

2 **ESHB 1407** - S COMM AMD
3 By Committee on Human Services & Corrections

4 ADOPTED 4/12/99

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

7 "**Sec. 1.** RCW 26.33.170 and 1988 c 203 s 1 are each amended to read
8 as follows:

9 (1) An agency's, the department's, or a legal guardian's consent to
10 adoption may be dispensed with if the court determines by clear, cogent
11 and convincing evidence that the proposed adoption is in the best
12 interests of the adoptee.

13 (2) An alleged father's, birth parent's, or parent's consent to
14 adoption may be dispensed with if the court finds that the proposed
15 adoption is in the best interests of the adoptee and:

16 (a) The alleged father, birth parent, or parent has been found
17 guilty of rape under chapter 9A.44 RCW or incest under RCW 9A.64.020,
18 where the adoptee was the victim of the rape or incest; or

19 (b) The alleged father, birth parent, or parent has been found
20 guilty of rape under chapter 9A.44 RCW or incest under RCW 9A.64.020,
21 where the other parent of the adoptee was the victim of the rape or
22 incest and the adoptee was conceived as a result of the rape or incest.

23 (3) Nothing in this section shall be construed to eliminate the
24 notice provisions of this chapter.

25 NEW SECTION. Sec. 2. A new section is added to chapter 13.34 RCW
26 to read as follows:

27 In those cases where an alleged father, birth parent, or parent has
28 indicated his or her intention to make a voluntary adoption plan for
29 the child and has agreed to the termination of his or her parental
30 rights, the department shall follow the wishes of the alleged father,
31 birth parent, or parent regarding the proposed adoptive placement of
32 the child, if the court determines that the adoption is in the best
33 interest of the child, and the prospective adoptive parents chosen by
34 the alleged father, birth parent, or parent are properly qualified to
35 adopt in compliance with the standards in this chapter and chapter

1 26.33 RCW. If the department has filed a termination petition, an
2 alleged father's, birth parent's, or parent's preferences regarding the
3 proposed adoptive placement of the child shall be given consideration.

4 **Sec. 3.** RCW 13.34.130 and 1998 c 314 s 2 and 1998 c 130 s 2 are
5 each reenacted and amended to read as follows:

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

12 (1) The court shall order one of the following dispositions of the
13 case:

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

21 (b) Order that the child be removed from his or her home and
22 ordered into the custody, control, and care of a relative or the
23 department of social and health services or a licensed child placing
24 agency for placement in a foster family home or group care facility
25 licensed pursuant to chapter 74.15 RCW or in a home not required to be
26 licensed pursuant to chapter 74.15 RCW. Unless there is reasonable
27 cause to believe that the safety or welfare of the child would be
28 jeopardized or that efforts to reunite the parent and child will be
29 hindered, such child shall be placed with a person who is related to
30 the child as defined in RCW 74.15.020(~~(4)(a)~~) (2)(a) and with whom
31 the child has a relationship and is comfortable, and who is willing and
32 available to care for the child. Placement of the child with a
33 relative under this subsection shall be given preference by the court.
34 An order for out-of-home placement may be made only if the court finds
35 that reasonable efforts have been made to prevent or eliminate the need
36 for removal of the child from the child's home and to make it possible
37 for the child to return home, specifying the services that have been
38 provided to the child and the child's parent, guardian, or legal

1 custodian, and that preventive services have been offered or provided
2 and have failed to prevent the need for out-of-home placement, unless
3 the health, safety, and welfare of the child cannot be protected
4 adequately in the home, and that:

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

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

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

13 (iv) The extent of the child's disability is such that the parent,
14 guardian, or legal custodian is unable to provide the necessary care
15 for the child and the parent, guardian, or legal custodian has
16 determined that the child would benefit from placement outside of the
17 home.

18 (2) If the court has ordered a child removed from his or her home
19 pursuant to subsection (1)(b) of this section, the court may order that
20 a petition seeking termination of the parent and child relationship be
21 filed if the court finds: (a) Termination is recommended by the
22 supervising agency; (b) termination is in the best interests of the
23 child; and (c) that because of the existence of aggravated
24 circumstances, reasonable efforts to unify the family are not required.
25 Notwithstanding the existence of aggravated circumstances, reasonable
26 efforts may be required if the court or department determines it is in
27 the best interest of the child. In determining whether aggravated
28 circumstances exist by clear, cogent, and convincing evidence, the
29 court shall consider one or more of the following:

30 (i) Conviction of the parent of rape of the child in the first,
31 second, or third degree as defined in RCW 9A.44.073, 9A.44.076, and
32 9A.44.079;

33 (ii) Conviction of the parent of criminal mistreatment of the child
34 in the first or second degree as defined in RCW 9A.42.020 and
35 9A.42.030;

36 (iii) Conviction of the parent of one of the following assault
37 crimes, when the child is the victim: Assault in the first or second
38 degree as defined in RCW 9A.36.011 and 9A.36.021 or assault of a child
39 in the first or second degree as defined in RCW 9A.36.120 or 9A.36.130;

1 (iv) Conviction of the parent of murder, manslaughter, or homicide
2 by abuse of the child's other parent, sibling, or another child;

3 (v) Conviction of the parent of attempting, soliciting, or
4 conspiracy to commit a crime listed in (c)(i), (ii), (iii), or (iv) of
5 this subsection;

6 (vi) A finding by a court that a parent is a sexually violent
7 predator as defined in RCW 71.09.020;

8 (vii) Failure of the parent to complete available treatment ordered
9 under this chapter or the equivalent laws of another state, where such
10 failure has resulted in a prior termination of parental rights to
11 another child and the parent has failed to effect significant change in
12 the interim. In the case of a parent of an Indian child, as defined in
13 the Indian Child Welfare Act, P.L. 95-608 (25 U.S.C. (~~{Sec.}~~) Sec.
14 1903), the court shall also consider tribal efforts to assist the
15 parent in completing treatment and make it possible for the child to
16 return home;

17 (viii) An infant under three years of age has been abandoned as
18 defined in RCW 13.34.030(4)(a);

19 (ix) The mother has given birth to three or more drug-affected
20 infants, resulting in the department filing a petition under section 23
21 of this act;

22 (x) Conviction of the parent of a sex offense under chapter 9A.44
23 RCW or incest under RCW 9A.64.020 when the child is born of the
24 offense.

25 (3) If reasonable efforts are not ordered under subsection (2) of
26 this section a permanency (~~(plan-planning)~~) planning hearing shall be
27 held within thirty days. Reasonable efforts shall be made to place the
28 child in a timely manner in accordance with the permanency plan, and to
29 complete whatever steps are necessary to finalize the permanent
30 placement of the child.

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

33 (a) A permanency plan of care that shall identify one of the
34 following outcomes as a primary goal and may identify additional
35 outcomes as alternative goals: Return of the child to the home of the
36 child's parent, guardian, or legal custodian; adoption; guardianship;
37 permanent legal custody; or long-term relative or foster care, until
38 the child is age eighteen, with a written agreement between the parties
39 and the care provider; and independent living, if appropriate and if

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

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

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

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

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

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

38 (c) If the court has ordered, pursuant to subsection (2) of this
39 section, that a termination petition be filed, a specific plan as to

1 where the child will be placed, what steps will be taken to achieve
2 permanency for the child, services to be offered or provided to the
3 child, and, if visitation would be in the best interests of the child,
4 a recommendation to the court regarding visitation between parent and
5 child pending a fact-finding hearing on the termination petition. The
6 agency shall not be required to develop a plan of services for the
7 parents or provide services to the parents.

8 (5) If the court determines that the continuation of reasonable
9 efforts to prevent or eliminate the need to remove the child from his
10 or her home or to safely return the child home should not be part of
11 the permanency plan of care for the child, reasonable efforts shall be
12 made to place the child in a timely manner and to complete whatever
13 steps are necessary to finalize the permanent placement of the child.

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

31 (7) Except for children whose cases are reviewed by a citizen
32 review board under chapter 13.70 RCW, the status of all children found
33 to be dependent shall be reviewed by the court at least every six
34 months from the beginning date of the placement episode or the date
35 dependency is established, whichever is first, at a hearing in which it
36 shall be determined whether court supervision should continue. The
37 review shall include findings regarding the agency and parental
38 completion of disposition plan requirements, and if necessary, revised
39 permanency time limits. The supervising agency shall provide a foster

1 parent, preadoptive parent, or relative with notice of, and their right
2 to an opportunity to be heard in, a review hearing pertaining to the
3 child, but only if that person is currently providing care to that
4 child at the time of the hearing. This section shall not be construed
5 to grant party status to any person who has been provided an
6 opportunity to be heard.

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

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

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

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

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

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

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

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

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

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

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

