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HOUSE BILL 1912

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State of Washington

60th Legislature

2007 Regular Session

By Representatives Kagi, Haler, Eickmeyer, Appleton, O'Brien, Roberts, Hinkle, Upthegrove, Pettigrew, Lantz, Darneille, Hunt, Moeller, Schual-Berke, Kenney, Wood and Ormsby

Read first time 01/31/2007. Referred to Committee on Early Learning & Children's Services.

1 AN ACT Relating to improving court hearings in dependency  
2 proceedings; amending RCW 13.34.060, 13.34.062, 13.34.065, 13.34.136,  
3 13.34.138, and 13.34.145; and creating a new section.

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

5 NEW SECTION. **Sec. 1.** The legislature recognizes that the 2005  
6 Washington state court improvement project re-assessment found that  
7 Washington statutes fail to consistently address the health and safety  
8 of children in care. Statutory language does not stress the safety and  
9 welfare of the child as the paramount concerns. Additionally, the lack  
10 of clarity in the statutes undermines the effectiveness of the hearings  
11 and, ultimately, the safety and welfare of the child. The legislature  
12 intends to clarify the purpose of the court hearings and the roles and  
13 responsibilities of the parties.

14 The legislature finds that an investment of time into quality court  
15 hearings results in better decisions for children and their families  
16 and preserves the resources of the court and the child welfare system.  
17 The legislature intends to clearly state that court hearings should  
18 always strive to be independent, thorough, and timely inquiries into  
19 the status of the case to ensure the department of social and health

1 services is responding to the needs of the family and child in a prompt  
2 manner and that the case is progressing appropriately. The legislature  
3 encourages the courts to develop clearer, stronger oversight and  
4 leadership roles within the courts to achieve safe, timely permanency  
5 for children. The court is encouraged to engage all parties to  
6 question whether the case is progressing and, if not, to assist in  
7 problem-solving to ensure progress is made towards permanency for the  
8 child.

9 **Sec. 2.** RCW 13.34.060 and 2002 c 52 s 4 are each amended to read  
10 as follows:

11 (1) A child taken into custody pursuant to RCW 13.34.050 or  
12 26.44.050 shall be immediately placed in shelter care. A child taken  
13 by a relative of the child in violation of RCW 9A.40.060 or 9A.40.070  
14 shall be placed in shelter care only when permitted under RCW  
15 13.34.055. No child may be held longer than seventy-two hours,  
16 excluding Saturdays, Sundays, and holidays, after such child is taken  
17 into custody unless a court order has been entered for continued  
18 shelter care. In no case may a child who is taken into custody  
19 pursuant to RCW 13.34.055, 13.34.050, or 26.44.050 be detained in a  
20 secure detention facility.

21 ~~((a))~~ (2) Unless there is reasonable cause to believe that the  
22 health, safety, or welfare of the child would be jeopardized or that  
23 the efforts to reunite the parent and child will be hindered, priority  
24 placement for a child in shelter care, pending a court hearing, shall  
25 be with any person described in RCW 74.15.020(2)(a). The person must  
26 be willing and available to care for the child and be able to meet any  
27 special needs of the child. The person must be willing to facilitate  
28 the child's visitation with siblings, if such visitation is part of the  
29 supervising agency's plan or is ordered by the court. If a child is  
30 not initially placed with a relative pursuant to this section, the  
31 supervising agency shall make an effort within available resources to  
32 place the child with a relative on the next business day after the  
33 child is taken into custody. The supervising agency shall document its  
34 effort to place the child with a relative pursuant to this section.  
35 Nothing within this subsection ~~((1)(a))~~ (2) establishes an  
36 entitlement to services or a right to a particular placement.

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

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

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

37        (1)(a) Whenever a child is taken into custody by child protective

1 services pursuant to a court order issued under RCW 13.34.050 or when  
2 child protective services is notified that a child has been taken into  
3 custody pursuant to RCW 26.44.050 or 26.44.056, child protective  
4 services shall make reasonable efforts to inform the parent, guardian,  
5 or legal custodian of the fact that the child has been taken into  
6 custody, the reasons why the child was taken into custody, and their  
7 legal rights under this title, including the right to a shelter care  
8 hearing, as soon as possible.

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

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

20 (b) The written notice of custody and rights required by ((RCW  
21 13.34.060)) this section shall be in substantially the following form:

22 "NOTICE

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

27 1. A court hearing will be held before a judge within 72 hours of  
28 the time your child is taken into custody excluding Saturdays, Sundays,  
29 and holidays. You should call the court at \_\_\_\_(insert appropriate  
30 phone number here)\_\_\_\_ for specific information about the date, time,  
31 and location of the court hearing.

32 2. You have the right to have a lawyer represent you at the  
33 hearing. Your right to representation continues after the shelter care  
34 hearing. You have the right to records the department intends to rely  
35 upon. A lawyer can look at the files in your case, talk to child  
36 protective services and other agencies, tell you about the law, help  
37 you understand your rights, and help you at hearings. If you cannot

1 afford a lawyer, the court will appoint one to represent you. To get  
2 a court-appointed lawyer you must contact: (explain local  
3 procedure).

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

7 4. If your hearing occurs before a court commissioner, you have the  
8 right to have the decision of the court commissioner reviewed by a  
9 superior court judge. To obtain that review, you must, within ten days  
10 after the entry of the decision of the court commissioner, file with  
11 the court a motion for revision of the decision, as provided in RCW  
12 2.24.050.

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

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

18 5. You have a right to a case conference to develop a written  
19 service agreement following the shelter care hearing. The service  
20 agreement may not conflict with the court's order of shelter care. You  
21 may request that a multidisciplinary team, family group conference, or  
22 prognostic staffing be convened for your child's case. You may  
23 participate in these processes with your counsel present."

24 Upon receipt of the written notice, the parent, guardian, or legal  
25 custodian shall acknowledge such notice by signing a receipt prepared  
26 by child protective services. If the parent, guardian, or legal  
27 custodian does not sign the receipt, the reason for lack of a signature  
28 shall be written on the receipt. The receipt shall be made a part of  
29 the court's file in the dependency action.

30 If after making reasonable efforts to provide notification, child  
31 protective services is unable to determine the whereabouts of the  
32 parents, guardian, or legal custodian, the notice shall be delivered or  
33 sent to the last known address of the parent, guardian, or legal  
34 custodian.

35 ~~((+2))~~ (3) If child protective services is not required to give  
36 notice under ~~((RCW 13.34.060(2) and subsection (1) of))~~ this section,  
37 the juvenile court counselor assigned to the matter shall make all  
38 reasonable efforts to advise the parents, guardian, or legal custodian

1 of the time and place of any shelter care hearing, request that they be  
2 present, and inform them of their basic rights as provided in RCW  
3 13.34.090.

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

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

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

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

28 ~~(5)(a) A shelter care order issued pursuant to RCW 13.34.065 shall  
29 include the requirement for a case conference as provided in RCW  
30 13.34.067. However, if the parent is not present at the shelter care  
31 hearing, or does not agree to the case conference, the court shall not  
32 include the requirement for the case conference in the shelter care  
33 order.~~

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

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

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

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

20       **Sec. 4.** RCW 13.34.065 and 2001 c 332 s 3 are each amended to read  
21 as follows:

22       (1)(a) When a child is taken into custody, the court shall hold a  
23 shelter care hearing within seventy-two hours, excluding Saturdays,  
24 Sundays, and holidays. If a child is not in custody, the court shall  
25 hold a hearing within seventy-two hours of receiving a request for a  
26 shelter care hearing from the child's parent, guardian, or custodian,  
27 excluding Saturdays, Sundays, and holidays. The primary purpose of the  
28 shelter care hearing is to determine whether the child can be  
29 immediately and safely returned home while the adjudication of the  
30 dependency is pending.

31       (b) Any parent, guardian, or legal custodian who for good cause is  
32 unable to attend the shelter care hearing may request that a subsequent  
33 shelter care hearing be scheduled. The request shall be made to the  
34 clerk of the court where the petition is filed prior to the initial  
35 shelter care hearing. Upon the request of the parent, the court shall  
36 schedule the hearing within seventy-two hours of the request, excluding

1 Saturdays, Sundays, and holidays. The clerk shall notify all other  
2 parties of the hearing by any reasonable means.

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

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

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

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

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

19 (ii) The nature of the shelter care hearing and the proceedings  
20 that will follow; and

21 (iii) If the parent, guardian, or custodian is not represented by  
22 counsel, the right to be represented. If the parent, guardian, or  
23 custodian is indigent, the court shall appoint counsel as provided in  
24 RCW 13.34.090.

25 (b) If a parent, guardian, or legal custodian desires to waive the  
26 shelter care hearing, the court shall determine, on the record and with  
27 the parties present, whether such waiver is knowing and voluntary.  
28 Regardless of whether the court accepts the parental waiver of the  
29 shelter care hearing, the court must make the finding required under  
30 subsection (4) of this section.

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

36 (a) Whether the notice required under RCW 13.34.062 was given to  
37 all known parents, guardians, or legal custodians of the child. The  
38 court shall make an express finding as to whether the notice required



1 under RCW 13.34.062 was given to the parent, guardian, or legal  
2 custodian. If actual notice was not given to the parent, guardian, or  
3 legal custodian and the whereabouts of such person is known or can be  
4 ascertained, the court shall order the supervising agency or the  
5 department of social and health services to make reasonable efforts to  
6 advise the parent, guardian, or legal custodian of the status of the  
7 case, including the date and time of any subsequent hearings, and their  
8 rights under RCW 13.34.090;

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

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

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

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

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

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

20 (h) Whether the child is or may be an Indian child as defined in 25  
21 U.S.C. Sec. 1903 and whether the provisions of the Indian child welfare  
22 act apply;

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

26 (j) Whether any orders for examinations, evaluations, or immediate  
27 services are needed;

28 (k) The terms and conditions for parental and sibling visitation.

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

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

37 ~~((+b)(i))~~ (ii)(A) The child has no parent, guardian, or legal  
38 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. 5.** RCW 13.34.136 and 2004 c 146 s 1 are each amended to read  
8 as follows:

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

17       (2) The agency charged with (~~his or her~~) care of the child shall  
18 provide the court with a written permanency plan of care directed  
19 towards securing a safe, stable, and permanent home for the child as  
20 soon as possible. The permanency plan shall include:

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

32       (b) Unless the court has ordered, pursuant to RCW 13.34.130(4),  
33 that a termination petition be filed, a specific plan as to where the  
34 child will be placed, what steps will be taken to return the child  
35 home, what steps the agency will take to promote existing appropriate  
36 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) The plan should ensure the child remains enrolled in the  
31 school the child was attending at the time the child entered foster  
32 care whenever it is practical and in the best interest of the child.

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. 6.** 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,  
21 preadoptive parent, or relative with notice of, and his or her right to  
22 an opportunity to be heard in, a review hearing pertaining to the  
23 child, but only if that person is currently providing care to the child  
24 at the time of the hearing. This section shall not be construed to  
25 grant party status to any person who has been provided an opportunity  
26 to be heard.

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

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

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

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

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

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

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

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

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

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

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

37 ~~((iii) Whether there is a continuing need for placement and~~  
38 ~~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 successful completion; 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. 7.** 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 sustaining care, independent living, or long-term foster  
28 care.

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

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

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

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

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

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

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

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

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

27 ~~((7))~~ (5) 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 (6) Prior to the second permanency planning hearing, the agency  
33 that has custody of the child shall consider whether to file a petition  
34 for termination of parental rights.

35 (7) If a child is removed from home due to allegations of abuse or  
36 neglect, returned home, and subsequently removed and placed in  
37 out-of-home care, the court shall hold a permanency hearing no later  
38 than thirty days from the date of the removal to determine the

1 appropriate action, including a change in the permanency plan or the  
2 filing of a termination petition. The best interests of the child  
3 shall be the primary consideration in determining the appropriate  
4 action.

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

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

21 ~~((+9))~~ (10) Continued juvenile court jurisdiction under this  
22 chapter shall not be a barrier to the entry of an order establishing a  
23 legal guardianship or permanent legal custody when the requirements of  
24 subsection ~~((+8))~~ (9) of this section are met.

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

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

36 ~~(+12))~~ (11) Nothing in this chapter may be construed to limit the  
37 ability of the agency that has custody of the child to file a petition  
38 for termination of parental rights or a guardianship petition at any

1 time following the establishment of dependency. Upon the filing of  
2 such a petition, a fact-finding hearing shall be scheduled and held in  
3 accordance with this chapter unless the agency requests dismissal of  
4 the petition prior to the hearing or unless the parties enter an agreed  
5 order terminating parental rights, establishing guardianship, or  
6 otherwise resolving the matter.

7 ~~((+13+))~~ (12) The approval of a permanency plan that does not  
8 contemplate return of the child to the parent does not relieve the  
9 supervising agency of its obligation to provide reasonable services,  
10 under this chapter, intended to effectuate the return of the child to  
11 the parent, including but not limited to, visitation rights. The court  
12 shall consider the child's relationships with siblings in accordance  
13 with RCW 13.34.130.

14 ~~((+14+))~~ (13) Nothing in this chapter may be construed to limit the  
15 procedural due process rights of any party in a termination or  
16 guardianship proceeding filed under this chapter.

17 NEW SECTION. **Sec. 8.** If any provision of this act or its  
18 application to any person or circumstance is held invalid, the  
19 remainder of the act or the application of the provision to other  
20 persons or circumstances is not affected.

--- END ---