

---

HOUSE BILL 1542

---

State of Washington

54th Legislature

1995 Regular Session

By Representatives Brown, Cooke, Dickerson and Costa; by request of Department of Social and Health Services

Read first time 01/30/95. Referred to Committee on Children & Family Services.

1 AN ACT Relating to placement of children; and amending RCW  
2 13.34.130 and 13.34.145.

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

4 **Sec. 1.** RCW 13.34.130 and 1994 c 288 s 4 are each amended to read  
5 as follows:

6 If, after a fact-finding hearing pursuant to RCW 13.34.110, it has  
7 been proven by a preponderance of the evidence that the child is  
8 dependent within the meaning of RCW 13.34.030; after consideration of  
9 the predisposition report prepared pursuant to RCW 13.34.110 and after  
10 a disposition hearing has been held pursuant to RCW 13.34.110, the  
11 court shall enter an order of disposition pursuant to this section.

12 (1) The court shall order one of the following dispositions of the  
13 case:

14 (a) Order a disposition other than removal of the child from his or  
15 her home, which shall provide a program designed to alleviate the  
16 immediate danger to the child, to mitigate or cure any damage the child  
17 has already suffered, and to aid the parents so that the child will not  
18 be endangered in the future. In selecting a program, the court should

1 choose those services that least interfere with family autonomy,  
2 provided that the services are adequate to protect the child.

3 (b) Order that the child be removed from his or her home and  
4 ordered into the custody, control, and care of a relative or the  
5 department of social and health services or a licensed child placing  
6 agency for placement in a foster family home or group care facility  
7 licensed pursuant to chapter 74.15 RCW or in a home not required to be  
8 licensed pursuant to chapter 74.15 RCW. Unless there is reasonable  
9 cause to believe that the safety or welfare of the child would be  
10 jeopardized or that efforts to reunite the parent and child will be  
11 hindered, such child shall be placed with a grandparent, brother,  
12 sister, stepbrother, stepsister, uncle, aunt, or first cousin with whom  
13 the child has a relationship and is comfortable, and who is willing and  
14 available to care for the child. An order for out-of-home placement  
15 may be made only if the court finds that reasonable efforts have been  
16 made to prevent or eliminate the need for removal of the child from the  
17 child's home and to make it possible for the child to return home,  
18 specifying the services that have been provided to the child and the  
19 child's parent, guardian, or legal custodian, and that preventive  
20 services have been offered or provided and have failed to prevent the  
21 need for out-of-home placement, unless the health, safety, and welfare  
22 of the child cannot be protected adequately in the home, and that:

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

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

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

30 (iv) The extent of the child's disability is such that the parent,  
31 guardian, or legal custodian is unable to provide the necessary care  
32 for the child and the parent, guardian, or legal custodian has  
33 determined that the child would benefit from placement outside of the  
34 home.

35 (2) If the court has ordered a child removed from his or her home  
36 pursuant to subsection (1)(b) of this section, the court may order that  
37 a petition seeking termination of the parent and child relationship be  
38 filed if the court finds it is recommended by the supervising agency,  
39 that it is in the best interests of the child and that it is not

1 reasonable to provide further services to reunify the family because  
2 the existence of aggravated circumstances make it unlikely that  
3 services will effectuate the return of the child to the child's parents  
4 in the near future. In determining whether aggravated circumstances  
5 exist, the court shall consider one or more of the following:

6 (a) Conviction of the parent of rape of the child in the first,  
7 second, or third degree as defined in RCW 9A.44.073, 9A.44.076, and  
8 9A.44.079;

9 (b) Conviction of the parent of criminal mistreatment of the child  
10 in the first or second degree as defined in RCW 9A.42.020 and  
11 9A.42.030;

12 (c) Conviction of the parent of one of the following assault  
13 crimes, when the child is the victim: Assault in the first or second  
14 degree as defined in RCW 9A.36.011 and 9A.36.021 or assault of a child  
15 in the first or second degree as defined in RCW 9A.36.120 or 9A.36.130;

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

18 (e) A finding by a court that a parent is a sexually violent  
19 predator as defined in RCW 71.09.020;

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

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

27 (a) A permanency plan of care that shall identify one of the  
28 following outcomes as a primary goal and may identify additional  
29 outcomes as alternative goals: Return of the child to the home of the  
30 child's parent, guardian, or legal custodian; adoption; guardianship;  
31 or long-term relative or foster care, until the child is age eighteen,  
32 with a written agreement between the parties and the care provider; and  
33 independent living, if appropriate and if the child is age sixteen or  
34 older. Whenever a permanency plan identifies independent living as a  
35 goal, the plan shall also specifically identify the services that will  
36 be provided to assist the child to make a successful transition from  
37 foster care to independent living. Before the court approves  
38 independent living as a permanency plan of care, the court shall make  
39 a finding that the provision of services to assist the child in making

1 a transition from foster care to independent living will allow the  
2 child to manage his or her financial affairs and to manage his or her  
3 personal, social, educational, and nonfinancial affairs. The  
4 department shall not discharge a child to an independent living  
5 situation before the child is eighteen years of age unless the child  
6 becomes emancipated pursuant to chapter 13.64 RCW.

7 (b) Unless the court has ordered, pursuant to subsection (2) of  
8 this section, that a termination petition be filed, a specific plan as  
9 to where the child will be placed, what steps will be taken to return  
10 the child home, and what actions the agency will take to maintain  
11 parent-child ties. All aspects of the plan shall include the goal of  
12 achieving permanence for the child.

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

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

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

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

32 (c) If the court has ordered, pursuant to subsection (2) of this  
33 section, that a termination petition be filed, a specific plan as to  
34 where the child will be placed, what steps will be taken to achieve  
35 permanency for the child, services to be offered or provided to the  
36 child, and, if visitation would be in the best interests of the child,  
37 a recommendation to the court regarding visitation between parent and  
38 child pending a fact-finding hearing on the termination petition. The

1 agency shall not be required to develop a plan of services for the  
2 parents or provide services to the parents.

3 (4) If there is insufficient information at the time of the  
4 disposition hearing upon which to base a determination regarding the  
5 suitability of a proposed placement with a relative, the child shall  
6 remain in foster care and the court shall direct the supervising agency  
7 to conduct necessary background investigations as provided in chapter  
8 74.15 RCW and report the results of such investigation to the court  
9 within thirty days. However, if such relative appears otherwise  
10 suitable and competent to provide care and treatment, the criminal  
11 history background check need not be completed before placement, but as  
12 soon as possible after placement. Any placements with relatives,  
13 pursuant to this section, shall be contingent upon cooperation by the  
14 relative with the agency case plan and compliance with court orders  
15 related to the care and supervision of the child including, but not  
16 limited to, court orders regarding parent-child contacts and any other  
17 conditions imposed by the court. Noncompliance with the case plan or  
18 court order shall be grounds for removal of the child from the  
19 relative's home, subject to review by the court.

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

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

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

1 (i) Whether reasonable services have been provided to or offered to  
2 the parties to facilitate reunion, specifying the services provided or  
3 offered;

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

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

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

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

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

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

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

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

22 **Sec. 2.** RCW 13.34.145 and 1994 c 288 s 5 are each amended to read  
23 as follows:

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

31 (a) Whenever a child is placed in out-of-home care pursuant to RCW  
32 13.34.130, the agency that has custody of the child shall provide the  
33 court with a written permanency plan of care directed towards securing  
34 a safe, stable, and permanent home for the child as soon as possible.  
35 The plan shall identify one of the following outcomes as the primary  
36 goal and may also identify additional outcomes as alternative goals:  
37 Return of the child to the home of the child's parent, guardian, or  
38 legal custodian; adoption; guardianship; or long-term relative or

1 foster care, until the child is age eighteen, with a written agreement  
2 between the parties and the care provider; and independent living, if  
3 appropriate and if the child is age sixteen or older and the provisions  
4 of subsection (2) of this section are met.

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

7 (c) Permanency planning goals should be achieved at the earliest  
8 possible date, preferably before the child has been in out-of-home care  
9 for fifteen months.

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

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

28 (b) For children over ten, a permanency planning hearing shall be  
29 held in all cases where the child has remained in out-of-home care for  
30 at least fifteen months and an adoption decree or guardianship order  
31 has not previously been entered. The hearing shall take place no later  
32 than eighteen months following commencement of the current placement  
33 episode.

34 (~~((3))~~) (4) Whenever a child is removed from the home of a  
35 dependency guardian or long-term relative or foster care provider, and  
36 the child is not returned to the home of the parent, guardian, or legal  
37 custodian but is placed in out-of-home care, a permanency planning  
38 hearing shall take place no later than twelve or eighteen months, as  
39 provided in subsection (~~((2))~~) (3) of this section, following the date

1 of removal unless, prior to the hearing, the child returns to the home  
2 of the dependency guardian or long-term care provider, the child is  
3 placed in the home of the parent, guardian, or legal custodian, an  
4 adoption decree or guardianship order is entered, or the dependency is  
5 dismissed.

6 ~~((+4))~~ (5) No later than ten working days prior to the permanency  
7 planning hearing, the agency having custody of the child shall submit  
8 a written permanency plan to the court and shall mail a copy of the  
9 plan to all parties and their legal counsel, if any.

10 ~~((+5))~~ (6) At the permanency planning hearing, the court shall  
11 enter findings as required by RCW 13.34.130(5) and shall review the  
12 permanency plan prepared by the agency. If a goal of long-term foster  
13 or relative care has been achieved prior to the permanency planning  
14 hearing, the court shall review the child's status to determine whether  
15 the placement and the plan for the child's care remain appropriate. In  
16 cases where the primary permanency planning goal has not yet been  
17 achieved, the court shall inquire regarding the reasons why the primary  
18 goal has not been achieved and determine what needs to be done to make  
19 it possible to achieve the primary goal. In all cases, the court  
20 shall:

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

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

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

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

30 ~~((+6))~~ (7) If the court orders the child returned home, casework  
31 supervision shall continue for at least six months, at which time a  
32 review hearing shall be held pursuant to RCW 13.34.130(5), and the  
33 court shall determine the need for continued intervention.

34 ~~((+7))~~ (8) Following the first permanency planning hearing, the  
35 court shall hold a further permanency planning hearing in accordance  
36 with this section at least once every twelve months until a permanency  
37 planning goal is achieved or the dependency is dismissed, whichever  
38 occurs first.



1       (~~(8)~~) (9) Except as otherwise provided in RCW 13.34.235, the  
2 status of all dependent children shall continue to be reviewed by the  
3 court at least once every six months, in accordance with RCW  
4 13.34.130(5), until the dependency is dismissed. Prior to the second  
5 permanency planning hearing, the agency that has custody of the child  
6 shall consider whether to file a petition for termination of parental  
7 rights.

8       (~~(9)~~) (10) Nothing in this chapter may be construed to limit the  
9 ability of the agency that has custody of the child to file a petition  
10 for termination of parental rights or a guardianship petition at any  
11 time following the establishment of dependency. Upon the filing of  
12 such a petition, a fact-finding hearing shall be scheduled and held in  
13 accordance with this chapter unless the agency requests dismissal of  
14 the petition prior to the hearing or unless the parties enter an agreed  
15 order terminating parental rights, establishing guardianship, or  
16 otherwise resolving the matter.

17       (~~(10)~~) (11) The approval of a permanency plan that does not  
18 contemplate return of the child to the parent does not relieve the  
19 supervising agency of its obligation to provide reasonable services,  
20 under this chapter, intended to effectuate the return of the child to  
21 the parent, including but not limited to, visitation rights.

22       (~~(11)~~) (12) Nothing in this chapter may be construed to limit the  
23 procedural due process rights of any party in a termination or  
24 guardianship proceeding filed under this chapter.

--- END ---