
SENATE BILL 6525

State of Washington

66th Legislature

2020 Regular Session

By Senators Carlyle, Darneille, and Wilson, C.; by request of Department of Children, Youth, and Families

Read first time 01/21/20. Referred to Committee on Human Services, Reentry & Rehabilitation.

1 AN ACT Relating to modifying six-month trial return home in child
2 welfare dependency proceedings; and amending RCW 13.34.138 and
3 13.34.145.

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

5 **Sec. 1.** RCW 13.34.138 and 2019 c 172 s 13 are each amended to
6 read as follows:

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

13 (a) The initial review hearing shall be an in-court review and
14 shall be set six months from the beginning date of the placement
15 episode or no more than ninety days from the entry of the disposition
16 order, whichever comes first. The requirements for the initial review
17 hearing, including the in-court review requirement, shall be
18 accomplished within existing resources.

19 (b) The initial review hearing may be a permanency planning
20 hearing when necessary to meet the time frames set forth in RCW
21 13.34.145(1)(a) or 13.34.134.

1 (2) (a) A child shall not be returned home at the review hearing
2 unless the court finds that a reason for removal as set forth in RCW
3 13.34.130 no longer exists. The parents, guardian, or legal custodian
4 shall report to the court the efforts they have made to correct the
5 conditions which led to removal. If a child is returned, casework
6 supervision by the department shall continue (~~for a period of six~~
7 ~~months, at which time there shall be a hearing on~~) until the court
8 determines there is no longer the need for continued intervention.
9 Casework supervision by the department shall not exceed six months
10 unless authorized by the court.

11 (b) Prior to the child returning home, the department must
12 complete the following:

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

15 (ii) Identify any persons who may act as a caregiver for the
16 child in addition to the parent with whom the child is being placed
17 and determine whether such persons are in need of any services in
18 order to ensure the safety of the child, regardless of whether such
19 persons are a party to the dependency. The department may recommend
20 to the court and the court may order that placement of the child in
21 the parent's home be contingent on or delayed based on the need for
22 such persons to engage in or complete services to ensure the safety
23 of the child prior to placement. If services are recommended for the
24 caregiver, and the caregiver fails to engage in or follow through
25 with the recommended services, the department must promptly notify
26 the court; and

27 (iii) Notify the parent with whom the child is being placed that
28 he or she has an ongoing duty to notify the department of all persons
29 who reside in the home or who may act as a caregiver for the child
30 both prior to the placement of the child in the home and subsequent
31 to the placement of the child in the home as long as the court
32 retains jurisdiction of the dependency proceeding or the department
33 is providing or monitoring either remedial services to the parent or
34 services to ensure the safety of the child to any caregivers.

35 Caregivers may be required to engage in services under this
36 subsection solely for the purpose of ensuring the present and future
37 safety of a child who is a ward of the court. This subsection does
38 not grant party status to any individual not already a party to the
39 dependency proceeding, create an entitlement to services or a duty on
40 the part of the department to provide services, or create judicial

1 authority to order the provision of services to any person other than
2 for the express purposes of this section or RCW 13.34.025 or if the
3 services are unavailable or unsuitable or the person is not eligible
4 for such services.

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

7 (i) Whether the department is making reasonable efforts to
8 provide services to the family and eliminate the need for placement
9 of the child. If additional services, including housing assistance,
10 are needed to facilitate the return of the child to the child's
11 parents, the court shall order that reasonable services be offered
12 specifying such services;

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

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

17 (iv) Whether the services set forth in the case plan and the
18 responsibilities of the parties need to be clarified or modified due
19 to the availability of additional information or changed
20 circumstances;

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

22 (vi) Within sixty days of the placement of a child in a qualified
23 residential treatment program as defined in this chapter, and at each
24 review hearing thereafter if the child remains in such a program, the
25 following:

26 (A) Whether ongoing assessment of the child's strengths and needs
27 continues to support the determination that the child's needs cannot
28 be met through placement in a foster family home;

29 (B) Whether the child's placement provides the most effective and
30 appropriate level of care in the least restrictive environment;

31 (C) Whether the placement is consistent with the child's
32 permanency plan;

33 (D) What specific treatment or service needs will be met in the
34 placement, and how long the child is expected to need the treatment
35 or services; and

36 (E) What efforts the department has made to prepare the child to
37 return home or be placed with a fit and willing relative as defined
38 in RCW 13.34.030, a Title 13 RCW legal guardian, an adoptive parent,
39 or in a foster family home.

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

5 (viii) Whether the child is in an appropriate placement which
6 adequately meets all physical, emotional, and educational needs;

7 (ix) Whether preference has been given to placement with the
8 child's relatives if such placement is in the child's best interests;

9 (x) Whether both in-state and, where appropriate, out-of-state
10 placements have been considered;

11 (xi) Whether the parents have visited the child and any reasons
12 why visitation has not occurred or has been infrequent;

13 (xii) Whether terms of visitation need to be modified;

14 (xiii) Whether the court-approved long-term permanent plan for
15 the child remains the best plan for the child;

16 (xiv) Whether any additional court orders need to be made to move
17 the case toward permanency; and

18 (xv) The projected date by which the child will be returned home
19 or other permanent plan of care will be implemented.

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

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

25 (i) The compliance of the parents with court orders related to
26 the care and supervision of the child, including compliance with the
27 department's case plan; and

28 (ii) The continued participation of the parents, if applicable,
29 in available substance abuse or mental health treatment if substance
30 abuse or mental illness was a contributing factor to the removal of
31 the child.

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

34 (i) Noncompliance by the parents with the department's case plan
35 or court order;

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

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

5 (c) In a pending dependency case in which the court orders that a
6 dependent child may be returned home and that child is later removed
7 from the home, the court shall hold a review hearing within thirty
8 days from the date of removal to determine whether the permanency
9 plan should be changed, a termination petition should be filed, or
10 other action is warranted. The best interests of the child shall be
11 the court's primary consideration in the review hearing.

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

23 (5) The court shall consider the child's relationship with
24 siblings in accordance with RCW 13.34.130(~~(+6)~~) (7).

25 **Sec. 2.** RCW 13.34.145 and 2019 c 172 s 15 are each amended to
26 read as follows:

27 (1) The purpose of a permanency planning hearing is to review the
28 permanency plan for the child, inquire into the welfare of the child
29 and progress of the case, and reach decisions regarding the permanent
30 placement of the child.

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

37 (b) Whenever a child is removed from the home of a dependency
38 guardian or long-term relative or foster care provider, and the child
39 is not returned to the home of the parent, guardian, or legal

1 custodian but is placed in out-of-home care, a permanency planning
2 hearing shall take place no later than twelve months, as provided in
3 this section, following the date of removal unless, prior to the
4 hearing, the child returns to the home of the dependency guardian or
5 long-term care provider, the child is placed in the home of the
6 parent, guardian, or legal custodian, an adoption decree,
7 guardianship order, or a permanent custody order is entered, or the
8 dependency is dismissed. Every effort shall be made to provide
9 stability in long-term placement, and to avoid disruption of
10 placement, unless the child is being returned home or it is in the
11 best interest of the child.

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

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

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

29 (4) At the permanency planning hearing, the court shall conduct
30 the following inquiry:

31 (a) If a goal of long-term foster or relative care has been
32 achieved prior to the permanency planning hearing, the court shall
33 review the child's status to determine whether the placement and the
34 plan for the child's care remain appropriate. The court shall find,
35 as of the date of the hearing, that the child's placement and plan of
36 care is the best permanency plan for the child and provide compelling
37 reasons why it continues to not be in the child's best interest to
38 (i) return home; (ii) be placed for adoption; (iii) be placed with a
39 legal guardian; or (iv) be placed with a fit and willing relative. If

1 the child is present at the hearing, the court should ask the child
2 about his or her desired permanency outcome.

3 (b) In cases where the primary permanency planning goal has not
4 been achieved, the court shall inquire regarding the reasons why the
5 primary goal has not been achieved and determine what needs to be
6 done to make it possible to achieve the primary goal. The court shall
7 review the permanency plan prepared by the agency and make explicit
8 findings regarding each of the following:

9 (i) The continuing necessity for, and the safety and
10 appropriateness of, the placement;

11 (ii) The extent of compliance with the permanency plan by the
12 department and any other service providers, the child's parents, the
13 child, and the child's guardian, if any;

14 (iii) The extent of any efforts to involve appropriate service
15 providers in addition to department staff in planning to meet the
16 special needs of the child and the child's parents;

17 (iv) The progress toward eliminating the causes for the child's
18 placement outside of his or her home and toward returning the child
19 safely to his or her home or obtaining a permanent placement for the
20 child;

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

24 (vi) If the child has been placed outside of his or her home for
25 fifteen of the most recent twenty-two months, not including any
26 period during which the child was a runaway from the out-of-home
27 placement or the first six months of any period during which the
28 child was returned to his or her home for a trial home visit, the
29 appropriateness of the permanency plan, whether reasonable efforts
30 were made by the department to achieve the goal of the permanency
31 plan, and the circumstances which prevent the child from any of the
32 following:

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

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

36 (C) Being placed for adoption;

37 (D) Being placed with a guardian;

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

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

3 (c) Regardless of whether the primary permanency planning goal
4 has been achieved, for a child who remains placed in a qualified
5 residential treatment program as defined in this chapter for at least
6 sixty days, and remains placed there at subsequent permanency
7 planning hearings, the court shall establish in writing:

8 (i) Whether ongoing assessment of the child's strengths and needs
9 continues to support the determination that the child's needs cannot
10 be met through placement in a foster family home;

11 (ii) Whether the child's placement provides the most effective
12 and appropriate level of care in the least restrictive environment;

13 (iii) Whether the placement is consistent with the child's short
14 and long-term goals as stated in the child's permanency plan;

15 (iv) What specific treatment or service needs will be met in the
16 placement, and how long the child is expected to need the treatment
17 or services; and

18 (v) What efforts the department has made to prepare the child to
19 return home or be placed with a fit and willing relative as defined
20 in RCW 13.34.030, a Title 13 RCW legal guardian, an adoptive parent,
21 or in a foster family home.

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

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

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

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

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

39 (iv) The parent is incarcerated, or the parent's prior
40 incarceration is a significant factor in why the child has been in

1 foster care for fifteen of the last twenty-two months, the parent
2 maintains a meaningful role in the child's life, and the department
3 has not documented another reason why it would be otherwise
4 appropriate to file a petition pursuant to this section;

5 (v) Where a parent has been accepted into a dependency treatment
6 court program or long-term substance abuse or dual diagnoses
7 treatment program and is demonstrating compliance with treatment
8 goals; or

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

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

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

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

25 (iii) A positive response by the parent to the reasonable efforts
26 of the department;

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

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

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

39 (c) The constraints of a parent's current or prior incarceration
40 and associated delays or barriers to accessing court-mandated

1 services may be considered in rebuttal to a claim of aggravated
2 circumstances under RCW 13.34.132(4)(h) for a parent's failure to
3 complete available treatment.

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

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

16 (c) The department shall not discharge a child to an independent
17 living situation before the child is eighteen years of age unless the
18 child becomes emancipated pursuant to chapter 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 is recommending a placement other than the
26 child's current placement with a foster parent, relative, or other
27 suitable person, enter a finding as to the reasons for the
28 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 department to be
32 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 shall continue ~~((for at least six
11 months, at which time a review hearing shall be held pursuant to RCW
12 13.34.138, and the court shall determine))~~ until the court determines
13 there is no longer the need for continued intervention. Casework
14 supervision by the department shall not exceed six months unless
15 authorized by the court.

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

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

32 (14) Nothing in this chapter may be construed to limit the
33 ability of the agency that has custody of the child to file a
34 petition for termination of parental rights or a guardianship
35 petition at any time following the establishment of dependency. Upon
36 the filing of such a petition, a fact-finding hearing shall be
37 scheduled and held in accordance with this chapter unless the
38 department requests dismissal of the petition prior to the hearing or
39 unless the parties enter an agreed order terminating parental rights,
40 establishing guardianship, or otherwise 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 department of
3 its obligation to provide reasonable services, under this chapter,
4 intended to effectuate the return of the child to the parent,
5 including but not limited to, visitation rights. The court shall
6 consider the child's relationships with siblings in accordance with
7 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.

--- END ---