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HOUSE BILL 1333

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State of Washington

60th Legislature

2007 Regular Session

By Representatives Hinkle, Kagi and Walsh

Read first time 01/17/2007. Referred to Committee on Early Learning & Children's Services.

1 AN ACT Relating to child welfare; amending RCW 13.34.138 and  
2 13.34.145; adding a new section to chapter 26.44 RCW; and adding a new  
3 section to chapter 13.34 RCW.

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

5 **Sec. 1.** RCW 13.34.138 and 2005 c 512 s 3 are each amended to read  
6 as follows:

7 (1) Except for children whose cases are reviewed by a citizen  
8 review board under chapter 13.70 RCW, the status of all children found  
9 to be dependent shall be reviewed by the court at least every six  
10 months from the beginning date of the placement episode or the date  
11 dependency is established, whichever is first, at a hearing in which it  
12 shall be determined whether court supervision should continue. The  
13 initial review hearing shall be an in-court review and shall be set six  
14 months from the beginning date of the placement episode or no more than  
15 ninety days from the entry of the disposition order, whichever comes  
16 first. The initial review hearing may be a permanency planning hearing  
17 when necessary to meet the time frames set forth in RCW 13.34.145(3) or  
18 13.34.134. The review shall include findings regarding the agency and  
19 parental completion of disposition plan requirements, and if necessary,

1 revised permanency time limits. This review shall consider both the  
2 agency's and parent's efforts that demonstrate consistent measurable  
3 progress over time in meeting the disposition plan requirements. The  
4 requirements for the initial review hearing, including the in-court  
5 requirement, shall be accomplished within existing resources. The  
6 supervising agency shall provide a foster parent, preadoptive parent,  
7 or relative with notice of, and their right to an opportunity to be  
8 heard in, a review hearing pertaining to the child, but only if that  
9 person is currently providing care to that child at the time of the  
10 hearing. This section shall not be construed to grant party status to  
11 any person who has been provided an opportunity to be heard.

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

19 (b) Prior to the child returning home, the department must complete  
20 the following:

21 (i) Identify any person who will act as a caregiver for the child  
22 and determine whether the caregiver is in need of any services in order  
23 to ensure the safety of the child, regardless of whether the caregiver  
24 is a party to the dependency. If services are recommended for the  
25 caregiver, and the caregiver fails to engage in the recommended  
26 services, the child welfare worker must promptly notify the court;

27 (ii) Identify all adults residing in the home and conduct  
28 background checks on those persons; and

29 (iii) Notify the parent in the home to which the child is being  
30 returned that he or she has an ongoing duty to notify the department of  
31 any persons who are residing in the home or acting as a caregiver for  
32 the child.

33 (c) If the child is not returned home, the court shall establish in  
34 writing:

35 (i) Whether reasonable services have been provided to or offered to  
36 the parties to facilitate reunion, specifying the services provided or  
37 offered;

1 (ii) Whether the child has been placed in the least-restrictive  
2 setting appropriate to the child's needs, including whether  
3 consideration and preference has been given to placement with the  
4 child's relatives;

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

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

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

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

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

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

19 ((+e+)) (d) The court at the review hearing may order that a  
20 petition seeking termination of the parent and child relationship be  
21 filed.

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

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

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

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

34 (i) Noncompliance by the parents with the agency case plan or court  
35 order;

36 (ii) The parent's inability, unwillingness, or failure to  
37 participate in available services or treatment for themselves or the

1 child, including substance abuse treatment if a parent's substance  
2 abuse was a contributing factor to the abuse or neglect; or

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

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

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

14 **Sec. 2.** RCW 13.34.145 and 2003 c 227 s 6 are each amended to read  
15 as follows:

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

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

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

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

8 (d) For purposes related to permanency planning:

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

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

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

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

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

35 (4) Whenever a child is removed from the home of a dependency  
36 guardian or long-term relative or foster care provider, and the child  
37 is not returned to the home of the parent, guardian, or legal custodian  
38 but is placed in out-of-home care, a permanency planning hearing shall

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

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

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

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

29 (ii) Modify the permanency plan, and order implementation of the  
30 modified plan; and

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

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

36 (7) If the court orders the child returned home, casework  
37 supervision shall continue for at least six months, at which time a

1 review hearing shall be held pursuant to RCW 13.34.138, and the court  
2 shall determine the need for continued intervention.

3 (8) If a child is removed from home due to allegations of abuse or  
4 neglect, returned home, and subsequently removed and placed in  
5 out-of-home care, the court shall hold a permanency hearing no later  
6 than thirty days from the date of the removal to determine the  
7 appropriate action, including a change in the permanency plan or the  
8 filing of a termination petition. The best interests of the child  
9 shall be the primary consideration in determining the appropriate  
10 action.

11 (9) The juvenile court may hear a petition for permanent legal  
12 custody when: (a) The court has ordered implementation of a permanency  
13 plan that includes permanent legal custody; and (b) the party pursuing  
14 the permanent legal custody is the party identified in the permanency  
15 plan as the prospective legal custodian. During the pendency of such  
16 proceeding, the court shall conduct review hearings and further  
17 permanency planning hearings as provided in this chapter. At the  
18 conclusion of the legal guardianship or permanent legal custody  
19 proceeding, a juvenile court hearing shall be held for the purpose of  
20 determining whether dependency should be dismissed. If a guardianship  
21 or permanent custody order has been entered, the dependency shall be  
22 dismissed.

23 ~~((+9))~~ (10) Continued juvenile court jurisdiction under this  
24 chapter shall not be a barrier to the entry of an order establishing a  
25 legal guardianship or permanent legal custody when the requirements of  
26 subsection ~~((+8))~~ (9) of this section are met.

27 ~~((+10))~~ (11) Following the first permanency planning hearing, the  
28 court shall hold a further permanency planning hearing in accordance  
29 with this section at least once every twelve months until a permanency  
30 planning goal is achieved or the dependency is dismissed, whichever  
31 occurs first.

32 ~~((+11))~~ (12) Except as provided in RCW 13.34.235, the status of  
33 all dependent children shall continue to be reviewed by the court at  
34 least once every six months, in accordance with RCW 13.34.138, until  
35 the dependency is dismissed. Prior to the second permanency planning  
36 hearing, the agency that has custody of the child shall consider  
37 whether to file a petition for termination of parental rights.

1       (~~(12)~~) (13) Nothing in this chapter may be construed to limit the  
2 ability of the agency that has custody of the child to file a petition  
3 for termination of parental rights or a guardianship petition at any  
4 time following the establishment of dependency. Upon the filing of  
5 such a petition, a fact-finding hearing shall be scheduled and held in  
6 accordance with this chapter unless the agency requests dismissal of  
7 the petition prior to the hearing or unless the parties enter an agreed  
8 order terminating parental rights, establishing guardianship, or  
9 otherwise resolving the matter.

10       (~~(13)~~) (14) The approval of a permanency plan that does not  
11 contemplate return of the child to the parent does not relieve the  
12 supervising agency of its obligation to provide reasonable services,  
13 under this chapter, intended to effectuate the return of the child to  
14 the parent, including but not limited to, visitation rights. The court  
15 shall consider the child's relationships with siblings in accordance  
16 with RCW 13.34.130.

17       (~~(14)~~) (15) Nothing in this chapter may be construed to limit the  
18 procedural due process rights of any party in a termination or  
19 guardianship proceeding filed under this chapter.

20       NEW SECTION. Sec. 3. A new section is added to chapter 26.44 RCW  
21 to read as follows:

22       (1)(a) The criminal justice training commission shall implement by  
23 January 1, 2008, a course of instruction for the training of law  
24 enforcement officers in Washington in the handling of child abuse or  
25 neglect complaints. The basic law enforcement curriculum of the  
26 criminal justice training commission shall include basic training  
27 instruction on child abuse and neglect issues. The course of  
28 instruction, the learning and performance objectives, and the standards  
29 for the training shall be developed by the commission and shall be  
30 required for all new law enforcement officers.

31       (b) The criminal justice training commission shall develop and  
32 update annually an in-service training program to familiarize law  
33 enforcement officers with child abuse and neglect issues. All law  
34 enforcement officers shall receive annual training on child abuse and  
35 neglect issues.

36       (2) Law enforcement and the department are encouraged to develop a  
37 protocol for contact and communication between agencies in child abuse



1 and neglect cases to assist both agencies in handling such cases. The  
2 protocol should consider addressing the coordination of child abuse and  
3 neglect investigations between the prosecutor's office, law  
4 enforcement, the department, local advocacy groups, and any other local  
5 agency involved in the investigation of child abuse and neglect.

6 (3) Law enforcement and the department are encouraged to  
7 cross-train to gain perspective on the roles and responsibilities of  
8 the various agencies involved in investigations of child abuse and  
9 neglect. Such training could encompass protocols that are developed  
10 under subsection (2) of this section for interagency communication, as  
11 well as investigative best practices.

12 NEW SECTION. **Sec. 4.** A new section is added to chapter 13.34 RCW  
13 to read as follows:

14 The department of social and health services, the attorney general,  
15 and the judicial branch shall identify all cases in which a dependency  
16 has been established under this chapter and in which the permanency  
17 planning goals have not been achieved within fifteen months of when the  
18 child was placed in out-of-home care. The agencies shall also identify  
19 the reasons for the noncompliance. The department, the attorney  
20 general, and the judicial branch shall report to the appropriate  
21 committees of the legislature before December 1, 2007, and before  
22 December 1st of each year thereafter.

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