

HB 2140 - S COMM AMD

By Committee on Human Services, Mental Health & Housing

ADOPTED 4/15/2015

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

3 "Sec. 1. RCW 13.34.145 and 2013 c 332 s 3, 2013 c 206 s 1, and
4 2013 c 173 s 3 are each reenacted and amended to read as follows:

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

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

15 (b) Whenever a child is removed from the home of a dependency
16 guardian or long-term relative or foster care provider, and the child
17 is not returned to the home of the parent, guardian, or legal
18 custodian but is placed in out-of-home care, a permanency planning
19 hearing shall take place no later than twelve months, as provided in
20 this section, following the date of removal unless, prior to the
21 hearing, the child returns to the home of the dependency guardian or
22 long-term care provider, the child is placed in the home of the
23 parent, guardian, or legal custodian, an adoption decree,
24 guardianship order, or a permanent custody order is entered, or the
25 dependency is dismissed. Every effort shall be made to provide
26 stability in long-term placement, and to avoid disruption of
27 placement, unless the child is being returned home or it is in the
28 best interest of the child.

29 (c) Permanency planning goals should be achieved at the earliest
30 possible date, preferably before the child has been in out-of-home
31 care for fifteen months. In cases where parental rights have been
32 terminated, the child is legally free for adoption, and adoption has
33 been identified as the primary permanency planning goal, it shall be

1 a goal to complete the adoption within six months following entry of
2 the termination order.

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

7 (3) When the youth is at least age seventeen years but not older
8 than seventeen years and six months, the department shall provide the
9 youth with written documentation which explains the availability of
10 extended foster care services and detailed instructions regarding how
11 the youth may access such services after he or she reaches age
12 eighteen years.

13 (4) At the permanency planning hearing, the court shall conduct
14 the following inquiry:

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

19 (b) In cases where the primary permanency planning goal has not
20 been achieved, the court shall inquire regarding the reasons why the
21 primary goal has not been achieved and determine what needs to be
22 done to make it possible to achieve the primary goal. The court shall
23 review the permanency plan prepared by the agency and make explicit
24 findings regarding each of the following:

25 (i) The continuing necessity for, and the safety and
26 appropriateness of, the placement;

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

30 (iii) The extent of any efforts to involve appropriate service
31 providers in addition to department or supervising agency staff in
32 planning to meet the special needs of the child and the child's
33 parents;

34 (iv) The progress toward eliminating the causes for the child's
35 placement outside of his or her home and toward returning the child
36 safely to his or her home or obtaining a permanent placement for the
37 child;

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

1 (vi) If the child has been placed outside of his or her home for
2 fifteen of the most recent twenty-two months, not including any
3 period during which the child was a runaway from the out-of-home
4 placement or the first six months of any period during which the
5 child was returned to his or her home for a trial home visit, the
6 appropriateness of the permanency plan, whether reasonable efforts
7 were made by the department or supervising agency to achieve the goal
8 of the permanency plan, and the circumstances which prevent the child
9 from any of the following:

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

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

13 (C) Being placed for adoption;

14 (D) Being placed with a guardian;

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

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

19 (5) Following this inquiry, at the permanency planning hearing,
20 the court shall order the department or supervising agency to file a
21 petition seeking termination of parental rights if the child has been
22 in out-of-home care for fifteen of the last twenty-two months since
23 the date the dependency petition was filed unless the court makes a
24 good cause exception as to why the filing of a termination of
25 parental rights petition is not appropriate. Any good cause finding
26 shall be reviewed at all subsequent hearings pertaining to the child.

27 (a) For purposes of this subsection, "good cause exception"
28 includes but is not limited to the following:

29 (i) The child is being cared for by a relative;

30 (ii) The department has not provided to the child's family such
31 services as the court and the department have deemed necessary for
32 the child's safe return home;

33 (iii) The department has documented in the case plan a compelling
34 reason for determining that filing a petition to terminate parental
35 rights would not be in the child's best interests; (~~(e)~~)

36 (iv) The parent is incarcerated, or the parent's prior
37 incarceration is a significant factor in why the child has been in
38 foster care for fifteen of the last twenty-two months, the parent
39 maintains a meaningful role in the child's life, and the department

1 has not documented another reason why it would be otherwise
2 appropriate to file a petition pursuant to this section;

3 (v) (~~Until June 30, 2015,~~) Where a parent has been accepted
4 into a dependency treatment court program or long-term substance
5 abuse or dual diagnoses treatment program and is demonstrating
6 compliance with treatment goals; or

7 (vi) (~~Until June 30, 2015,~~) Where a parent who has been court
8 ordered to complete services necessary for the child's safe return
9 home files a declaration under penalty of perjury stating the
10 parent's financial inability to pay for the same court-ordered
11 services, and also declares the department was unwilling or unable to
12 pay for the same services necessary for the child's safe return home.

13 (b) The court's assessment of whether a parent who is
14 incarcerated maintains a meaningful role in the child's life may
15 include consideration of the following:

16 (i) The parent's expressions or acts of manifesting concern for
17 the child, such as letters, telephone calls, visits, and other forms
18 of communication with the child;

19 (ii) The parent's efforts to communicate and work with the
20 department or supervising agency or other individuals for the purpose
21 of complying with the service plan and repairing, maintaining, or
22 building the parent-child relationship;

23 (iii) A positive response by the parent to the reasonable efforts
24 of the department or the supervising agency;

25 (iv) Information provided by individuals or agencies in a
26 reasonable position to assist the court in making this assessment,
27 including but not limited to the parent's attorney, correctional and
28 mental health personnel, or other individuals providing services to
29 the parent;

30 (v) Limitations in the parent's access to family support
31 programs, therapeutic services, and visiting opportunities,
32 restrictions to telephone and mail services, inability to participate
33 in foster care planning meetings, and difficulty accessing lawyers
34 and participating meaningfully in court proceedings; and

35 (vi) Whether the continued involvement of the parent in the
36 child's life is in the child's best interest.

37 (c) The constraints of a parent's current or prior incarceration
38 and associated delays or barriers to accessing court-mandated
39 services may be considered in rebuttal to a claim of aggravated

1 circumstances under RCW 13.34.132(4)((~~g~~)) (h) for a parent's
2 failure to complete available treatment.

3 (6)(a) If the permanency plan identifies independent living as a
4 goal, the court at the permanency planning hearing shall make a
5 finding that the provision of services to assist the child in making
6 a transition from foster care to independent living will allow the
7 child to manage his or her financial, personal, social, educational,
8 and nonfinancial affairs prior to approving independent living as a
9 permanency plan of care. The court will inquire whether the child has
10 been provided information about extended foster care services.

11 (b) The permanency plan shall also specifically identify the
12 services, including extended foster care services, where appropriate,
13 that will be provided to assist the child to make a successful
14 transition from foster care to independent living.

15 (c) The department or supervising agency shall not discharge a
16 child to an independent living situation before the child is eighteen
17 years of age unless the child becomes emancipated pursuant to chapter
18 13.64 RCW.

19 (7) If the child has resided in the home of a foster parent or
20 relative for more than six months prior to the permanency planning
21 hearing, the court shall:

22 (a) Enter a finding regarding whether the foster parent or
23 relative was informed of the hearing as required in RCW 74.13.280,
24 13.34.215(6), and 13.34.096; and

25 (b) If the department or supervising agency is recommending a
26 placement other than the child's current placement with a foster
27 parent, relative, or other suitable person, enter a finding as to the
28 reasons for the recommendation for a change in placement.

29 (8) In all cases, at the permanency planning hearing, the court
30 shall:

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

33 (ii) Modify the permanency plan, and order implementation of the
34 modified plan; and

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

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

1 (9) Following the first permanency planning hearing, the court
2 shall hold a further permanency planning hearing in accordance with
3 this section at least once every twelve months until a permanency
4 planning goal is achieved or the dependency is dismissed, whichever
5 occurs first.

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

9 (11) If the court orders the child returned home, casework
10 supervision by the department or supervising agency shall continue
11 for at least six months, at which time a review hearing shall be held
12 pursuant to RCW 13.34.138, and the court shall determine the need for
13 continued intervention.

14 (12) The juvenile court may hear a petition for permanent legal
15 custody when: (a) The court has ordered implementation of a
16 permanency plan that includes permanent legal custody; and (b) the
17 party pursuing the permanent legal custody is the party identified in
18 the permanency plan as the prospective legal custodian. During the
19 pendency of such proceeding, the court shall conduct review hearings
20 and further permanency planning hearings as provided in this chapter.
21 At the conclusion of the legal guardianship or permanent legal
22 custody proceeding, a juvenile court hearing shall be held for the
23 purpose of determining whether dependency should be dismissed. If a
24 guardianship or permanent custody order has been entered, the
25 dependency shall be dismissed.

26 (13) Continued juvenile court jurisdiction under this chapter
27 shall not be a barrier to the entry of an order establishing a legal
28 guardianship or permanent legal custody when the requirements of
29 subsection (12) of this section are met.

30 (14) Nothing in this chapter may be construed to limit the
31 ability of the agency that has custody of the child to file a
32 petition for termination of parental rights or a guardianship
33 petition at any time following the establishment of dependency. Upon
34 the filing of such a petition, a fact-finding hearing shall be
35 scheduled and held in accordance with this chapter unless the
36 department or supervising agency requests dismissal of the petition
37 prior to the hearing or unless the parties enter an agreed order
38 terminating parental rights, establishing guardianship, or otherwise
39 resolving the matter.

1 (15) The approval of a permanency plan that does not contemplate
2 return of the child to the parent does not relieve the supervising
3 agency of its obligation to provide reasonable services, under this
4 chapter, intended to effectuate the return of the child to the
5 parent, including but not limited to, visitation rights. The court
6 shall consider the child's relationships with siblings in accordance
7 with RCW 13.34.130.

8 (16) Nothing in this chapter may be construed to limit the
9 procedural due process rights of any party in a termination or
10 guardianship proceeding filed under this chapter.

11 NEW SECTION. **Sec. 2.** This act may be known and cited as the
12 Roger Freeman act.

13 NEW SECTION. **Sec. 3.** This act is necessary for the immediate
14 preservation of the public peace, health, or safety, or support of
15 the state government and its existing public institutions, and takes
16 effect June 30, 2015."

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17 On page 1, line 2 of the title, after "hearings;" strike the
18 remainder of the title and insert "reenacting and amending RCW
19 13.34.145; creating a new section; providing and effective date; and
20 declaring an emergency."

EFFECT: This act may be known and cited as the Roger Freeman act.

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