

CERTIFICATION OF ENROLLMENT
SECOND SUBSTITUTE SENATE BILL 5127

52nd Legislature
1991 Regular Session

Passed by the Senate March 15, 1991
Yeas 43 Nays 0

President of the Senate

Passed by the House April 18, 1991
Yeas 97 Nays 0

**Speaker of the
House of Representatives**

Approved

Governor of the State of Washington

CERTIFICATE

I, Gordon Golob, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SECOND SUBSTITUTE SENATE BILL 5127** as passed by the Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

**Secretary of State
State of Washington**

SECOND SUBSTITUTE SENATE BILL 5127

Passed Legislature - 1991 Regular Session

State of Washington 52nd Legislature 1991 Regular Session

By Senate Committee on Ways & Means (originally sponsored by Senators Craswell, Bailey, Vognild, Erwin, L. Smith, Stratton, Matson, Conner and Roach).

Read first time March 7, 1991.

1 AN ACT Relating to foster care citizen review boards; amending
2 RCW 13.70.005, 13.70.010, 13.70.110, and 13.34.210; reenacting and
3 amending RCW 13.34.130; adding a new section to chapter 13.70 RCW;
4 creating a new section; repealing RCW 13.70.900; and declaring an
5 emergency.

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

7 NEW SECTION. **Sec. 1.** A new section is added to chapter 13.70
8 RCW to read as follows:

9 (1) If a case involves an Indian child, as defined by 25 U.S.C.
10 Sec. 1903 or by department rule or policy, the court may appoint the
11 local Indian child welfare advisory committee to serve as the
12 citizen review board for the case unless otherwise requested by the

1 child's tribe or by the local Indian child welfare advisory
2 committee.

3 (2) The provisions of RCW 13.70.030, 13.70.040, 13.70.050, and
4 13.70.090(1) shall not apply to cases in which the court has
5 appointed a committee to serve as a citizen review board. All other
6 provisions of this chapter shall apply to such cases.

7 (3) Within ten days following court appointment of a committee to
8 serve as a citizen review board for a particular case, the committee
9 shall notify the court whether the committee will accept the case
10 for review. If the committee accepts a case for review, the
11 committee shall conduct the review in accordance with the
12 requirements of this chapter except as otherwise provided in this
13 section. If the committee does not accept a case for review, the
14 court shall immediately reassign the case to an available board.

15 (4) The requirements of this chapter do not affect tribal
16 sovereignty and shall not apply to cases involving Indian children
17 who are under tribal court jurisdiction or wardship.

18 **Sec. 2.** RCW 13.70.005 and 1989 1st ex.s. c 17 s 2 are each
19 amended to read as follows:

20 Periodic case review of all children in substitute care shall be
21 provided in ~~((at least one class 1 or higher county))~~ counties
22 designated by the office of the administrator for the courts, in
23 accordance with this chapter and within funding provided by the
24 legislature.

1 The administrator for the courts shall coordinate and assist in
2 the administration of the local citizen review board pilot program
3 created by this chapter.

4 **Sec. 3.** RCW 13.70.010 and 1989 1st ex.s. c 17 s 3 are each
5 amended to read as follows:

6 Unless the context requires otherwise, the definitions in this
7 section apply throughout this chapter.

8 (1) "Board" means the local citizen review board established
9 pursuant to this chapter.

10 (2) "Child" means a person less than eighteen years of age.

11 (3) "Committee" means a local Indian child welfare advisory
12 committee established pursuant to WAC 388-70-610, as now existing or
13 hereafter amended by the department.

14 (4) "Conflict of interest" means that a person appointed to a
15 board has a personal or pecuniary interest in a case being reviewed
16 by that board.

17 (~~(4)~~) (5) "Court" means the juvenile court.

18 (~~(5)~~) (6) "Custodian" means that person who has legal custody
19 of the child.

20 (~~(6)~~) (7) "Department" means the department of social and
21 health services.

22 (~~(7)~~) (8) "Mature child" means a child who is able to
23 understand and participate in the decision-making process without
24 excessive anxiety or fear. A child twelve years old or over shall
25 be rebuttably presumed to be a mature child.

1 (~~(8)~~) (9) "Parent" or "parents" means the biological or
2 adoptive parents of a child unless the legal rights of that person
3 have been terminated by judicial proceedings.

4 (~~(9)~~) (10) "Placement episode" means the period of time that
5 begins with the date the child was removed from the home of the
6 parent or legal custodian for the purposes of placement in
7 substitute care and continues until the child returns home or an
8 adoption decree or guardianship order is entered.

9 (~~(10)~~) (11) "Records" means any information in written form,
10 pictures, photographs, charts, graphs, recordings, or documents
11 pertaining to a case.

12 (~~(11)~~) (12) "Resides" or "residence," when used in reference to
13 the residence of a child, means the place where the child is
14 actually living and not the legal residence or domicile of the
15 parent or guardian.

16 (~~(12)~~) (13) "Substitute care" means an out-of-home placement of
17 a child for purposes related to the provision of child welfare
18 services in accordance with chapter 74.13 RCW where the child is in
19 the care, custody, and control of the department pursuant to a
20 proceeding under chapter 13.34 RCW or pursuant to the written
21 consent of the child's parent or parents or custodian.

22 **Sec. 4.** RCW 13.34.130 and 1990 c 284 s 32 and 1990 c 246 s 5 are
23 each reenacted and amended to read as follows:

24 If, after a fact-finding hearing pursuant to RCW 13.34.110, as
25 now or hereafter amended, it has been proven by a preponderance of
26 the evidence that the child is dependent within the meaning of RCW

1 13.34.030(2); after consideration of the predisposition report
2 prepared pursuant to RCW 13.34.110 and after a disposition hearing
3 has been held pursuant to RCW 13.34.110, the court shall enter an
4 order of disposition pursuant to this section.

5 (1) The court shall order one of the following dispositions of
6 the case:

7 (a) Order a disposition other than removal of the child from his
8 or her home, which shall provide a program designed to alleviate the
9 immediate danger to the child, to mitigate or cure any damage the
10 child has already suffered, and to aid the parents so that the child
11 will not be endangered in the future. In selecting a program, the
12 court should choose those services that least interfere with family
13 autonomy, provided that the services are adequate to protect the
14 child.

15 (b) Order that the child be removed from his or her home and
16 ordered into the custody, control, and care of a relative or the
17 department of social and health services or a licensed child placing
18 agency for placement in a foster family home or group care facility
19 licensed pursuant to chapter 74.15 RCW or in a home not required to
20 be licensed pursuant to chapter 74.15 RCW. Unless there is
21 reasonable cause to believe that the safety or welfare of the child
22 would be jeopardized or that efforts to reunite the parent and child
23 will be hindered, such child shall be placed with a grandparent,
24 brother, sister, stepbrother, stepsister, uncle, aunt, or first
25 cousin with whom the child has a relationship and is comfortable,
26 and who is willing and available to care for the child. An order
27 for out-of-home placement may be made only if the court finds that

1 reasonable efforts have been made to prevent or eliminate the need
2 for removal of the child from the child's home and to make it
3 possible for the child to return home, specifying the services that
4 have been provided to the child and the child's parent, guardian, or
5 legal custodian, and that:

6 (i) There is no parent or guardian available to care for such
7 child;

8 (ii) The parent, guardian, or legal custodian is not willing to
9 take custody of the child;

10 (iii) A manifest danger exists that the child will suffer serious
11 abuse or neglect if the child is not removed from the home and an
12 order under RCW 26.44.063 would not protect the child from danger;
13 or

14 (iv) The extent of the child's disability is such that the
15 parent, guardian, or legal custodian is unable to provide the
16 necessary care for the child and the parent, guardian, or legal
17 custodian has determined that the child would benefit from placement
18 outside of the home.

19 (2) If the court has ordered a child removed from his or her home
20 pursuant to RCW 13.34.130(1)(b), the court may order that a petition
21 seeking termination of the parent and child relationship be filed if
22 the court finds it is recommended by the supervising agency, that it
23 is in the best interests of the child and that it is not reasonable
24 to provide further services to reunify the family because the
25 existence of aggravated circumstances make it unlikely that services
26 will effectuate the return of the child to the child's parents in

1 the near future. In determining whether aggravated circumstances
2 exist, the court shall consider one or more of the following:

3 (a) Conviction of the parent of rape of the child in the first,
4 second, or third degree as defined in RCW 9A.44.073, 9A.44.076, and
5 9A.44.079;

6 (b) Conviction of the parent of criminal mistreatment of the
7 child in the first or second degree as defined in RCW 9A.42.020 and
8 9A.42.030;

9 (c) Conviction of the parent of assault of the child in the first
10 or second degree as defined in RCW 9A.36.011 and 9A.36.021;

11 (d) Conviction of the parent of murder, manslaughter, or homicide
12 by abuse of the child's other parent, sibling, or another child;

13 (e) A finding by a court that a parent is a sexually violent
14 predator as defined in RCW (~~9A.88.010~~) 71.09.020;

15 (f) Failure of the parent to complete available treatment ordered
16 under this chapter or the equivalent laws of another state, where
17 such failure has resulted in a prior termination of parental rights
18 to another child and the parent has failed to effect significant
19 change in the interim.

20 (3) Whenever a child is ordered removed from the child's home,
21 the agency charged with his or her care shall provide the court
22 with:

23 (a) A permanent plan of care that may include one of the
24 following: Return of the child to the home of the child's parent,
25 adoption, guardianship, or long-term placement with a relative or in
26 foster care with a written agreement.

1 (b) Unless the court has ordered, pursuant to RCW 13.34.130(2),
2 that a termination petition be filed, a specific plan as to where
3 the child will be placed, what steps will be taken to return the
4 child home, and what actions the agency will take to maintain
5 parent-child ties. All aspects of the plan shall include the goal
6 of achieving permanence for the child.

7 (i) The agency plan shall specify what services the parents will
8 be offered in order to enable them to resume custody, what
9 requirements the parents must meet in order to resume custody, and
10 a time limit for each service plan and parental requirement.

11 (ii) The agency shall be required to encourage the maximum
12 parent-child contact possible, including regular visitation and
13 participation by the parents in the care of the child while the
14 child is in placement. Visitation may be limited or denied only if
15 the court determines that such limitation or denial is necessary to
16 protect the child's health, safety, or welfare.

17 (iii) A child shall be placed as close to the child's home as
18 possible, preferably in the child's own neighborhood, unless the
19 court finds that placement at a greater distance is necessary to
20 promote the child's or parents' well-being.

21 (iv) The agency charged with supervising a child in placement
22 shall provide all reasonable services that are available within the
23 agency, or within the community, or those services which the
24 department of social and health services has existing contracts to
25 purchase. It shall report to the court if it is unable to provide
26 such services.

1 (c) If the court has ordered, pursuant to RCW 13.34.130(2), that
2 a termination petition be filed, a specific plan as to where the
3 child will be placed, what steps will be taken to achieve permanency
4 for the child, services to be offered or provided to the child, and,
5 if visitation would be in the best interests of the child, a
6 recommendation to the court regarding visitation between parent and
7 child pending a fact-finding hearing on the termination petition.
8 The agency shall not be required to develop a plan of services for
9 the parents or provide services to the parents.

10 (4) If there is insufficient information at the time of the
11 disposition hearing upon which to base a determination regarding the
12 suitability of a proposed placement with a relative, the child shall
13 remain in foster care and the court shall direct the supervising
14 agency to conduct necessary background investigations as provided in
15 chapter 74.15 RCW and report the results of such investigation to
16 the court within thirty days. However, if such relative appears
17 otherwise suitable and competent to provide care and treatment, the
18 criminal history background check need not be completed before
19 placement, but as soon as possible after placement. Any placements
20 with relatives, pursuant to this section, shall be contingent upon
21 cooperation by the relative with the agency case plan and compliance
22 with court orders related to the care and supervision of the child
23 including, but not limited to, court orders regarding parent-child
24 contacts and any other conditions imposed by the court.
25 Noncompliance with the case plan or court order shall be grounds for
26 removal of the child from the relative's home, subject to review by
27 the court.

1 (5) Except for children whose cases are reviewed by a citizen
2 review board under chapter 13.70 RCW, the status of all children
3 found to be dependent shall be reviewed by the court at least every
4 six months from the beginning date of the placement episode or the
5 date dependency is established, whichever is first, at a hearing in
6 which it shall be determined whether court supervision should
7 continue. The review shall include findings regarding the agency
8 and parental completion of disposition plan requirements, and if
9 necessary, revised permanency time limits.

10 (a) A child shall not be returned home at the review hearing
11 unless the court finds that a reason for removal as set forth in
12 this section no longer exists. The parents, guardian, or legal
13 custodian shall report to the court the efforts they have made to
14 correct the conditions which led to removal. If a child is
15 returned, casework supervision shall continue for a period of six
16 months, at which time there shall be a hearing on the need for
17 continued intervention.

18 (b) If the child is not returned home, the court shall establish
19 in writing:

20 (i) Whether reasonable services have been provided to or offered
21 to the parties to facilitate reunion, specifying the services
22 provided or offered;

23 (ii) Whether the child has been placed in the least-restrictive
24 setting appropriate to the child's needs, including whether
25 consideration has been given to placement with the child's
26 relatives;

1 (iii) Whether there is a continuing need for placement and
2 whether the placement is appropriate;

3 (iv) Whether there has been compliance with the case plan by the
4 child, the child's parents, and the agency supervising the
5 placement;

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

8 (vi) Whether the parents have visited the child and any reasons
9 why visitation has not occurred or has been infrequent;

10 (vii) Whether additional services are needed to facilitate the
11 return of the child to the child's parents; if so, the court shall
12 order that reasonable services be offered specifying such services;
13 and

14 (viii) The projected date by which the child will be returned
15 home or other permanent plan of care will be implemented.

16 (c) The court at the review hearing may order that a petition
17 seeking termination of the parent and child relationship be filed.

18 **Sec. 5.** RCW 13.70.110 and 1989 1st ex.s. c 17 s 13 are each
19 amended to read as follows:

20 (1) This section shall apply to cases where a child has been
21 placed in substitute care pursuant to a proceeding under chapter
22 13.34 RCW.

23 (2) Within forty-five days following commencement of the
24 placement episode, the court shall assign the child's case to a
25 board and forward to the board a copy of the dependency petition and

1 any shelter care or dependency disposition orders which have been
2 entered in the case by the court.

3 (3) The board shall review the case plan for each child whose
4 case is assigned to the board by the court. The review shall take
5 place at times set by the board. The first review shall occur
6 within ninety days following commencement of the placement episode.
7 The second review shall occur within six months following
8 commencement of the placement episode. The next review shall occur
9 within one year after commencement of the placement episode. Within
10 eighteen months following commencement of the placement episode, a
11 permanency planning hearing shall be held before the court in
12 accordance with RCW 13.34.145. Thereafter, the court shall assign
13 the child's case for a board review or a court review hearing
14 pursuant to RCW 13.34.130(~~(+4)~~) (5). A board review or a court
15 review hearing shall take place at least once every six months until
16 the child is no longer within the jurisdiction of the court or no
17 longer in substitute care or until a guardianship order or adoption
18 decree is entered. After the permanency planning hearing, a court
19 review hearing must occur at least once a year as provided in RCW
20 13.34.130. The board shall review any case where a petition to
21 terminate parental rights has been denied, and such review shall
22 occur as soon as practical but no later than forty-five days after
23 the denial.

24 (4) The board shall prepare written findings and recommendations
25 with respect to:

26 (a) Whether reasonable efforts were made before the placement to
27 prevent or eliminate the need for removal of the child from the

1 home, including whether consideration was given to removing the
2 alleged offender, rather than the child, from the home;

3 (b) Whether reasonable efforts have been made subsequent to the
4 placement to make it possible for the child to be returned home;

5 (c) Whether the child has been placed in the least-restrictive
6 setting appropriate to the child's needs, including whether
7 consideration has been given to placement with the child's
8 relatives;

9 (d) Whether there is a continuing need for placement and whether
10 the placement is appropriate;

11 (e) Whether there has been compliance with the case plan;

12 (f) Whether progress has been made toward alleviating the need
13 for placement;

14 (g) A likely date by which the child may be returned home or
15 other permanent plan of care may be implemented; and

16 (h) Other problems, solutions, or alternatives the board
17 determines should be explored.

18 (5) Within ten working days following the review, the board shall
19 send a copy of its findings and recommendations to the parents and
20 their attorneys, the child's custodians and their attorneys, mature
21 children and their attorneys, other attorneys or guardians ad litem
22 appointed by the court to represent children, the department and
23 other child placement agencies directly responsible for supervising
24 the child's placement, and any prosecuting attorney or attorney
25 general actively involved in the case. If the child is an Indian as
26 defined in the Indian child welfare act, 25 U.S.C. Sec. 1901 et

1 seq., a copy of the board's findings and recommendations shall also
2 be sent to the child's Indian tribe.

3 (6) If the department is unable or unwilling to implement the
4 board recommendations, the department shall submit to the board,
5 within ten working days after receipt of the findings and
6 recommendations, an implementation report setting forth the reasons
7 why the department is unable or unwilling to implement the board's
8 recommendations. The report will also set forth the case plan which
9 the department intends to implement.

10 (7) Within forty-five days following the review, the board shall
11 either:

12 (a) Schedule the case for further review by the board; or

13 ~~(b) ((File with the court a motion for a review hearing;~~

14 ~~(c))~~ Submit to the court the board's findings and
15 recommendations~~((,))~~ and the department's implementation reports, if
16 any~~((, and a proposed amended court order agreed to by the parties~~
17 ~~to the action, if any))~~. If the board's recommendations are
18 different from the existing court-ordered case plan, the board shall
19 also file with the court a motion for a review hearing.

20 (8) ~~((Upon))~~ Within ten days of receipt of the board's written
21 findings and recommendations((,)) and the department's
22 implementation report, if any, ~~((and the proposed amended court~~
23 ~~order, if any,))~~ the court shall ~~((either:~~

24 ~~(a) Approve the recommendations; or~~

25 ~~(b) Upon its own motion, schedule a review hearing))~~ review the
26 findings and recommendations and implementation reports, if any.
27 The court may on its own motion schedule a review hearing.

1 (9) Unless modified by subsequent court order, the court-ordered
2 case plan and court orders that are in effect at the time that a
3 board reviews a case shall remain in full force and effect. Board
4 findings and recommendations are advisory only and do not in any way
5 modify existing court orders or court-ordered case plans.

6 (10) The findings and recommendations of the board and the
7 department's implementation report, if any, shall become part of the
8 department's case file and the court social file pertaining to the
9 child.

10 (~~(10)~~) (11) Nothing in this section shall limit or otherwise
11 modify the rights of any party to a dependency proceeding to request
12 and receive a court review hearing pursuant to the provisions of
13 chapter 13.34 RCW or applicable court rules.

14 **Sec. 6.** RCW 13.34.210 and 1988 c 203 s 2 are each amended to
15 read as follows:

16 If, upon entering an order terminating the parental rights of a
17 parent, there remains no parent having parental rights, the court
18 shall commit the child to the custody of the department of social
19 and health services or to a licensed child-placing agency willing to
20 accept custody for the purpose of placing the child for adoption, or
21 in the absence thereof in a licensed foster home, or take other
22 suitable measures for the care and welfare of the child. The
23 custodian shall have authority to consent to the adoption of the
24 child consistent with chapter 26.33 RCW, the marriage of the child,
25 the enlistment of the child in the armed forces of the United
26 States, necessary surgical and other medical treatment for the

1 child, and to consent to such other matters as might normally be
2 required of the parent of the child.

3 If a child has not been adopted within six months after the date
4 of the order and a general guardian of the child has not been
5 appointed by the court, the child shall be returned to the court for
6 entry of further orders for his or her care, custody, and control,
7 and, except for children whose cases are reviewed by a citizen
8 review board under chapter 13.70 RCW, the court shall review the
9 case every six months thereafter until a decree of adoption is
10 entered.

11 NEW SECTION. Sec. 7. RCW 13.70.900 and 1989 1st ex.s. c 17
12 s 19 are each repealed.

13 NEW SECTION. Sec. 8. If specific funding for the purposes
14 of this act, referencing this act by bill number, is not provided by
15 June 30, 1991, in the omnibus appropriations act, this act shall be
16 null and void.

17 NEW SECTION. Sec. 9. This act is necessary for the
18 immediate preservation of the public peace, health, or safety, or
19 support of the state government and its existing public
20 institutions, and shall take effect immediately.