
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; and amending
2 RCW 13.34.025, 13.34.030, 13.34.060, 13.34.065, 13.34.130, 13.34.136,
3 13.34.260, and 74.13.065.

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

5 **Sec. 1.** RCW 13.34.025 and 2001 c 256 s 2 are each amended to read
6 as follows:

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

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

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

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

4 **Sec. 2.** RCW 13.34.030 and 2000 c 122 s 1 are each amended to read
5 as follows:

6 For purposes of this chapter:

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

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

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

25 (4) "Dependency guardian" means the person, nonprofit corporation,
26 or Indian tribe appointed by the court pursuant to this chapter for the
27 limited purpose of assisting the court in the supervision of the
28 dependency.

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

30 (a) Has been abandoned;

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

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

37 (6) "Developmental disability" means a disability attributable to
38 mental retardation, cerebral palsy, epilepsy, autism, or another

1 neurological or other condition of an individual found by the secretary
2 to be closely related to mental retardation or to require treatment
3 similar to that required for individuals with mental retardation, which
4 disability originates before the individual attains age eighteen, which
5 has continued or can be expected to continue indefinitely, and which
6 constitutes a substantial handicap to the individual.

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

13 (8) "Guardian ad litem" means a person, appointed by the court to
14 represent the best interests of a child in a proceeding under this
15 chapter, or in any matter which may be consolidated with a proceeding
16 under this chapter. A "court-appointed special advocate" appointed by
17 the court to be the guardian ad litem for the child, or to perform
18 substantially the same duties and functions as a guardian ad litem,
19 shall be deemed to be guardian ad litem for all purposes and uses of
20 this chapter.

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

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

30 (a) Receiving one of the following types of public assistance:
31 Temporary assistance for needy families, general assistance, poverty-
32 related veterans' benefits, food stamps or food stamp benefits
33 transferred electronically, refugee resettlement benefits, medicaid, or
34 supplemental security income; or

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

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

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

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

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

15 (13) "Shelter care" means temporary physical care in a facility
16 licensed pursuant to RCW 74.15.030 or in a home not required to be
17 licensed pursuant to RCW 74.15.030.

18 (14) "Social study" means a written evaluation of matters relevant
19 to the disposition of the case and shall contain the following
20 information:

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

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

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

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

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

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

10 **Sec. 3.** RCW 13.34.060 and 2000 c 122 s 4 are each amended to read
11 as follows:

12 (1) A child taken into custody pursuant to RCW 13.34.050 or
13 26.44.050 shall be immediately placed in shelter care. A child taken
14 by a relative of the child in violation of RCW 9A.40.060 or 9A.40.070
15 shall be placed in shelter care only when permitted under RCW
16 13.34.055.

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

34 (b) Whenever a child is taken into custody pursuant to this
35 section, the supervising agency may authorize evaluations of the
36 child's physical or emotional condition, routine medical and dental
37 examination and care, and all necessary emergency care. In no case may
38 a child who is taken into custody pursuant to RCW 13.34.055, 13.34.050,

1 or 26.44.050 be detained in a secure detention facility. No child may
2 be held longer than seventy-two hours, excluding Saturdays, Sundays and
3 holidays, after such child is taken into custody unless a court order
4 has been entered for continued shelter care. The child and his or her
5 parent, guardian, or custodian shall be informed that they have a right
6 to a shelter care hearing. The court shall hold a shelter care hearing
7 within seventy-two hours after the child is taken into custody,
8 excluding Saturdays, Sundays, and holidays. If a parent, guardian, or
9 legal custodian desires to waive the shelter care hearing, the court
10 shall determine, on the record and with the parties present, whether
11 such waiver is knowing and voluntary.

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

29 **Sec. 4.** RCW 13.34.065 and 2001 c 332 s 3 are each amended to read
30 as follows:

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

35 (2) 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 has been charged with violating 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, and the child was initially placed with
13 a relative pursuant to RCW 13.34.060(1), the court shall order
14 continued placement with a relative, unless there is reasonable cause
15 to believe the health, safety, or welfare of the child would be
16 jeopardized. Unless there is reasonable cause to believe that the
17 health, safety, or welfare of the child would be jeopardized or that
18 the efforts to reunite the parent and child will be hindered, the court
19 shall order appropriate visitation between the child and his or her
20 siblings. The court shall not decrease parental visitation in order to
21 provide sibling visitation. If the child was not initially placed with
22 a relative, and the court does not release the child to his or her
23 parent, guardian, or legal custodian, the supervising agency shall make
24 reasonable efforts to locate a relative pursuant to RCW 13.34.060(1).
25 If a relative is not available, the court shall order continued shelter
26 care or order placement with another suitable person, and the court
27 shall set forth its reasons for the order. The court shall enter a
28 finding as to whether RCW 13.34.060(2) and subsections (1) and (2) of
29 this section have been complied with. If actual notice was not given
30 to the parent, guardian, or legal custodian and the whereabouts of such
31 person is known or can be ascertained, the court shall order the
32 supervising agency or the department of social and health services to
33 make reasonable efforts to advise the parent, guardian, or legal
34 custodian of the status of the case, including the date and time of any
35 subsequent hearings, and their rights under RCW 13.34.090.

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

1 The court shall consider whether nonconformance with any conditions
2 resulted from circumstances beyond the control of the parent and give
3 weight to that fact before ordering return of the child to shelter
4 care.

5 (4) If a child is returned home from shelter care a second time in
6 the case, or if the supervisor of the caseworker deems it necessary,
7 the multidisciplinary team may be reconvened.

8 (5) If a child is returned home from shelter care a second time in
9 the case a law enforcement officer must be present and file a report to
10 the department.

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

13 If, after a fact-finding hearing pursuant to RCW 13.34.110, it has
14 been proven by a preponderance of the evidence that the child is
15 dependent within the meaning of RCW 13.34.030 after consideration of
16 the social study prepared pursuant to RCW 13.34.110 and after a
17 disposition hearing has been held pursuant to RCW 13.34.110, the court
18 shall enter an order of disposition pursuant to this section.

19 (1) The court shall order visitation for the child with his or her
20 siblings unless the court finds that there is reasonable cause to
21 believe that the health, safety, or welfare of the child would be
22 jeopardized or that the efforts to reunite the parent and child will be
23 hindered.

24 (2) The court shall order one of the following dispositions of the
25 case:

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

33 (b) Order the child to be removed from his or her home and into the
34 custody, control, and care of a relative or the department or a
35 licensed child placing agency for placement in a foster family home or
36 group care facility licensed pursuant to chapter 74.15 RCW or in a home
37 not required to be licensed pursuant to chapter 74.15 RCW. Unless
38 there is reasonable cause to believe that the health, safety, or

1 welfare of the child would be jeopardized or that efforts to reunite
2 the parent and child will be hindered, such child shall be placed with
3 a person who is: (i) Related to the child as defined in RCW
4 74.15.020(2)(a) with whom the child has a relationship and is
5 comfortable; and (ii) willing and available to care for the child.

6 ~~((+2+))~~ (3) Placement of the child with a relative under this
7 subsection shall be given preference by the court. An order for out-
8 of-home placement may be made only if the court finds that reasonable
9 efforts have been made to prevent or eliminate the need for removal of
10 the child from the child's home and to make it possible for the child
11 to return home, specifying the services that have been provided to the
12 child and the child's parent, guardian, or legal custodian, and that
13 preventive services have been offered or provided and have failed to
14 prevent the need for out-of-home placement, unless the health, safety,
15 and welfare of the child cannot be protected adequately in the home,
16 and that:

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

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

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

25 ~~((+3+))~~ (4) If the court has ordered a child removed from his or
26 her home pursuant to subsection ~~((+1+))~~ (2)(b) of this section, the
27 court may order that a petition seeking termination of the parent and
28 child relationship be filed if the requirements of RCW 13.34.132 are
29 met.

30 ~~((+4+))~~ (5) If there is insufficient information at the time of the
31 disposition hearing upon which to base a determination regarding the
32 suitability of a proposed placement with a relative, the child shall
33 remain in foster care and the court shall direct the supervising agency
34 to conduct necessary background investigations as provided in chapter
35 74.15 RCW and report the results of such investigation to the court
36 within thirty days. However, if such relative appears otherwise
37 suitable and competent to provide care and treatment, the criminal
38 history background check need not be completed before placement, but as
39 soon as possible after placement. Any placements with relatives,

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

8 **Sec. 6.** RCW 13.34.136 and 2000 c 122 s 18 are each amended to read
9 as follows:

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

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

23 (b) Unless the court has ordered, pursuant to RCW 13.34.130(3),
24 that a termination petition be filed, a specific plan as to where the
25 child will be placed, what steps will be taken to return the child
26 home, what steps the agency will take to promote existing appropriate
27 sibling relationships and/or facilitate contact unless there is
28 reasonable cause to believe that the health, safety, or welfare of the
29 child is jeopardized, and what actions the agency will take to maintain
30 parent-child ties. All aspects of the plan shall include the goal of
31 achieving permanence for the child.

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

36 (ii) The agency shall encourage the maximum parent-child contact
37 possible, including regular visitation and participation by the parents
38 in the care of the child while the child is in placement. Visitation

1 may be limited or denied only if the court determines that such
2 limitation or denial is necessary to protect the child's health,
3 safety, or welfare.

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

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

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

23 (2) 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 **Sec. 7.** RCW 13.34.260 and 2000 c 122 s 32 are each amended to read
30 as follows:

31 In an attempt to minimize the inherent intrusion in the lives of
32 families involved in the foster care system and to maintain parental
33 authority where appropriate, the department, absent good cause, shall
34 follow the wishes of the natural parent regarding the placement of the
35 child. Preferences such as family constellation, sibling
36 relationships, ethnicity, and religion shall be considered when
37 matching children to foster homes. Parental authority is appropriate
38 in areas that are not connected with the abuse or neglect that resulted

1 in the dependency and shall be integrated through the foster care team.
2 For purposes of this section, "foster care team" means the foster
3 parent currently providing care, the currently assigned social worker,
4 and the parent or parents.

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

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

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

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

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

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

21 ~~((+e))~~ (d) The possibility of placement with the child's relatives
22 or extended family;

23 ~~((+d))~~ (e) The racial, ethnic, cultural, and religious background
24 of the child;

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

27 ~~((+f))~~ (g) Compliance with RCW 13.34.260 regarding parental
28 preferences for placement of their children.

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