

SENATE BILL 5320

State of Washington

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By Senators Sutherland, L. Smith, Stratton, Talmadge, Roach and Amondson.

Read first time January 28, 1991. Referred to Committee on Children & Family Services.

1 AN ACT Relating to circumstances for removing a child from the
2 home; and reenacting and amending RCW 13.34.130.

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

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

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

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

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

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

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

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

29 (iii) A manifest danger exists that the child will suffer serious
30 abuse or neglect if the child is not removed from the home and an order

1 under RCW 26.44.063 would not protect the child from danger. A
2 manifest danger includes, but is not limited to:

3 (A) Emotional illness, mental illness, or mental deficiency of the
4 parent of such nature and duration as to render the parent incapable of
5 providing proper care for the child;

6 (B) Conduct of the parent toward any child of an abusive, cruel, or
7 sexual nature;

8 (C) Addictive or habitual use of intoxicating liquors or controlled
9 substances by the parent to the extent that parental ability has been
10 substantially impaired;

11 (D) Physical neglect of the child by the parent; or

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

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

27 (a) Conviction of the parent of rape of the child in the first,
28 second, or third degree as defined in RCW 9A.44.073, 9A.44.076, and
29 9A.44.079;

1 (b) Conviction of the parent of criminal mistreatment of the child
2 in the first or second degree as defined in RCW 9A.42.020 and
3 9A.42.030;

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

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

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

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

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

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

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

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

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

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

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

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

25 (4) If there is insufficient information at the time of the
26 disposition hearing upon which to base a determination regarding the
27 suitability of a proposed placement with a relative, the child shall
28 remain in foster care and the court shall direct the supervising agency
29 to conduct necessary background investigations as provided in chapter
30 74.15 RCW and report the results of such investigation to the court

1 within thirty days. However, if such relative appears otherwise
2 suitable and competent to provide care and treatment, the criminal
3 history background check need not be completed before placement, but as
4 soon as possible after placement. Any placements with relatives,
5 pursuant to this section, shall be contingent upon cooperation by the
6 relative with the agency case plan and compliance with court orders
7 related to the care and supervision of the child including, but not
8 limited to, court orders regarding parent-child contacts and any other
9 conditions imposed by the court. Noncompliance with the case plan or
10 court order shall be grounds for removal of the child from the
11 relative's home, subject to review by the court.

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

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

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

28 (i) Whether reasonable services have been provided to or offered to
29 the parties to facilitate reunion, specifying the services provided or
30 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.