
HOUSE BILL 2074

State of Washington

60th Legislature

2007 Regular Session

By Representatives Hinkle and Walsh

Read first time 02/07/2007. Referred to Committee on Early Learning & Children's Services.

1 AN ACT Relating to requesting the court to determine if a
2 termination petition is appropriate when a parent fails to contact a
3 child or indicates an unwillingness to care for the child; amending RCW
4 13.34.180; adding a new section to chapter 13.34 RCW; and creating a
5 new section.

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

7 NEW SECTION. **Sec. 1.** The legislature recognizes the importance of
8 establishing permanency in the lives of children who have been found to
9 be dependent. In some cases, parents choose to not contact their
10 children, or indicate an unwillingness to care for their children, for
11 years while the child is in a dependency. Though the state is able to
12 file a termination petition on these parents, the state often chooses
13 to wait to determine the outcome of the other parent before filing a
14 termination petition. The state finds that it is not in the best
15 interest of the child to delay action on a parent who has not indicated
16 any desire to maintain contact with his or her child.

17 The state should file the petition for termination to allow a court
18 to review the case and decide the appropriate course of action. This
19 may encourage the parent to step forward and contact the child or

1 indicate a willingness to become involved in the child's life. This
2 will begin the process of connecting the child to the parent possibly
3 years sooner than would otherwise be the case. However, if the parent
4 truly does not wish to be involved in the life of the child, the court
5 should have the opportunity to terminate the parental rights of that
6 parent and move the case toward permanency.

7 **Sec. 2.** RCW 13.34.180 and 2001 c 332 s 4 are each amended to read
8 as follows:

9 (1) A petition seeking termination of a parent and child
10 relationship may be filed in juvenile court by any party to the
11 dependency proceedings concerning that child. Such petition shall
12 conform to the requirements of RCW 13.34.040, shall be served upon the
13 parties as provided in RCW 13.34.070(8), and shall allege all of the
14 following unless subsection (2) (~~(e)~~), (3), or (4) of this section
15 applies:

16 (a) That the child has been found to be a dependent child;

17 (b) That the court has entered a dispositional order pursuant to
18 RCW 13.34.130;

19 (c) That the child has been removed or will, at the time of the
20 hearing, have been removed from the custody of the parent for a period
21 of at least six months pursuant to a finding of dependency;

22 (d) That the services ordered under RCW 13.34.136 have been
23 expressly and understandably offered or provided and all necessary
24 services, reasonably available, capable of correcting the parental
25 deficiencies within the foreseeable future have been expressly and
26 understandably offered or provided;

27 (e) That there is little likelihood that conditions will be
28 remedied so that the child can be returned to the parent in the near
29 future. A parent's failure to substantially improve parental
30 deficiencies within twelve months following entry of the dispositional
31 order shall give rise to a rebuttable presumption that there is little
32 likelihood that conditions will be remedied so that the child can be
33 returned to the parent in the near future. The presumption shall not
34 arise unless the petitioner makes a showing that all necessary services
35 reasonably capable of correcting the parental deficiencies within the
36 foreseeable future have been clearly offered or provided. In

1 determining whether the conditions will be remedied the court may
2 consider, but is not limited to, the following factors:

3 (i) Use of intoxicating or controlled substances so as to render
4 the parent incapable of providing proper care for the child for
5 extended periods of time or for periods of time that present a risk of
6 imminent harm to the child, and documented unwillingness of the parent
7 to receive and complete treatment or documented multiple failed
8 treatment attempts; or

9 (ii) Psychological incapacity or mental deficiency of the parent
10 that is so severe and chronic as to render the parent incapable of
11 providing proper care for the child for extended periods of time or for
12 periods of time that present a risk of imminent harm to the child, and
13 documented unwillingness of the parent to receive and complete
14 treatment or documentation that there is no treatment that can render
15 the parent capable of providing proper care for the child in the near
16 future; and

17 (f) That continuation of the parent and child relationship clearly
18 diminishes the child's prospects for early integration into a stable
19 and permanent home.

20 (2) In lieu of the allegations in subsection (1) of this section,
21 the petition may allege that the child was found under such
22 circumstances that the whereabouts of the child's parent are unknown
23 and no person has acknowledged paternity or maternity and requested
24 custody of the child within two months after the child was found.

25 (3) In lieu of the allegations in subsection (1) of this section,
26 the petition may allege that eighteen months have elapsed since the
27 child was removed from the home and the parent of the child has
28 indicated an unwillingness to care for the child or has failed to have
29 contact with the child.

30 (4) In lieu of the allegations in subsection (1)(b) through (f) of
31 this section, the petition may allege that the parent has been
32 convicted of:

33 (a) Murder in the first degree, murder in the second degree, or
34 homicide by abuse as defined in chapter 9A.32 RCW against another child
35 of the parent;

36 (b) Manslaughter in the first degree or manslaughter in the second
37 degree, as defined in chapter 9A.32 RCW against another child of the
38 parent;

1 (c) Attempting, conspiring, or soliciting another to commit one or
2 more of the crimes listed in (a) or (b) of this subsection; or

3 (d) Assault in the first or second degree, as defined in chapter
4 9A.36 RCW, against the surviving child or another child of the parent.

5 ((+4)) (5) Notice of rights shall be served upon the parent,
6 guardian, or legal custodian with the petition and shall be in
7 substantially the following form:

8 "NOTICE

9 A petition for termination of parental rights has been filed
10 against you. You have important legal rights and you must take
11 steps to protect your interests. This petition could result in
12 permanent loss of your parental rights.

13 1. You have the right to a fact-finding hearing before
14 a judge.

15 2. You have the right to have a lawyer represent you at
16 the hearing. A lawyer can look at the files in your case, talk
17 to the department of social and health services and other
18 agencies, tell you about the law, help you understand your
19 rights, and help you at hearings. If you cannot afford a
20 lawyer, the court will appoint one to represent you. To get a
21 court-appointed lawyer you must contact: (explain local
22 procedure).

23 3. At the hearing, you have the right to speak on your
24 own behalf, to introduce evidence, to examine witnesses, and to
25 receive a decision based solely on the evidence presented to
26 the judge.

27 You should be present at this hearing.

28 You may call (insert agency) for more information
29 about your child. The agency's name and telephone number are
30 (insert name and telephone number)."

31 NEW SECTION. Sec. 3. A new section is added to chapter 13.34 RCW
32 to read as follows:

33 The department shall file a petition seeking termination of a
34 parent and child relationship when eighteen months have elapsed since
35 a child was removed from the home and the parent of the child has

1 indicated an unwillingness to care for the child or has failed to have
2 contact with the child.

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