

**E2SHB 1227** - S COMM AMD

By Committee on Human Services, Reentry & Rehabilitation

**ADOPTED AND ENGROSSED 4/7/21**

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

3 "NEW SECTION. **Sec. 1.** This act may be known and cited as the  
4 keeping families together act.

5 NEW SECTION. **Sec. 2.** (1) The legislature recognizes that  
6 children and families are better served when the state provides  
7 support to allow children to be cared for by their loved ones and in  
8 their communities. The legislature finds that decades of research  
9 show that Black and Indigenous children are still disproportionately  
10 removed from their families and communities despite reform efforts.

11 (2) For these reasons, it is the intent of the legislature to  
12 safely reduce the number of children in foster care and reduce racial  
13 bias in the system by applying a standard criteria for determining  
14 whether to remove a child from a parent when necessary to prevent  
15 imminent physical harm to the child due to child abuse or neglect,  
16 including that which results from sexual abuse, sexual exploitation,  
17 or a pattern of severe neglect.

18 **Sec. 3.** RCW 13.34.040 and 2018 c 17 s 1 are each amended to read  
19 as follows:

20 (1) Any person may file with the clerk of the superior court a  
21 petition showing that there is within the county, or residing within  
22 the county, a dependent child and requesting that the superior court  
23 deal with such child as provided in this chapter. There shall be no  
24 fee for filing such petitions.

25 (2) Except where the department is the petitioner, in counties  
26 having paid probation officers, these officers shall, to the extent  
27 possible, first determine if a petition is reasonably justifiable.  
28 (~~Each petition shall be verified and contain a statement of facts~~  
29 ~~constituting a dependency, and the names and residence, if known to~~

1 ~~the petitioner, of the parents, guardian, or custodian of the alleged~~  
2 ~~dependent child.))~~

3 (3) Every petition filed in proceedings under this chapter shall  
4 contain a statement alleging whether there is a reason to know that  
5 the child is or may be an Indian child as defined in RCW 13.38.040.  
6 If there is a reason to know that the child is or may be an Indian  
7 child chapter 13.38 RCW shall apply.

8 (4) Every order or decree entered under this chapter shall  
9 contain a finding that the federal Indian child welfare act or  
10 chapter 13.38 RCW does or does not apply. Where there is a finding  
11 that the federal Indian child welfare act or chapter 13.38 RCW does  
12 apply, the decree or order must also contain a finding that all  
13 notice requirements and evidentiary requirements under the federal  
14 Indian child welfare act and chapter 13.38 RCW have been satisfied.

15 (5) Each petition shall be verified and contain a statement  
16 constituting a dependency, including the names, residence, and  
17 contact information, if known to the petitioner, of each parent,  
18 guardian, or custodian of the alleged dependent child. If the  
19 petitioner is seeking removal of the child from a parent, guardian,  
20 or custodian the petition shall contain a clear and specific  
21 statement as to the harm that will occur if the child remains in the  
22 care of the parent, guardian, or custodian, and the facts that  
23 support that conclusion.

24 **Sec. 4.** RCW 26.44.056 and 1983 c 246 s 3 are each amended to  
25 read as follows:

26 (1) An administrator of a hospital or similar institution or any  
27 physician, licensed pursuant to chapters 18.71 or 18.57 RCW, may  
28 detain a child without consent of a person legally responsible for  
29 the child whether or not medical treatment is required, if ((~~the~~  
30 ~~circumstances or conditions of the child are such that the detaining~~  
31 ~~individual has reasonable cause to believe that permitting the child~~  
32 ~~to continue in his or her place of residence or in the care and~~  
33 ~~eustody of the parent, guardian, custodian or other person legally~~  
34 ~~responsible for the child's care would present an imminent danger to~~  
35 ~~that child's safety)) there is probable cause to believe that  
36 detaining the child is necessary to prevent imminent physical harm to  
37 the child due to child abuse or neglect, including that which results  
38 from sexual abuse, sexual exploitation, or a pattern of severe  
39 neglect, and the child would be seriously injured or could not be~~

1 taken into custody if it were necessary to first obtain a court order  
2 under RCW 13.34.050: PROVIDED, That such administrator or physician  
3 shall notify or cause to be notified the appropriate law enforcement  
4 agency or child protective services pursuant to RCW 26.44.040. Such  
5 notification shall be made as soon as possible and in no case longer  
6 than seventy-two hours. Such temporary protective custody by an  
7 administrator or doctor shall not be deemed an arrest. Child  
8 protective services may detain the child until the court assumes  
9 custody, but in no case longer than seventy-two hours, excluding  
10 Saturdays, Sundays, and holidays.

11 ~~(2) ((Whenever an administrator or physician has reasonable cause~~  
12 ~~to believe that a child would be in imminent danger if released to a~~  
13 ~~parent, guardian, custodian, or other person or is in imminent danger~~  
14 ~~if left in the custody of a parent, guardian, custodian, or other~~  
15 ~~person, the administrator or physician may notify a law enforcement~~  
16 ~~agency and the law enforcement agency shall take the child into~~  
17 ~~custody or cause the child to be taken into custody. The law~~  
18 ~~enforcement agency shall release the child to the custody of child~~  
19 ~~protective services. Child protective services shall detain the child~~  
20 ~~until the court assumes custody or upon a documented and~~  
21 ~~substantiated record that in the professional judgment of the child~~  
22 ~~protective services the child's safety will not be endangered if the~~  
23 ~~child is returned. If the child is returned, the department shall~~  
24 ~~establish a six-month plan to monitor and assure the continued safety~~  
25 ~~of the child's life or health. The monitoring period may be extended~~  
26 ~~for good cause.~~

27 ~~(3))~~ A child protective services employee, an administrator,  
28 doctor, or law enforcement officer shall not be held liable in any  
29 civil action for the decision for taking the child into custody, if  
30 done in good faith under this section.

31 **Sec. 5.** RCW 26.44.050 and 2020 c 71 s 1 are each amended to read  
32 as follows:

33 Except as provided in RCW 26.44.030 ~~((11))~~ (12), upon the  
34 receipt of a report alleging that abuse or neglect has occurred, the  
35 law enforcement agency or the department must investigate and provide  
36 the protective services section with a report in accordance with  
37 chapter 74.13 RCW, and where necessary to refer such report to the  
38 court.

1 A law enforcement officer may take, or cause to be taken, a child  
2 into custody without a court order if there is probable cause to  
3 believe that ~~((the child is abused or neglected and that the child  
4 would be))~~ taking the child into custody is necessary to prevent  
5 imminent physical harm to the child due to child abuse or neglect,  
6 including that which results from sexual abuse, sexual exploitation,  
7 or a pattern of severe neglect, and the child would be seriously  
8 injured or could not be taken into custody if it were necessary to  
9 first obtain a court order pursuant to RCW 13.34.050. The law  
10 enforcement agency or the department investigating such a report is  
11 hereby authorized to photograph such a child for the purpose of  
12 providing documentary evidence of the physical condition of the  
13 child.

14 **Sec. 6.** RCW 13.34.050 and 2005 c 512 s 9 are each amended to  
15 read as follows:

16 (1) The court may enter an order directing a law enforcement  
17 officer, probation counselor, or child protective services official  
18 to take a child into custody if: (a) A petition is filed with the  
19 juvenile court ~~((alleging))~~ with sufficient corroborating evidence to  
20 establish that the child is dependent ~~((and that the child's health,~~  
21 ~~safety, and welfare will be seriously endangered if not taken into~~  
22 ~~custody))~~; (b) the allegations contained in the petition, if true,  
23 establish that there are reasonable grounds to believe that removal  
24 is necessary to prevent imminent physical harm to the child due to  
25 child abuse or neglect, including that which results from sexual  
26 abuse, sexual exploitation, or a pattern of severe neglect; and (c)  
27 an affidavit or declaration is filed by the department in support of  
28 the petition setting forth specific factual information evidencing  
29 ~~((reasonable grounds that the child's health, safety, and welfare~~  
30 ~~will be seriously endangered if not taken into custody and at least~~  
31 ~~one of the grounds set forth demonstrates a risk of imminent harm to~~  
32 ~~the child. "Imminent harm" for purposes of this section shall~~  
33 ~~include, but not be limited to, circumstances of sexual abuse, sexual~~  
34 ~~exploitation as defined in RCW 26.44.020, and a parent's failure to~~  
35 ~~perform basic parental functions, obligations, and duties as the~~  
36 ~~result of substance abuse; and (c) the court finds reasonable grounds~~  
37 ~~to believe the child is dependent and that the child's health,~~  
38 ~~safety, and welfare will be seriously endangered if not taken into~~

1 ~~custody~~) insufficient time to serve a parent with a dependency  
2 petition and hold a hearing prior to removal.

3 (2) Any petition that does not have the necessary affidavit or  
4 declaration demonstrating a risk of imminent harm requires that the  
5 parents are provided notice and an opportunity to be heard before the  
6 order may be entered.

7 (3) The petition and supporting documentation must be served on  
8 the parent, and if the child is in custody at the time the child is  
9 removed, on the entity with custody other than the parent. If the  
10 court orders that a child be taken into custody under subsection (1)  
11 of this section, the petition and supporting documentation must be  
12 served on the parent at the time of the child's removal unless, after  
13 diligent efforts, the parents cannot be located at the time of  
14 removal. If the parent is not served at the time of removal, the  
15 department shall make diligent efforts to personally serve the  
16 parent. Failure to effect service does not invalidate the petition if  
17 service was attempted and the parent could not be found.

18 **Sec. 7.** RCW 13.34.062 and 2020 c 312 s 115 are each amended to  
19 read as follows:

20 (1)(a) Whenever a child is taken into custody by child protective  
21 services pursuant to a court order issued under RCW 13.34.050 or when  
22 child protective services is notified that a child has been taken  
23 into custody pursuant to RCW 26.44.050 or 26.44.056, child protective  
24 services shall make (~~reasonable~~) diligent efforts to inform the  
25 parent, guardian, or legal custodian of the fact that the child has  
26 been taken into custody, the reasons why the child was taken into  
27 custody, and their legal rights under this title, including the right  
28 to a shelter care hearing, as soon as possible. Notice must be  
29 provided in an understandable manner and take into consideration the  
30 parent's, guardian's, or legal custodian's primary language, level of  
31 education, and cultural issues.

32 (b) In no event shall the notice required by this section be  
33 provided to the parent, guardian, or legal custodian more than  
34 twenty-four hours after the child has been taken into custody or  
35 twenty-four hours after child protective services has been notified  
36 that the child has been taken into custody.

37 (2)(a) The notice of custody and rights may be given by any means  
38 reasonably certain of notifying the parents including, but not  
39 limited to, written, telephone, or in person oral notification. If

1 the initial notification is provided by a means other than writing,  
2 child protective services shall make reasonable efforts to also  
3 provide written notification.

4 (b) The written notice of custody and rights required by this  
5 section shall be in substantially the following form:

6 "NOTICE

7 Your child has been placed in temporary custody under the  
8 supervision of Child Protective Services (or other person or agency).  
9 You have important legal rights and you must take steps to protect  
10 your interests.

11 1. A court hearing will be held before a judge within 72 hours of  
12 the time your child is taken into custody excluding Saturdays,  
13 Sundays, and holidays. You should call the court at . . . (insert  
14 appropriate phone number here) for specific information about the  
15 date, time, and location of the court hearing.

16 2. You have the right to have a lawyer represent you at the  
17 hearing. Your right to representation continues after the shelter  
18 care hearing. You have the right to records the department intends to  
19 rely upon. A lawyer can look at the files in your case, talk to child  
20 protective services and other agencies, tell you about the law, help  
21 you understand your rights, and help you at hearings. If you cannot  
22 afford a lawyer, the court will appoint one to represent you. To get  
23 a court-appointed lawyer you must contact: . . . (explain local  
24 procedure).

25 3. At the hearing, you have the right to speak on your own  
26 behalf, to introduce evidence, to examine witnesses, and to receive a  
27 decision based solely on the evidence presented to the judge.

28 4. If your hearing occurs before a court commissioner, you have  
29 the right to have the decision of the court commissioner reviewed by  
30 a superior court judge. To obtain that review, you must, within ten  
31 days after the entry of the decision of the court commissioner, file  
32 with the court a motion for revision of the decision, as provided in  
33 RCW 2.24.050.

34 You should be present at any shelter care hearing. If you do not  
35 come, the judge will not hear what you have to say.

36 You may call the Child Protective Services' caseworker for more  
37 information about your child. The caseworker's name and telephone  
38 number are: . . . (insert name and telephone number).

1           5. You have a right to a case conference to develop a written  
2 service agreement following the shelter care hearing. The service  
3 agreement may not conflict with the court's order of shelter care.  
4 You may request that a multidisciplinary team, family group  
5 conference, or prognostic staffing be convened for your child's case.  
6 You may participate in these processes with your counsel present.

7           6. If your child is placed in the custody of the department of  
8 children, youth, and families or other ((~~supervising~~)) agency,  
9 immediately following the shelter care hearing, the court will enter  
10 an order granting the department or other ((~~supervising~~)) agency the  
11 right to inspect and copy all health, medical, mental health, and  
12 education records of the child, directing health care providers to  
13 release such information without your further consent, and granting  
14 the department or ((~~supervising~~)) agency or its designee the  
15 authority and responsibility, where applicable, to:

16           (1) Notify the child's school that the child is in out-of-home  
17 placement;

18           (2) Enroll the child in school;

19           (3) Request the school transfer records;

20           (4) Request and authorize evaluation of special needs;

21           (5) Attend parent or teacher conferences;

22           (6) Excuse absences;

23           (7) Grant permission for extracurricular activities;

24           (8) Authorize medications which need to be administered during  
25 school hours and sign for medical needs that arise during school  
26 hours; and

27           (9) Complete or update school emergency records.

28           7. If the court decides to place your child in the custody of the  
29 department of children, youth, and families or other ((~~supervising~~))  
30 agency, the department or agency will create a permanency plan for  
31 your child, including a primary placement goal and secondary  
32 placement goal. The department or agency also will recommend that the  
33 court order services for your child and for you, if needed. The  
34 department or agency is required to make reasonable efforts to  
35 provide you with services to address your parenting problems, and to  
36 provide you with visitation with your child according to court  
37 orders. Failure to promptly engage in services or to maintain contact  
38 with your child may lead to the filing of a petition to terminate  
39 your parental rights.

1 8. Primary and secondary permanency plans are intended to run at  
2 the same time so that your child will have a permanent home as  
3 quickly as possible. Absent good cause, and when appropriate, the  
4 department or other ((~~supervising~~)) agency must follow the wishes of  
5 a natural parent regarding placement of a child. You should tell your  
6 lawyer and the court where you wish your child placed immediately,  
7 including whether you want your child placed with you, with a  
8 relative, or with another suitable person. You also should tell your  
9 lawyer and the court what services you feel are necessary and your  
10 wishes regarding visitation with your child. Even if you want another  
11 parent or person to be the primary placement choice for your child,  
12 you should tell your lawyer, the department or other ((~~supervising~~))  
13 agency, and the court if you want to be a secondary placement option,  
14 and you should comply with court orders for services and participate  
15 in visitation with your child. Early and consistent involvement in  
16 your child's case plan is important for the well-being of your child.

17 9. A dependency petition begins a judicial process, which, if the  
18 court finds your child dependent, could result in substantial  
19 restrictions including, the entry or modification of a parenting plan  
20 or residential schedule, previously existing nonparental custody  
21 order or decree, guardianship order, or permanent loss of your  
22 parental rights."

23 Upon receipt of the written notice, the parent, guardian, or  
24 legal custodian shall acknowledge such notice by signing a receipt  
25 prepared by child protective services. If the parent, guardian, or  
26 legal custodian does not sign the receipt, the reason for lack of a  
27 signature shall be written on the receipt. The receipt shall be made  
28 a part of the court's file in the dependency action.

29 If after making reasonable efforts to provide notification, child  
30 protective services is unable to determine the whereabouts of the  
31 parents, guardian, or legal custodian, the notice shall be delivered  
32 or sent to the last known address of the parent, guardian, or legal  
33 custodian.

34 (3) If child protective services is not required to give notice  
35 under this section, the juvenile court counselor assigned to the  
36 matter shall make all ((~~reasonable~~)) diligent efforts to advise the  
37 parents, guardian, or legal custodian of the time and place of any  
38 shelter care hearing, request that they be present, and inform them  
39 of their basic rights as provided in RCW 13.34.090.



1 (4) ((Reasonable)) Diligent efforts to advise and to give notice,  
2 as required in this section, shall include, at a minimum,  
3 investigation of the whereabouts of the parent, guardian, or legal  
4 custodian. If such ((reasonable)) diligent efforts are not  
5 successful, or the parent, guardian, or legal custodian does not  
6 appear at the shelter care hearing, the petitioner shall testify at  
7 the hearing or state in a declaration:

8 (a) The efforts made to investigate the whereabouts of, and to  
9 advise, the parent, guardian, or custodian; and

10 (b) Whether actual advice of rights was made, to whom it was  
11 made, and how it was made, including the substance of any oral  
12 communication or copies of written materials used.

13 **Sec. 8.** RCW 13.34.060 and 2007 c 413 s 3 are each amended to  
14 read as follows:

15 (1) A child taken into custody pursuant to RCW 13.34.050 or  
16 26.44.050 shall be immediately placed in shelter care. A child taken  
17 by a relative of the child in violation of RCW 9A.40.060 or 9A.40.070  
18 shall be placed in shelter care only when permitted under RCW  
19 13.34.055. No child may be held longer than seventy-two hours,  
20 excluding Saturdays, Sundays, and holidays, after such child is taken  
21 into custody unless a court order has been entered for continued  
22 shelter care. In no case may a child who is taken into custody  
23 pursuant to RCW 13.34.055, 13.34.050, or 26.44.050 be detained in a  
24 secure detention facility.

25 (2) Unless there is reasonable cause based on specific evidence  
26 to believe that the health, safety, or welfare of the child would be  
27 jeopardized or that the efforts to reunite the parent and child will  
28 be hindered, priority placement for a child in shelter care, pending  
29 a court hearing, shall be with any person described in RCW  
30 74.15.020(2)(a) or 13.34.130(1)(b). The person must be willing and  
31 available to care for the child and be able to meet any special needs  
32 of the child and the court must ((find that such placement is in the  
33 best interests of the child)) complete the inquiry required under RCW  
34 13.34.065 to establish whether continued placement with the relative  
35 is appropriate. The person must be willing to facilitate the child's  
36 visitation with siblings, if such visitation is part of the  
37 ((supervising agency's)) department's plan or is ordered by the  
38 court. If a child is not initially placed with a relative or other  
39 suitable person requested by the parent pursuant to this section, the

1 ((~~supervising agency~~)) department shall make ((~~an effort within~~  
2 ~~available resources~~)) continuing efforts to place the child with a  
3 relative or other suitable person requested by the parent on the next  
4 business day after the child is taken into custody. The ((~~supervising~~  
5 ~~agency~~)) department shall document its effort to place the child with  
6 a relative or other suitable person requested by the parent pursuant  
7 to this section. Nothing within this subsection (2) establishes an  
8 entitlement to services or a right to a particular placement.

9 (3) Whenever a child is taken into custody pursuant to this  
10 section, the ((~~supervising agency~~)) department may authorize  
11 evaluations of the child's physical or emotional condition, routine  
12 medical and dental examination and care, and all necessary emergency  
13 care, after informing the child's parent, guardian, or legal  
14 custodian, unless the parent, guardian, or legal custodian cannot be  
15 reached. The child's parent, guardian, or legal custodian must be  
16 provided the opportunity to attend any appointments authorized under  
17 this subsection, unless prohibited by court order.

18 **Sec. 9.** RCW 13.34.065 and 2019 c 172 s 11 are each amended to  
19 read as follows:

20 (1)(a) When a child is ((~~taken into custody~~)) removed or when the  
21 petitioner is seeking the removal of a child from the child's parent,  
22 guardian, or legal custodian, the court shall hold a shelter care  
23 hearing within seventy-two hours, excluding Saturdays, Sundays, and  
24 holidays. The primary purpose of the shelter care hearing is to  
25 determine whether the child can be immediately and safely returned  
26 home while the adjudication of the dependency is pending. The court  
27 shall hold an additional shelter care hearing within 72 hours,  
28 excluding Saturdays, Sundays, and holidays if the child is removed  
29 from the care of a parent, guardian, or legal custodian at any time  
30 after an initial shelter care hearing under this section.

31 (b) Any child's attorney, parent, guardian, or legal custodian  
32 who for good cause is unable to attend or adequately prepare for the  
33 shelter care hearing may request that the initial shelter care  
34 hearing be continued or that a subsequent shelter care hearing be  
35 scheduled. The request shall be made to the clerk of the court where  
36 the petition is filed prior to the initial shelter care hearing. Upon  
37 the request of the child's attorney, parent, guardian, or legal  
38 custodian, the court shall schedule the hearing within seventy-two  
39 hours of the request, excluding Saturdays, Sundays, and holidays. The

1 clerk shall notify all other parties of the hearing by any reasonable  
2 means. If the parent, guardian, or legal custodian is not represented  
3 by counsel, the clerk shall provide information to the parent,  
4 guardian, or legal custodian regarding how to obtain counsel.

5 (2) (a) If it is likely that the child will remain in shelter care  
6 longer than seventy-two hours, the department shall submit a  
7 recommendation to the court as to the further need for shelter care  
8 in all cases in which the child will remain in shelter care longer  
9 than the seventy-two hour period. In all other cases, the  
10 recommendation shall be submitted by the juvenile court probation  
11 counselor.

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

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

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

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

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

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

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

37 (4) At the shelter care hearing the court shall examine the need  
38 for shelter care and inquire into the status of the case. The  
39 paramount consideration for the court shall be the health, welfare,

1 and safety of the child. At a minimum, the court shall inquire into  
2 the following:

3 (a) Whether the notice required under RCW 13.34.062 was given to  
4 all known parents, guardians, or legal custodians of the child. The  
5 court shall make an express finding as to whether the notice required  
6 under RCW 13.34.062 was given to the parent, guardian, or legal  
7 custodian. If actual notice was not given to the parent, guardian, or  
8 legal custodian and the whereabouts of such person is known or can be  
9 ascertained, the court shall order the department to make  
10 (~~reasonable~~) diligent efforts to advise the parent, guardian, or  
11 legal custodian of the status of the case, including the date and  
12 time of any subsequent hearings, and their rights under RCW  
13 13.34.090;

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

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

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

29 (e) Is the placement proposed by the department the least  
30 disruptive and most family-like setting that meets the needs of the  
31 child;

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

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

39 (h) Whether the child is or may be an Indian child as defined in  
40 RCW 13.38.040, whether the provisions of the federal Indian child

1 welfare act or chapter 13.38 RCW apply, and whether there is  
2 compliance with the federal Indian child welfare act and chapter  
3 13.38 RCW, including notice to the child's tribe;

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

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

13 (k) The terms and conditions for parental, sibling, and family  
14 visitation.

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

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

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

25 (B) (~~The release of such child would present a serious threat of~~  
26 ~~substantial harm to such child~~) (I) Removal of the child is  
27 necessary to prevent imminent physical harm due to child abuse or  
28 neglect, including that which results from sexual abuse, sexual  
29 exploitation, or a pattern of severe neglect, notwithstanding an  
30 order entered pursuant to RCW 26.44.063. The evidence must show a  
31 causal relationship between the particular conditions in the home and  
32 imminent physical harm to the child. The existence of community or  
33 family poverty, isolation, single parenthood, age of the parent,  
34 crowded or inadequate housing, substance abuse, prenatal drug or  
35 alcohol exposure, mental illness, disability or special needs of the  
36 parent or child, or nonconforming social behavior does not by itself  
37 constitute imminent physical harm;

38 (II) It is contrary to the welfare of the child to be returned  
39 home; and

1 (III) After considering the particular circumstances of the  
2 child, any imminent physical harm to the child outweighs the harm the  
3 child will experience as a result of removal; or

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

6 (b) If the court finds that the elements of (a)(ii)(B) of this  
7 subsection require removal of the child, the court shall further  
8 consider:

9 (i) Whether participation by the parents, guardians, or legal  
10 custodians in any prevention services would prevent or eliminate the  
11 need for removal and, if so, shall inquire of the parent whether they  
12 are willing to participate in such services. If the parent agrees to  
13 participate in the prevention services identified by the court that  
14 would prevent or eliminate the need for removal, the court shall  
15 place the child with the parent. The court shall not order a parent  
16 to participate in prevention services over the objection of the  
17 parent, however, parents shall have the opportunity to consult with  
18 counsel prior to deciding whether to agree to proposed prevention  
19 services as a condition of having the child return to or remain in  
20 the care of the parent; and

21 (ii) Whether the issuance of a temporary order of protection  
22 directing the removal of a person or persons from the child's  
23 residence would prevent the need for removal of the child.

24 (c)(i) If the court does not release the child to his or her  
25 parent, guardian, or legal custodian, the court shall order placement  
26 with a relative or other suitable person as described in RCW  
27 13.34.130(1)(b), unless ~~((there is reasonable cause to believe the~~  
28 health, safety, or welfare of the child would be jeopardized or that  
29 the)) the petitioner establishes that there is reasonable cause to  
30 believe that:

31 (A) Placement in licensed foster care is necessary to prevent  
32 imminent physical harm to the child due to child abuse or neglect,  
33 including that which results from sexual abuse, sexual exploitation,  
34 or a pattern of severe neglect, because no relative or other suitable  
35 person is capable of ensuring the basic safety of the child; or

36 (B) The efforts to reunite the parent and child will be hindered.  
37 ~~((If such relative or other suitable person appears otherwise~~  
38 suitable and competent to provide care and treatment, the  
39 fingerprint-based background check need not be completed before  
40 placement, but as soon as possible after placement. The court must

1 also determine whether placement with the relative or other suitable  
2 person is in the child's best interests. The relative or other  
3 suitable person must be willing and available to:

4 ~~(i) Care for the child and be able to meet any special needs of~~  
5 ~~the child;~~

6 ~~(ii) Facilitate the child's visitation with siblings, if such~~  
7 ~~visitation is part of the department's plan or is ordered by the~~  
8 ~~court; and~~

9 ~~(iii) Cooperate with the department in providing necessary~~  
10 ~~background checks and home studies.~~

11 (e)) (ii) In making the determination in (c)(i) of this  
12 subsection, the court shall:

13 (A) Inquire of the petitioner and any other person present at the  
14 hearing for the child whether there are any relatives or other  
15 suitable persons who are willing to care for the child. This inquiry  
16 must include whether any relative or other suitable person:

17 (I) Has expressed an interest in becoming a caregiver for the  
18 child;

19 (II) Is able to meet any special needs of the child;

20 (III) Is willing to facilitate the child's sibling and parent  
21 visitation if such visitation is ordered by the court; and

22 (IV) Supports reunification of the parent and child once  
23 reunification can safely occur; and

24 (B) Give great weight to the stated preference of the parent,  
25 guardian, or legal custodian, and the child.

26 (iii) If a relative or other suitable person expressed an  
27 interest in caring for the child, can meet the child's special needs,  
28 can support parent-child reunification, and will facilitate court-  
29 ordered sibling or parent visitation, the following must not prevent  
30 the child's placement with such relative or other suitable person:

31 (A) An incomplete department or fingerprint-based background  
32 check, if such relative or other suitable person appears otherwise  
33 suitable and competent to provide care and treatment, but the  
34 background checks must be completed as soon as possible after  
35 placement;

36 (B) Uncertainty on the part of the relative or other suitable  
37 person regarding potential adoption of the child;

38 (C) Disbelief on the part of the relative or other suitable  
39 person that the parent, guardian, or legal custodian presents a  
40 danger to the child, provided the caregiver will protect the safety

1 of the child and comply with court orders regarding contact with a  
2 parent, guardian, or legal custodian; or

3 (D) The conditions of the relative or other suitable person's  
4 home are not sufficient to satisfy the requirements of a licensed  
5 foster home. The court may order the department to provide financial  
6 or other support to the relative or other suitable person necessary  
7 to ensure safe conditions in the home.

8 (d) 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 department shall  
11 make reasonable efforts to locate a relative or other suitable person  
12 pursuant to RCW 13.34.060(1). ((In determining placement, the court  
13 shall weigh the child's length of stay and attachment to the current  
14 provider in determining what is in the best interest of the child.

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

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

32 ~~((f)) (g) If the child is placed in a qualified residential~~  
33 ~~treatment program as defined in this chapter, the court shall, within~~  
34 ~~sixty days of placement, hold a hearing to:~~

35 (i) Consider the assessment required under RCW 13.34.420 and  
36 submitted as part of the department's social study, and any related  
37 documentation;

38 (ii) Determine whether placement in foster care can meet the  
39 child's needs or if placement in another available placement setting



1 best meets the child's needs in the least restrictive environment;  
2 and

3 (iii) Approve or disapprove the child's placement in the  
4 qualified residential treatment program.

5 ~~((g))~~ (h) Uncertainty by a parent, guardian, legal custodian,  
6 relative, or other suitable person that the alleged abuser has in  
7 fact abused the child shall not, alone, be the basis upon which a  
8 child is removed from the care of a parent, guardian, or legal  
9 custodian under (a) of this subsection, nor shall it be a basis,  
10 alone, to preclude placement with a relative or other suitable person  
11 under ~~((b))~~ (c) of this subsection.

12 (i) If the court places with a relative or other suitable person,  
13 and that person has indicated a desire to become a licensed foster  
14 parent, the court shall order the department to commence an  
15 assessment of the home of such relative or other suitable person  
16 within 10 days and thereafter issue an initial license as provided  
17 under RCW 74.15.120 for such relative or other suitable person, if  
18 qualified, as a foster parent. The relative or other suitable person  
19 shall receive a foster care maintenance payment, starting on the date  
20 the department approves the initial license. If such home is found to  
21 be unqualified for licensure, the department shall report such fact  
22 to the court within one week of that determination. The department  
23 shall report on the status of the licensure process during the entry  
24 of any dispositional orders in the case.

25 (j) If the court places the child in licensed foster care:

26 (i) The petitioner shall report to the court, at the shelter care  
27 hearing, the location of the licensed foster placement the petitioner  
28 has identified for the child and the court shall inquire as to  
29 whether:

30 (A) The identified placement is the least restrictive placement  
31 necessary to meet the needs of the child;

32 (B) The child will be able to remain in the same school and  
33 whether any orders of the court are necessary to ensure educational  
34 stability for the child;

35 (C) The child will be placed with a sibling or siblings, and  
36 whether court-ordered sibling contact would promote the well-being of  
37 the child;

38 (D) The licensed foster placement is able to meet the special  
39 needs of the child;

1 (E) The location of the proposed foster placement will impede  
2 visitation with the child's parent or parents;

3 (ii) The court may order the department to:

4 (A) Place the child in a less restrictive placement;

5 (B) Place the child in a location in closer proximity to the  
6 child's parent, home, or school;

7 (C) Place the child with the child's sibling or siblings;

8 (D) Take any other necessary steps to ensure the child's health,  
9 safety, and well-being;

10 (iii) The court shall advise the petitioner that:

11 (A) Failure to comply with court orders while a child is in  
12 shelter care will be considered when determining whether reasonable  
13 efforts have been made by the department during a hearing under RCW  
14 13.34.110; and

15 (B) Placement moves while a child is in shelter care will be  
16 considered when determining whether reasonable efforts have been made  
17 by the department during a hearing under RCW 13.34.110.

18 (6) (a) A shelter care order issued pursuant to this section shall  
19 include the requirement for a case conference as provided in RCW  
20 13.34.067. However, if the parent is not present at the shelter care  
21 hearing, or does not agree to the case conference, the court shall  
22 not include the requirement for the case conference in the shelter  
23 care order.

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

28 (c) The court may order another conference, case staffing, or  
29 hearing as an alternative to the case conference required under RCW  
30 13.34.067 so long as the conference, case staffing, or hearing  
31 ordered by the court meets all requirements under RCW 13.34.067,  
32 including the requirement of a written agreement specifying the  
33 services to be provided to the parent.

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

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

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

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

12 ~~(b) If a child is returned home from shelter care a second time  
13 in the case a law enforcement officer must be present and file a  
14 report to the department.)~~ The department and its employees shall  
15 not be held liable in any civil action for complying with an order  
16 issued under this section for placement: With a parent who has agreed  
17 to accept services, a relative, or a suitable person.

18 **Sec. 10.** RCW 13.34.090 and 2017 3rd sp.s. c 6 s 303 are each  
19 amended to read as follows:

20 (1) Any party has a right to be represented by an attorney in all  
21 proceedings under this chapter, to introduce evidence, to be heard in  
22 his or her own behalf, to examine witnesses, to receive a decision  
23 based solely on the evidence adduced at the hearing, and to an  
24 unbiased fact finder.

25 (2) At all stages of a proceeding in which a child is alleged to  
26 be dependent, the child's parent, guardian, or legal custodian has  
27 the right to be represented by counsel, and if indigent, to have  
28 counsel appointed for him or her by the court. Unless waived in  
29 court, counsel shall be provided to the child's parent, guardian, or  
30 legal custodian, if such person (a) has appeared in the proceeding or  
31 requested the court to appoint counsel and (b) is financially unable  
32 to obtain counsel because of indigency.

33 (3) If a party to an action under this chapter is represented by  
34 counsel, no order shall be provided to that party for his or her  
35 signature without prior notice and provision of the order to counsel.

36 (4) Copies of department ~~((or supervising agency))~~ records to  
37 which parents have legal access pursuant to chapter 13.50 RCW shall  
38 be given to the child's parent, guardian, legal custodian, or his or  
39 her legal counsel, prior to any shelter care hearing and within

1 fifteen days after the department (~~(or supervising agency)~~) receives  
2 a written request for such records from the parent, guardian, legal  
3 custodian, or his or her legal counsel. These records shall be  
4 provided to the child's parents, guardian, legal custodian, or legal  
5 counsel a reasonable period of time prior to the shelter care hearing  
6 in order to allow an opportunity to review the records prior to the  
7 hearing. These records shall be legible and shall be provided at no  
8 expense to the parents, guardian, legal custodian, or his or her  
9 counsel. When the records are served on legal counsel, legal counsel  
10 shall have the opportunity to review the records with the parents and  
11 shall review the records with the parents prior to the shelter care  
12 hearing. The department shall make every effort to provide all other  
13 discoverable material to the child's parent, guardian, legal  
14 custodian, or his or her legal counsel prior to any shelter care  
15 hearing.

16 NEW SECTION. **Sec. 11.** Where feasible, the department of  
17 children, youth, and families shall apply for federal waivers that  
18 would reimburse the department for the cost of providing maintenance  
19 payments for relatives or other suitable persons caring for a child  
20 who have indicated a desire to become a licensed foster parent,  
21 provided that the person has received an initial license from the  
22 department.

23 NEW SECTION. **Sec. 12.** Sections 1 through 10 of this act take  
24 effect July 1, 2023."

**E2SHB 1227** - S COMM AMD

By Committee on Human Services, Reentry & Rehabilitation

**ADOPTED 4/7/21**

25 On page 1, line 2 of the title, after "child;" strike the  
26 remainder of the title and insert "amending RCW 13.34.040, 26.44.056,  
27 26.44.050, 13.34.050, 13.34.062, 13.34.060, 13.34.065, and 13.34.090;  
28 creating new sections; and providing an effective date."

--- END ---