 ~~(11) Upon receiving a report of alleged child abuse and neglect,~~
31 ~~the department or investigating law enforcement agency)); and~~

32 (b) Shall have access to all relevant records of the child in the
33 possession of mandated reporters and their employees.

34 ~~((+12+))~~ (13) The department shall maintain investigation records
35 and conduct timely and periodic reviews of all founded cases
36 ~~((constituting))~~ of abuse and neglect. The department shall maintain
37 a log of screened-out nonabusive cases.

1 ~~((13))~~ (14) The department shall use a risk assessment process
2 when investigating alleged child abuse and neglect referrals. The
3 department shall present the risk factors at all hearings in which the
4 placement of a dependent child is an issue. Substance abuse must be a
5 risk factor. The department shall, within funds appropriated for this
6 purpose, offer enhanced community-based services to persons who are
7 determined not to require further state intervention.

8 ~~((14))~~ (15) Upon receipt of a report of alleged abuse or neglect
9 the law enforcement agency may arrange to interview the person making
10 the report and any collateral sources to determine if any malice is
11 involved in the reporting.

12 ~~((15) The department shall make reasonable efforts to learn the
13 name, address, and telephone number of each person making a report of
14 abuse or neglect under this section. The department shall provide
15 assurances of appropriate confidentiality of the identification of
16 persons reporting under this section. If the department is unable to
17 learn the information required under this subsection, the department
18 shall only investigate cases in which: (a) The department believes
19 there is a serious threat of substantial harm to the child; (b) the
20 report indicates conduct involving a criminal offense that has, or is
21 about to occur, in which the child is the victim; or (c) the department
22 has, after investigation, a report of abuse or neglect that has been
23 founded with regard to a member of the household within three years of
24 receipt of the referral.))~~

25 **Sec. 15.** RCW 26.44.031 and 1997 c 282 s 1 are each amended to read
26 as follows:

27 (1) To protect the privacy in reporting and the maintenance of
28 reports of nonaccidental injury, neglect, death, sexual abuse, and
29 cruelty to children by their parents, and to safeguard against
30 arbitrary, malicious, or erroneous information or actions, the
31 department shall not disclose or maintain information related to
32 ~~((unfounded referrals in files or))~~ reports of child abuse or neglect
33 ~~((for longer than six years))~~ except as provided in this section or as
34 otherwise required by state and federal law.

35 ~~((At the end of six years from receipt of the unfounded report, the
36 information shall be purged unless an additional report has been
37 received in the intervening period.))~~

1 (2) The department shall destroy all of its records concerning:

2 (a) A screened-out report, within three years from the receipt of
3 the report; and

4 (b) An unfounded or inconclusive report, within six years of
5 completion of the investigation, unless a prior or subsequent founded
6 report has been received regarding the child who is the subject of the
7 report, a sibling or half-sibling of the child, or a parent, guardian,
8 or legal custodian of the child before the records are destroyed.

9 (3) The department may keep records concerning founded reports of
10 child abuse or neglect as the department determines by rule.

11 (4) An unfounded, screened-out, or inconclusive report may not be
12 disclosed to a child-placing agency, private adoption agency, or any
13 other provider licensed under chapter 74.15 RCW.

14 (5)(a) If the department fails to comply with this section, an
15 individual who is the subject of a report may institute proceedings for
16 injunctive or other appropriate relief for enforcement of the
17 requirement to purge information. These proceedings may be instituted
18 in the superior court for the county in which the person resides or, if
19 the person is not then a resident of this state, in the superior court
20 for Thurston county.

21 (b) If the department fails to comply with subsection (4) of this
22 section and an individual who is the subject of the report is harmed by
23 the disclosure of information, in addition to the relief provided in
24 (a) of this subsection, the court may award a penalty of up to one
25 thousand dollars and reasonable attorneys' fees and court costs to the
26 petitioner.

27 (c) A proceeding under this subsection does not preclude other
28 methods of enforcement provided for by law.

29 (6) Nothing in this section shall prevent the department from
30 retaining general, nonidentifying information which is required for
31 state and federal reporting and management purposes.

32 **Sec. 16.** RCW 74.13.280 and 2001 c 318 s 3 are each amended to read
33 as follows:

34 (1) Except as provided in RCW 70.24.105, whenever a child is placed
35 in out-of-home care by the department or a child-placing agency, the
36 department or agency shall share information known to the department or
37 agency about the child and the child's family with the care provider

1 and shall consult with the care provider regarding the child's case
2 plan. If the child is dependent pursuant to a proceeding under chapter
3 13.34 RCW, the department or agency shall keep the care provider
4 informed regarding the dates and location of dependency review and
5 permanency planning hearings pertaining to the child.

6 (2) Information about the child and the child's family shall
7 include information known to the department or agency as to whether the
8 child is a sexually reactive child, has exhibited high-risk behaviors,
9 or is physically assaultive or physically aggressive, as defined in
10 this section.

11 (3) Information about the child shall also include information
12 known to the department or agency that the child:

13 (a) Has received a medical diagnosis of fetal alcohol syndrome or
14 fetal alcohol effect;

15 (b) Has been diagnosed by a qualified mental health professional as
16 having a mental health disorder;

17 (c) Has witnessed a death or substantial physical violence in the
18 past or recent past; or

19 (d) Was a victim of sexual or severe physical abuse in the recent
20 past.

21 (4) Any person who receives information about a child or a child's
22 family pursuant to this section shall keep the information confidential
23 and shall not further disclose or disseminate the information except as
24 authorized by law.

25 ~~((+3))~~ (5) Nothing in this section shall be construed to limit the
26 authority of the department or child-placing agencies to disclose
27 client information or to maintain client confidentiality as provided by
28 law.

29 (6) As used in this section:

30 (a) "Sexually reactive child" means a child who exhibits sexual
31 behavior problems including, but not limited to, sexual behaviors that
32 are developmentally inappropriate for their age or are harmful to the
33 child or others.

34 (b) "High-risk behavior" means an observed or reported and
35 documented history of one or more of the following:

36 (i) Suicide attempts or suicidal behavior or ideation;

37 (ii) Self-mutilation or similar self-destructive behavior;

1 (iii) Fire-setting or a developmentally inappropriate fascination
2 with fire;

3 (iv) Animal torture;

4 (v) Property destruction; or

5 (vi) Substance or alcohol abuse.

6 (c) "Physically assaultive or physically aggressive" means a child
7 who exhibits one or more of the following behaviors that are
8 developmentally inappropriate and harmful to the child or to others:

9 (i) Observed assaultive behavior;

10 (ii) Reported and documented history of the child willfully
11 assaulting or inflicting bodily harm; or

12 (iii) Attempting to assault or inflict bodily harm on other
13 children or adults under circumstances where the child has the apparent
14 ability or capability to carry out the attempted assaults including
15 threats to use a weapon.

16 NEW SECTION. Sec. 17. A new section is added to chapter 74.13 RCW
17 to read as follows:

18 (1) A care provider may not be found to have abused or neglected a
19 child under chapter 26.44 RCW or be denied a license pursuant to
20 chapter 74.15 RCW and RCW 74.13.031 for any allegations of failure to
21 supervise wherein:

22 (a) The allegations arise from the child's conduct that is
23 substantially similar to prior behavior of the child, and:

24 (i) The child is a sexually reactive youth, exhibits high-risk
25 behaviors, or is physically assaultive or physically aggressive as
26 defined in RCW 74.13.280, and this information and the child's prior
27 behavior was not disclosed to the care provider as required by RCW
28 74.13.280; and

29 (ii) The care provider did not know or have reason to know that the
30 child needed supervision as a sexually reactive or physically
31 assaultive or physically aggressive youth, or because of a documented
32 history of high-risk behaviors, as a result of the care provider's
33 involvement with or independent knowledge of the child or training and
34 experience; or

35 (b) The child was not within the reasonable control of the care
36 provider at the time of the incident that is the subject of the
37 allegation, and the care provider was acting in good faith and did not

1 know or have reason to know that reasonable control or supervision of
2 the child was necessary to prevent harm or risk of harm to the child or
3 other persons.

4 (2) Allegations of child abuse or neglect that meet the provisions
5 of this section shall be designated as "unfounded" as defined in RCW
6 26.44.020.

7 **Sec. 18.** RCW 74.15.130 and 2006 c 265 s 404 are each amended to
8 read as follows:

9 (1) An agency may be denied a license, or any license issued
10 pursuant to chapter 74.15 RCW and RCW 74.13.031 may be suspended,
11 revoked, modified, or not renewed by the secretary upon proof (a) that
12 the agency has failed or refused to comply with the provisions of
13 chapter 74.15 RCW and RCW 74.13.031 or the requirements promulgated
14 pursuant to the provisions of chapter 74.15 RCW and RCW 74.13.031; or
15 (b) that the conditions required for the issuance of a license under
16 chapter 74.15 RCW and RCW 74.13.031 have ceased to exist with respect
17 to such licenses. RCW 43.20A.205 governs notice of a license denial,
18 revocation, suspension, or modification and provides the right to an
19 adjudicative proceeding.

20 (2) In any adjudicative proceeding regarding the denial,
21 modification, suspension, or revocation of a foster family home
22 license, the department's decision shall be upheld if there is
23 reasonable cause to believe that:

24 (a) The applicant or licensee lacks the character, suitability, or
25 competence to care for children placed in out-of-home care, however, no
26 unfounded, inconclusive, or screened-out report of child abuse or
27 neglect may be used to deny employment or a license;

28 (b) The applicant or licensee has failed or refused to comply with
29 any provision of chapter 74.15 RCW, RCW 74.13.031, or the requirements
30 adopted pursuant to such provisions; or

31 (c) The conditions required for issuance of a license under chapter
32 74.15 RCW and RCW 74.13.031 have ceased to exist with respect to such
33 licenses.

34 (3) In any adjudicative proceeding regarding the denial,
35 modification, suspension, or revocation of any license under this
36 chapter, other than a foster family home license, the department's

1 decision shall be upheld if it is supported by a preponderance of the
2 evidence.

3 (4) The department may assess civil monetary penalties upon proof
4 that an agency has failed or refused to comply with the rules adopted
5 under the provisions of this chapter and RCW 74.13.031 or that an
6 agency subject to licensing under this chapter and RCW 74.13.031 is
7 operating without a license except that civil monetary penalties shall
8 not be levied against a licensed foster home. Monetary penalties
9 levied against unlicensed agencies that submit an application for
10 licensure within thirty days of notification and subsequently become
11 licensed will be forgiven. These penalties may be assessed in addition
12 to or in lieu of other disciplinary actions. Civil monetary penalties,
13 if imposed, may be assessed and collected, with interest, for each day
14 an agency is or was out of compliance. Civil monetary penalties shall
15 not exceed two hundred fifty dollars per violation for group homes and
16 child-placing agencies. Each day upon which the same or substantially
17 similar action occurs is a separate violation subject to the assessment
18 of a separate penalty. The department shall provide a notification
19 period before a monetary penalty is effective and may forgive the
20 penalty levied if the agency comes into compliance during this period.
21 The department may suspend, revoke, or not renew a license for failure
22 to pay a civil monetary penalty it has assessed pursuant to this
23 chapter within ten days after such assessment becomes final. Chapter
24 43.20A RCW governs notice of a civil monetary penalty and provides the
25 right of an adjudicative proceeding. The preponderance of evidence
26 standard shall apply in adjudicative proceedings related to assessment
27 of civil monetary penalties.

28 **Sec. 19.** RCW 74.13.650 and 2006 c 353 s 2 are each amended to read
29 as follows:

30 A foster parent critical support and retention program is
31 established to retain foster parents who care for sexually reactive
32 children, physically assaultive children, or children with other high-
33 risk behaviors, as defined in RCW 74.13.280. Services shall consist of
34 short-term therapeutic and educational interventions to support the
35 stability of the placement. The foster parent critical support and
36 retention program is to be implemented under the division of children
37 and family services' contract and supervision. A contractor must

1 demonstrate experience providing in-home case management, as well as
2 experience working with caregivers of children with significant
3 behavioral issues that pose a threat to others or themselves or the
4 stability of the placement.

5 **Sec. 20.** RCW 74.13.660 and 2006 c 353 s 3 are each amended to read
6 as follows:

7 Under the foster parent critical support and retention program,
8 foster parents who care for sexually reactive children, physically
9 assaultive children, or children with other high-risk behaviors, as
10 defined in RCW 74.13.280, shall receive:

- 11 (1) Availability at any time of the day or night to address
12 specific concerns related to the identified child;
- 13 (2) Assessment of risk and development of a safety and supervision
14 plan;
- 15 (3) Home-based foster parent training utilizing evidence-based
16 models; and
- 17 (4) Referral to relevant community services and training provided
18 by the local children's administration office or community agencies.

19 **Sec. 21.** RCW 26.44.060 and 2004 c 37 s 1 are each amended to read
20 as follows:

21 (1)(a) Except as provided in (b) of this subsection, any person
22 participating in good faith in the making of a report pursuant to this
23 chapter or testifying as to alleged child abuse or neglect in a
24 judicial proceeding shall in so doing be immune from any liability
25 arising out of such reporting or testifying under any law of this state
26 or its political subdivisions.

27 (b) A person convicted of a violation of subsection (4) of this
28 section shall not be immune from liability under (a) of this
29 subsection.

30 (2) An administrator of a hospital or similar institution or any
31 physician licensed pursuant to chapters 18.71 or 18.57 RCW taking a
32 child into custody pursuant to RCW 26.44.056 shall not be subject to
33 criminal or civil liability for such taking into custody.

34 (3) Conduct conforming with the reporting requirements of this
35 chapter shall not be deemed a violation of the confidential

1 communication privilege of RCW 5.60.060 (3) and (4), 18.53.200 and
2 18.83.110. Nothing in this chapter shall be construed as to supersede
3 or abridge remedies provided in chapter 4.92 RCW.

4 (4) A person who, intentionally and in bad faith (~~or~~
5 ~~maliciously~~)), knowingly makes a false report of alleged abuse or
6 neglect shall be guilty of a misdemeanor punishable in accordance with
7 RCW 9A.20.021.

8 (5) A person who, in good faith and without gross negligence,
9 cooperates in an investigation arising as a result of a report made
10 pursuant to this chapter, shall not be subject to civil liability
11 arising out of his or her cooperation. This subsection does not apply
12 to a person who caused or allowed the child abuse or neglect to occur.

13 NEW SECTION. **Sec. 22.** A new section is added to chapter 26.44 RCW
14 to read as follows:

15 (1) The child protective services section shall prepare a statement
16 warning against false reporting of alleged child abuse or neglect for
17 inclusion in any instructions, informational brochures, educational
18 forms, and handbooks developed or prepared for or by the department and
19 relating to the reporting of abuse or neglect of children. Such
20 statement shall include information on the criminal penalties that
21 apply to false reports of alleged child abuse or neglect under RCW
22 26.44.060(4). It shall not be necessary to reprint existing materials
23 if any other less expensive technique can be used. Materials shall be
24 revised when reproduced.

25 (2) The child protective services section shall send a letter by
26 certified mail to any person determined by the section to have made a
27 false report of child abuse or neglect informing the person that such
28 a determination has been made and that a second or subsequent false
29 report will be referred to the proper law enforcement agency for
30 investigation.

31 NEW SECTION. **Sec. 23.** Section 12 of this act expires January 1,
32 2008.

33 NEW SECTION. **Sec. 24.** Sections 13 through 15 of this act take
34 effect October 1, 2008.

1 NEW SECTION. **Sec. 25.** The secretary of the department of social
2 and health services may take the necessary steps to ensure that
3 sections 13 through 15 of this act are implemented on their effective
4 date.

5 NEW SECTION. **Sec. 26.** If any provision of this act or its
6 application to any person or circumstance is held invalid, the
7 remainder of the act or the application of the provision to other
8 persons or circumstances is not affected."

ESHB 1624 - S COMM AMD
By Committee on Ways & Means

ADOPTED AS AMENDED 04/09/2007

9 On page 1, line 1 of the title, after "welfare;" strike the
10 remainder of the title and insert "amending RCW 13.34.200, 13.34.060,
11 13.34.062, 13.34.065, 13.34.110, 13.34.136, 13.34.138, 13.34.145,
12 26.44.020, 26.44.030, 26.44.031, 74.13.280, 74.15.130, 74.13.650,
13 74.13.660, and 26.44.060; reenacting and amending RCW 74.13.031; adding
14 a new section to chapter 13.34 RCW; adding a new section to chapter
15 43.20A RCW; adding a new section to chapter 74.13 RCW; adding a new
16 section to chapter 26.44 RCW; creating new sections; providing an
17 effective date; and providing an expiration date."

--- END ---