
SUBSTITUTE HOUSE BILL 1227

State of Washington

67th Legislature

2021 Regular Session

By House Children, Youth & Families (originally sponsored by Representatives Ortiz-Self, Callan, Senn, Dolan, Fitzgibbon, Ramos, Davis, Santos, Macri, Gregerson, Young, and Ormsby)

1 AN ACT Relating to protecting the rights of families responding
2 to allegations of abuse or neglect of a child; amending RCW
3 13.34.040, 26.44.056, 26.44.050, 13.34.050, 13.34.062, 13.34.060,
4 13.34.065, and 13.34.090; and creating new sections.

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

6 NEW SECTION. **Sec. 1.** This act may be known and cited as the
7 keeping families together act.

8 NEW SECTION. **Sec. 2.** (1) The legislature recognizes that
9 children and families are better served when the state provides
10 support to allow children to be cared for by their loved ones and in
11 their communities. The legislature finds that decades of research
12 show that Black and Indigenous children are still disproportionately
13 removed from their families and communities despite reform efforts.

14 (2) For these reasons, it is the intent of the legislature to
15 safely reduce the number of children in foster care and reduce racial
16 bias in the system by applying a standard criteria for determining
17 whether to remove a child from a parent when necessary to prevent
18 imminent physical harm to the child due to child abuse or neglect,
19 including that which results from sexual abuse, sexual exploitation,
20 or a pattern of severe neglect.

1 **Sec. 3.** RCW 13.34.040 and 2018 c 17 s 1 are each amended to read
2 as follows:

3 (1) Any person may file with the clerk of the superior court a
4 petition showing that there is within the county, or residing within
5 the county, a dependent child and requesting that the superior court
6 deal with such child as provided in this chapter. There shall be no
7 fee for filing such petitions.

8 (2) Except where the department is the petitioner, in counties
9 having paid probation officers, these officers shall, to the extent
10 possible, first determine if a petition is reasonably justifiable.
11 ~~((Each petition shall be verified and contain a statement of facts~~
12 ~~constituting a dependency, and the names and residence, if known to~~
13 ~~the petitioner, of the parents, guardian, or custodian of the alleged~~
14 ~~dependent child.))~~

15 (3) Every petition filed in proceedings under this chapter shall
16 contain a statement alleging whether there is a reason to know that
17 the child is or may be an Indian child as defined in RCW 13.38.040.
18 If there is a reason to know that the child is or may be an Indian
19 child chapter 13.38 RCW shall apply.

20 (4) Every order or decree entered under this chapter shall
21 contain a finding that the federal Indian child welfare act or
22 chapter 13.38 RCW does or does not apply. Where there is a finding
23 that the federal Indian child welfare act or chapter 13.38 RCW does
24 apply, the decree or order must also contain a finding that all
25 notice requirements and evidentiary requirements under the federal
26 Indian child welfare act and chapter 13.38 RCW have been satisfied.

27 (5) Each petition shall be verified and contain a statement
28 constituting a dependency, including the names, residence, and
29 contact information, if known to the petitioner, of each parent,
30 guardian, or custodian of the alleged dependent child. If the
31 petitioner is seeking removal of the child from a parent, guardian,
32 or custodian the petition shall contain a clear and specific
33 statement as to the harm that will occur if the child remains in the
34 care of the parent, guardian, or custodian, and the facts that
35 support that conclusion.

36 **Sec. 4.** RCW 26.44.056 and 1983 c 246 s 3 are each amended to
37 read as follows:

38 (1) An administrator of a hospital or similar institution or any
39 physician, licensed pursuant to chapters 18.71 or 18.57 RCW, may

1 detain a child without consent of a person legally responsible for
2 the child whether or not medical treatment is required, if ((the
3 ~~circumstances or conditions of the child are such that the detaining~~
4 ~~individual has reasonable cause to believe that permitting the child~~
5 ~~to continue in his or her place of residence or in the care and~~
6 ~~custody of the parent, guardian, custodian or other person legally~~
7 ~~responsible for the child's care would present an imminent danger to~~
8 ~~that child's safety)) there is probable cause to believe that
9 detaining the child is necessary to prevent imminent physical harm to
10 the child due to child abuse or neglect, including that which results
11 from sexual abuse, sexual exploitation, or a pattern of severe
12 neglect, and the child would be seriously injured or could not be
13 taken into custody if it were necessary to first obtain a court order
14 under RCW 13.34.050: PROVIDED, That such administrator or physician
15 shall notify or cause to be notified the appropriate law enforcement
16 agency or child protective services pursuant to RCW 26.44.040. Such
17 notification shall be made as soon as possible and in no case longer
18 than seventy-two hours. Such temporary protective custody by an
19 administrator or doctor shall not be deemed an arrest. Child
20 protective services may detain the child until the court assumes
21 custody, but in no case longer than seventy-two hours, excluding
22 Saturdays, Sundays, and holidays.~~

23 (2) (~~Whenever an administrator or physician has reasonable cause~~
24 ~~to believe that a child would be in imminent danger if released to a~~
25 ~~parent, guardian, custodian, or other person or is in imminent danger~~
26 ~~if left in the custody of a parent, guardian, custodian, or other~~
27 ~~person, the administrator or physician may notify a law enforcement~~
28 ~~agency and the law enforcement agency shall take the child into~~
29 ~~custody or cause the child to be taken into custody. The law~~
30 ~~enforcement agency shall release the child to the custody of child~~
31 ~~protective services. Child protective services shall detain the child~~
32 ~~until the court assumes custody or upon a documented and~~
33 ~~substantiated record that in the professional judgment of the child~~
34 ~~protective services the child's safety will not be endangered if the~~
35 ~~child is returned. If the child is returned, the department shall~~
36 ~~establish a six-month plan to monitor and assure the continued safety~~
37 ~~of the child's life or health. The monitoring period may be extended~~
38 ~~for good cause.~~

39 (3)) A child protective services employee, an administrator,
40 doctor, or law enforcement officer shall not be held liable in any

1 civil action for the decision for taking the child into custody, if
2 done in good faith under this section.

3 **Sec. 5.** RCW 26.44.050 and 2020 c 71 s 1 are each amended to read
4 as follows:

5 Except as provided in RCW 26.44.030(~~((11))~~) (12), upon the
6 receipt of a report alleging that abuse or neglect has occurred, the
7 law enforcement agency or the department must investigate and provide
8 the protective services section with a report in accordance with
9 chapter 74.13 RCW, and where necessary to refer such report to the
10 court.

11 A law enforcement officer may take, or cause to be taken, a child
12 into custody without a court order if there is probable cause to
13 believe that (~~the child is abused or neglected and that the child~~
14 ~~would be~~) taking the child into custody is necessary to prevent
15 imminent physical harm to the child due to child abuse or neglect,
16 including that which results from sexual abuse, sexual exploitation,
17 or a pattern of severe neglect, and the child would be seriously
18 injured or could not be taken into custody if it were necessary to
19 first obtain a court order pursuant to RCW 13.34.050. The law
20 enforcement agency or the department investigating such a report is
21 hereby authorized to photograph such a child for the purpose of
22 providing documentary evidence of the physical condition of the
23 child.

24 **Sec. 6.** RCW 13.34.050 and 2005 c 512 s 9 are each amended to
25 read as follows:

26 (1) The court may enter an order directing a law enforcement
27 officer, probation counselor, or child protective services official
28 to take a child into custody if: (a) A petition is filed with the
29 juvenile court (~~alleging~~) with sufficient corroborating evidence to
30 establish that the child is dependent (~~and that the child's health,~~
31 ~~safety, and welfare will be seriously endangered if not taken into~~
32 ~~custody~~); (b) the allegations contained in the petition, if true,
33 establish by a preponderance of the evidence that removal is
34 necessary to prevent imminent physical harm to the child due to child
35 abuse or neglect, including that which results from sexual abuse,
36 sexual exploitation, or a pattern of severe neglect; and (c) an
37 affidavit or declaration is filed by the department in support of the
38 petition setting forth specific factual information evidencing

1 (~~reasonable grounds that the child's health, safety, and welfare~~
2 ~~will be seriously endangered if not taken into custody and at least~~
3 ~~one of the grounds set forth demonstrates a risk of imminent harm to~~
4 ~~the child. "Imminent harm" for purposes of this section shall~~
5 ~~include, but not be limited to, circumstances of sexual abuse, sexual~~
6 ~~exploitation as defined in RCW 26.44.020, and a parent's failure to~~
7 ~~perform basic parental functions, obligations, and duties as the~~
8 ~~result of substance abuse; and (c) the court finds reasonable grounds~~
9 ~~to believe the child is dependent and that the child's health,~~
10 ~~safety, and welfare will be seriously endangered if not taken into~~
11 ~~eustody)) insufficient time to serve a parent with a dependency
12 petition and hold a hearing prior to removal.~~

13 (2) Any petition that does not have the necessary affidavit or
14 declaration demonstrating a risk of imminent harm requires that the
15 parents are provided notice and an opportunity to be heard before the
16 order may be entered.

17 (3) The petition and supporting documentation must be served on
18 the parent, and if the child is in custody at the time the child is
19 removed, on the entity with custody other than the parent. If the
20 court orders that a child be taken into custody under subsection (1)
21 of this section, the petition and supporting documentation must be
22 served on the parent at the time of the child's removal unless, after
23 diligent efforts, the parents cannot be located at the time of
24 removal. If the parent is not served at the time of removal, the
25 department shall make diligent efforts to personally serve 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. 7.** RCW 13.34.062 and 2020 c 312 s 115 are each amended to
29 read as follows:

30 (1)(a) Whenever a child is taken into custody by child protective
31 services pursuant to a court order issued under RCW 13.34.050 or when
32 child protective services is notified that a child has been taken
33 into custody pursuant to RCW 26.44.050 or 26.44.056, child protective
34 services shall make (~~reasonable~~) diligent efforts to inform the
35 parent, guardian, or legal custodian of the fact that the child has
36 been taken into custody, the reasons why the child was taken into
37 custody, and their legal rights under this title, including the right
38 to a shelter care hearing, as soon as possible. Notice must be
39 provided in an understandable manner and take into consideration the

1 parent's, guardian's, or legal custodian's primary language, level of
2 education, and cultural issues.

3 (b) In no event shall the notice required by this section be
4 provided to the parent, guardian, or legal custodian more than
5 twenty-four hours after the child has been taken into custody or
6 twenty-four hours after child protective services has been notified
7 that the child has been taken into custody.

8 (2) (a) The notice of custody and rights may be given by any means
9 reasonably certain of notifying the parents including, but not
10 limited to, written, telephone, or in person oral notification. If
11 the initial notification is provided by a means other than writing,
12 child protective services shall make reasonable efforts to also
13 provide written notification.

14 (b) The written notice of custody and rights required by this
15 section shall be in substantially the following form:

16 "NOTICE

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

21 1. A court hearing will be held before a judge within 72 hours of
22 the time your child is taken into custody excluding Saturdays,
23 Sundays, and holidays. You should call the court at . . . (insert
24 appropriate phone number here) for specific information about the
25 date, time, and location of the court hearing.

26 2. You have the right to have a lawyer represent you at the
27 hearing. Your right to representation continues after the shelter
28 care hearing. You have the right to records the department intends to
29 rely upon. A lawyer can look at the files in your case, talk to child
30 protective services and other agencies, tell you about the law, help
31 you understand your rights, and help you at hearings. If you cannot
32 afford a lawyer, the court will appoint one to represent you. To get
33 a court-appointed lawyer you must contact: . . . (explain local
34 procedure).

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

38 4. If your hearing occurs before a court commissioner, you have
39 the right to have the decision of the court commissioner reviewed by

1 a superior court judge. To obtain that review, you must, within ten
2 days after the entry of the decision of the court commissioner, file
3 with the court a motion for revision of the decision, as provided in
4 RCW 2.24.050.

5 You should be present at any shelter care hearing. If you do not
6 come, the judge will not hear what you have to say.

7 You may call the Child Protective Services' caseworker for more
8 information about your child. The caseworker's name and telephone
9 number are: . . . (insert name and telephone number).

10 5. You have a right to a case conference to develop a written
11 service agreement following the shelter care hearing. The service
12 agreement may not conflict with the court's order of shelter care.
13 You may request that a multidisciplinary team, family group
14 conference, or prognostic staffing be convened for your child's case.
15 You may participate in these processes with your counsel present.

16 6. If your child is placed in the custody of the department of
17 children, youth, and families or other ((~~supervising~~)) agency,
18 immediately following the shelter care hearing, the court will enter
19 an order granting the department or other ((~~supervising~~)) agency the
20 right to inspect and copy all health, medical, mental health, and
21 education records of the child, directing health care providers to
22 release such information without your further consent, and granting
23 the department or ((~~supervising~~)) agency or its designee the
24 authority and responsibility, where applicable, to:

25 (1) Notify the child's school that the child is in out-of-home
26 placement;

27 (2) Enroll the child in school;

28 (3) Request the school transfer records;

29 (4) Request and authorize evaluation of special needs;

30 (5) Attend parent or teacher conferences;

31 (6) Excuse absences;

32 (7) Grant permission for extracurricular activities;

33 (8) Authorize medications which need to be administered during
34 school hours and sign for medical needs that arise during school
35 hours; and

36 (9) Complete or update school emergency records.

37 7. If the court decides to place your child in the custody of the
38 department of children, youth, and families or other ((~~supervising~~))
39 agency, the department or agency will create a permanency plan for
40 your child, including a primary placement goal and secondary

1 placement goal. The department or agency also will recommend that the
2 court order services for your child and for you, if needed. The
3 department or agency is required to make reasonable efforts to
4 provide you with services to address your parenting problems, and to
5 provide you with visitation with your child according to court
6 orders. Failure to promptly engage in services or to maintain contact
7 with your child may lead to the filing of a petition to terminate
8 your parental rights.

9 8. Primary and secondary permanency plans are intended to run at
10 the same time so that your child will have a permanent home as
11 quickly as possible. Absent good cause, and when appropriate, the
12 department or other ((~~supervising~~)) agency must follow the wishes of
13 a natural parent regarding placement of a child. You should tell your
14 lawyer and the court where you wish your child placed immediately,
15 including whether you want your child placed with you, with a
16 relative, or with another suitable person. You also should tell your
17 lawyer and the court what services you feel are necessary and your
18 wishes regarding visitation with your child. Even if you want another
19 parent or person to be the primary placement choice for your child,
20 you should tell your lawyer, the department or other ((~~supervising~~))
21 agency, and the court if you want to be a secondary placement option,
22 and you should comply with court orders for services and participate
23 in visitation with your child. Early and consistent involvement in
24 your child's case plan is important for the well-being of your child.

25 9. A dependency petition begins a judicial process, which, if the
26 court finds your child dependent, could result in substantial
27 restrictions including, the entry or modification of a parenting plan
28 or residential schedule, previously existing nonparental custody
29 order or decree, guardianship order, or permanent loss of your
30 parental rights."

31 Upon receipt of the written notice, the parent, guardian, or
32 legal custodian shall acknowledge such notice by signing a receipt
33 prepared by child protective services. If the parent, guardian, or
34 legal custodian does not sign the receipt, the reason for lack of a
35 signature shall be written on the receipt. The receipt shall be made
36 a part of the court's file in the dependency action.

37 If after making reasonable efforts to provide notification, child
38 protective services is unable to determine the whereabouts of the
39 parents, guardian, or legal custodian, the notice shall be delivered

1 or sent to the last known address of the parent, guardian, or legal
2 custodian.

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

9 (4) (~~Reasonable~~) Diligent efforts to advise and to give notice,
10 as required in this section, shall include, at a minimum,
11 investigation of the whereabouts of the parent, guardian, or legal
12 custodian. If such (~~reasonable~~) diligent efforts are not
13 successful, or the parent, guardian, or legal custodian does not
14 appear at the shelter care hearing, the petitioner shall testify at
15 the hearing or state in a declaration:

16 (a) The efforts made to investigate the whereabouts of, and to
17 advise, the parent, guardian, or custodian; and

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

21 **Sec. 8.** RCW 13.34.060 and 2007 c 413 s 3 are each amended to
22 read as follows:

23 (1) A child taken into custody pursuant to RCW 13.34.050 or
24 26.44.050 shall be immediately placed in shelter care. A child taken
25 by a relative of the child in violation of RCW 9A.40.060 or 9A.40.070
26 shall be placed in shelter care only when permitted under RCW
27 13.34.055. No child may be held longer than seventy-two hours,
28 excluding Saturdays, Sundays, and holidays, after such child is taken
29 into custody unless a court order has been entered for continued
30 shelter care. In no case may a child who is taken into custody
31 pursuant to RCW 13.34.055, 13.34.050, or 26.44.050 be detained in a
32 secure detention facility.

33 (2) Unless there is reasonable cause based on specific evidence
34 to believe that the health(~~(r)~~) or safety(~~(, or welfare)~~) of the
35 child would be jeopardized or that the efforts to reunite the parent
36 and child will be hindered, priority placement for a child in shelter
37 care, pending a court hearing, shall be with any person described in
38 RCW 74.15.020(2)(a) or 13.34.130(1)(b). The person must be willing
39 and available to care for the child and be able to meet any special

1 needs of the child and the court must (~~find that such placement is~~
2 ~~in the best interests of the child~~) complete the inquiry required
3 under RCW 13.34.065 to establish whether continued placement with the
4 relative is appropriate. The person must be willing to facilitate the
5 child's visitation with siblings, if such visitation is part of the
6 (~~supervising agency's~~) department's plan or is ordered by the
7 court. If a child is not initially placed with a relative or other
8 suitable person requested by the parent pursuant to this section, the
9 (~~supervising agency~~) department shall make (~~an effort within~~
10 ~~available resources~~) continuing efforts to place the child with a
11 relative or other suitable person requested by the parent on the next
12 business day after the child is taken into custody. The (~~supervising~~
13 ~~agency~~) department shall document its effort to place the child with
14 a relative or other suitable person requested by the parent pursuant
15 to this section. Nothing within this subsection (2) establishes an
16 entitlement to services or a right to a particular placement.

17 (3) Whenever a child is taken into custody pursuant to this
18 section, the (~~supervising agency~~) department may authorize
19 evaluations of the child's physical or emotional condition, routine
20 medical and dental examination and care, and all necessary emergency
21 care, after informing the child's parent, guardian, or legal
22 custodian, unless the parent, guardian, or legal custodian cannot be
23 reached. The child's parent, guardian, or legal custodian must be
24 provided the opportunity to attend any appointments authorized under
25 this subsection, unless prohibited by court order.

26 **Sec. 9.** RCW 13.34.065 and 2019 c 172 s 11 are each amended to
27 read as follows:

28 (1)(a) When a child is (~~taken into custody~~) removed or when the
29 petitioner is seeking the removal of a child from the child's parent,
30 guardian, or legal custodian, the court shall hold a shelter care
31 hearing within seventy-two hours, excluding Saturdays, Sundays, and
32 holidays. The primary purpose of the shelter care hearing is to
33 determine whether the child can be immediately and safely returned
34 home while the adjudication of the dependency is pending. The court
35 shall hold a shelter care hearing within 72 hours, excluding
36 Saturdays, Sundays, and holidays if the child is removed from the
37 care of a parent, guardian, or legal custodian at any time after a
38 shelter care hearing under this section.

1 (b) Any child's attorney, parent, guardian, or legal custodian
2 who for good cause is unable to attend or adequately prepare for the
3 shelter care hearing may request that the initial shelter care
4 hearing be continued or that a subsequent shelter care hearing be
5 scheduled. The request shall be made to the clerk of the court where
6 the petition is filed prior to the initial shelter care hearing. Upon
7 the request of the child's attorney, parent, guardian, or legal
8 custodian, the court shall schedule the hearing within seventy-two
9 hours of the request, excluding Saturdays, Sundays, and holidays. The
10 clerk shall notify all other parties of the hearing by any reasonable
11 means. If the parent, guardian, or legal custodian is not represented
12 by counsel, the clerk shall provide information to the parent,
13 guardian, or legal custodian regarding how to obtain counsel.

14 (2) (a) If it is likely that the child will remain in shelter care
15 longer than seventy-two hours, the department shall submit a
16 recommendation to the court as to the further need for shelter care
17 in all cases in which the child will remain in shelter care longer
18 than the seventy-two hour period. In all other cases, the
19 recommendation shall be submitted by the juvenile court probation
20 counselor.

21 (b) All parties have the right to present testimony to the court
22 regarding the need or lack of need for shelter care.

23 (c) Hearsay evidence before the court regarding the need or lack
24 of need for shelter care must be supported by sworn testimony,
25 affidavit, or declaration of the person offering such evidence.

26 (3) (a) At the commencement of the hearing, the court shall notify
27 the parent, guardian, or custodian of the following:

28 (i) The parent, guardian, or custodian has the right to a shelter
29 care hearing;

30 (ii) The nature of the shelter care hearing, the rights of the
31 parents, and the proceedings that will follow; and

32 (iii) If the parent, guardian, or custodian is not represented by
33 counsel, the right to be represented. If the parent, guardian, or
34 custodian is indigent, the court shall appoint counsel as provided in
35 RCW 13.34.090; and

36 (b) If a parent, guardian, or legal custodian desires to waive
37 the shelter care hearing, the court shall determine, on the record
38 and with the parties present, whether such waiver is knowing and
39 voluntary. A parent may not waive his or her right to the shelter
40 care hearing unless he or she appears in court, in person, or by

1 remote means, and the court determines that the waiver is knowing and
2 voluntary. Regardless of whether the court accepts the parental
3 waiver of the shelter care hearing, the court must provide notice to
4 the parents of their rights required under (a) of this subsection and
5 make the finding required under subsection (4) of this section.

6 (4) At the shelter care hearing the court shall examine the need
7 for shelter care and inquire into the status of the case. The
8 paramount consideration for the court shall be the health, welfare,
9 and safety of the child. At a minimum, the court shall inquire into
10 the following:

11 (a) Whether the notice required under RCW 13.34.062 was given to
12 all known parents, guardians, or legal custodians of the child. The
13 court shall make an express finding as to whether the notice required
14 under RCW 13.34.062 was given to the parent, guardian, or legal
15 custodian. If actual notice was not given to the parent, guardian, or
16 legal custodian and the whereabouts of such person is known or can be
17 ascertained, the court shall order the department to make
18 (~~reasonable~~) diligent efforts to advise the parent, guardian, or
19 legal custodian of the status of the case, including the date and
20 time of any subsequent hearings, and their rights under RCW
21 13.34.090;

22 (b) Whether the child can be safely returned home while the
23 adjudication of the dependency is pending;

24 (c) What efforts have been made to place the child with a
25 relative. The court shall ask the parents whether the department
26 discussed with them the placement of the child with a relative or
27 other suitable person described in RCW 13.34.130(1)(b) and shall
28 determine what efforts have been made toward such a placement;

29 (d) What services were provided to the family to prevent or
30 eliminate the need for removal of the child from the child's home. If
31 the dependency petition or other information before the court alleges
32 that homelessness or the lack of suitable housing was a significant
33 factor contributing to the removal of the child, the court shall
34 inquire as to whether housing assistance was provided to the family
35 to prevent or eliminate the need for removal of the child or
36 children;

37 (e) Is the placement proposed by the department the least
38 disruptive and most family-like setting that meets the needs of the
39 child;

1 (f) Whether it is in the best interest of the child to remain
2 enrolled in the school, developmental program, or child care the
3 child was in prior to placement and what efforts have been made to
4 maintain the child in the school, program, or child care if it would
5 be in the best interest of the child to remain in the same school,
6 program, or child care;

7 (g) Appointment of a guardian ad litem or attorney;

8 (h) Whether the child is or may be an Indian child as defined in
9 RCW 13.38.040, whether the provisions of the federal Indian child
10 welfare act or chapter 13.38 RCW apply, and whether there is
11 compliance with the federal Indian child welfare act and chapter
12 13.38 RCW, including notice to the child's tribe;

13 (i) Whether, as provided in RCW 26.44.063, restraining orders, or
14 orders expelling an allegedly abusive household member from the home
15 of a nonabusive parent, guardian, or legal custodian, will allow the
16 child to safely remain in the home;

17 (j) Whether any orders for examinations, evaluations, or
18 immediate services are needed. The court may not order a parent to
19 undergo examinations, evaluation, or services at the shelter care
20 hearing unless the parent agrees to the examination, evaluation, or
21 service;

22 (k) The terms and conditions for parental, sibling, and family
23 visitation.

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

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

32 (ii) (A) The child has no parent, guardian, or legal custodian to
33 provide supervision and care for such child; or

34 (B) (~~The release of such child would present a serious threat of~~
35 ~~substantial harm to such child~~) (I) Removal of the child is
36 necessary to prevent imminent physical harm due to child abuse or
37 neglect, including that which results from sexual abuse, sexual
38 exploitation, or a pattern of severe neglect, notwithstanding an
39 order entered pursuant to RCW 26.44.063. The evidence must show a
40 causal relationship between the particular conditions in the home and

1 imminent physical harm to the child. The existence of community or
2 family poverty, isolation, single parenthood, age of the parent,
3 crowded or inadequate housing, substance abuse, prenatal drug or
4 alcohol exposure, mental illness, disability or special needs of the
5 parent or child, or nonconforming social behavior does not by itself
6 constitute imminent physical harm;

7 (II) It is contrary to the welfare of the child to be returned
8 home; and

9 (III) After considering the particular circumstances of the
10 child, any imminent physical harm to the child outweighs the harm the
11 child will experience as a result of removal; or

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

14 (b) If the court finds that the elements of (a)(ii)(B) of this
15 subsection require removal of the child, the court shall further
16 consider:

17 (i) Whether participation by the parents, guardians, or legal
18 custodians in any prevention services would prevent or eliminate the
19 need for removal and, if so, shall inquire of the parent whether they
20 are willing to participate in such services. If the parent agrees to
21 participate in the prevention services identified by the court that
22 would prevent or eliminate the need for removal, the court shall
23 place the child with the parent. The court shall not order a parent
24 to participate in prevention services over the objection of the
25 parent, however, parents shall have the opportunity to consult with
26 counsel prior to deciding whether to agree to proposed prevention
27 services as a condition of having the child return to or remain in
28 the care of the parent; and

29 (ii) Whether the issuance of a temporary order of protection
30 directing the removal of a person or persons from the child's
31 residence would prevent the need for removal of the child.

32 (c)(i) If the court does not release the child to his or her
33 parent, guardian, or legal custodian, the court shall order placement
34 with a relative or other suitable person as described in RCW
35 13.34.130(1)(b), unless ~~((there is reasonable cause to believe the~~
36 health, safety, or welfare of the child would be jeopardized or that
37 the)) the petitioner establishes by a preponderance of the evidence
38 that:

39 (A) Placement in licensed foster care is necessary to prevent
40 imminent physical harm to the child due to child abuse or neglect,

1 including that which results from sexual abuse, sexual exploitation,
2 or a pattern of severe neglect, because no relative or other suitable
3 person is capable of ensuring the basic safety of the child; or

4 (B) The efforts to reunite the parent and child will be hindered.
5 ~~((If such relative or other suitable person appears otherwise~~
6 ~~suitable and competent to provide care and treatment, the~~
7 ~~fingerprint-based background check need not be completed before~~
8 ~~placement, but as soon as possible after placement. The court must~~
9 ~~also determine whether placement with the relative or other suitable~~
10 ~~person is in the child's best interests. The relative or other~~
11 ~~suitable person must be willing and available to:~~

12 ~~(i) Care for the child and be able to meet any special needs of~~
13 ~~the child;~~

14 ~~(ii) Facilitate the child's visitation with siblings, if such~~
15 ~~visitation is part of the department's plan or is ordered by the~~
16 ~~court; and~~

17 ~~(iii) Cooperate with the department in providing necessary~~
18 ~~background checks and home studies.~~

19 ~~(e))~~ (ii) In making the determination in (c)(i) of this
20 subsection, the court shall:

21 (A) Inquire of the petitioner and any other person present at the
22 hearing for the child whether there are any relatives or other
23 suitable persons who are willing to care for the child. This inquiry
24 must include whether any relative or other suitable person:

25 (I) Has expressed an interest in becoming a caregiver for the
26 child;

27 (II) Is able to meet any special needs of the child;

28 (III) Is willing to facilitate the child's sibling and parent
29 visitation if such visitation is ordered by the court; and

30 (IV) Supports reunification of the parent and child once
31 reunification can safely occur; and

32 (B) Give great weight to the stated preference of the parent,
33 guardian, or legal custodian, and the child.

34 (iii) If a relative or other suitable person expressed an
35 interest in caring for the child, can meet the child's special needs,
36 can support parent-child reunification, and will facilitate court-
37 ordered sibling or parent visitation, the following must not prevent
38 the child's placement with such relative or other suitable person:

39 (A) An incomplete department or fingerprint-based background
40 check, if such relative or other suitable person appears otherwise

1 suitable and competent to provide care and treatment, but the
2 background checks must be completed as soon as possible after
3 placement;

4 (B) Uncertainty on the part of the relative or other suitable
5 person regarding potential adoption of the child;

6 (C) Disbelief on the part of the relative or other suitable
7 person that the parent, guardian, or legal custodian presents a
8 danger to the child, provided the caregiver will protect the safety
9 of the child and comply with court orders regarding contact with a
10 parent, guardian, or legal custodian; or

11 (D) The conditions of the relative or other suitable person's
12 home are not sufficient to satisfy the requirements of a licensed
13 foster home. The court may order the department to provide financial
14 or other support to the relative or other suitable person necessary
15 to ensure safe conditions in the home.

16 (d) If the child was not initially placed with a relative or
17 other suitable person, and the court does not release the child to
18 his or her parent, guardian, or legal custodian, the department shall
19 make reasonable efforts to locate a relative or other suitable person
20 pursuant to RCW 13.34.060(1). ((In determining placement, the court
21 shall weigh the child's length of stay and attachment to the current
22 provider in determining what is in the best interest of the child.

23 ~~(d) If a relative or other suitable person is not available, the~~
24 ~~court shall order continued shelter care))~~ (e) If the court does not
25 order placement with a relative or other suitable person, the court
26 shall place the child in licensed foster care and shall set forth its
27 reasons for the order. If the court orders placement of the child
28 with a person not related to the child and not licensed to provide
29 foster care, the placement is subject to all terms and conditions of
30 this section that apply to relative placements.

31 ~~((e))~~ (f) Any placement with a relative, or other suitable
32 person approved by the court pursuant to this section, shall be
33 contingent upon cooperation with the department's or agency's case
34 plan and compliance with court orders related to the care and
35 supervision of the child including, but not limited to, court orders
36 regarding parent-child contacts, sibling contacts, and any other
37 conditions imposed by the court. Noncompliance with the case plan or
38 court order is grounds for removal of the child from the home of the
39 relative or other suitable person, subject to review by the court.

1 (~~(f)~~) (g) If the child is placed in a qualified residential
2 treatment program as defined in this chapter, the court shall, within
3 sixty days of placement, hold a hearing to:

4 (i) Consider the assessment required under RCW 13.34.420 and
5 submitted as part of the department's social study, and any related
6 documentation;

7 (ii) Determine whether placement in foster care can meet the
8 child's needs or if placement in another available placement setting
9 best meets the child's needs in the least restrictive environment;
10 and

11 (iii) Approve or disapprove the child's placement in the
12 qualified residential treatment program.

13 (~~(g)~~) (h) Uncertainty by a parent, guardian, legal custodian,
14 relative, or other suitable person that the alleged abuser has in
15 fact abused the child shall not, alone, be the basis upon which a
16 child is removed from the care of a parent, guardian, or legal
17 custodian under (a) of this subsection, nor shall it be a basis,
18 alone, to preclude placement with a relative or other suitable person
19 under (~~(b)~~) (c) of this subsection.

20 (i) If the court places with a relative or other suitable person,
21 and that person has indicated a desire to become a licensed foster
22 parent, the court shall order the department to commence an
23 assessment of the home of such relative or other suitable person
24 within 72 hours and thereafter issue an initial license as provided
25 under RCW 74.15.120 for such relative or other suitable person, if
26 qualified, as a foster parent. The relative or other suitable person
27 shall receive a foster care maintenance payment, starting on the
28 first day the child is placed in the home, provided the relative or
29 other suitable person agrees to begin the licensing process. If such
30 home is found to be unqualified for licensure, the department shall
31 report such fact to the court within one week of that determination.
32 Such determination must be made prior to the entry of any
33 dispositional orders in the case.

34 (j) If the court places the child in licensed foster care:

35 (i) The petitioner shall report to the court, at the shelter care
36 hearing, the location of the licensed foster placement the petitioner
37 has identified for the child and the court shall inquire as to
38 whether:

39 (A) The identified placement is the least restrictive placement
40 necessary to meet the needs of the child;

1 (B) The child will be able to remain in the same school and
2 whether any orders of the court are necessary to ensure educational
3 stability for the child;

4 (C) The child will be placed with a sibling or siblings, and
5 whether court-ordered sibling contact would promote the well-being of
6 the child;

7 (D) The licensed foster placement is able to meet the special
8 needs of the child;

9 (E) The location of the proposed foster placement will impede
10 visitation with the child's parent or parents;

11 (ii) The court may order the department to:

12 (A) Place the child in a less restrictive placement;

13 (B) Place the child in a location in closer proximity to the
14 child's parent, home, or school;

15 (C) Place the child with the child's sibling or siblings;

16 (D) Take any other necessary steps to ensure the child's health,
17 safety, and well-being;

18 (iii) The court shall advise the petitioner that:

19 (A) Failure to comply with court orders while a child is in
20 shelter care will be considered when determining whether reasonable
21 efforts have been made by the department during a hearing under RCW
22 13.34.110; and

23 (B) Placement moves while a child is in shelter care will be
24 considered when determining whether reasonable efforts have been made
25 by the department during a hearing under RCW 13.34.110.

26 (6) (a) A shelter care order issued pursuant to this section shall
27 include the requirement for a case conference as provided in RCW
28 13.34.067. However, if the parent is not present at the shelter care
29 hearing, or does not agree to the case conference, the court shall
30 not include the requirement for the case conference in the shelter
31 care order.

32 (b) If the court orders a case conference, the shelter care order
33 shall include notice to all parties and establish the date, time, and
34 location of the case conference which shall be no later than thirty
35 days before the fact-finding hearing.

36 (c) The court may order another conference, case staffing, or
37 hearing as an alternative to the case conference required under RCW
38 13.34.067 so long as the conference, case staffing, or hearing
39 ordered by the court meets all requirements under RCW 13.34.067,

1 including the requirement of a written agreement specifying the
2 services to be provided to the parent.

3 (7) (a) A shelter care order issued pursuant to this section may
4 be amended at any time with notice and hearing thereon. The shelter
5 care decision of placement shall be modified only upon a showing of
6 change in circumstances. No child may be placed in shelter care for
7 longer than thirty days without an order, signed by the judge,
8 authorizing continued shelter care.

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

13 (ii) The court shall consider whether nonconformance with any
14 conditions resulted from circumstances beyond the control of the
15 parent, guardian, or legal custodian and give weight to that fact
16 before ordering return of the child to shelter care.

17 ~~((8) (a) If a child is returned home from shelter care a second
18 time in the case, or if the supervisor of the caseworker deems it
19 necessary, the multidisciplinary team may be reconvened.~~

20 ~~(b) If a child is returned home from shelter care a second time
21 in the case a law enforcement officer must be present and file a
22 report to the department.))~~

23 **Sec. 10.** RCW 13.34.090 and 2017 3rd sp.s. c 6 s 303 are each
24 amended to read as follows:

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

30 (2) At all stages of a proceeding in which a child is alleged to
31 be dependent, the child's parent, guardian, or legal custodian has
32 the right to be represented by counsel, and if indigent, to have
33 counsel appointed for him or her by the court. Unless waived in
34 court, counsel shall be provided to the child's parent, guardian, or
35 legal custodian, if such person (a) has appeared in the proceeding or
36 requested the court to appoint counsel and (b) is financially unable
37 to obtain counsel because of indigency.

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

4 (4) Copies of department (~~(or supervising agency)~~) records to
5 which parents have legal access pursuant to chapter 13.50 RCW shall
6 be given to the child's parent, guardian, legal custodian, or his or
7 her legal counsel, prior to any shelter care hearing and within
8 fifteen days after the department (~~(or supervising agency)~~) receives
9 a written request for such records from the parent, guardian, legal
10 custodian, or his or her legal counsel. These records shall be
11 provided to the child's parents, guardian, legal custodian, or legal
12 counsel a reasonable period of time prior to the shelter care hearing
13 in order to allow an opportunity to review the records prior to the
14 hearing. These records shall be legible and shall be provided at no
15 expense to the parents, guardian, legal custodian, or his or her
16 counsel. When the records are served on legal counsel, legal counsel
17 shall have the opportunity to review the records with the parents and
18 shall review the records with the parents prior to the shelter care
19 hearing. The department shall make every effort to provide all other
20 discoverable material to the child's parent, guardian, legal
21 custodian, or his or her legal counsel prior to any shelter care
22 hearing.

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