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SENATE BILL 6730

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State of Washington

61st Legislature

2010 Regular Session

By Senators Becker, Hargrove, Stevens, and Roach

Read first time 01/22/10. Referred to Committee on Human Services & Corrections.

1 AN ACT Relating to child welfare; amending RCW 13.34.060,  
2 13.34.105, and 74.14B.030; reenacting and amending RCW 13.34.130;  
3 adding new sections to chapter 13.34 RCW; and creating a new section.

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

5 NEW SECTION. **Sec. 1.** The legislature finds that in 2008, the  
6 office of the family and children's ombudsman, at the request of the  
7 secretary of the department of social and health services, conducted an  
8 investigation of several division of children and family services  
9 offices. Through its investigation, the ombudsman determined that  
10 parents were not regularly informed about certain aspects regarding the  
11 placement of their children in out of home care, guardians ad litem and  
12 court-appointed special advocates overstepped some of their duties,  
13 children were removed from relative caregiver homes without prior  
14 notice or explanation, and child protection teams were not always used  
15 as they were intended. The legislature further finds that these  
16 concerns exist in multiple places in the system and require legislative  
17 involvement to correct.

1       **Sec. 2.** RCW 13.34.060 and 2007 c 413 s 3 are each amended to read  
2 as follows:

3       (1) A child taken into custody pursuant to RCW 13.34.050 or  
4 26.44.050 shall be immediately placed in shelter care. A child taken  
5 by a relative of the child in violation of RCW 9A.40.060 or 9A.40.070  
6 shall be placed in shelter care only when permitted under RCW  
7 13.34.055. No child may be held longer than seventy-two hours,  
8 excluding Saturdays, Sundays, and holidays, after such child is taken  
9 into custody unless a court order has been entered for continued  
10 shelter care. In no case may a child who is taken into custody  
11 pursuant to RCW 13.34.055, 13.34.050, or 26.44.050 be detained in a  
12 secure detention facility.

13       (2) Unless there is reasonable cause to believe that the health,  
14 safety, or welfare of the child would be jeopardized or that the  
15 efforts to reunite the parent and child will be hindered, priority  
16 placement for a child in shelter care, pending a court hearing, shall  
17 be with any person described in RCW 74.15.020(2)(a) or 13.34.130(1)(b).  
18 The department or supervising agency shall inform the parent, both  
19 verbally and in writing, what relatives the agency has considered for  
20 placement and the outcome of that consideration. If the agency does  
21 not recommend placement with a relative, then it must inform the  
22 relative, in writing, why it is not recommending that the child be  
23 placed with that relative. The person must be willing and available to  
24 care for the child and be able to meet any special needs of the child  
25 and the court must find that such placement is in the best interests of  
26 the child. The person must be willing to facilitate the child's  
27 visitation with siblings, if such visitation is part of the supervising  
28 agency's plan or is ordered by the court. If a child is not initially  
29 placed with a relative or other suitable person requested by the parent  
30 pursuant to this section, the department or supervising agency shall  
31 make an effort within available resources to place the child with a  
32 relative or other suitable person requested by the parent on the next  
33 business day after the child is taken into custody. The supervising  
34 agency shall document its effort to place the child with a relative or  
35 other suitable person requested by the parent pursuant to this section.  
36 Nothing within this subsection (2) establishes an entitlement to  
37 services or a right to a particular placement.

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

5 **Sec. 3.** RCW 13.34.130 and 2009 c 520 s 27, 2009 c 491 s 2, and  
6 2009 c 397 s 3 are each reenacted and amended to read as follows:

7 If, after a fact-finding hearing pursuant to RCW 13.34.110, it has  
8 been proven by a preponderance of the evidence that the child is  
9 dependent within the meaning of RCW 13.34.030 after consideration of  
10 the social study prepared pursuant to RCW 13.34.110 and after a  
11 disposition hearing has been held pursuant to RCW 13.34.110, the court  
12 shall enter an order of disposition pursuant to this section.

13 (1) The court shall order one of the following dispositions of the  
14 case:

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

23 (b) Order the child to be removed from his or her home and into the  
24 custody, control, and care of a relative or other suitable person, the  
25 department, or a supervising agency for supervision of the child's  
26 placement. The department or supervising agency has the authority to  
27 place the child, subject to review and approval by the court (i) with  
28 a relative as defined in RCW 74.15.020(2)(a), (ii) in the home of  
29 another suitable person if the child or family has a preexisting  
30 relationship with that person, and the person has completed all  
31 required criminal history background checks and otherwise appears to  
32 the department or supervising agency to be suitable and competent to  
33 provide care for the child, or (iii) in a foster family home or group  
34 care facility licensed pursuant to chapter 74.15 RCW. Absent good  
35 cause, the department or supervising agency shall follow the wishes of  
36 the natural parent regarding the placement of the child in accordance  
37 with RCW 13.34.260. The department or supervising agency may only

1 place a child with a person not related to the child as defined in RCW  
2 74.15.020(2)(a) when the court finds that such placement is in the best  
3 interest of the child. Unless there is reasonable cause to believe  
4 that the health, safety, or welfare of the child would be jeopardized  
5 or that efforts to reunite the parent and child will be hindered, the  
6 child shall be placed with a person who is: (A) Related to the child  
7 as defined in RCW 74.15.020(2)(a) with whom the child has a  
8 relationship and is comfortable; or (B) a suitable person as described  
9 in this subsection (1)(b); and (C) willing, appropriate, and available  
10 to care for the child. The court shall consider the child's existing  
11 relationships and attachments when determining placement.

12 (2) The department or supervising agency shall inform the parent,  
13 both verbally and in writing, what relatives the agency has considered  
14 for placement and the outcome of that consideration. If the agency  
15 does not recommend placement with a relative, then it must inform the  
16 relative, in writing, why it is not recommending that the child be  
17 placed with that relative.

18 (3) Placement of the child with a relative or other suitable person  
19 as described in subsection (1)(b) of this section shall be given  
20 preference by the court. An order for out-of-home placement may be  
21 made only if the court finds that reasonable efforts have been made to  
22 prevent or eliminate the need for removal of the child from the child's  
23 home and to make it possible for the child to return home, specifying  
24 the services, including housing assistance, that have been provided to  
25 the child and the child's parent, guardian, or legal custodian, and  
26 that preventive services have been offered or provided and have failed  
27 to prevent the need for out-of-home placement, unless the health,  
28 safety, and welfare of the child cannot be protected adequately in the  
29 home, and that:

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

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

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

1        ~~((3))~~ (4) If the court has ordered a child removed from his or  
2 her home pursuant to subsection (1)(b) of this section, the court shall  
3 consider whether it is in a child's best interest to be placed with,  
4 have contact with, or have visits with siblings.

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

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

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

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

21        ~~((4))~~ (5) If the court has ordered a child removed from his or  
22 her home pursuant to subsection (1)(b) of this section and placed into  
23 nonparental or nonrelative care, the court shall order a placement that  
24 allows the child to remain in the same school he or she attended prior  
25 to the initiation of the dependency proceeding when such a placement is  
26 practical and in the child's best interest.

27        ~~((5))~~ (6) If the court has ordered a child removed from his or  
28 her home pursuant to subsection (1)(b) of this section, the court may  
29 order that a petition seeking termination of the parent and child  
30 relationship be filed if the requirements of RCW 13.34.132 are met.

31        ~~((6))~~ (7) If there is insufficient information at the time of the  
32 disposition hearing upon which to base a determination regarding the  
33 suitability of a proposed placement with a relative or other suitable  
34 person, the child shall remain in foster care and the court shall  
35 direct the department or supervising agency to conduct necessary  
36 background investigations as provided in chapter 74.15 RCW and report  
37 the results of such investigation to the court within thirty days.  
38 However, if such relative or other person appears otherwise suitable

1 and competent to provide care and treatment, the criminal history  
2 background check need not be completed before placement, but as soon as  
3 possible after placement. Any placements with relatives or other  
4 suitable persons, pursuant to this section, shall be contingent upon  
5 cooperation by the relative or other suitable person with the agency  
6 case plan and compliance with court orders related to the care and  
7 supervision of the child including, but not limited to, court orders  
8 regarding parent-child contacts, sibling contacts, and any other  
9 conditions imposed by the court. Noncompliance with the case plan or  
10 court order shall be grounds for removal of the child from the  
11 relative's or other suitable person's home, subject to review by the  
12 court.

13 NEW SECTION. **Sec. 4.** A new section is added to chapter 13.34 RCW  
14 to read as follows:

15 (1) The department or supervising agency shall provide a care  
16 provider currently caring for a dependent child with a minimum of five  
17 days' written notice of the department's or supervising agency's intent  
18 to remove a child from the home of the care provider unless there is an  
19 imminent risk of harm to the child if the removal does not occur before  
20 the five-day period. The notice must include a clear explanation of  
21 the reasons for the agency's decision to remove the child.

22 (2) In the event a care provider is the subject of a child abuse or  
23 neglect referral, the department shall meet with the provider in person  
24 to explain the nature of the allegations and give the care provider a  
25 reasonable opportunity to respond to the allegations.

26 (3) Neither the department nor a supervising agency may remove a  
27 child from a relative care provider unless the department has made a  
28 finding that the relative has abused or neglected the child, clearly  
29 violated a court order or the child is at imminent risk of harm if the  
30 removal does not occur.

31 (4) For purposes of this section, "care provider" means a relative  
32 described in RCW 74.15.020(2)(a) or has the same meaning as "foster-  
33 family home" as defined in RCW 74.15.020(1)(e).

34 NEW SECTION. **Sec. 5.** A new section is added to chapter 13.34 RCW  
35 to read as follows:

36 (1) Any relative, as described in RCW 74.15.020(2)(a), who has

1 provided care for a dependent child for more than six months may seek  
2 review of the department's or supervising agency's decision to remove  
3 that child from the relative's care.

4 (2) Within twenty days of receiving the written notice required in  
5 RCW 13.34.130(1), the relative may request that the department review  
6 the removal decision. The request must be made in writing.

7 (3) Upon receipt of the written request for review, the department  
8 shall review, and if appropriate, may alter the removal decision.  
9 Management level staff within the children's administration designated  
10 by the secretary are responsible for the review. The review must be  
11 conducted in accordance with procedures the department establishes by  
12 rule. Upon completion of the review, the department shall notify the  
13 relative in writing of the agency's determination. The notification  
14 must be sent by certified mail, return receipt requested, to the  
15 relative's last known address. There may be no further review of the  
16 department's decision.

17 (4) The reviews conducted under this section are confidential and  
18 are not open to the public. Information about reports, reviews, and  
19 hearings may be disclosed only in accordance with federal and state  
20 laws pertaining to child welfare records.

21 **Sec. 6.** RCW 13.34.105 and 2008 c 267 s 13 are each amended to read  
22 as follows:

23 (1) Unless otherwise directed by the court, the duties of the  
24 guardian ad litem for a child subject to a proceeding under this  
25 chapter, including an attorney specifically appointed by the court to  
26 serve as a guardian ad litem, include but are not limited to the  
27 following:

28 (a) To investigate, collect relevant information about the child's  
29 situation, and report to the court factual information regarding the  
30 best interests of the child;

31 (b) To meet with, interview, or observe the child, depending on the  
32 child's age and developmental status, and report to the court any views  
33 or positions expressed by the child on issues pending before the court;

34 (c) To monitor all court orders for compliance and to bring to the  
35 court's attention any change in circumstances that may require a  
36 modification of the court's order;

1 (d) To report to the court information on the legal status of a  
2 child's membership in any Indian tribe or band;

3 (e) Court-appointed special advocates and guardians ad litem may  
4 make recommendations based upon an independent investigation regarding  
5 the best interests of the child, which the court may consider and weigh  
6 in conjunction with the recommendations of all of the parties; and

7 (f) To represent and be an advocate for the best interests of the  
8 child.

9 (2) The duties of the guardian ad litem may not include conducting  
10 investigations into child abuse or neglect allegations related to their  
11 clients that run parallel to the department's abuse or neglect  
12 investigations.

13 (3) A guardian ad litem shall be deemed an officer of the court for  
14 the purpose of immunity from civil liability.

15 ((+3)) (4) Except for information or records specified in RCW  
16 13.50.100(7), the guardian ad litem shall have access to all  
17 information available to the state or agency on the case. Upon  
18 presentation of the order of appointment by the guardian ad litem, any  
19 agency, hospital, school organization, division or department of the  
20 state, doctor, nurse, or other health care provider, psychologist,  
21 psychiatrist, police department, or mental health clinic shall permit  
22 the guardian ad litem to inspect and copy any records relating to the  
23 child or children involved in the case, without the consent of the  
24 parent or guardian of the child, or of the child if the child is under  
25 the age of thirteen years, unless such access is otherwise specifically  
26 prohibited by law.

27 ((+4)) (5) A guardian ad litem may release confidential  
28 information, records, and reports to the office of the family and  
29 children's ombudsman for the purposes of carrying out its duties under  
30 chapter 43.06A RCW.

31 ((+5)) (6) The guardian ad litem shall release case information in  
32 accordance with the provisions of RCW 13.50.100.

33 **Sec. 7.** RCW 74.14B.030 and 1987 c 503 s 12 are each amended to  
34 read as follows:

35 (1) The department shall establish and maintain one or more  
36 ((multidisciplinary)) culturally diverse and responsive child



1 protection teams in each ((state)) administrative region of the  
2 ((division of children and family services)) children's administration  
3 in the department.

4 (2) The child protection team shall consist of at least four  
5 persons, selected by the department, from professions which provide  
6 services to abused and neglected children and/or the parents of such  
7 children. ((The teams shall be available for consultation on all cases  
8 where a risk exists of serious harm to the child and where there is  
9 dispute over whether out of home placement is appropriate.))  
10 Participants may include, but are not limited to, law enforcement  
11 officers, physicians, mental health and substance abuse treatment  
12 professionals, or other mandated child abuse or neglect reporters. In  
13 addition, the department shall invite treatment providers, other  
14 professionals who play a significant role with the family, individuals  
15 with responsibility identified in the child's safety plan, the family,  
16 if appropriate, the foster parent or other care providers, and the  
17 child if over age twelve.

18 (3) The department shall use the child protection teams as follows:

19 (a) In all child protection cases in which the risk assessment  
20 results in a "moderately high" or "high" risk classification, and the  
21 child is age six years or younger;

22 (b) In all child protection cases where serious professional  
23 disagreement, including disagreement by the foster parents or relative  
24 caregiver, exists about a risk of death or serious injury;

25 (c) In all child protection cases that are opened on the basis of  
26 "imminent harm";

27 (d) In all cases prior to return home or dismissal of a dependency,  
28 when the child is aged six or younger and any risk assessment has  
29 resulted in a risk level of moderately high or high risk;

30 (e) In all complex child protection cases where such consultation  
31 will help improve outcomes for children; and

32 (f) In any other case in which the department determines the  
33 assistance of the child protection team will be useful.

34 (4) The department shall establish, maintain, and staff the child  
35 protection teams sufficiently to review the cases listed in subsection  
36 (3) of this section as soon as feasible and shall continue to develop  
37 a broad array of team members who will work with the department to make  
38 the best decisions possible.

1       (5) The department shall develop and implement uniform written  
2 procedures for establishing, convening, and managing the child  
3 protection teams. The procedures must include a process for both  
4 department staff and community professionals to refer a case to the  
5 child protection team.

6       (6) The department shall provide child protection team members with  
7 source documentation from service providers on cases subject to  
8 consultation and provide a legal basis for withholding the information  
9 if it is not being shared with the team.

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