
HOUSE BILL 1227

State of Washington

67th Legislature

2021 Regular Session

By Representatives Ortiz-Self, Callan, Senn, Dolan, Fitzgibbon, Ramos, Davis, Santos, Macri, Gregerson, Young, and Ormsby

Read first time 01/18/21. Referred to Committee on Children, Youth & Families.

1 AN ACT Relating to protecting the rights of families responding
2 to allegations of abuse or neglect of a child; amending RCW
3 13.34.040, 26.44.056, 26.44.050, 13.34.050, 13.34.062, 13.34.060,
4 13.34.065, and 13.34.090; and creating new sections.

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

6 NEW SECTION. **Sec. 1.** This act may be known and cited as the
7 keeping families together act.

8 NEW SECTION. **Sec. 2.** (1) The legislature recognizes that
9 children and families are better served when the state provides
10 support to allow children to be cared for by their loved ones and in
11 their communities. The legislature finds that decades of research
12 show that Black and Indigenous children are still disproportionately
13 removed from their families and communities despite reform efforts.

14 (2) For these reasons, it is the intent of the legislature to
15 safely reduce the number of children in foster care and reduce racial
16 bias in the system by applying a standard criteria for determining
17 whether to remove a child from a parent when necessary to prevent
18 imminent physical harm to the child due to child abuse or neglect.

1 **Sec. 3.** RCW 13.34.040 and 2018 c 17 s 1 are each amended to read
2 as follows:

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

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

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

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

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

36 **Sec. 4.** RCW 26.44.056 and 1983 c 246 s 3 are each amended to
37 read as follows:

38 (1) An administrator of a hospital or similar institution or any
39 physician, licensed pursuant to chapters 18.71 or 18.57 RCW, may

1 detain a child without consent of a person legally responsible for
2 the child whether or not medical treatment is required, if ((the
3 ~~circumstances or conditions of the child are such that the detaining~~
4 ~~individual has reasonable cause to believe that permitting the child~~
5 ~~to continue in his or her place of residence or in the care and~~
6 ~~custody of the parent, guardian, custodian or other person legally~~
7 ~~responsible for the child's care would present an imminent danger to~~
8 ~~that child's safety)) there is probable cause to believe that
9 detaining the child is necessary to prevent imminent physical harm to
10 the child due to child abuse or neglect and the child would be
11 seriously injured or could not be taken into custody if it were
12 necessary to first obtain a court order under RCW 13.34.050:
13 PROVIDED, That such administrator or physician shall notify or cause
14 to be notified the appropriate law enforcement agency or child
15 protective services pursuant to RCW 26.44.040. Such notification
16 shall be made as soon as possible and in no case longer than seventy-
17 two hours. Such temporary protective custody by an administrator or
18 doctor shall not be deemed an arrest. Child protective services may
19 detain the child until the court assumes custody, but in no case
20 longer than seventy-two hours, excluding Saturdays, Sundays, and
21 holidays.~~

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

38 (3)) A child protective services employee, an administrator,
39 doctor, or law enforcement officer shall not be held liable in any

1 civil action for the decision for taking the child into custody, if
2 done in good faith under this section.

3 **Sec. 5.** RCW 26.44.050 and 2020 c 71 s 1 are each amended to read
4 as follows:

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

11 A law enforcement officer may take, or cause to be taken, a child
12 into custody without a court order if there is probable cause to
13 believe that (~~the child is abused or neglected and that the child~~
14 ~~would be~~) taking the child into custody is necessary to prevent
15 imminent physical harm to the child due to child abuse or neglect and
16 the child would be seriously injured or could not be taken into
17 custody if it were necessary to first obtain a court order pursuant
18 to RCW 13.34.050. The law enforcement agency or the department
19 investigating such a report is hereby authorized to photograph such a
20 child for the purpose of providing documentary evidence of the
21 physical condition of the child.

22 **Sec. 6.** RCW 13.34.050 and 2005 c 512 s 9 are each amended to
23 read as follows:

24 (1) The court may enter an order directing a law enforcement
25 officer, probation counselor, or child protective services official
26 to take a child into custody if: (a) A petition is filed with the
27 juvenile court (~~alleging~~) with sufficient corroborating evidence to
28 establish that the child is dependent (~~and that the child's health,~~
29 ~~safety, and welfare will be seriously endangered if not taken into~~
30 ~~eustody~~); (b) the allegations contained in the petition, if true,
31 establish by a preponderance of the evidence that removal is
32 necessary to prevent imminent physical harm to the child due to child
33 abuse or neglect; and (c) an affidavit or declaration is filed by the
34 department in support of the petition setting forth specific factual
35 information evidencing (~~reasonable grounds that the child's health,~~
36 ~~safety, and welfare will be seriously endangered if not taken into~~
37 ~~eustody and at least one of the grounds set forth demonstrates a risk~~
38 ~~of imminent harm to the child. "Imminent harm" for purposes of this~~

1 ~~section shall include, but not be limited to, circumstances of sexual~~
2 ~~abuse, sexual exploitation as defined in RCW 26.44.020, and a~~
3 ~~parent's failure to perform basic parental functions, obligations,~~
4 ~~and duties as the result of substance abuse; and (c) the court finds~~
5 ~~reasonable grounds to believe the child is dependent and that the~~
6 ~~child's health, safety, and welfare will be seriously endangered if~~
7 ~~not taken into custody)) insufficient time to serve a parent with a~~
8 ~~dependency petition and hold a hearing prior to removal.~~

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

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

24 **Sec. 7.** RCW 13.34.062 and 2020 c 312 s 115 are each amended to
25 read as follows:

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

38 (b) In no event shall the notice required by this section be
39 provided to the parent, guardian, or legal custodian more than

1 twenty-four hours after the child has been taken into custody or
2 twenty-four hours after child protective services has been notified
3 that the child has been taken into custody.

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

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

12 "NOTICE

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

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

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

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

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

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

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

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

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

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

23 (2) Enroll the child in school;

24 (3) Request the school transfer records;

25 (4) Request and authorize evaluation of special needs;

26 (5) Attend parent or teacher conferences;

27 (6) Excuse absences;

28 (7) Grant permission for extracurricular activities;

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

32 (9) Complete or update school emergency records.

33 7. If the court decides to place your child in the custody of the
34 department of children, youth, and families or other ((~~supervising~~))
35 agency, the department or agency will create a permanency plan for
36 your child, including a primary placement goal and secondary
37 placement goal. The department or agency also will recommend that the
38 court order services for your child and for you, if needed. The
39 department or agency is required to make reasonable efforts to
40 provide you with services to address your parenting problems, and to

1 provide you with visitation with your child according to court
2 orders. Failure to promptly engage in services or to maintain contact
3 with your child may lead to the filing of a petition to terminate
4 your parental rights.

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

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

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

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

38 (3) If child protective services is not required to give notice
39 under this section, the juvenile court counselor assigned to the

1 matter shall make all (~~reasonable~~) diligent efforts to advise the
2 parents, guardian, or legal custodian of the time and place of any
3 shelter care hearing, request that they be present, and inform them
4 of their basic rights as provided in RCW 13.34.090.

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

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

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

17 **Sec. 8.** RCW 13.34.060 and 2007 c 413 s 3 are each amended to
18 read as follows:

19 (1) A child taken into custody pursuant to RCW 13.34.050 or
20 26.44.050 shall be immediately placed in shelter care. A child taken
21 by a relative of the child in violation of RCW 9A.40.060 or 9A.40.070
22 shall be placed in shelter care only when permitted under RCW
23 13.34.055. No child may be held longer than seventy-two hours,
24 excluding Saturdays, Sundays, and holidays, after such child is taken
25 into custody unless a court order has been entered for continued
26 shelter care. In no case may a child who is taken into custody
27 pursuant to RCW 13.34.055, 13.34.050, or 26.44.050 be detained in a
28 secure detention facility.

29 (2) Unless there is reasonable cause based on specific evidence
30 to believe that the health(~~(r)~~) or safety(~~(, or welfare)~~) of the
31 child would be jeopardized or that the efforts to reunite the parent
32 and child will be hindered, priority placement for a child in shelter
33 care, pending a court hearing, shall be with any person described in
34 RCW 74.15.020(2)(a) or 13.34.130(1)(b). The person must be willing
35 and available to care for the child and be able to meet any special
36 needs of the child and the court must (~~find that such placement is~~
37 ~~in the best interests of the child~~) complete the inquiry required
38 under RCW 13.34.065 to establish whether continued placement with the
39 relative is appropriate. The person must be willing to facilitate the

1 child's visitation with siblings, if such visitation is part of the
2 (~~supervising agency's~~) department's plan or is ordered by the
3 court. If a child is not initially placed with a relative or other
4 suitable person requested by the parent pursuant to this section, the
5 (~~supervising agency~~) department shall make (~~an effort within~~
6 ~~available resources~~) continuing efforts to place the child with a
7 relative or other suitable person requested by the parent on the next
8 business day after the child is taken into custody. The (~~supervising~~
9 ~~agency~~) department shall document its effort to place the child with
10 a relative or other suitable person requested by the parent pursuant
11 to this section. Nothing within this subsection (2) establishes an
12 entitlement to services or a right to a particular placement.

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

22 **Sec. 9.** RCW 13.34.065 and 2019 c 172 s 11 are each amended to
23 read as follows:

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

35 (b) Any child's attorney, parent, guardian, or legal custodian
36 who for good cause is unable to attend or adequately prepare for the
37 shelter care hearing may request that the initial shelter care
38 hearing be continued or that a subsequent shelter care hearing be
39 scheduled. The request shall be made to the clerk of the court where

1 the petition is filed prior to the initial shelter care hearing. Upon
2 the request of the child's attorney, parent, guardian, or legal
3 custodian, the court shall schedule the hearing within seventy-two
4 hours of the request, excluding Saturdays, Sundays, and holidays. The
5 clerk shall notify all other parties of the hearing by any reasonable
6 means. If the parent, guardian, or legal custodian is not represented
7 by counsel, the clerk shall provide information to the parent,
8 guardian, or legal custodian regarding how to obtain counsel.

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

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

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

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

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

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

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

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

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

6 (a) Whether the notice required under RCW 13.34.062 was given to
7 all known parents, guardians, or legal custodians of the child. The
8 court shall make an express finding as to whether the notice required
9 under RCW 13.34.062 was given to the parent, guardian, or legal
10 custodian. If actual notice was not given to the parent, guardian, or
11 legal custodian and the whereabouts of such person is known or can be
12 ascertained, the court shall order the department to make
13 (~~reasonable~~) diligent efforts to advise the parent, guardian, or
14 legal custodian of the status of the case, including the date and
15 time of any subsequent hearings, and their rights under RCW
16 13.34.090;

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

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

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

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

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

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

2 (h) Whether the child is or may be an Indian child as defined in
3 RCW 13.38.040, whether the provisions of the federal Indian child
4 welfare act or chapter 13.38 RCW apply, and whether there is
5 compliance with the federal Indian child welfare act and chapter
6 13.38 RCW, including notice to the child's tribe;

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

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

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

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

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

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

28 (B) (~~The release of such child would present a serious threat of~~
29 ~~substantial harm to such child~~) (I) Removal of the child is
30 necessary to prevent imminent physical harm due to child abuse or
31 neglect, notwithstanding an order entered pursuant to RCW 26.44.063.
32 The evidence must show a causal relationship between the particular
33 conditions in the home and imminent physical harm to the child. The
34 existence of community or family poverty, isolation, single
35 parenthood, age of the parent, crowded or inadequate housing,
36 substance abuse, prenatal drug or alcohol exposure, mental illness,
37 disability or special needs of the parent or child, or nonconforming
38 social behavior does not by itself constitute imminent physical harm;
39 (II) It is contrary to the welfare of the child to be returned
40 home; and

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

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

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

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

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

24 (c)(i) If the court does not release the child to his or her
25 parent, guardian, or legal custodian, the court shall order placement
26 with a relative or other suitable person as described in RCW
27 13.34.130(1)(b), ~~unless ((there is reasonable cause to believe the~~
28 ~~health, safety, or welfare of the child would be jeopardized or that~~
29 ~~the)) the petitioner establishes by a preponderance of the evidence~~
30 ~~that:~~

31 (A) Placement in licensed foster care is necessary to prevent
32 imminent physical harm to the child due to child abuse or neglect
33 because no relative or other suitable person is capable of ensuring
34 the basic safety of the child; or

35 (B) The efforts to reunite the parent and child will be hindered.
36 ~~((If such relative or other suitable person appears otherwise~~
37 ~~suitable and competent to provide care and treatment, the~~
38 ~~fingerprint-based background check need not be completed before~~
39 ~~placement, but as soon as possible after placement. The court must~~
40 ~~also determine whether placement with the relative or other suitable~~

1 ~~person is in the child's best interests. The relative or other~~
2 ~~suitable person must be willing and available to:~~

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

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

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

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

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

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

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

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

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

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

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

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

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

37 (C) Disbelief on the part of the relative or other suitable
38 person that the parent presents a danger to the child; or

39 (D) The conditions of the relative or other suitable person's
40 home are not sufficient to satisfy the requirements of a licensed

1 foster home. The court may order the department to provide financial
2 or other support to the relative or other suitable person necessary
3 to ensure safe conditions in the home.

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

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

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

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

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

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

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

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

8 (i) If the court places with a relative or other suitable person,
9 and that person has indicated a desire to become a licensed foster
10 parent, the court shall order the department to commence an
11 investigation of the home of such relative or other suitable person
12 within 24 hours and thereafter expedite licensure of such relative or
13 other suitable person, if qualified, as a foster parent. If licensed,
14 the foster care subsidy shall be paid to the relative or other
15 suitable person retroactive to the date of placement. If such home is
16 found to be unqualified for licensure, the department shall report
17 such fact to the court within one week of that determination. Such
18 determination must be made prior to the entry of any dispositional
19 orders in the case.

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

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

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

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

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

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

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

37 (ii) The court may order the department to:

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

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

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

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

4 (iii) The court shall advise the petitioner that:

5 (A) Failure to comply with court orders shall result in a finding
6 that reasonable efforts have not been made by the department to
7 finalize the permanent plan during a hearing under RCW 13.34.110; and

8 (B) Placement moves while a child is in shelter care will be
9 considered when determining whether reasonable efforts have been made
10 by the department to finalize the permanent plan during a fact-
11 finding hearing under RCW 13.34.110.

12 (6) (a) A shelter care order issued pursuant to this section shall
13 include the requirement for a case conference as provided in RCW
14 13.34.067. However, if the parent is not present at the shelter care
15 hearing, or does not agree to the case conference, the court shall
16 not include the requirement for the case conference in the shelter
17 care order.

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

22 (c) The court may order another conference, case staffing, or
23 hearing as an alternative to the case conference required under RCW
24 13.34.067 so long as the conference, case staffing, or hearing
25 ordered by the court meets all requirements under RCW 13.34.067,
26 including the requirement of a written agreement specifying the
27 services to be provided to the parent.

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

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

38 (ii) The court shall consider whether nonconformance with any
39 conditions resulted from circumstances beyond the control of the

1 parent, guardian, or legal custodian and give weight to that fact
2 before ordering return of the child to shelter care.

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

6 ~~(b) If a child is returned home from shelter care a second time
7 in the case a law enforcement officer must be present and file a
8 report to the department.))~~

9 **Sec. 10.** RCW 13.34.090 and 2017 3rd sp.s. c 6 s 303 are each
10 amended to read as follows:

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

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

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

27 (4) Copies of department ~~((or supervising agency))~~ records to
28 which parents have legal access pursuant to chapter 13.50 RCW shall
29 be given to the child's parent, guardian, legal custodian, or his or
30 her legal counsel, prior to any shelter care hearing and within
31 fifteen days after the department ~~((or supervising agency))~~ receives
32 a written request for such records from the parent, guardian, legal
33 custodian, or his or her legal counsel. These records shall be
34 provided to the child's parents, guardian, legal custodian, or legal
35 counsel a reasonable period of time prior to the shelter care hearing
36 in order to allow an opportunity to review the records prior to the
37 hearing. These records shall be legible and shall be provided at no
38 expense to the parents, guardian, legal custodian, or his or her
39 counsel. When the records are served on legal counsel, legal counsel

1 shall have the opportunity to review the records with the parents and
2 shall review the records with the parents prior to the shelter care
3 hearing. The department shall make every effort to provide all other
4 discoverable material to the child's parent, guardian, legal
5 custodian, or his or her legal counsel prior to any shelter care
6 hearing.

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