
SENATE BILL 5908

State of Washington

55th Legislature

1997 Regular Session

By Senators Thibaudeau, Long, Kohl, Winsley and Patterson

Read first time 02/19/97. Referred to Committee on Human Services & Corrections.

1 AN ACT Relating to expedited termination of parental rights;
2 amending RCW 13.34.190; reenacting and amending RCW 13.34.130 and
3 13.34.180; adding a new section to chapter 13.34 RCW; and creating a
4 new section.

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

6 NEW SECTION. **Sec. 1.** The legislature finds that many dependent
7 children languish in foster care when it is apparent at the outset of
8 the dependency proceedings that the children are unlikely to be
9 returned to their parents. The legislature recognizes the need to
10 protect the rights of parents while balancing their children's need for
11 safety and stability. In balancing those rights and needs the
12 legislature has determined that, in a limited set of circumstances, the
13 children's needs so outweigh the parent's rights that the state should
14 quickly proceed to terminate the parent's rights.

15 It is the intent of this act to provide additional methods for the
16 expedited termination of parental rights when the parent's conduct
17 makes it unlikely that their children will be returned to them.

1 **Sec. 2.** RCW 13.34.130 and 1995 c 313 s 2, 1995 c 311 s 19, and
2 1995 c 53 s 1 are each reenacted and amended to read as follows:

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

9 (1) The court shall order one of the following dispositions of the
10 case:

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

18 (b) Order that the child be removed from his or her home and
19 ordered into the custody, control, and care of: (i) A relative ~~((or))~~; (ii)
20 the department of social and health services ~~((or))~~; (iii) a
21 licensed child placing agency for placement in a foster family home
22 ~~((or))~~; (iv) a group care facility licensed pursuant to chapter 74.15
23 RCW; or ~~((in))~~ (v) a home not required to be licensed pursuant to
24 chapter 74.15 RCW. Unless there is reasonable cause to believe that
25 the safety or welfare of the child would be jeopardized or that efforts
26 to reunite the parent and child will be hindered, such child shall be
27 placed with a person who is related to the child as defined in RCW
28 74.15.020(4)(a) and with whom the child has a relationship and is
29 comfortable, and who is willing and available to care for the child.
30 Placement of the child with a relative under this subsection shall be
31 given preference by the court. An order for out-of-home placement may
32 be made only if the court finds that reasonable efforts have been made
33 to prevent or eliminate the need for removal of the child from the
34 child's home and to make it possible for the child to return home,
35 specifying the services that have been provided to the child and the
36 child's parent, guardian, or legal custodian, and that preventive
37 services have been offered or provided and have failed to prevent the
38 need for out-of-home placement, unless the health, safety, and welfare
39 of the child cannot be protected adequately in the home, and that:

1 ~~((i))~~ (A) There is no parent or guardian available to care for
2 such child;

3 ~~((ii))~~ (B) The parent, guardian, or legal custodian is not
4 willing to take custody of the child;

5 ~~((iii))~~ (C) A manifest danger exists that the child will suffer
6 serious abuse or neglect if the child is not removed from the home and
7 an order under RCW 26.44.063 would not protect the child from danger;
8 or

9 ~~((iv))~~ (D) The extent of the child's disability is such that the
10 parent, guardian, or legal custodian is unable to provide the necessary
11 care for the child and the parent, guardian, or legal custodian has
12 determined that the child would benefit from placement outside of the
13 home.

14 (2) ~~((If the court has ordered a child removed from his or her home
15 pursuant to subsection (1)(b) of this section, the court may order that
16 a petition seeking termination of the parent and child relationship be
17 filed if the court finds it is recommended by the supervising agency,
18 that it is in the best interests of the child and that it is not
19 reasonable to provide further services to reunify the family because
20 the existence of aggravated circumstances make it unlikely that
21 services will effectuate the return of the child to the child's parents
22 in the near future. In determining whether aggravated circumstances
23 exist, the court shall consider one or more of the following:~~

24 ~~(a) Conviction of the parent of rape of the child in the first,
25 second, or third degree as defined in RCW 9A.44.073, 9A.44.076, and
26 9A.44.079;~~

27 ~~(b) Conviction of the parent of criminal mistreatment of the child
28 in the first or second degree as defined in RCW 9A.42.020 and
29 9A.42.030;~~

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

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

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

38 ~~(f) Failure of the parent to complete available treatment ordered
39 under this chapter or the equivalent laws of another state, where such~~

1 ~~failure has resulted in a prior termination of parental rights to~~
2 ~~another child and the parent has failed to effect significant change in~~
3 ~~the interim.~~

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

6 (a) A permanency plan of care that shall identify one of the
7 following outcomes as a primary goal and may identify additional
8 outcomes as alternative goals: Return of the child to the home of the
9 child's parent, guardian, or legal custodian; adoption; guardianship;
10 or long-term relative or foster care, until the child is age eighteen,
11 with a written agreement between the parties and the care provider; and
12 independent living, if appropriate and if the child is age sixteen or
13 older. Whenever a permanency plan identifies independent living as a
14 goal, the plan shall also specifically identify the services that will
15 be provided to assist the child to make a successful transition from
16 foster care to independent living. Before the court approves
17 independent living as a permanency plan of care, the court shall make
18 a finding that the provision of services to assist the child in making
19 a transition from foster care to independent living will allow the
20 child to manage his or her financial affairs and to manage his or her
21 personal, social, educational, and nonfinancial affairs. The
22 department shall not discharge a child to an independent living
23 situation before the child is eighteen years of age unless the child
24 becomes emancipated pursuant to chapter 13.64 RCW.

25 (b) Unless the court has ordered, pursuant to (~~subsection (2) of~~
26 ~~this~~) section 3 of this act, that a termination petition be filed, a
27 specific plan as to where the child will be placed, what steps will be
28 taken to return the child home, and what actions the agency will take
29 to maintain parent-child ties. All aspects of the plan shall include
30 the goal of achieving permanence for the child.

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

35 (ii) The agency shall be required to encourage the maximum parent-
36 child contact possible, including regular visitation and participation
37 by the parents in the care of the child while the child is in
38 placement. Visitation may be limited or denied only if the court

1 determines that such limitation or denial is necessary to protect the
2 child's health, safety, or welfare.

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

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

12 (c) If the court has ordered, pursuant to (~~subsection (2) of~~
13 ~~this~~) section 3 of this act, that a termination petition be filed, a
14 specific plan as to where the child will be placed, what steps will be
15 taken to achieve permanency for the child, services to be offered or
16 provided to the child, and, if visitation would be in the best
17 interests of the child, a recommendation to the court regarding
18 visitation between parent and child pending a fact-finding hearing on
19 the termination petition. The agency shall not be required to develop
20 a plan of services for the parents or provide services to the parents.

21 (~~(4)~~) (3) If there is insufficient information at the time of the
22 disposition hearing upon which to base a determination regarding the
23 suitability of a proposed placement with a relative, the child shall
24 remain in foster care and the court shall direct the supervising agency
25 to conduct necessary background investigations as provided in chapter
26 74.15 RCW and report the results of such investigation to the court
27 within thirty days. However, if such relative appears otherwise
28 suitable and competent to provide care and treatment, the criminal
29 history background check need not be completed before placement, but as
30 soon as possible after placement. Any placements with relatives,
31 pursuant to this section, shall be contingent upon cooperation by the
32 relative with the agency case plan and compliance with court orders
33 related to the care and supervision of the child including, but not
34 limited to, court orders regarding parent-child contacts and any other
35 conditions imposed by the court. Noncompliance with the case plan or
36 court order shall be grounds for removal of the child from the
37 relative's home, subject to review by the court.

38 (~~(5)~~) (4) Except for children whose cases are reviewed by a
39 citizen review board under chapter 13.70 RCW, the status of all

1 children found to be dependent shall be reviewed by the court at least
2 every six months from the beginning date of the placement episode or
3 the date dependency is established, whichever is first, at a hearing in
4 which it shall be determined whether court supervision should continue.
5 The review shall include findings regarding the agency and parental
6 completion of disposition plan requirements, and if necessary, revised
7 permanency time limits.

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

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

17 (i) Whether reasonable services have been provided to or offered to
18 the parties to facilitate reunion, specifying the services provided or
19 offered;

20 (ii) Whether the child has been placed in the least-restrictive
21 setting appropriate to the child's needs, including whether
22 consideration and preference has been given to placement with the
23 child's relatives;

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

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

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

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

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

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

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

1 NEW SECTION. **Sec. 3.** A new section is added to chapter 13.34 RCW
2 to read as follows:

3 If the court has ordered a child removed from his or her home
4 pursuant to RCW 13.34.130(1)(b), the court may order that a petition
5 seeking termination of the parent and child relationship be filed if:

6 (1) Termination is recommended by the supervising agency;

7 (2) Termination is in the best interests of the child;

8 (3) It is not reasonable to provide further services to reunify the
9 family; and

10 (4) One or more of the following aggravated circumstances exist:

11 (a) Conviction of the parent of rape of a child in the first
12 degree, RCW 9A.44.073, or sale or purchase of a minor child, RCW
13 9A.64.030;

14 (b) Conviction of the parent of rape of a child in the second or
15 third degree, RCW 9A.44.076 or 9A.44.079, if the victim is a child of
16 the parent;

17 (c) Conviction of the parent of criminal mistreatment of a child in
18 the first or second degree, RCW 9A.42.020 or 9A.42.030, if the victim
19 is a child of the parent;

20 (d) Conviction of the parent of one of the following crimes if the
21 victim is a minor child of the parent: Assault in the first or second
22 degree, RCW 9A.36.011 or 9A.36.021; assault of a child in the first or
23 second degree, RCW 9A.36.120 or 9A.36.130; child molestation in the
24 first or second degree, RCW 9A.44.083 or 9A.44.086; or sexual
25 exploitation of a minor, RCW 9.68A.040;

26 (e) Conviction of the parent of one of the following crimes if the
27 victim is the child's other parent or stepparent, sibling, or any other
28 minor: Aggravated first degree murder, RCW 10.95.020; murder in the
29 first or second degree, RCW 9A.32.030 or 9A.32.050; manslaughter in the
30 first or second degree, RCW 9A.32.060 or 9A.32.070; homicide by abuse,
31 RCW 9A.32.055; or rape in the first degree, RCW 9A.44.040;

32 (f) A finding by a court that the parent is a sexually violent
33 predator as defined in RCW 71.09.020 or persistent offender as defined
34 in RCW 9.94A.030;

35 (g) Failure of the parent to successfully complete available
36 treatment ordered under this chapter or the equivalent laws of another
37 state, where such failure has resulted in a prior termination of
38 parental rights to another child and the parent has failed to effect
39 significant change in the interim;

1 (h) Failure of the parent to have any contact with the child for a
2 period of three months, despite the department of social and health
3 services' efforts to encourage contact during the time period; or

4 (i) Failure of a parent to take reasonable steps to prevent the
5 child or the child's minor sibling from being a victim of any offense
6 listed in this section. In determining whether the steps were
7 reasonable the court shall consider whether the parent had a reasonable
8 opportunity to exercise protection and whether the parent acted upon
9 such opportunity. The court shall require clear and convincing
10 evidence to determine that the parent failed to take the steps required
11 under this subsection.

12 **Sec. 4.** RCW 13.34.180 and 1993 c 412 s 2 and 1993 c 358 s 3 are
13 each reenacted and amended to read as follows:

14 A petition seeking termination of a parent and child relationship
15 may be filed in juvenile court by any party to the dependency
16 proceedings concerning that child. Such petition shall conform to the
17 requirements of RCW 13.34.040, shall be served upon the parties as
18 provided in RCW 13.34.070(8), and shall allege:

19 (1) That the child has been found to be a dependent child under RCW
20 13.34.030(~~((2))~~) (4); and

21 (2) That the court has entered a dispositional order pursuant to
22 RCW 13.34.130; and

23 (3) That the child has been removed or will, at the time of the
24 hearing, have been removed from the custody of the parent for a period
25 of at least six months pursuant to a finding of dependency under RCW
26 13.34.030(~~((2))~~) (4); and

27 (4) That the services ordered under RCW 13.34.130 (~~((have been
28 offered or provided and all necessary services, reasonably available,))
29 potentially capable of correcting the parental deficiencies within the
30 ((foreseeable)) near future have been offered or provided; and~~

31 (5) That there is little likelihood that conditions will be
32 remedied so that the child can be returned to the parent in the near
33 future. In determining whether the conditions will be remedied the
34 court may consider, but is not limited to, the following factors:

35 (a) Use of intoxicating or controlled substances so as to render
36 the parent incapable of providing proper care for the child for
37 extended periods of time and documented unwillingness of the parent to

1 receive and complete treatment or documented multiple failed treatment
2 attempts; or

3 (b) Psychological incapacity or mental deficiency of the parent
4 that is so severe and chronic as to render the parent incapable of
5 providing proper care for the child for extended periods of time, and
6 documented unwillingness of the parent to receive and complete
7 treatment or documentation that there is no treatment that can render
8 the parent capable of providing proper care for the child in the near
9 future; and

10 (6) That continuation of the parent and child relationship clearly
11 diminishes the child's prospects for early integration into a stable
12 and permanent home; or

13 (7) In lieu of the allegations in subsections (1) through (6) of
14 this section, the petition may allege that: (a) The child was found
15 under such circumstances that the whereabouts of the child's parent are
16 unknown and no person has acknowledged paternity or maternity and
17 requested custody of the child within two months after the child was
18 found; or (b) the court has, under the authority contained in RCW
19 13.34.130(2), ordered the petition filed based upon the existence of
20 aggravated circumstances.

21 A parent's failure to substantially improve parental deficiencies
22 within twelve months following entry of the dispositional order shall
23 give rise to a rebuttable presumption that there is little likelihood
24 that conditions will be remedied so that the child can be returned to
25 the parent in the near future. The presumption shall not arise unless
26 the petitioner makes a showing that all necessary services
27 (~~reasonably~~) potentially capable of correcting the parental
28 deficiencies within the (~~foreseeable~~) near future have been offered
29 or provided.

30 Notice of rights shall be served upon the parent, guardian, or
31 legal custodian with the petition and shall be in substantially the
32 following form:

33 "NOTICE

34 A petition for termination of parental rights has been filed
35 against you. You have important legal rights and you must take
36 steps to protect your interests. This petition could result in
37 permanent loss of your parental rights.

1 1. You have the right to a fact-finding hearing before
2 a judge.

3 2. You have the right to have a lawyer represent you at
4 the hearing. A lawyer can look at the files in your case, talk
5 to the department of social and health services and other
6 agencies, tell you about the law, help you understand your
7 rights, and help you at hearings. If you cannot afford a
8 lawyer, the court will appoint one to represent you. To get a
9 court-appointed lawyer you must contact: (explain local
10 procedure) .

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

15 You should be present at this hearing.

16 You may call (insert agency) for more information
17 about your child. The agency's name and telephone number are
18 (insert name and telephone number) ."

19 **Sec. 5.** RCW 13.34.190 and 1993 c 412 s 3 are each amended to read
20 as follows:

21 After hearings pursuant to RCW 13.34.110, the court may enter an
22 order terminating all parental rights to a child if the court finds
23 that:

24 (1) The allegations contained in the petition as provided in RCW
25 13.34.180 (1) through (6) are established by clear, cogent, and
26 convincing evidence; or

27 (2) RCW 13.34.180 (3) and (4) may be waived because the allegations
28 under RCW 13.34.180 (1), (2), (5), and (6) are established beyond a
29 reasonable doubt. In determining whether RCW 13.34.180 (5) and (6) are
30 established beyond a reasonable doubt, the court shall consider whether
31 one or more of the aggravated circumstances in section 3 of this act
32 exist; or

33 (3) The allegation under RCW 13.34.180(7) is established beyond a
34 reasonable doubt(~~(. In determining whether RCW 13.34.180 (5) and (6)~~
35 ~~are established beyond a reasonable doubt, the court shall consider~~
36 ~~whether one or more of the aggravated circumstances listed in RCW~~
37 ~~13.34.130(2) exist)); and~~

1 (4) Such an order is in the best interests of the child.

--- END ---