

2 SHB 1756 - S COMM AMD

3 By Committee on Human Services & Corrections

4 ADOPTED 4/13/95

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

7 "Sec. 1. RCW 13.34.110 and 1993 c 412 s 7 are each amended to read
8 as follows:

9 The court shall hold a fact-finding hearing on the petition and,
10 unless the court dismisses the petition, shall make written findings of
11 fact, stating the reasons therefor, and after it has announced its
12 findings of fact shall hold a hearing to consider disposition of the
13 case immediately following the fact-finding hearing or at a continued
14 hearing within fourteen days or longer for good cause shown. The
15 parties need not appear at the fact-finding or dispositional hearing if
16 the parties, their attorneys, the guardian ad litem, and court-
17 appointed special advocates, if any, are all in agreement. The court
18 shall receive and review a social study before entering an order based
19 on agreement. No social file or social study may be considered by the
20 court in connection with the fact-finding hearing or prior to factual
21 determination, except as otherwise admissible under the rules of
22 evidence. Notice of the time and place of the continued hearing may be
23 given in open court. If notice in open court is not given to a party,
24 that party shall be notified by mail of the time and place of any
25 continued hearing.

26 All hearings may be conducted at any time or place within the
27 limits of the county, and such cases may not be heard in conjunction
28 with other business of any other division of the superior court. The
29 general public shall be excluded, and only such persons may be admitted
30 who are found by the judge to have a direct interest in the case or in
31 the work of the court. Unless the court states on the record the
32 reasons to disallow attendance, the court shall allow a child's
33 relatives and, if a child resides in foster care ((or in the home of a
34 relative pursuant to a disposition order entered under RCW 13.34.130,
35 the court may allow)), the child's foster parent ((or relative care
36 provider)), to attend ((dependency review)) all hearings and

1 proceedings pertaining to the child for the sole purpose of providing
2 oral and written information about the child and the child's welfare to
3 the court.

4 Stenographic notes or any device which accurately records the
5 proceedings may be required as provided in other civil cases pursuant
6 to RCW 2.32.200.

7 **Sec. 2.** RCW 13.34.130 and 1994 c 288 s 4 are each amended to read
8 as follows:

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

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

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

24 (b) Order that the child be removed from his or her home and
25 ordered into the custody, control, and care of a relative or the
26 department of social and health services or a licensed child placing
27 agency for placement in a foster family home or group care facility
28 licensed pursuant to chapter 74.15 RCW or in a home not required to be
29 licensed pursuant to chapter 74.15 RCW. Unless there is reasonable
30 cause to believe that the safety or welfare of the child would be
31 jeopardized or that efforts to reunite the parent and child will be
32 hindered, such child shall be placed with a grandparent, brother,
33 sister, stepbrother, stepsister, uncle, aunt, or first cousin with whom
34 the child has a relationship and is comfortable, and who is willing and
35 available to care for the child. Placement of the child with a
36 relative under this subsection shall be given preference by the court.
37 An order for out-of-home placement may be made only if the court finds
38 that reasonable efforts have been made to prevent or eliminate the need

1 for removal of the child from the child's home and to make it possible
2 for the child to return home, specifying the services that have been
3 provided to the child and the child's parent, guardian, or legal
4 custodian, and that preventive services have been offered or provided
5 and have failed to prevent the need for out-of-home placement, unless
6 the health, safety, and welfare of the child cannot be protected
7 adequately in the home, and that:

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

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

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

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

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

30 (a) Conviction of the parent of rape of the child in the first,
31 second, or third degree as defined in RCW 9A.44.073, 9A.44.076, and
32 9A.44.079;

33 (b) Conviction of the parent of criminal mistreatment of the child
34 in the first or second degree as defined in RCW 9A.42.020 and
35 9A.42.030;

36 (c) Conviction of the parent of one of the following assault
37 crimes, when the child is the victim: Assault in the first or second
38 degree as defined in RCW 9A.36.011 and 9A.36.021 or assault of a child
39 in the first or second degree as defined in RCW 9A.36.120 or 9A.36.130;

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

3 (e) A finding by a court that a parent is a sexually violent
4 predator as defined in RCW 71.09.020;

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

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

12 (a) A permanency plan of care that shall identify one of the
13 following outcomes as a primary goal and may identify additional
14 outcomes as alternative goals: Return of the child to the home of the
15 child's parent, guardian, or legal custodian; adoption; guardianship;
16 or long-term relative or foster care, until the child is age eighteen,
17 with a written agreement between the parties and the care provider.

18 (b) Unless the court has ordered, pursuant to subsection (2) of
19 this section, that a termination petition be filed, a specific plan as
20 to where the child will be placed, what steps will be taken to return
21 the child home, and what actions the agency will take to maintain
22 parent-child ties. All aspects of the plan shall include the goal of
23 achieving 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
31 placement. Visitation may be limited or denied only if the court
32 determines that such limitation or denial is necessary to protect the
33 child's health, safety, or welfare.

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

38 (iv) The agency charged with supervising a child in placement shall
39 provide all reasonable services that are available within the agency,

1 or within the community, or those services which the department of
2 social and health services has existing contracts to purchase. It
3 shall report to the court if it is unable to provide such services.

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

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

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

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

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

10 (i) Whether reasonable services have been provided to or offered to
11 the parties to facilitate reunion, specifying the services provided or
12 offered;

13 (ii) Whether the child has been placed in the least-restrictive
14 setting appropriate to the child's needs, including whether
15 consideration and preference has been given to placement with the
16 child's relatives;

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

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

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

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

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

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

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

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4 On page 1, line 1 of the title, after "children;" strike the
5 remainder of the title and insert "and amending RCW 13.34.110 and
6 13.34.130."

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