

CERTIFICATION OF ENROLLMENT  
ENGROSSED SUBSTITUTE HOUSE BILL 1407

56th Legislature  
1999 Regular Session

Passed by the House April 20, 1999  
Yeas 96 Nays 0

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Speaker of the House of Representatives

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Speaker of the House of Representatives

Passed by the Senate April 12, 1999  
Yeas 48 Nays 0

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President of the Senate

Approved

\_\_\_\_\_  
Governor of the State of Washington

CERTIFICATE

We, Dean R. Foster and Timothy A. Martin, Co-Chief Clerks of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE HOUSE BILL 1407** as passed by the House of Representatives and the Senate on the dates hereon set forth.

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Chief Clerk

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Chief Clerk

FILED

Secretary of State  
State of Washington

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ENGROSSED SUBSTITUTE HOUSE BILL 1407

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AS AMENDED BY THE SENATE

Passed Legislature - 1999 Regular Session

State of Washington                      56th Legislature                      1999 Regular Session

By House Committee on Judiciary (originally sponsored by Representatives Lambert, Benson, Dickerson, Sheahan, Tokuda, Hurst, G. Chandler, Mulliken, Boldt, Koster, Schindler, Ogden, Dunn and Kessler)

Read first time 03/02/1999.

1            AN ACT Relating to adoption; amending RCW 26.33.170; reenacting and  
2 amending RCW 13.34.130; and adding a new section to chapter 13.34 RCW.

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

4            **Sec. 1.** RCW 26.33.170 and 1988 c 203 s 1 are each amended to read  
5 as follows:

6            (1) An agency's, the department's, or a legal guardian's consent to  
7 adoption may be dispensed with if the court determines by clear, cogent  
8 and convincing evidence that the proposed adoption is in the best  
9 interests of the adoptee.

10           (2) An alleged father's, birth parent's, or parent's consent to  
11 adoption may be dispensed with if the court finds that the proposed  
12 adoption is in the best interests of the adoptee and:

13           (a) The alleged father, birth parent, or parent has been found  
14 guilty of rape under chapter 9A.44 RCW or incest under RCW 9A.64.020,  
15 where the adoptee was the victim of the rape or incest; or

16           (b) The alleged father, birth parent, or parent has been found  
17 guilty of rape under chapter 9A.44 RCW or incest under RCW 9A.64.020,  
18 where the other parent of the adoptee was the victim of the rape or  
19 incest and the adoptee was conceived as a result of the rape or incest.

1       (3) Nothing in this section shall be construed to eliminate the  
2 notice provisions of this chapter.

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

5       In those cases where an alleged father, birth parent, or parent has  
6 indicated his or her intention to make a voluntary adoption plan for  
7 the child and has agreed to the termination of his or her parental  
8 rights, the department shall follow the wishes of the alleged father,  
9 birth parent, or parent regarding the proposed adoptive placement of  
10 the child, if the court determines that the adoption is in the best  
11 interest of the child, and the prospective adoptive parents chosen by  
12 the alleged father, birth parent, or parent are properly qualified to  
13 adopt in compliance with the standards in this chapter and chapter  
14 26.33 RCW. If the department has filed a termination petition, an  
15 alleged father's, birth parent's, or parent's preferences regarding the  
16 proposed adoptive placement of the child shall be given consideration.

17       **Sec. 3.** RCW 13.34.130 and 1998 c 314 s 2 and 1998 c 130 s 2 are  
18 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 of  
22 the predisposition report prepared pursuant to RCW 13.34.110 and after  
23 a disposition hearing has been held pursuant to RCW 13.34.110, the  
24 court shall enter an order of disposition pursuant to this section.

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

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

34       (b) Order that the child be removed from his or her home and  
35 ordered into the custody, control, and care of a relative or the  
36 department of social and health services or a licensed child placing  
37 agency for placement in a foster family home or group care facility

1 licensed pursuant to chapter 74.15 RCW or in a home not required to be  
2 licensed pursuant to chapter 74.15 RCW. Unless there is reasonable  
3 cause to believe that the safety or welfare of the child would be  
4 jeopardized or that efforts to reunite the parent and child will be  
5 hindered, such child shall be placed with a person who is related to  
6 the child as defined in RCW 74.15.020(~~((4)(a))~~) (2)(a) and with whom  
7 the child has a relationship and is comfortable, and who is willing and  
8 available to care for the child. Placement of the child with a  
9 relative under this subsection shall be given preference by the court.  
10 An order for out-of-home placement may be made only if the court finds  
11 that reasonable efforts have been made to prevent or eliminate the need  
12 for removal of the child from the child's home and to make it possible  
13 for the child to return home, specifying the services that have been  
14 provided to the child and the child's parent, guardian, or legal  
15 custodian, and that preventive services have been offered or provided  
16 and have failed to prevent the need for out-of-home placement, unless  
17 the health, safety, and welfare of the child cannot be protected  
18 adequately in the home, and that:

19 (i) There is no parent or guardian available to care for such  
20 child;

21 (ii) The parent, guardian, or legal custodian is not willing to  
22 take custody of the child;

23 (iii) The court finds, by clear, cogent, and convincing evidence,  
24 a manifest danger exists that the child will suffer serious abuse or  
25 neglect if the child is not removed from the home and an order under  
26 RCW 26.44.063 would not protect the child from danger; or

27 (iv) The extent of the child's disability is such that the parent,  
28 guardian, or legal custodian is unable to provide the necessary care  
29 for the child and the parent, guardian, or legal custodian has  
30 determined that the child would benefit from placement outside of the  
31 home.

32 (2) If the court has ordered a child removed from his or her home  
33 pursuant to subsection (1)(b) of this section, the court may order that  
34 a petition seeking termination of the parent and child relationship be  
35 filed if the court finds: (a) Termination is recommended by the  
36 supervising agency; (b) termination is in the best interests of the  
37 child; and (c) that because of the existence of aggravated  
38 circumstances, reasonable efforts to unify the family are not required.  
39 Notwithstanding the existence of aggravated circumstances, reasonable

1 efforts may be required if the court or department determines it is in  
2 the best interest of the child. In determining whether aggravated  
3 circumstances exist by clear, cogent, and convincing evidence, the  
4 court shall consider one or more of the following:

5 (i) Conviction of the parent of rape of the child in the first,  
6 second, or third degree as defined in RCW 9A.44.073, 9A.44.076, and  
7 9A.44.079;

8 (ii) Conviction of the parent of criminal mistreatment of the child  
9 in the first or second degree as defined in RCW 9A.42.020 and  
10 9A.42.030;

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

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

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

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

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

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

33 (ix) The mother has given birth to three or more drug-affected  
34 infants, resulting in the department filing a petition under section 23  
35 of this act;

36 (x) Conviction of the parent of a sex offense under chapter 9A.44  
37 RCW or incest under RCW 9A.64.020 when the child is born of the  
38 offense.

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

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

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

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

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

38 (ii) The agency shall be required to encourage the maximum parent-  
39 child contact possible, including regular visitation and participation

1 by the parents in the care of the child while the child is in  
2 placement. Visitation may be limited or denied only if the court  
3 determines that such limitation or denial is necessary to protect the  
4 child's health, safety, or welfare.

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

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

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

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

29 (6) If there is insufficient information at the time of the  
30 disposition hearing upon which to base a determination regarding the  
31 suitability of a proposed placement with a relative, the child shall  
32 remain in foster care and the court shall direct the supervising agency  
33 to conduct necessary background investigations as provided in chapter  
34 74.15 RCW and report the results of such investigation to the court  
35 within thirty days. However, if such relative appears otherwise  
36 suitable and competent to provide care and treatment, the criminal  
37 history background check need not be completed before placement, but as  
38 soon as possible after placement. Any placements with relatives,  
39 pursuant to this section, shall be contingent upon cooperation by the

1 relative with the agency case plan and compliance with court orders  
2 related to the care and supervision of the child including, but not  
3 limited to, court orders regarding parent-child contacts and any other  
4 conditions imposed by the court. Noncompliance with the case plan or  
5 court order shall be grounds for removal of the child from the  
6 relative's home, subject to review by the court.

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

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

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

31 (i) Whether reasonable services have been provided to or offered to  
32 the parties to facilitate reunion, specifying the services provided or  
33 offered;

34 (ii) Whether the child has been placed in the least-restrictive  
35 setting appropriate to the child's needs, including whether  
36 consideration and preference has been given to placement with the  
37 child's relatives;

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



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

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

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

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

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

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

14 NEW SECTION. **Sec. 4.** If any provision of this act or its  
15 application to any person or circumstance is held invalid, the  
16 remainder of the act or the application of the provision to other  
17 persons or circumstances is not affected.

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