
SUBSTITUTE HOUSE BILL 1287

State of Washington

60th Legislature

2007 Regular Session

By House Committee on Early Learning & Children's Services
(originally sponsored by Representatives Kagi, Hinkle, Walsh, Haler,
Appleton, Simpson, Moeller and Kenney; by request of Department of
Social and Health Services)

READ FIRST TIME 3/5/07.

1 AN ACT Relating to compliance with the federal safe and timely
2 interstate placement of foster children; amending RCW 13.34.138,
3 13.34.145, and 13.34.062; and adding new sections to chapter 13.34 RCW.

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

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 13.34 RCW
6 to read as follows:

7 The department of social and health services or other supervising
8 agency shall provide the child's foster parents, preadoptive parents,
9 or other caregivers with notice of their right to be heard prior to
10 each proceeding held with respect to the child in juvenile court under
11 this chapter. The rights to notice and to be heard apply only to
12 persons with whom a child has been placed by the department or other
13 supervising agency and who are providing care to the child at the time
14 of the proceeding. This section shall not be construed to grant party
15 status to any person solely on the basis of such notice and right to be
16 heard.

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

1 If a child is placed in the custody of the department of social and
2 health services or other supervising agency, immediately following the
3 shelter care hearing, an order and authorization regarding health care
4 and education records for the child shall be entered. The order shall:

5 (1) Provide the department or other supervising agency with the
6 right to inspect and copy all health, medical, mental health, and
7 education records of the child;

8 (2) Authorize and direct any agency, hospital, doctor, nurse,
9 dentist, orthodontist, or other health care provider, therapist, drug
10 or alcohol treatment provider, psychologist, psychiatrist, or mental
11 health clinic, or health or medical records custodian or document
12 management company, or school or school organization to permit the
13 department or other supervising agency to inspect and to obtain copies
14 of any records relating to the child involved in the case, without the
15 further consent of the parent or guardian of the child; and

16 (3) Grant the department or other supervising agency or its
17 designee the authority and responsibility, where applicable, to:

18 (a) Notify the child's school that the child is in out-of-home
19 placement;

20 (b) Enroll the child in school;

21 (c) Request the school transfer records;

22 (d) Request and authorize evaluation of special needs;

23 (e) Attend parent or teacher conferences;

24 (f) Excuse absences;

25 (g) Grant permission for extracurricular activities;

26 (h) Authorize medications which need to be administered during
27 school hours and sign for medical needs that arise during school hours;
28 and

29 (i) Complete or update school emergency records.

30 Access to records under this section is subject to the child's
31 consent where required by other state and federal laws.

32 **Sec. 3.** RCW 13.34.138 and 2005 c 512 s 3 are each amended to read
33 as follows:

34 (1) Except for children whose cases are reviewed by a citizen
35 review board under chapter 13.70 RCW, the status of all children found
36 to be dependent shall be reviewed by the court at least every six
37 months from the beginning date of the placement episode or the date

1 dependency is established, whichever is first, at a hearing in which it
2 shall be determined whether court supervision should continue. The
3 initial review hearing shall be an in-court review and shall be set six
4 months from the beginning date of the placement episode or no more than
5 ninety days from the entry of the disposition order, whichever comes
6 first. The initial review hearing may be a permanency planning hearing
7 when necessary to meet the time frames set forth in RCW 13.34.145(3) or
8 13.34.134. The review shall include findings regarding the agency and
9 parental completion of disposition plan requirements, and if necessary,
10 revised permanency time limits. This review shall consider both the
11 agency's and parent's efforts that demonstrate consistent measurable
12 progress over time in meeting the disposition plan requirements. The
13 requirements for the initial review hearing, including the in-court
14 requirement, shall be accomplished within existing resources. ((The
15 supervising agency shall provide a foster parent, preadoptive parent,
16 or relative with notice of, and their right to an opportunity to be
17 heard in, a review hearing pertaining to the child, but only if that
18 person is currently providing care to that child at the time of the
19 hearing. This section shall not be construed to grant party status to
20 any person who has been provided an opportunity to be heard.))

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

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

30 (i) Whether reasonable services have been provided to or offered to
31 the parties to facilitate reunion, specifying the services provided or
32 offered;

33 (ii) Whether the child has been placed in the least-restrictive
34 setting appropriate to the child's needs, including whether
35 consideration and preference has been given to placement with the
36 child's relatives, and whether both in-state and, where appropriate,
37 out-of-state placements have been considered;

1 (iii) Whether there is a continuing need for placement and whether
2 the placement is appropriate;

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

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

7 (vi) Whether the parents have visited the child and any reasons why
8 visitation has not occurred or has been infrequent;

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

13 (viii) The projected date by which the child will be returned home
14 or other permanent plan of care will be implemented.

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

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

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

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

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

29 (i) Noncompliance by the parents with the agency case plan or court
30 order;

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

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

1 (3) The court's ability to order housing assistance under RCW
2 13.34.130 and this section is: (a) Limited to cases in which
3 homelessness or the lack of adequate and safe housing is the primary
4 reason for an out-of-home placement; and (b) subject to the
5 availability of funds appropriated for this specific purpose.

6 (4) The court shall consider the child's relationship with siblings
7 in accordance with RCW 13.34.130(3).

8 **Sec. 4.** RCW 13.34.145 and 2003 c 227 s 6 are each amended to read
9 as follows:

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

17 (a) Whenever a child is placed in out-of-home care pursuant to RCW
18 13.34.130, the agency that has custody of the child shall provide the
19 court with a written permanency plan of care directed towards securing
20 a safe, stable, and permanent home for the child as soon as possible.
21 The plan shall identify one of the following outcomes as the primary
22 goal and may also identify additional outcomes as alternative goals:
23 Return of the child to the home of the child's parent, guardian, or
24 legal custodian; adoption; guardianship; permanent legal custody; long-
25 term relative or foster care, until the child is age eighteen, with a
26 written agreement between the parties and the care provider; a
27 responsible living skills program; and independent living, if
28 appropriate and if the child is age sixteen or older and the provisions
29 of subsection (2) of this section are met. The plan shall state
30 whether both in-state and, where appropriate, out-of-state placement
31 options have been considered by the agency.

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

34 (c) Permanency planning goals should be achieved at the earliest
35 possible date, preferably before the child has been in out-of-home care
36 for fifteen months. In cases where parental rights have been
37 terminated, the child is legally free for adoption, and adoption has

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

4 (d) For purposes related to permanency planning:

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

8 (ii) "Permanent custody order" means a custody order entered
9 pursuant to chapter 26.10 RCW.

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

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

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

31 (4) Whenever a child is removed from the home of a dependency
32 guardian or long-term relative or foster care provider, and the child
33 is not returned to the home of the parent, guardian, or legal custodian
34 but is placed in out-of-home care, a permanency planning hearing shall
35 take place no later than twelve months, as provided in subsection (3)
36 of this section, following the date of removal unless, prior to the
37 hearing, the child returns to the home of the dependency guardian or
38 long-term care provider, the child is placed in the home of the parent,

1 guardian, or legal custodian, an adoption decree, guardianship order,
2 or a permanent custody order is entered, or the dependency is
3 dismissed.

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

8 (6) At the permanency planning hearing, the court shall enter
9 findings as required by RCW 13.34.138 and shall review the permanency
10 plan prepared by the agency. If the child has resided in the home of
11 a foster parent or relative for more than six months prior to the
12 permanency planning hearing, the court shall also enter a finding
13 regarding whether the foster parent or relative was informed of the
14 hearing as required in RCW 74.13.280 and 13.34.138. If a goal of long-
15 term foster or relative care has been achieved prior to the permanency
16 planning hearing, the court shall review the child's status to
17 determine whether the placement and the plan for the child's care
18 remain appropriate. In cases where the primary permanency planning
19 goal has not been achieved, the court shall inquire regarding the
20 reasons why the primary goal has not been achieved and determine what
21 needs to be done to make it possible to achieve the primary goal. In
22 all cases, the court shall:

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

25 (ii) Modify the permanency plan, and order implementation of the
26 modified plan; and

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

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

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

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

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

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

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

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

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

34 (13) The approval of a permanency plan that does not contemplate
35 return of the child to the parent does not relieve the supervising
36 agency of its obligation to provide reasonable services, under this
37 chapter, intended to effectuate the return of the child to the parent,

1 including but not limited to, visitation rights. The court shall
2 consider the child's relationships with siblings in accordance with RCW
3 13.34.130.

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

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

9 (1) The written notice of custody and rights required by RCW
10 13.34.060 shall be in substantially the following form:

11 "NOTICE

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

16 1. A court hearing will be held before a judge within 72 hours of
17 the time your child is taken into custody excluding Saturdays, Sundays,
18 and holidays. You should call the court at _____ (insert appropriate
19 phone number here) _____ for specific information about the date, time,
20 and location of the court hearing.

21 2. You have the right to have a lawyer represent you at the
22 hearing. Your right to representation continues after the shelter care
23 hearing. You have the right to records the department intends to rely
24 upon. A lawyer can look at the files in your case, talk to child
25 protective services and other agencies, tell you about the law, help
26 you understand your rights, and help you at hearings. If you cannot
27 afford a lawyer, the court will appoint one to represent you. To get
28 a court-appointed lawyer you must contact: _____ (explain local
29 procedure) _____.

30 3. At the hearing, you have the right to speak on your own behalf,
31 to introduce evidence, to examine witnesses, and to receive a decision
32 based solely on the evidence presented to the judge.

33 4. If your hearing occurs before a court commissioner, you have the
34 right to have the decision of the court commissioner reviewed by a
35 superior court judge. To obtain that review, you must, within ten days
36 after the entry of the decision of the court commissioner, file with

1 the court a motion for revision of the decision, as provided in RCW
2 2.24.050.

3 You should be present at any shelter care hearing. If you do not
4 come, the judge will not hear what you have to say.

5 You may call the Child Protective Services' caseworker for more
6 information about your child. The caseworker's name and telephone
7 number are: (insert name and telephone number) .

8 5. You have a right to a case conference to develop a written
9 service agreement following the shelter care hearing. The service
10 agreement may not conflict with the court's order of shelter care. You
11 may request that a multidisciplinary team, family group conference, or
12 prognostic staffing be convened for your child's case. You may
13 participate in these processes with your counsel present.

14 6. If your child is placed in the custody of the department of
15 social and health services or other supervising agency, immediately
16 following the shelter care hearing, the court will enter an order
17 granting the department or other supervising agency the right to
18 inspect and copy all health, medical, mental health, and education
19 records of the child, directing health care providers to release such
20 information without your further consent, and granting the department
21 or supervising agency or its designee the authority and responsibility,
22 where applicable, to:

23 (1) Notify the child's school that the child is in out-of-home
24 placement;

25 (2) Enroll the child in school;

26 (3) Request the school transfer records;

27 (4) Request and authorize evaluation of special needs;

28 (5) Attend parent or teacher conferences;

29 (6) Excuse absences;

30 (7) Grant permission for extracurricular activities;

31 (8) Authorize medications which need to be administered during
32 school hours and sign for medical needs that arise during school hours;

33 and

34 (9) Complete or update school emergency records."

35 Upon receipt of the written notice, the parent, guardian, or legal
36 custodian shall acknowledge such notice by signing a receipt prepared
37 by child protective services. If the parent, guardian, or legal

1 custodian does not sign the receipt, the reason for lack of a signature
2 shall be written on the receipt. The receipt shall be made a part of
3 the court's file in the dependency action.

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

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

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

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

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

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

1 (5)(a) A shelter care order issued pursuant to RCW 13.34.065 shall
2 include the requirement for a case conference as provided in RCW
3 13.34.067. However, if the parent is not present at the shelter care
4 hearing, or does not agree to the case conference, the court shall not
5 include the requirement for the case conference in the shelter care
6 order.

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

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

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

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

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