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SENATE BILL 6417

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State of Washington

61st Legislature

2010 Regular Session

By Senators Roach, Hargrove, and Stevens

Read first time 01/14/10. Referred to Committee on Human Services & Corrections.

1 AN ACT Relating to the placement of children with relatives;  
2 amending RCW 13.34.060; and reenacting and amending RCW 13.34.130.

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

4 **Sec. 1.** RCW 13.34.060 and 2007 c 413 s 3 are each amended to read  
5 as follows:

6 (1) A child taken into custody pursuant to RCW 13.34.050 or  
7 26.44.050 shall be immediately placed in shelter care. A child taken  
8 by a relative of the child in violation of RCW 9A.40.060 or 9A.40.070  
9 shall be placed in shelter care only when permitted under RCW  
10 13.34.055. No child may be held longer than seventy-two hours,  
11 excluding Saturdays, Sundays, and holidays, after such child is taken  
12 into custody unless a court order has been entered for continued  
13 shelter care. In no case may a child who is taken into custody  
14 pursuant to RCW 13.34.055, 13.34.050, or 26.44.050 be detained in a  
15 secure detention facility.

16 (2)(a) Unless there is reasonable cause to believe that the health,  
17 safety, or welfare of the child would be jeopardized or that the  
18 efforts to reunite the parent and child will be hindered, priority  
19 placement for a child in shelter care, pending a court hearing, shall

1 be with any person described in RCW 74.15.020(2)(a) or 13.34.130(1)(b).  
2 The person must be willing and available to care for the child and be  
3 able to meet any special needs of the child and the court must find  
4 that such placement is in the best interests of the child. The person  
5 must be willing to facilitate the child's visitation with siblings, if  
6 such visitation is part of the supervising agency's plan or is ordered  
7 by the court.

8 (b) If a child is not initially placed with a relative or other  
9 suitable person requested by the parent pursuant to this section, the  
10 supervising agency shall make an effort within available resources to  
11 place the child with a relative or other suitable person requested by  
12 the parent on the next business day after the child is taken into  
13 custody.

14 (c) The supervising agency shall document its effort to place the  
15 child with a relative or other suitable person requested by the parent  
16 pursuant to this section. Nothing within this subsection (2)  
17 establishes an entitlement to services or a right to a particular  
18 placement.

19 (d) When the parent requests relative placement, there is a  
20 presumption that the placement is in the best interests of the child as  
21 long as the placement will not impede reasonable efforts to reunify.  
22 The department has the burden to overcome the presumption by a  
23 preponderance of the evidence.

24 (3) Whenever a child is taken into custody pursuant to this  
25 section, the supervising agency may authorize evaluations of the  
26 child's physical or emotional condition, routine medical and dental  
27 examination and care, and all necessary emergency care.

28 **Sec. 2.** RCW 13.34.130 and 2009 c 520 s 27, 2009 c 491 s 2, and  
29 2009 c 397 s 3 are each reenacted and amended to read as follows:

30 If, after a fact-finding hearing pursuant to RCW 13.34.110, it has  
31 been proven by a preponderance of the evidence that the child is  
32 dependent within the meaning of RCW 13.34.030 after consideration of  
33 the social study prepared pursuant to RCW 13.34.110 and after a  
34 disposition hearing has been held pursuant to RCW 13.34.110, the court  
35 shall enter an order of disposition pursuant to this section.

36 (1) The court shall order one of the following dispositions of the  
37 case:

1 (a) Order a disposition other than removal of the child from his or  
2 her home, which shall provide a program designed to alleviate the  
3 immediate danger to the child, to mitigate or cure any damage the child  
4 has already suffered, and to aid the parents so that the child will not  
5 be endangered in the future. In determining the disposition, the court  
6 should choose services to assist the parents in maintaining the child  
7 in the home, including housing assistance, if appropriate, that least  
8 interfere with family autonomy and are adequate to protect the child.

9 (b)(i) Order the child to be removed from his or her home and into  
10 the custody, control, and care of a relative or other suitable person,  
11 the department, or a supervising agency for supervision of the child's  
12 placement.

13 (ii) Absent good cause, the department or supervising agency shall  
14 follow the wishes of the parent regarding placement of the child as  
15 provided in RCW 13.34.260.

16 (iii) If the parent requests the relative placement, there is a  
17 presumption that the placement is in the best interests of the child as  
18 long as the placement does not impede reasonable efforts to reunify.  
19 The department has the burden of overcoming the presumption by a  
20 preponderance of evidence.

21 (iv) If the child is not placed with a relative as requested by the  
22 parent, the department or supervising agency has the authority to place  
23 the child, subject to review and approval by the court ((+i)) (A) with  
24 a relative as defined in RCW 74.15.020(2)(a), ((+ii)) (B) in the home  
25 of another suitable person if the child or family has a preexisting  
26 relationship with that person, and the person has completed all  
27 required criminal history background checks and otherwise appears to  
28 the department or supervising agency to be suitable and competent to  
29 provide care for the child, or ((+iii)) (C) in a foster family home or  
30 group care facility licensed pursuant to chapter 74.15 RCW. ((Absent  
31 good cause, the department or supervising agency shall follow the  
32 wishes of the natural parent regarding the placement of the child in  
33 accordance with RCW 13.34.260.))

34 (v) The department or supervising agency may only place a child  
35 with a person not related to the child as defined in RCW  
36 74.15.020(2)(a) when the court finds that such placement is in the best  
37 interest of the child. Unless there is reasonable cause to believe  
38 that the health, safety, or welfare of the child would be jeopardized

1 or that efforts to reunite the parent and child will be hindered, the  
2 child shall be placed with a person who is: (A) Related to the child  
3 as defined in RCW 74.15.020(2)(a) with whom the child has a  
4 relationship and is comfortable; or (B) a suitable person as described  
5 in this subsection (1)(b); and (C) willing, appropriate, and available  
6 to care for the child. The court shall consider the child's existing  
7 relationships and attachments when determining placement.

8 (2) Placement of the child with a relative or other suitable person  
9 as described in subsection (1)(b) of this section shall be given  
10 preference by the court. An order for out-of-home placement may be  
11 made only if the court finds that reasonable efforts have been made to  
12 prevent or eliminate the need for removal of the child from the child's  
13 home and to make it possible for the child to return home, specifying  
14 the services, including housing assistance, that have been provided to  
15 the child and the child's parent, guardian, or legal custodian, and  
16 that preventive services have been offered or provided and have failed  
17 to prevent the need for out-of-home placement, unless the health,  
18 safety, and welfare of the child cannot be protected adequately in the  
19 home, and that:

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

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

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

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

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

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

1 (ii) There is no reasonable cause to believe that the health,  
2 safety, or welfare of any child subject to the order of placement,  
3 contact, or visitation would be jeopardized or that efforts to reunite  
4 the parent and child would be hindered by such placement, contact, or  
5 visitation. In no event shall parental visitation time be reduced in  
6 order to provide sibling visitation.

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

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

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

21 (6) If there is insufficient information at the time of the  
22 disposition hearing upon which to base a determination regarding the  
23 suitability of a proposed placement with a relative or other suitable  
24 person, the child shall remain in foster care and the court shall  
25 direct the department or supervising agency to conduct necessary  
26 background investigations as provided in chapter 74.15 RCW and report  
27 the results of such investigation to the court within thirty days.  
28 However, if such relative or other person appears otherwise suitable  
29 and competent to provide care and treatment, the criminal history  
30 background check need not be completed before placement, but as soon as  
31 possible after placement. Any placements with relatives or other  
32 suitable persons, pursuant to this section, shall be contingent upon  
33 cooperation by the relative or other suitable person with the agency  
34 case plan and compliance with court orders related to the care and  
35 supervision of the child including, but not limited to, court orders  
36 regarding parent-child contacts, sibling contacts, and any other  
37 conditions imposed by the court. Noncompliance with the case plan or

1 court order shall be grounds for removal of the child from the  
2 relative's or other suitable person's home, subject to review by the  
3 court.

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