
SUBSTITUTE HOUSE BILL 2075

State of Washington 60th Legislature 2007 Regular Session

By House Committee on Early Learning & Children's Services
(originally sponsored by Representatives Hinkle and Walsh)

READ FIRST TIME 2/28/07.

1 AN ACT Relating to termination of parental rights petitions;
2 amending RCW 13.34.180 and 13.34.190; adding a new section to chapter
3 13.34 RCW; 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 the importance of
6 establishing permanency in the lives of children who have been found to
7 be dependent. In some cases, a parent chooses to not contact his or
8 her child, or indicates an unwillingness to care for his or her child,
9 for years while the child is in a dependency. Though the state is able
10 to file a termination petition on the parent, the state often chooses
11 to wait to determine the outcome of the other parent before filing a
12 termination petition. The state finds that it is not in the best
13 interest of the child to delay action on a parent who has not indicated
14 any desire to maintain contact with his or her child.

15 The state should file the petition for termination to allow a court
16 to review the case and decide the appropriate course of action. This
17 may encourage the parent to step forward and contact the child or
18 indicate a willingness to become involved in the child's life. This
19 will begin the process of connecting the child to the parent possibly

1 years sooner than would otherwise be the case. However, if the parent
2 truly does not wish to be involved in the life of the child, the court
3 should have the opportunity to terminate the parental rights of that
4 parent and move the case toward permanency.

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

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

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

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

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

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

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

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

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

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

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

23 (3) In lieu of the allegations in subsection (1)(d) and (e) of
24 this section, the petition may allege the following:

25 (a) Fifteen months have elapsed since the child was removed from
26 the home;

27 (b) The parent has been given the opportunity to contact the child
28 and engage in a relationship with the child; and

29 (c) The parent of the child has indicated an unwillingness to care
30 for the child or has failed to have contact with the child.

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

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

37 (b) Manslaughter in the first degree or manslaughter in the second

1 degree, as defined in chapter 9A.32 RCW against another child of the
2 parent;

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

5 (d) Assault in the first or second degree, as defined in chapter
6 9A.36 RCW, against the surviving child or another child of the parent.

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

10 "NOTICE

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

15 1. You have the right to a fact-finding hearing before
16 a judge.

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

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

29 You should be present at this hearing.

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

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

35 The department shall file a petition seeking termination of a
36 parent and child relationship if:

- 1 (1) Fifteen months have elapsed since the child was removed from
2 the home;
- 3 (2) The parent of the child has indicated an unwillingness to care
4 for the child or has failed to have contact with the child; and
- 5 (3) The permanent plan for the child is adoption.

6 **Sec. 4.** RCW 13.34.190 and 2000 c 122 s 26 are each amended to read
7 as follows:

8 After hearings pursuant to RCW 13.34.110 or 13.34.130, the court
9 may enter an order terminating all parental rights to a child only if
10 the court finds that:

11 (1)(a) The allegations contained in the petition as provided in RCW
12 13.34.180(1) are established by clear, cogent, and convincing evidence;
13 or

14 (b) The provisions of RCW 13.34.180(1) (a), (b), (e), and (f) are
15 established beyond a reasonable doubt and if so, then RCW 13.34.180(1)
16 (c) and (d) may be waived. When an infant has been abandoned, as
17 defined in RCW 13.34.030, and the abandonment has been proved beyond a
18 reasonable doubt, then RCW 13.34.180(1) (c) and (d) may be waived; or

19 (c) The allegation under RCW 13.34.180(2) is established beyond a
20 reasonable doubt. In determining whether RCW 13.34.180(1) (e) and (f)
21 are established beyond a reasonable doubt, the court shall consider
22 whether one or more of the aggravated circumstances listed in RCW
23 13.34.132 exist; or

24 (d) The allegations under RCW 13.34.180 (3) (~~is~~) and (4) are
25 established beyond a reasonable doubt; and

26 (2) Such an order is in the best interests of the child.

--- END ---