

2 **ESSB 6217** - H COMM AMD **ADOPTED 2-29-00**

3 By Committee on Children & Family Services

4

5 Strike everything after the enacting clause and insert the  
6 following:

7 "Sec. 1. RCW 13.34.030 and 1999 c 267 s 6 are each amended to read  
8 as follows:

9 For purposes of this chapter:

10 (1) "Abandoned" means when the child's parent, guardian, or other  
11 custodian has expressed, either by statement or conduct, an intent to  
12 forego, for an extended period, parental rights or responsibilities  
13 despite an ability to exercise such rights and responsibilities. If  
14 the court finds that the petitioner has exercised due diligence in  
15 attempting to locate the parent, no contact between the child and the  
16 child's parent, guardian, or other custodian for a period of three  
17 months creates a rebuttable presumption of abandonment, even if there  
18 is no expressed intent to abandon.

19 (2) "Child" and "juvenile" means any individual under the age of  
20 eighteen years.

21 ~~((2))~~ (3) "Current placement episode" means the period of time  
22 that begins with the most recent date that the child was removed from  
23 the home of the parent, guardian, or legal custodian for purposes of  
24 placement in out-of-home care and continues until: (a) The child  
25 returns home~~((7))~~ i (b) an adoption decree, a permanent custody order,  
26 or guardianship order is entered~~((7))~~i or (c) the dependency is  
27 dismissed, whichever occurs ~~((soonest))~~ first. ~~((If the most recent~~  
28 ~~date of removal occurred prior to the filing of a dependency petition~~  
29 ~~under this chapter or after filing but prior to entry of a disposition~~  
30 ~~order, such time periods shall be included when calculating the length~~  
31 ~~of a child's current placement episode.~~

32 ~~(3))~~ (4) "Dependency guardian" means the person, nonprofit  
33 corporation, or Indian tribe appointed by the court pursuant to ~~((RCW~~  
34 ~~13.34.232))~~ this chapter for the limited purpose of assisting the court  
35 in the supervision of the dependency.

36 ~~((4))~~ (5) "Dependent child" means any child who:

1 (a) ~~((Who)) Has been abandoned; ((that is, where the child's~~  
2 ~~parent, guardian, or other custodian has expressed either by statement~~  
3 ~~or conduct, an intent to forego, for an extended period, parental~~  
4 ~~rights or parental responsibilities despite an ability to do so. If~~  
5 ~~the court finds that the petitioner has exercised due diligence in~~  
6 ~~attempting to locate the parent, no contact between the child and the~~  
7 ~~child's parent, guardian, or other custodian for a period of three~~  
8 ~~months creates a rebuttable presumption of abandonment, even if there~~  
9 ~~is no expressed intent to abandon;))~~

10 (b) ~~((Who)) Is abused or neglected as defined in chapter 26.44 RCW~~  
11 ~~by a person legally responsible for the care of the child; or~~

12 (c) ~~((Who)) Has no parent, guardian, or custodian capable of~~  
13 ~~adequately caring for the child, such that the child is in~~  
14 ~~circumstances which constitute a danger of substantial damage to the~~  
15 ~~child's psychological or physical development.~~

16 ~~((+5)) (6) "Developmental disability" means a disability~~  
17 ~~attributable to mental retardation, cerebral palsy, epilepsy, autism,~~  
18 ~~or another neurological or other condition of an individual found by~~  
19 ~~the secretary to be closely related to mental retardation or to require~~  
20 ~~treatment similar to that required for individuals with mental~~  
21 ~~retardation, which disability originates before the individual attains~~  
22 ~~age eighteen, which has continued or can be expected to continue~~  
23 ~~indefinitely, and which constitutes a substantial handicap to the~~  
24 ~~individual.~~

25 ~~(7) "Guardian" means the person or agency that: (a) Has been~~  
26 ~~appointed as the guardian of a child in a legal proceeding other than~~  
27 ~~a proceeding under this chapter; and (b) has the legal right to custody~~  
28 ~~of the child pursuant to such appointment. The term "guardian" shall~~  
29 ~~not include a "dependency guardian" appointed pursuant to a proceeding~~  
30 ~~under this chapter.~~

31 ~~((+6)) (8) "Guardian ad litem" means a person, appointed by the~~  
32 ~~court to represent the best interests of a child in a proceeding under~~  
33 ~~this chapter, or in any matter which may be consolidated with a~~  
34 ~~proceeding under this chapter. A "court-appointed special advocate"~~  
35 ~~appointed by the court to be the guardian ad litem for the child, or to~~  
36 ~~perform substantially the same duties and functions as a guardian ad~~  
37 ~~litem, shall be deemed to be guardian ad litem for all purposes and~~  
38 ~~uses of this chapter.~~

1        ~~((7))~~ (9) "Guardian ad litem program" means a court-authorized  
2 volunteer program, which is or may be established by the superior court  
3 of the county in which such proceeding is filed, to manage all aspects  
4 of volunteer guardian ad litem representation for children alleged or  
5 found to be dependent. Such management shall include but is not  
6 limited to: Recruitment, screening, training, supervision, assignment,  
7 and discharge of volunteers.

8        ~~((8))~~ (10) "Indigent" means a person who, at any stage of a court  
9 proceeding, is:

10        (a) Receiving one of the following types of public assistance:  
11 Temporary assistance for needy families, general assistance, poverty-  
12 related veterans' benefits, food stamps or food stamp benefits  
13 transferred electronically, refugee resettlement benefits, medicaid, or  
14 supplemental security income; or

15        (b) Involuntarily committed to a public mental health facility; or

16        (c) Receiving an annual income, after taxes, of one hundred twenty-  
17 five percent or less of the federally established poverty level; or

18        (d) Unable to pay the anticipated cost of counsel for the matter  
19 before the court because his or her available funds are insufficient to  
20 pay any amount for the retention of counsel.

21        (11) "Out-of-home care" means placement in a foster family home or  
22 group care facility licensed pursuant to chapter 74.15 RCW or placement  
23 in a home, other than that of the child's parent, guardian, or legal  
24 custodian, not required to be licensed pursuant to chapter 74.15 RCW.

25        ~~((9))~~ (12) "Preventive services" means preservation services, as  
26 defined in chapter 74.14C RCW, and other reasonably available services,  
27 including housing services, capable of preventing the need for out-of-  
28 home placement while protecting the child. Housing services may  
29 include, but are not limited to, referrals to federal, state, local, or  
30 private agencies or organizations, assistance with forms and  
31 applications, or financial subsidies for housing.

32        (13) "Shelter care" means temporary physical care in a facility  
33 licensed pursuant to RCW 74.15.030 or in a home not required to be  
34 licensed pursuant to RCW 74.15.030.

35        (14) "Social study" means a written evaluation of matters relevant  
36 to the disposition of the case and shall contain the following  
37 information:

38        (a) A statement of the specific harm or harms to the child that  
39 intervention is designed to alleviate;

1 (b) A description of the specific services and activities, for both  
2 the parents and child, that are needed in order to prevent serious harm  
3 to the child; the reasons why such services and activities are likely  
4 to be useful; the availability of any proposed services; and the  
5 agency's overall plan for ensuring that the services will be delivered.  
6 The description shall identify the services chosen and approved by the  
7 parent;

8 (c) If removal is recommended, a full description of the reasons  
9 why the child cannot be protected adequately in the home, including a  
10 description of any previous efforts to work with the parents and the  
11 child in the home; the in-home treatment programs that have been  
12 considered and rejected; the preventive services that have been offered  
13 or provided and have failed to prevent the need for out-of-home  
14 placement, unless the health, safety, and welfare of the child cannot  
15 be protected adequately in the home; and the parents' attitude toward  
16 placement of the child;

17 (d) A statement of the likely harms the child will suffer as a  
18 result of removal;

19 (e) A description of the steps that will be taken to minimize the  
20 harm to the child that may result if separation occurs; and

21 (f) Behavior that will be expected before determination that  
22 supervision of the family or placement is no longer necessary.

23 **Sec. 2.** RCW 13.34.040 and 1977 ex.s. c 291 s 32 are each amended  
24 to read as follows:

25 (1) Any person may file with the clerk of the superior court a  
26 petition showing that there is within the county, or residing within  
27 the county, a dependent child and ((praying)) requesting that the  
28 superior court deal with such child as provided in this chapter((+  
29 PROVIDED, That)). There shall be no fee for filing such petitions.

30 (2) In counties having paid probation officers, ((such)) these  
31 officers shall, ((as far as)) to the extent possible, first determine  
32 if ((such)) a petition is reasonably justifiable. ((Such)) Each  
33 petition shall be verified and ((shall)) contain a statement of facts  
34 constituting ((such)) a dependency, ((as defined in this chapter,)) and  
35 the names and residence, if known to the petitioner, of the parents,  
36 guardian, or custodian of ((such)) the alleged dependent child.  
37 ((There shall be no fee for filing such petitions.))

1       **Sec. 3.** RCW 13.34.050 and 1998 c 328 s 1 are each amended to read  
2 as follows:

3       (1) The court may enter an order directing a law enforcement  
4 officer, probation counselor, or child protective services official to  
5 take a child into custody if: (a) A petition is filed with the  
6 juvenile court alleging that the child is dependent and that the  
7 child's health, safety, and welfare will be seriously endangered if not  
8 taken into custody; (b) an affidavit or declaration is filed by the  
9 department in support of the petition setting forth specific factual  
10 information evidencing reasonable grounds that the child's health,  
11 safety, and welfare will be seriously endangered if not taken into  
12 custody and at least one of the grounds set forth demonstrates a risk  
13 of imminent harm to the child. "Imminent harm" for purposes of this  
14 section shall include, but not be limited to, circumstances of sexual  
15 abuse, or sexual exploitation as defined in RCW 26.44.020; and (c) the  
16 court finds reasonable grounds to believe the child is dependent and  
17 that the child's health, safety, and welfare will be seriously  
18 endangered if not taken into custody.

19       (2) Any petition that does not have the necessary affidavit or  
20 declaration demonstrating a risk of imminent harm requires that the  
21 parents are provided notice and an opportunity to be heard (~~by the~~  
22 ~~parents~~) before the order may be entered.

23       (3) The petition and supporting documentation must be served on the  
24 parent, and (~~the entity with whom~~) if the child is in custody at the  
25 time the child is removed, on the entity with custody other than the  
26 parent. Failure to effect service does not invalidate the petition if  
27 service was attempted and the parent could not be found.

28       **Sec. 4.** RCW 13.34.060 and 1999 c 17 s 2 are each amended to read  
29 as follows:

30       (1) A child taken into custody pursuant to RCW 13.34.050 or  
31 26.44.050 shall be immediately placed in shelter care. A child taken  
32 by a relative of the child in violation of RCW 9A.40.060 or 9A.40.070  
33 shall be placed in shelter care only when permitted under RCW  
34 13.34.055. (~~"Shelter care" means temporary physical care in a~~  
35 ~~facility licensed pursuant to RCW 74.15.030 or in a home not required~~  
36 ~~to be licensed pursuant to that section.))~~

37       (a) Unless there is reasonable cause to believe that the health,  
38 safety, or welfare of the child would be jeopardized or that the

1 efforts to reunite the parent and child will be hindered, priority  
2 placement for a child in shelter care shall be with any person  
3 described in RCW 74.15.020(2)(a). The person must be willing and  
4 available to care for the child and be able to meet any special needs  
5 of the child. If a child is not initially placed with a relative  
6 pursuant to this section, the supervising agency shall make an effort  
7 within available resources to place the child with a relative on the  
8 next business day after the child is taken into custody. The  
9 supervising agency shall document its effort to place the child with a  
10 relative pursuant to this section. Nothing within this subsection  
11 (1)(a) establishes an entitlement to services or a right to a  
12 particular placement.

13 (b) Whenever a child is taken into (~~such~~) custody pursuant to  
14 this section, the supervising agency may authorize evaluations of the  
15 child's physical or emotional condition, routine medical and dental  
16 examination and care, and all necessary emergency care. In no case may  
17 a child who is taken into custody pursuant to RCW 13.34.055, 13.34.050,  
18 or 26.44.050 be detained in a secure detention facility. No child may  
19 be held longer than seventy-two hours, excluding Saturdays, Sundays and  
20 holidays, after such child is taken into custody unless a court order  
21 has been entered for continued shelter care. The child and his or her  
22 parent, guardian, or custodian shall be informed that they have a right  
23 to a shelter care hearing. The court shall hold a shelter care hearing  
24 within seventy-two hours after the child is taken into custody,  
25 excluding Saturdays, Sundays, and holidays. If a parent, guardian, or  
26 legal custodian desires to waive the shelter care hearing, the court  
27 shall determine, on the record and with the parties present, (~~that~~)  
28 whether such waiver is knowing and voluntary.

29 (2) Whenever a child is taken into custody by child protective  
30 services pursuant to a court order issued under RCW 13.34.050 or when  
31 child protective services is notified that a child has been taken into  
32 custody pursuant to RCW 26.44.050 or 26.44.056, child protective  
33 services shall make reasonable efforts to inform the parents, guardian,  
34 or legal custodian of the fact that the child has been taken into  
35 custody, the reasons why the child was taken into custody, and their  
36 legal rights under this title as soon as possible and in no event  
37 (~~longer~~) shall notice be provided more than twenty-four hours after  
38 the child has been taken into custody or twenty-four hours after child  
39 protective services has been notified that the child has been taken

1 into custody. The notice of custody and rights may be given by any  
2 means reasonably certain of notifying the parents including, but not  
3 limited to, written, telephone, or in person oral notification. If the  
4 initial notification is provided by a means other than writing, child  
5 protective services shall make reasonable efforts to also provide  
6 written notification.

7 ((The written notice of custody and rights shall be in  
8 substantially the following form:

9

"NOTICE

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

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

18 2. You have the right to have a lawyer represent you at the  
19 hearing. You have the right to records the department intends to rely  
20 upon. A lawyer can look at the files in your case, talk to child  
21 protective services and other agencies, tell you about the law, help  
22 you understand your rights, and help you at hearings. If you cannot  
23 afford a lawyer, the court will appoint one to represent you. To get  
24 a court-appointed lawyer you must contact: \_\_\_\_\_ (explain local  
25 procedure) \_\_\_\_\_.

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

29 4. If your hearing occurs before a court commissioner, you have the  
30 right to have the decision of the court commissioner reviewed by a  
31 superior court judge. To obtain that review, you must, within ten days  
32 after the entry of the decision of the court commissioner, file with  
33 the court a motion for revision of the decision, as provided in RCW  
34 2.24.050.

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

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

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

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

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

21 (4) Reasonable efforts to advise and to give notice, as required in  
22 subsections (2) and (3) of this section, shall include, at a minimum,  
23 investigation of the whereabouts of the parent, guardian, or legal  
24 custodian. If such reasonable efforts are not successful, or the  
25 parent, guardian, or legal custodian does not appear at the shelter  
26 care hearing, the juvenile court counselor or caseworker shall testify  
27 at the hearing or state in a declaration:

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

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

33 (5) At the commencement of the shelter care hearing the court shall  
34 advise the parties of their basic rights as provided in RCW 13.34.090  
35 and shall appoint counsel pursuant to RCW 13.34.090 if counsel has not  
36 been retained by the parent or guardian and if the parent or guardian  
37 is indigent, unless the court finds that the right to counsel has been  
38 expressly and voluntarily waived in court.



1       ~~(6) The court shall hear evidence regarding notice given to, and~~  
2 ~~efforts to notify, the parent, guardian, or legal custodian and shall~~  
3 ~~examine the need for shelter care. The court shall hear evidence~~  
4 ~~regarding the efforts made to place the child with a relative. The~~  
5 ~~court shall make an express finding as to whether the notice required~~  
6 ~~under subsections (2) and (3) of this section was given to the parent,~~  
7 ~~guardian, or legal custodian. All parties have the right to present~~  
8 ~~testimony to the court regarding the need or lack of need for shelter~~  
9 ~~care. Hearsay evidence before the court regarding the need or lack of~~  
10 ~~need for shelter care must be supported by sworn testimony, affidavit,~~  
11 ~~or declaration of the person offering such evidence.~~

12       ~~(7) The juvenile court probation counselor shall submit a~~  
13 ~~recommendation to the court as to the further need for shelter care,~~  
14 ~~except that such recommendation shall be submitted by the department of~~  
15 ~~social and health services in cases where the petition alleging~~  
16 ~~dependency has been filed by the department of social and health~~  
17 ~~services, unless otherwise ordered by the court.~~

18       ~~(8) The court shall release a child alleged to be dependent to the~~  
19 ~~care, custody, and control of the child's parent, guardian, or legal~~  
20 ~~custodian unless the court finds there is reasonable cause to believe~~  
21 ~~that:~~

22       ~~(a) After consideration of the specific services that have been~~  
23 ~~provided, reasonable efforts have been made to prevent or eliminate the~~  
24 ~~need for removal of the child from the child's home and to make it~~  
25 ~~possible for the child to return home; and~~

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

28       ~~(ii) The release of such child would present a serious threat of~~  
29 ~~substantial harm to such child; or~~

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

32       ~~If the court does not release the child to his or her parent,~~  
33 ~~guardian, or legal custodian, and the child was initially placed with~~  
34 ~~a relative pursuant to subsection (1) of this section, the court shall~~  
35 ~~order continued placement with a relative, unless there is reasonable~~  
36 ~~cause to believe the safety or welfare of the child would be~~  
37 ~~jeopardized. If the child was not initially placed with a relative,~~  
38 ~~and the court does not release the child to his or her parent,~~  
39 ~~guardian, or legal custodian, the supervising agency shall make~~

1 reasonable efforts to locate a relative pursuant to subsection (1) of  
2 this section. If a relative is not available, the court shall order  
3 continued shelter care or order placement with another suitable person,  
4 and the court shall set forth its reasons for the order. The court  
5 shall enter a finding as to whether subsections (2) and (3) of this  
6 section have been complied with. If actual notice was not given to the  
7 parent, guardian, or legal custodian and the whereabouts of such person  
8 is known or can be ascertained, the court shall order the supervising  
9 agency or the department of social and health services to make  
10 reasonable efforts to advise the parent, guardian, or legal custodian  
11 of the status of the case, including the date and time of any  
12 subsequent hearings, and their rights under RCW 13.34.090.

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

17 The court shall consider whether nonconformance with any conditions  
18 resulted from circumstances beyond the control of the parent and give  
19 weight to that fact before ordering return of the child to shelter  
20 care.

21 (10) A shelter care order issued pursuant to this section may be  
22 amended at any time with notice and hearing thereon. The shelter care  
23 decision of placement shall be modified only upon a showing of change  
24 in circumstances. No child may be detained for longer than thirty days  
25 without an order, signed by the judge, authorizing continued shelter  
26 care.

27 (11) Any parent, guardian, or legal custodian who for good cause is  
28 unable to attend the initial shelter care hearing may request that a  
29 subsequent shelter care hearing be scheduled. The request shall be  
30 made to the clerk of the court where the petition is filed prior to the  
31 initial shelter care hearing. The hearing shall be held within  
32 seventy-two hours of the request, excluding Saturdays, Sundays, and  
33 holidays. The clerk shall notify all other parties of the hearing by  
34 any reasonable means.))

35 NEW SECTION. **Sec. 5.** A new section is added to chapter 13.34 RCW  
36 to read as follows:

37 (1) The written notice of custody and rights required by RCW  
38 13.34.060 shall be in substantially the following form:

"NOTICE

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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 excluding Saturdays, Sundays, and holidays. 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. You have the right to records the department intends to rely upon. 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.

4. If your hearing occurs before a court commissioner, you have the right to have the decision of the court commissioner reviewed by a superior court judge. To obtain that review, you must, within ten days after the entry of the decision of the court commissioner, file with the court a motion for revision of the decision, as provided in RCW 2.24.050.

You should be present at any shelter care 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.

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

6 (2) If child protective services is not required to give notice  
7 under RCW 13.34.060(2) and subsection (1) of this section, the juvenile  
8 court counselor assigned to the matter shall make all reasonable  
9 efforts to advise the parents, guardian, or legal custodian of the time  
10 and place of any shelter care hearing, request that they be present,  
11 and inform them of their basic rights as provided in RCW 13.34.090.

12 (3) Reasonable efforts to advise and to give notice, as required in  
13 RCW 13.34.060(2) and subsections (1) and (2) of this section, shall  
14 include, at a minimum, investigation of the whereabouts of the parent,  
15 guardian, or legal custodian. If such reasonable efforts are not  
16 successful, or the parent, guardian, or legal custodian does not appear  
17 at the shelter care hearing, the petitioner shall testify at the  
18 hearing or state in a declaration:

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

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

24 (4) The court shall hear evidence regarding notice given to, and  
25 efforts to notify, the parent, guardian, or legal custodian and shall  
26 examine the need for shelter care. The court shall hear evidence  
27 regarding the efforts made to place the child with a relative. The  
28 court shall make an express finding as to whether the notice required  
29 under RCW 13.34.060(2) and subsections (1) and (2) of this section was  
30 given to the parent, guardian, or legal custodian. All parties have  
31 the right to present testimony to the court regarding the need or lack  
32 of need for shelter care. Hearsay evidence before the court regarding  
33 the need or lack of need for shelter care must be supported by sworn  
34 testimony, affidavit, or declaration of the person offering such  
35 evidence.

36 (5) A shelter care order issued pursuant to section 7 of this act  
37 may be amended at any time with notice and hearing thereon. The  
38 shelter care decision of placement shall be modified only upon a  
39 showing of change in circumstances. No child may be placed in shelter

1 care for longer than thirty days without an order, signed by the judge,  
2 authorizing continued shelter care.

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

11 NEW SECTION. **Sec. 6.** A new section is added to chapter 13.34 RCW  
12 to read as follows:

13 At the commencement of the shelter care hearing the court shall  
14 advise the parties of basic rights as provided in RCW 13.34.090 and  
15 appoint counsel pursuant to RCW 13.34.090 if the parent or guardian is  
16 indigent unless counsel has been retained by the parent or guardian or  
17 the court finds that the right to counsel has been expressly and  
18 voluntarily waived in court.

19 NEW SECTION. **Sec. 7.** A new section is added to chapter 13.34 RCW  
20 to read as follows:

21 (1) The juvenile court probation counselor shall submit a  
22 recommendation to the court as to the further need for shelter care  
23 unless the petition has been filed by the department, in which case the  
24 recommendation shall be submitted by the department.

25 (2) The court shall release a child alleged to be dependent to the  
26 care, custody, and control of the child's parent, guardian, or legal  
27 custodian unless the court finds there is reasonable cause to believe  
28 that:

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

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

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

1 (iii) The parent, guardian, or custodian to whom the child could be  
2 released has been charged with violating RCW 9A.40.060 or 9A.40.070.

3 If the court does not release the child to his or her parent,  
4 guardian, or legal custodian, and the child was initially placed with  
5 a relative pursuant to RCW 13.34.060(1), the court shall order  
6 continued placement with a relative, unless there is reasonable cause  
7 to believe the health, safety, or welfare of the child would be  
8 jeopardized. If the child was not initially placed with a relative,  
9 and the court does not release the child to his or her parent,  
10 guardian, or legal custodian, the supervising agency shall make  
11 reasonable efforts to locate a relative pursuant to RCW 13.34.060(1).  
12 If a relative is not available, the court shall order continued shelter  
13 care or order placement with another suitable person, and the court  
14 shall set forth its reasons for the order. The court shall enter a  
15 finding as to whether RCW 13.34.060(2) and subsections (1) and (2) of  
16 this section have been complied with. If actual notice was not given  
17 to the parent, guardian, or legal custodian and the whereabouts of such  
18 person is known or can be ascertained, the court shall order the  
19 supervising agency or the department of social and health services to  
20 make reasonable efforts to advise the parent, guardian, or legal  
21 custodian of the status of the case, including the date and time of any  
22 subsequent hearings, and their rights under RCW 13.34.090.

23 (3) An order releasing the child on any conditions specified in  
24 this section may at any time be amended, with notice and hearing  
25 thereon, so as to return the child to shelter care for failure of the  
26 parties to conform to the conditions originally imposed.

27 The court shall consider whether nonconformance with any conditions  
28 resulted from circumstances beyond the control of the parent and give  
29 weight to that fact before ordering return of the child to shelter  
30 care.

31 **Sec. 8.** RCW 13.34.070 and 1993 c 358 s 1 are each amended to read  
32 as follows:

33 (1) Upon the filing of the petition, the clerk of the court shall  
34 issue a summons, one directed to the child, if the child is twelve or  
35 more years of age, and another to the parents, guardian, or custodian,  
36 and such other persons as appear to the court to be proper or necessary  
37 parties to the proceedings, requiring them to appear personally before  
38 the court at the time fixed to hear the petition. If the child is

1 developmentally disabled and not living at home, the notice shall be  
2 given to the child's custodian as well as to the child's parent. The  
3 developmentally disabled child shall not be required to appear unless  
4 requested by the court. (~~Where~~) When the custodian is summoned, the  
5 parent or guardian or both shall also be served with a summons. The  
6 fact-finding hearing on the petition shall be held no later than  
7 seventy-five days after the filing of the petition, unless exceptional  
8 reasons for a continuance are found. The party requesting the  
9 continuance shall have the burden of proving by a preponderance of the  
10 evidence that exceptional circumstances (~~do~~) exist. To ensure that  
11 the hearing on the petition occurs within the seventy-five day time  
12 limit, the court shall schedule and hear the matter on an expedited  
13 basis.

14 (2) A copy of the petition shall be attached to each summons.

15 (3) The summons shall advise the parties of the right to counsel.  
16 The summons shall also inform the child's parent, guardian, or legal  
17 custodian of his or (~~her~~) her right to appointed counsel, if  
18 indigent, and of the procedure to use to secure appointed counsel.

19 (4) The summons shall advise the parents that they may be held  
20 responsible for the support of the child if the child is placed in out-  
21 of-home care.

22 (5) The judge may endorse upon the summons an order directing any  
23 parent, guardian, or custodian having the custody or control of the  
24 child to bring the child to the hearing.

25 (6) If it appears from affidavit or sworn statement presented to  
26 the judge that there is probable cause for the issuance of a warrant of  
27 arrest or that the child needs to be taken into custody pursuant to RCW  
28 13.34.050, the judge may endorse upon the summons an order that an  
29 officer serving the summons shall at once take the child into custody  
30 and take him or her to the place of shelter designated by the court.

31 (7) If the person summoned as provided in this section is subject  
32 to an order of the court pursuant to subsection (5) or (6) of this  
33 section, and if the person fails to abide by the order, he or she may  
34 be proceeded against as for contempt of court. The order endorsed upon  
35 the summons shall conspicuously display the following legend:

1 NOTICE:  
2 VIOLATION OF THIS ORDER  
3 IS SUBJECT TO PROCEEDING  
4 FOR CONTEMPT OF COURT  
5 PURSUANT TO RCW 13.34.070.

6 (8) If a party to be served with a summons can be found within the  
7 state, the summons shall be served upon the party personally as soon as  
8 possible following the filing of the petition, but in no case later  
9 than fifteen court days before the fact-finding hearing, or such time  
10 as set by the court. If the party is within the state and cannot be  
11 personally served, but the party's address is known or can with  
12 reasonable diligence be ascertained, the summons may be served upon the  
13 party by mailing a copy (~~thereof~~) by certified mail as soon as  
14 possible following the filing of the petition, but in no case later  
15 than fifteen court days before the hearing, or such time as set by the  
16 court. If a party other than the child is without the state but can be  
17 found or the address is known, or can with reasonable diligence be  
18 ascertained, service of the summons may be made either by delivering a  
19 copy (~~thereof~~) to the party personally or by mailing a copy thereof  
20 to the party by certified mail at least ten court days before the fact-  
21 finding hearing, or such time as set by the court.

22 (9) Service of summons may be made under the direction of the court  
23 by any person eighteen years of age or older who is not a party to the  
24 proceedings or by any law enforcement officer, probation counselor, or  
25 department (~~of social and health services social worker~~) employee.

26 (10) In any proceeding brought under this chapter where the court  
27 knows or has reason to know that the child involved is a member or is  
28 eligible to be a member of an Indian tribe, notice of the pendency of  
29 the proceeding shall also be sent by registered mail, return receipt  
30 requested, to the child's tribe. If the identity or location of the  
31 tribe cannot be determined, such notice shall be transmitted to the  
32 secretary of the interior of the United States.

33 **Sec. 9.** RCW 13.34.080 and 1990 c 246 s 3 are each amended to read  
34 as follows:

35 (~~In a dependency case where it appears by the petition or verified~~  
36 ~~statement, that the person standing in the position of natural or legal~~  
37 ~~guardian of the person of any child, is a nonresident of this state, or~~  
38 ~~that the name or place of residence or whereabouts of such person is~~



1 unknown, as well as in all cases where, after due diligence, the  
2 officer has been unable to make service of the summons or notice  
3 provided for in RCW 13.34.070, and a copy of the notice has been  
4 deposited in the post office, postage prepaid, directed to such person  
5 at his last known place of residence,)) (1) The court shall direct the  
6 clerk to publish notice in a legal newspaper printed in the county,  
7 qualified to publish summons, once a week for three consecutive weeks,  
8 with the first publication of the notice to be at least twenty-five  
9 days prior to the date fixed for the hearing when it appears by the  
10 petition or verified statement that:

11 (a)(i) The parent or guardian is a nonresident of this state; or  
12 (ii) The name or place of residence or whereabouts of the parent or  
13 guardian is unknown; and

14 (b) After due diligence, the person attempting service of the  
15 summons or notice provided for in RCW 13.34.070 has been unable to make  
16 service, and a copy of the notice has been deposited in the post  
17 office, postage prepaid, directed to such person at his or her last  
18 known place of residence. If the parent, guardian, or legal custodian  
19 is believed to be a resident of another state or a county other than  
20 the county in which the petition has been filed, notice also shall be  
21 published in the county in which the parent, guardian, or legal  
22 custodian is believed to reside.

23 ~~((Additionally,))~~ (2) Publication may proceed simultaneously with  
24 efforts to provide ~~((personal))~~ service in person or ~~((service))~~ by  
25 mail ~~((for good cause shown))~~, when the court determines there is  
26 reason to believe that ~~((personal))~~ service in person or ~~((service))~~ by  
27 mail will not be successful. ~~((Such))~~ Notice shall be directed to the  
28 parent, parents, or other person claiming the right to the custody of  
29 the child, if their names are known~~((, or))~~. If their names are  
30 unknown, the phrase "To whom it may concern" shall be used ~~((and))~~,  
31 apply to, and be binding upon, ((any such)) those persons whose names  
32 are unknown. The name of the court, the name of the child (or children  
33 if of one family), the date of the filing of the petition, the date of  
34 hearing, and the object of the proceeding in general terms shall be set  
35 forth~~((, and the whole shall be subscribed by the clerk))~~. There shall  
36 be filed with the clerk an affidavit showing due publication of the  
37 notice~~((, and))~~. The cost of publication shall be paid by the county  
38 at a rate not ((to exceed)) greater than the rate paid ((by the  
39 county)) for other legal notices. The publication of notice shall be

1 deemed equivalent to personal service upon all persons, known or  
2 unknown, who have been designated as provided in this section.

3 **Sec. 10.** RCW 13.34.090 and 1998 c 328 s 3 and 1998 c 141 s 1 are  
4 each reenacted and amended to read as follows:

5 (1) Any party has a right to be represented by an attorney in all  
6 proceedings under this chapter, to introduce evidence, to be heard in  
7 his or her own behalf, to examine witnesses, to receive a decision  
8 based solely on the evidence adduced at the hearing, and to an unbiased  
9 fact-finder.

10 (2) At all stages of a proceeding in which a child is alleged to be  
11 dependent (~~(as defined in RCW 13.34.030(4))~~), the child's parent,  
12 guardian, or legal custodian has the right to be represented by  
13 counsel, and if indigent, to have counsel appointed for him or her by  
14 the court. Unless waived in court, counsel shall be provided to the  
15 child's parent, guardian, or legal custodian, if such person (a) has  
16 appeared in the proceeding or requested the court to appoint counsel  
17 and (b) is financially unable to obtain counsel because of indigency  
18 (~~(as defined in chapter 10.101 RCW)~~).

19 (3) If a party to an action under this chapter is represented by  
20 counsel, no order shall be provided to that party for his or her  
21 signature without prior notice and provision of the order to counsel.

22 (4) Copies of department of social and health services or  
23 supervising agency records to which parents have legal access pursuant  
24 to chapter 13.50 RCW shall be given to the child's parent, guardian,  
25 legal custodian, or his or her legal counsel, prior to any shelter care  
26 hearing and within fifteen days after the department or supervising  
27 agency receives a written request for such records from the parent,  
28 guardian, legal custodian, or his or her legal counsel. These records  
29 shall be provided to the child's parents, guardian, legal custodian, or  
30 legal counsel a reasonable period of time prior to the shelter care  
31 hearing in order to allow an opportunity to review the records prior to  
32 the hearing. These records shall be legible and shall be provided at  
33 no expense to the parents, guardian, legal custodian, or his or her  
34 counsel. When the records are served on legal counsel, legal counsel  
35 shall have the opportunity to review the records with the parents and  
36 shall review the records with the parents prior to the shelter care  
37 hearing.

1       **Sec. 11.** RCW 13.34.110 and 1995 c 313 s 1 and 1995 c 311 s 27 are  
2 each reenacted and amended to read as follows:

3       The court shall hold a fact-finding hearing on the petition and,  
4 unless the court dismisses the petition, shall make written findings of  
5 fact, stating the reasons therefor(~~(, and after it has announced its~~  
6 ~~findings of fact shall hold a hearing to consider disposition of the~~  
7 ~~case immediately following the fact-finding hearing or at a continued~~  
8 ~~hearing within fourteen days or longer for good cause shown)).~~  
9 Immediately after the entry of the findings of fact, the court shall  
10 hold a disposition hearing, unless there is good cause for continuing  
11 the matter for up to fourteen days. If good cause is shown, the case  
12 may be continued for longer than fourteen days. Notice of the time and  
13 place of the continued hearing may be given in open court. If notice  
14 in open court is not given to a party, that party shall be notified by  
15 certified mail of the time and place of any continued hearing. Unless  
16 there is reasonable cause to believe the health, safety, or welfare of  
17 the child would be jeopardized or efforts to reunite the parent and  
18 child would be hindered, the court shall direct the department to  
19 notify those adult persons who: (1) Are related by blood or marriage  
20 to the child in the following degrees: Parent, grandparent, brother,  
21 sister, stepparent, stepbrother, stepsister, uncle, or aunt; (2) are  
22 known to the department as having been in contact with the family or  
23 child within the past twelve months; and (3) would be an appropriate  
24 placement for the child. Reasonable cause to dispense with  
25 notification to a parent under this section must be proved by clear,  
26 cogent, and convincing evidence.

27       The parties need not appear at the fact-finding or dispositional  
28 hearing if the parties, their attorneys, the guardian ad litem, and  
29 court-appointed special advocates, if any, are all in agreement. The  
30 court shall receive and review a social study before entering an order  
31 based on agreement. No social file or social study may be considered  
32 by the court in connection with the fact-finding hearing or prior to  
33 factual determination, except as otherwise admissible under the rules  
34 of evidence. (~~Notice of the time and place of the continued hearing~~  
35 ~~may be given in open court. If notice in open court is not given to a~~  
36 ~~party, that party shall be notified by mail of the time and place of~~  
37 ~~any continued hearing.~~

38       ~~All hearings may be conducted at any time or place within the~~  
39 ~~limits of the county, and such cases may not be heard in conjunction~~

1 with other business of any other division of the superior court. The  
2 general public shall be excluded, and only such persons may be admitted  
3 who are found by the judge to have a direct interest in the case or in  
4 the work of the court. Unless the court states on the record the  
5 reasons to disallow attendance, the court shall allow a child's  
6 relatives and, if a child resides in foster care, the child's foster  
7 parent, to attend all hearings and proceedings pertaining to the child  
8 for the sole purpose of providing oral and written information about  
9 the child and the child's welfare to the court.

10 Stenographic notes or any device which accurately records the  
11 proceedings may be required as provided in other civil cases pursuant  
12 to RCW 2.32.200.))

13 NEW SECTION. **Sec. 12.** A new section is added to chapter 13.34 RCW  
14 to read as follows:

15 All hearings may be conducted at any time or place within the  
16 limits of the county, and such cases may not be heard in conjunction  
17 with other business of any other division of the superior court. The  
18 public shall be excluded, and only such persons may be admitted who are  
19 found by the judge to have a direct interest in the case or in the work  
20 of the court. Unless the court states on the record the reasons to  
21 disallow attendance, the court shall allow a child's relatives and, if  
22 a child resides in foster care, the child's foster parent, to attend  
23 all hearings and proceedings pertaining to the child for the sole  
24 purpose of providing oral and written information about the child and  
25 the child's welfare to the court.

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

29 **Sec. 13.** RCW 13.34.120 and 1998 c 328 s 4 are each amended to read  
30 as follows:

31 (({1})) To aid the court in its decision on disposition, a social  
32 study((, consisting of a written evaluation of matters relevant to the  
33 disposition of the case,)) shall be made by the person or agency filing  
34 the petition. A parent may submit a counselor's or health care  
35 provider's evaluation of the parent, which shall either be included in  
36 the social study or considered in conjunction with the social study.  
37 The study shall include all social ((records)) files and may also

1 include facts relating to the child's cultural heritage, and shall be  
2 made available to the court. The court shall consider the social file,  
3 social study, guardian ad litem report, the court-appointed special  
4 advocate's report, if any, and any reports filed by a party at the  
5 disposition hearing in addition to evidence produced at the fact-  
6 finding hearing. At least ten working days before the disposition  
7 hearing, the department shall mail to the parent and his or her  
8 attorney a copy of the agency's social study and proposed service plan,  
9 which shall be in writing or in a form understandable to the parents or  
10 custodians. In addition, the department shall provide an opportunity  
11 for parents to review and comment on the plan at the ((community  
12 service)) local office closest to the parents' residence. If the  
13 parents disagree with the agency's plan or any part thereof, the  
14 parents shall submit to the court at least twenty-four hours before the  
15 hearing, in writing, or signed oral statement, an alternative plan to  
16 correct the problems which led to the finding of dependency. This  
17 section shall not interfere with the right of the parents or custodians  
18 to submit oral arguments regarding the disposition plan at the hearing.

19 ~~((2) In addition to the requirements set forth in subsection (1)~~  
20 ~~of this section, a predisposition study to the court in cases of~~  
21 ~~dependency alleged pursuant to RCW 13.34.030(4) (b) or (c) shall~~  
22 ~~contain the following information:~~

23 ~~(a) A statement of the specific harm or harms to the child that~~  
24 ~~intervention is designed to alleviate;~~

25 ~~(b) A description of the specific programs, for both the parents~~  
26 ~~and child, that are needed in order to prevent serious harm to the~~  
27 ~~child; the reasons why such programs are likely to be useful; the~~  
28 ~~availability of any proposed services; and the agency's overall plan~~  
29 ~~for ensuring that the services will be delivered. The description~~  
30 ~~shall identify services chosen and approved by the parent;~~

31 ~~(c) If removal is recommended, a full description of the reasons~~  
32 ~~why the child cannot be protected adequately in the home, including a~~  
33 ~~description of any previous efforts to work with the parents and the~~  
34 ~~child in the home; the in-home treatment programs which have been~~  
35 ~~considered and rejected; the preventive services that have been offered~~  
36 ~~or provided and have failed to prevent the need for out-of-home~~  
37 ~~placement, unless the health, safety, and welfare of the child cannot~~  
38 ~~be protected adequately in the home; and the parents' attitude toward~~  
39 ~~placement of the child;~~

1       ~~(d) A statement of the likely harms the child will suffer as a~~  
2 ~~result of removal. This section should include an exploration of the~~  
3 ~~nature of the parent-child attachment and the meaning of separation and~~  
4 ~~loss to both the parents and the child;~~

5       ~~(e) A description of the steps that will be taken to minimize harm~~  
6 ~~to the child that may result if separation occurs; and~~

7       ~~(f) Behavior that will be expected before determination that~~  
8 ~~supervision of the family or placement is no longer necessary.))~~

9       NEW SECTION.   **Sec. 14.** A new section is added to chapter 13.34 RCW  
10 to read as follows:

11       If the most recent date that a child was removed from the home of  
12 the parent, guardian, or legal custodian for purposes of placement in  
13 out-of-home care occurred prior to the filing of a dependency petition  
14 or after filing but prior to entry of a disposition order, such time  
15 periods shall be included when calculating the length of the child's  
16 current placement episode.

17       **Sec. 15.** RCW 13.34.130 and 1999 c 267 s 16, 1999 c 267 s 9, and  
18 1999 c 173 s 3 are each reenacted and amended to read as follows:

19       If, after a fact-finding hearing pursuant to RCW 13.34.110, it has  
20 been proven by a preponderance of the evidence that the child is  
21 dependent within the meaning of RCW 13.34.030(~~(+)~~) after consideration  
22 of the (~~(predisposition report)~~) social study prepared pursuant to RCW  
23 13.34.110 and after a disposition hearing has been held pursuant to RCW  
24 13.34.110, the court shall enter an order of disposition pursuant to  
25 this section.

26       (1) The court shall order one of the following dispositions of the  
27 case:

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

36       (b) Order (~~(that)~~) the child to be removed from his or her home and  
37 (~~(ordered)~~) into the custody, control, and care of a relative or the

1 department (~~of social and health services~~) or a licensed child  
2 placing agency for placement in a foster family home or group care  
3 facility licensed pursuant to chapter 74.15 RCW or in a home not  
4 required to be licensed pursuant to chapter 74.15 RCW. Unless there is  
5 reasonable cause to believe that the health, safety, or welfare of the  
6 child would be jeopardized or that efforts to reunite the parent and  
7 child will be hindered, such child shall be placed with a person who  
8 is: (i) Related to the child as defined in RCW 74.15.020(2)(a) (~~and~~)  
9 with whom the child has a relationship and is comfortable(~~(7)~~); and  
10 (~~who is~~) (ii) willing and available to care for the child.

11 (2) Placement of the child with a relative under this subsection  
12 shall be given preference by the court. An order for out-of-home  
13 placement may be made only if the court finds that reasonable efforts  
14 have been made to prevent or eliminate the need for removal of the  
15 child from the child's home and to make it possible for the child to  
16 return home, specifying the services that have been provided to the  
17 child and the child's parent, guardian, or legal custodian, and that  
18 preventive services have been offered or provided and have failed to  
19 prevent the need for out-of-home placement, unless the health, safety,  
20 and welfare of the child cannot be protected adequately in the home,  
21 and that:

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

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

26 (~~(iii)~~) (c) The court finds, by clear, cogent, and convincing  
27 evidence, 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(~~(i~~ 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)~~) (3) If the court has ordered a child removed from his or  
36 her home pursuant to subsection (1)(b) of this section, the court may  
37 order that a petition seeking termination of the parent and child  
38 relationship be filed if the (~~court finds: (a) Termination is~~  
39 recommended by the supervising agency; ~~(b) termination is in the best~~

1 interests of the child; and (c) that because of the existence of  
2 aggravated circumstances, reasonable efforts to unify the family are  
3 not required. Notwithstanding the existence of aggravated  
4 circumstances, reasonable efforts may be required if the court or  
5 department determines it is in the best interest of the child. In  
6 determining whether aggravated circumstances exist by clear, cogent,  
7 and convincing evidence, the court shall consider one or more of the  
8 following:

9 (i) Conviction of the parent of rape of the child in the first,  
10 second, or third degree as defined in RCW 9A.44.073, 9A.44.076, and  
11 9A.44.079;

12 (ii) Conviction of the parent of criminal mistreatment of the child  
13 in the first or second degree as defined in RCW 9A.42.020 and  
14 9A.42.030;

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

19 (iv) Conviction of the parent of murder, manslaughter, or homicide  
20 by abuse of the child's other parent, sibling, or another child;

21 (v) Conviction of the parent of attempting, soliciting, or  
22 conspiracy to commit a crime listed in (c)(i), (ii), (iii), or (iv) of  
23 this subsection;

24 (vi) A finding by a court that a parent is a sexually violent  
25 predator as defined in RCW 71.09.020;

26 (vii) Failure of the parent to complete available treatment ordered  
27 under this chapter or the equivalent laws of another state, where such  
28 failure has resulted in a prior termination of parental rights to  
29 another child and the parent has failed to effect significant change in  
30 the interim. In the case of a parent of an Indian child, as defined in  
31 the Indian Child Welfare Act, P.L. 95-608 (25 U.S.C. Sec. 1903), the  
32 court shall also consider tribal efforts to assist the parent in  
33 completing treatment and make it possible for the child to return home;

34 (viii) An infant under three years of age has been abandoned as  
35 defined in RCW 13.34.030(4)(a);

36 (ix) The mother has given birth to three or more drug-affected  
37 infants, resulting in the department filing a petition under section  
38 23, chapter 314, Laws of 1998;



1       ~~(x) Conviction of the parent of a sex offense under chapter 9A.44~~  
2 ~~RCW or incest under RCW 9A.64.020 when the child is born of the~~  
3 ~~offense.~~

4       ~~(3) If reasonable efforts are not ordered under subsection (2) of~~  
5 ~~this section a permanency planning hearing shall be held within thirty~~  
6 ~~days. Reasonable efforts shall be made to place the child in a timely~~  
7 ~~manner in accordance with the permanency plan, and to complete whatever~~  
8 ~~steps are necessary to finalize the permanent placement of the child.~~

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

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

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

37       ~~(i) The agency plan shall specify what services the parents will be~~  
38 ~~offered in order to enable them to resume custody, what requirements~~

1 the parents must meet in order to resume custody, and a time limit for  
2 each service plan and parental requirement.

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

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

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

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

27 (5) If the court determines that the continuation of reasonable  
28 efforts to prevent or eliminate the need to remove the child from his  
29 or her home or to safely return the child home should not be part of  
30 the permanency plan of care for the child, reasonable efforts shall be  
31 made to place the child in a timely manner and to complete whatever  
32 steps are necessary to finalize the permanent placement of the child.

33 (6)) requirements of section 16 of this act are met.

34 (4) If there is insufficient information at the time of the  
35 disposition hearing upon which to base a determination regarding the  
36 suitability of a proposed placement with a relative, the child shall  
37 remain in foster care and the court shall direct the supervising agency  
38 to conduct necessary background investigations as provided in chapter  
39 74.15 RCW and report the results of such investigation to the court

1 within thirty days. However, if such relative appears otherwise  
2 suitable and competent to provide care and treatment, the criminal  
3 history background check need not be completed before placement, but as  
4 soon as possible after placement. Any placements with relatives,  
5 pursuant to this section, shall be contingent upon cooperation by the  
6 relative with the agency case plan and compliance with court orders  
7 related to the care and supervision of the child including, but not  
8 limited to, court orders regarding parent-child contacts and any other  
9 conditions imposed by the court. Noncompliance with the case plan or  
10 court order shall be grounds for removal of the child from the  
11 relative's home, subject to review by the court.

12 ~~((7) Except for children whose cases are reviewed by a citizen~~  
13 ~~review board under chapter 13.70 RCW, the status of all children found~~  
14 ~~to be dependent shall be reviewed by the court at least every six~~  
15 ~~months from the beginning date of the placement episode or the date~~  
16 ~~dependency is established, whichever is first, at a hearing in which it~~  
17 ~~shall be determined whether court supervision should continue. The~~  
18 ~~review shall include findings regarding the agency and parental~~  
19 ~~completion of disposition plan requirements, and if necessary, revised~~  
20 ~~permanency time limits. The supervising agency shall provide a foster~~  
21 ~~parent, preadoptive parent, or relative with notice of, and their right~~  
22 ~~to an opportunity to be heard in, a review hearing pertaining to the~~  
23 ~~child, but only if that person is currently providing care to that~~  
24 ~~child at the time of the hearing. This section shall not be construed~~  
25 ~~to grant party status to any person who has been provided an~~  
26 ~~opportunity to be heard.~~

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

34 ~~(b) If the child is not returned home, the court shall establish in~~  
35 ~~writing:~~

36 ~~(i) Whether reasonable services have been provided to or offered to~~  
37 ~~the parties to facilitate reunion, specifying the services provided or~~  
38 ~~offered;~~

1 ~~(ii) Whether the child has been placed in the least restrictive~~  
2 ~~setting appropriate to the child's needs, including whether~~  
3 ~~consideration and preference has been given to placement with the~~  
4 ~~child's relatives;~~

5 ~~(iii) Whether there is a continuing need for placement and whether~~  
6 ~~the placement is appropriate;~~

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

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

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

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

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

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

21 ~~(8) The court's ability to order housing assistance under this~~  
22 ~~section is: (a) Limited to cases in which homelessness or the lack of~~  
23 ~~adequate and safe housing is the primary reason for an out of home~~  
24 ~~placement; and (b) subject to the availability of funds appropriated~~  
25 ~~for this specific purpose.))~~

26 NEW SECTION. Sec. 16. A new section is added to chapter 13.34 RCW  
27 to read as follows:

28 A court may order that a petition seeking termination of the parent  
29 and child relationship be filed if the following requirements are met:

30 (1) The court has removed the child from his or her home pursuant  
31 to RCW 13.34.130;

32 (2) Termination is recommended by the supervising agency;

33 (3) Termination is in the best interests of the child; and

34 (4) Because of the existence of aggravated circumstances,  
35 reasonable efforts to unify the family are not required.  
36 Notwithstanding the existence of aggravated circumstances, reasonable  
37 efforts may be required if the court or department determines it is in  
38 the best interests of the child. In determining whether aggravated

1 circumstances exist by clear, cogent, and convincing evidence, the  
2 court shall consider one or more of the following:

3 (a) Conviction of the parent of rape of the child in the first,  
4 second, or third degree as defined in RCW 9A.44.073, 9A.44.076, and  
5 9A.44.079;

6 (b) Conviction of the parent of criminal mistreatment of the child  
7 in the first or second degree as defined in RCW 9A.42.020 and  
8 9A.42.030;

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

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

15 (e) Conviction of the parent of attempting, soliciting, or  
16 conspiring to commit a crime listed in (a), (b), (c), or (d) of this  
17 subsection;

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

20 (g) 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. In the case of a parent of an Indian child, as defined in  
25 the Indian Child Welfare Act, P.L. 95-608 (25 U.S.C. Sec. 1903), the  
26 court shall also consider tribal efforts to assist the parent in  
27 completing treatment and make it possible for the child to return home;

28 (h) An infant under three years of age has been abandoned;

29 (i) Conviction of the parent, when a child has been born of the  
30 offense, of: (A) A sex offense under chapter 9A.44 RCW; or (B) incest  
31 under RCW 9A.64.020.

32 NEW SECTION. **Sec. 17.** A new section is added to chapter 13.34 RCW  
33 to read as follows:

34 If reasonable efforts are not ordered under section 16 of this act,  
35 a permanency planning hearing shall be held within thirty days of the  
36 court order to file a petition to terminate parental rights.  
37 Reasonable efforts shall be made to place the child in a timely manner

1 in accordance with the permanency plan, and to complete whatever steps  
2 are necessary to finalize the permanent placement of the child.

3 NEW SECTION. **Sec. 18.** A new section is added to chapter 13.34 RCW  
4 to read as follows:

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

7 (a) A permanency plan of care that shall identify one of the  
8 following outcomes as a primary goal and may identify additional  
9 outcomes as alternative goals: Return of the child to the home of the  
10 child's parent, guardian, or legal custodian; adoption; guardianship;  
11 permanent legal custody; long-term relative or foster care, until the  
12 child is age eighteen, with a written agreement between the parties and  
13 the care provider; successful completion of a responsible living skills  
14 program; or independent living, if appropriate and if the child is age  
15 sixteen or older. The department shall not discharge a child to an  
16 independent living situation before the child is eighteen years of age  
17 unless the child becomes emancipated pursuant to chapter 13.64 RCW;

18 (b) Unless the court has ordered, pursuant to RCW 13.34.130(3),  
19 that a termination petition be filed, a specific plan as to where the  
20 child will be placed, what steps will be taken to return the child  
21 home, and what actions the agency will take to maintain parent-child  
22 ties. All aspects of the plan shall include the goal of achieving  
23 permanence for the child.

24 (i) The agency plan shall specify what services the parents will be  
25 offered to enable them to resume custody, what requirements the parents  
26 must meet to resume custody, and a time limit for each service plan and  
27 parental requirement.

28 (ii) The agency shall encourage the maximum parent-child contact  
29 possible, including regular visitation and participation by the parents  
30 in the care of the child while the child is in placement. Visitation  
31 may be limited or denied only if the court determines that such  
32 limitation or denial is necessary to protect the child's health,  
33 safety, or welfare.

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

1 (iv) The agency charged with supervising a child in placement shall  
2 provide all reasonable services that are available within the agency,  
3 or within the community, or those services which the department has  
4 existing contracts to purchase. It shall report to the court if it is  
5 unable to provide such services; and

6 (c) If the court has ordered, pursuant to RCW 13.34.130(3), that a  
7 termination petition be filed, a specific plan as to where the child  
8 will be placed, what steps will be taken to achieve permanency for the  
9 child, services to be offered or provided to the child, and, if  
10 visitation would be in the best interests of the child, a  
11 recommendation to the court regarding visitation between parent and  
12 child pending a fact-finding hearing on the termination petition. The  
13 agency shall not be required to develop a plan of services for the  
14 parents or provide services to the parents if the court orders a  
15 termination petition be filed.

16 (2) If the court determines that the continuation of reasonable  
17 efforts to prevent or eliminate the need to remove the child from his  
18 or her home or to safely return the child home should not be part of  
19 the permanency plan of care for the child, reasonable efforts shall be  
20 made to place the child in a timely manner and to complete whatever  
21 steps are necessary to finalize the permanent placement of the child.

22 NEW SECTION. Sec. 19. A new section is added to chapter 13.34 RCW  
23 to read as follows:

24 (1) Except for children whose cases are reviewed by a citizen  
25 review board under chapter 13.70 RCW, the status of all children found  
26 to be dependent shall be reviewed by the court at least every six  
27 months from the beginning date of the placement episode or the date  
28 dependency is established, whichever is first, at a hearing in which it  
29 shall be determined whether court supervision should continue. The  
30 review shall include findings regarding the agency and parental  
31 completion of disposition plan requirements, and if necessary, revised  
32 permanency time limits. The supervising agency shall provide a foster  
33 parent, preadoptive parent, or relative with notice of, and their right  
34 to an opportunity to be heard in, a review hearing pertaining to the  
35 child, but only if that person is currently providing care to that  
36 child at the time of the hearing. This section shall not be construed  
37 to grant party status to any person who has been provided an  
38 opportunity to be heard.

1 (a) A child shall not be returned home at the review hearing unless  
2 the court finds that a reason for removal as set forth in RCW 13.34.130  
3 no longer exists. The parents, guardian, or legal custodian shall  
4 report to the court the efforts they have made to correct the  
5 conditions which led to removal. If a child is returned, casework  
6 supervision shall continue for a period of six months, at which time  
7 there shall be a hearing on the need for continued intervention.

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

10 (i) Whether reasonable services have been provided to or offered to  
11 the parties to facilitate reunion, specifying the services provided or  
12 offered;

13 (ii) Whether the child has been placed in the least-restrictive  
14 setting appropriate to the child's needs, including whether  
15 consideration and preference has been given to placement with the  
16 child's relatives;

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

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

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

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

25 (vii) Whether additional services, including housing assistance,  
26 are needed to facilitate the return of the child to the child's  
27 parents; if so, the court shall order that reasonable services be  
28 offered specifying such services; and

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

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

33 (2) The court's ability to order housing assistance under RCW  
34 13.34.130 and this section is: (a) Limited to cases in which  
35 homelessness or the lack of adequate and safe housing is the primary  
36 reason for an out-of-home placement; and (b) subject to the  
37 availability of funds appropriated for this specific purpose.



1       **Sec. 20.** RCW 13.34.145 and 1999 c 267 s 17 are each amended to  
2 read as follows:

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

10       (a) Whenever a child is placed in out-of-home care pursuant to RCW  
11 13.34.130, the agency that has custody of the child shall provide the  
12 court with a written permanency plan of care directed towards securing  
13 a safe, stable, and permanent home for the child as soon as possible.  
14 The plan shall identify one of the following outcomes as the primary  
15 goal and may also identify additional outcomes as alternative goals:  
16 Return of the child to the home of the child's parent, guardian, or  
17 legal custodian; adoption; guardianship; permanent legal custody; long-  
18 term relative or foster care, until the child is age eighteen, with a  
19 written agreement between the parties and the care provider; a  
20 responsible living skills program; and independent living, if  
21 appropriate and if the child is age sixteen or older and the provisions  
22 of subsection (2) of this section are met.

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

25       (c) Permanency planning goals should be achieved at the earliest  
26 possible date, preferably before the child has been in out-of-home care  
27 for fifteen months. In cases where parental rights have been  
28 terminated, the child is legally free for adoption, and adoption has  
29 been identified as the primary permanency planning goal, it shall be a  
30 goal to complete the adoption within six months following entry of the  
31 termination order.

32       (d) For purposes related to permanency planning:

33       (i) "Guardianship" means a dependency guardianship (~~pursuant to~~  
34 ~~this chapter~~), a legal guardianship pursuant to chapter 11.88 RCW, or  
35 equivalent laws of another state or a federally recognized Indian  
36 tribe.

37       (ii) "Permanent custody order" means a custody order entered  
38 pursuant to chapter 26.10 RCW.

1 (iii) "Permanent legal custody" means legal custody pursuant to  
2 chapter 26.10 RCW or equivalent laws of another state or of a federally  
3 recognized Indian tribe.

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

16 (3) A permanency planning hearing shall be held in all cases where  
17 the child has remained in out-of-home care for at least nine months and  
18 an adoption decree, guardianship order, or permanent custody order has  
19 not previously been entered. The hearing shall take place no later  
20 than twelve months following commencement of the current placement  
21 episode.

22 (4) Whenever a child is removed from the home of a dependency  
23 guardian or long-term relative or foster care provider, and the child  
24 is not returned to the home of the parent, guardian, or legal custodian  
25 but is placed in out-of-home care, a permanency planning hearing shall  
26 take place no later than twelve months, as provided in subsection (3)  
27 of this section, following the date of removal unless, prior to the  
28 hearing, the child returns to the home of the dependency guardian or  
29 long-term care provider, the child is placed in the home of the parent,  
30 guardian, or legal custodian, an adoption decree, guardianship order,  
31 or a permanent custody order is entered, or the dependency is  
32 dismissed.

33 (5) No later than ten working days prior to the permanency planning  
34 hearing, the agency having custody of the child shall submit a written  
35 permanency plan to the court and shall mail a copy of the plan to all  
36 parties and their legal counsel, if any.

37 (6) At the permanency planning hearing, the court shall enter  
38 findings as required by ~~((RCW 13.34.130(7)))~~ section 19 of this act and  
39 shall review the permanency plan prepared by the agency. If the child

1 has resided in the home of a foster parent or relative for more than  
2 six months prior to the permanency planning hearing, the court shall  
3 also enter a finding regarding whether the foster parent or relative  
4 was informed of the hearing as required in RCW 74.13.280 and  
5 ~~((13.34.130(7)))~~ section 19 of this act. If a goal of long-term foster  
6 or relative care has been achieved prior to the permanency planning  
7 hearing, the court shall review the child's status to determine whether  
8 the placement and the plan for the child's care remain appropriate. In  
9 cases where the primary permanency planning goal has not ~~((yet))~~ been  
10 achieved, the court shall inquire regarding the reasons why the primary  
11 goal has not been achieved and determine what needs to be done to make  
12 it possible to achieve the primary goal. In all cases, the court  
13 shall:

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

16 (ii) Modify the permanency plan, and order implementation of the  
17 modified plan; and

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

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

23 (7) If the court orders the child returned home, casework  
24 supervision shall continue for at least six months, at which time a  
25 review hearing shall be held pursuant to ~~((RCW 13.34.130(7)))~~ section  
26 19 of this act, and the court shall determine the need for continued  
27 intervention.

28 (8) Continued juvenile court jurisdiction under this chapter shall  
29 not be a barrier to the entry of an order establishing a legal  
30 guardianship or permanent legal custody when~~((7))~~: (a) The court has  
31 ordered implementation of a permanency plan that includes legal  
32 guardianship or permanent legal custody~~((7))~~; and (b) the party  
33 pursuing the legal guardianship or permanent legal custody is the party  
34 identified in the permanency plan as the prospective legal guardian or  
35 custodian. During the pendency of such proceeding, ~~((juvenile))~~ the  
36 court shall conduct review hearings and further permanency planning  
37 hearings as provided in this chapter. At the conclusion of the legal  
38 guardianship or permanent legal custody proceeding, a juvenile court  
39 hearing shall be held for the purpose of determining whether dependency

1 should be dismissed. If a guardianship or permanent custody order has  
2 been entered, the dependency shall be dismissed.

3 (9) Following the first permanency planning hearing, the court  
4 shall hold a further permanency planning hearing in accordance with  
5 this section at least once every twelve months until a permanency  
6 planning goal is achieved or the dependency is dismissed, whichever  
7 occurs first.

8 (10) Except as (~~otherwise~~) provided in RCW 13.34.235, the status  
9 of all dependent children shall continue to be reviewed by the court at  
10 least once every six months, in accordance with (~~RCW 13.34.130(7)~~)  
11 section 19 of this act, until the dependency is dismissed. Prior to  
12 the second permanency planning hearing, the agency that has custody of  
13 the child shall consider whether to file a petition for termination of  
14 parental rights.

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

24 (12) The approval of a permanency plan that does not contemplate  
25 return of the child to the parent does not relieve the supervising  
26 agency of its obligation to provide reasonable services, under this  
27 chapter, intended to effectuate the return of the child to the parent,  
28 including but not limited to, visitation rights.

29 (13) Nothing in this chapter may be construed to limit the  
30 procedural due process rights of any party in a termination or  
31 guardianship proceeding filed under this chapter.

32 **Sec. 21.** RCW 13.34.165 and 1998 c 296 s 38 are each amended to  
33 read as follows:

34 (1) Failure by a party to comply with an order entered under this  
35 chapter is civil contempt of court as provided in RCW 7.21.030(2)(e).

36 (2) The maximum term of (~~imprisonment~~) confinement that may be  
37 imposed as a remedial sanction for contempt of court under this section  
38 is confinement for up to seven days.

1 (3) A child (~~(imprisoned)~~) held for contempt under this section  
2 shall be confined only in a secure juvenile detention facility operated  
3 by or pursuant to a contract with a county.

4 (4) A motion for contempt may be made by a parent, juvenile court  
5 personnel, or by any public agency, organization, or person having  
6 custody of the child under a court order entered pursuant to this  
7 chapter.

8 (5) Whenever the court finds probable cause to believe, based upon  
9 consideration of a motion for contempt and the information set forth in  
10 a supporting declaration, that a child has violated a placement order  
11 entered under this chapter, the court may issue an order directing law  
12 enforcement to pick up and take the child to detention. The order may  
13 be entered ex parte without prior notice to the child or other parties.  
14 Following the child's admission to detention, a detention review  
15 hearing must be held in accordance with RCW 13.32A.065.

16 **Sec. 22.** RCW 13.34.170 and 1981 c 195 s 9 are each amended to read  
17 as follows:

18 In any case in which (~~(an order or decree of)~~) the (~~(juvenile)~~)  
19 court (~~(requiring)~~) has ordered a parent or parents, guardian, or other  
20 person having custody of a child to pay (~~(for shelter care and/or)~~)  
21 support (~~(of such child is)~~) under RCW 13.34.160 and the order has not  
22 been complied with, the court may, upon such person or persons being  
23 duly summoned or voluntarily appearing, proceed to inquire into the  
24 amount due upon (~~(said)~~) the order (~~(or decree)~~) and enter judgment for  
25 (~~(such)~~) that amount against the defaulting party or parties, and  
26 (~~(such)~~) the judgment shall be docketed as are other judgments for the  
27 payment of money.

28 In such judgments, the county in which the (~~(same are)~~) order is  
29 entered shall be (~~(denominated)~~) the judgment creditor, or the state  
30 may be the judgment creditor where the child is in the custody of a  
31 state agency (~~(and said)~~). Judgments may be enforced by the  
32 prosecuting attorney of (~~(such)~~) the county, or the attorney general  
33 where the state is the judgment creditor and any moneys recovered  
34 (~~(thereon)~~) shall be paid into the registry of the juvenile court and  
35 shall be disbursed to such person, persons, agency, or governmental  
36 department as the court (~~(shall find to be)~~) finds is entitled  
37 (~~(thereto)~~) to it.

1 Such judgments shall remain ~~((as))~~ valid and enforceable  
2 ~~((judgments))~~ for a period of ten years ~~((subsequent to the))~~ after the  
3 date of entry ~~((thereof))~~.

4 **Sec. 23.** RCW 13.34.174 and 1993 c 412 s 5 are each amended to read  
5 as follows:

6 (1) The provisions of this section shall apply when a court orders  
7 a party to undergo an alcohol or substance abuse diagnostic  
8 investigation and evaluation.

9 (2) The facility conducting the investigation and evaluation shall  
10 make a written report to the court stating its findings and  
11 recommendations including family-based services or treatment when  
12 appropriate. If its findings and recommendations support treatment, it  
13 shall also recommend a treatment plan setting out:

- 14 (a) Type of treatment;
- 15 (b) Nature of treatment;
- 16 (c) Length of treatment;
- 17 (d) A treatment time schedule; and
- 18 (e) Approximate cost of the treatment.

19 The affected person shall be included in developing the appropriate  
20 ~~((plan of))~~ treatment plan. The ~~((plan of))~~ treatment plan must be  
21 signed by ~~((the))~~ the treatment provider and the affected person.  
22 The initial written progress report based on the treatment plan ~~((and~~  
23 ~~response to treatment))~~ shall be sent to the appropriate persons six  
24 weeks after initiation of treatment~~((, and))~~. Subsequent progress  
25 reports shall be provided after three months, ~~((after))~~ six months,  
26 ~~((after))~~ twelve months, and thereafter every six months if treatment  
27 exceeds twelve months. Reports are to be filed with the court in a  
28 timely manner. Close-out of the treatment record must include summary  
29 of pretreatment and posttreatment, with final outcome and disposition.  
30 The report shall also include recommendations for ongoing stability and  
31 decrease in destructive behavior.

32 ~~((The))~~ Each report ~~((with the treatment plan))~~ shall also be filed  
33 with the court and a copy given to the person evaluated and the  
34 person's counsel. A copy of the treatment plan shall also be given to  
35 the department's caseworker and to the guardian ad litem. Any program  
36 for chemical dependency shall meet the program requirements contained  
37 in chapter 70.96A RCW.

1 (3) If the court has ordered treatment pursuant to a dependency  
2 proceeding it shall also require the treatment program to provide, in  
3 the reports required by subsection (2) of this section, status reports  
4 to the court, the department, the supervising child-placing agency if  
5 any, and the person or person's counsel regarding ~~((:—(a)))~~ the  
6 person's cooperation with the treatment plan proposed ~~((+))~~ and ~~((b))~~  
7 the person's progress in treatment.

8 (4) ~~((In addition,))~~ If ((the party)) a person subject to this  
9 section fails or neglects to carry out and fulfill any term or  
10 condition of the treatment plan, the program or agency administering  
11 the treatment shall report such breach to the court, the department,  
12 the guardian ad litem, the supervising child-placing agency if any, and  
13 the person or person's counsel, within twenty-four hours, together with  
14 its recommendation. These reports shall be made as a declaration by  
15 the person who is personally responsible for providing the treatment.

16 (5) Nothing in this chapter may be construed as allowing the court  
17 to require the department to pay for the cost of any alcohol or  
18 substance abuse evaluation or treatment program.

19 **Sec. 24.** RCW 13.34.176 and 1993 c 412 s 6 are each amended to read  
20 as follows:

21 (1) The court ~~((or the department))~~, upon receiving a report under  
22 RCW 13.34.174(4) or at the department's request, may schedule a show  
23 cause hearing to determine whether the person is in violation of the  
24 treatment conditions. All parties shall be given notice of the  
25 hearing. The court shall hold the hearing within ten days of the  
26 request for a hearing. At the hearing, testimony, declarations,  
27 reports, or other relevant information may be presented on the person's  
28 alleged failure to comply with the treatment plan and the person shall  
29 have the right to present similar information on his or her own behalf.

30 (2) If the court finds that there has been a violation of the  
31 treatment conditions it shall modify the dependency order, as  
32 necessary, to ensure the safety of the child. The modified order shall  
33 remain in effect until the party is in full compliance with the  
34 treatment requirements.

35 **Sec. 25.** RCW 13.34.180 and 1998 c 314 s 4 are each amended to read  
36 as follows:

1       (1) A petition seeking termination of a parent and child  
2 relationship may be filed in juvenile court by any party to the  
3 dependency proceedings concerning that child. Such petition shall  
4 conform to the requirements of RCW 13.34.040, shall be served upon the  
5 parties as provided in RCW 13.34.070(8), and shall allege all of the  
6 following unless subsection (2) or (3) of this section applies:

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

9       ~~(2))~~ (b) That the court has entered a dispositional order pursuant  
10 to RCW 13.34.130; ~~((and~~

11       ~~(3))~~ (c) That the child has been removed or will, at the time of  
12 the hearing, have been removed from the custody of the parent for a  
13 period of at least six months pursuant to a finding of dependency  
14 ~~((under RCW 13.34.030(4)))~~; ~~((and~~

15       ~~(4))~~ (d) That the services ordered under ~~((RCW 13.34.130))~~ section  
16 18 of this act have been expressly and understandably offered or  
17 provided and all necessary services, reasonably available, capable of  
18 correcting the parental deficiencies within the foreseeable future have  
19 been expressly and understandably offered or provided; ~~((and~~

20       ~~(5))~~ (e) That there is little likelihood that conditions will be  
21 remedied so that the child can be returned to the parent in the near  
22 future. A parent's failure to substantially improve parental  
23 deficiencies within twelve months following entry of the dispositional  
24 order shall give rise to a rebuttable presumption that there is little  
25 likelihood that conditions will be remedied so that the child can be  
26 returned to the parent in the near future. The presumption shall not  
27 arise unless the petitioner makes a showing that all necessary services  
28 reasonably capable of correcting the parental deficiencies within the  
29 foreseeable future have been clearly offered or provided. In  
30 determining whether the conditions will be remedied the court may  
31 consider, but is not limited to, the following factors:

32       ~~((a))~~ (i) Use of intoxicating or controlled substances so as to  
33 render the parent incapable of providing proper care for the child for  
34 extended periods of time and documented unwillingness of the parent to  
35 receive and complete treatment or documented multiple failed treatment  
36 attempts; or

37       ~~((b))~~ (ii) Psychological incapacity or mental deficiency of the  
38 parent that is so severe and chronic as to render the parent incapable  
39 of providing proper care for the child for extended periods of time,



1 and documented unwillingness of the parent to receive and complete  
2 treatment or documentation that there is no treatment that can render  
3 the parent capable of providing proper care for the child in the near  
4 future; and

5 ~~((6))~~ (f) That continuation of the parent and child relationship  
6 clearly diminishes the child's prospects for early integration into a  
7 stable and permanent home~~((or))~~.

8 ~~((7))~~ (2) In lieu of the allegations in subsection~~((s))~~ (1)  
9 ~~((through(6)))~~ of this section, the petition may allege that the child  
10 was found under such circumstances that the whereabouts of the child's  
11 parent are unknown and no person has acknowledged paternity or  
12 maternity and requested custody of the child within two months after  
13 the child was found~~((or))~~.

14 ~~((8))~~ (3) In lieu of the allegations in subsection~~((s(2) through~~  
15 ~~(6)))~~ (1)(b) through (f) of this section, the petition may allege that  
16 the parent has been ~~((found by a court of competent jurisdiction))~~  
17 convicted of:

18 (a) ~~((To have committed, against another child of such parent,))~~  
19 Murder in the first degree, murder in the second degree, or homicide by  
20 abuse as defined in chapter 9A.32 RCW against another child of the  
21 parent;

22 (b) ~~((To have committed, against another child of such parent,))~~  
23 Manslaughter in the first degree or manslaughter in the second degree,  
24 as defined in chapter 9A.32 RCW against another child of the parent;

25 (c) ~~((To have attempted, conspired, or solicited))~~ Attempting,  
26 conspiring, or soliciting another to commit one or more of the crimes  
27 listed in (a) or (b) of this subsection; or

28 (d) ~~((To have committed))~~ Assault in the first or second degree, as  
29 defined in chapter 9A.36 RCW, against the surviving child or another  
30 child of the parent.

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

34 "NOTICE

35 A petition for termination of parental rights has been filed  
36 against you. You have important legal rights and you must take  
37 steps to protect your interests. This petition could result in  
38 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. 26.** RCW 13.34.190 and 1998 c 314 s 5 are each amended to read  
20 as follows:

21           After hearings pursuant to RCW 13.34.110 or 13.34.130, the court  
22 may enter an order terminating all parental rights to a child only if  
23 the court finds that:

24           (1)(a) 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           (b) (~~((RCW 13.34.180-(3) and (4) may be waived because the~~  
28 ~~allegations under))~~ The provisions of RCW 13.34.180 (1)((, (2), (5),  
29 and (6)) (a), (b), (e), and (f) are established beyond a reasonable  
30 doubt and if so, then RCW 13.34.180(1) (c) and (d) may be waived. When  
31 an infant has been abandoned, as defined in RCW 13.34.030, and the  
32 abandonment has been proved beyond a reasonable doubt, then RCW  
33 13.34.180(1) (c) and (d) may be waived; or

34           (c) The allegation under RCW 13.34.180(~~((7))~~) (2) is established  
35 beyond a reasonable doubt. In determining whether RCW 13.34.180 (~~((5)~~  
36 ~~and (6))~~) (1) (e) and (f) are established beyond a reasonable doubt,  
37 the court shall consider whether one or more of the aggravated

1 circumstances listed in (~~RCW 13.34.130(2)~~) section 16 of this act  
2 exist; or

3 (d) The allegation under RCW 13.34.180(~~(+8)~~) (3) is established  
4 beyond a reasonable doubt; and

5 (2) Such an order is in the best interests of the child.

6 **Sec. 27.** RCW 13.34.200 and 1977 ex.s. c 291 s 48 are each amended  
7 to read as follows:

8 (1) Upon the termination of parental rights pursuant to RCW  
9 13.34.180, all rights, powers, privileges, immunities, duties, and  
10 obligations, including any rights to custody, control, visitation, or  
11 support existing between the child and parent shall be severed and  
12 terminated and the parent shall have no standing to appear at any  
13 further legal proceedings concerning the child: PROVIDED, That any  
14 support obligation existing prior to the effective date of the order  
15 terminating parental rights shall not be severed or terminated. The  
16 rights of one parent may be terminated without affecting the rights of  
17 the other parent and the order shall so state.

18 (2) An order terminating the parent and child relationship shall  
19 not disentitle a child to any benefit due the child from any third  
20 person, agency, state, or the United States, nor shall any action under  
21 this chapter be deemed to affect any rights and benefits that (~~a~~  
22 ~~native American~~) an Indian child derives from the child's descent from  
23 a member of a federally recognized Indian tribe.

24 **Sec. 28.** RCW 13.34.210 and 1991 c 127 s 6 are each amended to read  
25 as follows:

26 If, upon entering an order terminating the parental rights of a  
27 parent, there remains no parent having parental rights, the court shall  
28 commit the child to the custody of the department (~~of social and~~  
29 ~~health services~~) or to a licensed child-placing agency willing to  
30 accept custody for the purpose of placing the child for adoption(~~(, or~~  
31 ~~in the absence thereof)~~). If an adoptive home has not been identified,  
32 the department or agency shall place the child in a licensed foster  
33 home, or take other suitable measures for the care and welfare of the  
34 child. The custodian shall have authority to consent to the adoption  
35 of the child consistent with chapter 26.33 RCW, the marriage of the  
36 child, the enlistment of the child in the armed forces of the United  
37 States, necessary surgical and other medical treatment for the child,

1 and to consent to such other matters as might normally be required of  
2 the parent of the child.

3 If a child has not been adopted within six months after the date of  
4 the order and a (~~general guardian~~) guardianship of the child under  
5 RCW 13.34.231 or chapter 11.88 RCW, or a permanent custody order under  
6 chapter 26.10 RCW, has not been (~~appointed~~) entered by the court,  
7 (~~the child shall be returned to the court for entry of further orders~~  
8 ~~for his or her care, custody, and control, and, except for children~~  
9 ~~whose cases are reviewed by a citizen review board under chapter 13.70~~  
10 ~~RCW,~~) the court shall review the case every six months (~~thereafter~~)  
11 until a decree of adoption is entered except for those cases which are  
12 reviewed by a citizen review board under chapter 13.70 RCW.

13 **Sec. 29.** RCW 13.34.231 and 1994 c 288 s 6 are each amended to read  
14 as follows:

15 At the hearing on a dependency guardianship petition, all parties  
16 have the right to present evidence and cross examine witnesses. The  
17 rules of evidence apply to the conduct of the hearing. A guardianship  
18 shall be established if the court finds by a preponderance of the  
19 evidence that:

20 (1) The child has been found to be a dependent child under RCW  
21 13.34.030;

22 (2) A dispositional order has been entered pursuant to RCW  
23 13.34.130;

24 (3) The child has been removed or will, at the time of the hearing,  
25 have been removed from the custody of the parent for a period of at  
26 least six months pursuant to a finding of dependency under RCW  
27 13.34.030;

28 (4) The services ordered under RCW 13.34.130 and section 18 of this  
29 act have been offered or provided and all necessary services,  
30 reasonably available, capable of correcting the parental deficiencies  
31 within the foreseeable future have been offered or provided;

32 (5) There is little likelihood that conditions will be remedied so  
33 that the child can be returned to the parent in the near future; and

34 (6) A guardianship, rather than termination of the parent-child  
35 relationship or continuation of efforts to return the child to the  
36 custody of the parent, would be in the best interest of the child.

1       **Sec. 30.** RCW 13.34.233 and 1995 c 311 s 24 are each amended to  
2 read as follows:

3       (1) Any party may request the court under RCW 13.34.150 to modify  
4 or terminate a dependency guardianship order (~~((under RCW 13.34.150))~~).  
5 Notice of any motion to modify or terminate the guardianship shall be  
6 served on all other parties, including any agency that was responsible  
7 for supervising the child's placement at the time the guardianship  
8 petition was filed. Notice (~~((shall))~~) in all cases shall be served upon  
9 the department (~~((of social and health services))~~). If the department  
10 was not previously a party to the guardianship proceeding, the  
11 department shall nevertheless have the right to: (a) Initiate a  
12 proceeding to modify or terminate a guardianship; and (~~((the right to))~~)  
13 (b) intervene at any stage of such a proceeding.

14       (2) The guardianship may be modified or terminated upon the motion  
15 of any party or the department if the court finds by a preponderance of  
16 the evidence that there has been a substantial change of circumstances  
17 subsequent to the establishment of the guardianship and that it is in  
18 the child's best interest to modify or terminate the guardianship. The  
19 court shall hold a hearing on the motion before modifying or  
20 terminating a guardianship.

21       (3) Upon entry of an order terminating the guardianship, the  
22 dependency guardian shall not have any rights or responsibilities with  
23 respect to the child and shall not have legal standing to participate  
24 as a party in further dependency proceedings pertaining to the child.  
25 The court may allow the child's dependency guardian to attend  
26 dependency review proceedings pertaining to the child for the sole  
27 purpose of providing information about the child to the court.

28       (4) Upon entry of an order terminating the guardianship, the child  
29 shall remain dependent and the court shall either return the child to  
30 the child's parent or order the child into the custody, control, and  
31 care of the department (~~((of social and health services))~~) or a licensed  
32 child-placing agency for placement in a foster home or group care  
33 facility licensed pursuant to chapter 74.15 RCW or in a home not  
34 required to be licensed pursuant to such chapter. The court shall not  
35 place a child in the custody of the child's parent unless the court  
36 finds that (~~((a))~~) reasons for removal as set forth in RCW 13.34.130 no  
37 longer exist(~~((s))~~) and that such placement is in the child's best  
38 interest. The court shall thereafter conduct reviews as provided in  
39 (~~((RCW 13.34.130(5))~~) section 19 of this act and, where applicable,

1 shall hold a permanency planning hearing in accordance with RCW  
2 13.34.145.

3 **Sec. 31.** RCW 13.34.235 and 1981 c 195 s 6 are each amended to read  
4 as follows:

5 A dependency guardianship (~~((established under RCW 13.34.231 and~~  
6 ~~13.34.232))~~) is not subject to the review hearing requirements of (~~((RCW~~  
7 ~~13.34.130))~~) section 19 of this act unless ordered by the court under  
8 RCW 13.34.232(1)(e).

9 **Sec. 32.** RCW 13.34.260 and 1990 c 284 s 25 are each amended to  
10 read as follows:

11 In an attempt to minimize the inherent intrusion in the lives of  
12 families involved in the foster care system and to maintain parental  
13 authority where appropriate, the department, absent good cause, shall  
14 follow the wishes of the natural parent regarding the placement of the  
15 child. Preferences such as family constellation, ethnicity, and  
16 religion shall be (~~((given consideration))~~) considered when matching  
17 children to foster homes. Parental authority is appropriate in areas  
18 that are not connected with the abuse or neglect that resulted in the  
19 dependency and (~~((should))~~) shall be integrated through the foster care  
20 team. For purposes of this section, "foster care team" means the  
21 foster parent currently providing care, the currently assigned social  
22 worker, and the parent or parents.

23 **Sec. 33.** RCW 13.34.270 and 1998 c 229 s 2 are each amended to read  
24 as follows:

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

33 (2) To obtain the judicial determination, the department shall file  
34 a petition alleging that there is located or residing within the county  
35 a child who has a developmental disability(~~((, as defined in RCW~~  
36 ~~71A.10.020,))~~) and that the child has been placed in out-of-home care

1 pursuant to RCW 74.13.350. The petition shall request that the court  
2 review the child's placement, make a determination (~~(that)~~) whether  
3 continued placement is in the best interests of the child, and take  
4 other necessary action as provided in this section. The petition shall  
5 contain the name, date of birth, and residence of the child and the  
6 names and residences of the child's parent or legal guardian who has  
7 agreed to the child's placement in out-of-home care. Reasonable  
8 attempts shall be made by the department to ascertain and set forth in  
9 the petition the identity, location, and custodial status of any parent  
10 who is not a party to the placement agreement and why that parent  
11 cannot assume custody of the child.

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

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

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

29 (a) For children age ten and under, a permanency planning hearing  
30 shall be held in all cases where the child has remained in out-of-home  
31 care for at least nine months and an adoption decree or guardianship  
32 order under chapter 11.88 RCW has not previously been entered. The  
33 hearing shall take place no later than twelve months following  
34 commencement of the child's current placement episode.

35 (b) For children over age ten, a permanency planning hearing shall  
36 be held in all cases where the child has remained in out-of-home care  
37 for at least fifteen months and an adoption decree or guardianship  
38 order under chapter 11.88 RCW has not previously been entered. The

1 hearing shall take place no later than eighteen months following  
2 commencement of the current placement episode.

3 (c) No later than ten working days before the permanency planning  
4 hearing, the department shall submit a written permanency plan to the  
5 court and shall mail a copy of the plan to all parties. The plan shall  
6 be directed toward securing a safe, stable, and permanent home for the  
7 child as soon as possible. The plan shall identify one of the  
8 following outcomes as the primary goal and may also identify additional  
9 outcomes as alternative goals: Return of the child to the home of the  
10 child's parent or legal guardian; adoption; guardianship; or long-term  
11 out-of-home care, until the child is age eighteen, with a written  
12 agreement between the parties and the child's care provider.

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

21 (e) Following the first permanency planning hearing, the court  
22 shall hold a further permanency planning hearing in accordance with  
23 this section at least once every twelve months until a permanency  
24 planning goal is achieved or the voluntary placement agreement is  
25 terminated.

26 (6) Any party to the voluntary placement agreement may terminate  
27 the agreement at any time. Upon termination of the agreement, the  
28 child shall be returned to the care of the child's parent or legal  
29 guardian, unless the child has been taken into custody pursuant to RCW  
30 13.34.050 or 26.44.050, placed in shelter care pursuant to RCW  
31 13.34.060, or placed in foster care pursuant to RCW 13.34.130. The  
32 department shall notify the court upon termination of the voluntary  
33 placement agreement and return of the child to the care of the child's  
34 parent or legal guardian. Whenever a voluntary placement agreement is  
35 terminated, an action under this section shall be dismissed.

36 (7) This section does not 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. An action filed under  
39 this section shall be dismissed upon the filing of a dependency



1 petition regarding a child who is the subject of the action under this  
2 section.

3 **Sec. 34.** RCW 13.34.300 and 1979 ex.s. c 201 s 3 are each amended  
4 to read as follows:

5 The legislature finds that it is the responsibility of the  
6 custodial parent, parents or guardian to ensure that children within  
7 the custody of such individuals attend school as provided for by law.  
8 To this end, while a parent's failure to cause a juvenile to attend  
9 school should not alone provide a basis for a neglect petition against  
10 the parent or guardian, when a neglect petition is filed on the basis  
11 of other evidence, a parent or guardian's failure to take reasonable  
12 steps to ensure that the juvenile attends school may be (~~used as~~  
13 ~~evidence with respect~~) relevant to the question of the appropriate  
14 disposition of a neglect petition.

15 **Sec. 35.** RCW 13.34.340 and 1999 c 188 s 4 are each amended to read  
16 as follows:

17 For minors who cannot consent to the release of their records with  
18 the department because they are not old enough to consent to treatment,  
19 or, if old enough, lack the capacity to consent, or if the minor is  
20 receiving treatment involuntarily with a provider the department has  
21 authorized to provide mental health treatment under RCW 13.34.320, the  
22 department shall disclose, upon the treating physician's request, all  
23 relevant records, including the minor's passport as established under  
24 RCW 74.13.285, in the department's possession that the treating  
25 physician determines contain information required for treatment of the  
26 minor. The treating physician shall maintain all records received from  
27 the department in a manner that distinguishes the records from any  
28 other records in the minor's file with the treating physician and the  
29 department records may not be disclosed by the treating physician to  
30 any other person or entity absent a court order except that, for  
31 medical purposes only, a treating physician may disclose the department  
32 records to another treating physician.

33 **Sec. 36.** RCW 13.70.003 and 1989 1st ex.s. c 17 s 1 are each  
34 amended to read as follows:

1 The legislature recognizes the importance of permanency and  
2 continuity to children and of fairness to parents in the provision of  
3 child welfare services.

4 The legislature intends to create a citizen review board system  
5 that will function in an advisory capacity to the judiciary, the  
6 department, and the legislature. The purpose of the citizen review  
7 board system is to:

8 (1) Provide periodic review of cases involving substitute care of  
9 children in a manner that complies with case review requirements and  
10 time lines imposed by federal laws pertaining to child welfare  
11 services;

12 (2) Improve the quality of case review provided to children in  
13 substitute care and their families; and

14 (3) Provide a means for community involvement in monitoring cases  
15 of children in substitute care.

16 In order to accomplish the foregoing purposes, the citizen review  
17 board system shall not be subject to the procedures and standards  
18 usually applicable to judicial and administrative hearings, except as  
19 otherwise specifically provided in this chapter and ((RCW 13.34.130))  
20 section 19 of this act, 13.34.145, and 26.44.115. Nothing in this  
21 chapter and ((RCW 13.34.130)) section 19 of this act, 13.34.145, and  
22 26.44.115 shall limit the ability of the department to utilize court  
23 review hearings and administrative reviews to meet the periodic review  
24 requirements imposed by federal law.

25 **Sec. 37.** RCW 13.70.110 and 1991 c 127 s 5 are each amended to read  
26 as follows:

27 (1) This section shall apply to cases where a child has been placed  
28 in substitute care pursuant to a proceeding under chapter 13.34 RCW.

29 (2) Within forty-five days following commencement of the placement  
30 episode, the court shall assign the child's case to a board and forward  
31 to the board a copy of the dependency petition and any shelter care or  
32 dependency disposition orders which have been entered in the case by  
33 the court.

34 (3) The board shall review the case plan for each child whose case  
35 is assigned to the board by the court. The review shall take place at  
36 times set by the board. The first review shall occur within ninety  
37 days following commencement of the placement episode. The second  
38 review shall occur within six months following commencement of the

1 placement episode. The next review shall occur within one year after  
2 commencement of the placement episode. Within ~~((eighteen))~~ twelve  
3 months following commencement of the placement episode, a permanency  
4 planning hearing shall be held before the court in accordance with RCW  
5 13.34.145. Thereafter, the court shall assign the child's case for a  
6 board review or a court review hearing pursuant to ~~((RCW 13.34.130(5)))~~  
7 section 17 of this act. A board review or a court review hearing shall  
8 take place at least once every six months until the child is no longer  
9 within the jurisdiction of the court or no longer in substitute care or  
10 until a guardianship order or adoption decree is entered. After the  
11 permanency planning hearing, a court review hearing must occur at least  
12 once a year as provided in ~~((RCW 13.34.130))~~ section 19 of this act.  
13 The board shall review any case where a petition to terminate parental  
14 rights has been denied, and such review shall occur as soon as  
15 practical but no later than forty-five days after the denial.

16 (4) The board shall prepare written findings and recommendations  
17 with respect to:

18 (a) Whether reasonable efforts were made before the placement to  
19 prevent or eliminate the need for removal of the child from the home,  
20 including whether consideration was given to removing the alleged  
21 offender, rather than the child, from the home;

22 (b) Whether reasonable efforts have been made subsequent to the  
23 placement to make it possible for the child to be returned home;

24 (c) Whether the child has been placed in the least-restrictive  
25 setting appropriate to the child's needs, including whether  
26 consideration has been given to placement with the child's relatives;

27 (d) Whether there is a continuing need for placement and whether  
28 the placement is appropriate;

29 (e) Whether there has been compliance with the case plan;

30 (f) Whether progress has been made toward alleviating the need for  
31 placement;

32 (g) A likely date by which the child may be returned home or other  
33 permanent plan of care may be implemented; and

34 (h) Other problems, solutions, or alternatives the board determines  
35 should be explored.

36 (5) Within ten working days following the review, the board shall  
37 send a copy of its findings and recommendations to the parents and  
38 their attorneys, the child's custodians and their attorneys, mature  
39 children and their attorneys, other attorneys or guardians ad litem

1 appointed by the court to represent children, the department and other  
2 child placement agencies directly responsible for supervising the  
3 child's placement, and any prosecuting attorney or attorney general  
4 actively involved in the case. If the child is an Indian as defined in  
5 the Indian child welfare act, 25 U.S.C. Sec. 1901 et seq., a copy of  
6 the board's findings and recommendations shall also be sent to the  
7 child's Indian tribe.

8 (6) If the department is unable or unwilling to implement the board  
9 recommendations, the department shall submit to the board, within ten  
10 working days after receipt of the findings and recommendations, an  
11 implementation report setting forth the reasons why the department is  
12 unable or unwilling to implement the board's recommendations. The  
13 report will also set forth the case plan which the department intends  
14 to implement.

15 (7) Within forty-five days following the review, the board shall  
16 either:

17 (a) Schedule the case for further review by the board; or

18 (b) Submit to the court the board's findings and recommendations  
19 and the department's implementation reports, if any. If the board's  
20 recommendations are different from the existing court-ordered case  
21 plan, the board shall also file with the court a motion for a review  
22 hearing.

23 (8) Within ten days of receipt of the board's written findings and  
24 recommendations and the department's implementation report, if any, the  
25 court shall review the findings and recommendations and implementation  
26 reports, if any. The court may on its own motion schedule a review  
27 hearing.

28 (9) Unless modified by subsequent court order, the court-ordered  
29 case plan and court orders that are in effect at the time that a board  
30 reviews a case shall remain in full force and effect. Board findings  
31 and recommendations are advisory only and do not in any way modify  
32 existing court orders or court-ordered case plans.

33 (10) The findings and recommendations of the board and the  
34 department's implementation report, if any, shall become part of the  
35 department's case file and the court social file pertaining to the  
36 child.

37 (11) Nothing in this section shall limit or otherwise modify the  
38 rights of any party to a dependency proceeding to request and receive

1 a court review hearing pursuant to the provisions of chapter 13.34 RCW  
2 or applicable court rules.

3 **Sec. 38.** RCW 13.70.140 and 1993 c 505 s 4 are each amended to read  
4 as follows:

5 A permanency planning hearing shall be held before the court in  
6 accordance with RCW 13.34.145. Thereafter, court review hearings shall  
7 occur at least once every six months, under ((RCW 13.34.130(5)))  
8 section 19 of this act, until the child is no longer within the  
9 jurisdiction of the court or the child returns home or a guardianship  
10 order or adoption decree is entered. The court may review the case  
11 more frequently upon the court's own motion or upon the request of any  
12 party to the proceeding.

13 **Sec. 39.** RCW 26.44.115 and 1990 c 246 s 10 are each amended to  
14 read as follows:

15 If a child is taken into custody by child protective services  
16 pursuant to a court order issued under ((RCW 13.34.050)) section 5 of  
17 this act, the child protective services worker shall take reasonable  
18 steps to advise the parents immediately, regardless of the time of day,  
19 that the child has been taken into custody, the reasons why the child  
20 was taken into custody, and general information about the child's  
21 placement. The department shall comply with RCW 13.34.060 when  
22 providing notice under this section.

23 **Sec. 40.** RCW 74.15.030 and 1997 c 386 s 33 are each amended to  
24 read as follows:

25 The secretary shall have the power and it shall be the secretary's  
26 duty:

27 (1) In consultation with the children's services advisory  
28 committee, and with the advice and assistance of persons representative  
29 of the various type agencies to be licensed, to designate categories of  
30 facilities for which separate or different requirements shall be  
31 developed as may be appropriate whether because of variations in the  
32 ages, sex and other characteristics of persons served, variations in  
33 the purposes and services offered or size or structure of the agencies  
34 to be licensed hereunder, or because of any other factor relevant  
35 thereto;

1 (2) In consultation with the children's services advisory  
2 committee, and with the advice and assistance of persons representative  
3 of the various type agencies to be licensed, to adopt and publish  
4 minimum requirements for licensing applicable to each of the various  
5 categories of agencies to be licensed.

6 The minimum requirements shall be limited to:

7 (a) The size and suitability of a facility and the plan of  
8 operation for carrying out the purpose for which an applicant seeks a  
9 license;

10 (b) The character, suitability and competence of an agency and  
11 other persons associated with an agency directly responsible for the  
12 care and treatment of children, expectant mothers or developmentally  
13 disabled persons. In consultation with law enforcement personnel, the  
14 secretary shall investigate the conviction record or pending charges  
15 and dependency record information under chapter 43.43 RCW of each  
16 agency and its staff seeking licensure or relicensure. In order to  
17 determine the suitability of applicants for an agency license,  
18 licensees, their employees, and other persons who have unsupervised  
19 access to children in care, and who have not resided in the state of  
20 Washington during the three-year period before being authorized to care  
21 for children shall be fingerprinted. The fingerprints shall be  
22 forwarded to the Washington state patrol and federal bureau of  
23 investigation for a criminal history records check. The fingerprint  
24 criminal history records checks will be at the expense of the licensee  
25 except that in the case of a foster family home, if this expense would  
26 work a hardship on the licensee, the department shall pay the expense.  
27 The licensee may not pass this cost on to the employee or prospective  
28 employee, unless the employee is determined to be unsuitable due to his  
29 or her criminal history record. The secretary shall use the  
30 information solely for the purpose of determining eligibility for a  
31 license and for determining the character, suitability, and competence  
32 of those persons or agencies, excluding parents, not required to be  
33 licensed who are authorized to care for children, expectant mothers,  
34 and developmentally disabled persons. Criminal justice agencies shall  
35 provide the secretary such information as they may have and that the  
36 secretary may require for such purpose;

37 (c) The number of qualified persons required to render the type of  
38 care and treatment for which an agency seeks a license;

1 (d) The safety, cleanliness, and general adequacy of the premises  
2 to provide for the comfort, care and well-being of children, expectant  
3 mothers or developmentally disabled persons;

4 (e) The provision of necessary care, including food, clothing,  
5 supervision and discipline; physical, mental and social well-being; and  
6 educational, recreational and spiritual opportunities for those served;

7 (f) The financial ability of an agency to comply with minimum  
8 requirements established pursuant to chapter 74.15 RCW and RCW  
9 74.13.031; and

10 (g) The maintenance of records pertaining to the admission,  
11 progress, health and discharge of persons served;

12 (3) To investigate any person, including relatives by blood or  
13 marriage except for parents, for character, suitability, and competence  
14 in the care and treatment of children, expectant mothers, and  
15 developmentally disabled persons prior to authorizing that person to  
16 care for children, expectant mothers, and developmentally disabled  
17 persons. However, if a child is placed with a relative under ((RCW  
18 ~~13.34.060~~)) section 7 of this act or RCW 13.34.130, and if such  
19 relative appears otherwise suitable and competent to provide care and  
20 treatment the criminal history background check required by this  
21 section need not be completed before placement, but shall be completed  
22 as soon as possible after placement;

23 (4) On reports of alleged child abuse and neglect, to investigate  
24 agencies in accordance with chapter 26.44 RCW, including child day-care  
25 centers and family day-care homes, to determine whether the alleged  
26 abuse or neglect has occurred, and whether child protective services or  
27 referral to a law enforcement agency is appropriate;

28 (5) To issue, revoke, or deny licenses to agencies pursuant to  
29 chapter 74.15 RCW and RCW 74.13.031. Licenses shall specify the  
30 category of care which an agency is authorized to render and the ages,  
31 sex and number of persons to be served;

32 (6) To prescribe the procedures and the form and contents of  
33 reports necessary for the administration of chapter 74.15 RCW and RCW  
34 74.13.031 and to require regular reports from each licensee;

35 (7) To inspect agencies periodically to determine whether or not  
36 there is compliance with chapter 74.15 RCW and RCW 74.13.031 and the  
37 requirements adopted hereunder;

38 (8) To review requirements adopted hereunder at least every two  
39 years and to adopt appropriate changes after consultation with the

1 child care coordinating committee and other affected groups for child  
2 day-care requirements and with the children's services advisory  
3 committee for requirements for other agencies; and

4 (9) To consult with public and private agencies in order to help  
5 them improve their methods and facilities for the care of children,  
6 expectant mothers and developmentally disabled persons.

7 NEW SECTION. **Sec. 41.** RCW 13.34.170 shall be recodified to appear  
8 immediately following RCW 13.34.160.

9 NEW SECTION. **Sec. 42.** The following acts or parts of acts are  
10 each repealed:

11 (1) RCW 13.34.162 (Child support schedule) and 1993 c 412 s 10 and  
12 1988 c 275 s 15; and

13 (2) RCW 13.34.220 (Order terminating parent and child  
14 relationship--Prevailing party to present findings, etc., to court,  
15 when) and 1979 c 155 s 50."

16 Correct the title.

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