
ENGROSSED SUBSTITUTE SENATE BILL 6702

State of Washington 57th Legislature

2002 Regular Session

By Senate Committee on Human Services & Corrections (originally sponsored by Senators Stevens, Hargrove, Long, Costa, Franklin, Kohl-Welles, Carlson, Hewitt, Kastama, Johnson, Shin, Swecker, Hale, Rossi, Oke, Zarelli, McCaslin, Horn, Thibaudeau, West, Deccio, Rasmussen, Parlette, Sheahan, Benton, McDonald, Roach, T. Sheldon, Hochstatter, Honeyford, Morton, Finkbeiner and Winsley)

READ FIRST TIME 02/07/2002.

1 AN ACT Relating to protecting sibling relationships; amending RCW
2 13.34.025, 13.34.030, 13.34.060, 13.34.130, 13.34.136, 13.34.260, and
3 74.13.065; and creating a new section.

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

5 NEW SECTION. **Sec. 1.** It is the intent of the legislature to
6 recognize that those sibling relationships a child has are an integral
7 aspect of the family unit, which should be nurtured. The legislature
8 presumes that nurturing the existing sibling relationships is in the
9 best interest of a child, in particular in those situations where a
10 child cannot be with their parents, guardians, or legal custodians as
11 a result of court intervention.

12 **Sec. 2.** RCW 13.34.025 and 2001 c 256 s 2 are each amended to read
13 as follows:

14 The department of social and health services shall develop methods
15 for coordination of services to parents and children in child
16 dependency cases. To the maximum extent possible under current funding
17 levels, the department must:

1 (1) Coordinate and integrate services to children and families,
2 using service plans and activities that address the children's and
3 families' multiple needs, including ensuring that siblings have regular
4 visits with each other, as appropriate. Assessment criteria should
5 screen for multiple needs;

6 (2) Develop treatment plans for the individual needs of the client
7 in a manner that minimizes the number of contacts the client is
8 required to make; and

9 (3) Access training for department staff to increase skills across
10 disciplines to assess needs for mental health, substance abuse,
11 developmental disabilities, and other areas.

12 **Sec. 3.** RCW 13.34.030 and 2000 c 122 s 1 are each amended to read
13 as follows:

14 For purposes of this chapter:

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

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

26 (3) "Current placement episode" means the period of time that
27 begins with the most recent date that the child was removed from the
28 home of the parent, guardian, or legal custodian for purposes of
29 placement in out-of-home care and continues until: (a) The child
30 returns home; (b) an adoption decree, a permanent custody order, or
31 guardianship order is entered; or (c) the dependency is dismissed,
32 whichever occurs first.

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

37 (5) "Dependent child" means any child who:

38 (a) Has been abandoned;

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

3 (c) Has no parent, guardian, or custodian capable of adequately
4 caring for the child, such that the child is in circumstances which
5 constitute a danger of substantial damage to the child's psychological
6 or physical development.

7 (6) "Developmental disability" means a disability attributable to
8 mental retardation, cerebral palsy, epilepsy, autism, or another
9 neurological or other condition of an individual found by the secretary
10 to be closely related to mental retardation or to require treatment
11 similar to that required for individuals with mental retardation, which
12 disability originates before the individual attains age eighteen, which
13 has continued or can be expected to continue indefinitely, and which
14 constitutes a substantial handicap to the individual.

15 (7) "Guardian" means the person or agency that: (a) Has been
16 appointed as the guardian of a child in a legal proceeding other than
17 a proceeding under this chapter; and (b) has the legal right to custody
18 of the child pursuant to such appointment. The term "guardian" shall
19 not include a "dependency guardian" appointed pursuant to a proceeding
20 under this chapter.

21 (8) "Guardian ad litem" means a person, appointed by the court to
22 represent the best interests of a child in a proceeding under this
23 chapter, or in any matter which may be consolidated with a proceeding
24 under this chapter. A "court-appointed special advocate" appointed by
25 the court to be the guardian ad litem for the child, or to perform
26 substantially the same duties and functions as a guardian ad litem,
27 shall be deemed to be guardian ad litem for all purposes and uses of
28 this chapter.

29 (9) "Guardian ad litem program" means a court-authorized volunteer
30 program, which is or may be established by the superior court of the
31 county in which such proceeding is filed, to manage all aspects of
32 volunteer guardian ad litem representation for children alleged or
33 found to be dependent. Such management shall include but is not
34 limited to: Recruitment, screening, training, supervision, assignment,
35 and discharge of volunteers.

36 (10) "Indigent" means a person who, at any stage of a court
37 proceeding, is:

38 (a) Receiving one of the following types of public assistance:
39 Temporary assistance for needy families, general assistance, poverty-

1 related veterans' benefits, food stamps or food stamp benefits
2 transferred electronically, refugee resettlement benefits, medicaid, or
3 supplemental security income; or

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

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

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

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

14 (12) "Preventive services" means preservation services, as defined
15 in chapter 74.14C RCW, and other reasonably available services,
16 including housing services, capable of preventing the need for out-of-
17 home placement while protecting the child. Housing services may
18 include, but are not limited to, referrals to federal, state, local, or
19 private agencies or organizations, assistance with forms and
20 applications, or financial subsidies for housing.

21 (13) "Shelter care" means temporary physical care in a facility
22 licensed pursuant to RCW 74.15.030 or in a home not required to be
23 licensed pursuant to RCW 74.15.030.

24 (14) "Social study" means a written evaluation of matters relevant
25 to the disposition of the case and shall contain the following
26 information:

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

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

36 (c) If removal is recommended, a full description of the reasons
37 why the child cannot be protected adequately in the home, including a
38 description of any previous efforts to work with the parents and the
39 child in the home; the in-home treatment programs that have been

1 considered and rejected; the preventive services that have been offered
2 or provided and have failed to prevent the need for out-of-home
3 placement, unless the health, safety, and welfare of the child cannot
4 be protected adequately in the home; and the parents' attitude toward
5 placement of the child;

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

8 (e) A description of the steps that will be taken to minimize the
9 harm to the child that may result if separation occurs including an
10 assessment of the child's relationship and emotional bond with any
11 siblings, and the agency's plan to provide ongoing contact between the
12 child and the child's siblings if appropriate; and

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

15 **Sec. 4.** RCW 13.34.060 and 2000 c 122 s 4 are each amended to read
16 as follows:

17 (1) A child taken into custody pursuant to RCW 13.34.050 or
18 26.44.050 shall be immediately placed in shelter care. A child taken
19 by a relative of the child in violation of RCW 9A.40.060 or 9A.40.070
20 shall be placed in shelter care only when permitted under RCW
21 13.34.055.

22 (a) Unless there is reasonable cause to believe that the health,
23 safety, or welfare of the child would be jeopardized or that the
24 efforts to reunite the parent and child will be hindered, priority
25 placement for a child in shelter care shall be with any person
26 described in RCW 74.15.020(2)(a). The person must be willing and
27 available to care for the child and be able to meet any special needs
28 of the child. The person must be willing to facilitate the child's
29 visitation with siblings, if such visitation is part of the supervising
30 agency's plan or is ordered by the court. If a child is not initially
31 placed with a relative pursuant to this section, the supervising agency
32 shall make an effort within available resources to place the child with
33 a relative on the next business day after the child is taken into
34 custody. The supervising agency shall document its effort to place the
35 child with a relative pursuant to this section. Nothing within this
36 subsection (1)(a) establishes an entitlement to services or a right to
37 a particular placement.

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

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 shall
25 notice be provided more than twenty-four hours after the child has been
26 taken into custody or twenty-four hours after child protective services
27 has been notified that the child has been taken into custody. The
28 notice of custody and rights may be given by any means reasonably
29 certain of notifying the parents including, but not limited to,
30 written, telephone, or in person oral notification. If the initial
31 notification is provided by a means other than writing, child
32 protective services shall make reasonable efforts to also provide
33 written notification.

34 **Sec. 5.** RCW 13.34.130 and 2000 c 122 s 15 are each amended to read
35 as follows:

36 If, after a fact-finding hearing pursuant to RCW 13.34.110, it has
37 been proven by a preponderance of the evidence that the child is
38 dependent within the meaning of RCW 13.34.030 after consideration of

1 the social study prepared pursuant to RCW 13.34.110 and after a
2 disposition hearing has been held pursuant to RCW 13.34.110, the court
3 shall enter an order of disposition pursuant to this section.

4 (1) The court shall order one of the following dispositions of the
5 case:

6 (a) Order a disposition other than removal of the child from his or
7 her home, which shall provide a program designed to alleviate the
8 immediate danger to the child, to mitigate or cure any damage the child
9 has already suffered, and to aid the parents so that the child will not
10 be endangered in the future. In determining the disposition, the court
11 should choose those services, including housing assistance, that least
12 interfere with family autonomy and are adequate to protect the child.

13 (b) Order the child to be removed from his or her home and into the
14 custody, control, and care of a relative or the department or a
15 licensed child placing agency for placement in a foster family home or
16 group care facility licensed pursuant to chapter 74.15 RCW or in a home
17 not required to be licensed pursuant to chapter 74.15 RCW. Unless
18 there is reasonable cause to believe that the health, safety, or
19 welfare of the child would be jeopardized or that efforts to reunite
20 the parent and child will be hindered, such child shall be placed with
21 a person who is: (i) Related to the child as defined in RCW
22 74.15.020(2)(a) with whom the child has a relationship and is
23 comfortable; and (ii) willing and available to care for the child.

24 (2) Placement of the child with a relative under this subsection
25 shall be given preference by the court. An order for out-of-home
26 placement may be made only if the court finds that reasonable efforts
27 have been made to prevent or eliminate the need for removal of the
28 child from the child's home and to make it possible for the child to
29 return home, specifying the services that have been provided to the
30 child and the child's parent, guardian, or legal custodian, and that
31 preventive services have been offered or provided and have failed to
32 prevent the need for out-of-home placement, unless the health, safety,
33 and welfare of the child cannot be protected adequately in the home,
34 and that:

35 (a) There is no parent or guardian available to care for such
36 child;

37 (b) The parent, guardian, or legal custodian is not willing to take
38 custody of the child; or

1 (c) The court finds, by clear, cogent, and convincing evidence, a
2 manifest danger exists that the child will suffer serious abuse or
3 neglect if the child is not removed from the home and an order under
4 RCW 26.44.063 would not protect the child from danger.

5 (3) If the court has ordered a child removed from his or her home
6 pursuant to subsection (1)(b) of this section, the court shall consider
7 whether it is in the child's best interest to have contact or visits
8 with siblings. The court must consider ordering that such contact or
9 visits take place provided that:

10 (a) The court has jurisdiction over all siblings subject to the
11 order of contact or visitation pursuant to petitions filed under this
12 chapter;

13 (b) Contact or visitation is in the best interests of each child
14 covered by the court's order; and

15 (c) There is no reasonable cause to believe that the health,
16 safety, or welfare of any child subject to the order of visitation
17 would be jeopardized or that efforts to reunite the parent and child
18 would be hindered by such visitation. In no event shall parental
19 visitation time be reduced in order to provide sibling visitation.

20 (4) If the court has ordered a child removed from his or her home
21 pursuant to subsection (1)(b) of this section, the court may order that
22 a petition seeking termination of the parent and child relationship be
23 filed if the requirements of RCW 13.34.132 are met.

24 ((+4)) (5) If there is insufficient information at the time of the
25 disposition hearing upon which to base a determination regarding the
26 suitability of a proposed placement with a relative, the child shall
27 remain in foster care and the court shall direct the supervising agency
28 to conduct necessary background investigations as provided in chapter
29 74.15 RCW and report the results of such investigation to the court
30 within thirty days. However, if such relative appears otherwise
31 suitable and competent to provide care and treatment, the criminal
32 history background check need not be completed before placement, but as
33 soon as possible after placement. Any placements with relatives,
34 pursuant to this section, shall be contingent upon cooperation by the
35 relative with the agency case plan and compliance with court orders
36 related to the care and supervision of the child including, but not
37 limited to, court orders regarding parent-child contacts, sibling
38 contacts, and any other conditions imposed by the court. Noncompliance

1 with the case plan or court order shall be grounds for removal of the
2 child from the relative's home, subject to review by the court.

3 **Sec. 6.** RCW 13.34.136 and 2000 c 122 s 18 are each amended to read
4 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, what steps the agency will take to promote existing appropriate
22 sibling relationships and/or facilitate contact in accordance with the
23 best interests of each child, and what actions the agency will take to
24 maintain parent-child ties. All aspects of the plan shall include the
25 goal of achieving permanence for the child.

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

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

36 (iii) A child shall be placed as close to the child's home as
37 possible, preferably in the child's own neighborhood, unless the court

1 finds that placement at a greater distance is necessary to promote the
2 child's or parents' well-being.

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

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

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

24 **Sec. 7.** RCW 13.34.260 and 2000 c 122 s 32 are each amended to read
25 as follows:

26 In an attempt to minimize the inherent intrusion in the lives of
27 families involved in the foster care system and to maintain parental
28 authority where appropriate, the department, absent good cause, shall
29 follow the wishes of the natural parent regarding the placement of the
30 child. Preferences such as family constellation, sibling
31 relationships, ethnicity, and religion shall be considered when
32 matching children to foster homes. Parental authority is appropriate
33 in areas that are not connected with the abuse or neglect that resulted
34 in the dependency and shall be integrated through the foster care team.
35 For purposes of this section, "foster care team" means the foster
36 parent currently providing care, the currently assigned social worker,
37 and the parent or parents.

1 **Sec. 8.** RCW 74.13.065 and 1995 c 311 s 26 are each amended to read
2 as follows:

3 (1) The department, or agency responsible for supervising a child
4 in out-of-home care, shall conduct a social study whenever a child is
5 placed in out-of-home care under the supervision of the department or
6 other agency. The study shall be conducted prior to placement, or, if
7 it is not feasible to conduct the study prior to placement due to the
8 circumstances of the case, the study shall be conducted as soon as
9 possible following placement.

10 (2) The social study shall include, but not be limited to, an
11 assessment of the following factors:

12 (a) The physical and emotional strengths and needs of the child;

13 (b) Emotional bonds with siblings and the need to maintain regular
14 sibling contacts;

15 (c) The proximity of the child's placement to the child's family to
16 aid reunification;

17 ~~((e))~~ (d) The possibility of placement with the child's relatives
18 or extended family;

19 ~~((d))~~ (e) The racial, ethnic, cultural, and religious background
20 of the child;

21 ~~((e))~~ (f) The least-restrictive, most family-like placement
22 reasonably available and capable of meeting the child's needs; and

23 ~~((f))~~ (g) Compliance with RCW 13.34.260 regarding parental
24 preferences for placement of their children.

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