

SENATE BILL 5079

State of Washington

52nd Legislature

1991 Regular Session

By Senators L. Smith, Stratton, Roach and Anderson.

Read first time January 18, 1991. Referred to Committee on Children & Family Services.

1 AN ACT Relating to placement of dependent children; amending RCW
2 13.34.180 and 13.34.190; reenacting and amending RCW 13.34.130; adding
3 new sections to chapter 13.34 RCW; creating a new section; and
4 repealing RCW 13.34.145 and 13.34.150.

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

6 **Sec. 1.** RCW 13.34.130 and 1990 c 284 s 32 and 1990 c 246 s 5 are
7 each reenacted and amended to read as follows:

8 If, after a fact-finding hearing pursuant to RCW 13.34.110, as now
9 or hereafter amended, it has been proven by a preponderance of the
10 evidence that the child is dependent within the meaning of RCW
11 13.34.030(2); after consideration of the predisposition report prepared
12 pursuant to RCW 13.34.110 and after a disposition hearing has been held
13 pursuant to RCW 13.34.110, the court shall enter an order of
14 disposition pursuant to this section.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

10 (a) ~~A permanent plan of care that may include one of the following:~~
11 ~~Return of the child to the home of the child's parent, adoption,~~
12 ~~guardianship, or long term placement with a relative or in foster care~~
13 ~~with a written agreement.~~

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

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

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

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

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

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

19 ~~(4))~~ If there is insufficient information at the time of the
20 disposition hearing upon which to base a determination regarding the
21 suitability of a proposed placement with a relative, the child shall
22 remain in foster care and the court shall direct the supervising agency
23 to conduct necessary background investigations as provided in chapter
24 74.15 RCW and report the results of such investigation to the court
25 within thirty days. However, if such relative appears otherwise
26 suitable and competent to provide care and treatment, the criminal
27 history background check need not be completed before placement, but as
28 soon as possible after placement. Any placements with relatives,
29 pursuant to this section, shall be contingent upon cooperation by the
30 relative with the ~~((agency case))~~ performance agreement or permanent

1 placement plan and compliance with court orders related to the care and
2 supervision of the child including, but not limited to, court orders
3 regarding parent-child contacts and any other conditions imposed by the
4 court. Noncompliance with the case plan or court order shall be
5 grounds for removal of the child from the relative's home, subject to
6 review by the court.

7 ~~((5) The status of all children found to be dependent shall be~~
8 ~~reviewed by the court at least every six months from the beginning date~~
9 ~~of the placement episode or the date dependency is established,~~
10 ~~whichever is first, at a hearing in which it shall be determined~~
11 ~~whether court supervision should continue. The review shall include~~
12 ~~findings regarding the agency and parental completion of disposition~~
13 ~~plan requirements, and if necessary, revised permanency time limits.~~

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

21 ~~(b) If the child is not returned home, the court shall establish in~~
22 ~~writing:~~

23 ~~(i) Whether reasonable services have been provided to or offered to~~
24 ~~the parties to facilitate reunion, specifying the services provided or~~
25 ~~offered;~~

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

29 ~~(iii) Whether there is a continuing need for placement and whether~~
30 ~~the placement is appropriate;~~

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

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

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

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

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

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

14 **Sec. 2.** RCW 13.34.180 and 1990 c 246 s 7 are each amended to read
15 as follows:

16 A petition seeking termination of a parent and child relationship
17 may be filed in juvenile court by any party to the dependency
18 proceedings concerning that child. Such petition shall conform to the
19 requirements of RCW 13.34.040, shall be served upon the parties as
20 provided in RCW 13.34.070(7), and shall allege:

21 (1) That the child has been found to be a dependent child under RCW
22 13.34.030(2); and

23 (2) That the court has entered a dispositional order pursuant to
24 RCW 13.34.130; and

25 (3) That the child has been removed or will, at the time of the
26 hearing, have been removed from the custody of the parent for a period
27 of at least six months pursuant to a finding of dependency under RCW
28 13.34.030(2); and

1 (4) That the services (~~(ordered under RCW 13.34.130)~~) specified in
2 the performance agreement or permanent placement plan have been offered
3 or provided (~~(and all necessary services, reasonably available, capable~~
4 ~~of correcting the parental deficiencies within the foreseeable future~~
5 ~~have been offered or provided)~~); and

6 (5) That the abuse or neglect is evidenced by the parent's or
7 parents' failure to comply substantially with the performance agreement
8 or permanent placement plan; and

9 (6) That there is little likelihood that conditions will be
10 remedied so that the child can be returned to the parent in the near
11 future; and

12 (~~(+6)~~) (7) That continuation of the parent and child relationship
13 clearly diminishes the child's prospects for early integration into a
14 stable and permanent home;

15 (~~(+7)~~) (8) In lieu of the allegations in subsections (1) through
16 (~~(+6)~~) (7) of this section, the petition may allege that the child was
17 found under such circumstances that the whereabouts of the child's
18 parent are unknown and no person has acknowledged paternity or
19 maternity and requested custody of the child within two months after
20 the child was found.

21 Notice of rights shall be served upon the parent, guardian, or
22 legal custodian with the petition and shall be in substantially the
23 following form:

24 "NOTICE

25 A petition for termination of parental rights has been filed against
26 you. You have important legal rights and you must take steps to

1 protect your interests. This petition could result in permanent loss
2 of your parental rights.

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

4 2. You have the right to have a lawyer represent you at the
5 hearing. A lawyer can look at the files in your case, talk to the
6 department of social and health services and other agencies, tell you
7 about the law, help you understand your rights, and help you at
8 hearings. If you cannot afford a lawyer, the court will appoint one to
9 represent you. To get a court-appointed lawyer you must contact:
10 (explain local procedure)

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

14 You should be present at this hearing.

15 You may call (insert agency) for more information about your
16 child. The agency's name and telephone number are (insert name and
17 telephone number)".

18 **Sec. 3.** RCW 13.34.190 and 1990 c 284 s 33 are each amended to read
19 as follows:

20 After hearings pursuant to RCW 13.34.110, the court may enter an
21 order terminating all parental rights to a child if the court finds
22 that:

23 (1) The allegations contained in the petition as provided in RCW
24 13.34.180 (1) through (6) are established by clear, cogent, and
25 convincing evidence; or

26 (2) RCW 13.34.180 (3) (~~and (4)~~) through (5) may be waived because
27 the allegations under RCW 13.34.180 (1), (2), (~~(5), and~~) (6), and (7)
28 are established beyond a reasonable doubt; or

1 (~~(c)-(3)~~) (3) The allegation under RCW 13.34.180(~~(7)~~)(8) is
2 established beyond a reasonable doubt. In determining whether RCW
3 13.34.180 (~~(5)~~) (6) and (~~(6)~~) (7) are established beyond a
4 reasonable doubt, the court shall consider one or more of the
5 following:

6 (a) Conviction of the parent of rape of the child in the first,
7 second, or third degree as defined in RCW 9A.44.073, 9A.44.076, and
8 9A.44.079;

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

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

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

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

17 (f) Failure of the parent to complete available treatment ordered
18 under this chapter or the equivalent laws of another state, where such
19 failure has resulted in a prior termination of parental rights to
20 another child and the parent has failed to effect significant change in
21 the interim; and

22 (~~(3)-(4)~~) (4) Such an order is in the best interests of the
23 child.

24 NEW SECTION. Sec. 4. It is the intent of the legislature that
25 each child be assured the care, guidance, and control in a permanent
26 home that will serve the best interests of the child's moral,
27 emotional, mental, and physical welfare and that such home preferably
28 be the child's own home or, if that is not possible, an adoptive home.
29 It is the further intent of the legislature that, if neither of those

1 options is achievable, other options for the child as set out in this
2 section be pursued. It is the intent of the legislature that permanent
3 placement with the biological or adoptive family be achieved as soon as
4 possible for every child in foster care and that no child remain in
5 foster care longer than one year. It is the further intent of the
6 legislature that a child be reunited with the child's natural family
7 whenever possible and, when not possible, that the child be permanently
8 placed for adoption or, when neither option is achievable, that the
9 child be prepared for alternative permanency goals or placements to
10 include, but not be limited to, long-term foster care, independent
11 living, custody to a relative on a permanent basis with or without
12 legal guardianship, or custody to a foster parent on a permanent basis
13 with or without legal guardianship. It is the intent of the
14 legislature, therefore, to help ensure a permanent home for a child in
15 foster care by requiring a performance agreement or, if the child's
16 natural parents will not or cannot participate in a performance
17 agreement, a permanent placement plan and a periodic review and report
18 to the court on the child's status. When two or more children in
19 foster care are siblings, every reasonable attempt shall be made to
20 place them in the same foster home; in the event of permanent
21 commitment of the siblings, to place them in the same adoptive home;
22 and, if the siblings are separated, to keep them in contact with each
23 other.

24 NEW SECTION. **Sec. 5.** (1) The purpose of a performance
25 agreement is to ensure permanency for children through recording the
26 actions to be taken by the parties involved in order assure the quick
27 and safe return of the child to the child's parents or, if this is not
28 possible, the permanent commitment of the child to the department or
29 licensed child-placing agency for the purpose of finding a permanent

1 adoptive home. Permanent adoptive placement is the primary permanency
2 goal when a child is permanently committed to the department or a
3 licensed child-placing agency. If it is not possible to find a
4 permanent adoptive home, the performance agreement shall record the
5 actions taken for preparing the child for alternative permanency goals
6 or placements such as long-term foster care or independent living.

7 (2) The agreement shall be limited to as short a period as possible
8 for the accomplishment of its provisions. Unless extended pursuant to
9 section 10 of this act, the agreement shall expire no later than
10 eighteen months from the date the child was initially ordered into
11 foster care, if involuntarily placed, or from the date the child was
12 voluntarily placed in foster care.

13 (3) The performance agreement shall include, but need not be
14 limited to:

15 (a) The specific reasons for the placement of the child in foster
16 care, including a description of the problems or conditions in the home
17 of the parent or parents that necessitated removal of the child from
18 the child's home, the remediation of which determines the return of the
19 child to the parent or parents;

20 (b) A description of the type of out-of-home placement in which the
21 child is to be placed, including a discussion of the appropriateness of
22 the placement. A child shall be placed as close to the child's home as
23 possible, preferably in the child's own neighborhood, unless the court
24 finds that placement at a greater distance is necessary to promote the
25 child's or parents' well-being;

26 (c) A plan for addressing the needs of the child while in foster
27 care, including a discussion of the services already provided;

28 (d) The specific actions to be taken by the parent or parents of
29 the child to eliminate or correct the identified problems or conditions
30 which were the basis for the adjudication of dependency in involuntary

1 placements or which were the basis for voluntary placements and the
2 period during which the actions are to be taken. The parties to the
3 agreement may also include, but need not be limited to, other persons
4 or agencies who shall agree and be responsible for the provision of
5 social services and reunification services to the child or the parent,
6 parents, or other custodian of the child;

7 (e) The financial responsibilities and obligations, if any, of the
8 parent or parents for the support of the child during the period the
9 child is in foster care, pursuant to state law;

10 (f) The visitation rights and obligations of the parent or parents
11 and the social service agency during the period the child is in foster
12 care;

13 (g) The social services and reunification services to be provided
14 to the parent or parents of the child, the child, and the foster
15 parents during the period the child is in foster care. The purpose of
16 such social and other supportive services shall be to promote the
17 child's need for a safe, continuous, stable, living environment, and
18 such services should promote family autonomy and strengthen family life
19 whenever possible;

20 (h) The date on which the child is expected to be returned to the
21 home of the parent or parents;

22 (i) The specific description and the nature of the effort to be
23 made by the social service agency responsible for the placement to
24 reunite the family; and

25 (j) Notice to the parent or parents that placement of the child in
26 foster care may result in termination of parental rights, but only
27 after notice and a hearing as provided in RCW 13.34.180, that, pursuant
28 to law, the court shall return the child to the custody of the natural
29 parents upon expiration of the agreement if the parents have
30 substantially complied with the agreement; and that the court cannot

1 terminate its jurisdiction over the child until six months after return
2 of the child to the child's parents, but at that time, based on a
3 report of the social service agency and any other relevant factors, the
4 court shall make a determination on whether its jurisdiction should be
5 continued or terminated.

6 NEW SECTION. **Sec. 6.** (1) In each case in which the custody of
7 a child has been vested, either voluntarily or involuntarily, in the
8 social service agency and the child has been placed in foster care, a
9 performance agreement shall be prepared within thirty days after the
10 placement and shall be submitted to the court. If the preparation of
11 a performance agreement, in conference with the natural parents and
12 other pertinent parties, cannot be accomplished within thirty days, for
13 good cause shown, the court may grant an extension not to exceed thirty
14 days.

15 (2) The parent or parents may receive assistance from any person or
16 social service agency in the preparation of the performance agreement.
17 The social service agency and the court, when applicable, shall inform
18 the parent or parents of the right to receive such assistance.

19 (3) Before the signing of the agreement, the person who prepared
20 the agreement shall explain it to all persons involved in its
21 implementation, including a child who will sign it.

22 (4) After the performance agreement has been agreed upon and signed
23 by the parties involved, a copy of the agreement shall be given
24 immediately to the natural parents, the department or agency, the
25 foster parents, and any other parties identified by the court,
26 including the child, if appropriate.

27 (5) The performance agreement may be amended at any time if all
28 parties are in agreement regarding the revisions to the performance
29 agreement. A new agreement shall be prepared and submitted to the

1 court with a memorandum of explanation. The court, if it deems
2 necessary, may hold a hearing regarding the changes to the performance
3 agreement. The performance agreement may also be amended by the court
4 or upon motion of any party at a hearing, based on competent evidence
5 demonstrating the need for the amendment. A copy of the amended
6 agreement shall be immediately given to the parties specified in
7 subsection (4) of this section.

8 NEW SECTION. **Sec. 7.** (1) A performance agreement shall be
9 prepared, but need not be submitted to the court, for a child who will
10 be in care no longer than thirty days unless that child is placed in
11 foster care a second time within a twelve-month period.

12 (2)(a) The court shall set a hearing with notice to all parties on
13 the performance agreement or any provisions of the agreement within
14 forty-five days of the receipt of the agreement by the court.

15 (b) At the hearing on the agreement, the court shall determine if:

16 (i) The agreement is consistent with previous orders of the court
17 placing the child in care;

18 (ii) The agreement is consistent with the requirements for the
19 content of a performance agreement as provided in section 5(3) of this
20 act;

21 (iii) In involuntary placements, the parents were notified of their
22 right to counsel at each stage of the dependency proceeding pursuant to
23 Washington juvenile court rules;

24 (iv) The parents were notified of their right to receive assistance
25 from any other person in the preparation of the performance agreement;
26 and

27 (v) The agreement is meaningful and designed to address facts and
28 circumstances upon which the court based the finding of dependency in
29 involuntary placements or the agreement is meaningful and designed to

1 address facts and circumstances upon which a child was placed in foster
2 care voluntarily.

3 (c) When the court determines that any of the elements considered
4 at the hearing relating to the performance agreement have not been met,
5 the court shall require the parties to make necessary amendments to the
6 agreement. An amended plan shall be submitted to the court for review
7 and approval within a time certain specified by the court.

8 NEW SECTION. **Sec. 8.** (1)(a) In the event the natural parents
9 will not or cannot participate in preparation of a performance
10 agreement, the social service agency shall submit a full explanation of
11 the circumstances and a plan for the permanent placement of the child
12 to the court within thirty days after the placement of the child in
13 foster care or, if preparation cannot be accomplished within thirty
14 days, for good cause shown, the court may grant an extension not to
15 exceed thirty days for the filing, the granting of which shall be for
16 similar reason to that contained in section 6(1) of this act.

17 (b) In the full explanation of the circumstances submitted to the
18 court, the social service agency shall state the nature of its efforts
19 to secure parental participation in the preparation of a performance
20 agreement.

21 (2) In a case in which the physical, emotional, or mental condition
22 or physical location of the parent is the basis for the development of
23 a permanent placement plan, it is the burden of the social service
24 agency to provide substantial evidence to the court that such condition
25 or location has rendered the parent unable or unwilling to participate
26 in the preparation of a performance agreement, either pro se or through
27 counsel. The supporting documentation shall be submitted to the court
28 at the time the permanent placement plan is filed.

1 (3) The permanent placement plan shall include, but need not be
2 limited to, the specific services to be provided by the social service
3 agency, the goals and plans for the child, and the time for
4 accomplishing the provisions of the plan and for accomplishing
5 permanence for the child. A permanent placement plan takes the place
6 of a performance agreement and shall meet all requirements provided for
7 a performance agreement.

8 (4)(a) Before filing a permanent placement plan, each parent shall
9 be served with a copy of the permanent placement plan developed by the
10 social service agency. If the location of one or both parents is
11 unknown, then this fact shall be documented in writing and included in
12 the permanent placement plan submitted to the court. After the filing
13 of the permanent placement plan, if the location of an absent parent
14 becomes known, that parent shall then be served with a copy of the
15 permanent placement plan.

16 (b) Before filing the permanent placement plan, the social service
17 agency shall advise each parent, both orally and in writing, that the
18 placement of the child in foster care may result in the termination of
19 parental rights, but only after notice and hearing provided in section
20 9 of this act. If, after the plan has been submitted to the court, an
21 absent parent is located, the social service agency shall advise the
22 parent, both orally and in writing, that the placement of the child in
23 foster care may result in termination of parental rights, but only
24 after notice and hearing as provided in section 9 of this act. Proof
25 of written notification shall be filed with the court.

26 NEW SECTION. **Sec. 9.** (1) The court shall set a hearing, with
27 notice to all parties, on the permanent placement plan or any
28 provisions of the plan, within forty-five days after the plan has been

1 received by the court. If the location of a parent is unknown, then
2 the notice shall be directed to the last permanent address of record.

3 (2) At the hearing on the plan, the court shall determine:

4 (a) All parties who were notified and are in attendance at the
5 hearing, either in person or through a legal representative. The court
6 shall appoint a guardian ad litem pursuant to RCW 11.88.090 to
7 represent the interests of any parent, if the location of the parent is
8 known, but the parent is not present at the hearing. The development
9 of the permanent placement plan shall be based upon the physical,
10 emotional, or mental condition or physical location of the parent;

11 (b) If the plan is consistent with previous orders of the court
12 placing the child in care;

13 (c) If the plan is consistent with the requirements for the
14 content of a permanent placement plan as specified in section 8(3) of
15 this act;

16 (d) In involuntary placements, whether each parent was notified of
17 the right to counsel at each stage of the dependency proceedings;

18 (e) Whether each parent whose location was known was notified of
19 the right to enter into a performance agreement in lieu of the social
20 service agency preparing a permanent placement plan and of the right to
21 receive assistance from any other person in the preparation of the
22 performance agreement; and

23 (f) Whether the plan is meaningful and designed to address facts
24 and circumstances upon which the court based the finding of dependency
25 in involuntary placements or the plan is meaningful and designed to
26 address facts and circumstances upon which the child was placed in
27 foster care voluntarily.

28 (3) If the court determines that any of the elements considered at
29 the hearing related to the plan have not been met, the court shall
30 require the social service agency to make necessary amendments to the

1 plan. The amended plan shall be submitted to the court for review and
2 approval within a time certain specified by the court. A copy of the
3 amended plan shall also be provided to each parent, if the location of
4 the parent is known.

5 (4) A parent who has not participated in the development of a
6 performance agreement shall be served with a copy of the plan developed
7 by the social service agency if the parent can be located. Any parent
8 is entitled to, and may seek, a court review of the plan before the
9 initial six-month review and shall be informed of this right by the
10 agency at the time the agency serves the parent with a copy of the
11 plan. If the location of an absent parent becomes known to the agency,
12 the agency shall inform the parent of the right to a court review at
13 the time the agency serves the parent with a copy of the permanent
14 placement plan.

15 NEW SECTION. **Sec. 10.** (1) The court shall have continuing
16 jurisdiction in proceedings under this section and sections 11 through
17 14 of this act and shall review the status of the child pursuant to
18 this subsection or more frequently if the court deems it necessary or
19 desirable.

20 (2) The court shall retain jurisdiction over a child returned to
21 the child's parents or legal guardians for a period of six months, but,
22 at that time, based on a report of the social service agency and any
23 other relevant factors, the court shall make a determination as to
24 whether its jurisdiction shall continue or be terminated.

25 (3) After termination of parental rights, the court shall retain
26 jurisdiction over any child for whom custody is given to a social
27 service agency until an adoption petition for the child is filed. The
28 jurisdiction of the court after termination of parental rights and
29 custody is given to the agency is for the purpose of reviewing the

1 status of the child and the progress being made toward permanent
2 adoptive placement. This jurisdiction does not include the exercise of
3 any power or influence by the court over the selection of an adoptive
4 parent.

5 (4) The court shall review the status of the child and shall hold
6 a hearing as provided for in section 9 of this act. The court may
7 dispense with the attendance of the child at the hearing, but shall not
8 dispense with the hearing or the presence of other parties to the
9 review.

10 NEW SECTION. **Sec. 11.** (1) The initial judicial review shall be
11 held no later than six months after the date the child was ordered into
12 foster care, if involuntarily placed, or no later than six months after
13 the child was voluntarily placed. If the child remains in foster care,
14 the second judicial review shall be held no later than twelve months,
15 and the third judicial review shall be held no later than eighteen
16 months, from the date the child was initially ordered into foster care,
17 if involuntarily placed, or from the date the child was voluntarily
18 placed. If the court extends the performance agreement or permanent
19 placement plan after the eighteen-month review, a judicial review shall
20 be held every six months for a child under the age of thirteen, and
21 every twelve months for a child thirteen years of age or older, to
22 reassess the child's status. If the child is placed in the custody of
23 a social service agency for purposes of adoptive placement, the court
24 shall judicially review the status of the child every six months to
25 determine the progress being made toward adoptive placement.

26 (2) The clerk of the superior court shall schedule judicial review
27 hearings in order to comply with the mandated times in subsection (1)
28 of this section.

1 (3) In each case in which a child has been voluntarily placed with
2 the social service agency, the social service agency shall notify the
3 clerk of the court in the district where the child resides of such
4 placement within five working days. Notification of the court is not
5 required for any child who will be in foster care no longer than thirty
6 days unless that child is placed in foster care a second time within a
7 twelve-month period. If the child is returned to the custody of his or
8 her parents or guardian before the scheduled review hearing or if the
9 child is placed for adoption, the social service agency shall notify
10 the court of the return or placement within five working days, and the
11 clerk of the court shall cancel the review hearing.

12 NEW SECTION. **Sec. 12.** (1) The social service agency shall file
13 a petition for review with the court within ten calendar days of the
14 judicial review hearing. The petition shall include a statement of the
15 dispositional alternatives available to the court. The petition shall
16 accompany the notice of the hearing served upon persons specified in
17 subsection 2 of this section.

18 (2) Notice of the hearing and a copy of the petition, including a
19 statement of the dispositional alternatives available to the court,
20 shall be served by the court upon:

21 (a) The social service agency charged with the supervision of care,
22 custody, or guardianship of the child, if such authorized agency is not
23 the petitioner;

24 (b) The foster parent or parents in whose home the child resides;

25 (c) The parent, guardian, or relative from whom the care and
26 custody of the child have been transferred;

27 (d) The guardian ad litem for the child, if one has been appointed;

28 and

29 (e) Such other persons as the court may in its discretion direct.

1 NEW SECTION. **Sec. 13.**

(1) The social service agency shall make
2 an investigation and social study concerning all pertinent details
3 relating to the child and shall furnish to the court a written report
4 that includes, but is not limited to:

5 (a) A description of the type of placement the child is in at the
6 time of the hearing;

7 (b) Documentation of the diligent efforts made by all parties to
8 the performance agreement or permanent placement plan to comply with
9 each provision of the agreement or plan;

10 (c) The amount of fees assessed and collected during the period of
11 time being reported;

12 (d) The services provided to the foster family in an effort to
13 address the needs of the child as indicated in the performance
14 agreement or permanent placement plan;

15 (e) A statement concerning whether the parent or guardian, though
16 able to do so, did not comply substantially with the provisions of the
17 performance agreement or plan and the agency recommendations or a
18 statement that the parent or guardian did substantially comply with
19 such provisions.

20 (2) A copy of the written report shall be provided to the attorney
21 of record of the parent, parents, or guardian; to the parent, parents,
22 or guardian; and to the foster parents and the guardian ad litem for
23 the child, if one has been appointed by the court, at least forty-eight
24 hours before the judicial review hearing. The requirement for
25 providing parents or guardians with a copy of the written report does
26 not apply to those parents or guardians who have voluntarily
27 surrendered their child for adoption.

28 (3) In a case in which the child has been permanently committed to
29 the social service agency, the agency shall furnish to the court a
30 written report concerning the progress being made to place the child

1 for adoption. If, as stated in section 5(1) of this act, the child
2 cannot be placed for adoption, then a report on the progress made by
3 the child in alternative permanency goals or placements including, but
4 not limited to, long-term foster care, independent living, custody to
5 a relative on a permanent basis with or without legal guardianship, or
6 custody to a foster parent on a permanent basis with or without legal
7 guardianship, shall be submitted to the court. The report shall be
8 submitted to the court at least forty-eight hours before each scheduled
9 judicial review.

10 NEW SECTION. **Sec. 14.** (1) The court shall take into
11 consideration the information contained in the social services study
12 and investigation; testimony by the social services agency, the parent
13 or guardian, the foster parent, the guardian ad litem, if one has been
14 appointed for the child, and any other person deemed appropriate; and
15 any relevant and material evidence submitted to the court, including
16 written and oral reports to the extent of their probative value. In
17 its deliberations, the court shall seek to determine:

18 (a) If the parent or guardian was advised of his or her right to
19 receive assistance from any person or social service agency in the
20 preparation of the performance agreement;

21 (b) If the parent or guardian has been advised of his or her right
22 to have counsel present at the judicial review hearings. If not so
23 advised, the court shall advise the parent or guardian of such right;

24 (c) If a guardian ad litem needs to be appointed for the child in
25 a case in which a guardian ad litem has not previously been appointed
26 or if there is a need to continue a guardian ad litem in a case in
27 which a guardian ad litem has been appointed;

28 (d) The compliance or lack of compliance of all parties with each
29 item of the performance agreement or permanent placement plan,

1 including a determination of ability to comply in areas of
2 noncompliance, a determination of diligent efforts by all parties, and
3 a determination of whether or not there has been substantial
4 compliance;

5 (e) The compliance or lack of compliance with a visitation contract
6 between the parent or guardian and the social service agency for
7 contact with the child, including the reason for any noncompliance;

8 (f) The compliance or lack of compliance of the parent or guardian
9 in meeting specified financial obligations pertaining to the care of
10 the child, including the reason for failure to comply if such is the
11 case;

12 (g) The appropriateness of the child's current placement, including
13 whether the child is in a setting that is as family-like and as close
14 to the parent's home as possible, consistent with the child's best
15 interests and special needs;

16 (h) A projected date likely for the child's return home or other
17 permanent placement; and

18 (i) If a permanent placement plan has been prepared in lieu of a
19 performance agreement, the basis for the unwillingness or inability of
20 the parent or guardian to become a party to a performance agreement.
21 If the reason for the submission of the plan in lieu of a performance
22 agreement was the physical location or the emotional, mental, or
23 physical condition of the parent, the court shall determine if the
24 nature of the location or the condition of the parent and the efforts
25 of the social service agency to secure parental participation in a
26 performance agreement were sufficient to demonstrate the necessity for
27 the use of a permanent placement plan in lieu of a performance
28 agreement. If the court finds that the use of a permanent placement
29 plan, based upon the criteria of unwillingness or inability of the
30 parent or guardian, was not justified, the court shall order the social

1 service agency to submit a performance agreement to the court within
2 thirty days.

3 (2)(a) Based upon the criteria set forth in subsection (1) of this
4 section, the court shall determine whether the social service agency
5 shall initiate proceedings to have a child declared a dependent child,
6 return the child to the parent, continue the child in foster care for
7 a specified period of time, or initiate termination of parental rights
8 proceedings for subsequent placement in an adoptive home.
9 Modifications to the agreement or plan shall be handled in the manner
10 as prescribed in section 6(5) of this act.

11 (b) Upon expiration of the performance agreement, the court shall
12 return the child to the custody of the parents if they have
13 substantially complied with the agreement.

14 (c) If, in the opinion of the court, the social service agency has
15 not complied with its obligations as specified in the written
16 performance agreement, the court may find the social service agency in
17 contempt, shall order the social service agency to submit its plans for
18 compliance with the agreement, and shall require the social service
19 agency to show why the child should not be returned immediately to the
20 home of his or her parents or legal guardian.

21 (d) If the court finds that the parent's or parents' noncompliance
22 with the performance agreement is the fault of the social service
23 agency, but that the child should not be returned home immediately, the
24 agreement shall be extended for a period of six months.

25 (e) The court may extend the time limitation of the performance
26 agreement, or may modify the terms of the agreement, based upon
27 information provided by the social service agency, the natural parent
28 or parents, and the foster parents and any other competent information
29 on record demonstrating the need for the amendment. Modifications to
30 the agreement or plan shall be handled in the manner as prescribed in

1 section 6(5) of this act. Any extension of an agreement shall be in
2 keeping with the time requirements and other requirements specified by
3 this chapter.

4 (f) If, at the time of the eighteen-month judicial review, the
5 child is not returned to the physical custody of his or her natural
6 parents, the agreement shall be extended only if, at the time of the
7 judicial review, the court finds that the situation of the child is so
8 extraordinary that the agreement should be extended. The extension
9 shall be in accordance with section 11 of this act.

10 (g) The court may issue a protective order in assistance, or as a
11 condition, of any other order made under this chapter. In addition to
12 the requirements included in the performance agreement, the protective
13 order may set forth requirements relating to reasonable conditions of
14 behavior to be observed for a specified period of time by a person or
15 agency who is before the court, and such order may require any such
16 person or agency to make periodic reports to the court containing such
17 information as the court in its discretion may prescribe.

18 NEW SECTION. **Sec. 15.** (1) If, in preparation for any judicial
19 review hearing under this chapter, it is the opinion of the social
20 service agency that the parents or legal guardian of the child have not
21 complied with their responsibilities as specified in the written
22 performance agreement, although able to do so, the social service
23 agency shall state its intent to initiate proceedings to terminate
24 parental rights, unless the social service agency can demonstrate to
25 the court that such a recommendation would not be in the child's best
26 interests. If it is the intent of the department or licensed child-
27 placing agency to initiate proceedings to terminate parental rights,
28 the department or licensed child-placing agency shall file a petition
29 for termination of parental rights no later than three months from the

1 date of the previous judicial review hearing. If the petition cannot
2 be filed within three months, the department or licensed child-placing
3 agency shall provide a written report to the court outlining the
4 reasons for delay, the progress made in the termination of parental
5 rights process, and the anticipated date of completion of the process.

6 (2) If, at the time of the eighteen-month judicial review hearing,
7 a child is not returned to the physical custody of his or her natural
8 parents, the social service agency shall initiate termination of
9 parental rights proceedings under this chapter unless, at the time of
10 the judicial review, the court finds that the situation of the child is
11 so extraordinary that the agreement should be extended. If the court
12 decides to extend the agreement, the court shall enter detailed
13 findings justifying the decision to extend, as well as the length of
14 the extension.

15 NEW SECTION. **Sec. 16.** The following acts or parts of acts are
16 each repealed:

17 (1) RCW 13.34.145 and 1989 1st ex.s. c 17 s 18 & 1988 c 194 s 3;
18 and

19 (2) RCW 13.34.150 and 1990 c 246 s 6, 1977 ex.s. c 291 s 43, & 1913
20 c 160 s 15 are each repealed.

21 NEW SECTION. **Sec. 17.** Sections 5 through 15 of this act are
22 each added to chapter 13.34 RCW.