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SECOND SUBSTITUTE HOUSE BILL 1227

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State of Washington

67th Legislature

2021 Regular Session

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

READ FIRST TIME 02/19/21.

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; creating new sections; and providing an  
5 effective date.

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

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

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

15 (2) For these reasons, it is the intent of the legislature to  
16 safely reduce the number of children in foster care and reduce racial  
17 bias in the system by applying a standard criteria for determining  
18 whether to remove a child from a parent when necessary to prevent  
19 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.

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

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

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

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

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

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

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

3       (1) An administrator of a hospital or similar institution or any  
4 physician, licensed pursuant to chapters 18.71 or 18.57 RCW, may  
5 detain a child without consent of a person legally responsible for  
6 the child whether or not medical treatment is required, if (~~the~~  
7 ~~circumstances or conditions of the child are such that the detaining~~  
8 ~~individual has reasonable cause to believe that permitting the child~~  
9 ~~to continue in his or her place of residence or in the care and~~  
10 ~~custody of the parent, guardian, custodian or other person legally~~  
11 ~~responsible for the child's care would present an imminent danger to~~  
12 ~~that child's safety)) there is probable cause to believe that  
13 detaining the child is necessary to prevent imminent physical harm to  
14 the child due to child abuse or neglect, including that which results  
15 from sexual abuse, sexual exploitation, or a pattern of severe  
16 neglect, and the child would be seriously injured or could not be  
17 taken into custody if it were necessary to first obtain a court order  
18 under RCW 13.34.050: PROVIDED, That such administrator or physician  
19 shall notify or cause to be notified the appropriate law enforcement  
20 agency or child protective services pursuant to RCW 26.44.040. Such  
21 notification shall be made as soon as possible and in no case longer  
22 than seventy-two hours. Such temporary protective custody by an  
23 administrator or doctor shall not be deemed an arrest. Child  
24 protective services may detain the child until the court assumes  
25 custody, but in no case longer than seventy-two hours, excluding  
26 Saturdays, Sundays, and holidays.~~

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

1 ~~of the child's life or health. The monitoring period may be extended~~  
2 ~~for good cause.~~

3 ~~(3))~~ A child protective services employee, an administrator,  
4 doctor, or law enforcement officer shall not be held liable in any  
5 civil action for the decision for taking the child into custody, if  
6 done in good faith under this section.

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

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

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

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

30 (1) The court may enter an order directing a law enforcement  
31 officer, probation counselor, or child protective services official  
32 to take a child into custody if: (a) A petition is filed with the  
33 juvenile court ~~((alleging))~~ with sufficient corroborating evidence to  
34 establish that the child is dependent ~~((and that the child's health,~~  
35 ~~safety, and welfare will be seriously endangered if not taken into~~  
36 ~~eustody))~~; (b) the allegations contained in the petition, if true,  
37 establish by a preponderance of the evidence that removal is  
38 necessary to prevent imminent physical harm to the child due to child

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

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

21 (3) The petition and supporting documentation must be served on  
22 the parent, and if the child is in custody at the time the child is  
23 removed, on the entity with custody other than the parent. If the  
24 court orders that a child be taken into custody under subsection (1)  
25 of this section, the petition and supporting documentation must be  
26 served on the parent at the time of the child's removal unless, after  
27 diligent efforts, the parents cannot be located at the time of  
28 removal. If the parent is not served at the time of removal, the  
29 department shall make diligent efforts to personally serve the  
30 parent. Failure to effect service does not invalidate the petition if  
31 service was attempted and the parent could not be found.

32 **Sec. 7.** RCW 13.34.062 and 2020 c 312 s 115 are each amended to  
33 read as follows:

34 (1)(a) Whenever a child is taken into custody by child protective  
35 services pursuant to a court order issued under RCW 13.34.050 or when  
36 child protective services is notified that a child has been taken  
37 into custody pursuant to RCW 26.44.050 or 26.44.056, child protective  
38 services shall make ~~((reasonable))~~ diligent efforts to inform the  
39 parent, guardian, or legal custodian of the fact that the child has

1 been taken into custody, the reasons why the child was taken into  
2 custody, and their legal rights under this title, including the right  
3 to a shelter care hearing, as soon as possible. Notice must be  
4 provided in an understandable manner and take into consideration the  
5 parent's, guardian's, or legal custodian's primary language, level of  
6 education, and cultural issues.

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

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

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

20 "NOTICE

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

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

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

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

4           4. If your hearing occurs before a court commissioner, you have  
5 the right to have the decision of the court commissioner reviewed by  
6 a superior court judge. To obtain that review, you must, within ten  
7 days after the entry of the decision of the court commissioner, file  
8 with the court a motion for revision of the decision, as provided in  
9 RCW 2.24.050.

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

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

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

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

- 30           (1) Notify the child's school that the child is in out-of-home  
31 placement;
- 32           (2) Enroll the child in school;
- 33           (3) Request the school transfer records;
- 34           (4) Request and authorize evaluation of special needs;
- 35           (5) Attend parent or teacher conferences;
- 36           (6) Excuse absences;
- 37           (7) Grant permission for extracurricular activities;
- 38           (8) Authorize medications which need to be administered during  
39 school hours and sign for medical needs that arise during school  
40 hours; and

1 (9) Complete or update school emergency records.

2 7. If the court decides to place your child in the custody of the  
3 department of children, youth, and families or other ((~~supervising~~))  
4 agency, the department or agency will create a permanency plan for  
5 your child, including a primary placement goal and secondary  
6 placement goal. The department or agency also will recommend that the  
7 court order services for your child and for you, if needed. The  
8 department or agency is required to make reasonable efforts to  
9 provide you with services to address your parenting problems, and to  
10 provide you with visitation with your child according to court  
11 orders. Failure to promptly engage in services or to maintain contact  
12 with your child may lead to the filing of a petition to terminate  
13 your parental rights.

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

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

36 Upon receipt of the written notice, the parent, guardian, or  
37 legal custodian shall acknowledge such notice by signing a receipt  
38 prepared by child protective services. If the parent, guardian, or  
39 legal custodian does not sign the receipt, the reason for lack of a

1 signature shall be written on the receipt. The receipt shall be made  
2 a part of the court's file in the dependency action.

3 If after making reasonable efforts to provide notification, child  
4 protective services is unable to determine the whereabouts of the  
5 parents, guardian, or legal custodian, the notice shall be delivered  
6 or sent to the last known address of the parent, guardian, or legal  
7 custodian.

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

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

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

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

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

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

38 (2) Unless there is reasonable cause based on specific evidence  
39 to believe that the health, safety, or welfare of the child would be

1 jeopardized or that the efforts to reunite the parent and child will  
2 be hindered, priority placement for a child in shelter care, pending  
3 a court hearing, shall be with any person described in RCW  
4 74.15.020(2)(a) or 13.34.130(1)(b). The person must be willing and  
5 available to care for the child and be able to meet any special needs  
6 of the child and the court must (~~find that such placement is in the~~  
7 ~~best interests of the child~~) complete the inquiry required under RCW  
8 13.34.065 to establish whether continued placement with the relative  
9 is appropriate. The person must be willing to facilitate the child's  
10 visitation with siblings, if such visitation is part of the  
11 (~~supervising agency's~~) department's plan or is ordered by the  
12 court. If a child is not initially placed with a relative or other  
13 suitable person requested by the parent pursuant to this section, the  
14 (~~supervising agency~~) department shall make (~~an effort within~~  
15 ~~available resources~~) continuing efforts to place the child with a  
16 relative or other suitable person requested by the parent on the next  
17 business day after the child is taken into custody. The (~~supervising~~  
18 ~~agency~~) department shall document its effort to place the child with  
19 a relative or other suitable person requested by the parent pursuant  
20 to this section. Nothing within this subsection (2) establishes an  
21 entitlement to services or a right to a particular placement.

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

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

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

1 shall hold an additional shelter care hearing within 72 hours,  
2 excluding Saturdays, Sundays, and holidays if the child is removed  
3 from the care of a parent, guardian, or legal custodian at any time  
4 after an initial shelter care hearing under this section.

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

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

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

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

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

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

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

36 (iii) If the parent, guardian, or custodian is not represented by  
37 counsel, the right to be represented. If the parent, guardian, or  
38 custodian is indigent, the court shall appoint counsel as provided in  
39 RCW 13.34.090; and

1 (b) If a parent, guardian, or legal custodian desires to waive  
2 the shelter care hearing, the court shall determine, on the record  
3 and with the parties present, whether such waiver is knowing and  
4 voluntary. A parent may not waive his or her right to the shelter  
5 care hearing unless he or she appears in court, in person, or by  
6 remote means, and the court determines that the waiver is knowing and  
7 voluntary. Regardless of whether the court accepts the parental  
8 waiver of the shelter care hearing, the court must provide notice to  
9 the parents of their rights required under (a) of this subsection and  
10 make the finding required under subsection (4) of this section.

11 (4) At the shelter care hearing the court shall examine the need  
12 for shelter care and inquire into the status of the case. The  
13 paramount consideration for the court shall be the health, welfare,  
14 and safety of the child. At a minimum, the court shall inquire into  
15 the following:

16 (a) Whether the notice required under RCW 13.34.062 was given to  
17 all known parents, guardians, or legal custodians of the child. The  
18 court shall make an express finding as to whether the notice required  
19 under RCW 13.34.062 was given to the parent, guardian, or legal  
20 custodian. If actual notice was not given to the parent, guardian, or  
21 legal custodian and the whereabouts of such person is known or can be  
22 ascertained, the court shall order the department to make  
23 (~~reasonable~~) diligent efforts to advise the parent, guardian, or  
24 legal custodian of the status of the case, including the date and  
25 time of any subsequent hearings, and their rights under RCW  
26 13.34.090;

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

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

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

1 to prevent or eliminate the need for removal of the child or  
2 children;

3 (e) Is the placement proposed by the department the least  
4 disruptive and most family-like setting that meets the needs of the  
5 child;

6 (f) Whether it is in the best interest of the child to remain  
7 enrolled in the school, developmental program, or child care the  
8 child was in prior to placement and what efforts have been made to  
9 maintain the child in the school, program, or child care if it would  
10 be in the best interest of the child to remain in the same school,  
11 program, or child care;

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

13 (h) Whether the child is or may be an Indian child as defined in  
14 RCW 13.38.040, whether the provisions of the federal Indian child  
15 welfare act or chapter 13.38 RCW apply, and whether there is  
16 compliance with the federal Indian child welfare act and chapter  
17 13.38 RCW, including notice to the child's tribe;

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

22 (j) Whether any orders for examinations, evaluations, or  
23 immediate services are needed. The court may not order a parent to  
24 undergo examinations, evaluation, or services at the shelter care  
25 hearing unless the parent agrees to the examination, evaluation, or  
26 service;

27 (k) The terms and conditions for parental, sibling, and family  
28 visitation.

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

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

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

39 (B) (~~The release of such child would present a serious threat of~~  
40 ~~substantial harm to such child~~) (I) Removal of the child is

1 necessary to prevent imminent physical harm due to child abuse or  
2 neglect, including that which results from sexual abuse, sexual  
3 exploitation, or a pattern of severe neglect, notwithstanding an  
4 order entered pursuant to RCW 26.44.063. The evidence must show a  
5 causal relationship between the particular conditions in the home and  
6 imminent physical harm to the child. The existence of community or  
7 family poverty, isolation, single parenthood, age of the parent,  
8 crowded or inadequate housing, substance abuse, prenatal drug or  
9 alcohol exposure, mental illness, disability or special needs of the  
10 parent or child, or nonconforming social behavior does not by itself  
11 constitute imminent physical harm;

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

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

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

19 (b) If the court finds that the elements of (a)(ii)(B) of this  
20 subsection require removal of the child, the court shall further  
21 consider:

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

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

37 (c)(i) If the court does not release the child to his or her  
38 parent, guardian, or legal custodian, the court shall order placement  
39 with a relative or other suitable person as described in RCW  
40 13.34.130(1)(b), unless ~~(there is reasonable cause to believe the~~

1 health, safety, or welfare of the child would be jeopardized or that  
2 the)) the petitioner establishes by a preponderance of the evidence  
3 that:

4 (A) Placement in licensed foster care is necessary to prevent  
5 imminent physical harm to the child due to child abuse or neglect,  
6 including that which results from sexual abuse, sexual exploitation,  
7 or a pattern of severe neglect, because no relative or other suitable  
8 person is capable of ensuring the basic safety of the child; or

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

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

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

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

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

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

30 (I) Has expressed an interest in becoming a caregiver for the  
31 child;

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

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

35 (IV) Supports reunification of the parent and child once  
36 reunification can safely occur; and

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

39 (iii) If a relative or other suitable person expressed an  
40 interest in caring for the child, can meet the child's special needs,

1 can support parent-child reunification, and will facilitate court-  
2 ordered sibling or parent visitation, the following must not prevent  
3 the child's placement with such relative or other suitable person:

4 (A) An incomplete department or fingerprint-based background  
5 check, if such relative or other suitable person appears otherwise  
6 suitable and competent to provide care and treatment, but the  
7 background checks must be completed as soon as possible after  
8 placement;

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

11 (C) Disbelief on the part of the relative or other suitable  
12 person that the parent, guardian, or legal custodian presents a  
13 danger to the child, provided the caregiver will protect the safety  
14 of the child and comply with court orders regarding contact with a  
15 parent, guardian, or legal custodian; or

16 (D) The conditions of the relative or other suitable person's  
17 home are not sufficient to satisfy the requirements of a licensed  
18 foster home. The court may order the department to provide financial  
19 or other support to the relative or other suitable person necessary  
20 to ensure safe conditions in the home.

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

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

36 ~~((e))~~ (f) Any placement with a relative, or other suitable  
37 person approved by the court pursuant to this section, shall be  
38 contingent upon cooperation with the department's or agency's case  
39 plan and compliance with court orders related to the care and  
40 supervision of the child including, but not limited to, court orders

1 regarding parent-child contacts, sibling contacts, and any other  
2 conditions imposed by the court. Noncompliance with the case plan or  
3 court order is grounds for removal of the child from the home of the  
4 relative or other suitable person, subject to review by the court.

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

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

11 (ii) Determine whether placement in foster care can meet the  
12 child's needs or if placement in another available placement setting  
13 best meets the child's needs in the least restrictive environment;  
14 and

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

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

24 (i) If the court places with a relative or other suitable person,  
25 and that person has indicated a desire to become a licensed foster  
26 parent, the court shall order the department to commence an  
27 assessment of the home of such relative or other suitable person  
28 within 10 days and thereafter issue an initial license as provided  
29 under RCW 74.15.120 for such relative or other suitable person, if  
30 qualified, as a foster parent. The relative or other suitable person  
31 shall receive a foster care maintenance payment, starting on the date  
32 the department approves the initial license. If such home is found to  
33 be unqualified for licensure, the department shall report such fact  
34 to the court within one week of that determination. The department  
35 shall report on the status of the licensure process during the entry  
36 of any dispositional orders in the case.

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

38 (i) The petitioner shall report to the court, at the shelter care  
39 hearing, the location of the licensed foster placement the petitioner

1 has identified for the child and the court shall inquire as to  
2 whether:

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

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

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

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

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

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

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

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

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

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

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

23 (A) Failure to comply with court orders while a child is in  
24 shelter care will be considered when determining whether reasonable  
25 efforts have been made by the department during a hearing under RCW  
26 13.34.110; and

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

30 (6) (a) A shelter care order issued pursuant to this section shall  
31 include the requirement for a case conference as provided in RCW  
32 13.34.067. However, if the parent is not present at the shelter care  
33 hearing, or does not agree to the case conference, the court shall  
34 not include the requirement for the case conference in the shelter  
35 care order.

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

1 (c) The court may order another conference, case staffing, or  
2 hearing as an alternative to the case conference required under RCW  
3 13.34.067 so long as the conference, case staffing, or hearing  
4 ordered by the court meets all requirements under RCW 13.34.067,  
5 including the requirement of a written agreement specifying the  
6 services to be provided to the parent.

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

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

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

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

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

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

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

34 (2) At all stages of a proceeding in which a child is alleged to  
35 be dependent, the child's parent, guardian, or legal custodian has  
36 the right to be represented by counsel, and if indigent, to have  
37 counsel appointed for him or her by the court. Unless waived in  
38 court, counsel shall be provided to the child's parent, guardian, or  
39 legal custodian, if such person (a) has appeared in the proceeding or

1 requested the court to appoint counsel and (b) is financially unable  
2 to obtain counsel because of indigency.

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

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

25 NEW SECTION. **Sec. 11.** If specific funding for the purposes of  
26 this act, referencing this act by bill or chapter number, is not  
27 provided by June 30, 2021, in the omnibus appropriations act, this  
28 act is null and void.

29 NEW SECTION. **Sec. 12.** This act takes effect July 1, 2023.

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