
SENATE BILL 5245

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By Senators Hargrove, Brandland, McAuliffe, Stevens, Rockefeller and Shin; by request of Department of Social and Health Services

Read first time 01/15/2007. Referred to Committee on Human Services & Corrections.

1 AN ACT Relating to compliance with the federal safe and timely
2 interstate placement of foster children; amending RCW 13.34.138 and
3 13.34.145; and adding new sections to chapter 13.34 RCW.

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

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 13.34 RCW
6 to read as follows:

7 The supervising agency shall provide the child's foster parents,
8 preadoptive parents, or relative caregivers with notice of their right
9 to be heard prior to each proceeding held with respect to the child in
10 juvenile court under this chapter. The rights to notice and to be
11 heard apply only to persons with whom a child has been placed by the
12 supervising agency and who are providing care to the child at the time
13 of the proceeding. This section shall not be construed to grant party
14 status to any person solely on the basis of such notice and right to be
15 heard.

16 NEW SECTION. **Sec. 2.** A new section is added to chapter 13.34 RCW
17 to read as follows:

18 If a child is placed in the custody of the department or other

1 supervising agency following the shelter care hearing, an order and
2 authorization regarding health care and education records for the child
3 shall be entered. The order shall provide the department or other
4 supervising agency with the right to inspect and copy all health,
5 medical, mental health, and education records of the child and shall
6 authorize and direct any agency, hospital, doctor, nurse, dentist,
7 orthodontist, or other health care provider, therapist, drug or alcohol
8 treatment provider, psychologist, psychiatrist, or mental health
9 clinic, or health or medical records custodian or document management
10 company, or school or school organization to permit the supervising
11 agency to inspect and to obtain copies of any records relating to the
12 child involved in the case, without the further consent of the parent
13 or guardian of the child. The order shall further grant the
14 supervising agency or its designee the authority and responsibility,
15 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 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 hours;
- 26 and
- 27 (9) Complete or update school emergency records.

28 **Sec. 3.** RCW 13.34.138 and 2005 c 512 s 3 are each amended to read
29 as follows:

- 30 (1) Except for children whose cases are reviewed by a citizen
31 review board under chapter 13.70 RCW, the status of all children found
32 to be dependent shall be reviewed by the court at least every six
33 months from the beginning date of the placement episode or the date
34 dependency is established, whichever is first, at a hearing in which it
35 shall be determined whether court supervision should continue. The
36 initial review hearing shall be an in-court review and shall be set six
37 months from the beginning date of the placement episode or no more than

1 ninety days from the entry of the disposition order, whichever comes
2 first. The initial review hearing may be a permanency planning hearing
3 when necessary to meet the time frames set forth in RCW 13.34.145(3) or
4 13.34.134. The review shall include findings regarding the agency and
5 parental completion of disposition plan requirements, and if necessary,
6 revised permanency time limits. This review shall consider both the
7 agency's and parent's efforts that demonstrate consistent measurable
8 progress over time in meeting the disposition plan requirements. The
9 requirements for the initial review hearing, including the in-court
10 requirement, shall be accomplished within existing resources. ((The
11 supervising agency shall provide a foster parent, preadoptive parent,
12 or relative with notice of, and their right to an opportunity to be
13 heard in, a review hearing pertaining to the child, but only if that
14 person is currently providing care to that child at the time of the
15 hearing. This section shall not be construed to grant party status to
16 any person who has been provided an opportunity to be heard.))

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

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

26 (i) Whether reasonable services have been provided to or offered to
27 the parties to facilitate reunion, specifying the services provided or
28 offered;

29 (ii) Whether the child has been placed in the least-restrictive
30 setting appropriate to the child's needs, including whether
31 consideration and preference has been given to placement with the
32 child's relatives, and whether both in-state and, where appropriate,
33 out-of-state placements have been considered;

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

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

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

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

5 (vii) Whether additional services, including housing assistance,
6 are needed to facilitate the return of the child to the child's
7 parents; if so, the court shall order that reasonable services be
8 offered specifying such services; and

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

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

13 (2)(a) In any case in which the court orders that a dependent child
14 may be returned to or remain in the child's home, the in-home placement
15 shall be contingent upon the following:

16 (i) The compliance of the parents with court orders related to the
17 care and supervision of the child, including compliance with an agency
18 case plan; and

19 (ii) The continued participation of the parents, if applicable, in
20 available substance abuse or mental health treatment if substance abuse
21 or mental illness was a contributing factor to the removal of the
22 child.

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

25 (i) Noncompliance by the parents with the agency case plan or court
26 order;

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

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

35 (3) The court's ability to order housing assistance under RCW
36 13.34.130 and this section is: (a) Limited to cases in which
37 homelessness or the lack of adequate and safe housing is the primary

1 reason for an out-of-home placement; and (b) subject to the
2 availability of funds appropriated for this specific purpose.

3 (4) The court shall consider the child's relationship with siblings
4 in accordance with RCW 13.34.130(3).

5 **Sec. 4.** RCW 13.34.145 and 2003 c 227 s 6 are each amended to read
6 as follows:

7 (1) A permanency plan shall be developed no later than sixty days
8 from the time the supervising agency assumes responsibility for
9 providing services, including placing the child, or at the time of a
10 hearing under RCW 13.34.130, whichever occurs first. The permanency
11 planning process continues until a permanency planning goal is achieved
12 or dependency is dismissed. The planning process shall include
13 reasonable efforts to return the child to the parent's home.

14 (a) Whenever a child is placed in out-of-home care pursuant to RCW
15 13.34.130, the agency that has custody of the child shall provide the
16 court with a written permanency plan of care directed towards securing
17 a safe, stable, and permanent home for the child as soon as possible.
18 The plan shall identify one of the following outcomes as the primary
19 goal and may also identify additional outcomes as alternative goals:
20 Return of the child to the home of the child's parent, guardian, or
21 legal custodian; adoption; guardianship; permanent legal custody; long-
22 term relative or foster care, until the child is age eighteen, with a
23 written agreement between the parties and the care provider; a
24 responsible living skills program; and independent living, if
25 appropriate and if the child is age sixteen or older and the provisions
26 of subsection (2) of this section are met. The plan shall state
27 whether both in-state and, where appropriate, out-of-state placement
28 options have been considered by the agency.

29 (b) The identified outcomes and goals of the permanency plan may
30 change over time based upon the circumstances of the particular case.

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

1 (d) For purposes related to permanency planning:

2 (i) "Guardianship" means a dependency guardianship, a legal
3 guardianship pursuant to chapter 11.88 RCW, or equivalent laws of
4 another state or a federally recognized Indian tribe.

5 (ii) "Permanent custody order" means a custody order entered
6 pursuant to chapter 26.10 RCW.

7 (iii) "Permanent legal custody" means legal custody pursuant to
8 chapter 26.10 RCW or equivalent laws of another state or of a federally
9 recognized Indian tribe.

10 (2) Whenever a permanency plan identifies independent living as a
11 goal, the plan shall also specifically identify the services that will
12 be provided to assist the child to make a successful transition from
13 foster care to independent living. Before the court approves
14 independent living as a permanency plan of care, the court shall make
15 a finding that the provision of services to assist the child in making
16 a transition from foster care to independent living will allow the
17 child to manage his or her financial, personal, social, educational,
18 and nonfinancial affairs. The department shall not discharge a child
19 to an independent living situation before the child is eighteen years
20 of age unless the child becomes emancipated pursuant to chapter 13.64
21 RCW.

22 (3) A permanency planning hearing shall be held in all cases where
23 the child has remained in out-of-home care for at least nine months and
24 an adoption decree, guardianship order, or permanent custody order has
25 not previously been entered. The hearing shall take place no later
26 than twelve months following commencement of the current placement
27 episode.

28 (4) Whenever a child is removed from the home of a dependency
29 guardian or long-term relative or foster care provider, and the child
30 is not returned to the home of the parent, guardian, or legal custodian
31 but is placed in out-of-home care, a permanency planning hearing shall
32 take place no later than twelve months, as provided in subsection (3)
33 of this section, following the date of removal unless, prior to the
34 hearing, the child returns to the home of the dependency guardian or
35 long-term care provider, the child is placed in the home of the parent,
36 guardian, or legal custodian, an adoption decree, guardianship order,
37 or a permanent custody order is entered, or the dependency is
38 dismissed.

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

5 (6) At the permanency planning hearing, the court shall enter
6 findings as required by RCW 13.34.138 and shall review the permanency
7 plan prepared by the agency. If the child has resided in the home of
8 a foster parent or relative for more than six months prior to the
9 permanency planning hearing, the court shall also enter a finding
10 regarding whether the foster parent or relative was informed of the
11 hearing as required in RCW 74.13.280 and 13.34.138. If a goal of long-
12 term foster or relative care has been achieved prior to the permanency
13 planning hearing, the court shall review the child's status to
14 determine whether the placement and the plan for the child's care
15 remain appropriate. In cases where the primary permanency planning
16 goal has not been achieved, the court shall inquire regarding the
17 reasons why the primary goal has not been achieved and determine what
18 needs to be done to make it possible to achieve the primary goal. In
19 all cases, the court shall:

20 (a)(i) Order the permanency plan prepared by the agency to be
21 implemented; or

22 (ii) Modify the permanency plan, and order implementation of the
23 modified plan; and

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

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

29 (7) If the court orders the child returned home, casework
30 supervision shall continue for at least six months, at which time a
31 review hearing shall be held pursuant to RCW 13.34.138, and the court
32 shall determine the need for continued intervention.

33 (8) The juvenile court may hear a petition for permanent legal
34 custody when: (a) The court has ordered implementation of a permanency
35 plan that includes permanent legal custody; and (b) the party pursuing
36 the permanent legal custody is the party identified in the permanency
37 plan as the prospective legal custodian. During the pendency of such
38 proceeding, the court shall conduct review hearings and further

1 permanency planning hearings as provided in this chapter. At the
2 conclusion of the legal guardianship or permanent legal custody
3 proceeding, a juvenile court hearing shall be held for the purpose of
4 determining whether dependency should be dismissed. If a guardianship
5 or permanent custody order has been entered, the dependency shall be
6 dismissed.

7 (9) Continued juvenile court jurisdiction under this chapter shall
8 not be a barrier to the entry of an order establishing a legal
9 guardianship or permanent legal custody when the requirements of
10 subsection (8) of this section are met.

11 (10) Following the first permanency planning hearing, the court
12 shall hold a further permanency planning hearing in accordance with
13 this section at least once every twelve months until a permanency
14 planning goal is achieved or the dependency is dismissed, whichever
15 occurs first.

16 (11) Except as provided in RCW 13.34.235, the status of all
17 dependent children shall continue to be reviewed by the court at least
18 once every six months, in accordance with RCW 13.34.138, until the
19 dependency is dismissed. Prior to the second permanency planning
20 hearing, the agency that has custody of the child shall consider
21 whether to file a petition for termination of parental rights.

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

31 (13) The approval of a permanency plan that does not contemplate
32 return of the child to the parent does not relieve the supervising
33 agency of its obligation to provide reasonable services, under this
34 chapter, intended to effectuate the return of the child to the parent,
35 including but not limited to, visitation rights. The court shall
36 consider the child's relationships with siblings in accordance with RCW
37 13.34.130.

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

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