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ENGROSSED SUBSTITUTE SENATE BILL 5413

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State of Washington

57th Legislature

2001 Regular Session

By Senate Committee on Human Services & Corrections (originally sponsored by Senators Stevens, Hargrove, Long and Roach)

READ FIRST TIME 02/23/01.

1 AN ACT Relating to provisions to improve accountability in child  
2 dependency cases; amending RCW 13.34.160, 13.34.062, 13.34.180,  
3 13.34.138, and 13.34.110; adding new sections to chapter 13.34 RCW;  
4 adding a new section to chapter 43.20A RCW; and creating a new section.

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

6 NEW SECTION. **Sec. 1.** A new section is added to chapter 13.34 RCW  
7 to read as follows:

8 (1) Following shelter care and no later than twenty-five days prior  
9 to fact-finding, the department, upon the parent's or counsel for the  
10 parent's request, shall facilitate with the parent, counsel for the  
11 parent, a foster parent or other out-of-home care provider, caseworker,  
12 counselor or other relevant health care provider, guardian ad litem, if  
13 appointed, and any other person connected to the development and well-  
14 being of the child a conference to identify in a written service  
15 contract the department's expectations regarding the care and placement  
16 of the child. The expectations identified must be specific with  
17 criteria that enables the court to measure performance. The  
18 expectations must correlate with the court's findings at shelter care  
19 under the provisions of RCW 13.34.065.

1 (2) At any other stage in a dependency proceeding, the department,  
2 upon the parent's or counsel for the parent's request, shall facilitate  
3 a case planning conference.

4 **Sec. 2.** RCW 13.34.160 and 1997 c 58 s 505 are each amended to read  
5 as follows:

6 (1) In an action brought under this chapter, the court may inquire  
7 into the ability of the parent or parents of the child to pay child  
8 support and may enter an order of child support as set forth in chapter  
9 26.19 RCW. The court may enforce the same by execution, or in any way  
10 in which a court of equity may enforce its decrees. All child support  
11 orders entered pursuant to this chapter shall be in compliance with the  
12 provisions of RCW 26.23.050.

13 (2) For purposes of this section, if a dependent child's parent is  
14 an unmarried minor parent or pregnant minor applicant, then the parent  
15 or parents of the minor shall also be deemed a parent or parents of the  
16 dependent child. However, liability for child support under this  
17 subsection only exists if the parent or parents of the unmarried minor  
18 parent or pregnant minor applicant are provided the opportunity for a  
19 hearing on their ability to provide support. Any child support order  
20 requiring such a parent or parents to provide support for the minor  
21 parent's child may be effective only until the minor parent reaches  
22 eighteen years of age.

23 (3) The court shall suspend or defer its order of child support in  
24 cases where the court determines the parent has reasonably complied  
25 with the service contract. This provision may apply to the custodial  
26 and noncustodial parent.

27 **Sec. 3.** RCW 13.34.062 and 2000 c 122 s 5 are each amended to read  
28 as follows:

29 (1) The written notice of custody and rights required by RCW  
30 13.34.060 shall be in substantially the following form:

31 "NOTICE

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

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

6 2. You have the right to have a lawyer represent you at the  
7 hearing. Your right to counsel continues beyond shelter care. You  
8 have the right to records the department intends to rely upon. A  
9 lawyer can look at the files in your case, talk to child protective  
10 services and other agencies, tell you about the law, help you  
11 understand your rights, and help you at hearings. If you cannot afford  
12 a lawyer, the court will appoint one to represent you. To get a court-  
13 appointed lawyer you must contact: \_\_\_\_ (explain local procedure) \_\_\_\_.

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

17 4. If your hearing occurs before a court commissioner, you have the  
18 right to have the decision of the court commissioner reviewed by a  
19 superior court judge. To obtain that review, you must, within ten days  
20 after the entry of the decision of the court commissioner, file with  
21 the court a motion for revision of the decision, as provided in RCW  
22 2.24.050.

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

25 You may call the Child Protective Services' caseworker for more  
26 information about your child. The caseworker's name and telephone  
27 number are: \_\_\_\_ (insert name and telephone number) \_\_\_\_.

28 5. You may request that the department facilitate a conference to  
29 develop a service contract following the shelter care hearing. The  
30 service contract may not conflict with the court's order of shelter  
31 care. You may request that a multidisciplinary team, family group  
32 conference, prognostic staffing, or case planning conference be  
33 convened for your child's case, and you may participate in its  
34 consultation process with your counsel present."

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

1 shall be written on the receipt. The receipt shall be made a part of  
2 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 or  
6 sent to the last known address of the parent, guardian, or legal  
7 custodian.

8 (2) If child protective services is not required to give notice  
9 under RCW 13.34.060(2) and subsection (1) of this section, the juvenile  
10 court counselor assigned to the matter shall make all reasonable  
11 efforts to advise the parents, guardian, or legal custodian of the time  
12 and place of any shelter care hearing, request that they be present,  
13 and inform them of their basic rights as provided in RCW 13.34.090.

14 (3) Reasonable efforts to advise and to give notice, as required in  
15 RCW 13.34.060(2) and subsections (1) and (2) of this section, shall  
16 include, at a minimum, investigation of the whereabouts of the parent,  
17 guardian, or legal custodian. If such reasonable efforts are not  
18 successful, or the parent, guardian, or legal custodian does not appear  
19 at the shelter care hearing, the petitioner shall testify at the  
20 hearing or state in a declaration:

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

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

26 (4) The court shall hear evidence regarding notice given to, and  
27 efforts to notify, the parent, guardian, or legal custodian and shall  
28 examine the need for shelter care. The court shall hear evidence  
29 regarding the efforts made to place the child with a relative. The  
30 court shall make an express finding as to whether the notice required  
31 under RCW 13.34.060(2) and subsections (1) and (2) of this section was  
32 given to the parent, guardian, or legal custodian. All parties have  
33 the right to present testimony to the court regarding the need or lack  
34 of need for shelter care. Hearsay evidence before the court regarding  
35 the need or lack of need for shelter care must be supported by sworn  
36 testimony, affidavit, or declaration of the person offering such  
37 evidence.

38 (5) A shelter care order issued pursuant to RCW 13.34.065 may be  
39 amended at any time with notice and hearing thereon. The shelter care

1 decision of placement shall be modified only upon a showing of change  
2 in circumstances. No child may be placed in shelter care for longer  
3 than thirty days without an order, signed by the judge, authorizing  
4 continued shelter care.

5 (6) Any parent, guardian, or legal custodian who for good cause is  
6 unable to attend the initial shelter care hearing may request that a  
7 subsequent shelter care hearing be scheduled. The request shall be  
8 made to the clerk of the court where the petition is filed prior to the  
9 initial shelter care hearing. Upon the request of the parent, the  
10 court shall schedule the hearing within seventy-two hours of the  
11 request, excluding Saturdays, Sundays, and holidays. The clerk shall  
12 notify all other parties of the hearing by any reasonable means.

13 **Sec. 4.** RCW 13.34.180 and 2000 c 122 s 25 are each amended to read  
14 as follows:

15 (1) A petition seeking termination of a parent and child  
16 relationship may be filed in juvenile court by any party to the  
17 dependency proceedings concerning that child. Such petition shall  
18 conform to the requirements of RCW 13.34.040, shall be served upon the  
19 parties as provided in RCW 13.34.070(8), and shall allege all of the  
20 following unless subsection (2) or (3) of this section applies:

21 (a) That the child has been found to be a dependent child;

22 (b) That the court has entered a dispositional order pursuant to  
23 RCW 13.34.130;

24 (c) That the child has been removed or will, at the time of the  
25 hearing, have been removed from the custody of the parent for a period  
26 of at least six months pursuant to a finding of dependency;

27 (d) That the services ordered under RCW 13.34.136 have been  
28 expressly and understandably offered or provided and all necessary  
29 services, reasonably available, capable of correcting the parental  
30 deficiencies within the foreseeable future have been expressly and  
31 understandably offered or provided;

32 (e) That there is little likelihood that conditions will be  
33 remedied so that the child can be returned to the parent in the near  
34 future. A parent's failure to substantially improve parental  
35 deficiencies within twelve months following entry of the dispositional  
36 order shall give rise to a rebuttable presumption that there is little  
37 likelihood that conditions will be remedied so that the child can be  
38 returned to the parent in the near future. The presumption shall not

1 arise unless the petitioner makes a showing that all necessary services  
2 reasonably capable of correcting the parental deficiencies within the  
3 foreseeable future have been clearly offered or provided. In  
4 determining whether the conditions will be remedied the court may  
5 consider, but is not limited to, the following factors:

6 (i) Use of intoxicating or controlled substances so as to render  
7 the parent incapable of providing proper care for the child for  
8 extended periods of time or for periods of time that present a risk of  
9 imminent harm to the child, and documented unwillingness of the parent  
10 to receive and complete treatment or documented multiple failed  
11 treatment attempts; or

12 (ii) Psychological incapacity or mental deficiency of the parent  
13 that is so severe and chronic as to render the parent incapable of  
14 providing proper care for the child for extended periods of time or for  
15 periods of time that present a risk of imminent harm to the child, and  
16 documented unwillingness of the parent to receive and complete  
17 treatment or documentation that there is no treatment that can render  
18 the parent capable of providing proper care for the child in the near  
19 future; and

20 (f) That continuation of the parent and child relationship clearly  
21 diminishes the child's prospects for early integration into a stable  
22 and permanent home.

23 (2) In lieu of the allegations in subsection (1) of this section,  
24 the petition may allege that the child was found under such  
25 circumstances that the whereabouts of the child's parent are unknown  
26 and no person has acknowledged paternity or maternity and requested  
27 custody of the child within two months after the child was found.

28 (3) In lieu of the allegations in subsection (1)(b) through (f) of  
29 this section, the petition may allege that the parent has been  
30 convicted of:

31 (a) Murder in the first degree, murder in the second degree, or  
32 homicide by abuse as defined in chapter 9A.32 RCW against another child  
33 of the parent;

34 (b) Manslaughter in the first degree or manslaughter in the second  
35 degree, as defined in chapter 9A.32 RCW against another child of the  
36 parent;

37 (c) Attempting, conspiring, or soliciting another to commit one or  
38 more of the crimes listed in (a) or (b) of this subsection; or

1 (d) Assault in the first or second degree, as defined in chapter  
2 9A.36 RCW, against the surviving child or another child of the parent.

3 (4) Notice of rights shall be served upon the parent, guardian, or  
4 legal custodian with the petition and shall be in substantially the  
5 following form:

6 "NOTICE

7 A petition for termination of parental rights has been filed  
8 against you. You have important legal rights and you must take  
9 steps to protect your interests. This petition could result in  
10 permanent loss of your parental rights.

11 1. You have the right to a fact-finding hearing before  
12 a judge.

13 2. You have the right to have a lawyer represent you at  
14 the hearing. A lawyer can look at the files in your case, talk  
15 to the department of social and health services and other  
16 agencies, tell you about the law, help you understand your  
17 rights, and help you at hearings. If you cannot afford a  
18 lawyer, the court will appoint one to represent you. To get a  
19 court-appointed lawyer you must contact: \_\_\_\_\_ (explain local  
20 procedure)\_\_\_\_\_.

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

25 You should be present at this hearing.

26 You may call \_\_\_\_\_ (insert agency)\_\_\_\_\_ for more information  
27 about your child. The agency's name and telephone number are  
28 \_\_\_\_\_ (insert name and telephone number)\_\_\_\_\_."

29 **Sec. 5.** RCW 13.34.138 and 2000 c 122 s 19 are each amended to read  
30 as follows:

31 (1) 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 initial review hearing shall be an in-court review and shall be set six

1 months from the beginning date of the placement episode or no more than  
2 sixty to ninety days from the entry of the disposition order, whichever  
3 comes first. The initial review hearing may be a permanency planning  
4 hearing when necessary to meet the time frames set forth in RCW  
5 13.34.145(3) or 13.34.134. The review shall include findings regarding  
6 the agency and parental completion of disposition plan requirements,  
7 and if necessary, revised permanency time limits. This review shall  
8 consider both the agency's and parent's efforts that demonstrate  
9 consistent measurable progress over time in meeting the disposition  
10 plan requirements. The supervising agency shall provide a foster  
11 parent, preadoptive parent, or relative with notice of, and their right  
12 to an opportunity to be heard in, a review hearing pertaining to the  
13 child, but only if that person is currently providing care to that  
14 child at the time of the hearing. This section shall not be construed  
15 to grant party status to any person who has been provided an  
16 opportunity to be heard.

17 (a) A child shall not be returned home at the review hearing unless  
18 the court finds that a reason for removal as set forth in RCW 13.34.130  
19 no longer exists. The parents, guardian, or legal custodian shall  
20 report to the court the efforts they have made to correct the  
21 conditions which led to removal. If a child is returned, casework  
22 supervision shall continue for a period of six months, at which time  
23 there shall be a hearing on the need for continued intervention.

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

26 (i) Whether reasonable services have been provided to or offered to  
27 the parties to facilitate reunion, specifying the services provided or  
28 offered;

29 (ii) Whether the child has been placed in the least-restrictive  
30 setting appropriate to the child's needs, including whether  
31 consideration and preference has been given to placement with the  
32 child's relatives;

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

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

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

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

3 (vii) Whether additional services, including housing assistance,  
4 are needed to facilitate the return of the child to the child's  
5 parents; if so, the court shall order that reasonable services be  
6 offered specifying such services; and

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

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

11 (2) The court's ability to order housing assistance under RCW  
12 13.34.130 and this section is: (a) Limited to cases in which  
13 homelessness or the lack of adequate and safe housing is the primary  
14 reason for an out-of-home placement; and (b) subject to the  
15 availability of funds appropriated for this specific purpose.

16 NEW SECTION. **Sec. 6.** A new section is added to chapter 43.20A RCW  
17 to read as follows:

18 (1) All field offices and the administrative office of the  
19 children's administration in the department of social and health  
20 services shall be fully accredited by the council on accreditation for  
21 children and family services. The cost of accreditation shall be  
22 accomplished within existing agency resources. The department shall  
23 phase in accreditation at a rate of no less than one field office per  
24 year, achieving complete agency accreditation by January 30, 2008.

25 (2) By January 30, 2008, all private child-placing agencies shall  
26 be fully accredited by the council on accreditation for children and  
27 family services prior to contracting with the department for services  
28 to families and children.

29 NEW SECTION. **Sec. 7.** A new section is added to chapter 13.34 RCW  
30 to read as follows:

31 The department shall, within existing resources, provide to parents  
32 requesting a multidisciplinary team, family group conference,  
33 prognostic staffing, or case planning conference, information that  
34 describes these processes prior to the processes being undertaken.

35 **Sec. 8.** RCW 13.34.110 and 2000 c 122 s 11 are each amended to read  
36 as follows:

1       (1) The court shall hold a fact-finding hearing on the petition  
2 and, unless the court dismisses the petition, shall make written  
3 findings of fact, stating the reasons therefor. The rules of evidence  
4 shall apply at the fact-finding hearing and the parent, guardian, or  
5 legal custodian of the child shall have all of the rights provided in  
6 RCW 13.34.090(1). The petitioner shall have the burden of establishing  
7 by a preponderance of the evidence that the child is dependent within  
8 the meaning of RCW 13.34.030.

9       (2)(a) The parent, guardian, or legal custodian of the child may  
10 waive his or her right to a fact-finding hearing by stipulating or  
11 agreeing to the entry of an order of dependency establishing that the  
12 child is dependent within the meaning of RCW 13.34.030. The parent,  
13 guardian, or legal custodian may also stipulate or agree to an order of  
14 disposition pursuant to RCW 13.34.130 at the same time. Any stipulated  
15 or agreed order of dependency or disposition must be signed by the  
16 parent, guardian, or legal custodian and his or her attorney, unless  
17 the parent, guardian, or legal custodian has waived his or her right to  
18 an attorney in open court, and by the petitioner and the attorney,  
19 guardian ad litem, or court-appointed special advocate for the child,  
20 if any. If the department of social and health services is not the  
21 petitioner and is required by the order to supervise the placement of  
22 the child or provide services to any party, the department must also  
23 agree to and sign the order.

24       (b) Entry of any stipulated or agreed order of dependency or  
25 disposition is subject to approval by the court. The court shall  
26 receive and review a social study before entering a stipulated or  
27 agreed order and shall consider whether the order is consistent with  
28 the allegations of the dependency petition and the problems that  
29 necessitated the child's placement in out-of-home care. No social file  
30 or social study may be considered by the court in connection with the  
31 fact-finding hearing or prior to factual determination, except as  
32 otherwise admissible under the rules of evidence.

33       (c) Prior to the entry of any stipulated or agreed order of  
34 dependency, the parent, guardian, or legal custodian of the child and  
35 his or her attorney must appear before the court and the court must  
36 inquire and establish on the record that:

37       (i) The parent, guardian, or legal custodian understands the terms  
38 of the order or orders he or she has signed, including his or her

1 responsibility to participate in remedial services as provided in any  
2 disposition order;

3 (ii) The parent, guardian, or legal custodian understands that  
4 entry of the order starts a process that could result in the filing of  
5 a petition to terminate his or her relationship with the child within  
6 the time frames required by state and federal law if he or she fails to  
7 comply with the terms of the dependency or disposition orders or fails  
8 to substantially remedy the problems that necessitated the child's  
9 placement in out-of-home care;

10 (iii) The parent, guardian, or legal custodian understands that the  
11 entry of the stipulated or agreed order of dependency is an admission  
12 that the child is dependent within the meaning of RCW 13.34.030 and  
13 shall have the same legal effect as a finding by the court that the  
14 child is dependent by at least a preponderance of the evidence, and  
15 that the parent, guardian, or legal custodian shall not have the right  
16 in any subsequent proceeding for termination of parental rights or  
17 dependency guardianship pursuant to this chapter or nonparental custody  
18 pursuant to chapter 26.10 RCW to challenge or dispute the fact that the  
19 child was found to be dependent; and

20 (iv) The parent, guardian, or legal custodian knowingly and  
21 willingly stipulated and agreed to and signed the order or orders,  
22 without duress, and without misrepresentation or fraud by any other  
23 party.

24 If a parent, guardian, or legal custodian fails to appear before  
25 the court after stipulating or agreeing to entry of an order of  
26 dependency, the court may enter the order upon a finding that the  
27 parent, guardian, or legal custodian had actual notice of the right to  
28 appear before the court and chose not to do so. The court may require  
29 other parties to the order, including the attorney for the parent,  
30 guardian, or legal custodian, to appear and advise the court of the  
31 parent's, guardian's, or legal custodian's notice of the right to  
32 appear and understanding of the factors specified in this subsection.

33 (3) Immediately after the entry of the findings of fact, the court  
34 shall hold a disposition hearing, unless there is good cause for  
35 continuing the matter for up to fourteen days. If good cause is shown,  
36 the case may be continued for longer than fourteen days. Notice of the  
37 time and place of the continued hearing may be given in open court. If  
38 notice in open court is not given to a party, that party shall be  
39 notified by certified mail of the time and place of any continued

1 hearing. Unless there is reasonable cause to believe the health,  
2 safety, or welfare of the child would be jeopardized or efforts to  
3 reunite the parent and child would be hindered, the court shall direct  
4 the department to notify those adult persons who: ~~((+1))~~ (a) Are  
5 related by blood or marriage to the child in the following degrees:  
6 Parent, grandparent, brother, sister, stepparent, stepbrother,  
7 stepsister, uncle, or aunt; ~~((+2))~~ (b) are known to the department as  
8 having been in contact with the family or child within the past twelve  
9 months; and ~~((+3))~~ (c) would be an appropriate placement for the  
10 child. Reasonable cause to dispense with notification to a parent  
11 under this section must be proved by clear, cogent, and convincing  
12 evidence.

13 The parties need not appear at the ~~((fact-finding—or  
14 dispositional))~~ disposition hearing if the parties, their attorneys,  
15 the guardian ad litem, and court-appointed special advocates, if any,  
16 are all in agreement. ~~((The court shall receive and review a social  
17 study before entering an order based on agreement. No social file or  
18 social study may be considered by the court in connection with the  
19 fact-finding hearing or prior to factual determination, except as  
20 otherwise admissible under the rules of evidence.))~~

21 NEW SECTION. **Sec. 9.** This act shall be known as the Zy'Nyia  
22 Nobles accountability act.

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