
HOUSE BILL 3205

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By Representatives Jarrett, Walsh, Kagi, Roberts, Hunter, Sullivan, Green, Kelley, Morrell, Chase, McIntire, Seaquist, and Kenney

Read first time 01/24/08. Referred to Committee on Early Learning & Children's Services.

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; adding a new section
3 to chapter 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 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 NEW SECTION. **Sec. 2.** A new section is added to chapter 13.34 RCW
16 to read as follows:

17 When assessing whether a child's right to conditions of basic
18 nurture are being adequately protected under this chapter, the

1 developmental needs of the child should be considered. The following
2 responsibilities are essential to meeting a child's developmental
3 needs:

- 4 (1) Providing the child with positive guidance and support;
- 5 (2) Using discipline appropriate to the child's age and stage of
6 development;
- 7 (3) Supporting intellectual and educational growth;
- 8 (4) Encouraging and modeling positive social relationships and
9 responsibilities;
- 10 (5) Helping the child build positive attachments to appropriate
11 adults;
- 12 (6) Helping the child gain age-appropriate skills for independence;
13 and
- 14 (7) Promoting the building of self-esteem.

15 **Sec. 3.** 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
19 providing services, including placing the child, or at the time of a
20 hearing under RCW 13.34.130, whichever occurs first. The permanency
21 planning process continues until a permanency planning goal is achieved
22 or dependency is dismissed. The planning process shall include
23 reasonable efforts to return the child to the parent's home.

24 (2) The agency supervising the dependency shall submit a written
25 permanency plan to all parties and the court not less than fourteen
26 days prior to the scheduled hearing. Responsive reports of parties not
27 in agreement with the supervising agency's proposed permanency plan
28 must be provided to the supervising agency, all other parties, and the
29 court at least seven days prior to the hearing.

30 The permanency plan shall include:

31 (a) A permanency plan of care that shall identify one of the
32 following outcomes as a primary goal and may identify additional
33 outcomes as alternative goals: Return of the child to the home of the
34 child's parent, guardian, or legal custodian; adoption; guardianship;
35 permanent legal custody; long-term relative or foster care, until the
36 child is age eighteen, with a written agreement between the parties and
37 the care provider; successful completion of a responsible living skills

1 program; or independent living, if appropriate and if the child is age
2 sixteen or older. The department shall not discharge a child to an
3 independent living situation before the child is eighteen years of age
4 unless the child becomes emancipated pursuant to chapter 13.64 RCW;

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

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

17 (ii) Visitation is the right of the family, including the child and
18 the parent, in cases in which visitation is in the best interest of the
19 child. Early, consistent, and frequent visitation is crucial for
20 maintaining parent-child relationships and making it possible for
21 parents and children to safely reunify. The agency shall encourage the
22 maximum parent and child and sibling contact possible, when it is in
23 the best interest of the child, including regular visitation and
24 participation by the parents in the care of the child while the child
25 is in placement. Visitation shall not be limited as a sanction for a
26 parent's failure to comply with court orders or services where the
27 health, safety, or welfare of the child is not at risk as a result of
28 the visitation. Visitation may be limited or denied only if the court
29 determines that such limitation or denial is necessary to protect the
30 child's health, safety, or welfare. The court and the agency should
31 rely upon community resources, relatives, foster parents, and other
32 appropriate persons to provide transportation and supervision for
33 visitation to the extent that such resources are available, and
34 appropriate, and the child's safety would not be compromised.

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

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

4 (v) Unless it is not in the best interests of the child, whenever
5 practical, the plan should ensure the child remains enrolled in the
6 school the child was attending at the time the child entered foster
7 care.

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

13 (c) If the court has ordered, pursuant to RCW 13.34.130(~~(+4)~~) (5),
14 that a termination petition be filed, a specific plan as to where the
15 child will be placed, what steps will be taken to achieve permanency
16 for the child, services to be offered or provided to the child, and, if
17 visitation would be in the best interests of the child, a
18 recommendation to the court regarding visitation between parent and
19 child pending a fact-finding hearing on the termination petition. The
20 agency shall not be required to develop a plan of services for the
21 parents or provide services to the parents if the court orders a
22 termination petition be filed. However, reasonable efforts to ensure
23 visitation and contact between siblings shall be made unless there is
24 reasonable cause to believe the best interests of the child or siblings
25 would be jeopardized.

26 (3) Permanency planning goals should be achieved at the earliest
27 possible date, (~~(preferably before)~~). If the child has been in out-of-
28 home care for fifteen months, the court shall require the filing of a
29 petition seeking termination of parental rights in accordance with RCW
30 13.34.145(2). In cases where parental rights have been terminated, the
31 child is legally free for adoption, and adoption has been identified as
32 the primary permanency planning goal, it shall be a goal to complete
33 the adoption within six months following entry of the termination
34 order.

35 (4) If the court determines that the continuation of reasonable
36 efforts to prevent or eliminate the need to remove the child from his
37 or her home or to safely return the child home should not be part of

1 the permanency plan of care for the child, reasonable efforts shall be
2 made to place the child in a timely manner and to complete whatever
3 steps are necessary to finalize the permanent placement of the child.

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

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

8 (7) For purposes related to permanency planning:

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

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

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

17 **Sec. 4.** RCW 13.34.145 and 2007 c 413 s 9 are each amended to read
18 as follows:

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

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

29 (b) Whenever a child is removed from the home of a dependency
30 guardian or long-term relative or foster care provider, and the child
31 is not returned to the home of the parent, guardian, or legal custodian
32 but is placed in out-of-home care, a permanency planning hearing shall
33 take place no later than twelve months, as provided in this section,
34 following the date of removal unless, prior to the hearing, the child
35 returns to the home of the dependency guardian or long-term care
36 provider, the child is placed in the home of the parent, guardian, or

1 legal custodian, an adoption decree, guardianship order, or a permanent
2 custody order is entered, or the dependency is dismissed.

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

10 (2) When a child has been in out-of-home care for fifteen months,
11 the court shall require the filing of a petition seeking termination of
12 parental rights. The court may make a good cause written finding as to
13 why filing a petition for termination of parental rights is not
14 appropriate at this time. Any such good cause finding shall be
15 reviewed at all subsequent motion and review hearings pertaining to the
16 child.

17 (3) 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 ~~((+3))~~ (4) At the permanency planning hearing, the court shall
22 conduct the following inquiry:

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

27 (b) In cases where the primary permanency planning goal has not
28 been achieved, the court shall inquire regarding the reasons why the
29 primary goal has not been achieved and determine what needs to be done
30 to make it possible to achieve the primary goal. The court shall
31 review the permanency plan prepared by the agency and make explicit
32 findings regarding each of the following:

33 (i) The continuing necessity for, and the safety and
34 appropriateness of, the placement;

35 (ii) The extent of compliance with the permanency plan by the
36 agency and any other service providers, the child's parents, the child,
37 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 independent living or long-term foster care.

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

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

37 (iii) The department shall not discharge a child to an independent

1 living situation before the child is eighteen years of age unless the
2 child becomes emancipated pursuant to chapter 13.64 RCW.

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

8 ~~((4))~~ (5) In all cases, at the permanency planning hearing, the
9 court shall:

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

12 (ii) Modify the permanency plan, and order implementation of the
13 modified plan; and

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

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

19 ~~((5))~~ (6) Following the first permanency planning hearing, the
20 court shall hold a further permanency planning hearing in accordance
21 with this section at least once every twelve months until a permanency
22 planning goal is achieved or the dependency is dismissed, whichever
23 occurs first.

24 ~~((6))~~ (7) Prior to the second permanency planning hearing, the
25 agency that has custody of the child shall consider whether to file a
26 petition for termination of parental rights.

27 ~~((7))~~ (8) If the court orders the child returned home, casework
28 supervision shall continue for at least six months, at which time a
29 review hearing shall be held pursuant to RCW 13.34.138, and the court
30 shall determine the need for continued intervention.

31 ~~((8))~~ (9) The juvenile court may hear a petition for permanent
32 legal custody when: (a) The court has ordered implementation of a
33 permanency plan that includes permanent legal custody; and (b) the
34 party pursuing the permanent legal custody is the party identified in
35 the permanency plan as the prospective legal custodian. During the
36 pendency of such proceeding, the court shall conduct review hearings
37 and further permanency planning hearings as provided in this chapter.
38 At the conclusion of the legal guardianship or permanent legal custody

1 proceeding, a juvenile court hearing shall be held for the purpose of
2 determining whether dependency should be dismissed. If a guardianship
3 or permanent custody order has been entered, the dependency shall be
4 dismissed.

5 ~~((+9+))~~ (10) Continued juvenile court jurisdiction under this
6 chapter shall not be a barrier to the entry of an order establishing a
7 legal guardianship or permanent legal custody when the requirements of
8 subsection ~~((+8+))~~ (9) of this section are met.

9 ~~((+10+))~~ (11) Nothing in this chapter may be construed to limit the
10 ability of the agency that has custody of the child to file a petition
11 for termination of parental rights or a guardianship petition at any
12 time following the establishment of dependency. Upon the filing of
13 such a petition, a fact-finding hearing shall be scheduled and held in
14 accordance with this chapter unless the agency requests dismissal of
15 the petition prior to the hearing or unless the parties enter an agreed
16 order terminating parental rights, establishing guardianship, or
17 otherwise resolving the matter.

18 ~~((+11+))~~ (12) The approval of a permanency plan that does not
19 contemplate return of the child to the parent does not relieve the
20 supervising agency of its obligation to provide reasonable services,
21 under this chapter, intended to effectuate the return of the child to
22 the parent, including but not limited to, visitation rights. The court
23 shall consider the child's relationships with siblings in accordance
24 with RCW 13.34.130.

25 ~~((+12+))~~ (13) Nothing in this chapter may be construed to limit the
26 procedural due process rights of any party in a termination or
27 guardianship proceeding filed under this chapter.

28 **Sec. 5.** RCW 13.34.020 and 1998 c 314 s 1 are each amended to read
29 as follows:

30 The legislature declares that the family unit is a fundamental
31 resource of American life which should be nurtured. Toward the
32 continuance of this principle, the legislature declares that the family
33 unit should remain intact unless a child's right to conditions of basic
34 nurture, health, or safety is jeopardized. When the rights of basic
35 nurture, physical and mental health, and safety of the child and the
36 legal rights of the parents are in conflict, the rights and safety of
37 the child should prevail. In making reasonable efforts under this

1 chapter, the child's health (~~and~~), safety, and long-term well-being
2 shall be the paramount concern. The right of a child to basic
3 nurturing includes the right to a safe, stable, and permanent home and
4 a speedy resolution of any proceeding under this chapter.

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