
ENGROSSED SUBSTITUTE HOUSE BILL 1940

State of Washington 52nd Legislature 1991 Regular Session

By House Committee on Human Services (originally sponsored by Representatives Scott, Cole, Leonard, Winsley, Bowman, Rayburn, O'Brien and Rasmussen).

Read first time March 6, 1991.

1 AN ACT Relating to citizen foster care review boards operating
2 under the jurisdiction of superior courts; amending RCW 13.70.005,
3 13.70.010, 13.70.110, and 13.34.210; reenacting and amending RCW
4 13.34.130; adding a new section to chapter 13.70 RCW; creating a new
5 section; repealing RCW 13.70.900; and declaring an emergency.

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

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

1 a committee to serve as a citizen review board. All other provisions
2 of this chapter shall apply to such cases.

3 (3) Within ten days following court appointment of a committee to
4 serve as a citizen review board for a particular case, the committee
5 shall notify the court whether the committee will accept the case for
6 review. If the committee accepts a case for review, the committee
7 shall conduct the review in accordance with the requirements of this
8 chapter except as otherwise provided in this section. If the committee
9 does not accept a case for review, the court shall immediately reassign
10 the case to an available board.

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

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

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

21 The administrator for the courts shall coordinate and assist in the
22 administration of the local citizen review board pilot program created
23 by this chapter.

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

26 Unless the context requires otherwise, the definitions in this
27 section apply throughout this chapter.

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

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

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

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

10 ((+4)) (5) "Court" means the juvenile court.

11 ((+5)) (6) "Custodian" means that person who has legal custody of
12 the child.

13 ((+6)) (7) "Department" means the department of social and health
14 services.

15 ((+7)) (8) "Mature child" means a child who is able to understand
16 and participate in the decision-making process without excessive
17 anxiety or fear. A child twelve years old or over shall be rebuttably
18 presumed to be a mature child.

19 ((+8)) (9) "Parent" or "parents" means the biological or adoptive
20 parents of a child unless the legal rights of that person have been
21 terminated by judicial proceedings.

22 ((+9)) (10) "Placement episode" means the period of time that
23 begins with the date the child was removed from the home of the parent
24 or legal custodian for the purposes of placement in substitute care and
25 continues until the child returns home or an adoption decree or
26 guardianship order is entered.

27 ((+10)) (11) "Records" means any information in written form,
28 pictures, photographs, charts, graphs, recordings, or documents
29 pertaining to a case.

1 (~~(11)~~) (12) "Resides" or "residence," when used in reference to
2 the residence of a child, means the place where the child is actually
3 living and not the legal residence or domicile of the parent or
4 guardian.

5 (~~(12)~~) (13) "Substitute care" means an out-of-home placement of
6 a child for purposes related to the provision of child welfare services
7 in accordance with chapter 74.13 RCW where the child is in the care,
8 custody, and control of the department pursuant to a proceeding under
9 chapter 13.34 RCW or pursuant to the written consent of the child's
10 parent or parents or custodian.

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

13 If, after a fact-finding hearing pursuant to RCW 13.34.110, as now
14 or hereafter amended, it has been proven by a preponderance of the
15 evidence that the child is dependent within the meaning of RCW
16 13.34.030(2); after consideration of the predisposition report prepared
17 pursuant to RCW 13.34.110 and after a disposition hearing has been held
18 pursuant to RCW 13.34.110, the court shall enter an order of
19 disposition pursuant to this section.

20 (1) The court shall order one of the following dispositions of the
21 case:

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

1 (b) Order that the child be removed from his or her home and
2 ordered into the custody, control, and care of a relative or the
3 department of social and health services or a licensed child placing
4 agency for placement in a foster family home or group care facility
5 licensed pursuant to chapter 74.15 RCW or in a home not required to be
6 licensed pursuant to chapter 74.15 RCW. Unless there is reasonable
7 cause to believe that the safety or welfare of the child would be
8 jeopardized or that efforts to reunite the parent and child will be
9 hindered, such child shall be placed with a grandparent, brother,
10 sister, stepbrother, stepsister, uncle, aunt, or first cousin with whom
11 the child has a relationship and is comfortable, and who is willing and
12 available to care for the child. An order for out-of-home placement
13 may be made only if the court finds that reasonable efforts have been
14 made to prevent or eliminate the need for removal of the child from the
15 child's home and to make it possible for the child to return home,
16 specifying the services that have been provided to the child and the
17 child's parent, guardian, or legal custodian, and that:

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

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

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

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

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

11 (a) Conviction of the parent of rape of the child in the first,
12 second, or third degree as defined in RCW 9A.44.073, 9A.44.076, and
13 9A.44.079;

14 (b) Conviction of the parent of criminal mistreatment of the child
15 in the first or second degree as defined in RCW 9A.42.020 and
16 9A.42.030;

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

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

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

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

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

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

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

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

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

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

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

1 (c) If the court has ordered, pursuant to RCW 13.34.130(2), that a
2 termination petition be filed, a specific plan as to where the child
3 will be placed, what steps will be taken to achieve permanency for the
4 child, services to be offered or provided to the child, and, if
5 visitation would be in the best interests of the child, a
6 recommendation to the court regarding visitation between parent and
7 child pending a fact-finding hearing on the termination petition. The
8 agency shall not be required to develop a plan of services for the
9 parents or provide services to the parents.

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

27 (5) Except for children whose cases are reviewed by a citizen
28 review board under chapter 13.70 RCW, the status of all children found
29 to be dependent shall be reviewed by the court at least every six
30 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 has been given to placement with the child's relatives;

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

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

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

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

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

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

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

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

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

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

17 (3) The board shall review the case plan for each child whose case
18 is assigned to the board by the court. The review shall take place at
19 times set by the board. The first review shall occur within ninety
20 days following commencement of the placement episode. The second
21 review shall occur within six months following commencement of the
22 placement episode. The next review shall occur within one year after
23 commencement of the placement episode. Within eighteen months
24 following commencement of the placement episode, a permanency planning
25 hearing shall be held before the court in accordance with RCW
26 13.34.145. Thereafter, the court shall assign the child's case for a
27 board review or a court review hearing pursuant to RCW 13.34.130(~~(+4)~~)

28 (5). A board review or court review hearing shall take place at least
29 once every six months until the child is no longer within the

1 jurisdiction of the court or no longer in substitute care or until a
2 guardianship order or adoption decree is entered. After the permanency
3 planning hearing, a court review hearing must occur at least once a
4 year as provided in RCW 13.34.130. The board shall review any case
5 where a petition to terminate parental rights has been denied, and such
6 review shall occur as soon as practical but no later than forty-five
7 days after the denial.

8 (4) The board shall prepare written findings and recommendations
9 with respect to:

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

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

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

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

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

22 (f) Whether progress has been made toward alleviating the need for
23 placement;

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

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

28 (5) Within ten working days following the review, the board shall
29 send a copy of its findings and recommendations to the parents and
30 their attorneys, the child's custodians and their attorneys, mature

1 children and their attorneys, other attorneys or guardians ad litem
2 appointed by the court to represent children, the department and other
3 child placement agencies directly responsible for supervising the
4 child's placement, and any prosecuting attorney or attorney general
5 actively involved in the case. If the child is an Indian as defined in
6 the Indian child welfare act, 25 U.S.C. Sec. 1901 et seq., a copy of
7 the board's findings and recommendations shall also be sent to the
8 child's Indian tribe.

9 (6) If the department is unable or unwilling to implement the board
10 recommendations, the department shall submit to the board, within ten
11 working days after receipt of the findings and recommendations, an
12 implementation report setting forth the reasons why the department is
13 unable or unwilling to implement the board's recommendations. The
14 report will also set forth the case plan which the department intends
15 to implement.

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

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

19 (b) ~~((File with the court a motion for a review hearing;~~

20 ~~(e)))~~ Submit to the court the board's findings and
21 recommendations~~((,))~~ and the department's implementation reports, if
22 any~~((, and a proposed amended court order agreed to by the parties to~~
23 ~~the action, if any))~~. If the board's recommendations are different
24 from the existing court-ordered case plan, the board shall also file
25 with the court a motion for a review hearing.

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

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

1 ~~(b) Upon its own motion, schedule a review hearing))~~ review the
2 findings and recommendations and any implementation reports. If the
3 court finds it appropriate, the court may on its own motion schedule a
4 review hearing.

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

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

14 ~~((10))~~ (11) Nothing in this section shall limit or otherwise
15 modify the rights of any party to a dependency proceeding to request
16 and receive a court review hearing pursuant to the provisions of
17 chapter 13.34 RCW or applicable court rules.

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

20 If, upon entering an order terminating the parental rights of a
21 parent, there remains no parent having parental rights, the court shall
22 commit the child to the custody of the department of social and health
23 services or to a licensed child-placing agency willing to accept
24 custody for the purpose of placing the child for adoption, or in the
25 absence thereof in a licensed foster home, or take other suitable
26 measures for the care and welfare of the child. The custodian shall
27 have authority to consent to the adoption of the child consistent with
28 chapter 26.33 RCW, the marriage of the child, the enlistment of the
29 child in the armed forces of the United States, necessary surgical and

1 other medical treatment for the child, and to consent to such other
2 matters as might normally be required of the parent of the child.

3 If a child has not been adopted within six months after the date of
4 the order and a general guardian of the child has not been appointed by
5 the court, the child shall be returned to the court for entry of
6 further orders for his or her care, custody, and control, and, except
7 for children whose cases are reviewed by a citizen review board under
8 chapter 13.70 RCW, the court shall review the case every six months
9 thereafter until a decree of adoption is entered.

10 NEW SECTION. Sec. 7. RCW 13.70.900 and 1989 1st ex.s. c 17 s
11 19 are each repealed.

12 NEW SECTION. Sec. 8. This act is necessary for the immediate
13 preservation of the public peace, health, or safety, or support of the
14 state government and its existing public institutions, and shall take
15 effect immediately.

16 NEW SECTION. Sec. 9. If by June 30, 1991, the omnibus
17 operating budget appropriations act for the 1991-93 biennium does not
18 provide specific funding for this act, referencing this act by bill
19 number, this act is null and void.