
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, and 13.34.020; and creating new
3 sections.

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

5 NEW SECTION. **Sec. 1.** The legislature finds that meeting the needs
6 of vulnerable children who enter the child welfare system includes
7 protecting the child's right to a safe, stable, and permanent home
8 where the child receives basic nurturing. The legislature also finds
9 that according to measures of timely dependency case processing, many
10 children's cases are not meeting the federal and state standards
11 intended to promote child-centered decision making in dependency cases.
12 The legislature intends to encourage a greater focus on children's
13 developmental needs and to promote closer adherence to timeliness
14 standards in the resolution of dependency cases.

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

17 (1) A permanency plan shall be developed no later than sixty days
18 from the time the supervising agency assumes responsibility for

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

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

12 The permanency plan shall include:

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

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

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

36 (ii) Visitation is the right of the family, including the child and
37 the parent, in cases in which visitation is in the best interest of the
38 child. Early, consistent, and frequent visitation is crucial for

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

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

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

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

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

32 (c) If the court has ordered, pursuant to RCW 13.34.130(~~(+4)~~) (5),
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 achieve permanency
35 for the child, services to be offered or provided to the child, and, if
36 visitation would be in the best interests of the child, a
37 recommendation to the court regarding visitation between parent and
38 child pending a fact-finding hearing on the termination petition. The

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

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

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

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

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

26 (7) For purposes related to permanency planning:

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

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

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

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

37 (1) The purpose of a permanency planning hearing is to review the

1 permanency plan for the child, inquire into the welfare of the child
2 and progress of the case, and reach decisions regarding the permanent
3 placement of the child.

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

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

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

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

34 (3) No later than ten working days prior to the permanency planning
35 hearing, the agency having custody of the child shall submit a written
36 permanency plan to the court and shall mail a copy of the plan to all
37 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.** If specific funding for the purposes of this
22 act, referencing this act by bill or chapter number, is not provided by
23 June 30, 2008, in the omnibus appropriations act, this act is null and
24 void.

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