
HOUSE BILL 1284

State of Washington

63rd Legislature

2013 Regular Session

By Representatives Roberts, Walsh, Kagi, Sawyer, Goodman, Freeman, Farrell, Appleton, Ryu, Reykdal, Santos, and Habib

Read first time 01/22/13. Referred to Committee on Early Learning & Human Services.

1 AN ACT Relating to the rights of parents who are incarcerated or in
2 residential substance abuse treatment; amending RCW 13.34.067,
3 13.34.132, 13.34.136, and 13.34.145; and reenacting and amending RCW
4 13.34.030 and 13.34.180.

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

6 **Sec. 1.** RCW 13.34.030 and 2011 1st sp.s. c 36 s 13 are each
7 reenacted and amended to read as follows:

8 For purposes of this chapter:

9 (1) "Abandoned" means when the child's parent, guardian, or other
10 custodian has expressed, either by statement or conduct, an intent to
11 forego, for an extended period, parental rights or responsibilities
12 despite an ability to exercise such rights and responsibilities. If
13 the court finds that the petitioner has exercised due diligence in
14 attempting to locate the parent, no contact between the child and the
15 child's parent, guardian, or other custodian for a period of three
16 months creates a rebuttable presumption of abandonment, even if there
17 is no expressed intent to abandon.

18 (2) "Child," "juvenile," and "youth" means:

19 (a) Any individual under the age of eighteen years; or

1 (b) Any individual age eighteen to twenty-one years who is eligible
2 to receive and who elects to receive the extended foster care services
3 authorized under RCW 74.13.031. A youth who remains dependent and who
4 receives extended foster care services under RCW 74.13.031 shall not be
5 considered a "child" under any other statute or for any other purpose.

6 (3) "Current placement episode" means the period of time that
7 begins with the most recent date that the child was removed from the
8 home of the parent, guardian, or legal custodian for purposes of
9 placement in out-of-home care and continues until: (a) The child
10 returns home; (b) an adoption decree, a permanent custody order, or
11 guardianship order is entered; or (c) the dependency is dismissed,
12 whichever occurs first.

13 (4) "Department" means the department of social and health
14 services.

15 (5) "Dependency guardian" means the person, nonprofit corporation,
16 or Indian tribe appointed by the court pursuant to this chapter for the
17 limited purpose of assisting the court in the supervision of the
18 dependency.

19 (6) "Dependent child" means any child who:

20 (a) Has been abandoned;

21 (b) Is abused or neglected as defined in chapter 26.44 RCW by a
22 person legally responsible for the care of the child;

23 (c) Has no parent, guardian, or custodian capable of adequately
24 caring for the child, such that the child is in circumstances which
25 constitute a danger of substantial damage to the child's psychological
26 or physical development; or

27 (d) Is receiving extended foster care services, as authorized by
28 RCW 74.13.031.

29 (7) "Developmental disability" means a disability attributable to
30 intellectual disability, cerebral palsy, epilepsy, autism, or another
31 neurological or other condition of an individual found by the secretary
32 to be closely related to an intellectual disability or to require
33 treatment similar to that required for individuals with intellectual
34 disabilities, which disability originates before the individual attains
35 age eighteen, which has continued or can be expected to continue
36 indefinitely, and which constitutes a substantial limitation to the
37 individual.

1 (8) "Extended foster care services" means residential and other
2 support services the department is authorized to provide under RCW
3 74.13.031.

4 (9) "Guardian" means the person or agency that: (a) Has been
5 appointed as the guardian of a child in a legal proceeding, including
6 a guardian appointed pursuant to chapter 13.36 RCW; and (b) has the
7 legal right to custody of the child pursuant to such appointment. The
8 term "guardian" does not include a "dependency guardian" appointed
9 pursuant to a proceeding under this chapter.

10 (10) "Guardian ad litem" means a person, appointed by the court to
11 represent the best interests of a child in a proceeding under this
12 chapter, or in any matter which may be consolidated with a proceeding
13 under this chapter. A "court-appointed special advocate" appointed by
14 the court to be the guardian ad litem for the child, or to perform
15 substantially the same duties and functions as a guardian ad litem,
16 shall be deemed to be guardian ad litem for all purposes and uses of
17 this chapter.

18 (11) "Guardian ad litem program" means a court-authorized volunteer
19 program, which is or may be established by the superior court of the
20 county in which such proceeding is filed, to manage all aspects of
21 volunteer guardian ad litem representation for children alleged or
22 found to be dependent. Such management shall include but is not
23 limited to: Recruitment, screening, training, supervision, assignment,
24 and discharge of volunteers.

25 (12) "Housing assistance" means appropriate referrals by the
26 department or other supervising agencies to federal, state, local, or
27 private agencies or organizations, assistance with forms, applications,
28 or financial subsidies or other monetary assistance for housing. For
29 purposes of this chapter, "housing assistance" is not a remedial
30 service or time-limited family reunification service as described in
31 RCW 13.34.025(2).

32 (13) "Indigent" means a person who, at any stage of a court
33 proceeding, is:

34 (a) Receiving one of the following types of public assistance:
35 Temporary assistance for needy families, aged, blind, or disabled
36 assistance benefits, medical care services under RCW 74.09.035,
37 pregnant women assistance benefits, poverty-related veterans' benefits,

1 food stamps or food stamp benefits transferred electronically, refugee
2 resettlement benefits, medicaid, or supplemental security income; or

3 (b) Involuntarily committed to a public mental health facility; or

4 (c) Receiving an annual income, after taxes, of one hundred twenty-
5 five percent or less of the federally established poverty level; or

6 (d) Unable to pay the anticipated cost of counsel for the matter
7 before the court because his or her available funds are insufficient to
8 pay any amount for the retention of counsel.

9 (14) "Out-of-home care" means placement in a foster family home or
10 group care facility licensed pursuant to chapter 74.15 RCW or placement
11 in a home, other than that of the child's parent, guardian, or legal
12 custodian, not required to be licensed pursuant to chapter 74.15 RCW.

13 (15) "Preventive services" means preservation services, as defined
14 in chapter 74.14C RCW, and other reasonably available services,
15 including housing assistance, capable of preventing the need for out-
16 of-home placement while protecting the child.

17 (16) "Reasonable efforts" means good faith attempts by an
18 authorized agency to assist, develop, and encourage a meaningful
19 relationship between the parent and child including, but not limited
20 to, consultation and cooperation with the parent in developing a plan
21 for appropriate services, facilitating appropriate visitation, and
22 providing remedial services required under RCW 13.34.025. In the case
23 of a parent who is incarcerated or participating in a residential
24 substance abuse treatment program, visitation must be facilitated
25 unless it is not in the best interests of the child.

26 (17) "Shelter care" means temporary physical care in a facility
27 licensed pursuant to RCW 74.15.030 or in a home not required to be
28 licensed pursuant to RCW 74.15.030.

29 ((+17+)) (18) "Sibling" means a child's birth brother, birth
30 sister, adoptive brother, adoptive sister, half-brother, or half-
31 sister, or as defined by the law or custom of the Indian child's tribe
32 for an Indian child as defined in RCW 13.38.040.

33 ((+18+)) (19) "Social study" means a written evaluation of matters
34 relevant to the disposition of the case and shall contain the following
35 information:

36 (a) A statement of the specific harm or harms to the child that
37 intervention is designed to alleviate;

1 (b) A description of the specific services and activities, for both
2 the parents and child, that are needed in order to prevent serious harm
3 to the child; the reasons why such services and activities are likely
4 to be useful; the availability of any proposed services; and the
5 agency's overall plan for ensuring that the services will be delivered.
6 The description shall identify the services chosen and approved by the
7 parent;

8 (c) If removal is recommended, a full description of the reasons
9 why the child cannot be protected adequately in the home, including a
10 description of any previous efforts to work with the parents and the
11 child in the home; the in-home treatment programs that have been
12 considered and rejected; the preventive services, including housing
13 assistance, that have been offered or provided and have failed to
14 prevent the need for out-of-home placement, unless the health, safety,
15 and welfare of the child cannot be protected adequately in the home;
16 and the parents' attitude toward placement of the child;

17 (d) A statement of the likely harms the child will suffer as a
18 result of removal;

19 (e) A description of the steps that will be taken to minimize the
20 harm to the child that may result if separation occurs including an
21 assessment of the child's relationship and emotional bond with any
22 siblings, and the agency's plan to provide ongoing contact between the
23 child and the child's siblings if appropriate; and

24 (f) Behavior that will be expected before determination that
25 supervision of the family or placement is no longer necessary.

26 ((+19+)) (20) "Supervising agency" means an agency licensed by the
27 state under RCW 74.15.090, or licensed by a federally recognized Indian
28 tribe located in this state under RCW 74.15.190, that has entered into
29 a performance-based contract with the department to provide case
30 management for the delivery and documentation of child welfare services
31 as defined in RCW 74.13.020.

32 **Sec. 2.** RCW 13.34.067 and 2009 c 520 s 23 are each amended to read
33 as follows:

34 (1)(a) Following shelter care and no later than thirty days prior
35 to fact-finding, the department or supervising agency shall convene a
36 case conference as required in the shelter care order to develop and

1 specify in a written service agreement the expectations of both the
2 department or supervising agency and the parent regarding voluntary
3 services for the parent.

4 (b) The case conference shall include the parent, counsel for the
5 parent, caseworker, counsel for the state, guardian ad litem, counsel
6 for the child, and any other person agreed upon by the parties. Once
7 the shelter care order is entered, the department or supervising agency
8 is not required to provide additional notice of the case conference to
9 any participants in the case conference.

10 (c) The written service agreement expectations must correlate with
11 the court's findings at the shelter care hearing. The written service
12 agreement must set forth specific services to be provided to the
13 parent.

14 (d) The case conference agreement must be agreed to and signed by
15 the parties. The court shall not consider the content of the
16 discussions at the case conference at the time of the fact-finding
17 hearing for the purposes of establishing that the child is a dependent
18 child, and the court shall not consider any documents or written
19 materials presented at the case conference but not incorporated into
20 the case conference agreement, unless the documents or written
21 materials were prepared for purposes other than or as a result of the
22 case conference and are otherwise admissible under the rules of
23 evidence.

24 (2) At any other stage in a dependency proceeding, the department
25 or supervising agency, upon the parent's request, shall convene a case
26 conference.

27 (3) If a case conference is convened pursuant to subsection (1) or
28 (2) of this section and the parent is unable to participate in person
29 due to incarceration or participation in a residential substance abuse
30 treatment program, the parent must have the option to participate
31 through the use of a teleconference or videoconference.

32 **Sec. 3.** RCW 13.34.132 and 2011 c 309 s 28 are each amended to read
33 as follows:

34 A court may order that a petition seeking termination of the parent
35 and child relationship be filed if the following requirements are met:

36 (1) The court has removed the child from his or her home pursuant
37 to RCW 13.34.130;

1 (2) Termination is recommended by the department or the supervising
2 agency;

3 (3) Termination is in the best interests of the child; and

4 (4) Because of the existence of aggravated circumstances,
5 reasonable efforts to unify the family are not required.
6 Notwithstanding the existence of aggravated circumstances, reasonable
7 efforts may be required if the court or department determines it is in
8 the best interests of the child. In determining whether aggravated
9 circumstances exist by clear, cogent, and convincing evidence, the
10 court shall consider one or more of the following:

11 (a) Conviction of the parent of rape of the child in the first,
12 second, or third degree as defined in RCW 9A.44.073, 9A.44.076, and
13 9A.44.079;

14 (b) Conviction of the parent of criminal mistreatment of the child
15 in the first or second degree as defined in RCW 9A.42.020 and
16 9A.42.030;

17 (c) Conviction of the parent of one of the following assault
18 crimes, when the child is the victim: Assault in the first or second
19 degree as defined in RCW 9A.36.011 and 9A.36.021 or assault of a child
20 in the first or second degree as defined in RCW 9A.36.120 or 9A.36.130;

21 (d) Conviction of the parent of murder, manslaughter, or homicide
22 by abuse of the child's other parent, sibling, or another child;

23 (e) Conviction of the parent of attempting, soliciting, or
24 conspiring to commit a crime listed in (a), (b), (c), or (d) of this
25 subsection;

26 (f) A finding by a court that a parent is a sexually violent
27 predator as defined in RCW 71.09.020;

28 (g) Failure of the parent to complete available treatment ordered
29 under this chapter or the equivalent laws of another state, where such
30 failure has resulted in a prior termination of parental rights to
31 another child and the parent has failed to effect significant change in
32 the interim. In the case of a parent of an Indian child, as defined in
33 RCW 13.38.040, the court shall also consider tribal efforts to assist
34 the parent in completing treatment and make it possible for the child
35 to return home;

36 (h) An infant under three years of age has been abandoned;

37 (i) Conviction of the parent, when a child has been born of the

1 offense, of: (A) A sex offense under chapter 9A.44 RCW; or (B) incest
2 under RCW 9A.64.020.

3 (5) The court shall consider the constraints experienced by a
4 parent's current or prior incarceration or current or prior
5 participation in a residential substance abuse treatment program when
6 determining whether a parent has failed to complete court-ordered
7 treatment. Such consideration must include, but not be limited to,
8 delays in or barriers to accessing court-mandated services.

9 **Sec. 4.** RCW 13.34.136 and 2011 c 309 s 29 are each amended to read
10 as follows:

11 (1) Whenever a child is ordered removed from the home, a permanency
12 plan shall be developed no later than sixty days from the time the
13 supervising agency assumes responsibility for providing services,
14 including placing the child, or at the time of a hearing under RCW
15 13.34.130, whichever occurs first. The permanency planning process
16 continues until a permanency planning goal is achieved or dependency is
17 dismissed. The planning process shall include reasonable efforts to
18 return the child to the parent's home.

19 (2) The agency supervising the dependency shall submit a written
20 permanency plan to all parties and the court not less than fourteen
21 days prior to the scheduled hearing. Responsive reports of parties not
22 in agreement with the department's or supervising agency's proposed
23 permanency plan must be provided to the department or supervising
24 agency, all other parties, and the court at least seven days prior to
25 the hearing.

26 The permanency plan shall include:

27 (a) A permanency plan of care that shall identify one of the
28 following outcomes as a primary goal and may identify additional
29 outcomes as alternative goals: Return of the child to the home of the
30 child's parent, guardian, or legal custodian; adoption, including a
31 tribal customary adoption as defined in RCW 13.38.040; guardianship;
32 permanent legal custody; long-term relative or foster care, until the
33 child is age eighteen, with a written agreement between the parties and
34 the care provider; successful completion of a responsible living skills
35 program; or independent living, if appropriate and if the child is age
36 sixteen or older. The department or supervising agency shall not

1 discharge a child to an independent living situation before the child
2 is eighteen years of age unless the child becomes emancipated pursuant
3 to chapter 13.64 RCW;

4 (b) Unless the court has ordered, pursuant to RCW 13.34.130(~~(+6)~~)
5 (8), that a termination petition be filed, a specific plan as to where
6 the child will be placed, what steps will be taken to return the child
7 home, what steps the supervising agency or the department will take to
8 promote existing appropriate sibling relationships and/or facilitate
9 placement together or contact in accordance with the best interests of
10 each child, and what actions the department or supervising agency will
11 take to maintain parent-child ties. All aspects of the plan shall
12 include the goal of achieving permanence for the child.

13 (i) The department's or supervising agency's plan shall specify
14 what services the parents will be offered to enable them to resume
15 custody, what requirements the parents must meet to resume custody, and
16 a time limit for each service plan and parental requirement. If the
17 parent is incarcerated or residing in a residential substance abuse
18 treatment facility, the plan must address the special circumstances and
19 needs of the child and the family.

20 (ii) Visitation is the right of the family, including the child and
21 the parent, in cases in which visitation is in the best interest of the
22 child. Early, consistent, and frequent visitation is crucial for
23 maintaining parent-child relationships and making it possible for
24 parents and children to safely reunify. The supervising agency or
25 department shall encourage the maximum parent and child and sibling
26 contact possible, when it is in the best interest of the child,
27 including regular visitation and participation by the parents in the
28 care of the child while the child is in placement. Visitation shall
29 not be limited as a sanction for a parent's failure to comply with
30 court orders or services where the health, safety, or welfare of the
31 child is not at risk as a result of the visitation. Visitation may be
32 limited or denied only if the court determines that such limitation or
33 denial is necessary to protect the child's health, safety, or welfare.
34 The court and the department or supervising agency should rely upon
35 community resources, relatives, foster parents, and other appropriate
36 persons to provide transportation and supervision for visitation to the
37 extent that such resources are available, and appropriate, and the
38 child's safety would not be compromised.

1 (iii) A child shall be placed as close to the child's home as
2 possible, preferably in the child's own neighborhood, unless the court
3 finds that placement at a greater distance is necessary to promote the
4 child's or parents' well-being.

5 (iv) The plan shall state whether both in-state and, where
6 appropriate, out-of-state placement options have been considered by the
7 department or supervising agency.

8 (v) Unless it is not in the best interests of the child, whenever
9 practical, the plan should ensure the child remains enrolled in the
10 school the child was attending at the time the child entered foster
11 care.

12 (vi) The supervising agency or department shall provide all
13 reasonable services that are available within the department or
14 supervising agency, or within the community, or those services which
15 the department has existing contracts to purchase. It shall report to
16 the court if it is unable to provide such services. If the parent is
17 incarcerated or participating in a residential substance abuse
18 treatment program or if a prior incarceration or participation in a
19 residential substance abuse program has prevented the parent from
20 accessing services, the department or the supervising agency shall
21 notify the parent in writing of his or her legal rights and obligations
22 and of services available in the community in which the parent resides
23 or plans to reside upon release that may aid in the development of a
24 meaningful relationship between the parent and child. When possible,
25 information regarding available services must include services for
26 reentry and family support; and

27 (c) If the court has ordered, pursuant to RCW 13.34.130(~~(+6)~~) (8),
28 that a termination petition be filed, a specific plan as to where the
29 child will be placed, what steps will be taken to achieve permanency
30 for the child, services to be offered or provided to the child, and, if
31 visitation would be in the best interests of the child, a
32 recommendation to the court regarding visitation between parent and
33 child pending a fact-finding hearing on the termination petition. The
34 department or supervising agency shall not be required to develop a
35 plan of services for the parents or provide services to the parents if
36 the court orders a termination petition be filed. However, reasonable
37 efforts to ensure visitation and contact between siblings shall be made

1 unless there is reasonable cause to believe the best interests of the
2 child or siblings would be jeopardized.

3 (3) Permanency planning goals should be achieved at the earliest
4 possible date. If the child has been in out-of-home care for fifteen
5 of the most recent twenty-two months, and the court has not made a good
6 cause exception, the court shall require the department or supervising
7 agency to file a petition seeking termination of parental rights in
8 accordance with RCW 13.34.145(3)(b)(vi). In cases where parental
9 rights have been terminated, the child is legally free for adoption,
10 and adoption has been identified as the primary permanency planning
11 goal, it shall be a goal to complete the adoption within six months
12 following entry of the termination order.

13 (4) If the court determines that the continuation of reasonable
14 efforts to prevent or eliminate the need to remove the child from his
15 or her home or to safely return the child home should not be part of
16 the permanency plan of care for the child, reasonable efforts shall be
17 made to place the child in a timely manner and to complete whatever
18 steps are necessary to finalize the permanent placement of the child.

19 (5) The identified outcomes and goals of the permanency plan may
20 change over time based upon the circumstances of the particular case.

21 (6) The court shall consider the child's relationships with the
22 child's siblings in accordance with RCW 13.34.130(~~((+4))~~) (6). Whenever
23 the permanency plan for a child is adoption, the court shall encourage
24 the prospective adoptive parents, birth parents, foster parents,
25 kinship caregivers, and the department or other supervising agency to
26 seriously consider the long-term benefits to the child adoptee and his
27 or her siblings of providing for and facilitating continuing
28 postadoption contact between the siblings. To the extent that it is
29 feasible, and when it is in the best interests of the child adoptee and
30 his or her siblings, contact between the siblings should be frequent
31 and of a similar nature as that which existed prior to the adoption.
32 If the child adoptee or his or her siblings are represented by an
33 attorney or guardian ad litem in a proceeding under this chapter or in
34 any other child custody proceeding, the court shall inquire of each
35 attorney and guardian ad litem regarding the potential benefits of
36 continuing contact between the siblings and the potential detriments of
37 severing contact. This section does not require the department of
38 social and health services or other supervising agency to agree to any

1 specific provisions in an open adoption agreement and does not create
2 a new obligation for the department to provide supervision or
3 transportation for visits between siblings separated by adoption from
4 foster care.

5 (7) For purposes related to permanency planning:

6 (a) "Guardianship" means a dependency guardianship or a legal
7 guardianship pursuant to chapter 11.88 RCW or equivalent laws of
8 another state or a federally recognized Indian tribe.

9 (b) "Permanent custody order" means a custody order entered
10 pursuant to chapter 26.10 RCW.

11 (c) "Permanent legal custody" means legal custody pursuant to
12 chapter 26.10 RCW or equivalent laws of another state or a federally
13 recognized Indian tribe.

14 **Sec. 5.** RCW 13.34.145 and 2011 c 330 s 6 are each amended to read
15 as follows:

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

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

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

1 disruption of placement, unless the child is being returned home or it
2 is in the best interest of the child.

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

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

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

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

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

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

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

31 (iii) The extent of any efforts to involve appropriate service
32 providers in addition to department or supervising agency staff in
33 planning to meet the special needs of the child and the child's
34 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 department
10 or supervising agency to achieve the goal of the permanency plan, and
11 the circumstances which 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 or
22 supervising agency to file a petition seeking termination of parental
23 rights if the child has been in out-of-home care for fifteen of the
24 last twenty-two months since the date the dependency petition was filed
25 unless the court makes a good cause exception as to why the filing of
26 a termination of parental rights petition is not appropriate. Any good
27 cause finding shall be reviewed at all subsequent hearings pertaining
28 to the child. For purposes of this section, "good cause exception"
29 includes but is not limited to the following:

30 (I) The child is being cared for by a relative;

31 (II) The department has not provided to the child's family such
32 services as the court and the department have deemed necessary for the
33 child's safe return home; (~~or~~)

34 (III) The department has documented in the case plan a compelling
35 reason for determining that filing a petition to terminate parental
36 rights would not be in the child's best interests; or

37 (IV) The parent is incarcerated or participating in a residential
38 substance abuse treatment program, or the parent's prior incarceration

1 or participation in a residential substance abuse treatment program is
2 a significant factor in why the child has been in foster care for
3 fifteen of the last twenty-two months, provided that the parent
4 maintains a meaningful role in the child's life based on the criteria
5 set forth in subsection (3)(c)(i) of this section, and the department
6 has not documented a reason why it would otherwise be appropriate to
7 file a petition pursuant to this section.

8 (c) Whether a parent maintains a meaningful role in his or her
9 child's life.

10 (i) The court's assessment of whether a parent maintains a
11 meaningful role in his or her child's life may include, but is not
12 limited to, the following:

13 (A) A parent's expressions or acts of manifesting concern for the
14 child, such as letters, telephone calls, visits, and other forms of
15 communication with the child;

16 (B) Efforts by the parent to communicate and work with the
17 department or supervising agency, legal guardian, foster parent, the
18 court, and the parent's attorney or other individuals providing
19 services to the parent, including correctional mental health and
20 substance abuse treatment program personnel, for the purpose of
21 complying with the service plan and repairing, maintaining, or building
22 the parent-child relationship;

23 (C) A positive response by the parent to the reasonable efforts of
24 the department or the supervising agency; and

25 (D) Whether the continued involvement of the parent in the child's
26 life is in the child's best interest.

27 (ii) The court shall consider the parent's limited access to family
28 support programs, therapeutic services, and visiting opportunities;
29 highly restricted telephone and mail services; inability to participate
30 in foster care planning meetings; and difficulty accessing lawyers and
31 participating meaningfully in court proceedings.

32 (iii) The department shall gather information from individuals and
33 agencies in a reasonable position to help make this assessment. Such
34 individuals and agencies may include, but are not limited to, the
35 supervising agency, legal guardian, parent, child, foster parent, or
36 other individuals of importance in the child's life. Sources of
37 information may also include the parent's attorney, correctional mental

1 health and substance abuse treatment program personnel, or other
2 individuals providing services to the parent.

3 (iv) The court may direct the department or the supervising agency
4 to undertake further steps to aid it in completing the court's
5 assessment.

6 ~~((e))~~ (d)(i) If the permanency plan identifies independent living
7 as a goal, the court shall make a finding that the provision of
8 services to assist the child in making a transition from foster care to
9 independent living will allow the child to manage his or her financial,
10 personal, social, educational, and nonfinancial affairs prior to
11 approving independent living as a permanency plan of care. The court
12 will inquire whether the child has been provided information about
13 extended foster care services.

14 (ii) The permanency plan shall also specifically identify the
15 services, including extended foster care services, where appropriate,
16 that will be provided to assist the child to make a successful
17 transition from foster care to independent living.

18 (iii) The department or supervising agency shall not discharge a
19 child to an independent living situation before the child is eighteen
20 years of age unless the child becomes emancipated pursuant to chapter
21 13.64 RCW.

22 ~~((d))~~ (e) If the child has resided in the home of a foster parent
23 or relative for more than six months prior to the permanency planning
24 hearing, the court shall:

25 (i) Enter a finding regarding whether the foster parent or relative
26 was informed of the hearing as required in RCW 74.13.280, 13.34.215(6),
27 and 13.34.096; and

28 (ii) If the department or supervising agency is recommending a
29 placement other than the child's current placement with a foster
30 parent, relative, or other suitable person, enter a finding as to the
31 reasons for the recommendation for a change in placement.

32 (4) In all cases, at the permanency planning hearing, the court
33 shall:

34 (a)(i) Order the permanency plan prepared by the supervising agency
35 to be implemented; or

36 (ii) Modify the permanency plan, and order implementation of the
37 modified plan; and

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

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

6 (5) Following the first permanency planning hearing, the court
7 shall hold a further permanency planning hearing in accordance with
8 this section at least once every twelve months until a permanency
9 planning goal is achieved or the dependency is dismissed, whichever
10 occurs first.

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

14 (7) If the court orders the child returned home, casework
15 supervision by the department or supervising agency shall continue for
16 at least six months, at which time a review hearing shall be held
17 pursuant to RCW 13.34.138, and the court shall determine the need for
18 continued intervention.

19 (8) The juvenile court may hear a petition for permanent legal
20 custody when: (a) The court has ordered implementation of a permanency
21 plan that includes permanent legal custody; and (b) the party pursuing
22 the permanent legal custody is the party identified in the permanency
23 plan as the prospective legal custodian. During the pendency of such
24 proceeding, the court shall conduct review hearings and further
25 permanency planning hearings as provided in this chapter. At the
26 conclusion of the legal guardianship or permanent legal custody
27 proceeding, a juvenile court hearing shall be held for the purpose of
28 determining whether dependency should be dismissed. If a guardianship
29 or permanent custody order has been entered, the dependency shall be
30 dismissed.

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

35 (10) Nothing in this chapter may be construed to limit the ability
36 of the agency that has custody of the child to file a petition for
37 termination of parental rights or a guardianship petition at any time
38 following the establishment of dependency. Upon the filing of such a

1 petition, a fact-finding hearing shall be scheduled and held in
2 accordance with this chapter unless the department or supervising
3 agency requests dismissal of the petition prior to the hearing or
4 unless the parties enter an agreed order terminating parental rights,
5 establishing guardianship, or otherwise resolving the matter.

6 (11) The approval of a permanency plan that does not contemplate
7 return of the child to the parent does not relieve the supervising
8 agency of its obligation to provide reasonable services, under this
9 chapter, intended to effectuate the return of the child to the parent,
10 including but not limited to, visitation rights. The court shall
11 consider the child's relationships with siblings in accordance with RCW
12 13.34.130.

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

16 **Sec. 6.** RCW 13.34.180 and 2009 c 520 s 34 and 2009 c 477 s 5 are
17 each reenacted and amended to read as follows:

18 (1) A petition seeking termination of a parent and child
19 relationship may be filed in juvenile court by any party, including the
20 supervising agency, to the dependency proceedings concerning that
21 child. Such petition shall conform to the requirements of RCW
22 13.34.040, shall be served upon the parties as provided in RCW
23 13.34.070(8), and shall allege all of the following unless subsection
24 (2) or (3) of this section applies:

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

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

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

31 (d) That the services ordered under RCW 13.34.136 have been
32 expressly and understandably offered or provided and all necessary
33 services, reasonably available, capable of correcting the parental
34 deficiencies within the foreseeable future have been expressly and
35 understandably offered or provided;

36 (e) That there is little likelihood that conditions will be
37 remedied so that the child can be returned to the parent in the near

1 future. A parent's failure to substantially improve parental
2 deficiencies within twelve months following entry of the dispositional
3 order shall give rise to a rebuttable presumption that there is little
4 likelihood that conditions will be remedied so that the child can be
5 returned to the parent in the near future. The presumption shall not
6 arise unless the petitioner makes a showing that all necessary services
7 reasonably capable of correcting the parental deficiencies within the
8 foreseeable future have been clearly offered or provided. In
9 determining whether the conditions will be remedied the court may
10 consider, but is not limited to, the following factors:

11 (i) Use of intoxicating or controlled substances so as to render
12 the parent incapable of providing proper care for the child for
13 extended periods of time or for periods of time that present a risk of
14 imminent harm to the child, and documented unwillingness of the parent
15 to receive and complete treatment or documented multiple failed
16 treatment attempts;

17 (ii) Psychological incapacity or mental deficiency of the parent
18 that is so severe and chronic as to render the parent incapable of
19 providing proper care for the child for extended periods of time or for
20 periods of time that present a risk of imminent harm to the child, and
21 documented unwillingness of the parent to receive and complete
22 treatment or documentation that there is no treatment that can render
23 the parent capable of providing proper care for the child in the near
24 future; or

25 (iii) Failure of the parent to have contact with the child for an
26 extended period of time after the filing of the dependency petition if
27 the parent was provided an opportunity to have a relationship with the
28 child by the department or the court and received documented notice of
29 the potential consequences of this failure, except that the actual
30 inability of a parent to have visitation with the child including, but
31 not limited to, mitigating circumstances such as a parent's current or
32 prior incarceration, current or prior participation in a residential
33 treatment program for substance abuse, or service in the military does
34 not in and of itself constitute failure to have contact with the child;
35 and

36 (f) That continuation of the parent and child relationship clearly
37 diminishes the child's prospects for early integration into a stable
38 and permanent home. The court shall consider whether a parent

1 maintains a meaningful role in his or her child's life based on
2 information gathered pursuant to RCW 13.34.145(3)(c); whether the
3 department or supervising agency made reasonable efforts as defined in
4 this chapter; and whether particular barriers existed pursuant to RCW
5 13.34.145(3)(c) including, but not limited to, delays or barriers
6 experienced in keeping the agency apprised of his or her location and
7 in accessing visitation or other meaningful contact with the child.

8 (g) The department may not move to terminate the parent-child
9 relationship of a parent who is incarcerated or participating in a
10 residential substance abuse treatment program if the incarceration or
11 participation is the primary reason for the determination that the
12 child is dependent and there is no independent reason for termination.

13 (2) As evidence of rebuttal to any presumption established pursuant
14 to subsection (1)(e) of this section, the court may consider the
15 particular constraints of a parent's current or prior incarceration or
16 current or prior participation in a residential substance abuse
17 treatment program. Such evidence may include, but is not limited to,
18 delays or barriers a parent may experience in keeping the agency
19 apprised of his or her location and in accessing visitation or other
20 meaningful contact with the child.

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

26 ~~((+3))~~ (4) In lieu of the allegations in subsection (1)(b) through
27 (f) of this section, the petition may allege that the parent has been
28 convicted of:

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

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

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

37 (d) Assault in the first or second degree, as defined in chapter
38 9A.36 RCW, against the surviving child or another child of the parent.

1 ((+4)) (5) Notice of rights shall be served upon the parent,
2 guardian, or legal custodian with the petition and shall be in
3 substantially the following form:

4 "NOTICE

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

9 1. You have the right to a fact-finding hearing before
10 a judge.

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

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

23 You should be present at this hearing.

24 You may call (insert agency) for more information
25 about your child. The agency's name and telephone number are
26 (insert name and telephone number)."

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