
HOUSE BILL 1866

State of Washington

56th Legislature

1999 Regular Session

By Representatives McMorris, Tokuda, Boldt, Sump, D. Sommers and Campbell

Read first time 02/09/1999. Referred to Committee on Children & Family Services.

1 AN ACT Relating to shelter care; and amending RCW 13.34.060.

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

3 **Sec. 1.** RCW 13.34.060 and 1998 c 328 s 2 are each amended to read
4 as follows:

5 (1) A child taken into custody pursuant to RCW 13.34.050 or
6 26.44.050 shall be immediately placed in shelter care. A child taken
7 by a relative of the child in violation of RCW 9A.40.060 or 9A.40.070
8 shall be placed in shelter care only when permitted under RCW
9 13.34.055. "Shelter care" means temporary physical care in a facility
10 licensed pursuant to RCW 74.15.030 or in a home not required to be
11 licensed pursuant to that section. Whenever a child is taken into such
12 custody pursuant to this section, the supervising agency may authorize
13 evaluations of the child's physical or emotional condition, routine
14 medical and dental examination and care, and all necessary emergency
15 care. In no case may a child who is taken into custody pursuant to RCW
16 13.34.055, 13.34.050, or 26.44.050 be detained in a secure detention
17 facility. No child may be held longer than seventy-two hours,
18 excluding Saturdays, Sundays and holidays, after such child is taken
19 into custody unless a court order has been entered for continued

1 shelter care. The child and his or her parent, guardian, or custodian
2 shall be informed that they have a right to a shelter care hearing.
3 The court shall hold a shelter care hearing within seventy-two hours
4 after the child is taken into custody, excluding Saturdays, Sundays,
5 and holidays. If a parent, guardian, or legal custodian desires to
6 waive the shelter care hearing, the court shall determine, on the
7 record and with the parties present, that such waiver is knowing and
8 voluntary. Unless there is reasonable cause to believe that the safety
9 or welfare of the child would be jeopardized or that efforts to reunite
10 the parent and child will be hindered, the department shall make an
11 effort to place a child taken into custody with a person who is related
12 to the child as defined in RCW 74.15.020(2)(a) and with whom the child
13 has a relationship and is comfortable, and who is willing and available
14 to care for the child. The department shall provide documentation of
15 the effort to place the child with a person with whom the child is
16 related.

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

33 The written notice of custody and rights shall be in substantially
34 the following form:

35 "NOTICE

36 Your child has been placed in temporary custody under the
37 supervision of Child Protective Services (or other person or agency).

1 You have important legal rights and you must take steps to protect your
2 interests.

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

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

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

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

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

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

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

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

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

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

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

13 (5) At the commencement of the shelter care hearing the court shall
14 advise the parties of their basic rights as provided in RCW 13.34.090
15 and shall appoint counsel pursuant to RCW 13.34.090 if counsel has not
16 been retained by the parent or guardian and if the parent or guardian
17 is indigent, unless the court finds that the right to counsel has been
18 expressly and voluntarily waived in court.

19 (6) The court shall hear evidence regarding notice given to, and
20 efforts to notify, the parent, guardian, or legal custodian and shall
21 examine the need for shelter care. The court shall make an express
22 finding as to whether the notice required under subsections (2) and (3)
23 of this section was given to the parent, guardian, or legal custodian.
24 All parties have the right to present testimony to the court regarding
25 the need or lack of need for shelter care. Hearsay evidence before the
26 court regarding the need or lack of need for shelter care must be
27 supported by sworn testimony, affidavit, or declaration of the person
28 offering such evidence.

29 (7) The juvenile court probation counselor shall submit a
30 recommendation to the court as to the further need for shelter care,
31 except that such recommendation shall be submitted by the department of
32 social and health services in cases where the petition alleging
33 dependency has been filed by the department of social and health
34 services, unless otherwise ordered by the court.

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

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

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

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

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

11 If the court does not release the child to his or her parent,
12 guardian, or legal custodian, 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 subsections (2) and (3) of this section have been
16 complied with. If actual notice was not given to the parent, guardian,
17 or legal custodian and the whereabouts of such person is known or can
18 be ascertained, the court shall order the supervising agency or the
19 department of social and health services to make reasonable efforts to
20 advise the parent, guardian, or legal custodian of the status of the
21 case, including the date and time of any subsequent hearings, and their
22 rights under RCW 13.34.090.

23 (9) 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 (10) A shelter care order issued pursuant to this section may be
32 amended at any time with notice and hearing thereon. The shelter care
33 decision of placement shall be modified only upon a showing of change
34 in circumstances. No child may be detained for longer than thirty days
35 without an order, signed by the judge, authorizing continued shelter
36 care.

37 (11) Any parent, guardian, or legal custodian who for good cause is
38 unable to attend the initial shelter care hearing may request that a
39 subsequent shelter care hearing be scheduled. The request shall be

1 made to the clerk of the court where the petition is filed prior to the
2 initial shelter care hearing. The hearing shall be held within
3 seventy-two hours of the request, excluding Saturdays, Sundays, and
4 holidays. The clerk shall notify all other parties of the hearing by
5 any reasonable means.

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