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HOUSE BILL 1943

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State of Washington

65th Legislature

2017 Regular Session

By Representatives Kagi and Graves

Read first time 02/03/17. Referred to Committee on Early Learning & Human Services.

1 AN ACT Relating to child welfare court proceedings; amending RCW  
2 13.34.065, 13.34.136, and 13.34.180; and reenacting and amending RCW  
3 13.34.138 and 13.34.145.

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

5 **Sec. 1.** RCW 13.34.065 and 2013 c 162 s 6 are each amended to  
6 read as follows:

7 (1)(a) When a child is taken into custody, the court shall hold a  
8 shelter care hearing within seventy-two hours, excluding Saturdays,  
9 Sundays, and holidays. The primary purpose of the shelter care  
10 hearing is to determine whether the child can be immediately and  
11 safely returned home while the adjudication of the dependency is  
12 pending.

13 (b) Any parent, guardian, or legal custodian who for good cause  
14 is unable to attend the shelter care hearing may request that a  
15 subsequent shelter care hearing be scheduled. The request shall be  
16 made to the clerk of the court where the petition is filed prior to  
17 the initial shelter care hearing. Upon the request of the parent, the  
18 court shall schedule the hearing within seventy-two hours of the  
19 request, excluding Saturdays, Sundays, and holidays. The clerk shall  
20 notify all other parties of the hearing by any reasonable means.

1           ~~((If it is likely that the child will remain in shelter~~  
2 ~~care longer than seventy two hours, in those areas in which child~~  
3 ~~welfare services are being provided by a supervising agency, the~~  
4 ~~supervising agency shall assume case management responsibilities of~~  
5 ~~the case.))~~ The department ~~((or supervising agency))~~ shall submit a  
6 recommendation to the court as to the further need for shelter care  
7 in all cases in which the child will remain in shelter care longer  
8 than the seventy-two hour period. In all other cases, the  
9 recommendation shall be submitted by the juvenile court probation  
10 counselor.

11           (b) All parties have the right to present testimony to the court  
12 regarding the need or lack of need for shelter care.

13           (c) Hearsay evidence before the court regarding the need or lack  
14 of need for shelter care must be supported by sworn testimony,  
15 affidavit, or declaration of the person offering such evidence.

16           (3)(a) At the commencement of the hearing, the court shall notify  
17 the parent, guardian, or custodian of the following:

18           (i) The parent, guardian, or custodian has the right to a shelter  
19 care hearing;

20           (ii) The nature of the shelter care hearing, the rights of the  
21 parents, and the proceedings that will follow; and

22           (iii) If the parent, guardian, or custodian is not represented by  
23 counsel, the right to be represented. If the parent, guardian, or  
24 custodian is indigent, the court shall appoint counsel as provided in  
25 RCW 13.34.090; and

26           (b) If a parent, guardian, or legal custodian desires to waive  
27 the shelter care hearing, the court shall determine, on the record  
28 and with the parties present, whether such waiver is knowing and  
29 voluntary. A parent may not waive his or her right to the shelter  
30 care hearing unless he or she appears in court and the court  
31 determines that the waiver is knowing and voluntary. Regardless of  
32 whether the court accepts the parental waiver of the shelter care  
33 hearing, the court must provide notice to the parents of their rights  
34 required under (a) of this subsection and make the finding required  
35 under subsection (4) of this section.

36           (4) At the shelter care hearing the court shall examine the need  
37 for shelter care and inquire into the status of the case. The  
38 paramount consideration for the court shall be the health, welfare,  
39 and safety of the child. At a minimum, the court shall inquire into  
40 the following:

1 (a) Whether the notice required under RCW 13.34.062 was given to  
2 all known parents, guardians, or legal custodians of the child. The  
3 court shall make an express finding as to whether the notice required  
4 under RCW 13.34.062 was given to the parent, guardian, or legal  
5 custodian. If actual notice was not given to the parent, guardian, or  
6 legal custodian and the whereabouts of such person is known or can be  
7 ascertained, the court shall order the department to make reasonable  
8 efforts to advise the parent, guardian, or legal custodian of the  
9 status of the case, including the date and time of any subsequent  
10 hearings, and their rights under RCW 13.34.090;

11 (b) Whether the child can be safely returned home while the  
12 adjudication of the dependency is pending;

13 (c) What efforts have been made to place the child with a  
14 relative. The court shall ask the parents whether the department  
15 discussed with them the placement of the child with a relative or  
16 other suitable person described in RCW 13.34.130(1)(b) and shall  
17 determine what efforts have been made toward such a placement;

18 (d) What services were provided to the family to prevent or  
19 eliminate the need for removal of the child from the child's home. If  
20 the dependency petition or other information before the court alleges  
21 that homelessness or the lack of suitable housing was a significant  
22 factor contributing to the removal of the child, the court shall  
23 inquire as to whether housing assistance was provided to the family  
24 to prevent or eliminate the need for removal of the child or  
25 children;

26 (e) Is the placement proposed by the department (~~or supervising~~  
27 ~~agency~~) the least disruptive and most family-like setting that meets  
28 the needs of the child;

29 (f) Whether it is in the best interest of the child to remain  
30 enrolled in the school, developmental program, or child care the  
31 child was in prior to placement and what efforts have been made to  
32 maintain the child in the school, program, or child care if it would  
33 be in the best interest of the child to remain in the same school,  
34 program, or child care;

35 (g) Appointment of a guardian ad litem or attorney;

36 (h) Whether the child is or may be an Indian child as defined in  
37 RCW 13.38.040, whether the provisions of the federal Indian child  
38 welfare act or chapter 13.38 RCW apply, and whether there is  
39 compliance with the federal Indian child welfare act and chapter  
40 13.38 RCW, including notice to the child's tribe;

1 (i) Whether, as provided in RCW 26.44.063, restraining orders, or  
2 orders expelling an allegedly abusive household member from the home  
3 of a nonabusive parent, guardian, or legal custodian, will allow the  
4 child to safely remain in the home;

5 (j) Whether any orders for examinations, evaluations, or  
6 immediate services are needed. The court may ~~((not))~~ order a parent  
7 to undergo examinations, evaluation, or services at the shelter care  
8 hearing ~~((unless the parent agrees to the examination, evaluation, or  
9 service))~~;

10 (k) The terms and conditions for parental, sibling, and family  
11 visitation.

12 (5)(a) The court shall release a child alleged to be dependent to  
13 the care, custody, and control of the child's parent, guardian, or  
14 legal custodian unless the court finds there is reasonable cause to  
15 believe that:

16 (i) After consideration of the specific services that have been  
17 provided, reasonable efforts have been made to prevent or eliminate  
18 the need for removal of the child from the child's home and to make  
19 it possible for the child to return home; and

20 (ii)(A) The child has no parent, guardian, or legal custodian to  
21 provide supervision and care for such child; or

22 (B) The release of such child would present a serious threat of  
23 substantial harm to such child, notwithstanding an order entered  
24 pursuant to RCW 26.44.063; or

25 (C) The parent, guardian, or custodian to whom the child could be  
26 released has been charged with violating RCW 9A.40.060 or 9A.40.070.

27 (b) If the court does not release the child to his or her parent,  
28 guardian, or legal custodian, the court shall order placement with a  
29 relative or other suitable person as described in RCW  
30 13.34.130(1)(b), unless there is reasonable cause to believe the  
31 health, safety, or welfare of the child would be jeopardized or that  
32 the efforts to reunite the parent and child will be hindered. If such  
33 relative or other suitable person appears otherwise suitable and  
34 competent to provide care and treatment, the fingerprint-based  
35 background check need not be completed before placement, but as soon  
36 as possible after placement. The court must also determine whether  
37 placement with the relative or other suitable person is in the  
38 child's best interests. The relative or other suitable person must be  
39 willing and available to:

1 (i) Care for the child and be able to meet any special needs of  
2 the child;

3 (ii) Facilitate the child's visitation with siblings, if such  
4 visitation is part of the (~~supervising agency's~~) department's plan  
5 or is ordered by the court; and

6 (iii) Cooperate with the department (~~or supervising agency~~) in  
7 providing necessary background checks and home studies.

8 (c) If the child was not initially placed with a relative or  
9 other suitable person, and the court does not release the child to  
10 his or her parent, guardian, or legal custodian, the (~~supervising~~  
11 ~~agency~~) department shall make reasonable efforts to locate a  
12 relative or other suitable person pursuant to RCW 13.34.060(1). In  
13 determining placement, the court shall (~~weigh~~) give great weight to  
14 the child's length of stay and attachment to the current provider in  
15 determining what is in the best interest of the child.

16 (d) If a relative or other suitable person is not available, the  
17 court shall order continued shelter care and shall set forth its  
18 reasons for the order. If the court orders placement of the child  
19 with a person not related to the child and not licensed to provide  
20 foster care, the placement is subject to all terms and conditions of  
21 this section that apply to relative placements.

22 (e) Any placement with a relative, or other suitable person  
23 approved by the court pursuant to this section, shall be contingent  
24 upon cooperation with the department's (~~or supervising agency's~~)  
25 case plan and compliance with court orders related to the care and  
26 supervision of the child including, but not limited to, court orders  
27 regarding parent-child contacts, sibling contacts, and any other  
28 conditions imposed by the court. Noncompliance with the case plan or  
29 court order is grounds for removal of the child from the home of the  
30 relative or other suitable person, subject to review by the court.

31 (f) Uncertainty by a parent, guardian, legal custodian, relative,  
32 or other suitable person that the alleged abuser has in fact abused  
33 the child shall not, alone, be the basis upon which a child is  
34 removed from the care of a parent, guardian, or legal custodian under  
35 (a) of this subsection, nor shall it be a basis, alone, to preclude  
36 placement with a relative or other suitable person under (b) of this  
37 subsection.

38 (6)(a) A shelter care order issued pursuant to this section shall  
39 include the requirement for a case conference as provided in RCW  
40 13.34.067. However, if the parent is not present at the shelter care

1 hearing, or does not agree to the case conference, the court shall  
2 not include the requirement for the case conference in the shelter  
3 care order.

4 (b) If the court orders a case conference, the shelter care order  
5 shall include notice to all parties and establish the date, time, and  
6 location of the case conference which shall be no later than thirty  
7 days before the fact-finding hearing.

8 (c) The court may order another conference, case staffing, or  
9 hearing as an alternative to the case conference required under RCW  
10 13.34.067 so long as the conference, case staffing, or hearing  
11 ordered by the court meets all requirements under RCW 13.34.067,  
12 including the requirement of a written agreement specifying the  
13 services to be provided to the parent.

14 (7)(a) A shelter care order issued pursuant to this section may  
15 be amended at any time with notice and hearing thereon. The shelter  
16 care decision of placement shall be modified only upon a showing of  
17 change in circumstances. No child may be placed in shelter care for  
18 longer than thirty days without an order, signed by the judge,  
19 authorizing continued shelter care.

20 (b)(i) An order releasing the child on any conditions specified  
21 in this section may at any time be amended, with notice and hearing  
22 thereon, so as to return the child to shelter care for failure of the  
23 parties to conform to the conditions originally imposed.

24 (ii) The court shall consider whether nonconformance with any  
25 conditions resulted from circumstances beyond the control of the  
26 parent, guardian, or legal custodian and give weight to that fact  
27 before ordering return of the child to shelter care.

28 (8)(a) If a child is returned home from shelter care a second  
29 time in the case, or if the supervisor of the caseworker deems it  
30 necessary, the multidisciplinary team may be reconvened.

31 (b) If a child is returned home from shelter care a second time  
32 in the case a law enforcement officer must be present and file a  
33 report to the department.

34 **Sec. 2.** RCW 13.34.136 and 2015 c 270 s 1 are each amended to  
35 read as follows:

36 (1) Whenever a child is ordered removed from the home, a  
37 permanency plan shall be developed no later than sixty days from the  
38 time the (~~supervising agency~~) department assumes responsibility for  
39 providing services, including placing the child, or at the time of a

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

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

12 The permanency plan shall include:

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

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

1 (i) The department's (~~or supervising agency's~~) plan shall  
2 specify what services the parents will be offered to enable them to  
3 resume custody, what requirements the parents must meet to resume  
4 custody, and a time limit for each service plan and parental  
5 requirement.

6 (A) If the parent is incarcerated, and had a preexisting  
7 relationship with the child before the parent's incarceration, the  
8 plan must address how the parent will participate in the case  
9 conference and permanency planning meetings and, where possible, must  
10 include treatment that reflects the resources available at the  
11 facility where the parent is confined. The plan must provide for  
12 visitation opportunities, unless visitation is not in the best  
13 interests of the child.

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

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

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



1 (C) Visitation may be limited or denied only if the court  
2 determines that such limitation or denial is necessary to protect the  
3 child's health, safety, or welfare. When a parent or sibling has been  
4 identified as a suspect in an active criminal investigation for a  
5 violent crime that, if the allegations are true, would impact the  
6 safety of the child, the department shall make a concerted effort to  
7 consult with the assigned law enforcement officer in the criminal  
8 case before recommending any changes in parent/child or child/sibling  
9 contact. In the event that the law enforcement officer has  
10 information pertaining to the criminal case that may have serious  
11 implications for child safety or well-being, the law enforcement  
12 officer shall provide this information to the department during the  
13 consultation. The department may only use the information provided by  
14 law enforcement during the consultation to inform family visitation  
15 plans and may not share or otherwise distribute the information to  
16 any person or entity. Any information provided to the department by  
17 law enforcement during the consultation is considered investigative  
18 information and is exempt from public inspection pursuant to RCW  
19 42.56.240. The results of the consultation shall be communicated to  
20 the court.

21 (D) The court and the department (~~(or supervising agency)~~) should  
22 rely upon community resources, relatives, foster parents, and other  
23 appropriate persons to provide transportation and supervision for  
24 visitation to the extent that such resources are available, and  
25 appropriate, and the child's safety would not be compromised.

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

30 (B) Any exceptions, limitation, or denial of contacts or  
31 visitation must be approved by the supervisor of the department  
32 caseworker and documented. The child, parent, department, guardian ad  
33 litem, or court-appointed special advocate may challenge the denial  
34 of visits in court.

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

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

4 (vi) Unless it is not in the best interests of the child,  
5 whenever practical, the plan should ensure the child remains enrolled  
6 in the school the child was attending at the time the child entered  
7 foster care.

8 (vii) The (~~(supervising agency or)~~) department shall provide all  
9 reasonable services that are available within the department (~~(or~~  
10 ~~supervising agency)~~), or within the community, or those services  
11 which the department has existing contracts to purchase. It shall  
12 report to the court if it is unable to provide such services; and

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

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

36 (4) If the court determines that the continuation of reasonable  
37 efforts to prevent or eliminate the need to remove the child from his  
38 or her home or to safely return the child home should not be part of  
39 the permanency plan of care for the child, reasonable efforts shall  
40 be made to place the child in a timely manner and to complete

1 whatever steps are necessary to finalize the permanent placement of  
2 the child.

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

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

27 (7) For purposes related to permanency planning:

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

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

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

36 **Sec. 3.** RCW 13.34.138 and 2009 c 520 s 29, 2009 c 491 s 3, 2009  
37 c 397 s 4, and 2009 c 152 s 1 are each reenacted and amended to read  
38 as follows:

1 (1) The status of all children found to be dependent shall be  
2 reviewed by the court at least every six months from the beginning  
3 date of the placement episode or the date dependency is established,  
4 whichever is first. The purpose of the hearing shall be to review the  
5 progress of the parties and determine whether court supervision  
6 should continue.

7 (a) The initial review hearing shall be an in-court review and  
8 shall be set six months from the beginning date of the placement  
9 episode or no more than ninety days from the entry of the disposition  
10 order, whichever comes first. The requirements for the initial review  
11 hearing, including the in-court review requirement, shall be  
12 accomplished within existing resources.

13 (b) The initial review hearing may be a permanency planning  
14 hearing when necessary to meet the time frames set forth in RCW  
15 13.34.145(1)(a) or 13.34.134.

16 (c) The court shall weigh the importance of establishing timely  
17 permanency for a child when considering a request for continuance of  
18 a review hearing under this section and shall only grant a  
19 continuance after making a finding that the continuance is in the  
20 best interest of the child.

21 (2)(a) A child shall not be returned home at the review hearing  
22 unless the court finds that a reason for removal as set forth in RCW  
23 13.34.130 no longer exists. The parents, guardian, or legal custodian  
24 shall report to the court the efforts they have made to correct the  
25 conditions which led to removal. If a child is returned, casework  
26 supervision by the ~~((supervising agency or))~~ department shall  
27 continue for a period of six months, at which time there shall be a  
28 hearing on the need for continued intervention.

29 (b) Prior to the child returning home, the department ~~((or~~  
30 ~~supervising agency))~~ must complete the following:

31 (i) Identify all adults residing in the home and conduct  
32 background checks on those persons;

33 (ii) Identify any persons who may act as a caregiver for the  
34 child in addition to the parent with whom the child is being placed  
35 and determine whether such persons are in need of any services in  
36 order to ensure the safety of the child, regardless of whether such  
37 persons are a party to the dependency. The department ~~((or~~  
38 ~~supervising agency))~~ may recommend to the court and the court may  
39 order that placement of the child in the parent's home be contingent  
40 on or delayed based on the need for such persons to engage in or

1 complete services to ensure the safety of the child prior to  
2 placement. If services are recommended for the caregiver, and the  
3 caregiver fails to engage in or follow through with the recommended  
4 services, the department (~~(or supervising agency)~~) must promptly  
5 notify the court; and

6 (iii) Notify the parent with whom the child is being placed that  
7 he or she has an ongoing duty to notify the department (~~(or~~  
8 ~~supervising agency)~~) of all persons who reside in the home or who may  
9 act as a caregiver for the child both prior to the placement of the  
10 child in the home and subsequent to the placement of the child in the  
11 home as long as the court retains jurisdiction of the dependency  
12 proceeding or the department is providing or monitoring either  
13 remedial services to the parent or services to ensure the safety of  
14 the child to any caregivers.

15 Caregivers may be required to engage in services under this  
16 subsection solely for the purpose of ensuring the present and future  
17 safety of a child who is a ward of the court. This subsection does  
18 not grant party status to any individual not already a party to the  
19 dependency proceeding, create an entitlement to services or a duty on  
20 the part of the department (~~(or supervising agency)~~) to provide  
21 services, or create judicial authority to order the provision of  
22 services to any person other than for the express purposes of this  
23 section or RCW 13.34.025 or if the services are unavailable or  
24 unsuitable or the person is not eligible for such services.

25 (c) If the child is not returned home, the court shall establish  
26 in writing:

27 (i) Whether the (~~(supervising agency or the)~~) department is  
28 making reasonable efforts to provide services to the family and  
29 eliminate the need for placement of the child. If additional  
30 services, including housing assistance, are needed to facilitate the  
31 return of the child to the child's parents, the court shall order  
32 that reasonable services be offered specifying such services;

33 (ii) Whether there has been compliance with the case plan by the  
34 child, the child's parents, and the agency supervising the placement;

35 (iii) Whether progress has been made toward correcting the  
36 problems that necessitated the child's placement in out-of-home care;

37 (iv) Whether the services set forth in the case plan and the  
38 responsibilities of the parties need to be clarified or modified due  
39 to the availability of additional information or changed  
40 circumstances;

1 (v) Whether there is a continuing need for placement;

2 (vi) Whether a parent's homelessness or lack of suitable housing  
3 is a significant factor delaying permanency for the child by  
4 preventing the return of the child to the home of the child's parent  
5 and whether housing assistance should be provided by the department  
6 (~~or supervising agency~~);

7 (vii) Whether the child is in an appropriate placement which  
8 adequately meets all physical, emotional, and educational needs;

9 (viii) Whether preference has been given to placement with the  
10 child's relatives if such placement is in the child's best interests  
11 and does not disrupt a child's attachment to a long-term caregiver;

12 (ix) Whether both in-state and, where appropriate, out-of-state  
13 placements have been considered;

14 (x) Whether the parents have visited the child and any reasons  
15 why visitation has not occurred or has been infrequent;

16 (xi) Whether terms of visitation need to be modified;

17 (xii) Whether the court-approved long-term permanent plan for the  
18 child remains the best plan for the child;

19 (xiii) Whether any additional court orders need to be made to  
20 move the case toward permanency; (~~and~~)

21 (xiv) The projected date by which the child will be returned home  
22 or other permanent plan of care will be implemented; and

23 (xv) Whether the child has established an attachment to a long-  
24 term caregiver which should be maintained in the best interest of the  
25 child.

26 (d) The court at the review hearing may order that a petition  
27 seeking termination of the parent and child relationship be filed.

28 (3)(a) In any case in which the court orders that a dependent  
29 child may be returned to or remain in the child's home, the in-home  
30 placement shall be contingent upon the following:

31 (i) The compliance of the parents with court orders related to  
32 the care and supervision of the child, including compliance with the  
33 (~~supervising agency's~~) department's case plan; and

34 (ii) The continued participation of the parents, if applicable,  
35 in available substance abuse or mental health treatment if substance  
36 abuse or mental illness was a contributing factor to the removal of  
37 the child.

38 (b) The following may be grounds for removal of the child from  
39 the home, subject to review by the court:

1 (i) Noncompliance by the parents with the department's (~~or~~  
2 ~~supervising agency's~~) case plan or court order;

3 (ii) The parent's inability, unwillingness, or failure to  
4 participate in available services or treatment for themselves or the  
5 child, including substance abuse treatment if a parent's substance  
6 abuse was a contributing factor to the abuse or neglect; or

7 (iii) The failure of the parents to successfully and  
8 substantially complete available services or treatment for themselves  
9 or the child, including substance abuse treatment if a parent's  
10 substance abuse was a contributing factor to the abuse or neglect.

11 (c) In a pending dependency case in which the court orders that a  
12 dependent child may be returned home and that child is later removed  
13 from the home, the court shall hold a review hearing within thirty  
14 days from the date of removal to determine whether the permanency  
15 plan should be changed, a termination petition should be filed, the  
16 child should be returned to a previous out-of-home placement, or  
17 other action is warranted. The best interests of the child shall be  
18 the court's primary consideration in the review hearing.

19 (4) The court's authority to order housing assistance under this  
20 chapter is: (a) Limited to cases in which a parent's homelessness or  
21 lack of suitable housing is a significant factor delaying permanency  
22 for the child and housing assistance would aid the parent in  
23 providing an appropriate home for the child; and (b) subject to the  
24 availability of funds appropriated for this specific purpose. Nothing  
25 in this chapter shall be construed to create an entitlement to  
26 housing assistance nor to create judicial authority to order the  
27 provision of such assistance to any person or family if the  
28 assistance or funding are unavailable or the child or family are not  
29 eligible for such assistance.

30 (5) The court shall consider the child's relationship with  
31 siblings in accordance with RCW 13.34.130(~~(+3)~~) (6).

32 **Sec. 4.** RCW 13.34.145 and 2015 c 270 s 2 and 2015 c 257 s 1 are  
33 each reenacted and amended to read as follows:

34 (1) The purpose of a permanency planning hearing is to review the  
35 permanency plan for the child, inquire into the welfare of the child  
36 and progress of the case, and reach decisions regarding the permanent  
37 placement of the child.

38 (a) A permanency planning hearing shall be held in all cases  
39 where the child has remained in out-of-home care for at least nine

1 months and an adoption decree, guardianship order, or permanent  
2 custody order has not previously been entered. The hearing shall take  
3 place no later than twelve months following commencement of the  
4 current placement episode.

5 (b) Whenever a child is removed from the home of a dependency  
6 guardian or long-term relative or foster care provider, and the child  
7 is not returned to the home of the parent, guardian, or legal  
8 custodian but is placed in out-of-home care, a permanency planning  
9 hearing shall take place no later than twelve months, as provided in  
10 this section, following the date of removal unless, prior to the  
11 hearing, the child returns to the home of the dependency guardian or  
12 long-term care provider, the child is placed in the home of the  
13 parent, guardian, or legal custodian, an adoption decree,  
14 guardianship order, or a permanent custody order is entered, or the  
15 dependency is dismissed. Every effort shall be made to provide  
16 stability in long-term placement, consider the child's attachment to  
17 a long-term caregiver, and to avoid disruption of placement, unless  
18 the child is being returned home or it is in the best interest of the  
19 child.

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

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

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

37 (4) At the permanency planning hearing, the court shall conduct  
38 the following inquiry:

39 (a) If a goal of long-term foster or relative care has been  
40 achieved prior to the permanency planning hearing, the court shall



1 review the child's status to determine whether the placement and the  
2 plan for the child's care remain appropriate. The court shall find,  
3 as of the date of the hearing, that the child's placement and plan of  
4 care is the best permanency plan for the child and provide compelling  
5 reasons why it continues to not be in the child's best interest to  
6 (i) return home; (ii) be placed for adoption; (iii) be placed with a  
7 legal guardian; or (iv) be placed with a fit and willing relative. If  
8 the child is present at the hearing, the court should ask the child  
9 about his or her desired permanency outcome.

10 (b) In cases where the primary permanency planning goal has not  
11 been achieved, the court shall inquire regarding the reasons why the  
12 primary goal has not been achieved and determine what needs to be  
13 done to make it possible to achieve the primary goal. The court shall  
14 review the permanency plan prepared by the agency and make explicit  
15 findings regarding each of the following:

16 (i) The continuing necessity for, and the safety and  
17 appropriateness of, the placement;

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

21 (iii) The extent of any efforts to involve appropriate service  
22 providers in addition to department (~~(or supervising agency)~~) staff  
23 in planning to meet the special needs of the child and the child's  
24 parents;

25 (iv) The progress toward eliminating the causes for the child's  
26 placement outside of his or her home and toward returning the child  
27 safely to his or her home or obtaining a permanent placement for the  
28 child;

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

32 (vi) If the child has been placed outside of his or her home for  
33 fifteen of the most recent twenty-two months, not including any  
34 period during which the child was a runaway from the out-of-home  
35 placement or the first six months of any period during which the  
36 child was returned to his or her home for a trial home visit, the  
37 appropriateness of the permanency plan, whether reasonable efforts  
38 were made by the department (~~(or supervising agency)~~) to achieve the  
39 goal of the permanency plan, and the circumstances which prevent the  
40 child from any of the following:

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

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

4 (C) Being placed for adoption;

5 (D) Being placed with a guardian;

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

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

10 (5) Following this inquiry, at the permanency planning hearing,  
11 the court shall order the department (~~or supervising agency~~) to  
12 file a petition seeking termination of parental rights if the child  
13 has been in out-of-home care for fifteen of the last twenty-two  
14 months since the date the dependency petition was filed unless the  
15 court makes a good cause exception as to why the filing of a  
16 termination of parental rights petition is not appropriate. Any good  
17 cause finding shall be reviewed at all subsequent hearings pertaining  
18 to the child.

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

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

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

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

28 (iv) The parent is incarcerated, or the parent's prior  
29 incarceration is a significant factor in why the child has been in  
30 foster care for fifteen of the last twenty-two months, the parent  
31 maintains a meaningful role in the child's life that began before the  
32 parent's incarceration, and the department has not documented another  
33 reason why it would be otherwise appropriate to file a petition  
34 pursuant to this section;

35 (v) Where a parent has been accepted into a dependency treatment  
36 court program or long-term substance abuse or dual diagnoses  
37 treatment program and is demonstrating compliance with treatment  
38 goals; or

39 (vi) Where a parent who has been court ordered to complete  
40 services necessary for the child's safe return home files a

1 declaration under penalty of perjury stating the parent's financial  
2 inability to pay for the same court-ordered services, and also  
3 declares the department was unwilling or unable to pay for the same  
4 services necessary for the child's safe return home.

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

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

11 (ii) The parent's efforts to communicate and work with the  
12 department (~~(or supervising agency)~~) or other individuals for the  
13 purpose of complying with the service plan and repairing,  
14 maintaining, or building the parent-child relationship;

15 (iii) A positive response by the parent to the reasonable efforts  
16 of the department (~~(or the supervising agency)~~);

17 (iv) Information provided by individuals or agencies in a  
18 reasonable position to assist the court in making this assessment,  
19 including but not limited to the parent's attorney, correctional and  
20 mental health personnel, or other individuals providing services to  
21 the parent;

22 (v) Limitations in the parent's access to family support  
23 programs, therapeutic services, and visiting opportunities,  
24 restrictions to telephone and mail services, inability to participate  
25 in foster care planning meetings, and difficulty accessing lawyers  
26 and participating meaningfully in court proceedings; and

27 (vi) (~~Whether the continued involvement of the parent in the~~  
28 ~~child's life is in the child's best interest~~) The parent's  
29 involvement in the child's life prior to incarceration or prior to  
30 the filing of a dependency.

31 (c) The constraints of a parent's current or prior incarceration  
32 and associated delays or barriers to accessing court-mandated  
33 services may be considered in rebuttal to a claim of aggravated  
34 circumstances under RCW 13.34.132(4)(h) for a parent's failure to  
35 complete available treatment.

36 (6)(a) If the permanency plan identifies independent living as a  
37 goal, the court at the permanency planning hearing shall make a  
38 finding that the provision of services to assist the child in making  
39 a transition from foster care to independent living will allow the  
40 child to manage his or her financial, personal, social, educational,

1 and nonfinancial affairs prior to approving independent living as a  
2 permanency plan of care. The court will inquire whether the child has  
3 been provided information about extended foster care services.

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

8 (c) The department (~~(or supervising agency)~~) shall not discharge  
9 a child to an independent living situation before the child is  
10 eighteen years of age unless the child becomes emancipated pursuant  
11 to chapter 13.64 RCW.

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

15 (a) Enter a finding regarding whether the foster parent or  
16 relative was informed of the hearing as required in RCW 74.13.280,  
17 13.34.215(6), and 13.34.096; and

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

22 (8) In all cases, at the permanency planning hearing, the court  
23 shall:

24 (a)(i) Order the permanency plan prepared by the (~~(supervising  
25 agency)~~) department to be implemented; or

26 (ii) Modify the permanency plan, and order implementation of the  
27 modified plan; and

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

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

34 (9) Following the first permanency planning hearing, the court  
35 shall hold a further permanency planning hearing in accordance with  
36 this section at least once every twelve months until a permanency  
37 planning goal is achieved or the dependency is dismissed, whichever  
38 occurs first.

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

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

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

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

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

35 (15) The approval of a permanency plan that does not contemplate  
36 return of the child to the parent does not relieve the (~~(supervising~~  
37 ~~agency)~~) department of its obligation to provide reasonable services,  
38 under this chapter, intended to effectuate the return of the child to  
39 the parent, including but not limited to, visitation rights. The

1 court shall consider the child's relationships with siblings in  
2 accordance with RCW 13.34.130.

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

6 (17) The court shall weigh the importance of establishing timely  
7 permanency for a child when considering a request for continuance of  
8 a permanency planning hearing under this section and shall only grant  
9 a continuance after making a finding that the continuance is in the  
10 best interest of the child.

11 **Sec. 5.** RCW 13.34.180 and 2013 c 173 s 4 are each amended to  
12 read as follows:

13 (1) A petition seeking termination of a parent and child  
14 relationship may be filed in juvenile court by any party, including  
15 the (~~supervising agency~~) department, to the dependency proceedings  
16 concerning that child. Such petition shall conform to the  
17 requirements of RCW 13.34.040, shall be served upon the parties as  
18 provided in RCW 13.34.070(8), and shall allege all of the following  
19 unless subsection (3) or (4) of this section applies:

20 (a) That the child has been found to be a dependent child;

21 (b) That the court has entered a dispositional order pursuant to  
22 RCW 13.34.130;

23 (c) That the child has been removed or will, at the time of the  
24 hearing, have been removed from the custody of the parent for a  
25 period of at least six months pursuant to a finding of dependency;

26 (d) That the services ordered under RCW 13.34.136 have been  
27 expressly and understandably offered or provided and all necessary  
28 services, reasonably available, capable of correcting the parental  
29 deficiencies within the foreseeable future have been expressly and  
30 understandably offered or provided;

31 (e) That there is little likelihood that conditions will be  
32 remedied so that the child can be returned to the parent in the near  
33 future. A parent's failure to substantially improve parental  
34 deficiencies within twelve months following entry of the  
35 dispositional order shall give rise to a rebuttable presumption that  
36 there is little likelihood that conditions will be remedied so that  
37 the child can be returned to the parent in the near future. The  
38 presumption shall not arise unless the petitioner makes a showing  
39 that all necessary services reasonably capable of correcting the

1 parental deficiencies within the foreseeable future have been clearly  
2 offered or provided. In determining whether the conditions will be  
3 remedied the court may consider, but is not limited to, the following  
4 factors:

5 (i) Use of intoxicating or controlled substances so as to render  
6 the parent incapable of providing proper care for the child for  
7 extended periods of time or for periods of time that present a risk  
8 of imminent harm to the child, and documented unwillingness of the  
9 parent to receive and complete treatment or documented multiple  
10 failed treatment attempts;

11 (ii) Psychological incapacity or mental deficiency of the parent  
12 that is so severe and chronic as to render the parent incapable of  
13 providing proper care for the child for extended periods of time or  
14 for periods of time that present a risk of imminent harm to the  
15 child, and documented unwillingness of the parent to receive and  
16 complete treatment or documentation that there is no treatment that  
17 can render the parent capable of providing proper care for the child  
18 in the near future; or

19 (iii) Failure of the parent to have contact with the child for an  
20 extended period of time after the filing of the dependency petition  
21 if the parent was provided an opportunity to have a relationship with  
22 the child by the department or the court and received documented  
23 notice of the potential consequences of this failure, except that the  
24 actual inability of a parent to have visitation with the child  
25 including, but not limited to, mitigating circumstances such as a  
26 parent's current or prior incarceration or service in the military  
27 does not in and of itself constitute failure to have contact with the  
28 child; and

29 (f) That continuation of the parent and child relationship  
30 clearly diminishes the child's prospects for early integration into a  
31 stable and permanent home. If the parent is incarcerated, and had a  
32 preexisting relationship with the child before incarceration, the  
33 court shall consider whether a parent maintains a meaningful role in  
34 his or her child's life based on factors identified in RCW  
35 13.34.145(5)(b); whether the department (~~or supervising agency~~)  
36 made reasonable efforts as defined in this chapter; and whether  
37 particular barriers existed as described in RCW 13.34.145(5)(b)  
38 including, but not limited to, delays or barriers experienced in  
39 keeping the agency apprised of his or her location and in accessing  
40 visitation or other meaningful contact with the child.

1 (2) As evidence of rebuttal to any presumption established  
2 pursuant to subsection (1)(e) of this section, the court may consider  
3 the particular constraints of a parent's current or prior  
4 incarceration. Such evidence may include, but is not limited to,  
5 delays or barriers a parent may experience in keeping the agency  
6 apprised of his or her location and in accessing visitation or other  
7 meaningful contact with the child.

8 (3) In lieu of the allegations in subsection (1) of this section,  
9 the petition may allege that the child was found under such  
10 circumstances that the whereabouts of the child's parent are unknown  
11 and no person has acknowledged paternity or maternity and requested  
12 custody of the child within two months after the child was found.

13 (4) In lieu of the allegations in subsection (1)(b) through (f)  
14 of this section, the petition may allege that the parent has been  
15 convicted of:

16 (a) Murder in the first degree, murder in the second degree, or  
17 homicide by abuse as defined in chapter 9A.32 RCW against another  
18 child of the parent;

19 (b) Manslaughter in the first degree or manslaughter in the  
20 second degree, as defined in chapter 9A.32 RCW against another child  
21 of the parent;

22 (c) Attempting, conspiring, or soliciting another to commit one  
23 or more of the crimes listed in (a) or (b) of this subsection; or

24 (d) Assault in the first or second degree, as defined in chapter  
25 9A.36 RCW, against the surviving child or another child of the  
26 parent.

27 (5) When a parent has a preexisting relationship with the child  
28 before incarceration, has been sentenced to a long-term incarceration  
29 ~~((and))~~, has maintained a meaningful role in the child's life  
30 considering the factors provided in RCW 13.34.145(5)(b), and it is in  
31 the best interest of the child, the department should consider a  
32 permanent placement that allows the parent to maintain a relationship  
33 with his or her child, such as, but not limited to, a guardianship  
34 pursuant to chapter 13.36 RCW.

35 (6) Notice of rights shall be served upon the parent, guardian,  
36 or legal custodian with the petition and shall be in substantially  
37 the following form:

38 "NOTICE



1 A petition for termination of parental rights has been filed  
2 against you. You have important legal rights and you must  
3 take steps to protect your interests. This petition could  
4 result in permanent loss of your parental rights.

5 1. You have the right to a fact-finding hearing before a  
6 judge.

7 2. You have the right to have a lawyer represent you at  
8 the hearing. A lawyer can look at the files in your case,  
9 talk to the department of social and health services (~~or the~~  
10 ~~supervising agency~~) and other agencies, tell you about the  
11 law, help you understand your rights, and help you at  
12 hearings. If you cannot afford a lawyer, the court will  
13 appoint one to represent you. To get a court-appointed lawyer  
14 you must contact: (explain local procedure).

15 3. At the hearing, you have the right to speak on your  
16 own behalf, to introduce evidence, to examine witnesses, and  
17 to receive a decision based solely on the evidence presented  
18 to the judge.

19 You should be present at this hearing.

20 You may call (insert agency) for more information  
21 about your child. The agency's name and telephone number are  
22 (insert name and telephone number)."

--- END ---