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SENATE BILL 5762

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State of Washington

63rd Legislature

2013 Regular Session

By Senator Roach

Read first time 02/14/13. Referred to Committee on Human Services & Corrections.

1 AN ACT Relating to relatives in dependency proceedings; amending  
2 RCW 13.34.060; reenacting and amending RCW 13.34.130; adding a new  
3 section 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.** A new section is added to chapter 13.34 RCW  
6 to read as follows:

7 (1) A relative of a dependent child may petition the juvenile court  
8 to be heard on the department or supervising agency's decision to  
9 remove the child from the relative's care if:

10 (a) The child has been found to be a dependent child under this  
11 chapter;

12 (b) The parents of the child have consented to the relative filing  
13 a petition to be heard on the placement decision;

14 (c) The child is in the custody of the department or supervising  
15 agency at the time the petition is filed;

16 (d) The department or supervising agency has made the decision to  
17 remove or has already removed the child from the relative's care; and

18 (e) The child had been in the relative's care for twelve months or  
19 more prior to the decision to remove or the removal of the child.

1 (2) The relative has ten business days from the date the relative  
2 learns of the removal decision, or the child is removed from the  
3 relative's care, whichever is later, to file the petition to be heard.

4 (3) If the requirements of subsection (1) of this section are met,  
5 the court shall grant the petition to be heard on the sole issue of the  
6 placement decision and shall schedule an expedited hearing on the  
7 matter.

8 (4) The relative has the right to be represented by counsel, at his  
9 or her own expense, at the hearing on the petition to be heard. The  
10 relative may call and cross-examine witnesses at the hearing.

11 (5) The granting of the petition to be heard under this section  
12 does not grant the relative party status in the underlying dependency.

13 (6) For the purposes of this section, "relative" means a relative  
14 as defined in RCW 74.15.020(2)(a) except parents.

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

17 (1) A child taken into custody pursuant to RCW 13.34.050 or  
18 26.44.050 shall be immediately placed in shelter care. A child taken  
19 by a relative of the child in violation of RCW 9A.40.060 or 9A.40.070  
20 shall be placed in shelter care only when permitted under RCW  
21 13.34.055. No child may be held longer than seventy-two hours,  
22 excluding Saturdays, Sundays, and holidays, after such child is taken  
23 into custody unless a court order has been entered for continued  
24 shelter care. In no case may a child who is taken into custody  
25 pursuant to RCW 13.34.055, 13.34.050, or 26.44.050 be detained in a  
26 secure detention facility.

27 (2)(a) Unless there is reasonable cause to believe that the health,  
28 safety, or welfare of the child would be jeopardized or that the  
29 efforts to reunite the parent and child will be hindered, priority  
30 placement for a child in shelter care, pending a court hearing, shall  
31 be with any person described in RCW 74.15.020(2)(a) or 13.34.130(1)(b).  
32 The person must be willing and available to care for the child and be  
33 able to meet any special needs of the child and the court must find  
34 that such placement is in the best interests of the child. The person  
35 must be willing to facilitate the child's visitation with siblings, if  
36 such visitation is part of the supervising agency's plan or is ordered  
37 by the court.

1 (b) If a child is not initially placed with a relative or other  
2 suitable person requested by the parent pursuant to this section, the  
3 supervising agency shall make an effort within available resources to  
4 place the child with a relative or other suitable person requested by  
5 the parent on the next business day after the child is taken into  
6 custody.

7 (c) The supervising agency shall document its effort to place the  
8 child with a relative or other suitable person requested by the parent  
9 pursuant to this section. Nothing within this subsection (2)  
10 establishes an entitlement to services or a right to a particular  
11 placement.

12 (d) When the parent requests relative placement, there is a  
13 presumption that the placement is in the best interests of the child as  
14 long as the placement will not impede reasonable efforts to reunify.  
15 The department has the burden to overcome the presumption by a  
16 preponderance of the evidence.

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

21 **Sec. 3.** RCW 13.34.130 and 2011 c 309 s 27 and 2011 c 292 s 1 are  
22 each reenacted and amended to read as follows:

23 If, after a fact-finding hearing pursuant to RCW 13.34.110, it has  
24 been proven by a preponderance of the evidence that the child is  
25 dependent within the meaning of RCW 13.34.030 after consideration of  
26 the social study prepared pursuant to RCW 13.34.110 and after a  
27 disposition hearing has been held pursuant to RCW 13.34.110, the court  
28 shall enter an order of disposition pursuant to this section.

29 (1) The court shall order one of the following dispositions of the  
30 case:

31 (a) Order a disposition that maintains the child in his or her  
32 home, which shall provide a program designed to alleviate the immediate  
33 danger to the child, to mitigate or cure any damage the child has  
34 already suffered, and to aid the parents so that the child will not be  
35 endangered in the future. In determining the disposition, the court  
36 should choose services to assist the parents in maintaining the child

1 in the home, including housing assistance, if appropriate, that least  
2 interfere with family autonomy and are adequate to protect the child.

3 (b)(i) Order the child to be removed from his or her home and into  
4 the custody, control, and care of a relative or other suitable person,  
5 the department, or a supervising agency for supervision of the child's  
6 placement. The court may not order an Indian child, as defined in RCW  
7 13.38.040, to be removed from his or her home unless the court finds,  
8 by clear and convincing evidence including testimony of qualified  
9 expert witnesses, that the continued custody of the child by the parent  
10 or Indian custodian is likely to result in serious emotional or  
11 physical damage to the child.

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

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

20 (iv) If the child is not placed with a relative as requested by the  
21 parent, the department or supervising agency has the authority to place  
22 the child, subject to review and approval by the court (A) with a  
23 relative as defined in RCW 74.15.020(2)(a), (B) in the home of another  
24 suitable person if the child or family has a preexisting relationship  
25 with that person, and the person has completed all required criminal  
26 history background checks and otherwise appears to the department or  
27 supervising agency to be suitable and competent to provide care for the  
28 child, or (C) in a foster family home or group care facility licensed  
29 pursuant to chapter 74.15 RCW.

30 ~~((+iii+))~~ (v) The department may also consider placing the child,  
31 subject to review and approval by the court, with a person with whom  
32 the child's sibling or half-sibling is residing or a person who has  
33 adopted the sibling or half-sibling of the child being placed as long  
34 as the person has completed all required criminal history background  
35 checks and otherwise appears to the department or supervising agency to  
36 be competent to provide care for the child.

37 (2) ~~((Absent good cause, the department or supervising agency shall~~

1 ~~follow the wishes of the natural parent regarding the placement of the~~  
2 ~~child in accordance with RCW 13.34.260.~~

3 ~~(3))~~ The department or supervising agency may only place a child  
4 with a person not related to the child as defined in RCW  
5 74.15.020(2)(a), including a placement provided for in subsection  
6 (1)(b)~~((+iii))~~ (v) of this section, when the court finds that such  
7 placement is in the best interest of the child. Unless there is  
8 reasonable cause to believe that the health, safety, or welfare of the  
9 child would be jeopardized or that efforts to reunite the parent and  
10 child will be hindered, the child shall be placed with a person who is  
11 willing, appropriate, and available to care for the child, and who is:  
12 (I) Related to the child as defined in RCW 74.15.020(2)(a) with whom  
13 the child has a relationship and is comfortable; or (II) a suitable  
14 person as described in subsection (1)(b) of this section. The court  
15 shall consider the child's existing relationships and attachments when  
16 determining placement.

17 ~~((+4))~~ (3) When placing an Indian child in out-of-home care, the  
18 department or supervising agency shall follow the placement preference  
19 characteristics in RCW 13.38.180.

20 ~~((+5))~~ (4) Placement of the child with a relative or other  
21 suitable person as described in subsection (1)(b) of this section shall  
22 be given preference by the court. An order for out-of-home placement  
23 may be made only if the court finds that reasonable efforts have been  
24 made to prevent or eliminate the need for removal of the child from the  
25 child's home and to make it possible for the child to return home,  
26 specifying the services, including housing assistance, that have been  
27 provided to the child and the child's parent, guardian, or legal  
28 custodian, and that preventive services have been offered or provided  
29 and have failed to prevent the need for out-of-home placement, unless  
30 the health, safety, and welfare of the child cannot be protected  
31 adequately in the home, and that:

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

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

36 (c) The court finds, by clear, cogent, and convincing evidence, a  
37 manifest danger exists that the child will suffer serious abuse or

1 neglect if the child is not removed from the home and an order under  
2 RCW 26.44.063 would not protect the child from danger.

3 ~~((+6+))~~ (5) If the court has ordered a child removed from his or  
4 her home pursuant to subsection (1)(b) of this section, the court shall  
5 consider whether it is in a child's best interest to be placed with,  
6 have contact with, or have visits with siblings.

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

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

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

19 (b) The court may also order placement, contact, or visitation of  
20 a child with a stepbrother or stepsister provided that in addition to  
21 the factors in (a) of this subsection, the child has a relationship and  
22 is comfortable with the stepsibling.

23 ~~((+7+))~~ (6) If the court has ordered a child removed from his or  
24 her home pursuant to subsection (1)(b) of this section and placed into  
25 nonparental or nonrelative care, the court shall order a placement that  
26 allows the child to remain in the same school he or she attended prior  
27 to the initiation of the dependency proceeding when such a placement is  
28 practical and in the child's best interest.

29 ~~((+8+))~~ (7) If the court has ordered a child removed from his or  
30 her home pursuant to subsection (1)(b) of this section, the court may  
31 order that a petition seeking termination of the parent and child  
32 relationship be filed if the requirements of RCW 13.34.132 are met.

33 ~~((+9+))~~ (8) If there is insufficient information at the time of the  
34 disposition hearing upon which to base a determination regarding the  
35 suitability of a proposed placement with a relative or other suitable  
36 person, the child shall remain in foster care and the court shall  
37 direct the department or supervising agency to conduct necessary  
38 background investigations as provided in chapter 74.15 RCW and report

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

15 NEW SECTION. **Sec. 4.** This act may be known and cited as the  
16 Alexis Stuth act.

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