
SUBSTITUTE SENATE BILL 6416

State of Washington

61st Legislature

2010 Regular Session

By Senate Human Services & Corrections (originally sponsored by Senators Roach, Hargrove, and Stevens)

READ FIRST TIME 02/04/10.

1 AN ACT Relating to relatives in dependency proceedings; amending
2 RCW 13.34.060; reenacting and amending RCW 13.34.130; adding a new
3 section to chapter 13.34 RCW; and creating a new section.

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 (1) A relative of a dependent child may petition the juvenile court
8 to be heard on the department or supervising agency's decision to
9 remove the child from the relative's care if:

10 (a) The child has been found to be a dependent child under this
11 chapter;

12 (b) The parents of the child have consented to the relative filing
13 a petition to be heard on the placement decision;

14 (c) The child is in the custody of the department or supervising
15 agency at the time the petition is filed;

16 (d) The department or supervising agency has made the decision to
17 remove or has already removed the child from the relative's care; and

18 (e) The child had been in the relative's care for twelve months or
19 more prior to the decision to remove or the removal of the child.

1 (2) The relative has ten business days from the date the relative
2 learns of the removal decision, or the child is removed from the
3 relative's care, whichever is later, to file the petition to be heard.

4 (3) If the requirements of subsection (1) of this section are met,
5 the court shall grant the petition to be heard on the sole issue of the
6 placement decision and shall schedule an expedited hearing on the
7 matter.

8 (4) The relative has the right to be represented by counsel, at his
9 or her own expense, at the hearing on the petition to be heard. The
10 relative may call and cross-examine witnesses at the hearing.

11 (5) The granting of the petition to be heard under this section
12 does not grant the relative party status in the underlying dependency.

13 (6) For the purposes of this section, "relative" means a relative
14 as defined in RCW 74.15.020(2)(a) except parents.

15 **Sec. 2.** RCW 13.34.060 and 2007 c 413 s 3 are each amended to read
16 as follows:

17 (1) A child taken into custody pursuant to RCW 13.34.050 or
18 26.44.050 shall be immediately placed in shelter care. A child taken
19 by a relative of the child in violation of RCW 9A.40.060 or 9A.40.070
20 shall be placed in shelter care only when permitted under RCW
21 13.34.055. No child may be held longer than seventy-two hours,
22 excluding Saturdays, Sundays, and holidays, after such child is taken
23 into custody unless a court order has been entered for continued
24 shelter care. In no case may a child who is taken into custody
25 pursuant to RCW 13.34.055, 13.34.050, or 26.44.050 be detained in a
26 secure detention facility.

27 (2)(a) Unless there is reasonable cause to believe that the health,
28 safety, or welfare of the child would be jeopardized or that the
29 efforts to reunite the parent and child will be hindered, priority
30 placement for a child in shelter care, pending a court hearing, shall
31 be with any person described in RCW 74.15.020(2)(a) or 13.34.130(1)(b).
32 The person must be willing and available to care for the child and be
33 able to meet any special needs of the child and the court must find
34 that such placement is in the best interests of the child. The person
35 must be willing to facilitate the child's visitation with siblings, if
36 such visitation is part of the supervising agency's plan or is ordered
37 by the court.

1 **(b)** If a child is not initially placed with a relative or other
2 suitable person requested by the parent pursuant to this section, the
3 supervising agency shall make an effort within available resources to
4 place the child with a relative or other suitable person requested by
5 the parent on the next business day after the child is taken into
6 custody.

7 **(c)** The supervising agency shall document its effort to place the
8 child with a relative or other suitable person requested by the parent
9 pursuant to this section. Nothing within this subsection (2)
10 establishes an entitlement to services or a right to a particular
11 placement.

12 **(d)** When the parent requests relative placement, there is a
13 presumption that the placement is in the best interests of the child as
14 long as the placement will not impede reasonable efforts to reunify.
15 The department has the burden to overcome the presumption by a
16 preponderance of the evidence.

17 **(3)** Whenever a child is taken into custody pursuant to this
18 section, the supervising agency may authorize evaluations of the
19 child's physical or emotional condition, routine medical and dental
20 examination and care, and all necessary emergency care.

21 **Sec. 3.** RCW 13.34.130 and 2009 c 520 s 27, 2009 c 491 s 2, and
22 2009 c 397 s 3 are each reenacted and amended to read as follows:

23 If, after a fact-finding hearing pursuant to RCW 13.34.110, it has
24 been proven by a preponderance of the evidence that the child is
25 dependent within the meaning of RCW 13.34.030 after consideration of
26 the social study prepared pursuant to RCW 13.34.110 and after a
27 disposition hearing has been held pursuant to RCW 13.34.110, the court
28 shall enter an order of disposition pursuant to this section.

29 **(1)** The court shall order one of the following dispositions of the
30 case:

31 **(a)** Order a disposition other than removal of the child from his or
32 her home, which shall provide a program designed to alleviate the
33 immediate danger to the child, to mitigate or cure any damage the child
34 has already suffered, and to aid the parents so that the child will not
35 be endangered in the future. In determining the disposition, the court
36 should choose services to assist the parents in maintaining the child

1 in the home, including housing assistance, if appropriate, that least
2 interfere with family autonomy and are adequate to protect the child.

3 (b)(i) Order the child to be removed from his or her home and into
4 the custody, control, and care of a relative or other suitable person,
5 the department, or a supervising agency for supervision of the child's
6 placement.

7 (ii) Absent good cause, the department or supervising agency shall
8 follow the wishes of the parent regarding placement of the child as
9 provided in RCW 13.34.260.

10 (iii) If the parent requests the relative placement, there is a
11 presumption that the placement is in the best interests of the child as
12 long as the placement does not impede reasonable efforts to reunify.
13 The department has the burden of overcoming the presumption by a
14 preponderance of the evidence.

15 (iv) If the child is not placed with a relative as requested by the
16 parent, the department or supervising agency has the authority to place
17 the child, subject to review and approval by the court ((+i+)) (A) with
18 a relative as defined in RCW 74.15.020(2)(a), ((+ii+)) (B) in the home
19 of another suitable person if the child or family has a preexisting
20 relationship with that person, and the person has completed all
21 required criminal history background checks and otherwise appears to
22 the department or supervising agency to be suitable and competent to
23 provide care for the child, or ((+iii+)) (C) in a foster family home or
24 group care facility licensed pursuant to chapter 74.15 RCW. ((Absent
25 good cause, the department or supervising agency shall follow the
26 wishes of the natural parent regarding the placement of the child in
27 accordance with RCW 13.34.260.))

28 (v) The department or supervising agency may only place a child
29 with a person not related to the child as defined in RCW
30 74.15.020(2)(a) when the court finds that such placement is in the best
31 interest of the child. Unless there is reasonable cause to believe
32 that the health, safety, or welfare of the child would be jeopardized
33 or that efforts to reunite the parent and child will be hindered, the
34 child shall be placed with a person who is: (A) Related to the child
35 as defined in RCW 74.15.020(2)(a) with whom the child has a
36 relationship and is comfortable; or (B) a suitable person as described
37 in this subsection (1)(b); and (C) willing, appropriate, and available

1 to care for the child. The court shall consider the child's existing
2 relationships and attachments when determining placement.

3 (2) Placement of the child with a relative or other suitable person
4 as described in subsection (1)(b) of this section shall be given
5 preference by the court. An order for out-of-home placement may be
6 made only if the court finds that reasonable efforts have been made to
7 prevent or eliminate the need for removal of the child from the child's
8 home and to make it possible for the child to return home, specifying
9 the services, including housing assistance, that have been provided to
10 the child and the child's parent, guardian, or legal custodian, and
11 that preventive services have been offered or provided and have failed
12 to prevent the need for out-of-home placement, unless the health,
13 safety, and welfare of the child cannot be protected adequately in the
14 home, and that:

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

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

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

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

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

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

33 (ii) There is no reasonable cause to believe that the health,
34 safety, or welfare of any child subject to the order of placement,
35 contact, or visitation would be jeopardized or that efforts to reunite
36 the parent and child would be hindered by such placement, contact, or
37 visitation. In no event shall parental visitation time be reduced in
38 order to provide sibling visitation.

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

5 (4) If the court has ordered a child removed from his or her home
6 pursuant to subsection (1)(b) of this section and placed into
7 nonparental or nonrelative care, the court shall order a placement that
8 allows the child to remain in the same school he or she attended prior
9 to the initiation of the dependency proceeding when such a placement is
10 practical and in the child's best interest.

11 (5) If the court has ordered a child removed from his or her home
12 pursuant to subsection (1)(b) of this section, the court may order that
13 a petition seeking termination of the parent and child relationship be
14 filed if the requirements of RCW 13.34.132 are met.

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

35 NEW SECTION. **Sec. 4.** This act may be known and cited as the

1 Alexis Stuth act.

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