CERTIFICATION OF ENROLLMENT

**ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1227**

Chapter 211, Laws of 2021

67th Legislature

2021 Regular Session

CHILD ABUSE OR NEGLECT ALLEGATIONS—FAMILY RIGHTS

EFFECTIVE DATE: July 25, 2021—Except for sections 1 through 10, which take effect July 1, 2023.

|  |  |
| --- | --- |
| Passed by the House April 15, 2021  Yeas 87 Nays 9  LAURIE JINKINS  **Speaker of the House of Representatives**  Passed by the Senate April 7, 2021  Yeas 48 Nays 1  DENNY HECK  **President of the Senate** | CERTIFICATE  I, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1227** as passed by the House of Representatives and the Senate on the dates hereon set forth.  BERNARD DEAN  Chief Clerk |
| Approved May 10, 2021 3:07 PM | May 10, 2021 |
| JAY INSLEE  **Governor of the State of Washington** | **Secretary of State**  **State of Washington** |

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1227**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

AS AMENDED BY THE SENATE

Passed Legislature - 2021 Regular Session

**State of Washington 67th Legislature 2021 Regular Session**

**By** House Appropriations (originally sponsored by Representatives Ortiz-Self, Callan, Senn, Dolan, Fitzgibbon, Ramos, Davis, Santos, Macri, Gregerson, Young, and Ormsby)

AN ACT Relating to protecting the rights of families responding to allegations of abuse or neglect of a child; amending RCW 13.34.040, 26.44.056, 26.44.050, 13.34.050, 13.34.062, 13.34.060, 13.34.065, and 13.34.090; creating new sections; and providing an effective date.

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

NEW SECTION. **Sec.**  This act may be known and cited as the keeping families together act.

NEW SECTION. **Sec.**  (1) The legislature recognizes that children and families are better served when the state provides support to allow children to be cared for by their loved ones and in their communities. The legislature finds that decades of research show that Black and Indigenous children are still disproportionately removed from their families and communities despite reform efforts.

(2) For these reasons, it is the intent of the legislature to safely reduce the number of children in foster care and reduce racial bias in the system by applying a standard criteria for determining whether to remove a child from a parent when necessary to prevent imminent physical harm to the child due to child abuse or neglect, including that which results from sexual abuse, sexual exploitation, or a pattern of severe neglect.

**Sec.**  RCW 13.34.040 and 2018 c 17 s 1 are each amended to read as follows:

(1) Any person may file with the clerk of the superior court a petition showing that there is within the county, or residing within the county, a dependent child and requesting that the superior court deal with such child as provided in this chapter. There shall be no fee for filing such petitions.

(2) Except where the department is the petitioner, in counties having paid probation officers, these officers shall, to the extent possible, first determine if a petition is reasonably justifiable. ((~~Each petition shall be verified and contain a statement of facts constituting a dependency, and the names and residence, if known to the petitioner, of the parents, guardian, or custodian of the alleged dependent child.~~))

(3) Every petition filed in proceedings under this chapter shall contain a statement alleging whether there is a reason to know that the child is or may be an Indian child as defined in RCW 13.38.040. If there is a reason to know that the child is or may be an Indian child chapter 13.38 RCW shall apply.

(4) Every order or decree entered under this chapter shall contain a finding that the federal Indian child welfare act or chapter 13.38 RCW does or does not apply. Where there is a finding that the federal Indian child welfare act or chapter 13.38 RCW does apply, the decree or order must also contain a finding that all notice requirements and evidentiary requirements under the federal Indian child welfare act and chapter 13.38 RCW have been satisfied.

(5) Each petition shall be verified and contain a statement constituting a dependency, including the names, residence, and contact information, if known to the petitioner, of each parent, guardian, or custodian of the alleged dependent child. If the petitioner is seeking removal of the child from a parent, guardian, or custodian the petition shall contain a clear and specific statement as to the harm that will occur if the child remains in the care of the parent, guardian, or custodian, and the facts that support that conclusion.

**Sec.**  RCW 26.44.056 and 1983 c 246 s 3 are each amended to read as follows:

(1) An administrator of a hospital or similar institution or any physician, licensed pursuant to chapters 18.71 or 18.57 RCW, may detain a child without consent of a person legally responsible for the child whether or not medical treatment is required, if ((~~the circumstances or conditions of the child are such that the detaining individual has reasonable cause to believe that permitting the child to continue in his or her place of residence or in the care and custody of the parent, guardian, custodian or other person legally responsible for the child's care would present an imminent danger to that child's safety~~)) there is probable cause to believe that detaining the child is necessary to prevent imminent physical harm to the child due to child abuse or neglect, including that which results from sexual abuse, sexual exploitation, or a pattern of severe neglect, and the child would be seriously injured or could not be taken into custody if it were necessary to first obtain a court order under RCW 13.34.050: PROVIDED, That such administrator or physician shall notify or cause to be notified the appropriate law enforcement agency or child protective services pursuant to RCW 26.44.040. Such notification shall be made as soon as possible and in no case longer than seventy-two hours. Such temporary protective custody by an administrator or doctor shall not be deemed an arrest. Child protective services may detain the child until the court assumes custody, but in no case longer than seventy-two hours, excluding Saturdays, Sundays, and holidays.

(2) ((~~Whenever an administrator or physician has reasonable cause to believe that a child would be in imminent danger if released to a parent, guardian, custodian, or other person or is in imminent danger if left in the custody of a parent, guardian, custodian, or other person, the administrator or physician may notify a law enforcement agency and the law enforcement agency shall take the child into custody or cause the child to be taken into custody. The law enforcement agency shall release the child to the custody of child protective services. Child protective services shall detain the child until the court assumes custody or upon a documented and substantiated record that in the professional judgment of the child protective services the child's safety will not be endangered if the child is returned. If the child is returned, the department shall establish a six-month plan to monitor and assure the continued safety of the child's life or health. The monitoring period may be extended for good cause.~~

~~(3)~~)) A child protective services employee, an administrator, doctor, or law enforcement officer shall not be held liable in any civil action for the decision for taking the child into custody, if done in good faith under this section.

**Sec.**  RCW 26.44.050 and 2020 c 71 s 1 are each amended to read as follows:

Except as provided in RCW 26.44.030((~~(11)~~)) (12), upon the receipt of a report alleging that abuse or neglect has occurred, the law enforcement agency or the department must investigate and provide the protective services section with a report in accordance with chapter 74.13 RCW, and where necessary to refer such report to the court.

A law enforcement officer may take, or cause to be taken, a child into custody without a court order if there is probable cause to believe that ((~~the child is abused or neglected and that the child would be~~)) taking the child into custody is necessary to prevent imminent physical harm to the child due to child abuse or neglect, including that which results from sexual abuse, sexual exploitation, or a pattern of severe neglect, and the child would be seriously injured or could not be taken into custody if it were necessary to first obtain a court order pursuant to RCW 13.34.050. The law enforcement agency or the department investigating such a report is hereby authorized to photograph such a child for the purpose of providing documentary evidence of the physical condition of the child.

**Sec.**  RCW 13.34.050 and 2005 c 512 s 9 are each amended to read as follows:

(1) The court may enter an order directing a law enforcement officer, probation counselor, or child protective services official to take a child into custody if: (a) A petition is filed with the juvenile court ((~~alleging~~)) with sufficient corroborating evidence to establish that the child is dependent ((~~and that the child's health, safety, and welfare will be seriously endangered if not taken into custody~~)); (b) the allegations contained in the petition, if true, establish that there are reasonable grounds to believe that removal is necessary to prevent imminent physical harm to the child due to child abuse or neglect, including that which results from sexual abuse, sexual exploitation, or a pattern of severe neglect; and (c) an affidavit or declaration is filed by the department in support of the petition setting forth specific factual information evidencing ((~~reasonable grounds that the child's health, safety, and welfare will be seriously endangered if not taken into custody and at least one of the grounds set forth demonstrates a risk of imminent harm to the child. "Imminent harm" for purposes of this section shall include, but not be limited to, circumstances of sexual abuse, sexual exploitation as defined in RCW 26.44.020, and a parent's failure to perform basic parental functions, obligations, and duties as the result of substance abuse; and (c) the court finds reasonable grounds to believe the child is dependent and that the child's health, safety, and welfare will be seriously endangered if not taken into custody~~)) insufficient time to serve a parent with a dependency petition and hold a hearing prior to removal.

(2) Any petition that does not have the necessary affidavit or declaration demonstrating a risk of imminent harm requires that the parents are provided notice and an opportunity to be heard before the order may be entered.

(3) The petition and supporting documentation must be served on the parent, and if the child is in custody at the time the child is removed, on the entity with custody other than the parent. If the court orders that a child be taken into custody under subsection (1) of this section, the petition and supporting documentation must be served on the parent at the time of the child's removal unless, after diligent efforts, the parents cannot be located at the time of removal. If the parent is not served at the time of removal, the department shall make diligent efforts to personally serve the parent. Failure to effect service does not invalidate the petition if service was attempted and the parent could not be found.

**Sec.**  RCW 13.34.062 and 2020 c 312 s 115 are each amended to read as follows:

(1)(a) Whenever a child is taken into custody by child protective services pursuant to a court order issued under RCW 13.34.050 or when child protective services is notified that a child has been taken into custody pursuant to RCW 26.44.050 or 26.44.056, child protective services shall make ((~~reasonable~~)) diligent efforts to inform the parent, guardian, or legal custodian of the fact that the child has been taken into custody, the reasons why the child was taken into custody, and their legal rights under this title, including the right to a shelter care hearing, as soon as possible. Notice must be provided in an understandable manner and take into consideration the parent's, guardian's, or legal custodian's primary language, level of education, and cultural issues.

(b) In no event shall the notice required by this section be provided to the parent, guardian, or legal custodian more than twenty-four hours after the child has been taken into custody or twenty-four hours after child protective services has been notified that the child has been taken into custody.

(2)(a) The notice of custody and rights may be given by any means reasonably certain of notifying the parents including, but not limited to, written, telephone, or in person oral notification. If the initial notification is provided by a means other than writing, child protective services shall make reasonable efforts to also provide written notification.

(b) The written notice of custody and rights required by this section shall be in substantially the following form:

"NOTICE

Your child has been placed in temporary custody under the supervision of Child Protective Services (or other person or agency). You have important legal rights and you must take steps to protect your interests.

1. A court hearing will be held before a judge within 72 hours of the time your child is taken into custody excluding Saturdays, Sundays, and holidays. You should call the court at . . . (insert appropriate phone number here) for specific information about the date, time, and location of the court hearing.

2. You have the right to have a lawyer represent you at the hearing. Your right to representation continues after the shelter care hearing. You have the right to records the department intends to rely upon. A lawyer can look at the files in your case, talk to child protective services and other agencies, tell you about the law, help you understand your rights, and help you at hearings. If you cannot afford a lawyer, the court will appoint one to represent you. To get a court-appointed lawyer you must contact: . . . (explain local procedure).

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

4. If your hearing occurs before a court commissioner, you have the right to have the decision of the court commissioner reviewed by a superior court judge. To obtain that review, you must, within ten days after the entry of the decision of the court commissioner, file with the court a motion for revision of the decision, as provided in RCW 2.24.050.

You should be present at any shelter care hearing. If you do not come, the judge will not hear what you have to say.

You may call the Child Protective Services' caseworker for more information about your child. The caseworker's name and telephone number are: . . . (insert name and telephone number).

5. You have a right to a case conference to develop a written service agreement following the shelter care hearing. The service agreement may not conflict with the court's order of shelter care. You may request that a multidisciplinary team, family group conference, or prognostic staffing be convened for your child's case. You may participate in these processes with your counsel present.

6. If your child is placed in the custody of the department of children, youth, and families or other ((~~supervising~~)) agency, immediately following the shelter care hearing, the court will enter an order granting the department or other ((~~supervising~~)) agency the right to inspect and copy all health, medical, mental health, and education records of the child, directing health care providers to release such information without your further consent, and granting the department or ((~~supervising~~)) agency or its designee the authority and responsibility, where applicable, to:

(1) Notify the child's school that the child is in out-of-home placement;

(2) Enroll the child in school;

(3) Request the school transfer records;

(4) Request and authorize evaluation of special needs;

(5) Attend parent or teacher conferences;

(6) Excuse absences;

(7) Grant permission for extracurricular activities;

(8) Authorize medications which need to be administered during school hours and sign for medical needs that arise during school hours; and

(9) Complete or update school emergency records.

7. If the court decides to place your child in the custody of the department of children, youth, and families or other ((~~supervising~~)) agency, the department or agency will create a permanency plan for your child, including a primary placement goal and secondary placement goal. The department or agency also will recommend that the court order services for your child and for you, if needed. The department or agency is required to make reasonable efforts to provide you with services to address your parenting problems, and to provide you with visitation with your child according to court orders. Failure to promptly engage in services or to maintain contact with your child may lead to the filing of a petition to terminate your parental rights.

8. Primary and secondary permanency plans are intended to run at the same time so that your child will have a permanent home as quickly as possible. Absent good cause, and when appropriate, the department or other ((~~supervising~~)) agency must follow the wishes of a natural parent regarding placement of a child. You should tell your lawyer and the court where you wish your child placed immediately, including whether you want your child placed with you, with a relative, or with another suitable person. You also should tell your lawyer and the court what services you feel are necessary and your wishes regarding visitation with your child. Even if you want another parent or person to be the primary placement choice for your child, you should tell your lawyer, the department or other ((~~supervising~~)) agency, and the court if you want to be a secondary placement option, and you should comply with court orders for services and participate in visitation with your child. Early and consistent involvement in your child's case plan is important for the well-being of your child.

9. A dependency petition begins a judicial process, which, if the court finds your child dependent, could result in substantial restrictions including, the entry or modification of a parenting plan or residential schedule, previously existing nonparental custody order or decree, guardianship order, or permanent loss of your parental rights."

Upon receipt of the written notice, the parent, guardian, or legal custodian shall acknowledge such notice by signing a receipt prepared by child protective services. If the parent, guardian, or legal custodian does not sign the receipt, the reason for lack of a signature shall be written on the receipt. The receipt shall be made a part of the court's file in the dependency action.

If after making reasonable efforts to provide notification, child protective services is unable to determine the whereabouts of the parents, guardian, or legal custodian, the notice shall be delivered or sent to the last known address of the parent, guardian, or legal custodian.

(3) If child protective services is not required to give notice under this section, the juvenile court counselor assigned to the matter shall make all ((~~reasonable~~)) diligent efforts to advise the parents, guardian, or legal custodian of the time and place of any shelter care hearing, request that they be present, and inform them of their basic rights as provided in RCW 13.34.090.

(4) ((~~Reasonable~~)) Diligent efforts to advise and to give notice, as required in this section, shall include, at a minimum, investigation of the whereabouts of the parent, guardian, or legal custodian. If such ((~~reasonable~~)) diligent efforts are not successful, or the parent, guardian, or legal custodian does not appear at the shelter care hearing, the petitioner shall testify at the hearing or state in a declaration:

(a) The efforts made to investigate the whereabouts of, and to advise, the parent, guardian, or custodian; and

(b) Whether actual advice of rights was made, to whom it was made, and how it was made, including the substance of any oral communication or copies of written materials used.

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

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

(2) Unless there is reasonable cause based on specific evidence to believe that the health, safety, or welfare of the child would be jeopardized or that the efforts to reunite the parent and child will be hindered, priority placement for a child in shelter care, pending a court hearing, shall be with any person described in RCW 74.15.020(2)(a) or 13.34.130(1)(b). The person must be willing and available to care for the child and be able to meet any special needs of the child and the court must ((~~find that such placement is in the best interests of the child~~)) complete the inquiry required under RCW 13.34.065 to establish whether continued placement with the relative is appropriate. The person must be willing to facilitate the child's visitation with siblings, if such visitation is part of the ((~~supervising agency's~~)) department's plan or is ordered by the court. If a child is not initially placed with a relative or other suitable person requested by the parent pursuant to this section, the ((~~supervising agency~~)) department shall make ((~~an effort within available resources~~)) continuing efforts to place the child with a relative or other suitable person requested by the parent on the next business day after the child is taken into custody. The ((~~supervising agency~~)) department shall document its effort to place the child with a relative or other suitable person requested by the parent pursuant to this section. Nothing within this subsection (2) establishes an entitlement to services or a right to a particular placement.

(3) Whenever a child is taken into custody pursuant to this section, the ((~~supervising agency~~)) department may authorize evaluations of the child's physical or emotional condition, routine medical and dental examination and care, and all necessary emergency care, after informing the child's parent, guardian, or legal custodian, unless the parent, guardian, or legal custodian cannot be reached. The child's parent, guardian, or legal custodian must be provided the opportunity to attend any appointments authorized under this subsection, unless prohibited by court order.

**Sec.**  RCW 13.34.065 and 2019 c 172 s 11 are each amended to read as follows:

(1)(a) When a child is ((~~taken into custody~~)) removed or when the petitioner is seeking the removal of a child from the child's parent, guardian, or legal custodian, the court shall hold a shelter care hearing within seventy-two hours, excluding Saturdays, Sundays, and holidays. The primary purpose of the shelter care hearing is to determine whether the child can be immediately and safely returned home while the adjudication of the dependency is pending. The court shall hold an additional shelter care hearing within 72 hours, excluding Saturdays, Sundays, and holidays if the child is removed from the care of a parent, guardian, or legal custodian at any time after an initial shelter care hearing under this section.

(b) Any child's attorney, parent, guardian, or legal custodian who for good cause is unable to attend or adequately prepare for the shelter care hearing may request that the initial shelter care hearing be continued or that a subsequent shelter care hearing be scheduled. The request shall be made to the clerk of the court where the petition is filed prior to the initial shelter care hearing. Upon the request of the child's attorney, parent, guardian, or legal custodian, the court shall schedule the hearing within seventy-two hours of the request, excluding Saturdays, Sundays, and holidays. The clerk shall notify all other parties of the hearing by any reasonable means. If the parent, guardian, or legal custodian is not represented by counsel, the clerk shall provide information to the parent, guardian, or legal custodian regarding how to obtain counsel.

(2)(a) If it is likely that the child will remain in shelter care longer than seventy-two hours, the department shall submit a recommendation to the court as to the further need for shelter care in all cases in which the child will remain in shelter care longer than the seventy-two hour period. In all other cases, the recommendation shall be submitted by the juvenile court probation counselor.

(b) All parties have the right to present testimony to the court regarding the need or lack of need for shelter care.

(c) Hearsay evidence before the court regarding the need or lack of need for shelter care must be supported by sworn testimony, affidavit, or declaration of the person offering such evidence.

(3)(a) At the commencement of the hearing, the court shall notify the parent, guardian, or custodian of the following:

(i) The parent, guardian, or custodian has the right to a shelter care hearing;

(ii) The nature of the shelter care hearing, the rights of the parents, and the proceedings that will follow; and

(iii) If the parent, guardian, or custodian is not represented by counsel, the right to be represented. If the parent, guardian, or custodian is indigent, the court shall appoint counsel as provided in RCW 13.34.090; and

(b) If a parent, guardian, or legal custodian desires to waive the shelter care hearing, the court shall determine, on the record and with the parties present, whether such waiver is knowing and voluntary. A parent may not waive his or her right to the shelter care hearing unless he or she appears in court, in person, or by remote means, and the court determines that the waiver is knowing and voluntary. Regardless of whether the court accepts the parental waiver of the shelter care hearing, the court must provide notice to the parents of their rights required under (a) of this subsection and make the finding required under subsection (4) of this section.

(4) At the shelter care hearing the court shall examine the need for shelter care and inquire into the status of the case. The paramount consideration for the court shall be the health, welfare, and safety of the child. At a minimum, the court shall inquire into the following:

(a) Whether the notice required under RCW 13.34.062 was given to all known parents, guardians, or legal custodians of the child. The court shall make an express finding as to whether the notice required under RCW 13.34.062 was given to the parent, guardian, or legal custodian. If actual notice was not given to the parent, guardian, or legal custodian and the whereabouts of such person is known or can be ascertained, the court shall order the department to make ((~~reasonable~~)) diligent efforts to advise the parent, guardian, or legal custodian of the status of the case, including the date and time of any subsequent hearings, and their rights under RCW 13.34.090;

(b) Whether the child can be safely returned home while the adjudication of the dependency is pending;

(c) What efforts have been made to place the child with a relative. The court shall ask the parents whether the department discussed with them the placement of the child with a relative or other suitable person described in RCW 13.34.130(1)(b) and shall determine what efforts have been made toward such a placement;

(d) What services were provided to the family to prevent or eliminate the need for removal of the child from the child's home. If the dependency petition or other information before the court alleges that homelessness or the lack of suitable housing was a significant factor contributing to the removal of the child, the court shall inquire as to whether housing assistance was provided to the family to prevent or eliminate the need for removal of the child or children;

(e) Is the placement proposed by the department the least disruptive and most family-like setting that meets the needs of the child;

(f) Whether it is in the best interest of the child to remain enrolled in the school, developmental program, or child care the child was in prior to placement and what efforts have been made to maintain the child in the school, program, or child care if it would be in the best interest of the child to remain in the same school, program, or child care;

(g) Appointment of a guardian ad litem or attorney;

(h) Whether the child is or may be an Indian child as defined in RCW 13.38.040, whether the provisions of the federal Indian child welfare act or chapter 13.38 RCW apply, and whether there is compliance with the federal Indian child welfare act and chapter 13.38 RCW, including notice to the child's tribe;

(i) Whether, as provided in RCW 26.44.063, restraining orders, or orders expelling an allegedly abusive household member from the home of a nonabusive parent, guardian, or legal custodian, will allow the child to safely remain in the home;

(j) Whether any orders for examinations, evaluations, or immediate services are needed. The court may not order a parent to undergo examinations, evaluation, or services at the shelter care hearing unless the parent agrees to the examination, evaluation, or service;

(k) The terms and conditions for parental, sibling, and family visitation.

(5)(a) The court shall release a child alleged to be dependent to the care, custody, and control of the child's parent, guardian, or legal custodian unless the court finds there is reasonable cause to believe that:

(i) After consideration of the specific services that have been provided, reasonable efforts have been made to prevent or eliminate the need for removal of the child from the child's home and to make it possible for the child to return home; and

(ii)(A) The child has no parent, guardian, or legal custodian to provide supervision and care for such child; or

(B) ((~~The release of such child would present a serious threat of substantial harm to such child~~)) (I) Removal of the child is necessary to prevent imminent physical harm due to child abuse or neglect, including that which results from sexual abuse, sexual exploitation, or a pattern of severe neglect, notwithstanding an order entered pursuant to RCW 26.44.063. The evidence must show a causal relationship between the particular conditions in the home and imminent physical harm to the child. The existence of community or family poverty, isolation, single parenthood, age of the parent, crowded or inadequate housing, substance abuse, prenatal drug or alcohol exposure, mental illness, disability or special needs of the parent or child, or nonconforming social behavior does not by itself constitute imminent physical harm;

(II) It is contrary to the welfare of the child to be returned home; and

(III) After considering the particular circumstances of the child, any imminent physical harm to the child outweighs the harm the child will experience as a result of removal; or

(C) The parent, guardian, or custodian to whom the child could be released has been charged with violating RCW 9A.40.060 or 9A.40.070.

(b) If the court finds that the elements of (a)(ii)(B) of this subsection require removal of the child, the court shall further consider:

(i) Whether participation by the parents, guardians, or legal custodians in any prevention services would prevent or eliminate the need for removal and, if so, shall inquire of the parent whether they are willing to participate in such services. If the parent agrees to participate in the prevention services identified by the court that would prevent or eliminate the need for removal, the court shall place the child with the parent. The court shall not order a parent to participate in prevention services over the objection of the parent, however, parents shall have the opportunity to consult with counsel prior to deciding whether to agree to proposed prevention services as a condition of having the child return to or remain in the care of the parent; and

(ii) Whether the issuance of a temporary order of protection directing the removal of a person or persons from the child's residence would prevent the need for removal of the child.

(c)(i) If the court does not release the child to his or her parent, guardian, or legal custodian, the court shall order placement with a relative or other suitable person as described in RCW 13.34.130(1)(b), unless ((~~there is reasonable cause to believe the health, safety, or welfare of the child would be jeopardized or that the~~)) the petitioner establishes that there is reasonable cause to believe that:

(A) Placement in licensed foster care is necessary to prevent imminent physical harm to the child due to child abuse or neglect, including that which results from sexual abuse, sexual exploitation, or a pattern of severe neglect, because no relative or other suitable person is capable of ensuring the basic safety of the child; or

(B) The efforts to reunite the parent and child will be hindered. ((~~If such relative or other suitable person appears otherwise suitable and competent to provide care and treatment, the fingerprint-based background check need not be completed before placement, but as soon as possible after placement. The court must also determine whether placement with the relative or other suitable person is in the child's best interests. The relative or other suitable person must be willing and available to:~~

~~(i) Care for the child and be able to meet any special needs of the child;~~

~~(ii) Facilitate the child's visitation with siblings, if such visitation is part of the department's plan or is ordered by the court; and~~

~~(iii) Cooperate with the department in providing necessary background checks and home studies.~~

~~(c)~~)) (ii) In making the determination in (c)(i) of this subsection, the court shall:

(A) Inquire of the petitioner and any other person present at the hearing for the child whether there are any relatives or other suitable persons who are willing to care for the child. This inquiry must include whether any relative or other suitable person:

(I) Has expressed an interest in becoming a caregiver for the child;

(II) Is able to meet any special needs of the child;

(III) Is willing to facilitate the child's sibling and parent visitation if such visitation is ordered by the court; and

(IV) Supports reunification of the parent and child once reunification can safely occur; and

(B) Give great weight to the stated preference of the parent, guardian, or legal custodian, and the child.

(iii) If a relative or other suitable person expressed an interest in caring for the child, can meet the child's special needs, can support parent-child reunification, and will facilitate court-ordered sibling or parent visitation, the following must not prevent the child's placement with such relative or other suitable person:

(A) An incomplete department or fingerprint-based background check, if such relative or other suitable person appears otherwise suitable and competent to provide care and treatment, but the background checks must be completed as soon as possible after placement;

(B) Uncertainty on the part of the relative or other suitable person regarding potential adoption of the child;

(C) Disbelief on the part of the relative or other suitable person that the parent, guardian, or legal custodian presents a danger to the child, provided the caregiver will protect the safety of the child and comply with court orders regarding contact with a parent, guardian, or legal custodian; or

(D) The conditions of the relative or other suitable person's home are not sufficient to satisfy the requirements of a licensed foster home. The court may order the department to provide financial or other support to the relative or other suitable person necessary to ensure safe conditions in the home.

(d) If the child was not initially placed with a relative or other suitable person, and the court does not release the child to his or her parent, guardian, or legal custodian, the department shall make reasonable efforts to locate a relative or other suitable person pursuant to RCW 13.34.060(1). ((~~In determining placement, the court shall weigh the child's length of stay and attachment to the current provider in determining what is in the best interest of the child.~~

~~(d) If a relative or other suitable person is not available, the court shall order continued shelter care~~)) (e) If the court does not order placement with a relative or other suitable person, the court shall place the child in licensed foster care and shall set forth its reasons for the order. If the court orders placement of the child with a person not related to the child and not licensed to provide foster care, the placement is subject to all terms and conditions of this section that apply to relative placements.

((~~(e)~~)) (f) Any placement with a relative, or other suitable person approved by the court pursuant to this section, shall be contingent upon cooperation with the department's or agency's case plan and compliance with court orders related to the care and supervision of the child including, but not limited to, court orders regarding parent-child contacts, sibling contacts, and any other conditions imposed by the court. Noncompliance with the case plan or court order is grounds for removal of the child from the home of the relative or other suitable person, subject to review by the court.

((~~(f)~~)) (g) If the child is placed in a qualified residential treatment program as defined in this chapter, the court shall, within sixty days of placement, hold a hearing to:

(i) Consider the assessment required under RCW 13.34.420 and submitted as part of the department's social study, and any related documentation;

(ii) Determine whether placement in foster care can meet the child's needs or if placement in another available placement setting best meets the child's needs in the least restrictive environment; and

(iii) Approve or disapprove the child's placement in the qualified residential treatment program.

((~~(g)~~)) (h) Uncertainty by a parent, guardian, legal custodian, relative, or other suitable person that the alleged abuser has in fact abused the child shall not, alone, be the basis upon which a child is removed from the care of a parent, guardian, or legal custodian under (a) of this subsection, nor shall it be a basis, alone, to preclude placement with a relative or other suitable person under ((~~(b)~~)) (c) of this subsection.

(i) If the court places with a relative or other suitable person, and that person has indicated a desire to become a licensed foster parent, the court shall order the department to commence an assessment of the home of such relative or other suitable person within 10 days and thereafter issue an initial license as provided under RCW 74.15.120 for such relative or other suitable person, if qualified, as a foster parent. The relative or other suitable person shall receive a foster care maintenance payment, starting on the date the department approves the initial license. If such home is found to be unqualified for licensure, the department shall report such fact to the court within one week of that determination. The department shall report on the status of the licensure process during the entry of any dispositional orders in the case.

(j) If the court places the child in licensed foster care:

(i) The petitioner shall report to the court, at the shelter care hearing, the location of the licensed foster placement the petitioner has identified for the child and the court shall inquire as to whether:

(A) The identified placement is the least restrictive placement necessary to meet the needs of the child;

(B) The child will be able to remain in the same school and whether any orders of the court are necessary to ensure educational stability for the child;

(C) The child will be placed with a sibling or siblings, and whether court-ordered sibling contact would promote the well-being of the child;

(D) The licensed foster placement is able to meet the special needs of the child;

(E) The location of the proposed foster placement will impede visitation with the child's parent or parents;

(ii) The court may order the department to:

(A) Place the child in a less restrictive placement;

(B) Place the child in a location in closer proximity to the child's parent, home, or school;

(C) Place the child with the child's sibling or siblings;

(D) Take any other necessary steps to ensure the child's health, safety, and well-being;

(iii) The court shall advise the petitioner that:

(A) Failure to comply with court orders while a child is in shelter care will be considered when determining whether reasonable efforts have been made by the department during a hearing under RCW 13.34.110; and

(B) Placement moves while a child is in shelter care will be considered when determining whether reasonable efforts have been made by the department during a hearing under RCW 13.34.110.

(6)(a) A shelter care order issued pursuant to this section shall include the requirement for a case conference as provided in RCW 13.34.067. However, if the parent is not present at the shelter care hearing, or does not agree to the case conference, the court shall not include the requirement for the case conference in the shelter care order.

(b) If the court orders a case conference, the shelter care order shall include notice to all parties and establish the date, time, and location of the case conference which shall be no later than thirty days before the fact-finding hearing.

(c) The court may order another conference, case staffing, or hearing as an alternative to the case conference required under RCW 13.34.067 so long as the conference, case staffing, or hearing ordered by the court meets all requirements under RCW 13.34.067, including the requirement of a written agreement specifying the services to be provided to the parent.

(7)(a) A shelter care order issued pursuant to this section may be amended at any time with notice and hearing thereon. The shelter care decision of placement shall be modified only upon a showing of change in circumstances. No child may be placed in shelter care for longer than thirty days without an order, signed by the judge, authorizing continued shelter care.

(b)(i) An order releasing the child on any conditions specified in this section may at any time be amended, with notice and hearing thereon, so as to return the child to shelter care for failure of the parties to conform to the conditions originally imposed.

(ii) The court shall consider whether nonconformance with any conditions resulted from circumstances beyond the control of the parent, guardian, or legal custodian and give weight to that fact before ordering return of the child to shelter care.

(8) ((~~(a) If a child is returned home from shelter care a second time in the case, or if the supervisor of the caseworker deems it necessary, the multidisciplinary team may be reconvened.~~

~~(b) If a child is returned home from shelter care a second time in the case a law enforcement officer must be present and file a report to the department.~~)) The department and its employees shall not be held liable in any civil action for complying with an order issued under this section for placement: With a parent who has agreed to accept services, a relative, or a suitable person.

**Sec.**  RCW 13.34.090 and 2017 3rd sp.s. c 6 s 303 are each amended to read as follows:

(1) Any party has a right to be represented by an attorney in all proceedings under this chapter, to introduce evidence, to be heard in his or her own behalf, to examine witnesses, to receive a decision based solely on the evidence adduced at the hearing, and to an unbiased fact finder.

(2) At all stages of a proceeding in which a child is alleged to be dependent, the child's parent, guardian, or legal custodian has the right to be represented by counsel, and if indigent, to have counsel appointed for him or her by the court. Unless waived in court, counsel shall be provided to the child's parent, guardian, or legal custodian, if such person (a) has appeared in the proceeding or requested the court to appoint counsel and (b) is financially unable to obtain counsel because of indigency.

(3) If a party to an action under this chapter is represented by counsel, no order shall be provided to that party for his or her signature without prior notice and provision of the order to counsel.

(4) Copies of department ((~~or supervising agency~~)) records to which parents have legal access pursuant to chapter 13.50 RCW shall be given to the child's parent, guardian, legal custodian, or his or her legal counsel, prior to any shelter care hearing and within fifteen days after the department ((~~or supervising agency~~)) receives a written request for such records from the parent, guardian, legal custodian, or his or her legal counsel. These records shall be provided to the child's parents, guardian, legal custodian, or legal counsel a reasonable period of time prior to the shelter care hearing in order to allow an opportunity to review the records prior to the hearing. These records shall be legible and shall be provided at no expense to the parents, guardian, legal custodian, or his or her counsel. When the records are served on legal counsel, legal counsel shall have the opportunity to review the records with the parents and shall review the records with the parents prior to the shelter care hearing. The department shall make every effort to provide all other discoverable material to the child's parent, guardian, legal custodian, or his or her legal counsel prior to any shelter care hearing.

NEW SECTION. **Sec.**  Where feasible, the department of children, youth, and families shall apply for federal waivers that would reimburse the department for the cost of providing maintenance payments for relatives or other suitable persons caring for a child who have indicated a desire to become a licensed foster parent, provided that the person has received an initial license from the department.

NEW SECTION. **Sec.**  Sections 1 through 10 of this act take effect July 1, 2023.

**--- END ---**

Passed by the House April 15, 2021.

Passed by the Senate April 7, 2021.

Approved by the Governor May 10, 2021.

Filed in Office of Secretary of State May 10, 2021.