

**ESHB 1782 - S AMD 496**

By Senators Hargrove, Regala, Stevens

ADOPTED 04/25/2009

1       Strike everything after the enacting clause and insert the  
2 following:

3       "NEW SECTION.   **Sec. 1.** The legislature finds that when children  
4 have been found dependent and placed in out-of-home care, the  
5 likelihood of reunification with their parents diminishes significantly  
6 after fifteen months. The legislature also finds that early and  
7 consistent parental engagement in services and participation in  
8 appropriate parent-child contact and visitation increases the  
9 likelihood of successful reunifications. The legislature intends to  
10 promote greater awareness among parents in dependency cases of the  
11 importance of active participation in services, visitation, and case  
12 planning for the child, and the risks created by failure to participate  
13 in their child's case over the long term.

14       **Sec. 2.** RCW 13.34.062 and 2007 c 413 s 4 and 2007 c 409 s 5 are  
15 each reenacted and amended to read as follows:

16       (1)(a) Whenever a child is taken into custody by child protective  
17 services pursuant to a court order issued under RCW 13.34.050 or when  
18 child protective services is notified that a child has been taken into  
19 custody pursuant to RCW 26.44.050 or 26.44.056, child protective  
20 services shall make reasonable efforts to inform the parent, guardian,  
21 or legal custodian of the fact that the child has been taken into  
22 custody, the reasons why the child was taken into custody, and their  
23 legal rights under this title, including the right to a shelter care  
24 hearing, as soon as possible. Notice must be provided in an  
25 understandable manner and take into consideration the parent's,  
26 guardian's, or legal custodian's primary language, level of education,  
27 and cultural issues.

28       (b) In no event shall the notice required by this section be  
29 provided to the parent, guardian, or legal custodian more than twenty-

1 four hours after the child has been taken into custody or twenty-four  
2 hours after child protective services has been notified that the child  
3 has been taken into custody.

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

10 (b) The written notice of custody and rights required by this  
11 section shall be in substantially the following form:

12 "NOTICE

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

17 1. A court hearing will be held before a judge within 72 hours of  
18 the time your child is taken into custody excluding Saturdays, Sundays,  
19 and holidays. You should call the court at \_\_\_\_\_ (insert appropriate  
20 phone number here) \_\_\_\_\_ for specific information about the date, time,  
21 and location of the court hearing.

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

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

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

1 the court a motion for revision of the decision, as provided in RCW  
2 2.24.050.

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

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

8 5. You have a right to a case conference to develop a written  
9 service agreement following the shelter care hearing. The service  
10 agreement may not conflict with the court's order of shelter care. You  
11 may request that a multidisciplinary team, family group conference, or  
12 prognostic staffing be convened for your child's case. You may  
13 participate in these processes with your counsel present.

14 6. If your child is placed in the custody of the department of  
15 social and health services or other supervising agency, immediately  
16 following the shelter care hearing, the court will enter an order  
17 granting the department or other supervising agency the right to  
18 inspect and copy all health, medical, mental health, and education  
19 records of the child, directing health care providers to release such  
20 information without your further consent, and granting the department  
21 or supervising agency or its designee the authority and responsibility,  
22 where applicable, to:

23 (1) Notify the child's school that the child is in out-of-home  
24 placement;

25 (2) Enroll the child in school;

26 (3) Request the school transfer records;

27 (4) Request and authorize evaluation of special needs;

28 (5) Attend parent or teacher conferences;

29 (6) Excuse absences;

30 (7) Grant permission for extracurricular activities;

31 (8) Authorize medications which need to be administered during  
32 school hours and sign for medical needs that arise during school hours;  
33 and

34 (9) Complete or update school emergency records.

35 7. If the court decides to place your child in the custody of the  
36 department of social and health services or other supervising agency,  
37 the department or agency will create a permanency plan for your child,

1 including a primary placement goal and secondary placement goal. The  
2 department or agency also will recommend that the court order services  
3 for your child and for you, if needed. The department or agency is  
4 required to make reasonable efforts to provide you with services to  
5 address your parenting problems, and to provide you with visitation  
6 with your child according to court orders. Failure to promptly engage  
7 in services or to maintain contact with your child may lead to the  
8 filing of a petition to terminate your parental rights.

9 8. Primary and secondary permanency plans are intended to run at  
10 the same time so that your child will have a permanent home as quickly  
11 as possible. Absent good cause, and when appropriate, the department  
12 or other supervising agency must follow the wishes of a natural parent  
13 regarding placement of a child. You should tell your lawyer and the  
14 court where you wish your child placed immediately, including whether  
15 you want your child placed with you, with a relative, or with another  
16 suitable person. You also should tell your lawyer and the court what  
17 services you feel are necessary and your wishes regarding visitation  
18 with your child. Even if you want another parent or person to be the  
19 primary placement choice for your child, you should tell your lawyer,  
20 the department or other supervising agency, and the court if you want  
21 to be a secondary placement option, and you should comply with court  
22 orders for services and participate in visitation with your child.  
23 Early and consistent involvement in your child's case plan is important  
24 for the well-being of your child.

25 9. A dependency petition begins a judicial process, which, if the  
26 court finds your child dependent, could result in substantial  
27 restrictions including, the entry or modification of a parenting plan  
28 or residential schedule, nonparental custody order or decree,  
29 guardianship order, or permanent loss of your parental rights."

30 Upon receipt of the written notice, the parent, guardian, or legal  
31 custodian shall acknowledge such notice by signing a receipt prepared  
32 by child protective services. If the parent, guardian, or legal  
33 custodian does not sign the receipt, the reason for lack of a signature  
34 shall be written on the receipt. The receipt shall be made a part of  
35 the court's file in the dependency action.

36 If after making reasonable efforts to provide notification, child  
37 protective services is unable to determine the whereabouts of the

1 parents, guardian, or legal custodian, the notice shall be delivered or  
2 sent to the last known address of the parent, guardian, or legal  
3 custodian.

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

10 (4) Reasonable efforts to advise and to give notice, as required in  
11 this section, shall include, at a minimum, investigation of the  
12 whereabouts of the parent, guardian, or legal custodian. If such  
13 reasonable efforts are not successful, or the parent, guardian, or  
14 legal custodian does not appear at the shelter care hearing, the  
15 petitioner shall testify at the hearing or state in a declaration:

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

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

21 **Sec. 3.** RCW 13.34.065 and 2008 c 267 s 2 are each amended to read  
22 as follows:

23 (1)(a) When a child is taken into custody, the court shall hold a  
24 shelter care hearing within seventy-two hours, excluding Saturdays,  
25 Sundays, and holidays. The primary purpose of the shelter care hearing  
26 is to determine whether the child can be immediately and safely  
27 returned home while the adjudication of the dependency is pending.

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

36 (2)(a) The department of social and health services shall submit a  
37 recommendation to the court as to the further need for shelter care in

1 all cases in which it is the petitioner. In all other cases, the  
2 recommendation shall be submitted by the juvenile court probation  
3 counselor.

4 (b) All parties have the right to present testimony to the court  
5 regarding the need or lack of need for shelter care.

6 (c) Hearsay evidence before the court regarding the need or lack of  
7 need for shelter care must be supported by sworn testimony, affidavit,  
8 or declaration of the person offering such evidence.

9 (3)(a) At the commencement of the hearing, the court shall notify  
10 the parent, guardian, or custodian of the following:

11 (i) The parent, guardian, or custodian has the right to a shelter  
12 care hearing;

13 (ii) The nature of the shelter care hearing, the rights of the  
14 parents, and the proceedings that will follow; and

15 (iii) If the parent, guardian, or custodian is not represented by  
16 counsel, the right to be represented. If the parent, guardian, or  
17 custodian is indigent, the court shall appoint counsel as provided in  
18 RCW 13.34.090; and

19 (b) If a parent, guardian, or legal custodian desires to waive the  
20 shelter care hearing, the court shall determine, on the record and with  
21 the parties present, whether such waiver is knowing and voluntary. A  
22 parent may not waive his or her right to the shelter care hearing  
23 unless he or she appears in court and the court determines that the  
24 waiver is knowing and voluntary. Regardless of whether the court  
25 accepts the parental waiver of the shelter care hearing, the court must  
26 provide notice to the parents of their rights required under (a) of  
27 this subsection and make the finding required under subsection (4) of  
28 this section.

29 (4) At the shelter care hearing the court shall examine the need  
30 for shelter care and inquire into the status of the case. The  
31 paramount consideration for the court shall be the health, welfare, and  
32 safety of the child. At a minimum, the court shall inquire into the  
33 following:

34 (a) Whether the notice required under RCW 13.34.062 was given to  
35 all known parents, guardians, or legal custodians of the child. The  
36 court shall make an express finding as to whether the notice required  
37 under RCW 13.34.062 was given to the parent, guardian, or legal  
38 custodian. If actual notice was not given to the parent, guardian, or

1 legal custodian and the whereabouts of such person is known or can be  
2 ascertained, the court shall order the supervising agency or the  
3 department of social and health services to make reasonable efforts to  
4 advise the parent, guardian, or legal custodian of the status of the  
5 case, including the date and time of any subsequent hearings, and their  
6 rights under RCW 13.34.090;

7 (b) Whether the child can be safely returned home while the  
8 adjudication of the dependency is pending;

9 (c) What efforts have been made to place the child with a relative;

10 (d) What services were provided to the family to prevent or  
11 eliminate the need for removal of the child from the child's home;

12 (e) Is the placement proposed by the agency the least disruptive  
13 and most family-like setting that meets the needs of the child;

14 (f) Whether it is in the best interest of the child to remain  
15 enrolled in the school, developmental program, or child care the child  
16 was in prior to placement and what efforts have been made to maintain  
17 the child in the school, program, or child care if it would be in the  
18 best interest of the child to remain in the same school, program, or  
19 child care;

20 (g) Appointment of a guardian ad litem or attorney;

21 (h) Whether the child is or may be an Indian child as defined in 25  
22 U.S.C. Sec. 1903, whether the provisions of the Indian child welfare  
23 act apply, and whether there is compliance with the Indian child  
24 welfare act, including notice to the child's tribe;

25 (i) Whether, as provided in RCW 26.44.063, restraining orders, or  
26 orders expelling an allegedly abusive household member from the home of  
27 a nonabusive parent, guardian, or legal custodian, will allow the child  
28 to safely remain in the home;

29 (j) Whether any orders for examinations, evaluations, or immediate  
30 services are needed. The court may not order a parent to undergo  
31 examinations, evaluation, or services at the shelter care hearing  
32 unless the parent agrees to the examination, evaluation, or service;

33 (k) The terms and conditions for parental, sibling, and family  
34 visitation.

35 (5)(a) The court shall release a child alleged to be dependent to  
36 the care, custody, and control of the child's parent, guardian, or  
37 legal custodian unless the court finds there is reasonable cause to  
38 believe that:

1 (i) After consideration of the specific services that have been  
2 provided, reasonable efforts have been made to prevent or eliminate the  
3 need for removal of the child from the child's home and to make it  
4 possible for the child to return home; and

5 (ii)(A) The child has no parent, guardian, or legal custodian to  
6 provide supervision and care for such child; or

7 (B) The release of such child would present a serious threat of  
8 substantial harm to such child, notwithstanding an order entered  
9 pursuant to RCW 26.44.063; or

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

12 (b) If the court does not release the child to his or her parent,  
13 guardian, or legal custodian, the court shall order placement with a  
14 relative, unless there is reasonable cause to believe the health,  
15 safety, or welfare of the child would be jeopardized or that the  
16 efforts to reunite the parent and child will be hindered. The relative  
17 must be willing and available to:

18 (i) Care for the child and be able to meet any special needs of the  
19 child;

20 (ii) Facilitate the child's visitation with siblings, if such  
21 visitation is part of the supervising agency's plan or is ordered by  
22 the court; and

23 (iii) Cooperate with the department in providing necessary  
24 background checks and home studies.

25 (c) If the child was not initially placed with a relative, and the  
26 court does not release the child to his or her parent, guardian, or  
27 legal custodian, the supervising agency shall make reasonable efforts  
28 to locate a relative pursuant to RCW 13.34.060(1). In determining  
29 placement, the court shall weigh the child's length of stay and  
30 attachment to the current provider in determining what is in the best  
31 interest of the child.

32 (d) If a relative is not available, the court shall order continued  
33 shelter care or order placement with another suitable person, and the  
34 court shall set forth its reasons for the order. If the court orders  
35 placement of the child with a person not related to the child and not  
36 licensed to provide foster care, the placement is subject to all terms  
37 and conditions of this section that apply to relative placements.



1 (e) Any placement with a relative, or other person approved by the  
2 court pursuant to this section, shall be contingent upon cooperation  
3 with the agency case plan and compliance with court orders related to  
4 the care and supervision of the child including, but not limited to,  
5 court orders regarding parent-child contacts, sibling contacts, and any  
6 other conditions imposed by the court. Noncompliance with the case  
7 plan or court order is grounds for removal of the child from the home  
8 of the relative or other person, subject to review by the court.

9 (f) Uncertainty by a parent, guardian, legal custodian, relative,  
10 or other suitable person that the alleged abuser has in fact abused the  
11 child shall not, alone, be the basis upon which a child is removed from  
12 the care of a parent, guardian, or legal custodian under (a) of this  
13 subsection, nor shall it be a basis, alone, to preclude placement with  
14 a relative under (b) of this subsection or with another suitable person  
15 under (d) of this subsection.

16 (6)(a) A shelter care order issued pursuant to this section shall  
17 include the requirement for a case conference as provided in RCW  
18 13.34.067. However, if the parent is not present at the shelter care  
19 hearing, or does not agree to the case conference, the court shall not  
20 include the requirement for the case conference in the shelter care  
21 order.

22 (b) If the court orders a case conference, the shelter care order  
23 shall include notice to all parties and establish the date, time, and  
24 location of the case conference which shall be no later than thirty  
25 days before the fact-finding hearing.

26 (c) The court may order another conference, case staffing, or  
27 hearing as an alternative to the case conference required under RCW  
28 13.34.067 so long as the conference, case staffing, or hearing ordered  
29 by the court meets all requirements under RCW 13.34.067, including the  
30 requirement of a written agreement specifying the services to be  
31 provided to the parent.

32 (7)(a) A shelter care order issued pursuant to this section may be  
33 amended at any time with notice and hearing thereon. The shelter care  
34 decision of placement shall be modified only upon a showing of change  
35 in circumstances. No child may be placed in shelter care for longer  
36 than thirty days without an order, signed by the judge, authorizing  
37 continued shelter care.

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

5 (ii) The court shall consider whether nonconformance with any  
6 conditions resulted from circumstances beyond the control of the  
7 parent, guardian, or legal custodian and give weight to that fact  
8 before ordering return of the child to shelter care.

9 (8)(a) If a child is returned home from shelter care a second time  
10 in the case, or if the supervisor of the caseworker deems it necessary,  
11 the multidisciplinary team may be reconvened.

12 (b) If a child is returned home from shelter care a second time in  
13 the case a law enforcement officer must be present and file a report to  
14 the department.

15 **Sec. 4.** RCW 13.34.145 and 2008 c 152 s 3 are each amended to read  
16 as follows:

17 (1) The purpose of a permanency planning hearing is to review the  
18 permanency plan for the child, inquire into the welfare of the child  
19 and progress of the case, and reach decisions regarding the permanent  
20 placement of the child.

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

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

1 shall be made to provide stability in long-term placement, and to avoid  
2 disruption of placement, unless the child is being returned home or it  
3 is in the best interest of the child.

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

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

15 (3) At the permanency planning hearing, the court shall conduct the  
16 following inquiry:

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

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

27 (i) The continuing necessity for, and the safety and  
28 appropriateness of, the placement;

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

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

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

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

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

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

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

15 (C) Being placed for adoption;

16 (D) Being placed with a guardian;

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

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

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

35 (c)(i) If the permanency plan identifies independent living as a  
36 goal, the court shall make a finding that the provision of services to  
37 assist the child in making a transition from foster care to independent

1 living will allow the child to manage his or her financial, personal,  
2 social, educational, and nonfinancial affairs prior to approving  
3 independent living as a permanency plan of care.

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

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

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

15 (4) In all cases, at the permanency planning hearing, the court  
16 shall:

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

19 (ii) Modify the permanency plan, and order implementation of the  
20 modified plan; and

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

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

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

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

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

1 (8) The juvenile court may hear a petition for permanent legal  
2 custody when: (a) The court has ordered implementation of a permanency  
3 plan that includes permanent legal custody; and (b) the party pursuing  
4 the permanent legal custody is the party identified in the permanency  
5 plan as the prospective legal custodian. During the pendency of such  
6 proceeding, the court shall conduct review hearings and further  
7 permanency planning hearings as provided in this chapter. At the  
8 conclusion of the legal guardianship or permanent legal custody  
9 proceeding, a juvenile court hearing shall be held for the purpose of  
10 determining whether dependency should be dismissed. If a guardianship  
11 or permanent custody order has been entered, the dependency shall be  
12 dismissed.

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

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

26 (11) The approval of a permanency plan that does not contemplate  
27 return of the child to the parent does not relieve the supervising  
28 agency of its obligation to provide reasonable services, under this  
29 chapter, intended to effectuate the return of the child to the parent,  
30 including but not limited to, visitation rights. The court shall  
31 consider the child's relationships with siblings in accordance with RCW  
32 13.34.130.

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

36 **Sec. 5.** RCW 13.34.180 and 2001 c 332 s 4 are each amended to read  
37 as follows:

1 (1) A petition seeking termination of a parent and child  
2 relationship may be filed in juvenile court by any party to the  
3 dependency proceedings concerning that child. Such petition shall  
4 conform to the requirements of RCW 13.34.040, shall be served upon the  
5 parties as provided in RCW 13.34.070(8), and shall allege all of the  
6 following unless subsection (2) or (3) of this section applies:

7 (a) That the child has been found to be a dependent child;

8 (b) That the court has entered a dispositional order pursuant to  
9 RCW 13.34.130;

10 (c) That the child has been removed or will, at the time of the  
11 hearing, have been removed from the custody of the parent for a period  
12 of at least six months pursuant to a finding of dependency;

13 (d) That the services ordered under RCW 13.34.136 have been  
14 expressly and understandably offered or provided and all necessary  
15 services, reasonably available, capable of correcting the parental  
16 deficiencies within the foreseeable future have been expressly and  
17 understandably offered or provided;

18 (e) That there is little likelihood that conditions will be  
19 remedied so that the child can be returned to the parent in the near  
20 future. A parent's failure to substantially improve parental  
21 deficiencies within twelve months following entry of the dispositional  
22 order shall give rise to a rebuttable presumption that there is little  
23 likelihood that conditions will be remedied so that the child can be  
24 returned to the parent in the near future. The presumption shall not  
25 arise unless the petitioner makes a showing that all necessary services  
26 reasonably capable of correcting the parental deficiencies within the  
27 foreseeable future have been clearly offered or provided. In  
28 determining whether the conditions will be remedied the court may  
29 consider, but is not limited to, the following factors:

30 (i) Use of intoxicating or controlled substances so as to render  
31 the parent incapable of providing proper care for the child for  
32 extended periods of time or for periods of time that present a risk of  
33 imminent harm to the child, and documented unwillingness of the parent  
34 to receive and complete treatment or documented multiple failed  
35 treatment attempts; ((~~or~~))

36 (ii) Psychological incapacity or mental deficiency of the parent  
37 that is so severe and chronic as to render the parent incapable of  
38 providing proper care for the child for extended periods of time or for

1 periods of time that present a risk of imminent harm to the child, and  
2 documented unwillingness of the parent to receive and complete  
3 treatment or documentation that there is no treatment that can render  
4 the parent capable of providing proper care for the child in the near  
5 future; or

6 (iii) Failure of the parent to have contact with the child for an  
7 extended period of time after the filing of the dependency petition if  
8 the parent was provided an opportunity to have a relationship with the  
9 child by the department or the court and received documented notice of  
10 the potential consequences of this failure, except that the actual  
11 inability of a parent to have visitation with the child including, but  
12 not limited to, mitigating circumstances such as a parent's  
13 incarceration or service in the military does not in and of itself  
14 constitute failure to have contact with the child; and

15 (f) That continuation of the parent and child relationship clearly  
16 diminishes the child's prospects for early integration into a stable  
17 and permanent home.

18 (2) In lieu of the allegations in subsection (1) of this section,  
19 the petition may allege that the child was found under such  
20 circumstances that the whereabouts of the child's parent are unknown  
21 and no person has acknowledged paternity or maternity and requested  
22 custody of the child within two months after the child was found.

23 (3) In lieu of the allegations in subsection (1)(b) through (f) of  
24 this section, the petition may allege that the parent has been  
25 convicted of:

26 (a) Murder in the first degree, murder in the second degree, or  
27 homicide by abuse as defined in chapter 9A.32 RCW against another child  
28 of the parent;

29 (b) Manslaughter in the first degree or manslaughter in the second  
30 degree, as defined in chapter 9A.32 RCW against another child of the  
31 parent;

32 (c) Attempting, conspiring, or soliciting another to commit one or  
33 more of the crimes listed in (a) or (b) of this subsection; or

34 (d) Assault in the first or second degree, as defined in chapter  
35 9A.36 RCW, against the surviving child or another child of the parent.

36 (4) Notice of rights shall be served upon the parent, guardian, or  
37 legal custodian with the petition and shall be in substantially the  
38 following form:



1 "NOTICE

2 A petition for termination of parental rights has been filed  
3 against you. You have important legal rights and you must take  
4 steps to protect your interests. This petition could result in  
5 permanent loss of your parental rights.

6 1. You have the right to a fact-finding hearing before  
7 a judge.

8 2. You have the right to have a lawyer represent you at  
9 the hearing. A lawyer can look at the files in your case, talk  
10 to the department of social and health services and other  
11 agencies, tell you about the law, help you understand your  
12 rights, and help you at hearings. If you cannot afford a  
13 lawyer, the court will appoint one to represent you. To get a  
14 court-appointed lawyer you must contact:  (explain local  
15 procedure) .

16 3. At the hearing, you have the right to speak on your  
17 own behalf, to introduce evidence, to examine witnesses, and to  
18 receive a decision based solely on the evidence presented to  
19 the judge.

20 You should be present at this hearing.

21 You may call  (insert agency)  for more information  
22 about your child. The agency's name and telephone number are  
23  (insert name and telephone number) ."

**ESHB 1782** - S AMD

By Senators Hargrove, Regala, Stevens

**ADOPTED 04/25/2009**

24 On page 1, line 2 of the title, after "matters;" strike the  
25 remainder of the title and insert "amending RCW 13.34.065, 13.34.145,  
26 and 13.34.180; reenacting and amending RCW 13.34.062; and creating a  
27 new section."

**EFFECT:** Adds language to the notice parents are to receive at the

shelter care stage of the dependency explaining the consequences of not participating in services offered by DSHS and maintaining a relationship with their child.

At the termination of parental rights stage of the process, adds a third factor for the court to consider when determining whether the parental deficiencies that led to the filing of a dependency petition have been remedied.

--- END ---