

2 **SHB 2557** - S COMM AMD

3 By Committee on Human Services & Corrections

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

7 "NEW SECTION. **Sec. 1.** A new section is added to chapter 11.88 RCW  
8 to read as follows:

9 A guardianship for a minor may not be entered under this chapter if  
10 a dependency action is currently pending under chapter 13.34 RCW for  
11 the minor, unless the guardian and guardianship have been approved in  
12 the permanency plan by the juvenile court.

13 **Sec. 2.** RCW 13.34.030 and 1995 c 311 s 23 are each amended to read  
14 as follows:

15 For purposes of this chapter:

16 (1) "Child" and "juvenile" means any individual under the age of  
17 eighteen years.

18 (2) "Current placement episode" means the period of time that  
19 begins with the most recent date that the child was removed from the  
20 home of the parent, guardian, or legal custodian for purposes of  
21 placement in out-of-home care and continues until the child returns  
22 home, an adoption decree, a permanent custody order, or guardianship  
23 order is entered, or the dependency is dismissed, whichever occurs  
24 soonest. If the most recent date of removal occurred prior to the  
25 filing of a dependency petition under this chapter or after filing but  
26 prior to entry of a disposition order, such time periods shall be  
27 included when calculating the length of a child's current placement  
28 episode.

29 (3) "Dependency guardian" means the person, nonprofit corporation,  
30 or Indian tribe appointed by the court pursuant to RCW 13.34.232 for  
31 the limited purpose of assisting the court in the supervision of the  
32 dependency.

33 (4) "Dependent child" means any child:

34 (a) Who has been abandoned; that is, where the child's parent,  
35 guardian, or other custodian has expressed either by statement or

1 conduct, an intent to forego, for an extended period, parental rights  
2 or parental responsibilities despite an ability to do so. If the court  
3 finds that the petitioner has exercised due diligence in attempting to  
4 locate the parent, no contact between the child and the child's parent,  
5 guardian, or other custodian for a period of three months creates a  
6 rebuttable presumption of abandonment, even if there is no expressed  
7 intent to abandon;

8 (b) Who is abused or neglected as defined in chapter 26.44 RCW by  
9 a person legally responsible for the care of the child;

10 (c) Who has no parent, guardian, or custodian capable of adequately  
11 caring for the child, such that the child is in circumstances which  
12 constitute a danger of substantial damage to the child's psychological  
13 or physical development; or

14 (d) Who has a developmental disability, as defined in RCW  
15 71A.10.020 and whose parent, guardian, or legal custodian together with  
16 the department determines that services appropriate to the child's  
17 needs can not be provided in the home. However, (a), (b), and (c) of  
18 this subsection may still be applied if other reasons for removal of  
19 the child from the home exist.

20 (5) "Guardian" means the person or agency that: (a) Has been  
21 appointed as the guardian of a child in a legal proceeding other than  
22 a proceeding under this chapter; and (b) has the legal right to custody  
23 of the child pursuant to such appointment. The term "guardian" shall  
24 not include a "dependency guardian" appointed pursuant to a proceeding  
25 under this chapter.

26 (6) "Guardian ad litem" means a person, appointed by the court to  
27 represent the best interest of a child in a proceeding under this  
28 chapter, or in any matter which may be consolidated with a proceeding  
29 under this chapter. A "court-appointed special advocate" appointed by  
30 the court to be the guardian ad litem for the child, or to perform  
31 substantially the same duties and functions as a guardian ad litem,  
32 shall be deemed to be guardian ad litem for all purposes and uses of  
33 this chapter.

34 (7) "Guardian ad litem program" means a court-authorized volunteer  
35 program, which is or may be established by the superior court of the  
36 county in which such proceeding is filed, to manage all aspects of  
37 volunteer guardian ad litem representation for children alleged or  
38 found to be dependent. Such management shall include but is not

1 limited to: Recruitment, screening, training, supervision, assignment,  
2 and discharge of volunteers.

3 (8) "Out-of-home care" means placement in a foster family home or  
4 group care facility licensed pursuant to chapter 74.15 RCW or placement  
5 in a home, other than that of the child's parent, guardian, or legal  
6 custodian, not required to be licensed pursuant to chapter 74.15 RCW.

7 (9) "Preventive services" means preservation services, as defined  
8 in chapter 74.14C RCW, and other reasonably available services capable  
9 of preventing the need for out-of-home placement while protecting the  
10 child.

11 **Sec. 3.** RCW 13.34.130 and 1995 c 313 s 2, 1995 c 311 s 19, and  
12 1995 c 53 s 1 are each reenacted and amended to read as follows:

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

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

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

28 (b) Order that the child be removed from his or her home and  
29 ordered into the custody, control, and care of a relative or the  
30 department of social and health services or a licensed child placing  
31 agency for placement in a foster family home or group care facility  
32 licensed pursuant to chapter 74.15 RCW or in a home not required to be  
33 licensed pursuant to chapter 74.15 RCW. Unless there is reasonable  
34 cause to believe that the safety or welfare of the child would be  
35 jeopardized or that efforts to reunite the parent and child will be  
36 hindered, such child shall be placed with a person who is related to  
37 the child as defined in RCW 74.15.020(4)(a) and with whom the child has  
38 a relationship and is comfortable, and who is willing and available to

1 care for the child. Placement of the child with a relative under this  
2 subsection shall be given preference by the court. An order for out-  
3 of-home placement may be made only if the court finds that reasonable  
4 efforts have been made to prevent or eliminate the need for removal of  
5 the child from the child's home and to make it possible for the child  
6 to return home, specifying the services that have been provided to the  
7 child and the child's parent, guardian, or legal custodian, and that  
8 preventive services have been offered or provided and have failed to  
9 prevent the need for out-of-home placement, unless the health, safety,  
10 and welfare of the child cannot be protected adequately in the home,  
11 and that:

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

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

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

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

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

34 (a) Conviction of the parent of rape of the child in the first,  
35 second, or third degree as defined in RCW 9A.44.073, 9A.44.076, and  
36 9A.44.079;

37 (b) Conviction of the parent of criminal mistreatment of the child  
38 in the first or second degree as defined in RCW 9A.42.020 and  
39 9A.42.030;

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

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

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

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

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

16 (a) A permanency plan of care that shall identify one of the  
17 following outcomes as a primary goal and may identify additional  
18 outcomes as alternative goals: Return of the child to the home of the  
19 child's parent, guardian, or legal custodian; adoption; guardianship;  
20 permanent legal custody; or long-term relative or foster care, until  
21 the child is age eighteen, with a written agreement between the parties  
22 and the care provider; and independent living, if appropriate and if  
23 the child is age sixteen or older. Whenever a permanency plan  
24 identifies independent living as a goal, the plan shall also  
25 specifically identify the services that will be provided to assist the  
26 child to make a successful transition from foster care to independent  
27 living. Before the court approves independent living as a permanency  
28 plan of care, the court shall make a finding that the provision of  
29 services to assist the child in making a transition from foster care to  
30 independent living will allow the child to manage his or her financial  
31 affairs and to manage his or her personal, social, educational, and  
32 nonfinancial affairs. The department shall not discharge a child to an  
33 independent living situation before the child is eighteen years of age  
34 unless the child becomes emancipated pursuant to chapter 13.64 RCW.

35 (b) Unless the court has ordered, pursuant to subsection (2) of  
36 this section, that a termination petition be filed, a specific plan as  
37 to where the child will be placed, what steps will be taken to return  
38 the child home, and what actions the agency will take to maintain

1 parent-child ties. All aspects of the plan shall include the goal of  
2 achieving permanence for the child.

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

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

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

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

22 (c) If the court has ordered, pursuant to subsection (2) of this  
23 section, that a termination petition be filed, a specific plan as to  
24 where the child will be placed, what steps will be taken to achieve  
25 permanency for the child, services to be offered or provided to the  
26 child, and, if visitation would be in the best interests of the child,  
27 a recommendation to the court regarding visitation between parent and  
28 child pending a fact-finding hearing on the termination petition. The  
29 agency shall not be required to develop a plan of services for the  
30 parents or provide services to the parents.

31 (4) If there is insufficient information at the time of the  
32 disposition hearing upon which to base a determination regarding the  
33 suitability of a proposed placement with a relative, the child shall  
34 remain in foster care and the court shall direct the supervising agency  
35 to conduct necessary background investigations as provided in chapter  
36 74.15 RCW and report the results of such investigation to the court  
37 within thirty days. However, if such relative appears otherwise  
38 suitable and competent to provide care and treatment, the criminal  
39 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;

30 (ii) Whether the child has been placed in the least-restrictive  
31 setting appropriate to the child's needs, including whether  
32 consideration and preference has been given to placement with the  
33 child's relatives;

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

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

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

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

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

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

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

10 **Sec. 4.** RCW 13.34.145 and 1995 c 311 s 20 and 1995 c 53 s 2 are  
11 each reenacted and amended to read as follows:

12 (1) A permanency plan shall be developed no later than sixty days  
13 from the time the supervising agency assumes responsibility for  
14 providing services, including placing the child, or at the time of a  
15 hearing under RCW 13.34.130, whichever occurs first. The permanency  
16 planning process continues until a permanency planning goal is achieved  
17 or dependency is dismissed. The planning process shall include  
18 reasonable efforts to return the child to the parent's home.

19 (a) Whenever a child is placed in out-of-home care pursuant to RCW  
20 13.34.130, the agency that has custody of the child shall provide the  
21 court with a written permanency plan of care directed towards securing  
22 a safe, stable, and permanent home for the child as soon as possible.  
23 The plan shall identify one of the following outcomes as the primary  
24 goal and may also identify additional outcomes as alternative goals:  
25 Return of the child to the home of the child's parent, guardian, or  
26 legal custodian; adoption; guardianship; permanent legal custody; or  
27 long-term relative or foster care, until the child is age eighteen,  
28 with a written agreement between the parties and the care provider; and  
29 independent living, if appropriate and if the child is age sixteen or  
30 older and the provisions of subsection (2) of this section are met.

31 (b) The identified outcomes and goals of the permanency plan may  
32 change over time based upon the circumstances of the particular case.

33 (c) Permanency planning goals should be achieved at the earliest  
34 possible date, preferably before the child has been in out-of-home care  
35 for fifteen months. In cases where parental rights have been  
36 terminated, the child is legally free for adoption, and adoption has  
37 been identified as the primary permanency planning goal, it shall be a

1 goal to complete the adoption within six months following entry of the  
2 termination order.

3 (d) For purposes related to permanency planning:

4 (i) "Guardianship" means a dependency guardianship pursuant to this  
5 chapter, a legal guardianship pursuant to chapter 11.88 RCW, or  
6 equivalent laws of another state or a federally recognized Indian  
7 tribe.

8 (ii) "Permanent legal custody" or "permanent custody" means legal  
9 custody of a relative child pursuant to chapter 26.10 RCW or equivalent  
10 laws of another state or of a federally recognized Indian tribe.

11 (2) Whenever a permanency plan identifies independent living as a  
12 goal, the plan shall also specifically identify the services that will  
13 be provided to assist the child to make a successful transition from  
14 foster care to independent living. Before the court approves  
15 independent living as a permanency plan of care, the court shall make  
16 a finding that the provision of services to assist the child in making  
17 a transition from foster care to independent living will allow the  
18 child to manage his or her financial affairs and to manage his or her  
19 personal, social, educational, and nonfinancial affairs. The  
20 department shall not discharge a child to an independent living  
21 situation before the child is eighteen years of age unless the child  
22 becomes emancipated pursuant to chapter 13.64 RCW.

23 (3)(a) For children ten and under, a permanency planning hearing  
24 shall be held in all cases where the child has remained in out-of-home  
25 care for at least nine months and an adoption decree ~~((or))~~,  
26 guardianship order, or permanent custody order has not previously been  
27 entered. The hearing shall take place no later than twelve months  
28 following commencement of the current placement episode.

29 (b) For children over ten, a permanency planning hearing shall be  
30 held in all cases where the child has remained in out-of-home care for  
31 at least fifteen months and an adoption decree ~~((or))~~,  
32 guardianship order, or permanent custody order has not previously been entered. The  
33 hearing shall take place no later than eighteen months following  
34 commencement of the current placement episode.

35 (4) Whenever a child is removed from the home of a dependency  
36 guardian or long-term relative or foster care provider, and the child  
37 is not returned to the home of the parent, guardian, or legal custodian  
38 but is placed in out-of-home care, a permanency planning hearing shall  
39 take place no later than twelve or eighteen months, as provided in

1 subsection (3) of this section, following the date of removal unless,  
2 prior to the hearing, the child returns to the home of the dependency  
3 guardian or long-term care provider, the child is placed in the home of  
4 the parent, guardian, or legal custodian, an adoption decree ~~((or))~~,  
5 guardianship order, or permanent custody order is entered, or the  
6 dependency is dismissed.

7 (5) No later than ten working days prior to the permanency planning  
8 hearing, the agency having custody of the child shall submit a written  
9 permanency plan to the court and shall mail a copy of the plan to all  
10 parties and their legal counsel, if any.

11 (6) At the permanency planning hearing, the court shall enter  
12 findings as required by RCW 13.34.130(5) and shall review the  
13 permanency plan prepared by the agency. If the child has resided in  
14 the home of a foster parent or relative for more than six months prior  
15 to the permanency planning hearing, the court shall also enter a  
16 finding regarding whether the foster parent or relative was informed of  
17 the hearing as required in RCW 74.13.280. If a goal of long-term  
18 foster or relative care has been achieved prior to the permanency  
19 planning hearing, the court shall review the child's status to  
20 determine whether the placement and the plan for the child's care  
21 remain appropriate. In cases where the primary permanency planning  
22 goal has not yet been achieved, the court shall inquire regarding the  
23 reasons why the primary goal has not been achieved and determine what  
24 needs to be done to make it possible to achieve the primary goal. In  
25 all cases, the court shall:

26 (a)(i) Order the permanency plan prepared by the agency to be  
27 implemented; or

28 (ii) Modify the permanency plan, and order implementation of the  
29 modified plan; and

30 (b)(i) Order the child returned home only if the court finds that  
31 a reason for removal as set forth in RCW 13.34.130 no longer exists; or

32 (ii) Order the child to remain in out-of-home care for a limited  
33 specified time period while efforts are made to implement the  
34 permanency plan.

35 (7) If the court orders the child returned home, casework  
36 supervision shall continue for at least six months, at which time a  
37 review hearing shall be held pursuant to RCW 13.34.130(5), and the  
38 court shall determine the need for continued intervention.

1       (8) If a dependency action is pending under this chapter and the  
2 dependent child is the subject of a guardianship proceeding under  
3 chapter 11.88 RCW or a legal custody proceeding under chapter 26.10  
4 RCW, juvenile court jurisdiction will prevent the entry of an order  
5 establishing a legal guardianship or permanent legal custody unless,  
6 (a) the juvenile court has ordered implementation of a permanency plan  
7 that includes legal guardianship or permanent legal custody, and (b)  
8 the party pursuing the legal guardianship or permanent legal custody is  
9 a relative identified in the permanency plan as the prospective legal  
10 guardian or custodian. During the pendency of the guardianship or  
11 legal custody proceedings, juvenile court shall conduct review hearings  
12 and further permanency planning hearings as provided in this chapter.  
13 At the conclusion of the legal guardianship or permanent legal custody  
14 proceeding, a juvenile court review hearing shall be held for the  
15 purpose of determining whether dependency should be dismissed.

16       (9) Following the first permanency planning hearing, the court  
17 shall hold a further permanency planning hearing in accordance with  
18 this section at least once every twelve months until a permanency  
19 planning goal is achieved or the dependency is dismissed, whichever  
20 occurs first.

21       (~~(9)~~) (10) Except as otherwise provided in RCW 13.34.235, the  
22 status of all dependent children shall continue to be reviewed by the  
23 court at least once every six months, in accordance with RCW  
24 13.34.130(5), until the dependency is dismissed. Prior to the second  
25 permanency planning hearing, the agency that has custody of the child  
26 shall consider whether to file a petition for termination of parental  
27 rights.

28       (~~(10)~~) (11) Nothing in this chapter may be construed to limit the  
29 ability of the agency that has custody of the child to file a petition  
30 for termination of parental rights or a guardianship petition at any  
31 time following the establishment of dependency. Upon the filing of  
32 such a petition, a fact-finding hearing shall be scheduled and held in  
33 accordance with this chapter unless the agency requests dismissal of  
34 the petition prior to the hearing or unless the parties enter an agreed  
35 order terminating parental rights, establishing guardianship, or  
36 otherwise resolving the matter.

37       (~~(11)~~) (12) The approval of a permanency plan that does not  
38 contemplate return of the child to the parent does not relieve the  
39 supervising agency of its obligation to provide reasonable services,

1 under this chapter, intended to effectuate the return of the child to  
2 the parent, including but not limited to, visitation rights.

3 ~~((12))~~ (13) Nothing in this chapter may be construed to limit the  
4 procedural due process rights of any party in a termination or  
5 guardianship proceeding filed under this chapter.

6 NEW SECTION. **Sec. 5.** A new section is added to chapter 26.10 RCW  
7 to read as follows:

8 A custody decree for a minor may not be entered under this chapter  
9 if a dependency action is currently pending under chapter 13.34 RCW for  
10 the minor, unless the custodian and legal custody have been approved in  
11 the permanency plan by the juvenile court."

12 **SHB 2557** - S COMM AMD

13 By Committee on Human Services & Corrections

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15 On page 1, line 1 of the title, after "children;" strike the  
16 remainder of the title and insert "amending RCW 13.34.030; reenacting  
17 and amending RCW 13.34.130 and 13.34.145; adding a new section to  
18 chapter 11.88 RCW; and adding a new section to chapter 26.10 RCW."

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