

1 1940-S AMH APP H2501.1

2 **SHB 1940** - H COMM AMD **Adopted 3-20-91**

3 By Committee on Appropriations

4

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

7 "NEW SECTION. **Sec. 1.** A new section is added to chapter 13.70 RCW
8 to read as follows:

9 (1) If a case involves an Indian child, as defined by 25 U.S.C.
10 Sec. 1903 or by department rule or policy, the court may appoint the
11 local Indian child welfare advisory committee to serve as the citizen
12 review board for the case unless otherwise requested by the child's
13 tribe or by the local Indian child welfare advisory committee.

14 (2) The provisions of RCW 13.70.030, 13.70.040, 13.70.050, and
15 13.70.090(1) shall not apply to cases in which the court has appointed
16 a committee to serve as a citizen review board. All other provisions
17 of this chapter shall apply to such cases.

18 (3) Within ten days following court appointment of a committee to
19 serve as a citizen review board for a particular case, the committee
20 shall notify the court whether the committee will accept the case for
21 review. If the committee accepts a case for review, the committee
22 shall conduct the review in accordance with the requirements of this
23 chapter except as otherwise provided in this section. If the committee
24 does not accept a case for review, the court shall immediately reassign
25 the case to an available board.

26 (4) The requirements of this chapter do not affect tribal
27 sovereignty and shall not apply to cases involving Indian children who
28 are under tribal court jurisdiction or wardship."

1 **"Sec. 2.** RCW 13.70.005 and 1989 1st ex.s. c 17 s 2 are each
2 amended to read as follows:

3 Periodic case review of all children in substitute care shall be
4 provided in (~~at least one class 1 or higher county, in accordance with~~
5 ~~this chapter~~) counties designated by the office of the administrator
6 for the courts, in accordance with this chapter and within funding
7 provided by the legislature.

8 The administrator for the courts shall coordinate and assist in the
9 administration of the local citizen review board pilot program created
10 by this chapter."

11 **"Sec. 3.** RCW 13.70.010 and 1989 1st ex.s. c 17 s 3 are each
12 amended to read as follows:

13 Unless the context requires otherwise, the definitions in this
14 section apply throughout this chapter.

15 (1) "Board" means the local citizen review board established
16 pursuant to this chapter.

17 (2) "Child" means a person less than eighteen years of age.

18 (3) "Committee" means a local Indian child welfare advisory
19 committee established pursuant to WAC 388-70-610, as now existing or
20 hereafter amended by the department.

21 (4) "Conflict of interest" means that a person appointed to a board
22 has a personal or pecuniary interest in a case being reviewed by that
23 board.

24 (~~(4)~~) (5) "Court" means the juvenile court.

25 (~~(5)~~) (6) "Custodian" means that person who has legal custody of
26 the child.

27 (~~(6)~~) (7) "Department" means the department of social and health
28 services.

1 (~~(7)~~) (8) "Mature child" means a child who is able to understand
2 and participate in the decision-making process without excessive
3 anxiety or fear. A child twelve years old or over shall be rebuttably
4 presumed to be a mature child.

5 (~~(8)~~) (9) "Parent" or "parents" means the biological or adoptive
6 parents of a child unless the legal rights of that person have been
7 terminated by judicial proceedings.

8 (~~(9)~~) (10) "Placement episode" means the period of time that
9 begins with the date the child was removed from the home of the parent
10 or legal custodian for the purposes of placement in substitute care and
11 continues until the child returns home or an adoption decree or
12 guardianship order is entered.

13 (~~(10)~~) (11) "Records" means any information in written form,
14 pictures, photographs, charts, graphs, recordings, or documents
15 pertaining to a case.

16 (~~(11)~~) (12) "Resides" or "residence," when used in reference to
17 the residence of a child, means the place where the child is actually
18 living and not the legal residence or domicile of the parent or
19 guardian.

20 (~~(12)~~) (13) "Substitute care" means an out-of-home placement of
21 a child for purposes related to the provision of child welfare services
22 in accordance with chapter 74.13 RCW where the child is in the care,
23 custody, and control of the department pursuant to a proceeding under
24 chapter 13.34 RCW or pursuant to the written consent of the child's
25 parent or parents or custodian."

26 **"Sec. 4.** RCW 13.34.130 and 1990 c 284 s 32 and 1990 c 246 s 5 are
27 each reenacted and amended to read as follows:

28 If, after a fact-finding hearing pursuant to RCW 13.34.110, as now
29 or hereafter amended, it has been proven by a preponderance of the

1 evidence that the child is dependent within the meaning of RCW
2 13.34.030(2); after consideration of the predisposition report prepared
3 pursuant to RCW 13.34.110 and after a disposition hearing has been held
4 pursuant to RCW 13.34.110, the court shall enter an order of
5 disposition pursuant to this section.

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

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

15 (b) Order that the child be removed from his or her home and
16 ordered into the custody, control, and care of a relative or the
17 department of social and health services or a licensed child placing
18 agency for placement in a foster family home or group care facility
19 licensed pursuant to chapter 74.15 RCW or in a home not required to be
20 licensed pursuant to chapter 74.15 RCW. Unless there is reasonable
21 cause to believe that the safety or welfare of the child would be
22 jeopardized or that efforts to reunite the parent and child will be
23 hindered, such child shall be placed with a grandparent, brother,
24 sister, stepbrother, stepsister, uncle, aunt, or first cousin with whom
25 the child has a relationship and is comfortable, and who is willing and
26 available to care for the child. An order for out-of-home placement
27 may be made only if the court finds that reasonable efforts have been
28 made to prevent or eliminate the need for removal of the child from the
29 child's home and to make it possible for the child to return home,

1 specifying the services that have been provided to the child and the
2 child's parent, guardian, or legal custodian, and that:

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

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

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

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

15 (2) If the court has ordered a child removed from his or her home
16 pursuant to RCW 13.34.130(1)(b), the court may order that a petition
17 seeking termination of the parent and child relationship be filed if
18 the court finds it is recommended by the supervising agency, that it is
19 in the best interests of the child and that it is not reasonable to
20 provide further services to reunify the family because the existence of
21 aggravated circumstances make it unlikely that services will effectuate
22 the return of the child to the child's parents in the near future. In
23 determining whether aggravated circumstances exist, the court shall
24 consider one or more of the following:

25 (a) Conviction of the parent of rape of the child in the first,
26 second, or third degree as defined in RCW 9A.44.073, 9A.44.076, and
27 9A.44.079;

28 (b) Conviction of the parent of criminal mistreatment of the child
29 in the first or second degree as defined in RCW 9A.42.020 and
30 9A.42.030;

1 (c) Conviction of the parent of assault of the child in the first
2 or second degree as defined in RCW 9A.36.011 and 9A.36.021;

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

5 (e) A finding by a court that a parent is a sexually violent
6 predator as defined in RCW (~~9A.88.010~~) 71.09.020;

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

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

14 (a) A permanent plan of care that may include one of the following:
15 Return of the child to the home of the child's parent, adoption,
16 guardianship, or long-term placement with a relative or in foster care
17 with a written agreement.

18 (b) Unless the court has ordered, pursuant to RCW 13.34.130(2),
19 that a termination petition be filed, a specific plan as to where the
20 child will be placed, what steps will be taken to return the child
21 home, and what actions the agency will take to maintain parent-child
22 ties. All aspects of the plan shall include the goal of achieving
23 permanence for the child.

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

28 (ii) The agency shall be required to encourage the maximum parent-
29 child contact possible, including regular visitation and participation
30 by the parents in the care of the child while the child is in

1 placement. Visitation may be limited or denied only if the court
2 determines that such limitation or denial is necessary to protect the
3 child's health, safety, or welfare.

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

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

13 (c) If the court has ordered, pursuant to RCW 13.34.130(2), that a
14 termination petition be filed, a specific plan as to where the child
15 will be placed, what steps will be taken to achieve permanency for the
16 child, services to be offered or provided to the child, and, if
17 visitation would be in the best interests of the child, a
18 recommendation to the court regarding visitation between parent and
19 child pending a fact-finding hearing on the termination petition. The
20 agency shall not be required to develop a plan of services for the
21 parents or provide services to the parents.

22 (4) If there is insufficient information at the time of the
23 disposition hearing upon which to base a determination regarding the
24 suitability of a proposed placement with a relative, the child shall
25 remain in foster care and the court shall direct the supervising agency
26 to conduct necessary background investigations as provided in chapter
27 74.15 RCW and report the results of such investigation to the court
28 within thirty days. However, if such relative appears otherwise
29 suitable and competent to provide care and treatment, the criminal
30 history background check need not be completed before placement, but as

1 soon as possible after placement. Any placements with relatives,
2 pursuant to this section, shall be contingent upon cooperation by the
3 relative with the agency case plan and compliance with court orders
4 related to the care and supervision of the child including, but not
5 limited to, court orders regarding parent-child contacts and any other
6 conditions imposed by the court. Noncompliance with the case plan or
7 court order shall be grounds for removal of the child from the
8 relative's home, subject to review by the court.

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

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

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

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

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

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

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

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

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

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

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

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

19 **"Sec. 5.** RCW 13.70.110 and 1989 1st ex.s. c 17 s 13 are each
20 amended to read as follows:

21 (1) This section shall apply to cases where a child has been placed
22 in substitute care pursuant to a proceeding under chapter 13.34 RCW.

23 (2) Within forty-five days following commencement of the placement
24 episode, the court shall assign the child's case to a board and forward
25 to the board a copy of the dependency petition and any shelter care or
26 dependency disposition orders which have been entered in the case by
27 the court.

28 (3) The board shall review the case plan for each child whose case
29 is assigned to the board by the court. The review shall take place at

1 times set by the board. The first review shall occur within ninety
2 days following commencement of the placement episode. The second
3 review shall occur within six months following commencement of the
4 placement episode. The next review shall occur within one year after
5 commencement of the placement episode. Within eighteen months
6 following commencement of the placement episode, a permanency planning
7 hearing shall be held before the court in accordance with RCW
8 13.34.145. Thereafter, the court shall assign the child's case for a
9 board review or a court review hearing pursuant to RCW 13.34.130((+4))
10 (5). A board review or court review hearing shall take place at least
11 once every six months until the child is no longer within the
12 jurisdiction of the court or no longer in substitute care or until a
13 guardianship order or adoption decree is entered. After the permanency
14 planning hearing, a court review hearing must occur at least once a
15 year as provided in RCW 13.34.130. The board shall review any case
16 where a petition to terminate parental rights has been denied, and such
17 review shall occur as soon as practical but no later than forty-five
18 days after the denial.

19 (4) The board shall prepare written findings and recommendations
20 with respect to:

21 (a) Whether reasonable efforts were made before the placement to
22 prevent or eliminate the need for removal of the child from the home,
23 including whether consideration was given to removing the alleged
24 offender, rather than the child, from the home;

25 (b) Whether reasonable efforts have been made subsequent to the
26 placement to make it possible for the child to be returned home;

27 (c) Whether the child has been placed in the least-restrictive
28 setting appropriate to the child's needs, including whether
29 consideration has been given to placement with the child's relatives;

1 (d) Whether there is a continuing need for placement and whether
2 the placement is appropriate;

3 (e) Whether there has been compliance with the case plan;

4 (f) Whether progress has been made toward alleviating the need for
5 placement;

6 (g) A likely date by which the child may be returned home or other
7 permanent plan of care may be implemented; and

8 (h) Other problems, solutions, or alternatives the board determines
9 should be explored.

10 (5) Within ten working days following the review, the board shall
11 send a copy of its findings and recommendations to the parents and
12 their attorneys, the child's custodians and their attorneys, mature
13 children and their attorneys, other attorneys or guardians ad litem
14 appointed by the court to represent children, the department and other
15 child placement agencies directly responsible for supervising the
16 child's placement, and any prosecuting attorney or attorney general
17 actively involved in the case. If the child is an Indian as defined in
18 the Indian child welfare act, 25 U.S.C. Sec. 1901 et seq., a copy of
19 the board's findings and recommendations shall also be sent to the
20 child's Indian tribe.

21 (6) If the department is unable or unwilling to implement the board
22 recommendations, the department shall submit to the board, within ten
23 working days after receipt of the findings and recommendations, an
24 implementation report setting forth the reasons why the department is
25 unable or unwilling to implement the board's recommendations. The
26 report will also set forth the case plan which the department intends
27 to implement.

28 (7) Within forty-five days following the review, the board shall
29 either:

30 (a) Schedule the case for further review by the board; or

1 (b) (~~File with the court a motion for a review hearing;~~
2 ~~(e)~~) Submit to the court the board's findings and
3 recommendations(~~(7)~~) and the department's implementation reports, if
4 any(~~(7)~~ and a proposed amended court order agreed to by the parties to
5 the action, if any)). If the board's recommendations are different
6 from the existing court-ordered case plan, the board shall also file
7 with the court a motion for a review hearing.

8 (8) (~~Upon~~) Within ten days of receipt of the board's written
9 findings and recommendations, and the department's implementation
10 report, if any, (~~and the proposed amended court order, if any,~~) the
11 court shall (~~either:~~

12 ~~(a) Approve the recommendations; or~~

13 ~~(b) Upon its own motion, schedule a review hearing)~~ review the
14 findings and recommendations and any implementation reports. If the
15 court finds it appropriate, the court may on its own motion schedule a
16 review hearing.

17 (9) Unless modified by subsequent court order, the court-ordered
18 case plan and court orders that are in effect at the time that a board
19 reviews a case shall remain in full force and effect. Board findings
20 and recommendations are advisory only and do not in any way modify
21 existing court orders or court-ordered case plans.

22 (10) The findings and recommendations of the board and the
23 department's implementation report, if any, shall become part of the
24 department's case file and the court social file pertaining to the
25 child.

26 (~~(10)~~) (11) Nothing in this section shall limit or otherwise
27 modify the rights of any party to a dependency proceeding to request
28 and receive a court review hearing pursuant to the provisions of
29 chapter 13.34 RCW or applicable court rules."

1 **"Sec. 6.** RCW 13.34.210 and 1988 c 203 s 2 are each amended to read
2 as follows:

3 If, upon entering an order terminating the parental rights of a
4 parent, there remains no parent having parental rights, the court shall
5 commit the child to the custody of the department of social and health
6 services or to a licensed child-placing agency willing to accept
7 custody for the purpose of placing the child for adoption, or in the
8 absence thereof in a licensed foster home, or take other suitable
9 measures for the care and welfare of the child. The custodian shall
10 have authority to consent to the adoption of the child consistent with
11 chapter 26.33 RCW, the marriage of the child, the enlistment of the
12 child in the armed forces of the United States, necessary surgical and
13 other medical treatment for the child, and to consent to such other
14 matters as might normally be required of the parent of the child.

15 If a child has not been adopted within six months after the date of
16 the order and a general guardian of the child has not been appointed by
17 the court, the child shall be returned to the court for entry of
18 further orders for his or her care, custody, and control, and, except
19 for children whose cases are reviewed by a citizen review board under
20 chapter 13.70 RCW, the court shall review the case every six months
21 thereafter until a decree of adoption is entered."

22 "NEW SECTION. **Sec. 7.** RCW 13.70.900 and 1989 1st ex.s. c 17 s
23 19 are each repealed."

24 "NEW SECTION. **Sec. 8.** This act is necessary for the immediate
25 preservation of the public peace, health, or safety, or support of the
26 state government and its existing public institutions, and shall take
27 effect immediately."

1 "NEW SECTION. **Sec. 9.** If by June 30, 1991, the omnibus
2 operating budget appropriations act for the 1991-93 biennium does not
3 provide specific funding for this act, referencing this act by bill
4 number, this act is null and void."

5 **SHB 1940** - H COMM AMD
6 By Committee on Appropriations

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8 On page 1, line 2 of the title, after "courts;" strike the
9 remainder of the title and insert "amending RCW 13.70.005, 13.70.010,
10 13.70.110, and 13.34.210; reenacting and amending RCW 13.34.130; adding
11 a new section to chapter 13.70 RCW; creating a new section; repealing
12 RCW 13.70.900; and declaring an emergency."