
SECOND SUBSTITUTE HOUSE BILL 2616

State of Washington

63rd Legislature

2014 Regular Session

By House Appropriations (originally sponsored by Representatives Freeman, Walsh, Kagi, Roberts, Smith, Orwall, Tarleton, and Pollet)

READ FIRST TIME 02/11/14.

1 AN ACT Relating to parents with intellectual or developmental
2 disabilities involved in dependency proceedings; reenacting and
3 amending RCW 13.34.136; and creating new sections.

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

5 NEW SECTION. **Sec. 1.** The legislature intends to assure that for
6 parents with intellectual or developmental disabilities, the department
7 of social and health services takes into consideration the parent's
8 disability when offering services to correct parental deficiencies. To
9 do so, the legislature finds that the department must contact the
10 developmental disabilities administration. The legislature further
11 intends to allow the court to apply an active efforts standard to the
12 department at dependency review hearings involving parents with
13 intellectual or developmental disabilities.

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

16 (1) Whenever a child is ordered removed from the home, a permanency
17 plan shall be developed no later than sixty days from the time the
18 supervising agency assumes responsibility for providing services,

1 including placing the child, or at the time of a hearing under RCW
2 13.34.130, whichever occurs first. The permanency planning process
3 continues until a permanency planning goal is achieved or dependency is
4 dismissed. The planning process shall include reasonable efforts to
5 return the child to the parent's home.

6 (2) The agency supervising the dependency shall submit a written
7 permanency plan to all parties and the court not less than fourteen
8 days prior to the scheduled hearing. Responsive reports of parties not
9 in agreement with the department's or supervising agency's proposed
10 permanency plan must be provided to the department or supervising
11 agency, all other parties, and the court at least seven days prior to
12 the hearing.

13 The permanency plan shall include:

14 (a) A permanency plan of care that shall identify one of the
15 following outcomes as a primary goal and may identify additional
16 outcomes as alternative goals: Return of the child to the home of the
17 child's parent, guardian, or legal custodian; adoption, including a
18 tribal customary adoption as defined in RCW 13.38.040; guardianship;
19 permanent legal custody; long-term relative or foster care, until the
20 child is age eighteen, with a written agreement between the parties and
21 the care provider; successful completion of a responsible living skills
22 program; or independent living, if appropriate and if the child is age
23 sixteen or older. The department or supervising agency shall not
24 discharge a child to an independent living situation before the child
25 is eighteen years of age unless the child becomes emancipated pursuant
26 to chapter 13.64 RCW;

27 (b) Unless the court has ordered, pursuant to RCW 13.34.130(8),
28 that a termination petition be filed, a specific plan as to where the
29 child will be placed, what steps will be taken to return the child
30 home, what steps the supervising agency or the department will take to
31 promote existing appropriate sibling relationships and/or facilitate
32 placement together or contact in accordance with the best interests of
33 each child, and what actions the department or supervising agency will
34 take to maintain parent-child ties. All aspects of the plan shall
35 include the goal of achieving permanence for the child.

36 (i) The department's or supervising agency's plan shall specify
37 what services the parents will be offered to enable them to resume

1 custody, what requirements the parents must meet to resume custody, and
2 a time limit for each service plan and parental requirement.

3 (A) If the parent is incarcerated, the plan must address how the
4 parent will participate in the case conference and permanency planning
5 meetings and, where possible, must include treatment that reflects the
6 resources available at the facility where the parent is confined. The
7 plan must provide for visitation opportunities, unless visitation is
8 not in the best interests of the child.

9 (B) If a parent has a developmental disability according to the
10 definition provided in RCW 71A.10.020, and that individual is eligible
11 for services provided by the developmental disabilities administration,
12 the department shall make reasonable efforts to consult with the
13 developmental disabilities administration to create an appropriate plan
14 for services. For individuals who meet the definition of developmental
15 disability provided in RCW 71A.10.020 and who are eligible for services
16 through the developmental disabilities administration, the plan for
17 services must be tailored to correct the parental deficiency taking
18 into consideration the parent's disability and the department shall
19 also determine an appropriate method to offer those services based on
20 the parent's disability.

21 (ii)(A) Visitation is the right of the family, including the child
22 and the parent, in cases in which visitation is in the best interest of
23 the child. Early, consistent, and frequent visitation is crucial for
24 maintaining parent-child relationships and making it possible for
25 parents and children to safely reunify. The supervising agency or
26 department shall encourage the maximum parent and child and sibling
27 contact possible, when it is in the best interest of the child,
28 including regular visitation and participation by the parents in the
29 care of the child while the child is in placement.

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

34 (C) Visitation may be limited or denied only if the court
35 determines that such limitation or denial is necessary to protect the
36 child's health, safety, or welfare. When a parent or sibling has been
37 identified as a suspect in an active criminal investigation for a
38 violent crime that, if the allegations are true, would impact the

1 safety of the child, the department shall make a concerted effort to
2 consult with the assigned law enforcement officer in the criminal case
3 before recommending any changes in parent/child or child/sibling
4 contact. In the event that the law enforcement officer has information
5 pertaining to the criminal case that may have serious implications for
6 child safety or well-being, the law enforcement officer shall provide
7 this information to the department during the consultation. The
8 department may only use the information provided by law enforcement
9 during the consultation to inform family visitation plans and may not
10 share or otherwise distribute the information to any person or entity.
11 Any information provided to the department by law enforcement during
12 the consultation is considered investigative information and is exempt
13 from public inspection pursuant to RCW 42.56.240. The results of the
14 consultation shall be communicated to the court.

15 (D) The court and the department or supervising agency should rely
16 upon community resources, relatives, foster parents, and other
17 appropriate persons to provide transportation and supervision for
18 visitation to the extent that such resources are available, and
19 appropriate, and the child's safety would not be compromised.

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

24 (B) Any exceptions, limitation, or denial of contacts or visitation
25 must be approved by the supervisor of the department caseworker and
26 documented. The child, parent, department, guardian ad litem, or
27 court-appointed special advocate may challenge the denial of visits in
28 court.

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

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

36 (vi) Unless it is not in the best interests of the child, whenever
37 practical, the plan should ensure the child remains enrolled in the

1 school the child was attending at the time the child entered foster
2 care.

3 (vii) The supervising agency or department shall provide all
4 reasonable services that are available within the department or
5 supervising agency, or within the community, or those services which
6 the department has existing contracts to purchase. It shall report to
7 the court if it is unable to provide such services; and

8 (c) If the court has ordered, pursuant to RCW 13.34.130(8), that a
9 termination petition be filed, a specific plan as to where the child
10 will be placed, what steps will be taken to achieve permanency for the
11 child, services to be offered or provided to the child, and, if
12 visitation would be in the best interests of the child, a
13 recommendation to the court regarding visitation between parent and
14 child pending a fact-finding hearing on the termination petition. The
15 department or supervising agency shall not be required to develop a
16 plan of services for the parents or provide services to the parents if
17 the court orders a termination petition be filed. However, reasonable
18 efforts to ensure visitation and contact between siblings shall be made
19 unless there is reasonable cause to believe the best interests of the
20 child or siblings would be jeopardized.

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

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

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

1 (6) The court shall consider the child's relationships with the
2 child's siblings in accordance with RCW 13.34.130(6). Whenever the
3 permanency plan for a child is adoption, the court shall encourage the
4 prospective adoptive parents, birth parents, foster parents, kinship
5 caregivers, and the department or other supervising agency to seriously
6 consider the long-term benefits to the child adoptee and his or her
7 siblings of providing for and facilitating continuing postadoption
8 contact between the siblings. To the extent that it is feasible, and
9 when it is in the best interests of the child adoptee and his or her
10 siblings, contact between the siblings should be frequent and of a
11 similar nature as that which existed prior to the adoption. If the
12 child adoptee or his or her siblings are represented by an attorney or
13 guardian ad litem in a proceeding under this chapter or in any other
14 child custody proceeding, the court shall inquire of each attorney and
15 guardian ad litem regarding the potential benefits of continuing
16 contact between the siblings and the potential detriments of severing
17 contact. This section does not require the department of social and
18 health services or other supervising agency to agree to any specific
19 provisions in an open adoption agreement and does not create a new
20 obligation for the department to provide supervision or transportation
21 for visits between siblings separated by adoption from foster care.

22 (7) For purposes related to permanency planning:

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

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

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

31 NEW SECTION. **Sec. 3.** If specific funding for the purposes of this
32 act, referencing this act by bill or chapter number, is not provided by
33 June 30, 2014, in the omnibus appropriations act, this act is null and
34 void.

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