
ENGROSSED SECOND SUBSTITUTE HOUSE BILL 3205

State of Washington

60th Legislature

2008 Regular Session

By House Appropriations (originally sponsored by Representatives Jarrett, Walsh, Kagi, Roberts, Hunter, Sullivan, Green, Kelley, Morrell, Chase, McIntire, Sequist, and Kenney)

READ FIRST TIME 02/11/08.

1 AN ACT Relating to promoting the long-term well-being of children;
2 amending RCW 13.34.136, 13.34.145, 13.34.020, and 74.13.080; adding a
3 new section to chapter 13.34 RCW; adding new sections to chapter 74.13
4 RCW; and creating new sections.

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

6 NEW SECTION. **Sec. 1.** The legislature finds that meeting the needs
7 of vulnerable children who enter the child welfare system requires a
8 continuum of services available to meet the child's current needs and
9 to promote and support the child's long-term well-being. Children who
10 enter foster care and subsequently achieve permanency through adoption
11 will have ongoing developmental needs relating, in part, to the length
12 of time they spent in care. The legislature intends to encourage a
13 greater focus on children's developmental needs by promoting closer
14 adherence to timeliness standards in the resolution of dependency cases
15 and by elevating the importance of permanency for children.

16 **Sec. 2.** RCW 13.34.136 and 2007 c 413 s 7 are each amended to read
17 as follows:

18 (1) A permanency plan shall be developed no later than sixty days

1 from the time the supervising agency assumes responsibility for
2 providing services, including placing the child, or at the time of a
3 hearing under RCW 13.34.130, whichever occurs first. The permanency
4 planning process continues until a permanency planning goal is achieved
5 or dependency is dismissed. The planning process shall include
6 reasonable efforts to return the child to the parent's home.

7 (2) The agency supervising the dependency shall submit a written
8 permanency plan to all parties and the court not less than fourteen
9 days prior to the scheduled hearing. Responsive reports of parties not
10 in agreement with the supervising agency's proposed permanency plan
11 must be provided to the supervising agency, all other parties, and the
12 court at least seven days prior to the hearing.

13 The permanency plan shall include:

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

25 (b) Unless the court has ordered, pursuant to RCW 13.34.130(~~(+4)~~)
26 (5), that a termination petition be filed, a specific plan as to where
27 the child will be placed, what steps will be taken to return the child
28 home, what steps the agency will take to promote existing appropriate
29 sibling relationships and/or facilitate placement together or contact
30 in accordance with the best interests of each child, and what actions
31 the agency will take to maintain parent-child ties. All aspects of the
32 plan shall include the goal of achieving permanence for the child.

33 (i) The agency plan shall specify what services the parents will be
34 offered to enable them to resume custody, what requirements the parents
35 must meet to resume custody, and a time limit for each service plan and
36 parental requirement.

37 (ii) Visitation is the right of the family, including the child and
38 the parent, in cases in which visitation is in the best interest of the

1 child. Early, consistent, and frequent visitation is crucial for
2 maintaining parent-child relationships and making it possible for
3 parents and children to safely reunify. The agency shall encourage the
4 maximum parent and child and sibling contact possible, when it is in
5 the best interest of the child, including regular visitation and
6 participation by the parents in the care of the child while the child
7 is in placement. Visitation shall not be limited as a sanction for a
8 parent's failure to comply with court orders or services where the
9 health, safety, or welfare of the child is not at risk as a result of
10 the visitation. Visitation may be limited or denied only if the court
11 determines that such limitation or denial is necessary to protect the
12 child's health, safety, or welfare. The court and the agency should
13 rely upon community resources, relatives, foster parents, and other
14 appropriate persons to provide transportation and supervision for
15 visitation to the extent that such resources are available, and
16 appropriate, and the child's safety would not be compromised.

17 (iii) A child shall be placed as close to the child's home as
18 possible, preferably in the child's own neighborhood, unless the court
19 finds that placement at a greater distance is necessary to promote the
20 child's or parents' well-being.

21 (iv) The plan shall state whether both in-state and, where
22 appropriate, out-of-state placement options have been considered by the
23 department.

24 (v) Unless it is not in the best interests of the child, whenever
25 practical, the plan should ensure the child remains enrolled in the
26 school the child was attending at the time the child entered foster
27 care.

28 (vi) The agency charged with supervising a child in placement shall
29 provide all reasonable services that are available within the agency,
30 or within the community, or those services which the department has
31 existing contracts to purchase. It shall report to the court if it is
32 unable to provide such services; and

33 (c) If the court has ordered, pursuant to RCW 13.34.130(~~(+4)~~) (5),
34 that a termination petition be filed, a specific plan as to where the
35 child will be placed, what steps will be taken to achieve permanency
36 for the child, services to be offered or provided to the child, and, if
37 visitation would be in the best interests of the child, a
38 recommendation to the court regarding visitation between parent and

1 child pending a fact-finding hearing on the termination petition. The
2 agency shall not be required to develop a plan of services for the
3 parents or provide services to the parents if the court orders a
4 termination petition be filed. However, reasonable efforts to ensure
5 visitation and contact between siblings shall be made unless there is
6 reasonable cause to believe the best interests of the child or siblings
7 would be jeopardized.

8 (3) Permanency planning goals should be achieved at the earliest
9 possible date, (~~(preferably before)~~). If the child has been in out-of-
10 home care for fifteen of the most recent twenty-two months, the court
11 shall require the filing of a petition seeking termination of parental
12 rights in accordance with RCW 13.34.145(2). In cases where parental
13 rights have been terminated, the child is legally free for adoption,
14 and adoption has been identified as the primary permanency planning
15 goal, it shall be a goal to complete the adoption within six months
16 following entry of the termination order.

17 (4) If the court determines that the continuation of reasonable
18 efforts to prevent or eliminate the need to remove the child from his
19 or her home or to safely return the child home should not be part of
20 the permanency plan of care for the child, reasonable efforts shall be
21 made to place the child in a timely manner and to complete whatever
22 steps are necessary to finalize the permanent placement of the child.

23 (5) The identified outcomes and goals of the permanency plan may
24 change over time based upon the circumstances of the particular case.

25 (6) The court shall consider the child's relationships with the
26 child's siblings in accordance with RCW 13.34.130(3).

27 (7) For purposes related to permanency planning:

28 (a) "Guardianship" means a dependency guardianship or a legal
29 guardianship pursuant to chapter 11.88 RCW or equivalent laws of
30 another state or a federally recognized Indian tribe.

31 (b) "Permanent custody order" means a custody order entered
32 pursuant to chapter 26.10 RCW.

33 (c) "Permanent legal custody" means legal custody pursuant to
34 chapter 26.10 RCW or equivalent laws of another state or a federally
35 recognized Indian tribe.

36 **Sec. 3.** RCW 13.34.145 and 2007 c 413 s 9 are each amended to read
37 as follows:

1 (1) The purpose of a permanency planning hearing is to review the
2 permanency plan for the child, inquire into the welfare of the child
3 and progress of the case, and reach decisions regarding the permanent
4 placement of the child.

5 (a) A permanency planning hearing shall be held in all cases where
6 the child has remained in out-of-home care for at least nine months and
7 an adoption decree, guardianship order, or permanent custody order has
8 not previously been entered. The hearing shall take place no later
9 than twelve months following commencement of the current placement
10 episode.

11 (b) Whenever a child is removed from the home of a dependency
12 guardian or long-term relative or foster care provider, and the child
13 is not returned to the home of the parent, guardian, or legal custodian
14 but is placed in out-of-home care, a permanency planning hearing shall
15 take place no later than twelve months, as provided in this section,
16 following the date of removal unless, prior to the hearing, the child
17 returns to the home of the dependency guardian or long-term care
18 provider, the child is placed in the home of the parent, guardian, or
19 legal custodian, an adoption decree, guardianship order, or a permanent
20 custody order is entered, or the dependency is dismissed.

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

28 (2) When a child has been in out-of-home care for fifteen of the
29 most recent twenty-two months, the court shall require the filing of a
30 petition seeking termination of parental rights. The court may make a
31 good cause written finding as to why filing a petition for termination
32 of parental rights is not appropriate at this time. Any such good
33 cause finding shall be reviewed at all subsequent motion and review
34 hearings pertaining to the child.

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

1 (~~(3)~~) (4) At the permanency planning hearing, the court shall
2 conduct the following inquiry:

3 (a) If a goal of long-term foster or relative care has been
4 achieved prior to the permanency planning hearing, the court shall
5 review the child's status to determine whether the placement and the
6 plan for the child's care remain appropriate.

7 (b) In cases where the primary permanency planning goal has not
8 been achieved, the court shall inquire regarding the reasons why the
9 primary goal has not been achieved and determine what needs to be done
10 to make it possible to achieve the primary goal. The court shall
11 review the permanency plan prepared by the agency and make explicit
12 findings regarding each of the following:

13 (i) The continuing necessity for, and the safety and
14 appropriateness of, the placement;

15 (ii) The extent of compliance with the permanency plan by the
16 agency and any other service providers, the child's parents, the child,
17 and the child's guardian, if any;

18 (iii) The extent of any efforts to involve appropriate service
19 providers in addition to agency staff in planning to meet the special
20 needs of the child and the child's parents;

21 (iv) The progress toward eliminating the causes for the child's
22 placement outside of his or her home and toward returning the child
23 safely to his or her home or obtaining a permanent placement for the
24 child;

25 (v) The date by which it is likely that the child will be returned
26 to his or her home or placed for adoption, with a guardian or in some
27 other alternative permanent placement; and

28 (vi) If the child has been placed outside of his or her home for
29 fifteen of the most recent twenty-two months, not including any period
30 during which the child was a runaway from the out-of-home placement or
31 the first six months of any period during which the child was returned
32 to his or her home for a trial home visit, the appropriateness of the
33 permanency plan, whether reasonable efforts were made by the agency to
34 achieve the goal of the permanency plan, and the circumstances which
35 prevent the child from any of the following:

36 (A) Being returned safely to his or her home;

37 (B) Having a petition for the involuntary termination of parental
38 rights filed on behalf of the child;

1 (C) Being placed for adoption;

2 (D) Being placed with a guardian;

3 (E) Being placed in the home of a fit and willing relative of the
4 child; or

5 (F) Being placed in some other alternative permanent placement,
6 including independent living or long-term foster care.

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

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

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

19 (d) If the child has resided in the home of a foster parent or
20 relative for more than six months prior to the permanency planning
21 hearing, the court shall also enter a finding regarding whether the
22 foster parent or relative was informed of the hearing as required in
23 RCW 74.13.280 (~~and 13.34.138~~), 13.34.215(5), and 13.34.096.

24 (~~(4)~~) (5) In all cases, at the permanency planning hearing, the
25 court shall:

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

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

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

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

35 (~~(5)~~) (6) Following the first permanency planning hearing, the
36 court shall hold a further permanency planning hearing in accordance
37 with this section at least once every twelve months until a permanency

1 planning goal is achieved or the dependency is dismissed, whichever
2 occurs first.

3 ~~((+6+))~~ (7) Prior to the second permanency planning hearing, the
4 agency that has custody of the child shall consider whether to file a
5 petition for termination of parental rights.

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

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

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

26 ~~((+10+))~~ (11) Nothing in this chapter may be construed to limit the
27 ability of the agency that has custody of the child to file a petition
28 for termination of parental rights or a guardianship petition at any
29 time following the establishment of dependency. Upon the filing of
30 such a petition, a fact-finding hearing shall be scheduled and held in
31 accordance with this chapter unless the agency requests dismissal of
32 the petition prior to the hearing or unless the parties enter an agreed
33 order terminating parental rights, establishing guardianship, or
34 otherwise resolving the matter.

35 ~~((+11+))~~ (12) The approval of a permanency plan that does not
36 contemplate return of the child to the parent does not relieve the
37 supervising agency of its obligation to provide reasonable services,
38 under this chapter, intended to effectuate the return of the child to

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

4 ~~((12))~~ (13) Nothing in this chapter may be construed to limit the
5 procedural due process rights of any party in a termination or
6 guardianship proceeding filed under this chapter.

7 **Sec. 4.** RCW 13.34.020 and 1998 c 314 s 1 are each amended to read
8 as follows:

9 The legislature declares that the family unit is a fundamental
10 resource of American life which should be nurtured. Toward the
11 continuance of this principle, the legislature declares that the family
12 unit should remain intact unless a child's right to conditions of basic
13 nurture, health, or safety is jeopardized. When the rights of basic
14 nurture, physical and mental health, and safety of the child and the
15 legal rights of the parents are in conflict, the rights and safety of
16 the child should prevail. In making reasonable efforts under this
17 chapter, the child's health ~~((and))~~, safety, and long-term well-being
18 shall be the paramount concern. The right of a child to basic
19 nurturing includes the right to a safe, stable, and permanent home and
20 a speedy resolution of any proceeding under this chapter.

21 NEW SECTION. **Sec. 5.** Subject to the availability of funds
22 appropriated for this purpose, the department shall contract for an
23 information and referral services provider to support families with
24 children adopted out of foster care. The contract shall include
25 components for statewide support of families who may be seeking
26 adoption-specific resources and information, including referrals for
27 individual or family counseling, support groups, or community services;
28 and relevant training programs. The information and referrals must be
29 provided by an entity knowledgeable and experienced in adoption issues.
30 The contract shall specify that the service provider must serve as the
31 central point of contact for Washington families seeking adoption-
32 related information and referral services. The department also shall
33 develop a simple process for voluntary sharing of contact information
34 for adoptive parents for the purpose of facilitating periodic surveys
35 by the contracted information and referral services provider about the

1 service and support needs of families who have adopted children from
2 foster care.

3 NEW SECTION. **Sec. 6.** (1) The definitions in this subsection apply
4 throughout this section unless the context clearly requires otherwise.

5 (a) "Adopted" means that a valid decree of adoption regarding the
6 child and parent was entered and remains intact in Washington or in
7 another jurisdiction.

8 (b) "Child" means any child under the age of eighteen who was found
9 to be dependent, placed in out-of-home care, and subsequently was
10 adopted from an out-of-home placement.

11 (c) "Licensed facility" means a facility licensed under chapter
12 74.15 RCW to provide residential evaluation and treatment services for
13 children.

14 (d) "Parent" means the adoptive and legal parent of a child
15 according to the terms of a valid decree of adoption, or the legal
16 guardian of an adopted child.

17 (e) "Voluntary placement agreement" means a written agreement
18 between the department and a child's parent authorizing the department
19 to place the child in a licensed facility for the purpose of receiving
20 mental health or behavioral health treatment intended to stabilize the
21 child's functioning and support the child's return home. Under the
22 terms of a voluntary placement agreement, the parent retains legal
23 custody of the child while the department temporarily assumes
24 responsibility for the child's placement and care.

25 (2) A parent may request and the department may agree to enter into
26 a voluntary placement agreement whenever the following conditions are
27 met:

28 (a) The child resides in Washington state;

29 (b) Less intensive and traditional family preservation services,
30 community resources, and/or adoption supports have been unsuccessful or
31 are not likely to be successful in stabilizing the child's behavior and
32 functioning; and

33 (c) The parent has no reasonable alternative to access the level of
34 care necessary to meet the child's needs and preserve the adoption.

35 (3)(a) Whenever the department assumes responsibility for the
36 placement and care of a child under this section, the department, in
37 consultation with the child, the child's parent, and a mental health

1 professional, shall develop a plan for the child's eventual return
2 home. If the plan anticipates the child will remain in out-of-home
3 care one hundred eighty days or longer, or if at any time it appears
4 the child will remain in out-of-home care longer than one hundred
5 eighty days, the department and the parent shall jointly seek a
6 judicial determination that the agreement is in the child's best
7 interests. If the child exits the out-of-home placement before one
8 hundred eighty days have elapsed, no judicial determination is
9 required.

10 (b) To obtain the judicial determination required under this
11 section, the department and the parent shall file a joint petition
12 alleging there is located or residing within the county a child who was
13 adopted from the foster care system whose current behavioral health or
14 mental health needs can not be met adequately by the child's parent,
15 and that as a result the child has been placed in out-of-home care
16 pursuant to this section. The petition shall request that the court
17 conduct periodic reviews of the child's placement and make a
18 determination whether continued placement is in the best interests of
19 the child. The petition shall contain the name, date of birth, and
20 residence of the child and the names and residences of the child's
21 parent or legal guardian who has consented to the voluntary placement
22 agreement. The department shall make reasonable attempts to ascertain
23 and set forth in the petition the identity, location, and custodial
24 status of any parent who is not a party to the placement agreement and
25 reasons why that parent cannot assume placement and care authority of
26 the child.

27 (c) Permanency planning for the child shall be the joint
28 responsibility of the department and the parent.

29 (4) A written agreement under this section must specify the legal
30 status of the child and the rights and obligations of the parent, the
31 child, and the department while the child is in the licensed facility.
32 Any party to the agreement may terminate the agreement at any time by
33 providing advance notice to the other party and to the child if he or
34 she is thirteen years of age or older. Upon termination of the
35 agreement, the child must be returned to the care of his or her parent
36 unless the child has been taken into custody pursuant to RCW 13.34.050
37 or 26.44.050, placed in shelter care pursuant to RCW 13.34.060, or
38 placed in foster care pursuant to RCW 13.34.130.

1 NEW SECTION. **Sec. 7.** A new section is added to chapter 13.34 RCW
2 to read as follows:

3 (1) The legislature finds that as a condition of the state's
4 receipt of federal funds for foster care under Title IV-B and Title IV-
5 E of the social security act, all children in foster care must be
6 subjected to periodic court review. Unfortunately, this requirement
7 includes children who were adopted out of foster care and who
8 subsequently are temporarily returned to a foster care placement solely
9 because their parents have determined that the child's mental health or
10 behavioral health service needs require an out-of-home placement.
11 Except for providing such needed services, the parents of these
12 children are completely competent to care for the children. The
13 legislature intends that court review of out-of-home placements
14 pursuant to section 6 of this act be structured to minimize the stress
15 and inconvenience to families caused by complying with these federal
16 requirements.

17 (2) Upon filing of the petition required under section 6 of this
18 act, the clerk of the court shall schedule the petition for a hearing
19 to be held no later than fourteen calendar days after the petition has
20 been filed. The department shall provide notification of the time,
21 date, and purpose of the hearing to the parent or legal guardian who
22 has agreed to the child's placement in out-of-home care. The
23 department shall also make reasonable attempts to notify any parent who
24 is not a party to the placement agreement, if the parent's identity and
25 location are known. Notification under this section may be given by
26 the most expedient means, including but not limited to mail, personal
27 service, and telephone.

28 **Sec. 8.** RCW 74.13.080 and 1987 c 170 s 11 are each amended to read
29 as follows:

30 Except as provided in RCW 74.13.350 and section 6 of this act, the
31 department shall not make payment for any child in group care placement
32 unless the group home is licensed and the department has the ((~~custody~~
33 ~~of~~)) placement and care authority for the child under a court order or
34 a voluntary placement agreement and the authority to remove the child
35 in a cooperative manner after at least seventy-two hours notice to the
36 child care provider; such notice may be waived in emergency situations.
37 However, this requirement shall not be construed to prohibit the

1 department from making or mandate the department to make payment for
2 Indian children placed in facilities licensed by federally recognized
3 Indian tribes pursuant to chapter 74.15 RCW.

4 NEW SECTION. **Sec. 9.** Sections 5 and 6 of this act are each added
5 to chapter 74.13 RCW.

6 NEW SECTION. **Sec. 10.** If specific funding for the purposes of
7 sections 2 and 3 of this act, referencing sections 2 and 3 of this act
8 by bill or chapter number and section number, is not provided by June
9 30, 2008, in the omnibus appropriations act, sections 2 and 3 of this
10 act are null and void.

11 NEW SECTION. **Sec. 11.** If specific funding for the purposes of
12 section 5 of this act, referencing section 5 of this act by bill or
13 chapter number and section number, is not provided by June 30, 2008, in
14 the omnibus appropriations act, section 5 of this act is null and void.

15 NEW SECTION. **Sec. 12.** If specific funding for the purposes of
16 sections 6, 7, and 8 of this act, referencing sections 6, 7, and 8 of
17 this act by bill or chapter number and section number, is not provided
18 by June 30, 2008, in the omnibus appropriations act, sections 6, 7, and
19 8 of this act are null and void.

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