

CERTIFICATION OF ENROLLMENT

**SUBSTITUTE HOUSE BILL 1284**

Chapter 173, Laws of 2013

63rd Legislature  
2013 Regular Session

INCARCERATED PERSONS--PARENTS--PROCEEDINGS INVOLVING CHILDREN

EFFECTIVE DATE: 07/28/13

Passed by the House April 22, 2013  
Yeas 95 Nays 0

FRANK CHOPP

\_\_\_\_\_  
**Speaker of the House of Representatives**

Passed by the Senate April 17, 2013  
Yeas 47 Nays 1

BRAD OWEN

\_\_\_\_\_  
**President of the Senate**

Approved May 8, 2013, 2:21 p.m.

JAY INSLEE

\_\_\_\_\_  
**Governor of the State of Washington**

CERTIFICATE

I, Barbara Baker, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 1284** as passed by the House of Representatives and the Senate on the dates hereon set forth.

BARBARA BAKER

\_\_\_\_\_  
**Chief Clerk**

FILED

May 8, 2013

**Secretary of State  
State of Washington**

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**SUBSTITUTE HOUSE BILL 1284**

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AS AMENDED BY THE SENATE

Passed Legislature - 2013 Regular Session

**State of Washington                      63rd Legislature                      2013 Regular Session**

**By** House Early Learning & Human Services (originally sponsored by Representatives Roberts, Walsh, Kagi, Sawyer, Goodman, Freeman, Farrell, Appleton, Ryu, Reykdal, Santos, and Habib)

READ FIRST TIME 02/20/13.

1            AN ACT Relating to the rights of parents who are incarcerated;  
2 amending RCW 13.34.067, 13.34.136, and 13.34.145; and reenacting and  
3 amending RCW 13.34.180.

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

5            **Sec. 1.** RCW 13.34.067 and 2009 c 520 s 23 are each amended to read  
6 as follows:

7            (1)(a) Following shelter care and no later than thirty days prior  
8 to fact-finding, the department or supervising agency shall convene a  
9 case conference as required in the shelter care order to develop and  
10 specify in a written service agreement the expectations of both the  
11 department or supervising agency and the parent regarding voluntary  
12 services for the parent.

13            (b) The case conference shall include the parent, counsel for the  
14 parent, caseworker, counsel for the state, guardian ad litem, counsel  
15 for the child, and any other person agreed upon by the parties. Once  
16 the shelter care order is entered, the department or supervising agency  
17 is not required to provide additional notice of the case conference to  
18 any participants in the case conference.

1 (c) The written service agreement expectations must correlate with  
2 the court's findings at the shelter care hearing. The written service  
3 agreement must set forth specific services to be provided to the  
4 parent.

5 (d) The case conference agreement must be agreed to and signed by  
6 the parties. The court shall not consider the content of the  
7 discussions at the case conference at the time of the fact-finding  
8 hearing for the purposes of establishing that the child is a dependent  
9 child, and the court shall not consider any documents or written  
10 materials presented at the case conference but not incorporated into  
11 the case conference agreement, unless the documents or written  
12 materials were prepared for purposes other than or as a result of the  
13 case conference and are otherwise admissible under the rules of  
14 evidence.

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

18 (3) If a case conference is convened pursuant to subsection (1) or  
19 (2) of this section and the parent is unable to participate in person  
20 due to incarceration, the parent must have the option to participate  
21 through the use of a teleconference or videoconference.

22 **Sec. 2.** RCW 13.34.136 and 2011 c 309 s 29 are each amended to read  
23 as follows:

24 (1) Whenever a child is ordered removed from the home, a permanency  
25 plan shall be developed no later than sixty days from the time the  
26 supervising agency assumes responsibility for providing services,  
27 including placing the child, or at the time of a hearing under RCW  
28 13.34.130, whichever occurs first. The permanency planning process  
29 continues until a permanency planning goal is achieved or dependency is  
30 dismissed. The planning process shall include reasonable efforts to  
31 return the child to the parent's home.

32 (2) The agency supervising the dependency shall submit a written  
33 permanency plan to all parties and the court not less than fourteen  
34 days prior to the scheduled hearing. Responsive reports of parties not  
35 in agreement with the department's or supervising agency's proposed  
36 permanency plan must be provided to the department or supervising

1 agency, all other parties, and the court at least seven days prior to  
2 the hearing.

3 The permanency plan shall include:

4 (a) A permanency plan of care that shall identify one of the  
5 following outcomes as a primary goal and may identify additional  
6 outcomes as alternative goals: Return of the child to the home of the  
7 child's parent, guardian, or legal custodian; adoption, including a  
8 tribal customary adoption as defined in RCW 13.38.040; guardianship;  
9 permanent legal custody; long-term relative or foster care, until the  
10 child is age eighteen, with a written agreement between the parties and  
11 the care provider; successful completion of a responsible living skills  
12 program; or independent living, if appropriate and if the child is age  
13 sixteen or older. The department or supervising agency shall not  
14 discharge a child to an independent living situation before the child  
15 is eighteen years of age unless the child becomes emancipated pursuant  
16 to chapter 13.64 RCW;

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

26 (i) The department's or supervising agency's plan shall specify  
27 what services the parents will be offered to enable them to resume  
28 custody, what requirements the parents must meet to resume custody, and  
29 a time limit for each service plan and parental requirement. If the  
30 parent is incarcerated, the plan must address how the parent will  
31 participate in the case conference and permanency planning meetings  
32 and, where possible, must include treatment that reflects the resources  
33 available at the facility where the parent is confined. The plan must  
34 provide for visitation opportunities, unless visitation is not in the  
35 best interests of the child.

36 (ii) Visitation is the right of the family, including the child and  
37 the parent, in cases in which visitation is in the best interest of the  
38 child. Early, consistent, and frequent visitation is crucial for

1 maintaining parent-child relationships and making it possible for  
2 parents and children to safely reunify. The supervising agency or  
3 department shall encourage the maximum parent and child and sibling  
4 contact possible, when it is in the best interest of the child,  
5 including regular visitation and participation by the parents in the  
6 care of the child while the child is in placement. Visitation shall  
7 not be limited as a sanction for a parent's failure to comply with  
8 court orders or services where the health, safety, or welfare of the  
9 child is not at risk as a result of the visitation. Visitation may be  
10 limited or denied only if the court determines that such limitation or  
11 denial is necessary to protect the child's health, safety, or welfare.  
12 The court and the department or supervising agency should rely upon  
13 community resources, relatives, foster parents, and other appropriate  
14 persons to provide transportation and supervision for visitation to the  
15 extent that such resources are available, and appropriate, and the  
16 child's safety would not be compromised.

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

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

24 (v) Unless it is not in the best interests of the child, whenever  
25 practical, the plan should ensure the child remains enrolled in the  
26 school the child was attending at the time the child entered foster  
27 care.

28 (vi) The supervising agency or department shall provide all  
29 reasonable services that are available within the department or  
30 supervising agency, or within the community, or those services which  
31 the department has existing contracts to purchase. It shall report to  
32 the court if it is unable to provide such services; and

33 (c) If the court has ordered, pursuant to RCW 13.34.130(~~(+6+)~~) (8),  
34 that a termination petition be filed, a specific plan as to where the  
35 child will be placed, what steps will be taken to achieve permanency  
36 for the child, services to be offered or provided to the child, and, if  
37 visitation would be in the best interests of the child, a  
38 recommendation to the court regarding visitation between parent and

1 child pending a fact-finding hearing on the termination petition. The  
2 department or supervising agency shall not be required to develop a  
3 plan of services for the parents or provide services to the parents if  
4 the court orders a termination petition be filed. However, reasonable  
5 efforts to ensure visitation and contact between siblings shall be made  
6 unless there is reasonable cause to believe the best interests of the  
7 child or siblings would be jeopardized.

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

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

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

26 (6) The court shall consider the child's relationships with the  
27 child's siblings in accordance with RCW 13.34.130(~~((4))~~) (6). Whenever  
28 the permanency plan for a child is adoption, the court shall encourage  
29 the prospective adoptive parents, birth parents, foster parents,  
30 kinship caregivers, and the department or other supervising agency to  
31 seriously consider the long-term benefits to the child adoptee and his  
32 or her siblings of providing for and facilitating continuing  
33 postadoption contact between the siblings. To the extent that it is  
34 feasible, and when it is in the best interests of the child adoptee and  
35 his or her siblings, contact between the siblings should be frequent  
36 and of a similar nature as that which existed prior to the adoption.  
37 If the child adoptee or his or her siblings are represented by an  
38 attorney or guardian ad litem in a proceeding under this chapter or in

1 any other child custody proceeding, the court shall inquire of each  
2 attorney and guardian ad litem regarding the potential benefits of  
3 continuing contact between the siblings and the potential detriments of  
4 severing contact. This section does not require the department of  
5 social and health services or other supervising agency to agree to any  
6 specific provisions in an open adoption agreement and does not create  
7 a new obligation for the department to provide supervision or  
8 transportation for visits between siblings separated by adoption from  
9 foster care.

10 (7) For purposes related to permanency planning:

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

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

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

19 **Sec. 3.** RCW 13.34.145 and 2011 c 330 s 6 are each amended to read  
20 as follows:

21 (1) The purpose of a permanency planning hearing is to review the  
22 permanency plan for the child, inquire into the welfare of the child  
23 and progress of the case, and reach decisions regarding the permanent  
24 placement of the child.

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

31 (b) Whenever a child is removed from the home of a dependency  
32 guardian or long-term relative or foster care provider, and the child  
33 is not returned to the home of the parent, guardian, or legal custodian  
34 but is placed in out-of-home care, a permanency planning hearing shall  
35 take place no later than twelve months, as provided in this section,  
36 following the date of removal unless, prior to the hearing, the child  
37 returns to the home of the dependency guardian or long-term care

1 provider, the child is placed in the home of the parent, guardian, or  
2 legal custodian, an adoption decree, guardianship order, or a permanent  
3 custody order is entered, or the dependency is dismissed. Every effort  
4 shall be made to provide stability in long-term placement, and to avoid  
5 disruption of placement, unless the child is being returned home or it  
6 is in the best interest of the child.

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

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

18 (3) At the permanency planning hearing, the court shall conduct the  
19 following inquiry:

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

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

30 (i) The continuing necessity for, and the safety and  
31 appropriateness of, the placement;

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

35 (iii) The extent of any efforts to involve appropriate service  
36 providers in addition to department or supervising agency staff in  
37 planning to meet the special needs of the child and the child's  
38 parents;



1 (iv) The progress toward eliminating the causes for the child's  
2 placement outside of his or her home and toward returning the child  
3 safely to his or her home or obtaining a permanent placement for the  
4 child;

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

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

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

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

19 (C) Being placed for adoption;

20 (D) Being placed with a guardian;

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

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

25 ((~~At this~~)) (4) Following this inquiry, at the permanency planning  
26 hearing, the court shall order the department or supervising agency to  
27 file a petition seeking termination of parental rights if the child has  
28 been in out-of-home care for fifteen of the last twenty-two months  
29 since the date the dependency petition was filed unless the court makes  
30 a good cause exception as to why the filing of a termination of  
31 parental rights petition is not appropriate. Any good cause finding  
32 shall be reviewed at all subsequent hearings pertaining to the child.

33 (a) For purposes of this ((~~section~~)) subsection, "good cause  
34 exception" includes but is not limited to the following:

35 (i) The child is being cared for by a relative;

36 (ii) The department has not provided to the child's family such  
37 services as the court and the department have deemed necessary for the  
38 child's safe return home; ((~~or~~))

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

4        (iv) The parent is incarcerated, or the parent's prior  
5 incarceration is a significant factor in why the child has been in  
6 foster care for fifteen of the last twenty-two months, the parent  
7 maintains a meaningful role in the child's life, and the department has  
8 not documented another reason why it would be otherwise appropriate to  
9 file a petition pursuant to this section.

10       (b) The court's assessment of whether a parent who is incarcerated  
11 maintains a meaningful role in the child's life may include  
12 consideration of the following:

13       (i) The 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       (ii) The parent's efforts to communicate and work with the  
17 department or supervising agency or other individuals for the purpose  
18 of complying with the service plan and repairing, maintaining, or  
19 building the parent-child relationship;

20       (iii) A positive response by the parent to the reasonable efforts  
21 of the department or the supervising agency;

22       (iv) Information provided by individuals or agencies in a  
23 reasonable position to assist the court in making this assessment,  
24 including but not limited to the parent's attorney, correctional and  
25 mental health personnel, or other individuals providing services to the  
26 parent;

27       (v) Limitations in the parent's access to family support programs,  
28 therapeutic services, and visiting opportunities, restrictions to  
29 telephone and mail services, inability to participate in foster care  
30 planning meetings, and difficulty accessing lawyers and participating  
31 meaningfully in court proceedings; and

32       (vi) Whether the continued involvement of the parent in the child's  
33 life is in the child's best interest.

34       (c) The constraints of a parent's current or prior incarceration  
35 and associated delays or barriers to accessing court-mandated services  
36 may be considered in rebuttal to a claim of aggravated circumstances  
37 under RCW 13.34.132(4)(g) for a parent's failure to complete available  
38 treatment.

1       (~~(e)~~(i)) (5)(a) If the permanency plan identifies independent  
2 living as a goal, the court at the permanency planning hearing shall  
3 make a finding that the provision of services to assist the child in  
4 making a transition from foster care to independent living will allow  
5 the child to manage his or her financial, personal, social,  
6 educational, and nonfinancial affairs prior to approving independent  
7 living as a permanency plan of care. The court will inquire whether  
8 the child has been provided information about extended foster care  
9 services.

10       (~~(i)~~) (b) The permanency plan shall also specifically identify  
11 the services, including extended foster care services, where  
12 appropriate, that will be provided to assist the child to make a  
13 successful transition from foster care to independent living.

14       (~~(iii)~~) (c) The department or supervising agency shall not  
15 discharge a child to an independent living situation before the child  
16 is eighteen years of age unless the child becomes emancipated pursuant  
17 to chapter 13.64 RCW.

18       (~~(d)~~) (6) If the child has resided in the home of a foster parent  
19 or relative for more than six months prior to the permanency planning  
20 hearing, the court shall:

21       (~~(i)~~) (a) Enter a finding regarding whether the foster parent or  
22 relative was informed of the hearing as required in RCW 74.13.280,  
23 13.34.215(6), and 13.34.096; and

24       (~~(i)~~) (b) If the department or supervising agency is  
25 recommending a placement other than the child's current placement with  
26 a foster parent, relative, or other suitable person, enter a finding as  
27 to the reasons for the recommendation for a change in placement.

28       (~~(4)~~) (7) In all cases, at the permanency planning hearing, the  
29 court shall:

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

32       (ii) Modify the permanency plan, and order implementation of the  
33 modified plan; and

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

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

1        ~~((5))~~ (8) Following the first permanency planning hearing, the  
2 court shall hold a further permanency planning hearing in accordance  
3 with this section at least once every twelve months until a permanency  
4 planning goal is achieved or the dependency is dismissed, whichever  
5 occurs first.

6        ~~((6))~~ (9) Prior to the second permanency planning hearing, the  
7 agency that has custody of the child shall consider whether to file a  
8 petition for termination of parental rights.

9        ~~((7))~~ (10) If the court orders the child returned home, casework  
10 supervision by the department or supervising agency shall continue for  
11 at least six months, at which time a review hearing shall be held  
12 pursuant to RCW 13.34.138, and the court shall determine the need for  
13 continued intervention.

14        ~~((8))~~ (11) The juvenile court may hear a petition for permanent  
15 legal custody when: (a) The court has ordered implementation of a  
16 permanency plan that includes permanent legal custody; and (b) the  
17 party pursuing the permanent legal custody is the party identified in  
18 the permanency plan as the prospective legal custodian. During the  
19 pendency of such proceeding, the court shall conduct review hearings  
20 and further permanency planning hearings as provided in this chapter.  
21 At the conclusion of the legal guardianship or permanent legal custody  
22 proceeding, a juvenile court hearing shall be held for the purpose of  
23 determining whether dependency should be dismissed. If a guardianship  
24 or permanent custody order has been entered, the dependency shall be  
25 dismissed.

26        ~~((9))~~ (12) Continued juvenile court jurisdiction under this  
27 chapter shall not be a barrier to the entry of an order establishing a  
28 legal guardianship or permanent legal custody when the requirements of  
29 subsection ~~((8))~~ (11) of this section are met.

30        ~~((10))~~ (13) Nothing in this chapter may be construed to limit the  
31 ability of the agency that has custody of the child to file a petition  
32 for termination of parental rights or a guardianship petition at any  
33 time following the establishment of dependency. Upon the filing of  
34 such a petition, a fact-finding hearing shall be scheduled and held in  
35 accordance with this chapter unless the department or supervising  
36 agency requests dismissal of the petition prior to the hearing or  
37 unless the parties enter an agreed order terminating parental rights,  
38 establishing guardianship, or otherwise resolving the matter.

1       (~~(11)~~) (14) The approval of a permanency plan that does not  
2 contemplate return of the child to the parent does not relieve the  
3 supervising agency of its obligation to provide reasonable services,  
4 under this chapter, intended to effectuate the return of the child to  
5 the parent, including but not limited to, visitation rights. The court  
6 shall consider the child's relationships with siblings in accordance  
7 with RCW 13.34.130.

8       (~~(12)~~) (15) Nothing in this chapter may be construed to limit the  
9 procedural due process rights of any party in a termination or  
10 guardianship proceeding filed under this chapter.

11       **Sec. 4.** RCW 13.34.180 and 2009 c 520 s 34 and 2009 c 477 s 5 are  
12 each reenacted and amended to read as follows:

13       (1) A petition seeking termination of a parent and child  
14 relationship may be filed in juvenile court by any party, including the  
15 supervising agency, to the dependency proceedings concerning that  
16 child. Such petition shall conform to the requirements of RCW  
17 13.34.040, shall be served upon the parties as provided in RCW  
18 13.34.070(8), and shall allege all of the following unless subsection  
19 (~~(2) or~~) (3) or (4) of this section applies:

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

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

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

26       (d) That the services ordered under RCW 13.34.136 have been  
27 expressly and understandably offered or provided and all necessary  
28 services, reasonably available, capable of correcting the parental  
29 deficiencies within the foreseeable future have been expressly and  
30 understandably offered or provided;

31       (e) That there is little likelihood that conditions will be  
32 remedied so that the child can be returned to the parent in the near  
33 future. A parent's failure to substantially improve parental  
34 deficiencies within twelve months following entry of the dispositional  
35 order shall give rise to a rebuttable presumption that there is little  
36 likelihood that conditions will be remedied so that the child can be  
37 returned to the parent in the near future. The presumption shall not

1 arise unless the petitioner makes a showing that all necessary services  
2 reasonably capable of correcting the parental deficiencies within the  
3 foreseeable future have been clearly offered or provided. In  
4 determining whether the conditions will be remedied the court may  
5 consider, but is not limited to, the following factors:

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

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

20 (iii) Failure of the parent to have contact with the child for an  
21 extended period of time after the filing of the dependency petition if  
22 the parent was provided an opportunity to have a relationship with the  
23 child by the department or the court and received documented notice of  
24 the potential consequences of this failure, except that the actual  
25 inability of a parent to have visitation with the child including, but  
26 not limited to, mitigating circumstances such as a parent's current or  
27 prior incarceration or service in the military does not in and of  
28 itself constitute failure to have contact with the child; and

29 (f) That continuation of the parent and child relationship clearly  
30 diminishes the child's prospects for early integration into a stable  
31 and permanent home. If the parent is incarcerated, the court shall  
32 consider whether a parent maintains a meaningful role in his or her  
33 child's life based on factors identified in RCW 13.34.145(4)(b);  
34 whether the department or supervising agency made reasonable efforts as  
35 defined in this chapter; and whether particular barriers existed as  
36 described in RCW 13.34.145(4)(b) including, but not limited to, delays  
37 or barriers experienced in keeping the agency apprised of his or her

1 location and in accessing visitation or other meaningful contact with  
2 the child.

3 (2) As evidence of rebuttal to any presumption established pursuant  
4 to subsection (1)(e) of this section, the court may consider the  
5 particular constraints of a parent's current or prior incarceration.  
6 Such evidence may include, but is not limited to, delays or barriers a  
7 parent may experience in keeping the agency apprised of his or her  
8 location and in accessing visitation or other meaningful contact with  
9 the child.

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

15 ((+3)) (4) In lieu of the allegations in subsection (1)(b) through  
16 (f) of this section, the petition may allege that the parent has been  
17 convicted of:

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

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

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

26 (d) Assault in the first or second degree, as defined in chapter  
27 9A.36 RCW, against the surviving child or another child of the parent.

28 ((+4)) (5) When a parent has been sentenced to a long-term  
29 incarceration and has maintained a meaningful role in the child's life  
30 considering the factors provided in RCW 13.34.145(4)(b), and it is in  
31 the best interest of the child, the department should consider a  
32 permanent placement that allows the parent to maintain a relationship  
33 with his or her child, such as, but not limited to, a guardianship  
34 pursuant to chapter 13.36 RCW.

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

38 "NOTICE

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

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

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

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

19 You should be present at this hearing.

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

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