
SENATE BILL 5995

State of Washington

59th Legislature

2005 Regular Session

By Senator Hargrove

Read first time 02/18/2005. Referred to Committee on Human Services & Corrections.

1 AN ACT Relating to placement of children in shelter care; amending
2 RCW 13.34.060, 13.34.065, and 13.34.130; and amending 1999 c 17 s 1
3 (uncodified).

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

5 **Sec. 1.** RCW 13.34.060 and 2002 c 52 s 4 are each amended to read
6 as follows:

7 (1) A child taken into custody pursuant to RCW 13.34.050 or
8 26.44.050 shall be immediately placed in shelter care. A child taken
9 by a relative of the child in violation of RCW 9A.40.060 or 9A.40.070
10 shall be placed in shelter care only when permitted under RCW
11 13.34.055.

12 (a) Unless there is reasonable cause to believe that the health,
13 safety, or welfare of the child would be jeopardized or that the
14 efforts to reunite the parent and child will be hindered, priority
15 placement for a child in shelter care shall be with any person
16 designated by the parent, or if no preference is indicated by the
17 parent, any person as described in RCW 74.15.020(2)(a). The person
18 must be willing and available to care for the child and be able to meet
19 any special needs of the child. The person must be willing to

1 facilitate the child's visitation with siblings, if such visitation is
2 part of the supervising agency's plan or is ordered by the court. If
3 a child is not initially placed with a person designated by the parent
4 or a relative pursuant to this section, the supervising agency shall
5 make an effort within available resources to place the child with a
6 person designated by the parent or a relative on the next business day
7 after the child is taken into custody. The supervising agency shall
8 document its effort to place the child with a person designated by the
9 parent or a relative pursuant to this section. Nothing within this
10 subsection (1)(a) establishes an entitlement to services or a right to
11 a particular placement.

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

28 (2) Whenever a child is taken into custody by child protective
29 services pursuant to a court order issued under RCW 13.34.050 or when
30 child protective services is notified that a child has been taken into
31 custody pursuant to RCW 26.44.050 or 26.44.056, child protective
32 services shall make reasonable efforts to inform the parents, guardian,
33 or legal custodian of the fact that the child has been taken into
34 custody, the reasons why the child was taken into custody, and their
35 legal rights under this title as soon as possible and in no event shall
36 notice be provided more than twenty-four hours after the child has been
37 taken into custody or twenty-four hours after child protective services
38 has been notified that the child has been taken into custody. The

1 notice of custody and rights may be given by any means reasonably
2 certain of notifying the parents including, but not limited to,
3 written, telephone, or in person oral notification. If the initial
4 notification is provided by a means other than writing, child
5 protective services shall make reasonable efforts to also provide
6 written notification.

7 **Sec. 2.** 1999 c 17 s 1 (uncodified) is amended to read as follows:

8 The legislature has found that any intervention into the life of a
9 child is also an intervention in the life of the parent, guardian, or
10 legal custodian, and that the bond between child and parent is a
11 critical element of child development. The legislature now also finds
12 that children who cannot be with their parents, guardians, or legal
13 custodians are best cared for, whenever possible and appropriate by any
14 person designated by the parent, or if no preference is indicated by
15 the parent, then by family members with whom they have a relationship.
16 This is particularly important when a child cannot be in the care of a
17 parent, guardian, or legal custodian as a result of a court
18 intervention.

19 **Sec. 3.** RCW 13.34.065 and 2001 c 332 s 3 are each amended to read
20 as follows:

21 (1) The juvenile court probation counselor shall submit a
22 recommendation to the court as to the further need for shelter care
23 unless the petition has been filed by the department, in which case the
24 recommendation shall be submitted by the department.

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

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

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

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

1 (iii) The parent, guardian, or custodian to whom the child could be
2 released has been charged with violating RCW 9A.40.060 or 9A.40.070.

3 If the court does not release the child to his or her parent,
4 guardian, or legal custodian, and the child was initially placed with
5 a person designated by the parent or a relative pursuant to RCW
6 13.34.060(1), the court shall order continued placement with a person
7 designated by the parent or a relative, unless there is reasonable
8 cause to believe the health, safety, or welfare of the child would be
9 jeopardized. If the child was not initially placed with a person
10 designated by the parent or a relative, and the court does not release
11 the child to his or her parent, guardian, or legal custodian, the
12 supervising agency shall make reasonable efforts to locate a person
13 designated by the parent or a relative pursuant to RCW 13.34.060(1).
14 If a person designated by the parent or a relative is not available,
15 the court shall order continued shelter care or order placement with
16 another suitable person, and the court shall set forth its reasons for
17 the order. The court shall enter a finding as to whether RCW
18 13.34.060(2) and subsections (1) and (2) of this section have been
19 complied with. If actual notice was not given to the parent, guardian,
20 or legal custodian and the whereabouts of such person is known or can
21 be ascertained, the court shall order the supervising agency or the
22 department of social and health services to make reasonable efforts to
23 advise the parent, guardian, or legal custodian of the status of the
24 case, including the date and time of any subsequent hearings, and their
25 rights under RCW 13.34.090.

26 (3) An order releasing the child on any conditions specified in
27 this section may at any time be amended, with notice and hearing
28 thereon, so as to return the child to shelter care for failure of the
29 parties to conform to the conditions originally imposed.

30 The court shall consider whether nonconformance with any conditions
31 resulted from circumstances beyond the control of the parent and give
32 weight to that fact before ordering return of the child to shelter
33 care.

34 (4) If a child is returned home from shelter care a second time in
35 the case, or if the supervisor of the caseworker deems it necessary,
36 the multidisciplinary team may be reconvened.

37 (5) If a child is returned home from shelter care a second time in

1 the case a law enforcement officer must be present and file a report to
2 the department.

3 **Sec. 4.** RCW 13.34.130 and 2003 c 227 s 3 are each amended to read
4 as follows:

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

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

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

20 (b) Order the child to be removed from his or her home and into the
21 custody, control, and care of a person designated by the parent or a
22 relative or the department or a licensed child placing agency for
23 placement in a foster family home or group care facility licensed
24 pursuant to chapter 74.15 RCW or in a home not required to be licensed
25 pursuant to chapter 74.15 RCW. Unless there is reasonable cause to
26 believe that the health, safety, or welfare of the child would be
27 jeopardized or that efforts to reunite the parent and child will be
28 hindered, such child shall be placed with a person who is: (i)(A) A
29 person designated by the parent; or (B) related to the child as defined
30 in RCW 74.15.020(2)(a) with whom the child has a relationship and is
31 comfortable; and (ii) willing and available to care for the child.

32 (2) Placement of the child with a ~~((relative under this~~
33 ~~subsection))~~ person designated by the parent shall be given preference
34 by the court, unless no such person is designated, and then placement
35 of the child with a relative under this subsection shall be given
36 preference. An order for out-of-home placement may be made only if the
37 court finds that reasonable efforts have been made to prevent or

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

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

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

12 (c) The court finds, by clear, cogent, and convincing evidence, a
13 manifest danger exists that the child will suffer serious abuse or
14 neglect if the child is not removed from the home and an order under
15 RCW 26.44.063 would not protect the child from danger.

16 (3) If the court has ordered a child removed from his or her home
17 pursuant to subsection (1)(b) of this section, the court shall consider
18 whether it is in a child's best interest to be placed with, have
19 contact with, or have visits with siblings.

20 (a) There shall be a presumption that such placement, contact, or
21 visits are in the best interests of the child provided that:

22 (i) The court has jurisdiction over all siblings subject to the
23 order of placement, contact, or visitation pursuant to petitions filed
24 under this chapter or the parents of a child for whom there is no
25 jurisdiction are willing to agree; and

26 (ii) There is no reasonable cause to believe that the health,
27 safety, or welfare of any child subject to the order of placement,
28 contact, or visitation would be jeopardized or that efforts to reunite
29 the parent and child would be hindered by such placement, contact, or
30 visitation. In no event shall parental visitation time be reduced in
31 order to provide sibling visitation.

32 (b) The court may also order placement, contact, or visitation of
33 a child with a step-brother or step-sister provided that in addition to
34 the factors in (a) of this subsection, the child has a relationship and
35 is comfortable with the step-sibling.

36 (4) If the court has ordered a child removed from his or her home
37 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 requirements of RCW 13.34.132 are met.

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

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