
HOUSE BILL 1970

State of Washington

64th Legislature

2015 Regular Session

By Representatives Senn and Walsh; by request of Department of Social and Health Services

Read first time 02/04/15. Referred to Committee on Early Learning & Human Services.

1 AN ACT Relating to permanency plans of care for dependent
2 children; amending RCW 13.34.136; and reenacting and amending RCW
3 13.34.145.

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

5 **Sec. 1.** RCW 13.34.136 and 2014 c 163 s 2 are each amended to
6 read as follows:

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

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

1 The permanency plan shall include:

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

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

30 (A) If the parent is incarcerated, the plan must address how the
31 parent will participate in the case conference and permanency
32 planning meetings and, where possible, must include treatment that
33 reflects the resources available at the facility where the parent is
34 confined. The plan must provide for visitation opportunities, unless
35 visitation is not in the best interests of the child.

36 (B) If a parent has a developmental disability according to the
37 definition provided in RCW 71A.10.020, and that individual is
38 eligible for services provided by the developmental disabilities
39 administration, the department shall make reasonable efforts to
40 consult with the developmental disabilities administration to create

1 an appropriate plan for services. For individuals who meet the
2 definition of developmental disability provided in RCW 71A.10.020 and
3 who are eligible for services through the developmental disabilities
4 administration, the plan for services must be tailored to correct the
5 parental deficiency taking into consideration the parent's disability
6 and the department shall also determine an appropriate method to
7 offer those services based on the parent's disability.

8 (ii)(A) Visitation is the right of the family, including the
9 child and the parent, in cases in which visitation is in the best
10 interest of the child. Early, consistent, and frequent visitation is
11 crucial for maintaining parent-child relationships and making it
12 possible for parents and children to safely reunify. The supervising
13 agency or department shall encourage the maximum parent and child and
14 sibling contact possible, when it is in the best interest of the
15 child, including regular visitation and participation by the parents
16 in the care of the child while the child is in placement.

17 (B) Visitation shall not be limited as a sanction for a parent's
18 failure to comply with court orders or services where the health,
19 safety, or welfare of the child is not at risk as a result of the
20 visitation.

21 (C) Visitation may be limited or denied only if the court
22 determines that such limitation or denial is necessary to protect the
23 child's health, safety, or welfare. When a parent or sibling has been
24 identified as a suspect in an active criminal investigation for a
25 violent crime that, if the allegations are true, would impact the
26 safety of the child, the department shall make a concerted effort to
27 consult with the assigned law enforcement officer in the criminal
28 case before recommending any changes in parent/child or child/sibling
29 contact. In the event that the law enforcement officer has
30 information pertaining to the criminal case that may have serious
31 implications for child safety or well-being, the law enforcement
32 officer shall provide this information to the department during the
33 consultation. The department may only use the information provided by
34 law enforcement during the consultation to inform family visitation
35 plans and may not share or otherwise distribute the information to
36 any person or entity. Any information provided to the department by
37 law enforcement during the consultation is considered investigative
38 information and is exempt from public inspection pursuant to RCW
39 42.56.240. The results of the consultation shall be communicated to
40 the court.

1 (D) The court and the department or supervising agency should
2 rely upon community resources, relatives, foster parents, and other
3 appropriate persons to provide transportation and supervision for
4 visitation to the extent that such resources are available, and
5 appropriate, and the child's safety would not be compromised.

6 (iii)(A) The department, court, or caregiver in the out-of-home
7 placement may not limit visitation or contact between a child and
8 sibling as a sanction for a child's behavior or as an incentive to
9 the child to change his or her behavior.

10 (B) Any exceptions, limitation, or denial of contacts or
11 visitation must be approved by the supervisor of the department
12 caseworker and documented. The child, parent, department, guardian ad
13 litem, or court-appointed special advocate may challenge the denial
14 of visits in court.

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

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

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

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

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

1 reasonable efforts to ensure visitation and contact between siblings
2 shall be made unless there is reasonable cause to believe the best
3 interests of the child or siblings would be jeopardized.

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

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

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

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

1 supervising agency to agree to any specific provisions in an open
2 adoption agreement and does not create a new obligation for the
3 department to provide supervision or transportation for visits
4 between siblings separated by adoption from 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. 2.** RCW 13.34.145 and 2013 c 332 s 3, 2013 c 206 s 1, and
15 2013 c 173 s 3 are each reenacted and amended to read 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
21 where the child has remained in out-of-home care for at least nine
22 months and an adoption decree, guardianship order, or permanent
23 custody order has not previously been entered. The hearing shall take
24 place no later than twelve months following commencement of the
25 current placement 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
29 custodian but is placed in out-of-home care, a permanency planning
30 hearing shall take place no later than twelve months, as provided in
31 this section, following the date of removal unless, prior to the
32 hearing, the child returns to the home of the dependency guardian or
33 long-term care provider, the child is placed in the home of the
34 parent, guardian, or legal custodian, an adoption decree,
35 guardianship order, or a permanent custody order is entered, or the
36 dependency is dismissed. Every effort shall be made to provide
37 stability in long-term placement, and to avoid disruption of
38 placement, unless the child is being returned home or it is in the
39 best interest of the child.

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

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

12 (3) When the youth is at least age seventeen years but not older
13 than seventeen years and six months, the department shall provide the
14 youth with written documentation which explains the availability of
15 extended foster care services and detailed instructions regarding how
16 the youth may access such services after he or she reaches age
17 eighteen years.

18 (4) At the permanency planning hearing, the court shall conduct
19 the 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. The court shall find,
24 as of the date of the hearing, another planned permanent living
25 arrangement is the best permanency plan for the child and provide
26 compelling reasons why it continues to not be in the child's best
27 interest to (i) return home; (ii) be placed for adoption; (iii) be
28 placed with a legal guardian; or (iv) be placed with a fit and
29 willing relative. If the child is present at the hearing, the court
30 should ask the child about his or her desired permanency outcome.

31 (b) In cases where the primary permanency planning goal has not
32 been achieved, the court shall inquire regarding the reasons why the
33 primary goal has not been achieved and determine what needs to be
34 done to make it possible to achieve the primary goal. The court shall
35 review the permanency plan prepared by the agency and make explicit
36 findings regarding each of the following:

37 (i) The continuing necessity for, and the safety and
38 appropriateness of, the placement;

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

4 (iii) The extent of any efforts to involve appropriate service
5 providers in addition to department or supervising agency staff in
6 planning to meet the special needs of the child and the child's
7 parents;

8 (iv) The progress toward eliminating the causes for the child's
9 placement outside of his or her home and toward returning the child
10 safely to his or her home or obtaining a permanent placement for the
11 child;

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

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

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

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

27 (C) Being placed for adoption;

28 (D) Being placed with a guardian;

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

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

33 (5) Following this inquiry, at the permanency planning hearing,
34 the court shall order the department or supervising agency to file a
35 petition seeking termination of parental rights if the child has been
36 in out-of-home care for fifteen of the last twenty-two months since
37 the date the dependency petition was filed unless the court makes a
38 good cause exception as to why the filing of a termination of
39 parental rights petition is not appropriate. Any good cause finding
40 shall be reviewed at all subsequent hearings pertaining to the child.

1 (a) For purposes of this subsection, "good cause exception"
2 includes but is not limited to the following:

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

4 (ii) The department has not provided to the child's family such
5 services as the court and the department have deemed necessary for
6 the child's safe return home;

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

10 (iv) The parent is incarcerated, or the parent's prior
11 incarceration is a significant factor in why the child has been in
12 foster care for fifteen of the last twenty-two months, the parent
13 maintains a meaningful role in the child's life, and the department
14 has not documented another reason why it would be otherwise
15 appropriate to file a petition pursuant to this section;

16 (v) Until June 30, 2015, where a parent has been accepted into a
17 dependency treatment court program or long-term substance abuse or
18 dual diagnoses treatment program and is demonstrating compliance with
19 treatment goals; or

20 (vi) Until June 30, 2015, where a parent who has been court
21 ordered to complete services necessary for the child's safe return
22 home files a declaration under penalty of perjury stating the
23 parent's financial inability to pay for the same court-ordered
24 services, and also declares the department was unwilling or unable to
25 pay for the same services necessary for the child's safe return home.

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

29 (i) The parent's expressions or acts of manifesting concern for
30 the child, such as letters, telephone calls, visits, and other forms
31 of communication with the child;

32 (ii) The parent's efforts to communicate and work with the
33 department or supervising agency or other individuals for the purpose
34 of complying with the service plan and repairing, maintaining, or
35 building the parent-child relationship;

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

38 (iv) Information provided by individuals or agencies in a
39 reasonable position to assist the court in making this assessment,
40 including but not limited to the parent's attorney, correctional and

1 mental health personnel, or other individuals providing services to
2 the parent;

3 (v) Limitations in the parent's access to family support
4 programs, therapeutic services, and visiting opportunities,
5 restrictions to telephone and mail services, inability to participate
6 in foster care planning meetings, and difficulty accessing lawyers
7 and participating meaningfully in court proceedings; and

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

10 (c) The constraints of a parent's current or prior incarceration
11 and associated delays or barriers to accessing court-mandated
12 services may be considered in rebuttal to a claim of aggravated
13 circumstances under RCW 13.34.132(4)((~~g~~)) (h) for a parent's
14 failure to complete available treatment.

15 (6)(a) If the permanency plan identifies independent living as a
16 goal, the court at the permanency planning hearing shall make a
17 finding that the provision of services to assist the child in making
18 a transition from foster care to independent living will allow the
19 child to manage his or her financial, personal, social, educational,
20 and nonfinancial affairs prior to approving independent living as a
21 permanency plan of care. The court will inquire whether the child has
22 been provided information about extended foster care services.

23 (b) The permanency plan shall also specifically identify the
24 services, including extended foster care services, where appropriate,
25 that will be provided to assist the child to make a successful
26 transition from foster care to independent living.

27 (c) The department or supervising agency shall not discharge a
28 child to an independent living situation before the child is eighteen
29 years of age unless the child becomes emancipated pursuant to chapter
30 13.64 RCW.

31 (7) If the child has resided in the home of a foster parent or
32 relative for more than six months prior to the permanency planning
33 hearing, the court shall:

34 (a) Enter a finding regarding whether the foster parent or
35 relative was informed of the hearing as required in RCW 74.13.280,
36 13.34.215(6), and 13.34.096; and

37 (b) If the department or supervising agency is recommending a
38 placement other than the child's current placement with a foster
39 parent, relative, or other suitable person, enter a finding as to the
40 reasons for the recommendation for a change in placement.

1 (8) In all cases, at the permanency planning hearing, the court
2 shall:

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

5 (ii) Modify the permanency plan, and order implementation of the
6 modified plan; and

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

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

13 (9) Following the first permanency planning hearing, the court
14 shall hold a further permanency planning hearing in accordance with
15 this section at least once every twelve months until a permanency
16 planning goal is achieved or the dependency is dismissed, whichever
17 occurs first.

18 (10) Prior to the second permanency planning hearing, the agency
19 that has custody of the child shall consider whether to file a
20 petition for termination of parental rights.

21 (11) If the court orders the child returned home, casework
22 supervision by the department or supervising agency shall continue
23 for at least six months, at which time a review hearing shall be held
24 pursuant to RCW 13.34.138, and the court shall determine the need for
25 continued intervention.

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

38 (13) Continued juvenile court jurisdiction under this chapter
39 shall not be a barrier to the entry of an order establishing a legal

1 guardianship or permanent legal custody when the requirements of
2 subsection (12) of this section are met.

3 (14) Nothing in this chapter may be construed to limit the
4 ability of the agency that has custody of the child to file a
5 petition for termination of parental rights or a guardianship
6 petition at any time following the establishment of dependency. Upon
7 the filing of such a petition, a fact-finding hearing shall be
8 scheduled and held in accordance with this chapter unless the
9 department or supervising agency requests dismissal of the petition
10 prior to the hearing or unless the parties enter an agreed order
11 terminating parental rights, establishing guardianship, or otherwise
12 resolving the matter.

13 (15) The approval of a permanency plan that does not contemplate
14 return of the child to the parent does not relieve the supervising
15 agency of its obligation to provide reasonable services, under this
16 chapter, intended to effectuate the return of the child to the
17 parent, including but not limited to, visitation rights. The court
18 shall consider the child's relationships with siblings in accordance
19 with RCW 13.34.130.

20 (16) Nothing in this chapter may be construed to limit the
21 procedural due process rights of any party in a termination or
22 guardianship proceeding filed under this chapter.

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