

CERTIFICATION OF ENROLLMENT

SUBSTITUTE HOUSE BILL 1756

54th Legislature
1995 Regular Session

Passed by the House April 19, 1995
Yeas 93 Nays 0

**Speaker of the
House of Representatives**

Passed by the Senate April 13, 1995
Yeas 44 Nays 0

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Timothy A. Martin, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 1756** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

**Secretary of State
State of Washington**

SUBSTITUTE HOUSE BILL 1756

AS AMENDED BY THE SENATE

Passed Legislature - 1995 Regular Session

State of Washington 54th Legislature 1995 Regular Session

By House Committee on Children & Family Services (originally sponsored by Representatives Veloria, Cooke, Cody, Lambert, Thibaudeau, Patterson and Costa)

Read first time 03/01/95.

1 AN ACT Relating to dependent children; and amending RCW 13.34.110
2 and 13.34.130.

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

4 **Sec. 1.** RCW 13.34.110 and 1993 c 412 s 7 are each amended to read
5 as follows:

6 The court shall hold a fact-finding hearing on the petition and,
7 unless the court dismisses the petition, shall make written findings of
8 fact, stating the reasons therefor, and after it has announced its
9 findings of fact shall hold a hearing to consider disposition of the
10 case immediately following the fact-finding hearing or at a continued
11 hearing within fourteen days or longer for good cause shown. The
12 parties need not appear at the fact-finding or dispositional hearing if
13 the parties, their attorneys, the guardian ad litem, and court-
14 appointed special advocates, if any, are all in agreement. The court
15 shall receive and review a social study before entering an order based
16 on agreement. No social file or social study may be considered by the
17 court in connection with the fact-finding hearing or prior to factual
18 determination, except as otherwise admissible under the rules of
19 evidence. Notice of the time and place of the continued hearing may be

1 given in open court. If notice in open court is not given to a party,
2 that party shall be notified by mail of the time and place of any
3 continued hearing.

4 All hearings may be conducted at any time or place within the
5 limits of the county, and such cases may not be heard in conjunction
6 with other business of any other division of the superior court. The
7 general public shall be excluded, and only such persons may be admitted
8 who are found by the judge to have a direct interest in the case or in
9 the work of the court. Unless the court states on the record the
10 reasons to disallow attendance, the court shall allow a child's
11 relatives and, if a child resides in foster care ((or in the home of a
12 relative pursuant to a disposition order entered under RCW 13.34.130,
13 the court may allow)), the child's foster parent ((or relative care
14 provider)), to attend ((dependency review)) all hearings and
15 proceedings pertaining to the child for the sole purpose of providing
16 oral and written information about the child and the child's welfare to
17 the court.

18 Stenographic notes or any device which accurately records the
19 proceedings may be required as provided in other civil cases pursuant
20 to RCW 2.32.200.

21 **Sec. 2.** RCW 13.34.130 and 1994 c 288 s 4 are each amended to read
22 as follows:

23 If, after a fact-finding hearing pursuant to RCW 13.34.110, it has
24 been proven by a preponderance of the evidence that the child is
25 dependent within the meaning of RCW 13.34.030; after consideration of
26 the predisposition report prepared pursuant to RCW 13.34.110 and after
27 a disposition hearing has been held pursuant to RCW 13.34.110, the
28 court shall enter an order of disposition pursuant to this section.

29 (1) The court shall order one of the following dispositions of the
30 case:

31 (a) Order a disposition other than removal of the child from his or
32 her home, which shall provide a program designed to alleviate the
33 immediate danger to the child, to mitigate or cure any damage the child
34 has already suffered, and to aid the parents so that the child will not
35 be endangered in the future. In selecting a program, the court should
36 choose those services that least interfere with family autonomy,
37 provided that the services are adequate to protect the child.

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

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

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

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

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

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

20 (c) If the court has ordered, pursuant to subsection (2) of this
21 section, that a termination petition be filed, a specific plan as to
22 where the child will be placed, what steps will be taken to achieve
23 permanency for the child, services to be offered or provided to the
24 child, and, if visitation would be in the best interests of the child,
25 a recommendation to the court regarding visitation between parent and
26 child pending a fact-finding hearing on the termination petition. The
27 agency shall not be required to develop a plan of services for the
28 parents or provide services to the parents.

29 (4) If there is insufficient information at the time of the
30 disposition hearing upon which to base a determination regarding the
31 suitability of a proposed placement with a relative, the child shall
32 remain in foster care and the court shall direct the supervising agency
33 to conduct necessary background investigations as provided in chapter
34 74.15 RCW and report the results of such investigation to the court
35 within thirty days. However, if such relative appears otherwise
36 suitable and competent to provide care and treatment, the criminal
37 history background check need not be completed before placement, but as
38 soon as possible after placement. Any placements with relatives,
39 pursuant to this section, shall be contingent upon cooperation by the

1 relative with the agency case plan and compliance with court orders
2 related to the care and supervision of the child including, but not
3 limited to, court orders regarding parent-child contacts and any other
4 conditions imposed by the court. Noncompliance with the case plan or
5 court order shall be grounds for removal of the child from the
6 relative's home, subject to review by the court.

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

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

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

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

28 (ii) Whether the child has been placed in the least-restrictive
29 setting appropriate to the child's needs, including whether
30 consideration and preference has been given to placement with the
31 child's relatives;

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

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

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

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

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

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

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

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