

SSB 5510 - H COMM AMD

By Committee on Early Learning & Children's Services

ADOPTED AS AMENDED 04/09/2009

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

3 "NEW SECTION. **Sec. 1.** The legislature finds that when children
4 have been found dependent and placed in out-of-home care, the
5 likelihood of reunification with their parents diminishes significantly
6 after fifteen months. The legislature also finds that early and
7 consistent parental engagement in services and participation in
8 appropriate parent-child contact and visitation increases the
9 likelihood of successful reunifications. The legislature intends to
10 promote greater awareness among parents in dependency cases of the
11 importance of active participation in services, visitation, and case
12 planning for the child, and the risks created by failure to participate
13 in their child's case over the long term.

14 **Sec. 2.** RCW 13.34.062 and 2007 c 413 s 4 and 2007 c 409 s 5 are
15 each reenacted and amended to read as follows:

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

28 (b) In no event shall the notice required by this section be
29 provided to the parent, guardian, or legal custodian more than twenty-

1 four hours after the child has been taken into custody or twenty-four
2 hours after child protective services has been notified that the child
3 has been taken into custody.

4 (2)(a) The notice of custody and rights may be given by any means
5 reasonably certain of notifying the parents including, but not limited
6 to, written, telephone, or in person oral notification. If the initial
7 notification is provided by a means other than writing, child
8 protective services shall make reasonable efforts to also provide
9 written notification.

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

12 "NOTICE

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

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

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

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

34 4. If your hearing occurs before a court commissioner, you have the
35 right to have the decision of the court commissioner reviewed by a
36 superior court judge. To obtain that review, you must, within ten days
37 after the entry of the decision of the court commissioner, file with

1 the court a motion for revision of the decision, as provided in RCW
2 2.24.050.

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

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

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

14 6. If your child is placed in the custody of the department of
15 social and health services or other supervising agency, immediately
16 following the shelter care hearing, the court will enter an order
17 granting the department or other supervising agency the right to
18 inspect and copy all health, medical, mental health, and education
19 records of the child, directing health care providers to release such
20 information without your further consent, and granting the department
21 or supervising agency or its designee the authority and responsibility,
22 where applicable, to:

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

25 (2) Enroll the child in school;

26 (3) Request the school transfer records;

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

28 (5) Attend parent or teacher conferences;

29 (6) Excuse absences;

30 (7) Grant permission for extracurricular activities;

31 (8) Authorize medications which need to be administered during
32 school hours and sign for medical needs that arise during school hours;
33 and

34 (9) Complete or update school emergency records.

35 7. If the court decides to place your child in the custody of the
36 department of social and health services or other supervising agency,
37 the department or agency will create a permanency plan for your child,

1 including a primary placement goal and secondary placement goal. The
2 department or agency also will recommend that the court order services
3 for your child and for you, if needed. The department or agency is
4 required to make reasonable efforts to provide you with services to
5 address your parenting problems, and to provide you with visitation
6 with your child according to court orders. Failure to promptly engage
7 in services or to maintain contact with your child may lead to the
8 filing of a petition to terminate your parental rights.

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

25 9. A dependency petition begins a judicial process, which, if the
26 court finds your child dependent, could result in substantial
27 restrictions including, the entry or modification of a parenting plan
28 or residential schedule, nonparental custody order or decree,
29 guardianship order, or permanent loss of your parental rights."

30 Upon receipt of the written notice, the parent, guardian, or legal
31 custodian shall acknowledge such notice by signing a receipt prepared
32 by child protective services. If the parent, guardian, or legal
33 custodian does not sign the receipt, the reason for lack of a signature
34 shall be written on the receipt. The receipt shall be made a part of
35 the court's file in the dependency action.

36 If after making reasonable efforts to provide notification, child
37 protective services is unable to determine the whereabouts of the

1 parents, guardian, or legal custodian, the notice shall be delivered or
2 sent to the last known address of the parent, guardian, or legal
3 custodian.

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

10 (4) Reasonable efforts to advise and to give notice, as required in
11 this section, shall include, at a minimum, investigation of the
12 whereabouts of the parent, guardian, or legal custodian. If such
13 reasonable efforts are not successful, or the parent, guardian, or
14 legal custodian does not appear at the shelter care hearing, the
15 petitioner shall testify at the hearing or state in a declaration:

16 (a) The efforts made to investigate the whereabouts of, and to
17 advise, the parent, guardian, or (~~legal~~) custodian; and

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

21 NEW SECTION. **Sec. 3.** A new section is added to chapter 13.34 RCW
22 to read as follows:

23 (1) After entry of a dispositional order pursuant to RCW 13.34.130
24 ordering placement of a child in out-of-home care, the department shall
25 continue to encourage the parent, guardian, or custodian of the child
26 to engage in services and maintain contact with the child, which shall
27 be accomplished by attaching a standard notice to the services and
28 safety plan to be provided in advance of hearings conducted pursuant to
29 RCW 13.34.138.

30 (2) The notice shall be photocopied on contrasting paper to
31 distinguish it from the services and safety plan to which it is
32 attached, and shall be in substantially the following form:

33 "NOTICE

1 (b) Any parent, guardian, or legal custodian who for good cause is
2 unable to attend the shelter care hearing may request that a subsequent
3 shelter care hearing be scheduled. The request shall be made to the
4 clerk of the court where the petition is filed prior to the initial
5 shelter care hearing. Upon the request of the parent, the court shall
6 schedule the hearing within seventy-two hours of the request, excluding
7 Saturdays, Sundays, and holidays. The clerk shall notify all other
8 parties of the hearing by any reasonable means.

9 (2)(a) The department of social and health services shall submit a
10 recommendation to the court as to the further need for shelter care in
11 all cases in which it is the petitioner. In all other cases, the
12 recommendation shall be submitted by the juvenile court probation
13 counselor.

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

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

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

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

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

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

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

1 (4) At the shelter care hearing the court shall examine the need
2 for shelter care and inquire into the status of the case. The
3 paramount consideration for the court shall be the health, welfare, and
4 safety of the child. At a minimum, the court shall inquire into the
5 following:

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

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

19 (c) What efforts have been made to place the child with a relative;

20 (d) What services were provided to the family to prevent or
21 eliminate the need for removal of the child from the child's home;

22 (e) Is the placement proposed by the agency the least disruptive
23 and most family-like setting that meets the needs of the child;

24 (f) Whether it is in the best interest of the child to remain
25 enrolled in the school, developmental program, or child care the child
26 was in prior to placement and what efforts have been made to maintain
27 the child in the school, program, or child care if it would be in the
28 best interest of the child to remain in the same school, program, or
29 child care;

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

31 (h) Whether the child is or may be an Indian child as defined in 25
32 U.S.C. Sec. 1903, whether the provisions of the Indian child welfare
33 act apply, and whether there is compliance with the Indian child
34 welfare act, including notice to the child's tribe;

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

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

5 (k) The terms and conditions for parental, sibling, and family
6 visitation.

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

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

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

17 (B) The release of such child would present a serious threat of
18 substantial harm to such child, notwithstanding an order entered
19 pursuant to RCW 26.44.063; or

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

22 (b) If the court does not release the child to his or her parent,
23 guardian, or legal custodian, the court shall order placement with a
24 relative, unless there is reasonable cause to believe the health,
25 safety, or welfare of the child would be jeopardized or that the
26 efforts to reunite the parent and child will be hindered. The relative
27 must be willing and available to:

28 (i) Care for the child and be able to meet any special needs of the
29 child;

30 (ii) Facilitate the child's visitation with siblings, if such
31 visitation is part of the supervising agency's plan or is ordered by
32 the court; and

33 (iii) Cooperate with the department in providing necessary
34 background checks and home studies.

35 (c) If the child was not initially placed with a relative, and the
36 court does not release the child to his or her parent, guardian, or
37 legal custodian, the supervising agency shall make reasonable efforts
38 to locate a relative pursuant to RCW 13.34.060(1). In determining

1 placement, the court shall weigh the child's length of stay and
2 attachment to the current provider in determining what is in the best
3 interest of the child.

4 (d) If a relative is not available, the court shall order continued
5 shelter care or order placement with another suitable person, and the
6 court shall set forth its reasons for the order. If the court orders
7 placement of the child with a person not related to the child and not
8 licensed to provide foster care, the placement is subject to all terms
9 and conditions of this section that apply to relative placements.

10 (e) Any placement with a relative, or other person approved by the
11 court pursuant to this section, shall be contingent upon cooperation
12 with the agency case plan and compliance with court orders related to
13 the care and supervision of the child including, but not limited to,
14 court orders regarding parent-child contacts, sibling contacts, and any
15 other conditions imposed by the court. Noncompliance with the case
16 plan or court order is grounds for removal of the child from the home
17 of the relative or other person, subject to review by the court.

18 (f) Uncertainty by a parent, guardian, legal custodian, relative,
19 or other suitable person that the alleged abuser has in fact abused the
20 child shall not, alone, be the basis upon which a child is removed from
21 the care of a parent, guardian, or legal custodian under (a) of this
22 subsection, nor shall it be a basis, alone, to preclude placement with
23 a relative under (b) of this subsection or with another suitable person
24 under (d) of this subsection.

25 (6)(a) A shelter care order issued pursuant to this section shall
26 include the requirement for a case conference as provided in RCW
27 13.34.067. However, if the parent is not present at the shelter care
28 hearing, or does not agree to the case conference, the court shall not
29 include the requirement for the case conference in the shelter care
30 order.

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

35 (c) The court may order another conference, case staffing, or
36 hearing as an alternative to the case conference required under RCW
37 13.34.067 so long as the conference, case staffing, or hearing ordered

1 by the court meets all requirements under RCW 13.34.067, including the
2 requirement of a written agreement specifying the services to be
3 provided to the parent.

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

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

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

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

21 (b) If a child is returned home from shelter care a second time in
22 the case a law enforcement officer must be present and file a report to
23 the department.

24 **Sec. 5.** RCW 13.34.145 and 2008 c 152 s 3 are each amended to read
25 as follows:

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

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

36 (b) Whenever a child is removed from the home of a dependency
37 guardian or long-term relative or foster care provider, and the child

1 is not returned to the home of the parent, guardian, or legal custodian
2 but is placed in out-of-home care, a permanency planning hearing shall
3 take place no later than twelve months, as provided in this section,
4 following the date of removal unless, prior to the hearing, the child
5 returns to the home of the dependency guardian or long-term care
6 provider, the child is placed in the home of the parent, guardian, or
7 legal custodian, an adoption decree, guardianship order, or a permanent
8 custody order is entered, or the dependency is dismissed. Every effort
9 shall be made to provide stability in long-term placement, and to avoid
10 disruption of placement, unless the child is being returned home or it
11 is in the best interest of the child.

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

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

23 (3) At the permanency planning hearing, the court shall conduct the
24 following inquiry:

25 (a) If a goal of long-term foster or relative care has been
26 achieved prior to the permanency planning hearing, the court shall
27 review the child's status to determine whether the placement and the
28 plan for the child's care remain appropriate.

29 (b) In cases where the primary permanency planning goal has not
30 been achieved, the court shall inquire regarding the reasons why the
31 primary goal has not been achieved and determine what needs to be done
32 to make it possible to achieve the primary goal. The court shall
33 review the permanency plan prepared by the agency and make explicit
34 findings regarding each of the following:

35 (i) The continuing necessity for, and the safety and
36 appropriateness of, the placement;

37 (ii) The extent of compliance with the permanency plan by the

1 agency and any other service providers, the child's parents, the child,
2 and the child's guardian, if any;

3 (iii) The extent of any efforts to involve appropriate service
4 providers in addition to agency staff in planning to meet the special
5 needs of the child and the child's parents;

6 (iv) The progress toward eliminating the causes for the child's
7 placement outside of his or her home and toward returning the child
8 safely to his or her home or obtaining a permanent placement for the
9 child;

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

13 (vi) If the child has been placed outside of his or her home for
14 fifteen of the most recent twenty-two months, not including any period
15 during which the child was a runaway from the out-of-home placement or
16 the first six months of any period during which the child was returned
17 to his or her home for a trial home visit, the appropriateness of the
18 permanency plan, whether reasonable efforts were made by the agency to
19 achieve the goal of the permanency plan, and the circumstances which
20 prevent the child from any of the following:

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

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

24 (C) Being placed for adoption;

25 (D) Being placed with a guardian;

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

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

30 At this hearing, the court shall order the department to file a
31 petition seeking termination of parental rights if the child has been
32 in out-of-home care for fifteen of the last twenty-two months since the
33 date the dependency petition was filed unless the court makes a good
34 cause exception as to why the filing of a termination of parental
35 rights petition is not appropriate. Any good cause finding shall be
36 reviewed at all subsequent hearings pertaining to the child. For
37 purposes of this section, "good cause exception" includes but is not
38 limited to the following: The child is being cared for by a relative;

1 the department has not provided to the child's family such services as
2 the court and the department have deemed necessary for the child's safe
3 return home; or the department has documented in the case plan a
4 compelling reason for determining that filing a petition to terminate
5 parental rights would not be in the child's best interests.

6 (c)(i) If the permanency plan identifies independent living as a
7 goal, the court shall make a finding that the provision of services to
8 assist the child in making a transition from foster care to independent
9 living will allow the child to manage his or her financial, personal,
10 social, educational, and nonfinancial affairs prior to approving
11 independent living as a permanency plan of care.

12 (ii) The permanency plan shall also specifically identify the
13 services that will be provided to assist the child to make a successful
14 transition from foster care to independent living.

15 (iii) The department shall not discharge a child to an independent
16 living situation before the child is eighteen years of age unless the
17 child becomes emancipated pursuant to chapter 13.64 RCW.

18 (d) If the child has resided in the home of a foster parent or
19 relative for more than six months prior to the permanency planning
20 hearing, the court shall also enter a finding regarding whether the
21 foster parent or relative was informed of the hearing as required in
22 RCW 74.13.280, 13.34.215(5), and 13.34.096.

23 (4) In all cases, at the permanency planning hearing, the court
24 shall enter one of the following orders for a child. The court shall
25 utilize a developmentally appropriate child-centered perspective to
26 consider the child's history and attachment status, how separation from
27 primary caregivers has affected the child, and how an additional
28 separation and change in placement may affect the child's attachment
29 system or create a risk of psychological harm with potentially lifelong
30 consequences:

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

33 (ii) Modify the permanency plan, and order implementation of the
34 modified plan; and

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

37 (ii) Order the child to remain in out-of-home care for a limited

1 specified time period while efforts are made to implement the
2 permanency plan.

3 (5) Following the first permanency planning hearing, the court
4 shall hold a further permanency planning hearing in accordance with
5 this section at least once every twelve months until a permanency
6 planning goal is achieved or the dependency is dismissed, whichever
7 occurs first.

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

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

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

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

31 (10) Nothing in this chapter may be construed to limit the ability
32 of the agency that has custody of the child to file a petition for
33 termination of parental rights or a guardianship petition at any time
34 following the establishment of dependency. Upon the filing of such a
35 petition, a fact-finding hearing shall be scheduled and held in
36 accordance with this chapter unless the agency requests dismissal of
37 the petition prior to the hearing or unless the parties enter an agreed

1 order terminating parental rights, establishing guardianship, or
2 otherwise resolving the matter.

3 (11) The approval of a permanency plan that does not contemplate
4 return of the child to the parent does not relieve the supervising
5 agency of its obligation to provide reasonable services, under this
6 chapter, intended to effectuate the return of the child to the parent,
7 including but not limited to, visitation rights. The court shall
8 consider the child's relationships with siblings in accordance with RCW
9 13.34.130.

10 (12) Nothing in this chapter may be construed to limit the
11 procedural due process rights of any party in a termination or
12 guardianship proceeding filed under this chapter.

13 **Sec. 6.** RCW 13.34.180 and 2001 c 332 s 4 are each amended to read
14 as follows:

15 (1) A petition seeking termination of a parent and child
16 relationship may be filed in juvenile court by any party to the
17 dependency proceedings concerning that child. Such petition shall
18 conform to the requirements of RCW 13.34.040, shall be served upon the
19 parties as provided in RCW 13.34.070(8), and shall allege all of the
20 following unless subsection (2) or (3) of this section applies:

21 (a) That the child has been found to be a dependent child;

22 (b) That the court has entered a dispositional order pursuant to
23 RCW 13.34.130;

24 (c) That the child has been removed or will, at the time of the
25 hearing, have been removed from the custody of the parent for a period
26 of at least six months pursuant to a finding of dependency;

27 (d) That the services ordered under RCW 13.34.136 have been
28 expressly and understandably offered or provided and all necessary
29 services, reasonably available, capable of correcting the parental
30 deficiencies within the foreseeable future have been expressly and
31 understandably offered or provided;

32 (e) That there is little likelihood that conditions will be
33 remedied so that the child can be returned to the parent in the near
34 future. A parent's failure to substantially improve parental
35 deficiencies within twelve months following entry of the dispositional
36 order shall give rise to a rebuttable presumption that there is little
37 likelihood that conditions will be remedied so that the child can be

1 returned to the parent in the near future. The presumption shall not
2 arise unless the petitioner makes a showing that all necessary services
3 reasonably capable of correcting the parental deficiencies within the
4 foreseeable future have been clearly offered or provided. In
5 determining whether the conditions will be remedied the court may
6 consider, but is not limited to, the following factors:

7 (i) Use of intoxicating or controlled substances so as to render
8 the parent incapable of providing proper care for the child for
9 extended periods of time or for periods of time that present a risk of
10 imminent harm to the child, and documented unwillingness of the parent
11 to receive and complete treatment or documented multiple failed
12 treatment attempts; ~~((or))~~

13 (ii) Psychological incapacity or mental deficiency of the parent
14 that is so severe and chronic as to render the parent incapable of
15 providing proper care for the child for extended periods of time or for
16 periods of time that present a risk of imminent harm to the child, and
17 documented unwillingness of the parent to receive and complete
18 treatment or documentation that there is no treatment that can render
19 the parent capable of providing proper care for the child in the near
20 future; or

21 (iii) Failure of the parent to have contact with the child for an
22 extended period of time after the filing of the dependency petition if
23 the parent was provided an opportunity to have a relationship with the
24 child by the department or the court and received documented notice of
25 the potential consequences of this failure, except that the actual
26 inability of a parent to have visitation with the child due to
27 mitigating circumstances including, but not limited to, a parent's
28 incarceration or service in the military does not in and of itself
29 constitute failure to have contact with the child; and

30 (f) That continuation of the parent and child relationship clearly
31 diminishes the child's prospects for early integration into a stable
32 and permanent home.

33 (2) In lieu of the allegations in subsection (1) of this section,
34 the petition may allege that the child was found under such
35 circumstances that the whereabouts of the child's parent are unknown
36 and no person has acknowledged paternity or maternity and requested
37 custody of the child within two months after the child was found.

1 (3) In lieu of the allegations in subsection (1)(b) through (f) of
2 this section, the petition may allege that the parent has been
3 convicted of:

4 (a) Murder in the first degree, murder in the second degree, or
5 homicide by abuse as defined in chapter 9A.32 RCW against another child
6 of the parent;

7 (b) Manslaughter in the first degree or manslaughter in the second
8 degree, as defined in chapter 9A.32 RCW against another child of the
9 parent;

10 (c) Attempting, conspiring, or soliciting another to commit one or
11 more of the crimes listed in (a) or (b) of this subsection; or

12 (d) Assault in the first or second degree, as defined in chapter
13 9A.36 RCW, against the surviving child or another child of the parent.

14 (4) Notice of rights shall be served upon the parent, guardian, or
15 legal custodian with the petition and shall be in substantially the
16 following form:

17 "NOTICE

18 A petition for termination of parental rights has been filed
19 against you. You have important legal rights and you must take
20 steps to protect your interests. This petition could result in
21 permanent loss of your parental rights.

22 1. You have the right to a fact-finding hearing before
23 a judge.

24 2. You have the right to have a lawyer represent you at
25 the hearing. A lawyer can look at the files in your case, talk
26 to the department of social and health services and other
27 agencies, tell you about the law, help you understand your
28 rights, and help you at hearings. If you cannot afford a
29 lawyer, the court will appoint one to represent you. To get a
30 court-appointed lawyer you must contact: (explain local
31 procedure) .

32 3. At the hearing, you have the right to speak on your
33 own behalf, to introduce evidence, to examine witnesses, and to
34 receive a decision based solely on the evidence presented to
35 the judge.

36 You should be present at this hearing.

1 You may call (insert agency) for more information
2 about your child. The agency's name and telephone number are
3 (insert name and telephone number) ."

4 Correct the title.

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