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HOUSE BILL 1821

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State of Washington

63rd Legislature

2013 Regular Session

By Representatives Freeman and Santos

Read first time 02/11/13. Referred to Committee on Early Learning & Human Services.

1 AN ACT Relating to good cause exceptions during permanency  
2 hearings; and amending RCW 13.34.145.

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

4 **Sec. 1.** RCW 13.34.145 and 2011 c 330 s 6 are each amended to read  
5 as follows:

6 (1) The purpose of a permanency planning hearing is to review the  
7 permanency plan for the child, inquire into the welfare of the child  
8 and progress of the case, and reach decisions regarding the permanent  
9 placement of the child.

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

16 (b) Whenever a child is removed from the home of a dependency  
17 guardian or long-term relative or foster care provider, and the child  
18 is not returned to the home of the parent, guardian, or legal custodian  
19 but is placed in out-of-home care, a permanency planning hearing shall

1 take place no later than twelve months, as provided in this section,  
2 following the date of removal unless, prior to the hearing, the child  
3 returns to the home of the dependency guardian or long-term care  
4 provider, the child is placed in the home of the parent, guardian, or  
5 legal custodian, an adoption decree, guardianship order, or a permanent  
6 custody order is entered, or the dependency is dismissed. Every effort  
7 shall be made to provide stability in long-term placement, and to avoid  
8 disruption of placement, unless the child is being returned home or it  
9 is in the best interest of the child.

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

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

21 (3) At the permanency planning hearing, the court shall conduct the  
22 following inquiry:

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

27 (b) In cases where the primary permanency planning goal has not  
28 been achieved, the court shall inquire regarding the reasons why the  
29 primary goal has not been achieved and determine what needs to be done  
30 to make it possible to achieve the primary goal. The court shall  
31 review the permanency plan prepared by the agency and make explicit  
32 findings regarding each of the following:

33 (i) The continuing necessity for, and the safety and  
34 appropriateness of, the placement;

35 (ii) The extent of compliance with the permanency plan by the  
36 department or supervising agency and any other service providers, the  
37 child's parents, the child, and the child's guardian, if any;

1 (iii) The extent of any efforts to involve appropriate service  
2 providers in addition to department or supervising agency staff in  
3 planning to meet the special needs of the child and the child's  
4 parents;

5 (iv) The progress toward eliminating the causes for the child's  
6 placement outside of his or her home and toward returning the child  
7 safely to his or her home or obtaining a permanent placement for the  
8 child;

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

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

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

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

23 (C) Being placed for adoption;

24 (D) Being placed with a guardian;

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

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

29 At this hearing, the court shall order the department or  
30 supervising agency to file a petition seeking termination of parental  
31 rights if the child has been in out-of-home care for fifteen of the  
32 last twenty-two months since the date the dependency petition was filed  
33 unless the court makes a good cause exception as to why the filing of  
34 a termination of parental rights petition is not appropriate. Any good  
35 cause finding shall be reviewed at all subsequent hearings pertaining  
36 to the child. For purposes of this section, "good cause exception"  
37 includes but is not limited to the following: The child is being cared  
38 for by a relative; (~~the department has not provided to the child's~~

1 ~~family such services as the court and the department have deemed~~  
2 ~~necessary for the child's safe return home))~~ where a parent has been  
3 accepted into a dependency treatment court program or long-term  
4 substance abuse or dual diagnoses treatment program and is  
5 demonstrating compliance with treatment goals; where the department has  
6 been unable to pay for and provide to the child's family such services  
7 as the court and the department have deemed necessary for the child's  
8 safe return home and the parent has filed a declaration under penalty  
9 of perjury stating his or her financial inability to pay the cost of  
10 the same service; or the department has documented in the case plan a  
11 compelling reason for determining that filing a petition to terminate  
12 parental rights would not be in the child's best interests.

13 (c)(i) If the permanency plan identifies independent living as a  
14 goal, the court shall make a finding that the provision of services to  
15 assist the child in making a transition from foster care to independent  
16 living will allow the child to manage his or her financial, personal,  
17 social, educational, and nonfinancial affairs prior to approving  
18 independent living as a permanency plan of care. The court will  
19 inquire whether the child has been provided information about extended  
20 foster care services.

21 (ii) The permanency plan shall also specifically identify the  
22 services, including extended foster care services, where appropriate,  
23 that will be provided to assist the child to make a successful  
24 transition from foster care to independent living.

25 (iii) The department or supervising agency shall not discharge a  
26 child to an independent living situation before the child is eighteen  
27 years of age unless the child becomes emancipated pursuant to chapter  
28 13.64 RCW.

29 (d) If the child has resided in the home of a foster parent or  
30 relative for more than six months prior to the permanency planning  
31 hearing, the court shall:

32 (i) Enter a finding regarding whether the foster parent or relative  
33 was informed of the hearing as required in RCW 74.13.280, 13.34.215(6),  
34 and 13.34.096; and

35 (ii) If the department or supervising agency is recommending a  
36 placement other than the child's current placement with a foster  
37 parent, relative, or other suitable person, enter a finding as to the  
38 reasons for the recommendation for a change in placement.

1 (4) In all cases, at the permanency planning hearing, the court  
2 shall:

3 (a)(i) Order the permanency plan prepared by the supervising agency  
4 to be implemented; or

5 (ii) Modify the permanency plan, and order implementation of the  
6 modified plan; and

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

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

12 (5) Following the first permanency planning hearing, the court  
13 shall hold a further permanency planning hearing in accordance with  
14 this section at least once every twelve months until a permanency  
15 planning goal is achieved or the dependency is dismissed, whichever  
16 occurs first.

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

20 (7) If the court orders the child returned home, casework  
21 supervision by the department or supervising agency shall continue for  
22 at least six months, at which time a review hearing shall be held  
23 pursuant to RCW 13.34.138, and the court shall determine the need for  
24 continued intervention.

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

37 (9) Continued juvenile court jurisdiction under this chapter shall

1 not be a barrier to the entry of an order establishing a legal  
2 guardianship or permanent legal custody when the requirements of  
3 subsection (8) of this section are met.

4 (10) Nothing in this chapter may be construed to limit the ability  
5 of the agency that has custody of the child to file a petition for  
6 termination of parental rights or a guardianship petition at any time  
7 following the establishment of dependency. Upon the filing of such a  
8 petition, a fact-finding hearing shall be scheduled and held in  
9 accordance with this chapter unless the department or supervising  
10 agency requests dismissal of the petition prior to the hearing or  
11 unless the parties enter an agreed order terminating parental rights,  
12 establishing guardianship, or otherwise resolving the matter.

13 (11) The approval of a permanency plan that does not contemplate  
14 return of the child to the parent does not relieve the supervising  
15 agency of its obligation to provide reasonable services, under this  
16 chapter, intended to effectuate the return of the child to the parent,  
17 including but not limited to, visitation rights. The court shall  
18 consider the child's relationships with siblings in accordance with RCW  
19 13.34.130.

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

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