
SUBSTITUTE SENATE BILL 6345

State of Washington

52nd Legislature

1992 Regular Session

By Senate Committee on Children & Family Services (originally sponsored by Senators Roach and Oke)

Read first time 02/07/92.

1 AN ACT Relating to nonparental relationships with a child; and
2 amending RCW 13.34.130, 13.34.190, 13.34.260, and 26.09.240.

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

4 **Sec. 1.** RCW 13.34.130 and 1991 c 127 s 4 are each amended to read
5 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. Placement with such relatives may
20 not be denied solely upon the relative's belief or disbelief concerning
21 alleged criminal acts, or criminal convictions, of the child's parent.
22 An order which denies placement with such relatives must include
23 specific reasons for the denial. Any party arguing against placement
24 with such relatives must provide evidence that potential reasons for
25 denial have been discussed and that efforts have been made to overcome
26 such problems. An order for out-of-home placement may be made only if
27 the court finds that reasonable efforts have been made to prevent or
28 eliminate the need for removal of the child from the child's home and
29 to make it possible for the child to return home, specifying the

1 services that have been provided to the child and the child's parent,
2 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 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((7)) or safety((7, ~~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. 2.** RCW 13.34.190 and 1990 c 284 s 33 are each amended to read
20 as follows:

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

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

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

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

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

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

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

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

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

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

21 (~~{(3)}~~—~~{(4)}~~) (4) Such an order is in the best interests of the
22 child.

23 **Sec. 3.** RCW 13.34.260 and 1990 c 284 s 25 are each amended to read
24 as follows:

25 In an attempt to minimize the inherent intrusion in the lives of
26 families involved in the foster care system and to maintain parental
27 authority where appropriate, the department, absent good cause, shall
28 follow the wishes of the natural parent regarding the placement of the
29 child. Preferences such as family constellation, ethnicity, and

1 religion shall be given consideration when matching children to foster
2 homes. The preferential placement may not be denied solely upon the
3 person's belief or disbelief concerning alleged criminal acts, or
4 criminal convictions, of the child's parent. If the department denies
5 the preferential placement, it must provide the parent with specific
6 reasons for the denial, and must provide evidence that these reasons
7 have been discussed and that efforts have been made to overcome such
8 problems. Parental authority is appropriate in areas that are not
9 connected with the abuse or neglect that resulted in the dependency and
10 should be integrated through the foster care team.

11 **Sec. 4.** RCW 26.09.240 and 1989 c 375 s 13 are each amended to read
12 as follows:

13 The court may order visitation rights for a person other than a
14 parent when visitation may serve the best interest of the child whether
15 or not there has been any change of circumstances. The court may not
16 deny visitation solely upon the person's belief or disbelief concerning
17 alleged criminal acts, or criminal convictions, of the child's parent.
18 An order which denies visitation with such relatives must include
19 specific reasons for the denial. Any party arguing against visitation
20 with such relatives must provide evidence that potential reasons for
21 denial have been discussed and that efforts have been made to overcome
22 such problems.

23 A person other than a parent may petition the court for visitation
24 rights at any time.

25 The court may modify an order granting or denying visitation rights
26 whenever modification would serve the best interests of the child.