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SENATE BILL 6642

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State of Washington

58th Legislature

2004 Regular Session

By Senators Stevens, Hargrove, Schmidt, Carlson, Mulliken, Hewitt, Roach and McAuliffe

Read first time 01/28/2004. Referred to Committee on Children & Family Services & Corrections.

1 AN ACT Relating to family group conferences following shelter care  
2 hearings; and amending RCW 13.34.067, 13.34.062, and 13.34.094.

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

4 **Sec. 1.** RCW 13.34.067 and 2001 c 332 s 1 are each amended to read  
5 as follows:

6 (1) Following shelter care and no later than twenty-five days prior  
7 to fact-finding, the department(~~(, upon the parent's request or counsel~~  
8 ~~for the parent's request,)) shall facilitate a family group conference  
9 to develop and specify in a written service agreement the expectations  
10 of both the department and the parent regarding the care and placement  
11 of the child.~~

12 The department shall invite to the family group conference the  
13 parent, counsel for the parent, the foster parent or other out-of-home  
14 care provider, caseworker, guardian ad litem, counselor, or other  
15 relevant health care provider, and any other person connected to the  
16 development and well-being of the child.

17 The initial written service agreement expectations must correlate  
18 with the court's findings at the shelter care hearing. The written  
19 service agreement must set forth specific criteria that enables the

1 court to measure the performance of both the department and the parent,  
2 and must be updated throughout the dependency process to reflect  
3 changes in expectations. The service agreement must serve as the  
4 unifying document for all expectations established in the department's  
5 various case planning and case management documents and the findings  
6 and orders of the court during dependency proceedings.

7 The court shall review the written service agreement at each stage  
8 of the dependency proceedings and evaluate the performance of both the  
9 department and the parent for consistent, measurable progress in  
10 complying with the expectations identified in the agreement.

11 The ((ease)) family group conference agreement must be agreed to  
12 and signed by the parties. The court shall not consider the content of  
13 the discussions at the ((ease)) family group conference at the time of  
14 the fact-finding hearing for the purposes of establishing that the  
15 child is a dependent child, and the court shall not consider any  
16 documents or written materials presented at the ((ease)) family group  
17 conference but not incorporated into the ((ease)) family group  
18 conference agreement, unless the documents or written materials were  
19 prepared for purposes other than or as a result of the ((ease)) family  
20 group conference and are otherwise admissible under the rules of  
21 evidence.

22 (2) At any other stage in a dependency proceeding, the department,  
23 upon the parent's request, shall facilitate a ((ease)) family group  
24 conference.

25 **Sec. 2.** RCW 13.34.062 and 2001 c 332 s 2 are each amended to read  
26 as follows:

27 (1) The written notice of custody and rights required by RCW  
28 13.34.060 shall be in substantially the following form:

29 "NOTICE

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

34 1. A court hearing will be held before a judge within 72 hours of  
35 the time your child is taken into custody excluding Saturdays, Sundays,  
36 and holidays. You should call the court at \_\_\_\_\_ (insert appropriate

1 phone number here) for specific information about the date, time,  
2 and location of the court hearing.

3 2. You have the right to have a lawyer represent you at the  
4 hearing. Your right to representation continues after the shelter care  
5 hearing. You have the right to records the department intends to rely  
6 upon. A lawyer can look at the files in your case, talk to child  
7 protective services and other agencies, tell you about the law, help  
8 you understand your rights, and help you at hearings. If you cannot  
9 afford a lawyer, the court will appoint one to represent you. To get  
10 a court-appointed lawyer you must contact: (explain local  
11 procedure).

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

15 4. If your hearing occurs before a court commissioner, you have the  
16 right to have the decision of the court commissioner reviewed by a  
17 superior court judge. To obtain that review, you must, within ten days  
18 after the entry of the decision of the court commissioner, file with  
19 the court a motion for revision of the decision, as provided in RCW  
20 2.24.050.

21 You should be present at any shelter care hearing. If you do not  
22 come, the judge will not hear what you have to say.

23 You may call the Child Protective Services' caseworker for more  
24 information about your child. The caseworker's name and telephone  
25 number are: (insert name and telephone number).

26 5. You (~~(may request that the department facilitate)~~) have a right  
27 to a ((ease)) family group conference facilitated by the department to  
28 develop a written service agreement following the shelter care hearing.  
29 The service agreement may not conflict with the court's order of  
30 shelter care. You may request that a multidisciplinary team(~~(, family~~  
31 ~~group conference,)~~) or prognostic staffing(~~(, or case conference)~~) be  
32 convened for your child's case. You may participate in these processes  
33 with your counsel present."

34 Upon receipt of the written notice, the parent, guardian, or legal  
35 custodian shall acknowledge such notice by signing a receipt prepared  
36 by child protective services. If the parent, guardian, or legal  
37 custodian does not sign the receipt, the reason for lack of a signature

1 shall be written on the receipt. The receipt shall be made a part of  
2 the court's file in the dependency action.

3 If after making reasonable efforts to provide notification, child  
4 protective services is unable to determine the whereabouts of the  
5 parents, guardian, or legal custodian, the notice shall be delivered or  
6 sent to the last known address of the parent, guardian, or legal  
7 custodian.

8 (2) If child protective services is not required to give notice  
9 under RCW 13.34.060(2) and subsection (1) of this section, the juvenile  
10 court counselor assigned to the matter shall make all reasonable  
11 efforts to advise the parents, guardian, or legal custodian of the time  
12 and place of any shelter care hearing, request that they be present,  
13 and inform them of their basic rights as provided in RCW 13.34.090.

14 (3) Reasonable efforts to advise and to give notice, as required in  
15 RCW 13.34.060(2) and subsections (1) and (2) of this section, shall  
16 include, at a minimum, investigation of the whereabouts of the parent,  
17 guardian, or legal custodian. If such reasonable efforts are not  
18 successful, or the parent, guardian, or legal custodian does not appear  
19 at the shelter care hearing, the petitioner shall testify at the  
20 hearing or state in a declaration:

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

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

26 (4) The court shall hear evidence regarding notice given to, and  
27 efforts to notify, the parent, guardian, or legal custodian and shall  
28 examine the need for shelter care. The court shall hear evidence  
29 regarding the efforts made to place the child with a relative. The  
30 court shall make an express finding as to whether the notice required  
31 under RCW 13.34.060(2) and subsections (1) and (2) of this section was  
32 given to the parent, guardian, or legal custodian. All parties have  
33 the right to present testimony to the court regarding the need or lack  
34 of need for shelter care. Hearsay evidence before the court regarding  
35 the need or lack of need for shelter care must be supported by sworn  
36 testimony, affidavit, or declaration of the person offering such  
37 evidence.

1 (5) A shelter care order issued pursuant to RCW 13.34.065 may be  
2 amended at any time with notice and hearing thereon. The shelter care  
3 decision of placement shall be modified only upon a showing of change  
4 in circumstances. No child may be placed in shelter care for longer  
5 than thirty days without an order, signed by the judge, authorizing  
6 continued shelter care.

7 (6) Any parent, guardian, or legal custodian who for good cause is  
8 unable to attend the initial shelter care hearing may request that a  
9 subsequent shelter care hearing be scheduled. The request shall be  
10 made to the clerk of the court where the petition is filed prior to the  
11 initial shelter care hearing. Upon the request of the parent, the  
12 court shall schedule the hearing within seventy-two hours of the  
13 request, excluding Saturdays, Sundays, and holidays. The clerk shall  
14 notify all other parties of the hearing by any reasonable means.

15 **Sec. 3.** RCW 13.34.094 and 2001 c 332 s 6 are each amended to read  
16 as follows:

17 The department shall, within existing resources, provide to parents  
18 requesting or participating in a multidisciplinary team, family group  
19 conference, or prognostic staffing(~~(, or case conference,)~~) information  
20 that describes these processes prior to the processes being undertaken.

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