
SUBSTITUTE SENATE BILL 6730

State of Washington

61st Legislature

2010 Regular Session

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

READ FIRST TIME 02/05/10.

1 AN ACT Relating to implementing recommendations made by the office
2 of the family and children's ombudsman in its 2009 Colville
3 investigation by requiring the department of social and health services
4 to notify parents the relatives that have been considered as a
5 placement resource; by requiring that the department notify the
6 relatives why they were not chosen as a placement resource or why a
7 child is being removed from their home; by creating a judicial process
8 by which relatives can be heard on the decision to remove a child from
9 their home; by clarifying that the duties of a guardian ad litem do not
10 include investigation of child abuse or neglect allegations; amending
11 RCW 13.34.060 and 13.34.105; reenacting and amending RCW 13.34.130;
12 adding new sections to chapter 13.34 RCW; and creating a new section.

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

14 NEW SECTION. **Sec. 1.** The legislature finds that in 2008, the
15 office of the family and children's ombudsman, at the request of the
16 secretary of the department of social and health services, conducted an
17 investigation of several division of children and family services
18 offices. Through its investigation, the ombudsman determined that
19 parents were not regularly informed about certain aspects regarding the

1 placement of their children in out of home care, guardians ad litem and
2 court-appointed special advocates overstepped some of their duties,
3 children were removed from relative caregiver homes without prior
4 notice or explanation, and child protection teams were not always used
5 as they were intended. The legislature further finds that these
6 concerns exist in multiple places in the system and require legislative
7 involvement to correct.

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

10 (1) A child taken into custody pursuant to RCW 13.34.050 or
11 26.44.050 shall be immediately placed in shelter care. A child taken
12 by a relative of the child in violation of RCW 9A.40.060 or 9A.40.070
13 shall be placed in shelter care only when permitted under RCW
14 13.34.055. No child may be held longer than seventy-two hours,
15 excluding Saturdays, Sundays, and holidays, after such child is taken
16 into custody unless a court order has been entered for continued
17 shelter care. In no case may a child who is taken into custody
18 pursuant to RCW 13.34.055, 13.34.050, or 26.44.050 be detained in a
19 secure detention facility.

20 (2) Unless there is reasonable cause to believe that the health,
21 safety, or welfare of the child would be jeopardized or that the
22 efforts to reunite the parent and child will be hindered, priority
23 placement for a child in shelter care, pending a court hearing, shall
24 be with any person described in RCW 74.15.020(2)(a) or 13.34.130(1)(b).
25 Within ten business days, the department or supervising agency shall
26 inform the parent, both verbally and in writing, what relatives the
27 agency has considered for placement and the outcome of that
28 consideration. If the agency does not recommend placement with a
29 relative who is available and willing to be a placement resource for
30 the child, then it must inform the relative, in writing within ten
31 business days, why it is not recommending that the child be placed with
32 that relative. The person must be willing and available to care for
33 the child and be able to meet any special needs of the child and the
34 court must find that such placement is in the best interests of the
35 child. The person must be willing to facilitate the child's visitation
36 with siblings, if such visitation is part of the supervising agency's
37 plan or is ordered by the court. If a child is not initially placed

1 with a relative or other suitable person requested by the parent
2 pursuant to this section, the department or supervising agency shall
3 make an effort within available resources to place the child with a
4 relative or other suitable person requested by the parent on the next
5 business day after the child is taken into custody. The supervising
6 agency shall document its effort to place the child with a relative or
7 other suitable person requested by the parent pursuant to this section.
8 Nothing within this subsection (2) establishes an entitlement to
9 services or a right to a particular placement.

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

14 **Sec. 3.** RCW 13.34.130 and 2009 c 520 s 27, 2009 c 491 s 2, and
15 2009 c 397 s 3 are each reenacted and amended to read as follows:

16 If, after a fact-finding hearing pursuant to RCW 13.34.110, it has
17 been proven by a preponderance of the evidence that the child is
18 dependent within the meaning of RCW 13.34.030 after consideration of
19 the social study prepared pursuant to RCW 13.34.110 and after a
20 disposition hearing has been held pursuant to RCW 13.34.110, the court
21 shall enter an order of disposition pursuant to this section.

22 (1) The court shall order one of the following dispositions of the
23 case:

24 (a) Order a disposition other than removal of the child from his or
25 her home, which shall provide a program designed to alleviate the
26 immediate danger to the child, to mitigate or cure any damage the child
27 has already suffered, and to aid the parents so that the child will not
28 be endangered in the future. In determining the disposition, the court
29 should choose services to assist the parents in maintaining the child
30 in the home, including housing assistance, if appropriate, that least
31 interfere with family autonomy and are adequate to protect the child.

32 (b) Order the child to be removed from his or her home and into the
33 custody, control, and care of a relative or other suitable person, the
34 department, or a supervising agency for supervision of the child's
35 placement. The department or supervising agency has the authority to
36 place the child, subject to review and approval by the court (i) with
37 a relative as defined in RCW 74.15.020(2)(a), (ii) in the home of

1 another suitable person if the child or family has a preexisting
2 relationship with that person, and the person has completed all
3 required criminal history background checks and otherwise appears to
4 the department or supervising agency to be suitable and competent to
5 provide care for the child, or (iii) in a foster family home or group
6 care facility licensed pursuant to chapter 74.15 RCW. Absent good
7 cause, the department or supervising agency shall follow the wishes of
8 the natural parent regarding the placement of the child in accordance
9 with RCW 13.34.260. The department or supervising agency may only
10 place a child with a person not related to the child as defined in RCW
11 74.15.020(2)(a) when the court finds that such placement is in the best
12 interest of the child. Unless there is reasonable cause to believe
13 that the health, safety, or welfare of the child would be jeopardized
14 or that efforts to reunite the parent and child will be hindered, the
15 child shall be placed with a person who is: (A) Related to the child
16 as defined in RCW 74.15.020(2)(a) with whom the child has a
17 relationship and is comfortable; or (B) a suitable person as described
18 in this subsection (1)(b); and (C) willing, appropriate, and available
19 to care for the child. The court shall consider the child's existing
20 relationships and attachments when determining placement.

21 (2) The department or supervising agency shall inform the parent,
22 both verbally and in writing, what relatives the agency has considered
23 for placement and the outcome of that consideration. If the agency
24 does not recommend placement with a relative who is available and
25 willing to be a placement resource for the child, then it must inform
26 the relative, in writing, why it is not recommending that the child be
27 placed with that relative.

28 (3) Placement of the child with a relative or other suitable person
29 as described in subsection (1)(b) of this section shall be given
30 preference by the court. An order for out-of-home placement may be
31 made only if the court finds that reasonable efforts have been made to
32 prevent or eliminate the need for removal of the child from the child's
33 home and to make it possible for the child to return home, specifying
34 the services, including housing assistance, that have been provided to
35 the child and the child's parent, guardian, or legal custodian, and
36 that preventive services have been offered or provided and have failed
37 to prevent the need for out-of-home placement, unless the health,

1 safety, and welfare of the child cannot be protected adequately in the
2 home, and that:

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

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

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

11 (~~(+3)~~) (4) If the court has ordered a child removed from his or
12 her home pursuant to subsection (1)(b) of this section, the court shall
13 consider whether it is in a child's best interest to be placed with,
14 have contact with, or have visits with siblings.

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

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

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

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

31 (~~(+4)~~) (5) If the court has ordered a child removed from his or
32 her home pursuant to subsection (1)(b) of this section and placed into
33 nonparental or nonrelative care, the court shall order a placement that
34 allows the child to remain in the same school he or she attended prior
35 to the initiation of the dependency proceeding when such a placement is
36 practical and in the child's best interest.

37 (~~(+5)~~) (6) If the court has ordered a child removed from his or

1 her home pursuant to subsection (1)(b) of this section, the court may
2 order that a petition seeking termination of the parent and child
3 relationship be filed if the requirements of RCW 13.34.132 are met.

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

24 NEW SECTION. **Sec. 4.** A new section is added to chapter 13.34 RCW
25 to read as follows:

26 (1) Whenever a child has been placed with a relative by the
27 department or a supervising agency, and the child has resided with that
28 relative for at least ninety consecutive days, the department or
29 supervising agency shall notify the relative at least five days before
30 moving the child to another placement unless:

31 (a) A court order has been entered requiring an immediate change in
32 placement;

33 (b) The child is being returned home;

34 (c) The child's safety is in jeopardy; or

35 (d) The child is residing in a receiving or group home.

36 (2) In the event a relative is the subject of a child abuse or

1 neglect referral, the department shall meet with the relative in person
2 to explain the nature of the allegations and give the relative a
3 reasonable opportunity to respond to the allegations.

4 (3) Neither the department nor a supervising agency may remove a
5 child from a relative care provider unless the department has made a
6 finding that the relative has abused or neglected the child, clearly
7 violated a court order, a court order has been entered moving the child
8 to a different placement, the child is returned home, or the child is
9 at imminent risk of harm if the removal does not occur.

10 NEW SECTION. **Sec. 5.** A new section is added to chapter 13.34 RCW
11 to read as follows:

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

15 (a) The child has been found to be a dependent child under this
16 chapter;

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

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

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

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

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

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

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

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

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

3 **Sec. 6.** RCW 13.34.105 and 2008 c 267 s 13 are each amended to read
4 as follows:

5 (1) Unless otherwise directed by the court, the duties of the
6 guardian ad litem for a child subject to a proceeding under this
7 chapter, including an attorney specifically appointed by the court to
8 serve as a guardian ad litem, include but are not limited to the
9 following:

10 (a) To investigate, collect relevant information about the child's
11 situation, and report to the court factual information regarding the
12 best interests of the child;

13 (b) To meet with, interview, or observe the child, depending on the
14 child's age and developmental status, and report to the court any views
15 or positions expressed by the child on issues pending before the court;

16 (c) To monitor all court orders for compliance and to bring to the
17 court's attention any change in circumstances that may require a
18 modification of the court's order;

19 (d) To report to the court information on the legal status of a
20 child's membership in any Indian tribe or band;

21 (e) Court-appointed special advocates and guardians ad litem may
22 make recommendations based upon an independent investigation regarding
23 the best interests of the child, which the court may consider and weigh
24 in conjunction with the recommendations of all of the parties; and

25 (f) To represent and be an advocate for the best interests of the
26 child.

27 (2) The duties of the guardian ad litem do not include conducting
28 investigations into child abuse or neglect allegations.

29 (3) A guardian ad litem shall be deemed an officer of the court for
30 the purpose of immunity from civil liability.

31 ((+3)) (4) Except for information or records specified in RCW
32 13.50.100(7), the guardian ad litem shall have access to all
33 information available to the state or agency on the case. Upon
34 presentation of the order of appointment by the guardian ad litem, any
35 agency, hospital, school organization, division or department of the
36 state, doctor, nurse, or other health care provider, psychologist,
37 psychiatrist, police department, or mental health clinic shall permit

1 the guardian ad litem to inspect and copy any records relating to the
2 child or children involved in the case, without the consent of the
3 parent or guardian of the child, or of the child if the child is under
4 the age of thirteen years, unless such access is otherwise specifically
5 prohibited by law.

6 ~~((4))~~ (5) A guardian ad litem may release confidential
7 information, records, and reports to the office of the family and
8 children's ombudsman for the purposes of carrying out its duties under
9 chapter 43.06A RCW.

10 ~~((5))~~ (6) The guardian ad litem shall release case information in
11 accordance with the provisions of RCW 13.50.100.

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