

2SHB 2616 - S COMM AMD  
By Committee on Ways & Means

ADOPTED 03/07/2014

1 Strike everything after the enacting clause and insert the  
2 following:

3 "NEW SECTION. **Sec. 1.** The legislature intends to assure that for  
4 parents with developmental disabilities, the department of social and  
5 health services takes into consideration the parent's disability when  
6 offering services to correct parental deficiencies. To do so, the  
7 legislature finds that the department must contact the developmental  
8 disabilities administration.

9 **Sec. 2.** RCW 13.34.136 and 2013 c 316 s 2, 2013 c 254 s 2, and 2013  
10 c 173 s 2 are each reenacted and amended to read as follows:

11 (1) Whenever a child is ordered removed from the home, a permanency  
12 plan shall be developed no later than sixty days from the time the  
13 supervising agency assumes responsibility for providing services,  
14 including placing the child, or at the time of a hearing under RCW  
15 13.34.130, whichever occurs first. The permanency planning process  
16 continues until a permanency planning goal is achieved or dependency is  
17 dismissed. The planning process shall include reasonable efforts to  
18 return the child to the parent's home.

19 (2) The agency supervising the dependency shall submit a written  
20 permanency plan to all parties and the court not less than fourteen  
21 days prior to the scheduled hearing. Responsive reports of parties not  
22 in agreement with the department's or supervising agency's proposed  
23 permanency plan must be provided to the department or supervising  
24 agency, all other parties, and the court at least seven days prior to  
25 the hearing.

26 The permanency plan shall include:

27 (a) A permanency plan of care that shall identify one of the  
28 following outcomes as a primary goal and may identify additional  
29 outcomes as alternative goals: Return of the child to the home of the

1 child's parent, guardian, or legal custodian; adoption, including a  
2 tribal customary adoption as defined in RCW 13.38.040; guardianship;  
3 permanent legal custody; long-term relative or foster care, until the  
4 child is age eighteen, with a written agreement between the parties and  
5 the care provider; successful completion of a responsible living skills  
6 program; or independent living, if appropriate and if the child is age  
7 sixteen or older. The department or supervising agency shall not  
8 discharge a child to an independent living situation before the child  
9 is eighteen years of age unless the child becomes emancipated pursuant  
10 to chapter 13.64 RCW;

11 (b) Unless the court has ordered, pursuant to RCW 13.34.130(8),  
12 that a termination petition be filed, a specific plan as to where the  
13 child will be placed, what steps will be taken to return the child  
14 home, what steps the supervising agency or the department will take to  
15 promote existing appropriate sibling relationships and/or facilitate  
16 placement together or contact in accordance with the best interests of  
17 each child, and what actions the department or supervising agency will  
18 take to maintain parent-child ties. All aspects of the plan shall  
19 include the goal of achieving permanence for the child.

20 (i) The department's or supervising agency's plan shall specify  
21 what services the parents will be offered to enable them to resume  
22 custody, what requirements the parents must meet to resume custody, and  
23 a time limit for each service plan and parental requirement.

24 (A) If the parent is incarcerated, the plan must address how the  
25 parent will participate in the case conference and permanency planning  
26 meetings and, where possible, must include treatment that reflects the  
27 resources available at the facility where the parent is confined. The  
28 plan must provide for visitation opportunities, unless visitation is  
29 not in the best interests of the child.

30 (B) If a parent has a developmental disability according to the  
31 definition provided in RCW 71A.10.020, and that individual is eligible  
32 for services provided by the developmental disabilities administration,  
33 the department shall make reasonable efforts to consult with the  
34 developmental disabilities administration to create an appropriate plan  
35 for services. For individuals who meet the definition of developmental  
36 disability provided in RCW 71A.10.020 and who are eligible for services  
37 through the developmental disabilities administration, the plan for  
38 services must be tailored to correct the parental deficiency taking

1 into consideration the parent's disability and the department shall  
2 also determine an appropriate method to offer those services based on  
3 the parent's disability.

4 (ii)(A) Visitation is the right of the family, including the child  
5 and the parent, in cases in which visitation is in the best interest of  
6 the child. Early, consistent, and frequent visitation is crucial for  
7 maintaining parent-child relationships and making it possible for  
8 parents and children to safely reunify. The supervising agency or  
9 department shall encourage the maximum parent and child and sibling  
10 contact possible, when it is in the best interest of the child,  
11 including regular visitation and participation by the parents in the  
12 care of the child while the child is in placement.

13 (B) Visitation shall not be limited as a sanction for a parent's  
14 failure to comply with court orders or services where the health,  
15 safety, or welfare of the child is not at risk as a result of the  
16 visitation.

17 (C) Visitation may be limited or denied only if the court  
18 determines that such limitation or denial is necessary to protect the  
19 child's health, safety, or welfare. When a parent or sibling has been  
20 identified as a suspect in an active criminal investigation for a  
21 violent crime that, if the allegations are true, would impact the  
22 safety of the child, the department shall make a concerted effort to  
23 consult with the assigned law enforcement officer in the criminal case  
24 before recommending any changes in parent/child or child/sibling  
25 contact. In the event that the law enforcement officer has information  
26 pertaining to the criminal case that may have serious implications for  
27 child safety or well-being, the law enforcement officer shall provide  
28 this information to the department during the consultation. The  
29 department may only use the information provided by law enforcement  
30 during the consultation to inform family visitation plans and may not  
31 share or otherwise distribute the information to any person or entity.  
32 Any information provided to the department by law enforcement during  
33 the consultation is considered investigative information and is exempt  
34 from public inspection pursuant to RCW 42.56.240. The results of the  
35 consultation shall be communicated to the court.

36 (D) The court and the department or supervising agency should rely  
37 upon community resources, relatives, foster parents, and other

1 appropriate persons to provide transportation and supervision for  
2 visitation to the extent that such resources are available, and  
3 appropriate, and the child's safety would not be compromised.

4 (iii)(A) The department, court, or caregiver in the out-of-home  
5 placement may not limit visitation or contact between a child and  
6 sibling as a sanction for a child's behavior or as an incentive to the  
7 child to change his or her behavior.

8 (B) Any exceptions, limitation, or denial of contacts or visitation  
9 must be approved by the supervisor of the department caseworker and  
10 documented. The child, parent, department, guardian ad litem, or  
11 court-appointed special advocate may challenge the denial of visits in  
12 court.

13 (iv) A child shall be placed as close to the child's home as  
14 possible, preferably in the child's own neighborhood, unless the court  
15 finds that placement at a greater distance is necessary to promote the  
16 child's or parents' well-being.

17 (v) The plan shall state whether both in-state and, where  
18 appropriate, out-of-state placement options have been considered by the  
19 department or supervising agency.

20 (vi) Unless it is not in the best interests of the child, whenever  
21 practical, the plan should ensure the child remains enrolled in the  
22 school the child was attending at the time the child entered foster  
23 care.

24 (vii) The supervising agency or department shall provide all  
25 reasonable services that are available within the department or  
26 supervising agency, or within the community, or those services which  
27 the department has existing contracts to purchase. It shall report to  
28 the court if it is unable to provide such services; and

29 (c) If the court has ordered, pursuant to RCW 13.34.130(8), that a  
30 termination petition be filed, a specific plan as to where the child  
31 will be placed, what steps will be taken to achieve permanency for the  
32 child, services to be offered or provided to the child, and, if  
33 visitation would be in the best interests of the child, a  
34 recommendation to the court regarding visitation between parent and  
35 child pending a fact-finding hearing on the termination petition. The  
36 department or supervising agency shall not be required to develop a  
37 plan of services for the parents or provide services to the parents if  
38 the court orders a termination petition be filed. However, reasonable

1 efforts to ensure visitation and contact between siblings shall be made  
2 unless there is reasonable cause to believe the best interests of the  
3 child or siblings would be jeopardized.

4 (3) Permanency planning goals should be achieved at the earliest  
5 possible date. If the child has been in out-of-home care for fifteen  
6 of the most recent twenty-two months, and the court has not made a good  
7 cause exception, the court shall require the department or supervising  
8 agency to file a petition seeking termination of parental rights in  
9 accordance with RCW 13.34.145(~~(+3+)~~)(4)(b)(vi). In cases where  
10 parental rights have been terminated, the child is legally free for  
11 adoption, and adoption has been identified as the primary permanency  
12 planning goal, it shall be a goal to complete the adoption within six  
13 months following entry of the termination order.

14 (4) If the court determines that the continuation of reasonable  
15 efforts to prevent or eliminate the need to remove the child from his  
16 or her home or to safely return the child home should not be part of  
17 the permanency plan of care for the child, reasonable efforts shall be  
18 made to place the child in a timely manner and to complete whatever  
19 steps are necessary to finalize the permanent placement of the child.

20 (5) The identified outcomes and goals of the permanency plan may  
21 change over time based upon the circumstances of the particular case.

22 (6) The court shall consider the child's relationships with the  
23 child's siblings in accordance with RCW 13.34.130(6). Whenever the  
24 permanency plan for a child is adoption, the court shall encourage the  
25 prospective adoptive parents, birth parents, foster parents, kinship  
26 caregivers, and the department or other supervising agency to seriously  
27 consider the long-term benefits to the child adoptee and his or her  
28 siblings of providing for and facilitating continuing postadoption  
29 contact between the siblings. To the extent that it is feasible, and  
30 when it is in the best interests of the child adoptee and his or her  
31 siblings, contact between the siblings should be frequent and of a  
32 similar nature as that which existed prior to the adoption. If the  
33 child adoptee or his or her siblings are represented by an attorney or  
34 guardian ad litem in a proceeding under this chapter or in any other  
35 child custody proceeding, the court shall inquire of each attorney and  
36 guardian ad litem regarding the potential benefits of continuing  
37 contact between the siblings and the potential detriments of severing  
38 contact. This section does not require the department of social and

1 health services or other supervising agency to agree to any specific  
2 provisions in an open adoption agreement and does not create a new  
3 obligation for the department to provide supervision or transportation  
4 for visits between siblings separated by adoption from foster care.

5 (7) For purposes related to permanency planning:

6 (a) "Guardianship" means a dependency guardianship or a legal  
7 guardianship pursuant to chapter 11.88 RCW or equivalent laws of  
8 another state or a federally recognized Indian tribe.

9 (b) "Permanent custody order" means a custody order entered  
10 pursuant to chapter 26.10 RCW.

11 (c) "Permanent legal custody" means legal custody pursuant to  
12 chapter 26.10 RCW or equivalent laws of another state or a federally  
13 recognized Indian tribe."

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14 On page 1, line 2 of the title, after "with" strike "intellectual  
15 or" and after "proceedings;" strike the remainder of the title and  
16 insert "reenacting and amending RCW 13.34.136; and creating a new  
17 section."

EFFECT: Removes the term "intellectual" from the intent section  
and title. Removes the intent that the court apply the active effort  
standard to the department at dependency review hearings for parents  
with developmental disabilities.

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