

SHB 1782 - H AMD 260

By Representative Goodman

ADOPTED 03/11/2009

1 On page 6, line 11, after "not" strike "had" and insert "been  
2 maintaining consistent"

3 On page 6, beginning on line 11, after "care" strike "for six  
4 months or longer"

5 Beginning on page 16, line 24, strike all of section 6 and insert  
6 the following:

7 "Sec. 6. 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) or (3) of this section applies:

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

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

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

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

26 (e) That there is little likelihood that conditions will be  
27 remedied so that the child can be returned to the parent in the near  
28 future. A parent's failure to substantially improve parental

1 deficiencies within twelve months following entry of the dispositional  
2 order shall give rise to a rebuttable presumption that there is little  
3 likelihood that conditions will be remedied so that the child can be  
4 returned to the parent in the near future. The presumption shall not  
5 arise unless the petitioner makes a showing that all necessary services  
6 reasonably capable of correcting the parental deficiencies within the  
7 foreseeable future have been clearly offered or provided. In  
8 determining whether the conditions will be remedied the court may  
9 consider, but is not limited to, the following factors:

10 (i) Use of intoxicating or controlled substances so as to render  
11 the parent incapable of providing proper care for the child for  
12 extended periods of time or for periods of time that present a risk of  
13 imminent harm to the child, and documented unwillingness of the parent  
14 to receive and complete treatment or documented multiple failed  
15 treatment attempts; ((or))

16 (ii) Psychological incapacity or mental deficiency of the parent  
17 that is so severe and chronic as to render the parent incapable of  
18 providing proper care for the child for extended periods of time or for  
19 periods of time that present a risk of imminent harm to the child, and  
20 documented unwillingness of the parent to receive and complete  
21 treatment or documentation that there is no treatment that can render  
22 the parent capable of providing proper care for the child in the near  
23 future; or

24 (iii) Failure of the parent to have contact with the child for an  
25 extended period of time after the filing of the dependency petition if  
26 the parent was provided an opportunity to have a relationship with the  
27 child by the department or the court and received documented notice of  
28 the potential consequences of this failure, except that the actual  
29 inability of a parent to have visitation with the child including, but  
30 not limited to, mitigating circumstances such as a parent's  
31 incarceration or service in the military does not in and of itself  
32 constitute failure to have contact with the child; and

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

36 (2) In lieu of the allegations in subsection (1) of this section,  
37 the petition may allege that the child was found under such

1 circumstances that the whereabouts of the child's parent are unknown  
2 and no person has acknowledged paternity or maternity and requested  
3 custody of the child within two months after the child was found.

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

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

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

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

15 (d) Assault in the first or second degree, as defined in chapter  
16 9A.36 RCW, against the surviving child or another child of the parent.

17 (4) Notice of rights shall be served upon the parent, guardian, or  
18 legal custodian with the petition and shall be in substantially the  
19 following form:

20 "NOTICE

21 A petition for termination of parental rights has been filed  
22 against you. You have important legal rights and you must take  
23 steps to protect your interests. This petition could result in  
24 permanent loss of your parental rights.

25 1. You have the right to a fact-finding hearing before  
26 a judge.

27 2. You have the right to have a lawyer represent you at  
28 the hearing. A lawyer can look at the files in your case, talk  
29 to the department of social and health services and other  
30 agencies, tell you about the law, help you understand your  
31 rights, and help you at hearings. If you cannot afford a  
32 lawyer, the court will appoint one to represent you. To get a  
33 court-appointed lawyer you must contact:  (explain local  
34 procedure) .

35 3. At the hearing, you have the right to speak on your  
36 own behalf, to introduce evidence, to examine witnesses, and to

1 receive a decision based solely on the evidence presented to  
2 the judge.

3 You should be present at this hearing.

4 You may call           (insert agency)           for more information  
5 about your child. The agency's name and telephone number are  
6           (insert name and telephone number)          ."

7 Correct the title.

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