
SUBSTITUTE SENATE BILL 6196

State of Washington

55th Legislature

1998 Regular Session

By Senate Committee on Human Services & Corrections (originally sponsored by Senators Hargrove and Long; by request of Department of Social and Health Services)

Read first time 02/05/98.

1 AN ACT Relating to technical clarifying changes to developmentally
2 disabled children's out-of-home placement; and amending RCW 74.13.350,
3 13.34.270, and 74.13.021.

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

5 **Sec. 1.** RCW 74.13.350 and 1997 c 386 s 16 are each amended to read
6 as follows:

7 It is the intent of the legislature that parents are responsible
8 for the care and support of children with developmental disabilities.
9 The legislature recognizes that, because of the intense support
10 required to care for a child with developmental disabilities, the help
11 of an out-of-home placement may be needed. It is the intent of the
12 legislature that, when the sole reason for the out-of-home placement is
13 the child's developmental disability, such services be offered by the
14 department to these children and their families through a voluntary
15 placement agreement. In these cases, the parents shall retain legal
16 custody of the child.

17 As used in this section, "voluntary placement agreement" means a
18 written agreement between the department and a child's parent or legal
19 guardian authorizing the department to place the child in a licensed

1 facility. Under the terms of this agreement, the parent or legal
2 guardian shall retain legal custody and the department shall be
3 responsible for the child's placement and care. The agreement shall at
4 a minimum specify the legal status of the child and the rights and
5 obligations of the parent or legal guardian, the child, and the
6 department while the child is in placement. The agreement must be
7 signed by the child's parent or legal guardian and the department to be
8 in effect, except that an agreement regarding an Indian child shall not
9 be valid unless executed in writing before the court and filed with the
10 court as provided in RCW 13.34.245. Any party to a voluntary placement
11 agreement may terminate the agreement at any time. Upon termination of
12 the agreement, the child shall be returned to the care of the child's
13 parent or legal guardian unless the child has been taken into custody
14 pursuant to RCW 13.34.050 or 26.44.050, placed in shelter care pursuant
15 to RCW 13.34.060, or placed in foster care pursuant to RCW 13.34.130.

16 As used in this section, "out-of-home placement" and "out-of-home
17 care" mean the placement of a child in a foster family home or group
18 care facility licensed under chapter 74.15 RCW.

19 Whenever the department places a child in out-of-home care under a
20 voluntary placement pursuant to this section, the department shall have
21 the responsibility for the child's placement and care. The department
22 shall develop a permanency plan of care for the child no later than
23 sixty days from the date that the department assumes responsibility for
24 the child's placement and care. Within the first one hundred eighty
25 days of the placement, the department shall obtain a judicial
26 determination pursuant to RCW 13.04.030(1)(j) and 13.34.270 that the
27 placement is in the best interests of the child. If the child's out-
28 of-home placement ends before one hundred eighty days have elapsed, no
29 judicial determination under RCW 13.04.030(1)(b) is required. The
30 permanency planning hearings shall review whether the child's best
31 interests are served by continued out-of-home placement and determine
32 the future legal status of the child.

33 The department shall provide for periodic administrative reviews as
34 required by federal law. A review may be called at any time by either
35 the department, the parent, or the legal guardian.

36 Nothing in this section shall prevent the department from filing a
37 dependency petition if there is reason to believe that the child is a
38 dependent child as defined in RCW 13.34.030.

1 The department shall adopt rules providing for the implementation
2 of chapter 386, Laws of 1997 and the transfer of responsibility for
3 out-of-home placements from the dependency process under chapter 13.34
4 RCW to the process under this chapter.

5 It is the intent of the legislature that the department undertake
6 voluntary out-of-home placement in cases where the child's
7 developmental disability is such that the parent, guardian, or legal
8 custodian is unable to provide the necessary care for the child, and
9 the parent, guardian, or legal custodian has determined that the child
10 would benefit from placement outside of the home. A department
11 decision against voluntary out-of-home placement may be challenged by
12 the parent, guardian, or legal custodian in a civil action. A petition
13 may be filed and an action pursued under the procedures established
14 under chapter 13.34 RCW. For purposes of such an action, "dependency"
15 means only the following: (1) The child has a developmental
16 disability, as defined in RCW 71A.10.020; (2) the child's developmental
17 disability is such that the parent, guardian, or legal custodian is
18 unable to provide the necessary care for the child; (3) the parent,
19 guardian, or legal custodian has determined that the child would
20 benefit from placement outside of the home; and (4) services
21 appropriate to the child's needs cannot be provided in the home.

22 **Sec. 2.** RCW 13.34.270 and 1997 c 386 s 19 are each amended to read
23 as follows:

24 (1) Whenever the department of social and health services places a
25 developmentally disabled child in out-of-home care pursuant to RCW
26 74.13.350, the department shall obtain a judicial determination within
27 one hundred eighty days of the placement that continued placement is in
28 the best interests of the child. If the child's out-of-home placement
29 ends before one hundred eighty days have elapsed, no judicial
30 determination is required.

31 (2) To obtain the judicial determination, the department shall file
32 a petition alleging that there is located or residing within the county
33 a child who has a developmental disability, as defined in RCW
34 71A.10.020, and that the child has been placed in out-of-home care
35 pursuant to RCW 74.13.350. The petition shall request that the court
36 review the child's placement, make a determination that continued
37 placement is in the best interests of the child, and take other
38 necessary action as provided in this section. The petition shall

1 contain the name, date of birth, and residence of the child and the
2 names and residences of the child's parent or legal guardian who has
3 agreed to the child's placement in out-of-home care. Reasonable
4 attempts shall be made by the department to ascertain and set forth in
5 the petition the identity, location, and custodial status of any parent
6 who is not a party to the placement agreement and why that parent
7 cannot assume custody of the child.

8 (3) Upon filing of the petition, the clerk of the court shall
9 schedule the petition for a hearing to be held no later than fourteen
10 calendar days after the petition has been filed. The department shall
11 provide notification of the time, date, and purpose of the hearing to
12 the parent or legal guardian who has agreed to the child's placement in
13 out-of-home care. The department shall also make reasonable attempts
14 to notify any parent who is not a party to the placement agreement, if
15 the parent's identity and location is known. Notification under this
16 section may be given by the most expedient means, including but not
17 limited to, mail, personal service, telephone, and telegraph.

18 (4) The court shall appoint a guardian ad litem for the child as
19 provided in RCW 13.34.100, unless the court for good cause finds the
20 appointment unnecessary.

21 (5) Permanency planning hearings shall be held as provided in this
22 subsection. At the hearing, the court shall review whether the child's
23 best interests are served by continued out-of-home placement and
24 determine the future legal status of the child.

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

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

37 (c) No later than ten working days before the permanency planning
38 hearing, the department shall submit a written permanency plan to the
39 court and shall mail a copy of the plan to all parties. The plan shall

1 be directed toward securing a safe, stable, and permanent home for the
2 child as soon as possible. The plan shall identify one of the
3 following outcomes as the primary goal and may also identify additional
4 outcomes as alternative goals: Return of the child to the home of the
5 child's parent or legal guardian; adoption; guardianship; or long-term
6 out-of-home care, until the child is age eighteen, with a written
7 agreement between the parties and the child's care provider.

8 (d) If a goal of long-term out-of-home care has been achieved
9 before the permanency planning hearing, the court shall review the
10 child's status to determine whether the placement and the plan for the
11 child's care remains appropriate. In cases where the primary
12 permanency planning goal has not (~~(be [been])~~) been achieved, the court
13 shall inquire regarding the reasons why the primary goal has not been
14 achieved and determine what needs to be done to make it possible to
15 achieve the primary goal.

16 (e) Following the first permanency planning hearing, the court
17 shall hold a further permanency planning hearing in accordance with
18 this section at least once every twelve months until a permanency
19 planning goal is achieved or the voluntary placement agreement is
20 terminated.

21 (6) Any party to the voluntary placement agreement may terminate
22 the agreement at any time. Upon termination of the agreement, the
23 child shall be returned to the care of the child's parent or legal
24 guardian, unless the child has been taken into custody pursuant to RCW
25 13.34.050 or 26.44.050, placed in shelter care pursuant to RCW
26 13.34.060, or placed in foster care pursuant to RCW 13.34.130. The
27 department shall notify the court upon termination of the voluntary
28 placement agreement and return of the child to the care of the child's
29 parent or legal guardian. Whenever a voluntary placement agreement is
30 terminated, an action under this section shall be dismissed.

31 (7) This section does not prevent the department from filing a
32 dependency petition if there is reason to believe that the child is a
33 dependent child as defined in RCW 13.34.030. An action filed under
34 this section shall be dismissed upon the filing of a dependency
35 petition regarding a child who is the subject of the action under this
36 section.

37 **Sec. 3.** RCW 74.13.021 and 1997 c 386 s 15 are each amended to read
38 as follows:

1 As used in this chapter, "developmentally disabled (~~dependent~~)
2 child" is a child who has a developmental disability as defined in RCW
3 71A.10.020 and whose parent, guardian, or legal custodian and with the
4 department mutually agree that services appropriate to the child's
5 needs can not be provided in the home.

--- END ---