

CERTIFICATION OF ENROLLMENT
SECOND SUBSTITUTE SENATE BILL 5210

Chapter 17, Laws of 1999

56th Legislature
1999 Regular Session

SHELTER CARE HEARINGS--PLACING A CHILD WITH A RELATIVE--REVIEW OF
COURT COMMISSIONER DECISIONS

EFFECTIVE DATE: 7/25/99

Passed by the Senate March 16, 1999
YEAS 43 NAYS 0

BRAD OWEN
President of the Senate

Passed by the House April 6, 1999
YEAS 92 NAYS 0

CLYDE BALLARD
**Speaker of the
House of Representatives**

FRANK CHOPP
**Speaker of the
House of Representatives**

Approved April 15, 1999

GARY LOCKE
Governor of the State of Washington

CERTIFICATE

I, Tony M. Cook, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SECOND SUBSTITUTE SENATE BILL 5210** as passed by the Senate and the House of Representatives on the dates hereon set forth.

TONY M. COOK
Secretary

FILED

April 15, 1999 - 3:49 p.m.

**Secretary of State
State of Washington**

SECOND SUBSTITUTE SENATE BILL 5210

Passed Legislature - 1999 Regular Session

State of Washington

56th Legislature

1999 Regular Session

By Senate Committee on Ways & Means (originally sponsored by Senators Stevens, Hargrove, Long, Zarelli, Patterson and Franklin)

Read first time 03/08/1999.

1 AN ACT Relating to placement of children with a relative prior to
2 and at a shelter care hearing; amending RCW 13.34.060; and adding a new
3 section to chapter 13.34 RCW.

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

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 13.34 RCW
6 to read as follows:

7 The legislature has found that any intervention into the life of a
8 child is also an intervention in the life of the parent, guardian, or
9 legal custodian, and that the bond between child and parent is a
10 critical element of child development. The legislature now also finds
11 that children who cannot be with their parents, guardians, or legal
12 custodians are best cared for, whenever possible and appropriate by
13 family members with whom they have a relationship. This is
14 particularly important when a child cannot be in the care of a parent,
15 guardian, or legal custodian as a result of a court intervention.

16 **Sec. 2.** RCW 13.34.060 and 1998 c 328 s 2 are each amended to read
17 as follows:

1 (1) A child taken into custody pursuant to RCW 13.34.050 or
2 26.44.050 shall be immediately placed in shelter care. A child taken
3 by a relative of the child in violation of RCW 9A.40.060 or 9A.40.070
4 shall be placed in shelter care only when permitted under RCW
5 13.34.055. "Shelter care" means temporary physical care in a facility
6 licensed pursuant to RCW 74.15.030 or in a home not required to be
7 licensed pursuant to that section.

8 (a) Unless there is reasonable cause to believe that the safety or
9 welfare of the child would be jeopardized or that the efforts to
10 reunite the parent and child will be hindered, priority placement for
11 a child in shelter care shall be with any person described in RCW
12 74.15.020(2)(a). The person must be willing and available to care for
13 the child and be able to meet any special needs of the child. If a
14 child is not initially placed with a relative pursuant to this section,
15 the supervising agency shall make an effort within available resources
16 to place the child with a relative on the next business day. The
17 supervising agency shall document its effort to place the child with a
18 relative pursuant to this section. Nothing within this subsection
19 (1)(a) establishes an entitlement to services or a right to a
20 particular placement.

21 (b) Whenever a child is taken into such custody pursuant to this
22 section, the supervising agency may authorize evaluations of the
23 child's physical or emotional condition, routine medical and dental
24 examination and care, and all necessary emergency care. In no case may
25 a child who is taken into custody pursuant to RCW 13.34.055, 13.34.050,
26 or 26.44.050 be detained in a secure detention facility. No child may
27 be held longer than seventy-two hours, excluding Saturdays, Sundays and
28 holidays, after such child is taken into custody unless a court order
29 has been entered for continued shelter care. The child and his or her
30 parent, guardian, or custodian shall be informed that they have a right
31 to a shelter care hearing. The court shall hold a shelter care hearing
32 within seventy-two hours after the child is taken into custody,
33 excluding Saturdays, Sundays, and holidays. If a parent, guardian, or
34 legal custodian desires to waive the shelter care hearing, the court
35 shall determine, on the record and with the parties present, that such
36 waiver is knowing and voluntary.

37 (2) Whenever a child is taken into custody by child protective
38 services pursuant to a court order issued under RCW 13.34.050 or when
39 child protective services is notified that a child has been taken into

1 custody pursuant to RCW 26.44.050 or 26.44.056, child protective
2 services shall make reasonable efforts to inform the parents, guardian,
3 or legal custodian of the fact that the child has been taken into
4 custody, the reasons why the child was taken into custody, and their
5 legal rights under this title as soon as possible and in no event
6 longer than twenty-four hours after the child has been taken into
7 custody or twenty-four hours after child protective services has been
8 notified that the child has been taken into custody. The notice of
9 custody and rights may be given by any means reasonably certain of
10 notifying the parents including, but not limited to, written,
11 telephone, or in person oral notification. If the initial notification
12 is provided by a means other than writing, child protective services
13 shall make reasonable efforts to also provide written notification.

14 The written notice of custody and rights shall be in substantially
15 the following form:

16 "NOTICE

17 Your child has been placed in temporary custody under the
18 supervision of Child Protective Services (or other person or agency).
19 You have important legal rights and you must take steps to protect your
20 interests.

21 1. A court hearing will be held before a judge within 72 hours of
22 the time your child is taken into custody. You should call the court
23 at (insert appropriate phone number here) for specific
24 information about the date, time, and location of the court hearing.

25 2. You have the right to have a lawyer represent you at the
26 hearing. You have the right to records the department intends to rely
27 upon. A lawyer can look at the files in your case, talk to child
28 protective services and other agencies, tell you about the law, help
29 you understand your rights, and help you at hearings. If you cannot
30 afford a lawyer, the court will appoint one to represent you. To get
31 a court-appointed lawyer you must contact: (explain local
32 procedure) .

33 3. At the hearing, you have the right to speak on your own behalf,
34 to introduce evidence, to examine witnesses, and to receive a decision
35 based solely on the evidence presented to the judge.

36 4. If your hearing occurs before a court commissioner, you have the
37 right to have the decision of the court commissioner reviewed by a
38 superior court judge. To obtain that review, you must, within ten days

1 after the entry of the decision of the court commissioner, file with
2 the court a motion for revision of the decision, as provided in RCW
3 2.24.050.

4 You should be present at this hearing. If you do not come, the
5 judge will not hear what you have to say.

6 You may call the Child Protective Services' caseworker for more
7 information about your child. The caseworker's name and telephone
8 number are: (insert name and telephone number) ."

9 Upon receipt of the written notice, the parent, guardian, or legal
10 custodian shall acknowledge such notice by signing a receipt prepared
11 by child protective services. If the parent, guardian, or legal
12 custodian does not sign the receipt, the reason for lack of a signature
13 shall be written on the receipt. The receipt shall be made a part of
14 the court's file in the dependency action.

15 If after making reasonable efforts to provide notification, child
16 protective services is unable to determine the whereabouts of the
17 parents, guardian, or legal custodian, the notice shall be delivered or
18 sent to the last known address of the parent, guardian, or legal
19 custodian.

20 (3) If child protective services is not required to give notice
21 under subsection (2) of this section, the juvenile court counselor
22 assigned to the matter shall make all reasonable efforts to advise the
23 parents, guardian, or legal custodian of the time and place of any
24 shelter care hearing, request that they be present, and inform them of
25 their basic rights as provided in RCW 13.34.090.

26 (4) Reasonable efforts to advise and to give notice, as required in
27 subsections (2) and (3) of this section, shall include, at a minimum,
28 investigation of the whereabouts of the parent, guardian, or legal
29 custodian. If such reasonable efforts are not successful, or the
30 parent, guardian, or legal custodian does not appear at the shelter
31 care hearing, the juvenile court counselor or caseworker shall testify
32 at the hearing or state in a declaration:

33 (a) The efforts made to investigate the whereabouts of, and to
34 advise, the parent, guardian, or legal custodian; and

35 (b) Whether actual advice of rights was made, to whom it was made,
36 and how it was made, including the substance of any oral communication
37 or copies of written materials used.

38 (5) At the commencement of the shelter care hearing the court shall
39 advise the parties of their basic rights as provided in RCW 13.34.090

1 and shall appoint counsel pursuant to RCW 13.34.090 if counsel has not
2 been retained by the parent or guardian and if the parent or guardian
3 is indigent, unless the court finds that the right to counsel has been
4 expressly and voluntarily waived in court.

5 (6) The court shall hear evidence regarding notice given to, and
6 efforts to notify, the parent, guardian, or legal custodian and shall
7 examine the need for shelter care. The court shall hear evidence
8 regarding the efforts made to place the child with a relative. The
9 court shall make an express finding as to whether the notice required
10 under subsections (2) and (3) of this section was given to the parent,
11 guardian, or legal custodian. All parties have the right to present
12 testimony to the court regarding the need or lack of need for shelter
13 care. Hearsay evidence before the court regarding the need or lack of
14 need for shelter care must be supported by sworn testimony, affidavit,
15 or declaration of the person offering such evidence.

16 (7) The juvenile court probation counselor shall submit a
17 recommendation to the court as to the further need for shelter care,
18 except that such recommendation shall be submitted by the department of
19 social and health services in cases where the petition alleging
20 dependency has been filed by the department of social and health
21 services, unless otherwise ordered by the court.

22 (8) The court shall release a child alleged to be dependent to the
23 care, custody, and control of the child's parent, guardian, or legal
24 custodian unless the court finds there is reasonable cause to believe
25 that:

26 (a) After consideration of the specific services that have been
27 provided, reasonable efforts have been made to prevent or eliminate the
28 need for removal of the child from the child's home and to make it
29 possible for the child to return home; and

30 (b)(i) The child has no parent, guardian, or legal custodian to
31 provide supervision and care for such child; or

32 (ii) The release of such child would present a serious threat of
33 substantial harm to such child; or

34 (iii) The parent, guardian, or custodian to whom the child could be
35 released is alleged to have violated RCW 9A.40.060 or 9A.40.070.

36 If the court does not release the child to his or her parent,
37 guardian, or legal custodian, and the child was initially placed with
38 a relative pursuant to subsection (1) of this section, the court shall
39 order continued placement with a relative, unless there is reasonable

1 cause to believe the safety or welfare of the child would be
2 jeopardized. If the child was not initially placed with a relative,
3 and the court does not release the child to his or her parent,
4 guardian, or legal custodian, the supervising agency shall make
5 reasonable efforts to locate a relative pursuant to subsection (1) of
6 this section. If a relative is not available, the court shall order
7 continued shelter care or order placement with another suitable person,
8 and the court shall set forth its reasons for the order. The court
9 shall enter a finding as to whether subsections (2) and (3) of this
10 section have been complied with. If actual notice was not given to the
11 parent, guardian, or legal custodian and the whereabouts of such person
12 is known or can be ascertained, the court shall order the supervising
13 agency or the department of social and health services to make
14 reasonable efforts to advise the parent, guardian, or legal custodian
15 of the status of the case, including the date and time of any
16 subsequent hearings, and their rights under RCW 13.34.090.

17 (9) An order releasing the child on any conditions specified in
18 this section may at any time be amended, with notice and hearing
19 thereon, so as to return the child to shelter care for failure of the
20 parties to conform to the conditions originally imposed.

21 The court shall consider whether nonconformance with any conditions
22 resulted from circumstances beyond the control of the parent and give
23 weight to that fact before ordering return of the child to shelter
24 care.

25 (10) A shelter care order issued pursuant to this section may be
26 amended at any time with notice and hearing thereon. The shelter care
27 decision of placement shall be modified only upon a showing of change
28 in circumstances. No child may be detained for longer than thirty days
29 without an order, signed by the judge, authorizing continued shelter
30 care.

31 (11) Any parent, guardian, or legal custodian who for good cause is
32 unable to attend the initial shelter care hearing may request that a
33 subsequent shelter care hearing be scheduled. The request shall be
34 made to the clerk of the court where the petition is filed prior to the
35 initial shelter care hearing. The hearing shall be held within
36 seventy-two hours of the request, excluding Saturdays, Sundays, and
37 holidays. The clerk shall notify all other parties of the hearing by
38 any reasonable means.

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Passed the House April 6, 1999.

Approved by the Governor April 15, 1999.

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