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**SUBSTITUTE SENATE BILL 5811**

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**State of Washington**

**61st Legislature**

**2009 Regular Session**

**By** Senate Human Services & Corrections (originally sponsored by Senators Hargrove, Stevens, Shin, and Roach)

READ FIRST TIME 02/25/09.

1           AN ACT Relating to foster child placements; amending RCW 13.34.065,  
2 13.34.145, and 74.13.333; and reenacting and amending RCW 13.34.130 and  
3 13.34.138.

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

5           **Sec. 1.** RCW 13.34.065 and 2008 c 267 s 2 are each amended to read  
6 as follows:

7           (1)(a) When a child is taken into custody, the court shall hold a  
8 shelter care hearing within seventy-two hours, excluding Saturdays,  
9 Sundays, and holidays. The primary purpose of the shelter care hearing  
10 is to determine whether the child can be immediately and safely  
11 returned home while the adjudication of the dependency is pending.

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

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

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

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

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

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

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

17 (iii) If the parent, guardian, or custodian is not represented by  
18 counsel, the right to be represented. If the parent, guardian, or  
19 custodian is indigent, the court shall appoint counsel as provided in  
20 RCW 13.34.090; and

21 (b) If a parent, guardian, or legal custodian desires to waive the  
22 shelter care hearing, the court shall determine, on the record and with  
23 the parties present, whether such waiver is knowing and voluntary. A  
24 parent may not waive his or her right to the shelter care hearing  
25 unless he or she appears in court and the court determines that the  
26 waiver is knowing and voluntary. Regardless of whether the court  
27 accepts the parental waiver of the shelter care hearing, the court must  
28 provide notice to the parents of their rights required under (a) of  
29 this subsection and make the finding required under subsection (4) of  
30 this section.

31 (4) At the shelter care hearing the court shall examine the need  
32 for shelter care and inquire into the status of the case. The  
33 paramount consideration for the court shall be the health, welfare, and  
34 safety of the child. At a minimum, the court shall inquire into the  
35 following:

36 (a) Whether the notice required under RCW 13.34.062 was given to  
37 all known parents, guardians, or legal custodians of the child. The  
38 court shall make an express finding as to whether the notice required

1 under RCW 13.34.062 was given to the parent, guardian, or legal  
2 custodian. If actual notice was not given to the parent, guardian, or  
3 legal custodian and the whereabouts of such person is known or can be  
4 ascertained, the court shall order the supervising agency or the  
5 department of social and health services to make reasonable efforts to  
6 advise the parent, guardian, or legal custodian of the status of the  
7 case, including the date and time of any subsequent hearings, and their  
8 rights under RCW 13.34.090;

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

11 (c) What efforts have been made to place the child with a relative.  
12 The court shall ask the parents whether the department discussed with  
13 them the placement of the child with a relative and shall make an  
14 express finding that the department's efforts have been made by the  
15 department in this regard;

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

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

20 (f) Whether it is in the best interest of the child to remain  
21 enrolled in the school, developmental program, or child care the child  
22 was in prior to placement and what efforts have been made to maintain  
23 the child in the school, program, or child care if it would be in the  
24 best interest of the child to remain in the same school, program, or  
25 child care;

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

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

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

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

1 (k) The terms and conditions for parental, sibling, and family  
2 visitation.

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

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

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

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

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

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

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

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

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

31 (c) If the child was not initially placed with a relative, and the  
32 court does not release the child to his or her parent, guardian, or  
33 legal custodian, the supervising agency shall make reasonable efforts  
34 to locate a relative pursuant to RCW 13.34.060(1).

35 (d) If a relative is not available, the court shall order continued  
36 shelter care or order placement with another suitable person, and the  
37 court shall set forth its reasons for the order, including why  
38 placement with a relative is not appropriate at this time. If the

1 court orders placement of the child with a person not related to the  
2 child and not licensed to provide foster care, the placement is subject  
3 to all terms and conditions of this section that apply to relative  
4 placements.

5 (e) Any placement with a relative, or other person approved by the  
6 court pursuant to this section, shall be contingent upon cooperation  
7 with the agency case plan and compliance with court orders related to  
8 the care and supervision of the child including, but not limited to,  
9 court orders regarding parent-child contacts, sibling contacts, and any  
10 other conditions imposed by the court. Noncompliance with the case  
11 plan or court order is grounds for removal of the child from the home  
12 of the relative or other person, subject to review by the court.

13 (f) Uncertainty by a parent, guardian, legal custodian, relative,  
14 or other suitable person that the alleged abuser has in fact abused the  
15 child shall not, alone, be the basis upon which a child is removed from  
16 the care of a parent, guardian, or legal custodian under (a) of this  
17 subsection, nor shall it be a basis, alone, to preclude placement with  
18 a relative under (b) of this subsection or with another suitable person  
19 under (d) of this subsection.

20 (6)(a) A shelter care order issued pursuant to this section shall  
21 include the requirement for a case conference as provided in RCW  
22 13.34.067. However, if the parent is not present at the shelter care  
23 hearing, or does not agree to the case conference, the court shall not  
24 include the requirement for the case conference in the shelter care  
25 order.

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

30 (c) The court may order another conference, case staffing, or  
31 hearing as an alternative to the case conference required under RCW  
32 13.34.067 so long as the conference, case staffing, or hearing ordered  
33 by the court meets all requirements under RCW 13.34.067, including the  
34 requirement of a written agreement specifying the services to be  
35 provided to the parent.

36 (7)(a) A shelter care order issued pursuant to this section may be  
37 amended at any time with notice and hearing thereon. The shelter care  
38 decision of placement shall be modified only upon a showing of change

1 in circumstances. No child may be placed in shelter care for longer  
2 than thirty days without an order, signed by the judge, authorizing  
3 continued shelter care.

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

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

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

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

18 **Sec. 2.** RCW 13.34.130 and 2007 c 413 s 6 and 2007 c 412 s 2 are  
19 each reenacted and amended to read as follows:

20 If, after a fact-finding hearing pursuant to RCW 13.34.110, it has  
21 been proven by a preponderance of the evidence that the child is  
22 dependent within the meaning of RCW 13.34.030 after consideration of  
23 the social study prepared pursuant to RCW 13.34.110 and after a  
24 disposition hearing has been held pursuant to RCW 13.34.110, the court  
25 shall enter an order of disposition pursuant to this section.

26 (1) The court shall order one of the following dispositions of the  
27 case:

28 (a) Order a disposition other than removal of the child from his or  
29 her home, which shall provide a program designed to alleviate the  
30 immediate danger to the child, to mitigate or cure any damage the child  
31 has already suffered, and to aid the parents so that the child will not  
32 be endangered in the future. In determining the disposition, the court  
33 should choose those services, including housing assistance, that least  
34 interfere with family autonomy and are adequate to protect the child.

35 (b) Order the child to be removed from his or her home and into the  
36 custody, control, and care of a relative or the department or a  
37 licensed child placing agency for supervision of the child's placement.

1 The department or agency supervising the child's placement has the  
2 authority to place the child, subject to review and approval by the  
3 court (i) with a relative as defined in RCW 74.15.020(2)(a), (ii) in a  
4 foster family home or group care facility licensed pursuant to chapter  
5 74.15 RCW, or (iii) in the home of another suitable person if the child  
6 or family has a preexisting relationship with that person, and the  
7 person has completed all required criminal history background checks  
8 and otherwise appears to the department or supervising agency to be  
9 suitable and competent to provide care for the child. Absent good  
10 cause, the department or supervising agency shall follow the wishes of  
11 the natural parent regarding the placement of the child in accordance  
12 with RCW 13.34.260. The department or supervising agency may only  
13 place a child with a person not related to the child as defined in RCW  
14 74.15.020(2)(a) when the court finds that such placement is in the best  
15 interest of the child. Unless there is reasonable cause to believe  
16 that the health, safety, or welfare of the child would be jeopardized  
17 or that efforts to reunite the parent and child will be hindered, such  
18 child shall be placed with a person who is: (A) Related to the child  
19 as defined in RCW 74.15.020(2)(a) with whom the child has a  
20 relationship and is comfortable; and (B) willing and available to care  
21 for the child.

22 (2) Placement of the child with a relative under this subsection  
23 shall be given preference by the court. If the court does not place  
24 the child with a relative, the court shall make an express finding why  
25 placement with a relative did not occur. An order for out-of-home  
26 placement may be made only if the court finds that reasonable efforts  
27 have been made to prevent or eliminate the need for removal of the  
28 child from the child's home and to make it possible for the child to  
29 return home, specifying the services that have been provided to the  
30 child and the child's parent, guardian, or legal custodian, and that  
31 preventive services have been offered or provided and have failed to  
32 prevent the need for out-of-home placement, unless the health, safety,  
33 and welfare of the child cannot be protected adequately in the home,  
34 and that:

35 (a) There is no parent or guardian available to care for such  
36 child;

37 (b) The parent, guardian, or legal custodian is not willing to take  
38 custody of the child; or

1 (c) The court finds, by clear, cogent, and convincing evidence, a  
2 manifest danger exists that the child will suffer serious abuse or  
3 neglect if the child is not removed from the home and an order under  
4 RCW 26.44.063 would not protect the child from danger.

5 (3) If the court has ordered a child removed from his or her home  
6 pursuant to subsection (1)(b) of this section, the court shall consider  
7 whether it is in a child's best interest to be placed with, have  
8 contact with, or have visits with siblings.

9 (a) There shall be a presumption that such placement, contact, or  
10 visits are in the best interests of the child provided that:

11 (i) The court has jurisdiction over all siblings subject to the  
12 order of placement, contact, or visitation pursuant to petitions filed  
13 under this chapter or the parents of a child for whom there is no  
14 jurisdiction are willing to agree; and

15 (ii) There is no reasonable cause to believe that the health,  
16 safety, or welfare of any child subject to the order of placement,  
17 contact, or visitation would be jeopardized or that efforts to reunite  
18 the parent and child would be hindered by such placement, contact, or  
19 visitation. In no event shall parental visitation time be reduced in  
20 order to provide sibling visitation.

21 (b) The court may also order placement, contact, or visitation of  
22 a child with a step-brother or step-sister provided that in addition to  
23 the factors in (a) of this subsection, the child has a relationship and  
24 is comfortable with the step-sibling.

25 (4) If the court has ordered a child removed from his or her home  
26 pursuant to subsection (1)(b) of this section and placed into  
27 nonparental or nonrelative care, the court shall order a placement that  
28 allows the child to remain in the same school he or she attended prior  
29 to the initiation of the dependency proceeding when such a placement is  
30 practical and in the child's best interest.

31 (5) If the court has ordered a child removed from his or her home  
32 pursuant to subsection (1)(b) of this section, the court may order that  
33 a petition seeking termination of the parent and child relationship be  
34 filed if the requirements of RCW 13.34.132 are met.

35 (6) If there is insufficient information at the time of the  
36 disposition hearing upon which to base a determination regarding the  
37 suitability of a proposed placement with a relative, the child shall  
38 remain in foster care and the court shall direct the supervising agency



1 to conduct necessary background investigations as provided in chapter  
2 74.15 RCW and report the results of such investigation to the court  
3 within thirty days. However, if such relative appears otherwise  
4 suitable and competent to provide care and treatment, the criminal  
5 history background check need not be completed before placement, but as  
6 soon as possible after placement. Any placements with relatives,  
7 pursuant to this section, shall be contingent upon cooperation by the  
8 relative with the agency case plan and compliance with court orders  
9 related to the care and supervision of the child including, but not  
10 limited to, court orders regarding parent-child contacts, sibling  
11 contacts, and any other conditions imposed by the court. Noncompliance  
12 with the case plan or court order shall be grounds for removal of the  
13 child from the relative's home, subject to review by the court.

14 **Sec. 3.** RCW 13.34.138 and 2007 c 413 s 8 and 2007 c 410 s 1 are  
15 each reenacted and amended to read as follows:

16 (1) Except for children whose cases are reviewed by a citizen  
17 review board under chapter 13.70 RCW, the status of all children found  
18 to be dependent shall be reviewed by the court at least every six  
19 months from the beginning date of the placement episode or the date  
20 dependency is established, whichever is first. The purpose of the  
21 hearing shall be to review the progress of the parties and determine  
22 whether court supervision should continue.

23 (a) The initial review hearing shall be an in-court review and  
24 shall be set six months from the beginning date of the placement  
25 episode or no more than ninety days from the entry of the disposition  
26 order, whichever comes first. The requirements for the initial review  
27 hearing, including the in-court review requirement, shall be  
28 accomplished within existing resources.

29 (b) The initial review hearing may be a permanency planning hearing  
30 when necessary to meet the time frames set forth in RCW 13.34.145  
31 (1)(a) or 13.34.134.

32 (2)(a) A child shall not be returned home at the review hearing  
33 unless the court finds that a reason for removal as set forth in RCW  
34 13.34.130 no longer exists. The parents, guardian, or legal custodian  
35 shall report to the court the efforts they have made to correct the  
36 conditions which led to removal. If a child is returned, casework

1 supervision shall continue for a period of six months, at which time  
2 there shall be a hearing on the need for continued intervention.

3 (b) Prior to the child returning home, the department must complete  
4 the following:

5 (i) Identify all adults residing in the home and conduct background  
6 checks on those persons;

7 (ii) Identify any persons who may act as a caregiver for the child  
8 in addition to the parent with whom the child is being placed and  
9 determine whether such persons are in need of any services in order to  
10 ensure the safety of the child, regardless of whether such persons are  
11 a party to the dependency. The department or supervising agency may  
12 recommend to the court and the court may order that placement of the  
13 child in the parent's home be contingent on or delayed based on the  
14 need for such persons to engage in or complete services to ensure the  
15 safety of the child prior to placement. If services are recommended  
16 for the caregiver, and the caregiver fails to engage in or follow  
17 through with the recommended services, the department or supervising  
18 agency must promptly notify the court; and

19 (iii) Notify the parent with whom the child is being placed that he  
20 or she has an ongoing duty to notify the department or supervising  
21 agency of all persons who reside in the home or who may act as a  
22 caregiver for the child both prior to the placement of the child in the  
23 home and subsequent to the placement of the child in the home as long  
24 as the court retains jurisdiction of the dependency proceeding or the  
25 department is providing or monitoring either remedial services to the  
26 parent or services to ensure the safety of the child to any caregivers.

27 Caregivers may be required to engage in services under this  
28 subsection solely for the purpose of ensuring the present and future  
29 safety of a child who is a ward of the court. This subsection does not  
30 grant party status to any individual not already a party to the  
31 dependency proceeding, create an entitlement to services or a duty on  
32 the part of the department or supervising agency to provide services,  
33 or create judicial authority to order the provision of services to any  
34 person other than for the express purposes of this section or RCW  
35 13.34.025 or if the services are unavailable or unsuitable or the  
36 person is not eligible for such services.

37 (c) If the child is not returned home, the court shall establish in  
38 writing:

1 (i) Whether the agency is making reasonable efforts to provide  
2 services to the family and eliminate the need for placement of the  
3 child. If additional services, including housing assistance, are  
4 needed to facilitate the return of the child to the child's parents,  
5 the court shall order that reasonable services be offered specifying  
6 such services;

7 (ii) Whether there has been compliance with the case plan by the  
8 child, the child's parents, and the agency supervising the placement;

9 (iii) Whether progress has been made toward correcting the problems  
10 that necessitated the child's placement in out-of-home care;

11 (iv) Whether the services set forth in the case plan and the  
12 responsibilities of the parties need to be clarified or modified due to  
13 the availability of additional information or changed circumstances;

14 (v) Whether there is a continuing need for placement;

15 (vi) Whether the child is in an appropriate placement which  
16 adequately meets all physical, emotional, and educational needs;

17 (vii) Whether preference has been given to placement with the  
18 child's relatives and if not, the court shall make specific findings  
19 detailing the reasons why the child is not in a relative placement;

20 (viii) Whether both in-state and, where appropriate, out-of-state  
21 placements have been considered;

22 (ix) Whether the parents have visited the child and any reasons why  
23 visitation has not occurred or has been infrequent;

24 (x) Whether terms of visitation need to be modified;

25 (xi) Whether the court-approved long-term permanent plan for the  
26 child remains the best plan for the child;

27 (xii) Whether any additional court orders need to be made to move  
28 the case toward permanency; and

29 (xiii) The projected date by which the child will be returned home  
30 or other permanent plan of care will be implemented.

31 (d) The court at the review hearing may order that a petition  
32 seeking termination of the parent and child relationship be filed.

33 (3)(a) In any case in which the court orders that a dependent child  
34 may be returned to or remain in the child's home, the in-home placement  
35 shall be contingent upon the following:

36 (i) The compliance of the parents with court orders related to the  
37 care and supervision of the child, including compliance with an agency  
38 case plan; and

1 (ii) The continued participation of the parents, if applicable, in  
2 available substance abuse or mental health treatment if substance abuse  
3 or mental illness was a contributing factor to the removal of the  
4 child.

5 (b) The following may be grounds for removal of the child from the  
6 home, subject to review by the court:

7 (i) Noncompliance by the parents with the agency case plan or court  
8 order;

9 (ii) The parent's inability, unwillingness, or failure to  
10 participate in available services or treatment for themselves or the  
11 child, including substance abuse treatment if a parent's substance  
12 abuse was a contributing factor to the abuse or neglect; or

13 (iii) The failure of the parents to successfully and substantially  
14 complete available services or treatment for themselves or the child,  
15 including substance abuse treatment if a parent's substance abuse was  
16 a contributing factor to the abuse or neglect.

17 (c) In a pending dependency case in which the court orders that a  
18 dependent child may be returned home and that child is later removed  
19 from the home, the court shall hold a review hearing within thirty days  
20 from the date of removal to determine whether the permanency plan  
21 should be changed, a termination petition should be filed, or other  
22 action is warranted. The best interests of the child shall be the  
23 court's primary consideration in the review hearing.

24 (4) The court's ability to order housing assistance under RCW  
25 13.34.130 and this section is: (a) Limited to cases in which  
26 homelessness or the lack of adequate and safe housing is the primary  
27 reason for an out-of-home placement; and (b) subject to the  
28 availability of funds appropriated for this specific purpose.

29 (5) The court shall consider the child's relationship with siblings  
30 in accordance with RCW 13.34.130(3).

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

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

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

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

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

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

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

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

34 (b) In cases where the primary permanency planning goal has not  
35 been achieved, the court shall inquire regarding the reasons why the  
36 primary goal has not been achieved and determine what needs to be done  
37 to make it possible to achieve the primary goal. The court shall

1 review the permanency plan prepared by the agency and make explicit  
2 findings regarding each of the following:

3 (i) The continuing necessity for, and the safety and  
4 appropriateness of, the placement;

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

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

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

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

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

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

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

29 (C) Being placed for adoption;

30 (D) Being placed with a guardian;

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

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

35 At this hearing, the court shall order the department to file a  
36 petition seeking termination of parental rights if the child has been  
37 in out-of-home care for fifteen of the last twenty-two months since the  
38 date the dependency petition was filed unless the court makes a good

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

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

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

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

23 (d) If the child has resided in the home of a foster parent or  
24 relative for more than six months prior to the permanency planning  
25 hearing, the court shall ~~((also))~~:

26 (i) Enter a finding regarding whether the foster parent or relative  
27 was informed of the hearing as required in RCW 74.13.280, 13.34.215(5),  
28 and 13.34.096; and

29 (ii) In the situation in which the department or supervising agency  
30 is recommending a placement other than the current foster parent or  
31 relative, make an express finding of the reasons the department or  
32 agency is recommending that the child be moved.

33 (4) In all cases, at the permanency planning hearing, the court  
34 shall:

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

37 (ii) Modify the permanency plan, and order implementation of the  
38 modified plan; and

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

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

6 (5) Following the first permanency planning hearing, the court  
7 shall hold a further permanency planning hearing in accordance with  
8 this section at least once every twelve months until a permanency  
9 planning goal is achieved or the dependency is dismissed, whichever  
10 occurs first.

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

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

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

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

34 (10) Nothing in this chapter may be construed to limit the ability  
35 of the agency that has custody of the child to file a petition for  
36 termination of parental rights or a guardianship petition at any time  
37 following the establishment of dependency. Upon the filing of such a  
38 petition, a fact-finding hearing shall be scheduled and held in



1 accordance with this chapter unless the agency requests dismissal of  
2 the petition prior to the hearing or unless the parties enter an agreed  
3 order terminating parental rights, establishing guardianship, or  
4 otherwise resolving the matter.

5 (11) The approval of a permanency plan that does not contemplate  
6 return of the child to the parent does not relieve the supervising  
7 agency of its obligation to provide reasonable services, under this  
8 chapter, intended to effectuate the return of the child to the parent,  
9 including but not limited to, visitation rights. The court shall  
10 consider the child's relationships with siblings in accordance with RCW  
11 13.34.130.

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

15 **Sec. 5.** RCW 74.13.333 and 2004 c 181 s 1 are each amended to read  
16 as follows:

17 (1) A foster parent who believes that a department employee has  
18 retaliated against the foster parent or in any other manner  
19 discriminated against the foster parent because:

20 ~~((+1))~~ (a) The foster parent made a complaint with the office of  
21 the family and children's ombudsman, the attorney general, law  
22 enforcement agencies, or the department, provided information, or  
23 otherwise cooperated with the investigation of such a complaint;

24 ~~((+2))~~ (b) The foster parent has caused to be instituted any  
25 proceedings under or related to Title 13 RCW;

26 ~~((+3))~~ (c) The foster parent has testified or is about to testify  
27 in any proceedings under or related to Title 13 RCW;

28 ~~((+4))~~ (d) The foster parent has advocated for services on behalf  
29 of the foster child;

30 ~~((+5))~~ (e) The foster parent has sought to adopt a foster child in  
31 the foster parent's care; or

32 ~~((+6))~~ (f) The foster parent has discussed or consulted with  
33 anyone concerning the foster parent's rights under this chapter or  
34 chapter 74.15 or 13.34 RCW, may file a complaint with the office of the  
35 family and children's ombudsman.

36 (2) If the ombudsman is already involved in or aware of the case,  
37 it may investigate the allegations of retaliation. The ombudsman shall

1 have access to all relevant information and resources held by or within  
2 the department by which to conduct the investigation. Upon the  
3 conclusion of its investigation, the ombudsman shall provide its  
4 findings in written form to the department. The department shall take  
5 immediate personnel action against any employee upon whom there is a  
6 proven allegation of retaliation under this section.

7 (3) The office of the family and children's ombudsman shall also  
8 include its recommendations regarding complaints filed under this  
9 section in its annual report pursuant to RCW 43.06A.030. The office of  
10 the family and children's ombudsman shall identify trends which may  
11 indicate a need to improve relations between the department and foster  
12 parents.

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