
HOUSE BILL 1923

State of Washington

67th Legislature

2022 Regular Session

By Representatives Chase, Dent, and Sutherland

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

1 AN ACT Relating to protecting the parent-child relationship;
2 amending RCW 13.34.050, 13.34.060, and 26.44.056; reenacting and
3 amending RCW 13.34.065; and providing an effective date.

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

5 **Sec. 1.** RCW 13.34.050 and 2021 c 211 s 6 are each amended to
6 read as follows:

7 (1) The court may enter an order directing a law enforcement
8 officer, probation counselor, or child protective services official
9 to take a child into custody if: (a) A petition is filed with the
10 juvenile court with sufficient corroborating evidence to establish
11 that the child is dependent; (b) the allegations contained in the
12 petition, if true, establish (~~that there are reasonable grounds to~~
13 ~~believe~~) by a preponderance of the evidence that removal is
14 necessary to prevent imminent physical harm to the child due to child
15 abuse or neglect, including that which results from sexual abuse,
16 sexual exploitation, or a pattern of severe neglect; and (c) an
17 affidavit or declaration is filed by the department in support of the
18 petition setting forth specific factual information evidencing
19 insufficient time to serve a parent with a dependency petition and
20 hold a hearing prior to removal.

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

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

16 **Sec. 2.** RCW 13.34.060 and 2021 c 211 s 8 are each amended to
17 read as follows:

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

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

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

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

19 **Sec. 3.** RCW 13.34.065 and 2021 c 211 s 9, 2021 c 208 s 1, and
20 2021 c 67 s 4 are each reenacted and amended to read as follows:

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

32 (b) Any child's attorney, parent, guardian, or legal custodian
33 who for good cause is unable to attend or adequately prepare for the
34 shelter care hearing may request that the initial shelter care
35 hearing be continued or that a subsequent shelter care hearing be
36 scheduled. The request shall be made to the clerk of the court where
37 the petition is filed prior to the initial shelter care hearing. Upon
38 the request of the child's attorney, parent, guardian, or legal
39 custodian, the court shall schedule the hearing within 72 hours of

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

6 (2) (a) If it is likely that the child will remain in shelter care
7 longer than ((72)) 24 hours, the department shall submit a
8 recommendation to the court as to the further need for shelter care
9 in all cases in which the child will remain in shelter care longer
10 than the ((72)) 24-hour period. In all other cases, the
11 recommendation shall be submitted by the juvenile court probation
12 counselor.

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

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

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

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

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

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

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

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

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

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

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

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

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. If
22 the dependency petition or other information before the court alleges
23 that experiencing homelessness or the lack of suitable housing was a
24 significant factor contributing to the removal of the child, the
25 court shall inquire as to whether housing assistance was provided to
26 the family to prevent or eliminate the need for removal of the child
27 or children;

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

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

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

38 (h) Whether the child is or may be an Indian child as defined in
39 RCW 13.38.040, whether the provisions of the federal Indian child
40 welfare act or chapter 13.38 RCW apply, and whether there is

1 compliance with the federal Indian child welfare act and chapter
2 13.38 RCW, including notice to the child's tribe;

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

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

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

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

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

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

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

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

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

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

3 (b) If the court finds that the elements of (a)(ii)(B) of this
4 subsection require removal of the child, the court shall further
5 consider:

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

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

21 (c)(i) If the court does not release the child to his or her
22 parent, guardian, or legal custodian, the court shall order placement
23 with a relative or other suitable person as described in RCW
24 13.34.130(1)(b), unless the petitioner establishes (~~that there is~~
25 ~~reasonable cause to believe~~) by a preponderance of the evidence
26 that:

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

32 (B) The efforts to reunite the parent and child will be hindered.

33 (ii) In making the determination in (c)(i) of this subsection,
34 the court shall:

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

39 (I) Has expressed an interest in becoming a caregiver for the
40 child;

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

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

4 (IV) Supports reunification of the parent and child once
5 reunification can safely occur; and

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

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

13 (A) An incomplete department or fingerprint-based background
14 check, if such relative or other suitable person appears otherwise
15 suitable and competent to provide care and treatment, but the
16 background checks must be completed as soon as possible after
17 placement;

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

20 (C) Disbelief on the part of the relative or other suitable
21 person that the parent, guardian, or legal custodian presents a
22 danger to the child, provided the caregiver will protect the safety
23 of the child and comply with court orders regarding contact with a
24 parent, guardian, or legal custodian; or

25 (D) The conditions of the relative or other suitable person's
26 home are not sufficient to satisfy the requirements of a licensed
27 foster home. The court may order the department to provide financial
28 or other support to the relative or other suitable person necessary
29 to ensure safe conditions in the home.

30 (d) If the child was not initially placed with a relative or
31 other suitable person, and the court does not release the child to
32 his or her parent, guardian, or legal custodian, the department shall
33 make reasonable efforts to locate a relative or other suitable person
34 pursuant to RCW 13.34.060(1).

35 (e) If the court does not order placement with a relative or
36 other suitable person, the court shall place the child in licensed
37 foster care and shall set forth its reasons for the order. If the
38 court orders placement of the child with a person not related to the
39 child and not licensed to provide foster care, the placement is

1 subject to all terms and conditions of this section that apply to
2 relative placements.

3 (f) Any placement with a relative, or other suitable person
4 approved by the court pursuant to this section, shall be contingent
5 upon cooperation with the department's or agency's case plan and
6 compliance with court orders related to the care and supervision of
7 the child including, but not limited to, court orders regarding
8 parent-child contacts, sibling contacts, and any other conditions
9 imposed by the court. Noncompliance with the case plan or court order
10 is grounds for removal of the child from the home of the relative or
11 other suitable person, subject to review by the court.

12 (g) If the child is placed in a qualified residential treatment
13 program as defined in this chapter, the court shall, within 60 days
14 of placement, hold a hearing to:

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

18 (ii) Determine whether placement in foster care can meet the
19 child's needs or if placement in another available placement setting
20 best meets the child's needs in the least restrictive environment;
21 and

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

24 (h) Uncertainty by a parent, guardian, legal custodian, relative,
25 or other suitable person that the alleged abuser has in fact abused
26 the child shall not, alone, be the basis upon which a child is
27 removed from the care of a parent, guardian, or legal custodian under
28 (a) of this subsection, nor shall it be a basis, alone, to preclude
29 placement with a relative or other suitable person under (c) of this
30 subsection.

31 (i) If the court places with a relative or other suitable person,
32 and that person has indicated a desire to become a licensed foster
33 parent, the court shall order the department to commence an
34 assessment of the home of such relative or other suitable person
35 within 10 days and thereafter issue an initial license as provided
36 under RCW 74.15.120 for such relative or other suitable person, if
37 qualified, as a foster parent. The relative or other suitable person
38 shall receive a foster care maintenance payment, starting on the date
39 the department approves the initial license. If such home is found to
40 be unqualified for licensure, the department shall report such fact

1 to the court within one week of that determination. The department
2 shall report on the status of the licensure process during the entry
3 of any dispositional orders in the case.

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

5 (i) The petitioner shall report to the court, at the shelter care
6 hearing, the location of the licensed foster placement the petitioner
7 has identified for the child and the court shall inquire as to
8 whether:

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

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

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

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

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

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

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

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

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

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

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

29 (A) Failure to comply with court orders while a child is in
30 shelter care will be considered when determining whether reasonable
31 efforts have been made by the department during a hearing under RCW
32 13.34.110; and

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

36 (6) (a) A shelter care order issued pursuant to this section shall
37 include the requirement for a case conference as provided in RCW
38 13.34.067. However, if the parent is not present at the shelter care
39 hearing, or does not agree to the case conference, the court shall

1 not include the requirement for the case conference in the shelter
2 care order.

3 (b) If the court orders a case conference, the shelter care order
4 shall include notice to all parties and establish the date, time, and
5 location of the case conference which shall be no later than 30 days
6 before the fact-finding hearing.

7 (c) The court may order another conference, case staffing, or
8 hearing as an alternative to the case conference required under RCW
9 13.34.067 so long as the conference, case staffing, or hearing
10 ordered by the court meets all requirements under RCW 13.34.067,
11 including the requirement of a written agreement specifying the
12 services to be provided to the parent.

13 (7)(a)(i) A shelter care order issued pursuant to this section
14 may be amended at any time with notice and hearing thereon. The
15 shelter care decision of placement shall be modified only upon a
16 showing of change in circumstances. No child may be placed in shelter
17 care for longer than (~~thirty~~) 30 days without an order, signed by
18 the judge, authorizing continued shelter care.

19 (ii) If the court previously ordered that visitation between a
20 parent and child be supervised or monitored, there shall be a
21 presumption that such supervision or monitoring will no longer be
22 necessary following a continued shelter care order under (a)(i) of
23 this subsection. To overcome this presumption, a party must provide a
24 report to the court including evidence establishing that removing
25 visit supervision or monitoring would create a risk to the child's
26 safety, and the court shall make a determination as to whether visit
27 supervision or monitoring must continue.

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

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

36 (8) The department and its employees shall not be held liable in
37 any civil action for complying with an order issued under this
38 section for placement: With a parent who has agreed to accept
39 services, a relative, or a suitable person.

1 (9) (a) If a child is placed out of the home of a parent,
2 guardian, or legal custodian following a shelter care hearing, the
3 court shall order the petitioner to provide regular visitation with
4 the parent, guardian, or legal custodian, and siblings. Early,
5 consistent, and frequent visitation is crucial for maintaining
6 parent-child relationships and allowing family reunification. The
7 court shall order a visitation plan individualized to the needs of
8 the family with a goal of providing the maximum parent, child, and
9 sibling contact possible.

10 (b) Visitation under this subsection shall not be limited as a
11 sanction for a parent's failure to comply with recommended services
12 during shelter care.

13 (c) Visitation under this subsection may only be limited where
14 necessary to ensure the health, safety, or welfare of the child.

15 (d) The first visit must take place within 72 hours of the child
16 being delivered into the custody of the department, unless the court
17 finds that extraordinary circumstances require delay.

18 (e) If the first visit under (d) of this subsection occurs in an
19 in-person format, this first visit must be supervised unless the
20 department determines that visit supervision is not necessary.

21 **Sec. 4.** RCW 26.44.056 and 2021 c 211 s 4 are each amended to
22 read as follows:

23 (1) An administrator of a hospital or similar institution or any
24 physician, licensed pursuant to chapters 18.71 or 18.57 RCW, may
25 detain a child without consent of a person legally responsible for
26 the child whether or not medical treatment is required, if there is
27 probable cause to believe that detaining the child is necessary to
28 prevent imminent physical harm to the child due to child abuse or
29 neglect, including that which results from sexual abuse, sexual
30 exploitation, or a pattern of severe neglect, and the child would be
31 seriously injured or could not be taken into custody if it were
32 necessary to first obtain a court order under RCW 13.34.050:
33 PROVIDED, That such administrator or physician shall notify or cause
34 to be notified the appropriate law enforcement agency or child
35 protective services pursuant to RCW 26.44.040. Such notification
36 shall be made as soon as possible and in no case longer than
37 (~~seventy-two~~) 24 hours. Such temporary protective custody by an
38 administrator or doctor shall not be deemed an arrest. Child
39 protective services may detain the child until the court assumes

1 custody, but in no case longer than ((~~seventy-two~~)) 24 hours,
2 excluding Saturdays, Sundays, and holidays.

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

7 NEW SECTION. **Sec. 5.** This act takes effect July 1, 2023.

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