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SENATE BILL 5748

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State of Washington

56th Legislature

1999 Regular Session

By Senator Stevens

Read first time 02/05/1999. Referred to Committee on Human Services & Corrections.

1 AN ACT Relating to technical corrections to RCW 13.34.130; and  
2 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 1998 c 314 s 2 and 1998 c 130 s 2 are  
5 each reenacted and amended to read as follows:

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

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

14 (a) Order a disposition other than removal of the child from his or  
15 her home, which shall provide a program designed to alleviate the  
16 immediate danger to the child, to mitigate or cure any damage the child  
17 has already suffered, and to aid the parents so that the child will not  
18 be endangered in the future. In selecting a program, the court should

1 choose those services that least interfere with family autonomy,  
2 provided that the services are adequate to protect the child.

3 (b) Order that the child be removed from his or her home and  
4 ordered into the custody, control, and care of a relative or the  
5 department of social and health services or a licensed child placing  
6 agency for placement in a foster family home or group care facility  
7 licensed pursuant to chapter 74.15 RCW or in a home not required to be  
8 licensed pursuant to chapter 74.15 RCW. Unless there is reasonable  
9 cause to believe that the safety or welfare of the child would be  
10 jeopardized or that efforts to reunite the parent and child will be  
11 hindered, such child shall be placed with a person who is related to  
12 the child as defined in RCW 74.15.020(~~(+4)~~) (2)(a) and with whom the  
13 child has a relationship and is comfortable, and who is willing and  
14 available to care for the child. Placement of the child with a  
15 relative under this subsection shall be given preference by the court.  
16 An order for out-of-home placement may be made only if the court finds  
17 that reasonable efforts have been made to prevent or eliminate the need  
18 for removal of the child from the child's home and to make it possible  
19 for the child to return home, specifying the services that have been  
20 provided to the child and the child's parent, guardian, or legal  
21 custodian, and that preventive services have been offered or provided  
22 and have failed to prevent the need for out-of-home placement, unless  
23 the health, safety, and welfare of the child cannot be protected  
24 adequately in the home, 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) The court finds, by clear, cogent, and convincing evidence,  
30 a manifest danger exists that the child will suffer serious abuse or  
31 neglect if the child is not removed from the home and an order under  
32 RCW 26.44.063 would not protect the child from danger; or

33 (iv) The extent of the child's disability is such that the parent,  
34 guardian, or legal custodian is unable to provide the necessary care  
35 for the child and the parent, guardian, or legal custodian has  
36 determined that the child would benefit from placement outside of the  
37 home.

38 (2) If the court has ordered a child removed from his or her home  
39 pursuant to subsection (1)(b) of this section, the court may order that

1 a petition seeking termination of the parent and child relationship be  
2 filed if the court finds: (a) Termination is recommended by the  
3 supervising agency; (b) termination is in the best interests of the  
4 child; and (c) that because of the existence of aggravated  
5 circumstances, reasonable efforts to unify the family are not required.  
6 Notwithstanding the existence of aggravated circumstances, reasonable  
7 efforts may be required if the court or department determines it is in  
8 the best interest of the child. In determining whether aggravated  
9 circumstances exist, the court shall consider one or more of the  
10 following:

11 (i) Conviction of the parent of rape of the child in the first,  
12 second, or third degree as defined in RCW 9A.44.073, 9A.44.076, and  
13 9A.44.079;

14 (ii) Conviction of the parent of criminal mistreatment of the child  
15 in the first or second degree as defined in RCW 9A.42.020 and  
16 9A.42.030;

17 (iii) Conviction of the parent of one of the following assault  
18 crimes, when the child is the victim: Assault in the first or second  
19 degree as defined in RCW 9A.36.011 and 9A.36.021 or assault of a child  
20 in the first or second degree as defined in RCW 9A.36.120 or 9A.36.130;

21 (iv) Conviction of the parent of murder, manslaughter, or homicide  
22 by abuse of the child's other parent, sibling, or another child;

23 (v) Conviction of the parent of attempting, soliciting, or  
24 conspiracy to commit a crime listed in (c)(i), (ii), (iii), or (iv) of  
25 this subsection;

26 (vi) A finding by a court that a parent is a sexually violent  
27 predator as defined in RCW 71.09.020;

28 (vii) Failure of the parent to complete available treatment ordered  
29 under this chapter or the equivalent laws of another state, where such  
30 failure has resulted in a prior termination of parental rights to  
31 another child and the parent has failed to effect significant change in  
32 the interim. In the case of a parent of an Indian child, as defined in  
33 the Indian Child Welfare Act, P.L. 95-608 (25 U.S.C. (~~{Sec.}~~)) Sec.  
34 1903), the court shall also consider tribal efforts to assist the  
35 parent in completing treatment and make it possible for the child to  
36 return home;

37 (viii) An infant under three years of age has been abandoned as  
38 defined in RCW 13.34.030(4)(a);

1 (ix) The mother has given birth to three or more drug-affected  
2 infants, resulting in the department filing a petition under section 23  
3 of this act.

4 (3) If reasonable efforts are not ordered under subsection (2) of  
5 this section a permanency (~~(plan [planning])~~) planning hearing shall be  
6 held within thirty days. Reasonable efforts shall be made to place the  
7 child in a timely manner in accordance with the permanency plan, and to  
8 complete whatever steps are necessary to finalize the permanent  
9 placement of the child.

10 (4) 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 permanent legal custody; or long-term relative or foster care, until  
17 the child is age eighteen, with a written agreement between the parties  
18 and the care provider; and independent living, if appropriate and if  
19 the child is age sixteen or older. Whenever a permanency plan  
20 identifies independent living as a goal, the plan shall also  
21 specifically identify the services that will be provided to assist the  
22 child to make a successful transition from foster care to independent  
23 living. Before the court approves independent living as a permanency  
24 plan of care, the court shall make a finding that the provision of  
25 services to assist the child in making a transition from foster care to  
26 independent living will allow the child to manage his or her financial  
27 affairs and to manage his or her personal, social, educational, and  
28 nonfinancial affairs. The department shall not discharge a child to an  
29 independent living situation before the child is eighteen years of age  
30 unless the child becomes emancipated pursuant to chapter 13.64 RCW.

31 (b) Unless the court has ordered, pursuant to subsection (2) of  
32 this section, that a termination petition be filed, a specific plan as  
33 to where the child will be placed, what steps will be taken to return  
34 the child home, and what actions the agency will take to maintain  
35 parent-child ties. All aspects of the plan shall include the goal of  
36 achieving permanence for the child.

37 (i) The agency plan shall specify what services the parents will be  
38 offered in order to enable them to resume custody, what requirements

1 the parents must meet in order to resume custody, and a time limit for  
2 each service plan and parental requirement.

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

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

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

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

27 (5) If the court determines that the continuation of reasonable  
28 efforts to prevent or eliminate the need to remove the child from his  
29 or her home or to safely return the child home should not be part of  
30 the permanency plan of care for the child, reasonable efforts shall be  
31 made to place the child in a timely manner and to complete whatever  
32 steps are necessary to finalize the permanent placement of the child.

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

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

11 (7) Except for children whose cases are reviewed by a citizen  
12 review board under chapter 13.70 RCW, the status of all children found  
13 to be dependent shall be reviewed by the court at least every six  
14 months from the beginning date of the placement episode or the date  
15 dependency is established, whichever is first, at a hearing in which it  
16 shall be determined whether court supervision should continue. The  
17 review shall include findings regarding the agency and parental  
18 completion of disposition plan requirements, and if necessary, revised  
19 permanency time limits. The supervising agency shall provide a foster  
20 parent, preadoptive parent, or relative with notice of, and their right  
21 to an opportunity to be heard in, a review hearing pertaining to the  
22 child, but only if that person is currently providing care to that  
23 child at the time of the hearing. This section shall not be construed  
24 to grant party status to any person who has been provided an  
25 opportunity to be heard.

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

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

35 (i) Whether reasonable services have been provided to or offered to  
36 the parties to facilitate reunion, specifying the services provided or  
37 offered;

38 (ii) Whether the child has been placed in the least-restrictive  
39 setting appropriate to the child's needs, including whether

1 consideration and preference has been given to placement with the  
2 child's relatives;

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

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

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

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

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

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

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

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