
SUBSTITUTE HOUSE BILL 1858

State of Washington

55th Legislature

1997 Regular Session

By House Committee on Children & Family Services (originally sponsored by Representatives Boldt, Cooke, Dickerson and Mulliken)

Read first time 03/05/97.

1 AN ACT Relating to information about parents' rights; amending RCW
2 13.34.060 and 26.44.120; and adding new sections to chapter 26.44 RCW.

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

4 NEW SECTION. **Sec. 1.** A new section is added to chapter 26.44 RCW
5 to read as follows:

6 Whenever child protective services or law enforcement is
7 investigating allegations of child abuse and neglect, the parents of
8 the child who are the subject of the allegation shall be advised orally
9 and in writing of their basic rights and other specific information as
10 set forth in this chapter, in compliance with the legislative intent in
11 RCW 26.44.100 unless there is clear evidence that notification would
12 result in harm to the child.

13 **Sec. 2.** RCW 13.34.060 and 1990 c 246 s 1 are each amended to read
14 as follows:

15 (1) A child taken into custody pursuant to RCW 13.34.050 or
16 26.44.050 shall be immediately placed in shelter care. A child taken
17 by a relative of the child in violation of RCW 9A.40.060 or 9A.40.070
18 shall be placed in shelter care only when permitted under RCW

1 13.34.055. "Shelter care" means temporary physical care in a facility
2 licensed pursuant to RCW 74.15.030 or in a home not required to be
3 licensed pursuant to that section. Whenever a child is taken into such
4 custody pursuant to this section, the supervising agency may authorize
5 evaluations of the child's physical or emotional condition, routine
6 medical and dental examination and care, and all necessary emergency
7 care. In no case may a child who is taken into custody pursuant to RCW
8 13.34.055, 13.34.050, or 26.44.050 be detained in a secure detention
9 facility. No child may be held longer than seventy-two hours,
10 excluding Saturdays, Sundays and holidays, after such child is taken
11 into custody unless a court order has been entered for continued
12 shelter care. The child and his or her parent, guardian, or custodian
13 shall be informed that they have a right to a shelter care hearing.
14 The court shall hold a shelter care hearing within seventy-two hours
15 after the child is taken into custody, excluding Saturdays, Sundays,
16 and holidays. If a parent, guardian, or legal custodian desires to
17 waive the shelter care hearing, the court shall determine, on the
18 record and with the parties present, that such waiver is knowing and
19 voluntary.

20 (2) Whenever a child is taken into custody by child protective
21 services pursuant to a court order issued under RCW 13.34.050 or when
22 child protective services is notified that a child has been taken into
23 custody pursuant to RCW 26.44.050 or 26.44.056, child protective
24 services shall make reasonable efforts to inform the parents, guardian,
25 or legal custodian of the fact that the child has been taken into
26 custody, the reasons why the child was taken into custody, and their
27 legal rights under this title as soon as possible and in no event
28 longer than ~~((twenty-four))~~ twelve hours after the child has been taken
29 into custody or ~~((twenty-four))~~ twelve hours after child protective
30 services has been notified that the child has been taken into custody.
31 The notice of custody and rights ~~((may))~~ shall be given by any means
32 reasonably certain of notifying the parents including ~~((, but not~~
33 ~~limited to,))~~ written ~~((,))~~ notice and either telephone ~~((,))~~ or in
34 person oral notification. ~~((If the initial notification is provided by~~
35 ~~a means other than writing, child protective services shall make~~
36 ~~reasonable efforts to also provide written notification.))~~

37 The written notice of custody and rights shall be in substantially
38 the following form:

"NOTICE

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

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

2. You have the right to have a lawyer represent you at the hearing. A lawyer can look at the files in your case, talk to child protective services and other agencies, tell you about the law, help you understand your rights, and help you at hearings. If you cannot afford a lawyer, the court will appoint one to represent you. To get a court-appointed lawyer you must contact: (explain local procedure) .

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

You should be present at this hearing. If you do not come, the judge will not hear what you have to say.

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

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

If after making reasonable efforts to provide notification, child protective services is unable to determine the whereabouts of the parents, guardian, or legal custodian, the notice shall be delivered or sent to the last known address of the parent, guardian, or legal custodian.

(3) As soon as possible, and in no event longer than forty-eight hours after the child has been taken into custody, child protective services shall inform the parents, guardian, or legal custodian of the

1 case plan for the child. Whenever child protective services modifies
2 the case plan or records the summary assessment finding for the case,
3 they shall inform the parents, guardian, or legal custodian within
4 twenty-four hours of the modification or the recording of the finding.
5 Notification under this subsection shall comply with the procedures
6 under subsection (2) of this section. The notification shall not
7 reveal the identities of any person or disclose any information that
8 would place the child's health, welfare, or safety at risk.

9 (4) If child protective services is not required to give notice
10 under subsection (2) of this section, the juvenile court counselor
11 assigned to the matter shall make all reasonable efforts to advise the
12 parents, guardian, or legal custodian of the time and place of any
13 shelter care hearing, request that they be present, and inform them of
14 their basic rights as provided in RCW 13.34.090.

15 (~~(4)~~) (5) Reasonable efforts to advise and to give notice, as
16 required in subsections (2) and (~~(3)~~) (4) of this section, shall
17 include, at a minimum, investigation of the whereabouts of the parent,
18 guardian, or legal custodian. If such reasonable efforts are not
19 successful, or the parent, guardian, or legal custodian does not appear
20 at the shelter care hearing, the juvenile court counselor or caseworker
21 shall testify at the hearing or state in a declaration:

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

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

27 (~~(5)~~) (6) At the commencement of the shelter care hearing the
28 court shall advise the parties of their basic rights as provided in RCW
29 13.34.090 and shall appoint counsel pursuant to RCW 13.34.090 if
30 counsel has not been retained by the parent or guardian and if the
31 parent or guardian is indigent, unless the court finds that the right
32 to counsel has been expressly and voluntarily waived in court.

33 (~~(6)~~) (7) The court shall hear evidence regarding notice given
34 to, and efforts to notify, the parent, guardian, or legal custodian and
35 shall examine the need for shelter care. The court shall make an
36 express finding as to whether the notice required under subsections (2)
37 and (~~(3)~~) (4) of this section was given to the parent, guardian, or
38 legal custodian. All parties have the right to present testimony to
39 the court regarding the need or lack of need for shelter care. Hearsay

1 evidence before the court regarding the need or lack of need for
2 shelter care must be supported by sworn testimony, affidavit, or
3 declaration of the person offering such evidence.

4 ((+7)) (8) The juvenile court probation counselor shall submit a
5 recommendation to the court as to the further need for shelter care,
6 except that such recommendation shall be submitted by the department of
7 social and health services in cases where the petition alleging
8 dependency has been filed by the department of social and health
9 services, unless otherwise ordered by the court.

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

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

18 (b)(i) The child has no parent, guardian, or legal custodian to
19 provide supervision and care for such child; or

20 (ii) The release of such child would present a serious threat of
21 substantial harm to such child; or

22 (iii) The parent, guardian, or custodian to whom the child could be
23 released is alleged to have violated RCW 9A.40.060 or 9A.40.070.

24 If the court does not release the child to his or her parent,
25 guardian, or legal custodian, the court shall order continued shelter
26 care or order placement with another suitable person, and the court
27 shall set forth its reasons for the order. The court shall enter a
28 finding as to whether subsections (2) and ((+3)) (4) of this section
29 have been complied with. If actual notice was not given to the parent,
30 guardian, or legal custodian and the whereabouts of such person is
31 known or can be ascertained, the court shall order the supervising
32 agency or the department of social and health services to make
33 reasonable efforts to advise the parent, guardian, or legal custodian
34 of the status of the case, including the date and time of any
35 subsequent hearings, and their rights under RCW 13.34.090.

36 ((+9)) (10) An order releasing the child on any conditions
37 specified in this section may at any time be amended, with notice and
38 hearing thereon, so as to return the child to shelter care for failure
39 of the parties to conform to the conditions originally imposed.

1 (~~(10)~~) (11) A shelter care order issued pursuant to this section
2 may be amended at any time with notice and hearing thereon. The
3 shelter care decision of placement shall be modified only upon a
4 showing of change in circumstances. No child may be detained for
5 longer than thirty days without an order, signed by the judge,
6 authorizing continued shelter care.

7 (~~(11)~~) (12) Any parent, guardian, or legal custodian who for good
8 cause is unable to attend the initial shelter care hearing may request
9 that a subsequent shelter care hearing be scheduled. The request shall
10 be made to the clerk of the court where the petition is filed prior to
11 the initial shelter care hearing. The hearing shall be held within
12 seventy-two hours of the request, excluding Saturdays, Sundays, and
13 holidays. The clerk shall notify all other parties of the hearing by
14 any reasonable means.

15 **Sec. 3.** RCW 26.44.120 and 1985 c 183 s 5 are each amended to read
16 as follows:

17 Whenever the child protective services worker is required to notify
18 parents and children of their basic rights and other specific
19 information as set forth in RCW 26.44.105 through 26.44.115 and section
20 1 of this act, the child protective services worker shall also make a
21 reasonable effort to notify the noncustodial parent of the same
22 information in a timely manner.

23 NEW SECTION. **Sec. 4.** A new section is added to chapter 26.44 RCW
24 to read as follows:

25 The department shall send a written notice to each subject
26 maintained in any filing system related to allegations of child abuse
27 or neglect that such subject has been listed on the system as being
28 reported as someone responsible for child abuse or neglect. The notice
29 shall include the department's complaint policies and procedures and
30 the summary assessment findings of the investigation or, if no findings
31 were made, the status of the case.

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