

CERTIFICATION OF ENROLLMENT

**SENATE BILL 5692**

64th Legislature  
2015 Regular Session

Passed by the Senate April 16, 2015  
Yeas 48 Nays 0

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**President of the Senate**

Passed by the House April 9, 2015  
Yeas 97 Nays 0

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**Speaker of the House of Representatives**

Approved

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**Governor of the State of Washington**

CERTIFICATE

I, Hunter G. Goodman, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SENATE BILL 5692** as passed by Senate and the House of Representatives on the dates hereon set forth.

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**Secretary**

FILED

**Secretary of State  
State of Washington**

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SENATE BILL 5692

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AS AMENDED BY THE HOUSE

Passed Legislature - 2015 Regular Session

State of Washington

64th Legislature

2015 Regular Session

By Senators Hargrove and Darneille; by request of Department of Social and Health Services

Read first time 01/29/15. Referred to Committee on Human Services, Mental Health & Housing.

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.  
12 Although a permanency plan of care may only identify long-term  
13 relative or foster care for children between ages sixteen and  
14 eighteen, children under sixteen may remain placed with relatives or  
15 in foster care. The department or supervising agency shall not  
16 discharge a child to an independent living situation before the child  
17 is eighteen years of age unless the child becomes emancipated  
18 pursuant to chapter 13.64 RCW;

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

29 (i) The department's or supervising agency's plan shall specify  
30 what services the parents will be offered to enable them to resume  
31 custody, what requirements the parents must meet to resume custody,  
32 and a time limit for each service plan and parental requirement.

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

39 (B) If a parent has a developmental disability according to the  
40 definition provided in RCW 71A.10.020, and that individual is

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

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

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

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

1 information and is exempt from public inspection pursuant to RCW  
2 42.56.240. The results of the consultation shall be communicated to  
3 the court.

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

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

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

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

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

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

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

34 (c) If the court has ordered, pursuant to RCW 13.34.130(8), that  
35 a termination petition be filed, a specific plan as to where the  
36 child will be placed, what steps will be taken to achieve permanency  
37 for the child, services to be offered or provided to the child, and,  
38 if visitation would be in the best interests of the child, a  
39 recommendation to the court regarding visitation between parent and  
40 child pending a fact-finding hearing on the termination petition. The

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

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

17 (4) If the court determines that the continuation of reasonable  
18 efforts to prevent or eliminate the need to remove the child from his  
19 or her home or to safely return the child home should not be part of  
20 the permanency plan of care for the child, reasonable efforts shall  
21 be made to place the child in a timely manner and to complete  
22 whatever steps are necessary to finalize the permanent placement of  
23 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(6). Whenever the  
28 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  
32 his 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  
35 and his or her siblings, contact between the siblings should be  
36 frequent and of a similar nature as that which existed prior to the  
37 adoption. If the child adoptee or his or her siblings are represented  
38 by an attorney or guardian ad litem in a proceeding under this  
39 chapter or in any other child custody proceeding, the court shall  
40 inquire of each attorney and guardian ad litem regarding the

1 potential benefits of continuing contact between the siblings and the  
2 potential detriments of severing contact. This section does not  
3 require the department of social and health services or other  
4 supervising agency to agree to any specific provisions in an open  
5 adoption agreement and does not create a new obligation for the  
6 department to provide supervision or transportation for visits  
7 between siblings separated by adoption from foster care.

8 (7) For purposes related to permanency planning:

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

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

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

17 **Sec. 2.** RCW 13.34.145 and 2013 c 332 s 3, 2013 c 206 s 1, and  
18 2013 c 173 s 3 are each reenacted and amended to read as follows:

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

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

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

1 stability in long-term placement, and to avoid disruption of  
2 placement, unless the child is being returned home or it is in the  
3 best interest of the child.

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

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

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

21 (4) At the permanency planning hearing, the court shall conduct  
22 the following inquiry:

23 (a) If a goal of long-term foster or relative care has been  
24 achieved prior to the permanency planning hearing, the court shall  
25 review the child's status to determine whether the placement and the  
26 plan for the child's care remain appropriate. The court shall find,  
27 as of the date of the hearing, that the child's placement and plan of  
28 care is the best permanency plan for the child and provide compelling  
29 reasons why it continues to not be in the child's best interest to  
30 (i) return home; (ii) be placed for adoption; (iii) be placed with a  
31 legal guardian; or (iv) be placed with a fit and willing relative. If  
32 the child is present at the hearing, the court should ask the child  
33 about his or her desired permanency outcome.

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

1 (i) The continuing necessity for, and the safety and  
2 appropriateness of, the placement;

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

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

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

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

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

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

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

29 (C) Being placed for adoption;

30 (D) Being placed with a guardian;

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

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

35 (5) Following this inquiry, at the permanency planning hearing,  
36 the court shall order the department or supervising agency to file a  
37 petition seeking termination of parental rights if the child has been  
38 in out-of-home care for fifteen of the last twenty-two months since  
39 the date the dependency petition was filed unless the court makes a  
40 good cause exception as to why the filing of a termination of

1 parental rights petition is not appropriate. Any good cause finding  
2 shall be reviewed at all subsequent hearings pertaining to the child.

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

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

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

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

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

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

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

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

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

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

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

1 (iv) Information provided by individuals or agencies in a  
2 reasonable position to assist the court in making this assessment,  
3 including but not limited to the parent's attorney, correctional and  
4 mental health personnel, or other individuals providing services to  
5 the parent;

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

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

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

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

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

30 (c) The department or supervising agency shall not discharge a  
31 child to an independent living situation before the child is eighteen  
32 years of age unless the child becomes emancipated pursuant to chapter  
33 13.64 RCW.

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

37 (a) Enter a finding regarding whether the foster parent or  
38 relative was informed of the hearing as required in RCW 74.13.280,  
39 13.34.215(6), and 13.34.096; and

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

5 (8) In all cases, at the permanency planning hearing, the court  
6 shall:

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

9 (ii) Modify the permanency plan, and order implementation of the  
10 modified plan; and

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

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

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

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

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

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

1 guardianship or permanent custody order has been entered, the  
2 dependency shall be dismissed.

3 (13) Continued juvenile court jurisdiction under this chapter  
4 shall not be a barrier to the entry of an order establishing a legal  
5 guardianship or permanent legal custody when the requirements of  
6 subsection (12) of this section are met.

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

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

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

--- END ---