

CERTIFICATION OF ENROLLMENT  
**SECOND SUBSTITUTE SENATE BILL 5127**

Chapter 127, Laws of 1991

52nd Legislature  
1991 Regular Session

FOSTER CARE CITIZEN REVIEW BOARDS

EFFECTIVE DATE: 5/10/91

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

JOEL PRITCHARD  
**President of the Senate**

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

JOE KING  
**Speaker of the  
House of Representatives**

Approved May 10, 1991

BOOTH GARDNER  
**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.

GORDON A. GOLOB  
**Secretary**

FILED

May 10, 1991 - 2:19 p.m.

**Secretary of State  
State of Washington**



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SECOND SUBSTITUTE SENATE BILL 5127

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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.

Passed the Senate March 15, 1991.  
Passed the House April 18, 1991.  
Approved by the Governor May 10, 1991.  
Filed in Office of Secretary of State May 10, 1991.