

ESSB 6792 - H AMD TO APP COMM AMD (H5951.1) 1501
By Representative Jarrett

ADOPTED 03/06/2008

1 On page 11, beginning on line 20 of the amendment, after "date"
2 strike all material through "months" on line 21, and insert "~~((
3 preferably before))~~). If the child has been in out-of-home care for
4 fifteen of the most recent twenty-two months, the court shall require
5 the department to file a petition seeking termination of parental
6 rights in accordance with RCW 13.34.145(3)(b)(vi)."

7 On page 12, after line 7 of the amendment, insert the following:

8 "Sec. 4. RCW 13.34.145 and 2007 c 413 s 9 are each amended to read
9 as follows:

10 (1) The purpose of a permanency planning hearing is to review the
11 permanency plan for the child, inquire into the welfare of the child
12 and progress of the case, and reach decisions regarding the permanent
13 placement of the child.

14 (a) A permanency planning hearing shall be held in all cases where
15 the child has remained in out-of-home care for at least nine months and
16 an adoption decree, guardianship order, or permanent custody order has
17 not previously been entered. The hearing shall take place no later
18 than twelve months following commencement of the current placement
19 episode.

20 (b) Whenever a child is removed from the home of a dependency
21 guardian or long-term relative or foster care provider, and the child
22 is not returned to the home of the parent, guardian, or legal custodian
23 but is placed in out-of-home care, a permanency planning hearing shall
24 take place no later than twelve months, as provided in this section,
25 following the date of removal unless, prior to the hearing, the child
26 returns to the home of the dependency guardian or long-term care
27 provider, the child is placed in the home of the parent, guardian, or
28 legal custodian, an adoption decree, guardianship order, or a permanent
29 custody order is entered, or the dependency is dismissed.

1 (c) Permanency planning goals should be achieved at the earliest
2 possible date, preferably before the child has been in out-of-home care
3 for fifteen months. In cases where parental rights have been
4 terminated, the child is legally free for adoption, and adoption has
5 been identified as the primary permanency planning goal, it shall be a
6 goal to complete the adoption within six months following entry of the
7 termination order.

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

12 (3) At the permanency planning hearing, the court shall conduct the
13 following inquiry:

14 (a) If a goal of long-term foster or relative care has been
15 achieved prior to the permanency planning hearing, the court shall
16 review the child's status to determine whether the placement and the
17 plan for the child's care remain appropriate.

18 (b) In cases where the primary permanency planning goal has not
19 been achieved, the court shall inquire regarding the reasons why the
20 primary goal has not been achieved and determine what needs to be done
21 to make it possible to achieve the primary goal. The court shall
22 review the permanency plan prepared by the agency and make explicit
23 findings regarding each of the following:

24 (i) The continuing necessity for, and the safety and
25 appropriateness of, the placement;

26 (ii) The extent of compliance with the permanency plan by the
27 agency and any other service providers, the child's parents, the child,
28 and the child's guardian, if any;

29 (iii) The extent of any efforts to involve appropriate service
30 providers in addition to agency staff in planning to meet the special
31 needs of the child and the child's parents;

32 (iv) The progress toward eliminating the causes for the child's
33 placement outside of his or her home and toward returning the child
34 safely to his or her home or obtaining a permanent placement for the
35 child;

36 (v) The date by which it is likely that the child will be returned
37 to his or her home or placed for adoption, with a guardian or in some
38 other alternative permanent placement; and

1 (vi) If the child has been placed outside of his or her home for
2 fifteen of the most recent twenty-two months, not including any period
3 during which the child was a runaway from the out-of-home placement or
4 the first six months of any period during which the child was returned
5 to his or her home for a trial home visit, the appropriateness of the
6 permanency plan, whether reasonable efforts were made by the agency to
7 achieve the goal of the permanency plan, and the circumstances which
8 prevent the child from any of the following:

9 (A) Being returned safely to his or her home;

10 (B) Having a petition for the involuntary termination of parental
11 rights filed on behalf of the child;

12 (C) Being placed for adoption;

13 (D) Being placed with a guardian;

14 (E) Being placed in the home of a fit and willing relative of the
15 child; or

16 (F) Being placed in some other alternative permanent placement,
17 including independent living or long-term foster care.

18 At this hearing, the court shall order the department to file a
19 petition seeking termination of parental rights if the child has been
20 in out-of-home care for fifteen of the last twenty-two months since the
21 date the dependency petition was filed unless the court makes a good
22 cause exception as to why the filing of a termination of parental
23 rights petition is not appropriate. Any good cause finding shall be
24 reviewed at all subsequent hearings pertaining to the child. For
25 purposes of this section, "good cause exception" includes but is not
26 limited to the following: The child is being cared for by a relative;
27 the department has not provided to the child's family such services as
28 the court and the department have deemed necessary for the child's safe
29 return home; or the department has documented in the case plan a
30 compelling reason for determining that filing a petition to terminate
31 parental rights would not be in the child's best interests.

32 (c)(i) If the permanency plan identifies independent living as a
33 goal, the court shall make a finding that the provision of services to
34 assist the child in making a transition from foster care to independent
35 living will allow the child to manage his or her financial, personal,
36 social, educational, and nonfinancial affairs prior to approving
37 independent living as a permanency plan of care.

1 (ii) The permanency plan shall also specifically identify the
2 services that will be provided to assist the child to make a successful
3 transition from foster care to independent living.

4 (iii) The department shall not discharge a child to an independent
5 living situation before the child is eighteen years of age unless the
6 child becomes emancipated pursuant to chapter 13.64 RCW.

7 (d) If the child has resided in the home of a foster parent or
8 relative for more than six months prior to the permanency planning
9 hearing, the court shall also enter a finding regarding whether the
10 foster parent or relative was informed of the hearing as required in
11 RCW 74.13.280 (~~and 13.34.138~~), 13.34.215(5), and 13.34.096.

12 (4) In all cases, at the permanency planning hearing, the court
13 shall:

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

16 (ii) Modify the permanency plan, and order implementation of the
17 modified plan; and

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

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

23 (5) Following the first permanency planning hearing, the court
24 shall hold a further permanency planning hearing in accordance with
25 this section at least once every twelve months until a permanency
26 planning goal is achieved or the dependency is dismissed, whichever
27 occurs first.

28 (6) Prior to the second permanency planning hearing, the agency
29 that has custody of the child shall consider whether to file a petition
30 for termination of parental rights.

31 (7) If the court orders the child returned home, casework
32 supervision shall continue for at least six months, at which time a
33 review hearing shall be held pursuant to RCW 13.34.138, and the court
34 shall determine the need for continued intervention.

35 (8) The juvenile court may hear a petition for permanent legal
36 custody when: (a) The court has ordered implementation of a permanency
37 plan that includes permanent legal custody; and (b) the party pursuing
38 the permanent legal custody is the party identified in the permanency

1 plan as the prospective legal custodian. During the pendency of such
2 proceeding, the court shall conduct review hearings and further
3 permanency planning hearings as provided in this chapter. At the
4 conclusion of the legal guardianship or permanent legal custody
5 proceeding, a juvenile court hearing shall be held for the purpose of
6 determining whether dependency should be dismissed. If a guardianship
7 or permanent custody order has been entered, the dependency shall be
8 dismissed.

9 (9) Continued juvenile court jurisdiction under this chapter shall
10 not be a barrier to the entry of an order establishing a legal
11 guardianship or permanent legal custody when the requirements of
12 subsection (8) of this section are met.

13 (10) Nothing in this chapter may be construed to limit the ability
14 of the agency that has custody of the child to file a petition for
15 termination of parental rights or a guardianship petition at any time
16 following the establishment of dependency. Upon the filing of such a
17 petition, a fact-finding hearing shall be scheduled and held in
18 accordance with this chapter unless the agency requests dismissal of
19 the petition prior to the hearing or unless the parties enter an agreed
20 order terminating parental rights, establishing guardianship, or
21 otherwise resolving the matter.

22 (11) The approval of a permanency plan that does not contemplate
23 return of the child to the parent does not relieve the supervising
24 agency of its obligation to provide reasonable services, under this
25 chapter, intended to effectuate the return of the child to the parent,
26 including but not limited to, visitation rights. The court shall
27 consider the child's relationships with siblings in accordance with RCW
28 13.34.130.

29 (12) Nothing in this chapter may be construed to limit the
30 procedural due process rights of any party in a termination or
31 guardianship proceeding filed under this chapter."

32 Renumber the remaining sections consecutively, correct any internal
33 references accordingly, and correct the title.

EFFECT: Adds a provision directing the court to order the filing

of a petition for termination of parental rights when a child has been in foster care for 15 of the past 22 months, unless there is a good cause exception for not filing the petition. Describes examples of good cause exceptions that are consistent with federal law exceptions.

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