
HOUSE BILL 1756

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By Representatives Veloria, Cooke, Cody, Lambert, Thibaudeau, Patterson and Costa

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1 AN ACT Relating to dependent children; and amending RCW 13.34.110,
2 13.34.130, and 13.34.145.

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

4 **Sec. 1.** RCW 13.34.110 and 1993 c 412 s 7 are each amended to read
5 as follows:

6 The court shall hold a fact-finding hearing on the petition and,
7 unless the court dismisses the petition, shall make written findings of
8 fact, stating the reasons therefor, and after it has announced its
9 findings of fact shall hold a hearing to consider disposition of the
10 case immediately following the fact-finding hearing or at a continued
11 hearing within fourteen days or longer for good cause shown. The
12 parties need not appear at the fact-finding or dispositional hearing if
13 the parties, their attorneys, the guardian ad litem, and court-
14 appointed special advocates, if any, are all in agreement. The court
15 shall receive and review a social study before entering an order based
16 on agreement. No social file or social study may be considered by the
17 court in connection with the fact-finding hearing or prior to factual
18 determination, except as otherwise admissible under the rules of
19 evidence. Notice of the time and place of the continued hearing may be

1 given in open court. If notice in open court is not given to a party,
2 that party shall be notified by mail of the time and place of any
3 continued hearing.

4 All hearings may be conducted at any time or place within the
5 limits of the county, and such cases may not be heard in conjunction
6 with other business of any other division of the superior court. The
7 general public shall be excluded, and only such persons (~~may~~) shall
8 be admitted who are found by the judge to have a direct interest in the
9 case or in the work of the court. If a child resides in foster care or
10 in the home of a relative pursuant to a disposition order entered under
11 RCW 13.34.130, the court (~~may~~) shall allow the child's foster parent
12 or relative care provider to attend dependency review proceedings
13 pertaining to the child for the sole purpose of providing information
14 and evidence about the child to the court.

15 Stenographic notes or any device which accurately records the
16 proceedings may be required as provided in other civil cases pursuant
17 to RCW 2.32.200.

18 **Sec. 2.** RCW 13.34.130 and 1994 c 288 s 4 are each amended to read
19 as follows:

20 If, after a fact-finding hearing pursuant to RCW 13.34.110, it has
21 been proven by a preponderance of the evidence that the child is
22 dependent within the meaning of RCW 13.34.030; after consideration of
23 the predisposition report prepared pursuant to RCW 13.34.110 and after
24 a disposition hearing has been held pursuant to RCW 13.34.110, the
25 court shall enter an order of disposition pursuant to this section.

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

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

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

1 licensed pursuant to chapter 74.15 RCW or in a home not required to be
2 licensed pursuant to chapter 74.15 RCW. Unless there is reasonable
3 cause to believe that the safety or welfare of the child would be
4 jeopardized or that efforts to reunite the parent and child will be
5 hindered, such child shall be placed with a grandparent, brother,
6 sister, stepbrother, stepsister, uncle, aunt, or first cousin with whom
7 the child has a relationship and is comfortable, and who is willing and
8 available to care for the child. An order for out-of-home placement
9 may be made only if the court finds that reasonable efforts have been
10 made to prevent or eliminate the need for removal of the child from the
11 child's home and to make it possible for the child to return home,
12 specifying the services that have been provided to the child and the
13 child's parent, guardian, or legal custodian, and that preventive
14 services have been offered or provided and have failed to prevent the
15 need for out-of-home placement, unless the health, safety, and welfare
16 of the child cannot be protected adequately in the home, and that:

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

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

21 (iii) A manifest danger exists that the child will suffer serious
22 abuse or neglect if the child is not removed from the home and an order
23 under RCW 26.44.063 would not protect the child from danger; or

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

29 (2) If the court has ordered a child removed from his or her home
30 pursuant to subsection (1)(b) of this section, the court may order that
31 a petition seeking termination of the parent and child relationship be
32 filed if the court finds it is recommended by the supervising agency,
33 that it is in the best interests of the child and that it is not
34 reasonable to provide further services to reunify the family because
35 the existence of aggravated circumstances make it unlikely that
36 services will effectuate the return of the child to the child's parents
37 in the near future. In determining whether aggravated circumstances
38 exist, the court shall consider one or more of the following:

1 (a) Conviction of the parent of rape of the child in the first,
2 second, or third degree as defined in RCW 9A.44.073, 9A.44.076, and
3 9A.44.079;

4 (b) Conviction of the parent of criminal mistreatment of the child
5 in the first or second degree as defined in RCW 9A.42.020 and
6 9A.42.030;

7 (c) Conviction of the parent of one of the following assault
8 crimes, when the child is the victim: Assault in the first or second
9 degree as defined in RCW 9A.36.011 and 9A.36.021 or assault of a child
10 in the first or second degree as defined in RCW 9A.36.120 or 9A.36.130;

11 (d) Conviction of the parent of murder, manslaughter, or homicide
12 by abuse of the child's other parent, sibling, or another child;

13 (e) A finding by a court that a parent is a sexually violent
14 predator as defined in RCW 71.09.020;

15 (f) Failure of the parent to complete available treatment ordered
16 under this chapter or the equivalent laws of another state, where such
17 failure has resulted in a prior termination of parental rights to
18 another child and the parent has failed to effect significant change in
19 the interim.

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

22 (a) A permanency plan of care that shall identify one of the
23 following outcomes as a primary goal and may identify additional
24 outcomes as alternative goals: Return of the child to the home of the
25 child's parent, guardian, or legal custodian; permanent
26 custody; guardianship; or long-term relative or foster care, until the
27 child is age eighteen, with a written agreement between the parties and
28 the care provider.

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

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

1 (ii) The agency shall be required to encourage the maximum parent-
2 child contact possible, including regular visitation and participation
3 by the parents in the care of the child while the child is in
4 placement. Visitation may be limited or denied only if the court
5 determines that such limitation or denial is necessary to protect the
6 child's health, safety, or welfare.

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

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

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

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

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

3 (5) Except for children whose cases are reviewed by a citizen
4 review board under chapter 13.70 RCW, the status of all children found
5 to be dependent shall be reviewed by the court at least every six
6 months from the beginning date of the placement episode or the date
7 dependency is established, whichever is first, at a hearing in which it
8 shall be determined whether court supervision should continue. The
9 review shall include findings regarding the agency and parental
10 completion of disposition plan requirements, and if necessary, revised
11 permanency time limits.

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

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

21 (i) Whether reasonable services have been provided to or offered to
22 the parties to facilitate reunion, specifying the services provided or
23 offered;

24 (ii) Whether the child has been placed in the least-restrictive
25 setting appropriate to the child's needs, including whether
26 consideration has been given to placement with the child's relatives;

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

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

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

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

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

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

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

3 **Sec. 3.** RCW 13.34.145 and 1994 c 288 s 5 are each amended to read
4 as follows:

5 (1) A permanency plan shall be developed no later than sixty days
6 from the time the supervising agency assumes responsibility for
7 providing services, including placing the child, or at the time of a
8 hearing under RCW 13.34.130, whichever occurs first. The permanency
9 planning process continues until a permanency planning goal is achieved
10 or dependency is dismissed. The planning process shall include
11 reasonable efforts to return the child to the parent's home.

12 (a) Whenever a child is placed in out-of-home care pursuant to RCW
13 13.34.130, the agency that has custody of the child shall provide the
14 court with a written permanency plan of care directed towards securing
15 a safe, stable, and permanent home for the child as soon as possible.
16 The plan shall identify one of the following outcomes as the primary
17 goal and may also identify additional outcomes as alternative goals:
18 Return of the child to the home of the child's parent, guardian, or
19 legal custodian; adoption; permanent custody; guardianship; or long-
20 term relative or foster care, until the child is age eighteen, with a
21 written agreement between the parties and the care provider.

22 (b) The identified outcomes and goals of the permanency plan may
23 change over time based upon the circumstances of the particular case.

24 (c) Permanency planning goals should be achieved at the earliest
25 possible date, preferably before the child has been in out-of-home care
26 for fifteen months.

27 (2)(a) For children ten and under, a permanency planning hearing
28 shall be held in all cases where the child has remained in out-of-home
29 care for at least nine months and an adoption decree, permanent custody
30 order, or guardianship order has not previously been entered. The
31 hearing shall take place no later than twelve months following
32 commencement of the current placement episode.

33 (b) For children over ten, a permanency planning hearing shall be
34 held in all cases where the child has remained in out-of-home care for
35 at least fifteen months and an adoption decree, permanent custody
36 order, or guardianship order has not previously been entered. The
37 hearing shall take place no later than eighteen months following
38 commencement of the current placement episode.

1 (3) Whenever a child is removed from the home of a dependency
2 guardian or long-term relative or foster care provider, and the child
3 is not returned to the home of the parent, guardian, or legal custodian
4 but is placed in out-of-home care, a permanency planning hearing shall
5 take place no later than twelve or eighteen months, as provided in
6 subsection (2) of this section, following the date of removal unless,
7 prior to the hearing, the child returns to the home of the dependency
8 guardian or long-term care provider, the child is placed in the home of
9 the parent, guardian, or legal custodian, an adoption decree or
10 guardianship order is entered, or the dependency is dismissed.

11 (4) No later than ten working days prior to the permanency planning
12 hearing, the agency having custody of the child shall submit a written
13 permanency plan to the court and shall mail a copy of the plan to all
14 parties and their legal counsel, if any.

15 (5) At the permanency planning hearing, the court shall enter
16 findings as required by RCW 13.34.130(5) and shall review the
17 permanency plan prepared by the agency. If a goal of long-term foster
18 or relative care has been achieved prior to the permanency planning
19 hearing, the court shall review the child's status to determine whether
20 the placement and the plan for the child's care remain appropriate. In
21 cases where the primary permanency planning goal has not yet been
22 achieved, the court shall inquire regarding the reasons why the primary
23 goal has not been achieved and determine what needs to be done to make
24 it possible to achieve the primary goal. In all cases, the court
25 shall:

26 (a)(i) Order the permanency plan prepared by the agency to be
27 implemented; or

28 (ii) Modify the permanency plan, and order implementation of the
29 modified plan; and

30 (b)(i) Order the child returned home only if the court finds that
31 a reason for removal as set forth in RCW 13.34.130 no longer exists; or

32 (ii) Order the child to remain in out-of-home care for a limited
33 specified time period while efforts are made to implement the
34 permanency plan.

35 (6) If the court orders the child returned home, casework
36 supervision shall continue for at least six months, at which time a
37 review hearing shall be held pursuant to RCW 13.34.130(5), and the
38 court shall determine the need for continued intervention.

1 (7) Following the first permanency planning hearing, the court
2 shall hold a further permanency planning hearing in accordance with
3 this section at least once every twelve months until a permanency
4 planning goal is achieved or the dependency is dismissed, whichever
5 occurs first.

6 (8) Except as otherwise provided in RCW 13.34.235, the status of
7 all dependent children shall continue to be reviewed by the court at
8 least once every six months, in accordance with RCW 13.34.130(5), until
9 the dependency is dismissed. Prior to the second permanency planning
10 hearing, the agency that has custody of the child shall consider
11 whether to file a petition for termination of parental rights.

12 (9) Nothing in this chapter may be construed to limit the ability
13 of the agency that has custody of the child to file a petition for
14 termination of parental rights, a permanent custody order, or a
15 guardianship petition at any time following the establishment of
16 dependency. Upon the filing of such a petition, a fact-finding hearing
17 shall be scheduled and held in accordance with this chapter unless the
18 agency requests dismissal of the petition prior to the hearing or
19 unless the parties enter an agreed order terminating parental rights,
20 establishing permanent custody, establishing guardianship, or otherwise
21 resolving the matter.

22 (10) The approval of a permanency plan that does not contemplate
23 return of the child to the parent does not relieve the supervising
24 agency of its obligation to provide reasonable services, under this
25 chapter, intended to effectuate the return of the child to the parent,
26 including but not limited to, visitation rights.

27 (11) Nothing in this chapter may be construed to limit the
28 procedural due process rights of any party in a termination or
29 guardianship proceeding filed under this chapter.

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