
HOUSE BILL 1944

State of Washington

67th Legislature

2022 Regular Session

By Representatives Walsh and Graham

Read first time 01/12/22. Referred to Committee on Children, Youth & Families.

1 AN ACT Relating to increasing the time period that certain
2 parents receive supervision after reunification during child welfare
3 court proceedings; amending RCW 13.34.145; and reenacting and
4 amending RCW 13.34.138.

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

6 **Sec. 1.** RCW 13.34.138 and 2021 c 208 s 3 and 2021 c 67 s 5 are
7 each reenacted and amended to read as follows:

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

14 (a) The initial review hearing shall be an in-court review and
15 shall be set six months from the beginning date of the placement
16 episode or no more than 90 days from the entry of the disposition
17 order, whichever comes first. The requirements for the initial review
18 hearing, including the in-court review requirement, shall be
19 accomplished within existing resources.

1 (b) The initial review hearing may be a permanency planning
2 hearing when necessary to meet the time frames set forth in RCW
3 13.34.145(1)(a) or 13.34.134.

4 (2)(a) A child shall not be returned home at the review hearing
5 unless the court finds that a reason for removal as set forth in RCW
6 13.34.130 no longer exists. The parents, guardian, or legal custodian
7 shall report to the court the efforts they have made to correct the
8 conditions which led to removal. If a child is returned, casework
9 supervision by the department shall continue for a period of (~~six~~
10 ~~months~~) time determined under RCW 13.34.145, at which time there
11 shall be a hearing on the need for continued intervention.

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

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

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

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

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

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

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

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

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

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

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

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

23 (vi) Within 60 days of the placement of a child in a qualified
24 residential treatment program as defined in this chapter, and at each
25 review hearing thereafter if the child remains in such a program, the
26 following:

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

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

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

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

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

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

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

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

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

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

14 (xii) Whether terms of visitation need to be modified. If the
15 court previously ordered that visitation between a parent and child
16 must be supervised or monitored, there shall be a presumption that
17 such supervision or monitoring will no longer be necessary after the
18 review hearing. To overcome this presumption, a party must provide a
19 report to the court including evidence establishing that removing
20 visit supervision or monitoring would create a risk to the child's
21 safety, and the court shall make a determination as to whether visit
22 supervision or monitoring must continue;

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

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

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

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

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

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

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

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

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

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

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

13 (c) In a pending dependency case in which the court orders that a
14 dependent child may be returned home and that child is later removed
15 from the home, the court shall hold a review hearing within
16 (~~thirty~~) 30 days from the date of removal to determine whether the
17 permanency plan should be changed, a termination petition should be
18 filed, or other action is warranted. The best interests of the child
19 shall be the court's primary consideration in the review hearing.

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

31 (5) The court shall consider the child's relationship with
32 siblings in accordance with RCW 13.34.130(7).

33 (6) The court shall advise the petitioner that the failure to
34 provide court-ordered visitation may result in a finding that the
35 petitioner failed to make reasonable efforts to finalize the
36 permanency plan. The lack of sufficient contracted visitation
37 providers will not excuse the failure to provide court-ordered
38 visitation.

1 **Sec. 2.** RCW 13.34.145 and 2020 c 312 s 118 are each amended to
2 read as follows:

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

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

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

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

34 (2) No later than (~~(ten)~~) 10 working days prior to the permanency
35 planning hearing, the agency having custody of the child shall submit
36 a written permanency plan to the court and shall mail a copy of the
37 plan to all parties and their legal counsel, if any.

38 (3) When the youth is at least age (~~(seventeen)~~) 17 years but not
39 older than (~~(seventeen)~~) 17 years and six months, the department
40 shall provide the youth with written documentation which explains the

1 availability of extended foster care services and detailed
2 instructions regarding how the youth may access such services after
3 he or she reaches age (~~eighteen~~) 18 years.

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

6 (a) If a goal of long-term foster or relative care has been
7 achieved prior to the permanency planning hearing, the court shall
8 review the child's status to determine whether the placement and the
9 plan for the child's care remain appropriate. The court shall find,
10 as of the date of the hearing, that the child's placement and plan of
11 care is the best permanency plan for the child and provide compelling
12 reasons why it continues to not be in the child's best interest to
13 (i) return home; (ii) be placed for adoption; (iii) be placed with a
14 legal guardian; or (iv) be placed with a fit and willing relative. If
15 the child is present at the hearing, the court should ask the child
16 about his or her desired permanency outcome.

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

23 (i) The continuing necessity for, and the safety and
24 appropriateness of, the placement;

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

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

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

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

38 (vi) If the child has been placed outside of his or her home for
39 (~~fifteen~~) 15 of the most recent (~~twenty-two~~) 22 months, not
40 including any period during which the child was a runaway from the

1 out-of-home placement or the first six months of any period during
2 which the child was returned to his or her home for a trial home
3 visit, the appropriateness of the permanency plan, whether reasonable
4 efforts were made by the department to achieve the goal of the
5 permanency plan, and the circumstances which prevent the child from
6 any of the following:

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

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

10 (C) Being placed for adoption;

11 (D) Being placed with a guardian;

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

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

16 (c) Regardless of whether the primary permanency planning goal
17 has been achieved, for a child who remains placed in a qualified
18 residential treatment program as defined in this chapter for at least
19 (~~sixty~~) 60 days, and remains placed there at subsequent permanency
20 planning hearings, the court shall establish in writing:

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

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

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

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

31 (v) What efforts the department has made to prepare the child to
32 return home or be placed with a fit and willing relative as defined
33 in RCW 13.34.030, a Title 13 RCW guardian, a guardian pursuant to RCW
34 11.130.215, an adoptive parent, or in a foster family home.

35 (5) Following this inquiry, at the permanency planning hearing,
36 the court shall order the department to file a petition seeking
37 termination of parental rights if the child has been in out-of-home
38 care for (~~fifteen~~) 15 of the last (~~twenty-two~~) 22 months since
39 the date the dependency petition was filed unless the court makes a
40 good cause exception as to why the filing of a termination of

1 parental rights petition is not appropriate. Any good cause finding
2 shall be reviewed at all subsequent hearings pertaining to the child.

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

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

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

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

12 (iv) The parent is incarcerated, or the parent's prior
13 incarceration is a significant factor in why the child has been in
14 foster care for ((fifteen)) 15 of the last ((twenty-two)) 22 months,
15 the parent maintains a meaningful role in the child's life, and the
16 department has not documented another reason why it would be
17 otherwise appropriate to file a petition pursuant to this section;

18 (v) Where a parent has been accepted into a dependency treatment
19 court program or long-term substance abuse or dual diagnoses
20 treatment program and is demonstrating compliance with treatment
21 goals; or

22 (vi) Where a parent who has been court ordered to complete
23 services necessary for the child's safe return home files a
24 declaration under penalty of perjury stating the parent's financial
25 inability to pay for the same court-ordered services, and also
26 declares the department was unwilling or unable to pay for the same
27 services necessary for the child's safe return home.

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

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

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

38 (iii) A positive response by the parent to the reasonable efforts
39 of the department;

1 (iv) Information provided by individuals or agencies in a
2 reasonable position to assist the court in making this assessment,
3 including but not limited to the parent's attorney, correctional and
4 mental health personnel, or other individuals providing services to
5 the parent;

6 (v) Limitations in the parent's access to family support
7 programs, therapeutic services, and visiting opportunities,
8 restrictions to telephone and mail services, inability to participate
9 in foster care planning meetings, and difficulty accessing lawyers
10 and participating meaningfully in court proceedings; and

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

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

18 (6)(a) If the permanency plan identifies independent living as a
19 goal, the court at the permanency planning hearing shall make a
20 finding that the provision of services to assist the child in making
21 a transition from foster care to independent living will allow the
22 child to manage his or her financial, personal, social, educational,
23 and nonfinancial affairs prior to approving independent living as a
24 permanency plan of care. The court will inquire whether the child has
25 been provided information about extended foster care services.

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

30 (c) The department shall not discharge a child to an independent
31 living situation before the child is (~~eighteen~~) 18 years of age
32 unless the child becomes emancipated pursuant to chapter 13.64 RCW.

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

36 (a) Enter a finding regarding whether the foster parent or
37 relative was informed of the hearing as required in RCW 74.13.280,
38 13.34.215(6), and 13.34.096; and

39 (b) If the department is recommending a placement other than the
40 child's current placement with a foster parent, relative, or other

1 suitable person, enter a finding as to the reasons for the
2 recommendation for a change in placement.

3 (8) In all cases, at the permanency planning hearing, the court
4 shall:

5 (a) (i) Order the permanency plan prepared by the department to be
6 implemented; or

7 (ii) Modify the permanency plan, and order implementation of the
8 modified plan; and

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

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

15 (9) Following the first permanency planning hearing, the court
16 shall hold a further permanency planning hearing in accordance with
17 this section at least once every (~~twelve~~) 12 months until a
18 permanency planning goal is achieved or the dependency is dismissed,
19 whichever occurs first.

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

23 (11) (~~If~~) (a) Except as provided in (b) of this subsection, if
24 the court orders the child returned home, casework supervision by the
25 department shall continue for at least six months, at which time a
26 review hearing shall be held pursuant to RCW 13.34.138, and the court
27 shall determine the need for continued intervention.

28 (b) If the court orders the child returned home, casework
29 supervision by the department shall continue for at least five years,
30 at which time a review hearing shall be held pursuant to RCW
31 13.34.138, and the court shall determine the need for continued
32 intervention for cases involving:

33 (i) Substance use disorder on the part of a parent that
34 contributed to the removal of the child or that occurred during the
35 dependency; or

36 (ii) Conviction of the parent of a crime against children as
37 defined in RCW 28A.400.322.

38 (12) The juvenile court may hear a petition for permanent legal
39 custody when: (a) The court has ordered implementation of a
40 permanency plan that includes permanent legal custody; and (b) the

1 party pursuing the permanent legal custody is the party identified in
2 the permanency plan as the prospective legal custodian. During the
3 pendency of such proceeding, the court shall conduct review hearings
4 and further permanency planning hearings as provided in this chapter.
5 At the conclusion of the legal guardianship or permanent legal
6 custody proceeding, a juvenile court hearing shall be held for the
7 purpose of determining whether dependency should be dismissed. If a
8 guardianship or permanent custody order has been entered, the
9 dependency shall be dismissed.

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

14 (14) Nothing in this chapter may be construed to limit the
15 ability of the agency that has custody of the child to file a
16 petition for termination of parental rights or a guardianship
17 petition at any time following the establishment of dependency. Upon
18 the filing of such a petition, a fact-finding hearing shall be
19 scheduled and held in accordance with this chapter unless the
20 department requests dismissal of the petition prior to the hearing or
21 unless the parties enter an agreed order terminating parental rights,
22 establishing guardianship, or otherwise resolving the matter.

23 (15) The approval of a permanency plan that does not contemplate
24 return of the child to the parent does not relieve the department of
25 its obligation to provide reasonable services, under this chapter,
26 intended to effectuate the return of the child to the parent,
27 including but not limited to, visitation rights. The court shall
28 consider the child's relationships with siblings in accordance with
29 RCW 13.34.130.

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

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