

CERTIFICATION OF ENROLLMENT
ENGROSSED SUBSTITUTE HOUSE BILL 1782

61st Legislature
2009 Regular Session

Passed by the House April 25, 2009
Yeas 92 Nays 2

Speaker of the House of Representatives

Passed by the Senate April 25, 2009
Yeas 49 Nays 0

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Barbara Baker, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE HOUSE BILL 1782** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

**Secretary of State
State of Washington**

ENGROSSED SUBSTITUTE HOUSE BILL 1782

AS AMENDED BY THE SENATE

Passed Legislature - 2009 Regular Session

State of Washington

61st Legislature

2009 Regular Session

By House Early Learning & Children's Services (originally sponsored by Representatives Goodman, Roberts, Walsh, Dickerson, Darneille, Kagi, and Nelson)

READ FIRST TIME 02/23/09.

1 AN ACT Relating to encouraging early and consistent engagement of
2 parents in children's dependency matters; amending RCW 13.34.065,
3 13.34.145, and 13.34.180; reenacting and amending RCW 13.34.062; and
4 creating a new section.

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

6 NEW SECTION. **Sec. 1.** The legislature finds that when children
7 have been found dependent and placed in out-of-home care, the
8 likelihood of reunification with their parents diminishes significantly
9 after fifteen months. The legislature also finds that early and
10 consistent parental engagement in services and participation in
11 appropriate parent-child contact and visitation increases the
12 likelihood of successful reunifications. The legislature intends to
13 promote greater awareness among parents in dependency cases of the
14 importance of active participation in services, visitation, and case
15 planning for the child, and the risks created by failure to participate
16 in their child's case over the long term.

17 **Sec. 2.** RCW 13.34.062 and 2007 c 413 s 4 and 2007 c 409 s 5 are
18 each reenacted and amended to read as follows:

1 (1)(a) Whenever a child is taken into custody by child protective
2 services pursuant to a court order issued under RCW 13.34.050 or when
3 child protective services is notified that a child has been taken into
4 custody pursuant to RCW 26.44.050 or 26.44.056, child protective
5 services shall make reasonable efforts to inform the parent, guardian,
6 or legal custodian of the fact that the child has been taken into
7 custody, the reasons why the child was taken into custody, and their
8 legal rights under this title, including the right to a shelter care
9 hearing, as soon as possible. Notice must be provided in an
10 understandable manner and take into consideration the parent's,
11 guardian's, or legal custodian's primary language, level of education,
12 and cultural issues.

13 (b) In no event shall the notice required by this section be
14 provided to the parent, guardian, or legal custodian more than twenty-
15 four hours after the child has been taken into custody or twenty-four
16 hours after child protective services has been notified that the child
17 has been taken into custody.

18 (2)(a) The notice of custody and rights may be given by any means
19 reasonably certain of notifying the parents including, but not limited
20 to, written, telephone, or in person oral notification. If the initial
21 notification is provided by a means other than writing, child
22 protective services shall make reasonable efforts to also provide
23 written notification.

24 (b) The written notice of custody and rights required by this
25 section shall be in substantially the following form:

26 "NOTICE

27 Your child has been placed in temporary custody under the
28 supervision of Child Protective Services (or other person or agency).
29 You have important legal rights and you must take steps to protect your
30 interests.

31 1. A court hearing will be held before a judge within 72 hours of
32 the time your child is taken into custody excluding Saturdays, Sundays,
33 and holidays. You should call the court at (insert appropriate
34 phone number here) for specific information about the date, time,
35 and location of the court hearing.

36 2. You have the right to have a lawyer represent you at the
37 hearing. Your right to representation continues after the shelter care
38 hearing. You have the right to records the department intends to rely

1 upon. A lawyer can look at the files in your case, talk to child
2 protective services and other agencies, tell you about the law, help
3 you understand your rights, and help you at hearings. If you cannot
4 afford a lawyer, the court will appoint one to represent you. To get
5 a court-appointed lawyer you must contact: (explain local
6 procedure) .

7 3. At the hearing, you have the right to speak on your own behalf,
8 to introduce evidence, to examine witnesses, and to receive a decision
9 based solely on the evidence presented to the judge.

10 4. If your hearing occurs before a court commissioner, you have the
11 right to have the decision of the court commissioner reviewed by a
12 superior court judge. To obtain that review, you must, within ten days
13 after the entry of the decision of the court commissioner, file with
14 the court a motion for revision of the decision, as provided in RCW
15 2.24.050.

16 You should be present at any shelter care hearing. If you do not
17 come, the judge will not hear what you have to say.

18 You may call the Child Protective Services' caseworker for more
19 information about your child. The caseworker's name and telephone
20 number are: (insert name and telephone number) .

21 5. You have a right to a case conference to develop a written
22 service agreement following the shelter care hearing. The service
23 agreement may not conflict with the court's order of shelter care. You
24 may request that a multidisciplinary team, family group conference, or
25 prognostic staffing be convened for your child's case. You may
26 participate in these processes with your counsel present.

27 6. If your child is placed in the custody of the department of
28 social and health services or other supervising agency, immediately
29 following the shelter care hearing, the court will enter an order
30 granting the department or other supervising agency the right to
31 inspect and copy all health, medical, mental health, and education
32 records of the child, directing health care providers to release such
33 information without your further consent, and granting the department
34 or supervising agency or its designee the authority and responsibility,
35 where applicable, to:

36 (1) Notify the child's school that the child is in out-of-home
37 placement;

38 (2) Enroll the child in school;

- 1 (3) Request the school transfer records;
- 2 (4) Request and authorize evaluation of special needs;
- 3 (5) Attend parent or teacher conferences;
- 4 (6) Excuse absences;
- 5 (7) Grant permission for extracurricular activities;
- 6 (8) Authorize medications which need to be administered during
- 7 school hours and sign for medical needs that arise during school hours;
- 8 and
- 9 (9) Complete or update school emergency records.

10 7. If the court decides to place your child in the custody of the
11 department of social and health services or other supervising agency,
12 the department or agency will create a permanency plan for your child,
13 including a primary placement goal and secondary placement goal. The
14 department or agency also will recommend that the court order services
15 for your child and for you, if needed. The department or agency is
16 required to make reasonable efforts to provide you with services to
17 address your parenting problems, and to provide you with visitation
18 with your child according to court orders. Failure to promptly engage
19 in services or to maintain contact with your child may lead to the
20 filing of a petition to terminate your parental rights.

21 8. Primary and secondary permanency plans are intended to run at
22 the same time so that your child will have a permanent home as quickly
23 as possible. Absent good cause, and when appropriate, the department
24 or other supervising agency must follow the wishes of a natural parent
25 regarding placement of a child. You should tell your lawyer and the
26 court where you wish your child placed immediately, including whether
27 you want your child placed with you, with a relative, or with another
28 suitable person. You also should tell your lawyer and the court what
29 services you feel are necessary and your wishes regarding visitation
30 with your child. Even if you want another parent or person to be the
31 primary placement choice for your child, you should tell your lawyer,
32 the department or other supervising agency, and the court if you want
33 to be a secondary placement option, and you should comply with court
34 orders for services and participate in visitation with your child.
35 Early and consistent involvement in your child's case plan is important
36 for the well-being of your child.

1 9. A dependency petition begins a judicial process, which, if the
2 court finds your child dependent, could result in substantial
3 restrictions including, the entry or modification of a parenting plan
4 or residential schedule, nonparental custody order or decree,
5 guardianship order, or permanent loss of your parental rights."

6 Upon receipt of the written notice, the parent, guardian, or legal
7 custodian shall acknowledge such notice by signing a receipt prepared
8 by child protective services. If the parent, guardian, or legal
9 custodian does not sign the receipt, the reason for lack of a signature
10 shall be written on the receipt. The receipt shall be made a part of
11 the court's file in the dependency action.

12 If after making reasonable efforts to provide notification, child
13 protective services is unable to determine the whereabouts of the
14 parents, guardian, or legal custodian, the notice shall be delivered or
15 sent to the last known address of the parent, guardian, or legal
16 custodian.

17 (3) If child protective services is not required to give notice
18 under this section, the juvenile court counselor assigned to the matter
19 shall make all reasonable efforts to advise the parents, guardian, or
20 legal custodian of the time and place of any shelter care hearing,
21 request that they be present, and inform them of their basic rights as
22 provided in RCW 13.34.090.

23 (4) Reasonable efforts to advise and to give notice, as required in
24 this section, shall include, at a minimum, investigation of the
25 whereabouts of the parent, guardian, or legal custodian. If such
26 reasonable efforts are not successful, or the parent, guardian, or
27 legal custodian does not appear at the shelter care hearing, the
28 petitioner shall testify at the hearing or state in a declaration:

29 (a) The efforts made to investigate the whereabouts of, and to
30 advise, the parent, guardian, or (~~legal~~) custodian; and

31 (b) Whether actual advice of rights was made, to whom it was made,
32 and how it was made, including the substance of any oral communication
33 or copies of written materials used.

34 **Sec. 3.** RCW 13.34.065 and 2008 c 267 s 2 are each amended to read
35 as follows:

36 (1)(a) When a child is taken into custody, the court shall hold a

1 shelter care hearing within seventy-two hours, excluding Saturdays,
2 Sundays, and holidays. The primary purpose of the shelter care hearing
3 is to determine whether the child can be immediately and safely
4 returned home while the adjudication of the dependency is pending.

5 (b) Any parent, guardian, or legal custodian who for good cause is
6 unable to attend the shelter care hearing may request that a subsequent
7 shelter care hearing be scheduled. The request shall be made to the
8 clerk of the court where the petition is filed prior to the initial
9 shelter care hearing. Upon the request of the parent, the court shall
10 schedule the hearing within seventy-two hours of the request, excluding
11 Saturdays, Sundays, and holidays. The clerk shall notify all other
12 parties of the hearing by any reasonable means.

13 (2)(a) The department of social and health services shall submit a
14 recommendation to the court as to the further need for shelter care in
15 all cases in which it is the petitioner. In all other cases, the
16 recommendation shall be submitted by the juvenile court probation
17 counselor.

18 (b) All parties have the right to present testimony to the court
19 regarding the need or lack of need for shelter care.

20 (c) Hearsay evidence before the court regarding the need or lack of
21 need for shelter care must be supported by sworn testimony, affidavit,
22 or declaration of the person offering such evidence.

23 (3)(a) At the commencement of the hearing, the court shall notify
24 the parent, guardian, or custodian of the following:

25 (i) The parent, guardian, or custodian has the right to a shelter
26 care hearing;

27 (ii) The nature of the shelter care hearing, the rights of the
28 parents, and the proceedings that will follow; and

29 (iii) If the parent, guardian, or custodian is not represented by
30 counsel, the right to be represented. If the parent, guardian, or
31 custodian is indigent, the court shall appoint counsel as provided in
32 RCW 13.34.090; and

33 (b) If a parent, guardian, or legal custodian desires to waive the
34 shelter care hearing, the court shall determine, on the record and with
35 the parties present, whether such waiver is knowing and voluntary. A
36 parent may not waive his or her right to the shelter care hearing
37 unless he or she appears in court and the court determines that the
38 waiver is knowing and voluntary. Regardless of whether the court

1 accepts the parental waiver of the shelter care hearing, the court must
2 provide notice to the parents of their rights required under (a) of
3 this subsection and make the finding required under subsection (4) of
4 this section.

5 (4) At the shelter care hearing the court shall examine the need
6 for shelter care and inquire into the status of the case. The
7 paramount consideration for the court shall be the health, welfare, and
8 safety of the child. At a minimum, the court shall inquire into the
9 following:

10 (a) Whether the notice required under RCW 13.34.062 was given to
11 all known parents, guardians, or legal custodians of the child. The
12 court shall make an express finding as to whether the notice required
13 under RCW 13.34.062 was given to the parent, guardian, or legal
14 custodian. If actual notice was not given to the parent, guardian, or
15 legal custodian and the whereabouts of such person is known or can be
16 ascertained, the court shall order the supervising agency or the
17 department of social and health services to make reasonable efforts to
18 advise the parent, guardian, or legal custodian of the status of the
19 case, including the date and time of any subsequent hearings, and their
20 rights under RCW 13.34.090;

21 (b) Whether the child can be safely returned home while the
22 adjudication of the dependency is pending;

23 (c) What efforts have been made to place the child with a relative;

24 (d) What services were provided to the family to prevent or
25 eliminate the need for removal of the child from the child's home;

26 (e) Is the placement proposed by the agency the least disruptive
27 and most family-like setting that meets the needs of the child;

28 (f) Whether it is in the best interest of the child to remain
29 enrolled in the school, developmental program, or child care the child
30 was in prior to placement and what efforts have been made to maintain
31 the child in the school, program, or child care if it would be in the
32 best interest of the child to remain in the same school, program, or
33 child care;

34 (g) Appointment of a guardian ad litem or attorney;

35 (h) Whether the child is or may be an Indian child as defined in 25
36 U.S.C. Sec. 1903, whether the provisions of the Indian child welfare
37 act apply, and whether there is compliance with the Indian child
38 welfare act, including notice to the child's tribe;

1 (i) Whether, as provided in RCW 26.44.063, restraining orders, or
2 orders expelling an allegedly abusive household member from the home of
3 a nonabusive parent, guardian, or legal custodian, will allow the child
4 to safely remain in the home;

5 (j) Whether any orders for examinations, evaluations, or immediate
6 services are needed. The court may not order a parent to undergo
7 examinations, evaluation, or services at the shelter care hearing
8 unless the parent agrees to the examination, evaluation, or service;

9 (k) The terms and conditions for parental, sibling, and family
10 visitation.

11 (5)(a) The court shall release a child alleged to be dependent to
12 the care, custody, and control of the child's parent, guardian, or
13 legal custodian unless the court finds there is reasonable cause to
14 believe that:

15 (i) After consideration of the specific services that have been
16 provided, reasonable efforts have been made to prevent or eliminate the
17 need for removal of the child from the child's home and to make it
18 possible for the child to return home; and

19 (ii)(A) The child has no parent, guardian, or legal custodian to
20 provide supervision and care for such child; or

21 (B) The release of such child would present a serious threat of
22 substantial harm to such child, notwithstanding an order entered
23 pursuant to RCW 26.44.063; or

24 (C) The parent, guardian, or custodian to whom the child could be
25 released has been charged with violating RCW 9A.40.060 or 9A.40.070.

26 (b) If the court does not release the child to his or her parent,
27 guardian, or legal custodian, the court shall order placement with a
28 relative, unless there is reasonable cause to believe the health,
29 safety, or welfare of the child would be jeopardized or that the
30 efforts to reunite the parent and child will be hindered. The relative
31 must be willing and available to:

32 (i) Care for the child and be able to meet any special needs of the
33 child;

34 (ii) Facilitate the child's visitation with siblings, if such
35 visitation is part of the supervising agency's plan or is ordered by
36 the court; and

37 (iii) Cooperate with the department in providing necessary
38 background checks and home studies.

1 (c) If the child was not initially placed with a relative, and the
2 court does not release the child to his or her parent, guardian, or
3 legal custodian, the supervising agency shall make reasonable efforts
4 to locate a relative pursuant to RCW 13.34.060(1). In determining
5 placement, the court shall weigh the child's length of stay and
6 attachment to the current provider in determining what is in the best
7 interest of the child.

8 (d) If a relative is not available, the court shall order continued
9 shelter care or order placement with another suitable person, and the
10 court shall set forth its reasons for the order. If the court orders
11 placement of the child with a person not related to the child and not
12 licensed to provide foster care, the placement is subject to all terms
13 and conditions of this section that apply to relative placements.

14 (e) Any placement with a relative, or other person approved by the
15 court pursuant to this section, shall be contingent upon cooperation
16 with the agency case plan and compliance with court orders related to
17 the care and supervision of the child including, but not limited to,
18 court orders regarding parent-child contacts, sibling contacts, and any
19 other conditions imposed by the court. Noncompliance with the case
20 plan or court order is grounds for removal of the child from the home
21 of the relative or other person, subject to review by the court.

22 (f) Uncertainty by a parent, guardian, legal custodian, relative,
23 or other suitable person that the alleged abuser has in fact abused the
24 child shall not, alone, be the basis upon which a child is removed from
25 the care of a parent, guardian, or legal custodian under (a) of this
26 subsection, nor shall it be a basis, alone, to preclude placement with
27 a relative under (b) of this subsection or with another suitable person
28 under (d) of this subsection.

29 (6)(a) A shelter care order issued pursuant to this section shall
30 include the requirement for a case conference as provided in RCW
31 13.34.067. However, if the parent is not present at the shelter care
32 hearing, or does not agree to the case conference, the court shall not
33 include the requirement for the case conference in the shelter care
34 order.

35 (b) If the court orders a case conference, the shelter care order
36 shall include notice to all parties and establish the date, time, and
37 location of the case conference which shall be no later than thirty
38 days before the fact-finding hearing.

1 (c) The court may order another conference, case staffing, or
2 hearing as an alternative to the case conference required under RCW
3 13.34.067 so long as the conference, case staffing, or hearing ordered
4 by the court meets all requirements under RCW 13.34.067, including the
5 requirement of a written agreement specifying the services to be
6 provided to the parent.

7 (7)(a) A shelter care order issued pursuant to this section may be
8 amended at any time with notice and hearing thereon. The shelter care
9 decision of placement shall be modified only upon a showing of change
10 in circumstances. No child may be placed in shelter care for longer
11 than thirty days without an order, signed by the judge, authorizing
12 continued shelter care.

13 (b)(i) An order releasing the child on any conditions specified in
14 this section may at any time be amended, with notice and hearing
15 thereon, so as to return the child to shelter care for failure of the
16 parties to conform to the conditions originally imposed.

17 (ii) The court shall consider whether nonconformance with any
18 conditions resulted from circumstances beyond the control of the
19 parent, guardian, or legal custodian and give weight to that fact
20 before ordering return of the child to shelter care.

21 (8)(a) If a child is returned home from shelter care a second time
22 in the case, or if the supervisor of the caseworker deems it necessary,
23 the multidisciplinary team may be reconvened.

24 (b) If a child is returned home from shelter care a second time in
25 the case a law enforcement officer must be present and file a report to
26 the department.

27 **Sec. 4.** RCW 13.34.145 and 2008 c 152 s 3 are each amended to read
28 as follows:

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

33 (a) A permanency planning hearing shall be held in all cases where
34 the child has remained in out-of-home care for at least nine months and
35 an adoption decree, guardianship order, or permanent custody order has
36 not previously been entered. The hearing shall take place no later

1 than twelve months following commencement of the current placement
2 episode.

3 (b) Whenever a child is removed from the home of a dependency
4 guardian or long-term relative or foster care provider, and the child
5 is not returned to the home of the parent, guardian, or legal custodian
6 but is placed in out-of-home care, a permanency planning hearing shall
7 take place no later than twelve months, as provided in this section,
8 following the date of removal unless, prior to the hearing, the child
9 returns to the home of the dependency guardian or long-term care
10 provider, the child is placed in the home of the parent, guardian, or
11 legal custodian, an adoption decree, guardianship order, or a permanent
12 custody order is entered, or the dependency is dismissed. Every effort
13 shall be made to provide stability in long-term placement, and to avoid
14 disruption of placement, unless the child is being returned home or it
15 is in the best interest of the child.

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

23 (2) No later than ten working days prior to the permanency planning
24 hearing, the agency having custody of the child shall submit a written
25 permanency plan to the court and shall mail a copy of the plan to all
26 parties and their legal counsel, if any.

27 (3) At the permanency planning hearing, the court shall conduct the
28 following inquiry:

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

33 (b) In cases where the primary permanency planning goal has not
34 been achieved, the court shall inquire regarding the reasons why the
35 primary goal has not been achieved and determine what needs to be done
36 to make it possible to achieve the primary goal. The court shall
37 review the permanency plan prepared by the agency and make explicit
38 findings regarding each of the following:

1 (i) The continuing necessity for, and the safety and
2 appropriateness of, the placement;

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

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

9 (iv) The progress toward eliminating the causes for the child's
10 placement outside of his or her home and toward returning the child
11 safely to his or her home or obtaining a permanent placement for the
12 child;

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

16 (vi) If the child has been placed outside of his or her home for
17 fifteen of the most recent twenty-two months, not including any period
18 during which the child was a runaway from the out-of-home placement or
19 the first six months of any period during which the child was returned
20 to his or her home for a trial home visit, the appropriateness of the
21 permanency plan, whether reasonable efforts were made by the agency to
22 achieve the goal of the permanency plan, and the circumstances which
23 prevent the child from any of the following:

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

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

27 (C) Being placed for adoption;

28 (D) Being placed with a guardian;

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

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

33 At this hearing, the court shall order the department to file a
34 petition seeking termination of parental rights if the child has been
35 in out-of-home care for fifteen of the last twenty-two months since the
36 date the dependency petition was filed unless the court makes a good
37 cause exception as to why the filing of a termination of parental
38 rights petition is not appropriate. Any good cause finding shall be

1 reviewed at all subsequent hearings pertaining to the child. For
2 purposes of this section, "good cause exception" includes but is not
3 limited to the following: The child is being cared for by a relative;
4 the department has not provided to the child's family such services as
5 the court and the department have deemed necessary for the child's safe
6 return home; or the department has documented in the case plan a
7 compelling reason for determining that filing a petition to terminate
8 parental rights would not be in the child's best interests.

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

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

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

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

26 (4) In all cases, at the permanency planning hearing, the court
27 shall:

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

30 (ii) Modify the permanency plan, and order implementation of the
31 modified plan; and

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

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

37 (5) Following the first permanency planning hearing, the court
38 shall hold a further permanency planning hearing in accordance with

1 this section at least once every twelve months until a permanency
2 planning goal is achieved or the dependency is dismissed, whichever
3 occurs first.

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

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

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

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

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

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

1 chapter, intended to effectuate the return of the child to the parent,
2 including but not limited to, visitation rights. The court shall
3 consider the child's relationships with siblings in accordance with RCW
4 13.34.130.

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

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

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

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

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

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

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

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

1 determining whether the conditions will be remedied the court may
2 consider, but is not limited to, the following factors:

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

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

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

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

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

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

37 (a) Murder in the first degree, murder in the second degree, or

1 homicide by abuse as defined in chapter 9A.32 RCW against another child
2 of the parent;

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

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

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

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

13 "NOTICE

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

18 1. You have the right to a fact-finding hearing before
19 a judge.

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

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

32 You should be present at this hearing.

33 You may call (insert agency) for more information
34 about your child. The agency's name and telephone number are
35 (insert name and telephone number) ."

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