

2 SHB 1121 - S COMM AMD

3 By Committee on Human Services & Corrections

4 ADOPTED 3/3/98

5 Strike everything after the enacting clause and insert the
6 following:

7 "Sec. 1. RCW 13.34.030 and 1997 c 386 s 7 are each amended to read
8 as follows:

9 For purposes of this chapter:

10 (1) "Child" and "juvenile" means any individual under the age of
11 eighteen years.

12 (2) "Current placement episode" means the period of time that
13 begins with the most recent date that the child was removed from the
14 home of the parent, guardian, or legal custodian for purposes of
15 placement in out-of-home care and continues until the child returns
16 home, an adoption decree, a permanent custody order, or guardianship
17 order is entered, or the dependency is dismissed, whichever occurs
18 soonest. If the most recent date of removal occurred prior to the
19 filing of a dependency petition under this chapter or after filing but
20 prior to entry of a disposition order, such time periods shall be
21 included when calculating the length of a child's current placement
22 episode.

23 (3) "Dependency guardian" means the person, nonprofit corporation,
24 or Indian tribe appointed by the court pursuant to RCW 13.34.232 for
25 the limited purpose of assisting the court in the supervision of the
26 dependency.

27 (4) "Dependent child" means any child:

28 (a) Who has been abandoned; that is, where the child's parent,
29 guardian, or other custodian has expressed either by statement or
30 conduct, an intent to forego, for an extended period, parental rights
31 or parental responsibilities despite an ability to do so. If the court
32 finds that the petitioner has exercised due diligence in attempting to
33 locate the parent, no contact between the child and the child's parent,
34 guardian, or other custodian for a period of three months creates a
35 rebuttable presumption of abandonment, even if there is no expressed
36 intent to abandon;

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

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

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

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

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

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

32 (9) "Preventive services" means preservation services, as defined
33 in chapter 74.14C RCW, and other reasonably available services capable
34 of preventing the need for out-of-home placement while protecting the
35 child.

36 **Sec. 2.** RCW 13.34.130 and 1997 c 280 s 1 are each amended to read
37 as follows:

1 If, after a fact-finding hearing pursuant to RCW 13.34.110, it has
2 been proven by a preponderance of the evidence that the child is
3 dependent within the meaning of RCW 13.34.030; after consideration of
4 the predisposition report prepared pursuant to RCW 13.34.110 and after
5 a disposition hearing has been held pursuant to RCW 13.34.110, the
6 court shall enter an order of disposition pursuant to this section.

7 (1) The court shall order one of the following dispositions of the
8 case:

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

16 (b) Order that the child be removed from his or her home and
17 ordered into the custody, control, and care of a relative or the
18 department of social and health services or a licensed child placing
19 agency for placement in a foster family home or group care facility
20 licensed pursuant to chapter 74.15 RCW or in a home not required to be
21 licensed pursuant to chapter 74.15 RCW. Unless there is reasonable
22 cause to believe that the safety or welfare of the child would be
23 jeopardized or that efforts to reunite the parent and child will be
24 hindered, such child shall be placed with a person who is related to
25 the child as defined in RCW 74.15.020(4)(a) and with whom the child has
26 a relationship and is comfortable, and who is willing and available to
27 care for the child. Placement of the child with a relative under this
28 subsection shall be given preference by the court. An order for out-
29 of-home placement may be made only if the court finds that reasonable
30 efforts have been made to prevent or eliminate the need for removal of
31 the child from the child's home and to make it possible for the child
32 to return home, specifying the services that have been provided to the
33 child and the child's parent, guardian, or legal custodian, and that
34 preventive services have been offered or provided and have failed to
35 prevent the need for out-of-home placement, unless the health, safety,
36 and welfare of the child cannot be protected adequately in the home,
37 and that:

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

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

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

7 (iv) The extent of the child's disability is such that the parent,
8 guardian, or legal custodian is unable to provide the necessary care
9 for the child and the parent, guardian, or legal custodian has
10 determined that the child would benefit from placement outside of the
11 home.

12 (2) If the court has ordered a child removed from his or her home
13 pursuant to subsection (1)(b) of this section, the court may order that
14 a petition seeking termination of the parent and child relationship be
15 filed if the court finds it is recommended by the supervising agency,
16 that it is in the best interests of the child and that it is not
17 reasonable to provide further services to reunify the family because
18 the existence of aggravated circumstances make it unlikely that
19 services will effectuate the return of the child to the child's parents
20 in the near future. In determining whether aggravated circumstances
21 exist, the court shall consider one or more of the following:

22 (a) Conviction of the parent of rape of the child in the first,
23 second, or third degree as defined in RCW 9A.44.073, 9A.44.076, and
24 9A.44.079;

25 (b) Conviction of the parent of criminal mistreatment of the child
26 in the first or second degree as defined in RCW 9A.42.020 and
27 9A.42.030;

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

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

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

36 (f) Failure of the parent to complete available treatment ordered
37 under this chapter or the equivalent laws of another state, where such
38 failure has resulted in a prior termination of parental rights to

1 another child and the parent has failed to effect significant change in
2 the interim.

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

5 (a) A permanency plan of care that shall identify one of the
6 following outcomes as a primary goal and may identify additional
7 outcomes as alternative goals: Return of the child to the home of the
8 child's parent, guardian, or legal custodian; adoption; guardianship;
9 permanent legal custody; or long-term relative or foster care, until
10 the child is age eighteen, with a written agreement between the parties
11 and the care provider; and independent living, if appropriate and if
12 the child is age sixteen or older. Whenever a permanency plan
13 identifies independent living as a goal, the plan shall also
14 specifically identify the services that will be provided to assist the
15 child to make a successful transition from foster care to independent
16 living. Before the court approves independent living as a permanency
17 plan of care, the court shall make a finding that the provision of
18 services to assist the child in making a transition from foster care to
19 independent living will allow the child to manage his or her financial
20 affairs and to manage his or her personal, social, educational, and
21 nonfinancial affairs. The department shall not discharge a child to an
22 independent living situation before the child is eighteen years of age
23 unless the child becomes emancipated pursuant to chapter 13.64 RCW.

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

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

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

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

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

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

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

36 (5) Except for children whose cases are reviewed by a citizen
37 review board under chapter 13.70 RCW, the status of all children found
38 to be dependent shall be reviewed by the court at least every six
39 months from the beginning date of the placement episode or the date

1 dependency is established, whichever is first, at a hearing in which it
2 shall be determined whether court supervision should continue. The
3 review shall include findings regarding the agency and parental
4 completion of disposition plan requirements, and if necessary, revised
5 permanency time limits.

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

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

15 (i) Whether reasonable services have been provided to or offered to
16 the parties to facilitate reunion, specifying the services provided or
17 offered;

18 (ii) Whether the child has been placed in the least-restrictive
19 setting appropriate to the child's needs, including whether
20 consideration and preference has been given to placement with the
21 child's relatives;

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

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

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

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

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

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

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

37 **Sec. 3.** RCW 13.34.145 and 1995 c 311 s 20 and 1995 c 53 s 2 are
38 each reenacted and amended to read as follows:

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

8 (a) Whenever a child is placed in out-of-home care pursuant to RCW
9 13.34.130, the agency that has custody of the child shall provide the
10 court with a written permanency plan of care directed towards securing
11 a safe, stable, and permanent home for the child as soon as possible.
12 The plan shall identify one of the following outcomes as the primary
13 goal and may also identify additional outcomes as alternative goals:
14 Return of the child to the home of the child's parent, guardian, or
15 legal custodian; adoption; guardianship; permanent legal custody; or
16 long-term relative or foster care, until the child is age eighteen,
17 with a written agreement between the parties and the care provider; and
18 independent living, if appropriate and if the child is age sixteen or
19 older and the provisions of subsection (2) of this section are met.

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

22 (c) Permanency planning goals should be achieved at the earliest
23 possible date, preferably before the child has been in out-of-home care
24 for fifteen months. In cases where parental rights have been
25 terminated, the child is legally free for adoption, and adoption has
26 been identified as the primary permanency planning goal, it shall be a
27 goal to complete the adoption within six months following entry of the
28 termination order.

29 (d) For purposes related to permanency planning:

30 (i) "Guardianship" means a dependency guardianship pursuant to this
31 chapter, a legal guardianship pursuant to chapter 11.88 RCW, or
32 equivalent laws of another state or a federally recognized Indian
33 tribe.

34 (ii) "Permanent custody order" means a custody order entered
35 pursuant to chapter 26.10 RCW.

36 (iii) "Permanent legal custody" means legal custody pursuant to
37 chapter 26.10 RCW or equivalent laws of another state or of a federally
38 recognized Indian tribe.

1 (2) Whenever a permanency plan identifies independent living as a
2 goal, the plan shall also specifically identify the services that will
3 be provided to assist the child to make a successful transition from
4 foster care to independent living. Before the court approves
5 independent living as a permanency plan of care, the court shall make
6 a finding that the provision of services to assist the child in making
7 a transition from foster care to independent living will allow the
8 child to manage his or her financial affairs and to manage his or her
9 personal, social, educational, and nonfinancial affairs. The
10 department shall not discharge a child to an independent living
11 situation before the child is eighteen years of age unless the child
12 becomes emancipated pursuant to chapter 13.64 RCW.

13 (3)(a) For children ten and under, a permanency planning hearing
14 shall be held in all cases where the child has remained in out-of-home
15 care for at least nine months and an adoption decree ~~((or))~~,
16 guardianship order, or permanent custody order has not previously been
17 entered. The hearing shall take place no later than twelve months
18 following commencement of the current placement episode.

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

25 (4) Whenever a child is removed from the home of a dependency
26 guardian or long-term relative or foster care provider, and the child
27 is not returned to the home of the parent, guardian, or legal custodian
28 but is placed in out-of-home care, a permanency planning hearing shall
29 take place no later than twelve or eighteen months, as provided in
30 subsection (3) of this section, following the date of removal unless,
31 prior to the hearing, the child returns to the home of the dependency
32 guardian or long-term care provider, the child is placed in the home of
33 the parent, guardian, or legal custodian, an adoption decree ~~((or))~~,
34 guardianship order, or permanent custody order is entered, or the
35 dependency is dismissed.

36 (5) No later than ten working days prior to the permanency planning
37 hearing, the agency having custody of the child shall submit a written
38 permanency plan to the court and shall mail a copy of the plan to all
39 parties and their legal counsel, if any.

1 (6) At the permanency planning hearing, the court shall enter
2 findings as required by RCW 13.34.130(5) and shall review the
3 permanency plan prepared by the agency. If the child has resided in
4 the home of a foster parent or relative for more than six months prior
5 to the permanency planning hearing, the court shall also enter a
6 finding regarding whether the foster parent or relative was informed of
7 the hearing as required in RCW 74.13.280. If a goal of long-term
8 foster or relative care has been achieved prior to the permanency
9 planning hearing, the court shall review the child's status to
10 determine whether the placement and the plan for the child's care
11 remain appropriate. In cases where the primary permanency planning
12 goal has not yet been achieved, the court shall inquire regarding the
13 reasons why the primary goal has not been achieved and determine what
14 needs to be done to make it possible to achieve the primary goal. In
15 all cases, the court shall:

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

18 (ii) Modify the permanency plan, and order implementation of the
19 modified plan; and

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

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

25 (7) If the court orders the child returned home, casework
26 supervision shall continue for at least six months, at which time a
27 review hearing shall be held pursuant to RCW 13.34.130(5), and the
28 court shall determine the need for continued intervention.

29 (8) Continued juvenile court jurisdiction under this chapter shall
30 not be a barrier to the entry of an order establishing a legal
31 guardianship or permanent legal custody when, (a) the court has ordered
32 implementation of a permanency plan that includes legal guardianship or
33 permanent legal custody, and (b) the party pursuing the legal
34 guardianship or permanent legal custody is the party identified in the
35 permanency plan as the prospective legal guardian or custodian. During
36 the pendency of such proceeding, juvenile court shall conduct review
37 hearings and further permanency planning hearings as provided in this
38 chapter. At the conclusion of the legal guardianship or permanent
39 legal custody proceeding, a juvenile court hearing shall be held for

1 the purpose of determining whether dependency should be dismissed. If
2 a guardianship or permanent custody order has been entered, the
3 dependency shall be dismissed.

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

9 (~~(9)~~) (10) Except as otherwise provided in RCW 13.34.235, the
10 status of all dependent children shall continue to be reviewed by the
11 court at least once every six months, in accordance with RCW
12 13.34.130(5), until the dependency is dismissed. Prior to the second
13 permanency planning hearing, the agency that has custody of the child
14 shall consider whether to file a petition for termination of parental
15 rights.

16 (~~(10)~~) (11) Nothing in this chapter may be construed to limit the
17 ability of the agency that has custody of the child to file a petition
18 for termination of parental rights or a guardianship petition at any
19 time following the establishment of dependency. Upon the filing of
20 such a petition, a fact-finding hearing shall be scheduled and held in
21 accordance with this chapter unless the agency requests dismissal of
22 the petition prior to the hearing or unless the parties enter an agreed
23 order terminating parental rights, establishing guardianship, or
24 otherwise resolving the matter.

25 (~~(11)~~) (12) The approval of a permanency plan that does not
26 contemplate return of the child to the parent does not relieve the
27 supervising agency of its obligation to provide reasonable services,
28 under this chapter, intended to effectuate the return of the child to
29 the parent, including but not limited to, visitation rights.

30 (~~(12)~~) (13) Nothing in this chapter may be construed to limit the
31 procedural due process rights of any party in a termination or
32 guardianship proceeding filed under this chapter.

33 **Sec. 4.** RCW 26.10.030 and 1987 c 460 s 27 are each amended to read
34 as follows:

35 (1) Except as authorized for proceedings brought under chapter
36 26.50 RCW in district or municipal courts, a child custody proceeding
37 is commenced in the superior court by a person other than a parent, by
38 filing a petition seeking custody of the child in the county where the

1 child is permanently resident or where the child is found, but only if
2 the child is not in the physical custody of one of its parents or if
3 the petitioner alleges that neither parent is a suitable custodian.
4 Prior to a child custody hearing, the court shall determine if the
5 child is the subject of a pending dependency action.

6 (2) Notice of a child custody proceeding shall be given to the
7 child's parent, guardian and custodian, who may appear and be heard and
8 may file a responsive pleading. The court may, upon a showing of good
9 cause, permit the intervention of other interested parties."

10 **SHB 1121** - S COMM AMD

11 By Committee on Human Services & Corrections

12 ADOPTED 3/3/98

13 On page 1, line 1 of the title, after "children;" strike the
14 remainder of the title and insert "amending RCW 13.34.030, 13.34.130,
15 and 26.10.030; and reenacting and amending RCW 13.34.145."

--- END ---