
SENATE BILL 5763

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 the placement of children with relatives;
2 amending RCW 13.34.060; and reenacting and amending RCW 13.34.130.

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

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

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

16 (2)(a) Unless there is reasonable cause to believe that the health,
17 safety, or welfare of the child would be jeopardized or that the
18 efforts to reunite the parent and child will be hindered, priority
19 placement for a child in shelter care, pending a court hearing, shall

1 be with any person described in RCW 74.15.020(2)(a) or 13.34.130(1)(b).
2 The person must be willing and available to care for the child and be
3 able to meet any special needs of the child and the court must find
4 that such placement is in the best interests of the child. The person
5 must be willing to facilitate the child's visitation with siblings, if
6 such visitation is part of the supervising agency's plan or is ordered
7 by the court.

8 (b) If a child is not initially placed with a relative or other
9 suitable person requested by the parent pursuant to this section, the
10 supervising agency shall make an effort within available resources to
11 place the child with a relative or other suitable person requested by
12 the parent on the next business day after the child is taken into
13 custody.

14 (c) The supervising agency shall document its effort to place the
15 child with a relative or other suitable person requested by the parent
16 pursuant to this section. Nothing within this subsection (2)
17 establishes an entitlement to services or a right to a particular
18 placement.

19 (d) When the parent requests relative placement, there is a
20 presumption that the placement is in the best interests of the child as
21 long as the placement will not impede reasonable efforts to reunify.
22 The department has the burden to overcome the presumption by a
23 preponderance of the evidence.

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

28 **Sec. 2.** RCW 13.34.130 and 2011 c 309 s 27 and 2011 c 292 s 1 are
29 each reenacted and amended to read as follows:

30 If, after a fact-finding hearing pursuant to RCW 13.34.110, it has
31 been proven by a preponderance of the evidence that the child is
32 dependent within the meaning of RCW 13.34.030 after consideration of
33 the social study prepared pursuant to RCW 13.34.110 and after a
34 disposition hearing has been held pursuant to RCW 13.34.110, the court
35 shall enter an order of disposition pursuant to this section.

36 (1) The court shall order one of the following dispositions of the
37 case:

1 (a) Order a disposition that maintains the child in his or her
2 home, which shall provide a program designed to alleviate the immediate
3 danger to the child, to mitigate or cure any damage the child has
4 already suffered, and to aid the parents so that the child will not be
5 endangered in the future. In determining the disposition, the court
6 should choose services to assist the parents in maintaining the child
7 in the home, including housing assistance, if appropriate, that least
8 interfere with family autonomy and are adequate to protect the child.

9 (b)(i) Order the child to be removed from his or her home and into
10 the custody, control, and care of a relative or other suitable person,
11 the department, or a supervising agency for supervision of the child's
12 placement. The court may not order an Indian child, as defined in RCW
13 13.38.040, to be removed from his or her home unless the court finds,
14 by clear and convincing evidence including testimony of qualified
15 expert witnesses, that the continued custody of the child by the parent
16 or Indian custodian is likely to result in serious emotional or
17 physical damage to the child.

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

21 (iii) If the parent requests the relative placement, there is a
22 presumption that the placement is in the best interests of the child as
23 long as the placement does not impede reasonable efforts to reunify.
24 The department has the burden of overcoming the presumption by a
25 preponderance of evidence.

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

36 ~~((+iii+))~~ (v) The department may also consider placing the child,
37 subject to review and approval by the court, with a person with whom
38 the child's sibling or half-sibling is residing or a person who has

1 adopted the sibling or half-sibling of the child being placed as long
2 as the person has completed all required criminal history background
3 checks and otherwise appears to the department or supervising agency to
4 be competent to provide care for the child.

5 ~~(2) ((Absent good cause, the department or supervising agency shall
6 follow the wishes of the natural parent regarding the placement of the
7 child in accordance with RCW 13.34.260.~~

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

22 ~~((+4))~~ (3) When placing an Indian child in out-of-home care, the
23 department or supervising agency shall follow the placement preference
24 characteristics in RCW 13.38.180.

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

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

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

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

7 ~~((+6+))~~ (5) If the court has ordered a child removed from his or
8 her home pursuant to subsection (1)(b) of this section, the court shall
9 consider whether it is in a child's best interest to be placed with,
10 have contact with, or have visits with siblings.

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

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

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

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

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

33 ~~((+8+))~~ (7) If the court has ordered a child removed from his or
34 her home pursuant to subsection (1)(b) of this section, the court may
35 order that a petition seeking termination of the parent and child
36 relationship be filed if the requirements of RCW 13.34.132 are met.

37 ~~((+9+))~~ (8) If there is insufficient information at the time of the
38 disposition hearing upon which to base a determination regarding the

1 suitability of a proposed placement with a relative or other suitable
2 person, the child shall remain in foster care and the court shall
3 direct the department or supervising agency to conduct necessary
4 background investigations as provided in chapter 74.15 RCW and report
5 the results of such investigation to the court within thirty days.
6 However, if such relative or other person appears otherwise suitable
7 and competent to provide care and treatment, the criminal history
8 background check need not be completed before placement, but as soon as
9 possible after placement. Any placements with relatives or other
10 suitable persons, pursuant to this section, shall be contingent upon
11 cooperation by the relative or other suitable person with the agency
12 case plan and compliance with court orders related to the care and
13 supervision of the child including, but not limited to, court orders
14 regarding parent-child contacts, sibling contacts, and any other
15 conditions imposed by the court. Noncompliance with the case plan or
16 court order shall be grounds for removal of the child from the
17 relative's or other suitable person's home, subject to review by the
18 court.

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