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HOUSE BILL 1747

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**By** Representatives Ortiz-Self, Taylor, Davis, Peterson, Ryu, Orwall, Dolan, Simmons, Ramos, Wicks, Valdez, Fitzgibbon, Morgan, Stonier, Goodman, Ormsby, Macri, Harris-Talley, and Frame

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1 AN ACT Relating to supporting relative placements in child  
2 welfare proceedings; and amending RCW 13.34.145, 13.34.180,  
3 13.34.210, and 74.13.062.

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

5 **Sec. 1.** RCW 13.34.145 and 2020 c 312 s 118 are each amended to  
6 read as follows:

7 (1) The purpose of a permanency planning hearing is to review the  
8 permanency plan for the child, inquire into the welfare of the child  
9 and progress of the case, and reach decisions regarding the permanent  
10 placement of the child.

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

17 (b) Whenever a child is removed from the home of a dependency  
18 guardian or long-term relative or foster care provider, and the child  
19 is not returned to the home of the parent, guardian, or legal  
20 custodian but is placed in out-of-home care, a permanency planning  
21 hearing shall take place no later than twelve months, as provided in

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

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

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

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

27 (4) At the permanency planning hearing, the court shall conduct  
28 the following inquiry:

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

1 (b) In cases where the primary permanency planning goal has not  
2 been achieved, the court shall inquire regarding the reasons why the  
3 primary goal has not been achieved and determine what needs to be  
4 done to make it possible to achieve the primary goal. The court shall  
5 review the permanency plan prepared by the agency and make explicit  
6 findings regarding each of the following:

7 (i) The continuing necessity for, and the safety and  
8 appropriateness of, the placement;

9 (ii) The extent of compliance with the permanency plan by the  
10 department and any other service providers, the child's parents, the  
11 child, and the child's guardian, if any;

12 (iii) The extent of any efforts to involve appropriate service  
13 providers in addition to department staff in planning to meet the  
14 special needs of the child and the child's parents;

15 (iv) The progress toward eliminating the causes for the child's  
16 placement outside of his or her home and toward returning the child  
17 safely to his or her home or obtaining a permanent placement for the  
18 child;

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

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

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

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

34 (C) Being placed for adoption;

35 (D) Being placed with a guardian;

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

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

1 (c) Regardless of whether the primary permanency planning goal  
2 has been achieved, for a child who remains placed in a qualified  
3 residential treatment program as defined in this chapter for at least  
4 sixty days, and remains placed there at subsequent permanency  
5 planning hearings, the court shall establish in writing:

6 (i) Whether ongoing assessment of the child's strengths and needs  
7 continues to support the determination that the child's needs cannot  
8 be met through placement in a foster family home;

9 (ii) Whether the child's placement provides the most effective  
10 and appropriate level of care in the least restrictive environment;

11 (iii) Whether the placement is consistent with the child's short  
12 and long-term goals as stated in the child's permanency plan;

13 (iv) What specific treatment or service needs will be met in the  
14 placement, and how long the child is expected to need the treatment  
15 or services; and

16 (v) What efforts the department has made to prepare the child to  
17 return home or be placed with a fit and willing relative as defined  
18 in RCW 13.34.030, a Title 13 RCW guardian, a guardian pursuant to RCW  
19 11.130.215, an adoptive parent, or in a foster family home.

20 (5) Following this inquiry, at the permanency planning hearing,  
21 the court shall order the department to file a petition seeking  
22 termination of parental rights if the child has been in out-of-home  
23 care for fifteen of the last twenty-two months since the date the  
24 dependency petition was filed unless the court makes a good cause  
25 exception as to why the filing of a termination of parental rights  
26 petition is not appropriate. Any good cause finding shall be reviewed  
27 at all subsequent hearings pertaining to the child.

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

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

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

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

37 (iv) The parent is incarcerated, or the parent's prior  
38 incarceration is a significant factor in why the child has been in  
39 foster care for fifteen of the last twenty-two months, the parent  
40 maintains a meaningful role in the child's life, and the department

1 has not documented another reason why it would be otherwise  
2 appropriate to file a petition pursuant to this section;

3 (v) Where a parent has been accepted into a dependency treatment  
4 court program or long-term substance abuse or dual diagnoses  
5 treatment program and is demonstrating compliance with treatment  
6 goals; ~~((e))~~

7 (vi) Where a parent who has been court ordered to complete  
8 services necessary for the child's safe return home files a  
9 declaration under penalty of perjury stating the parent's financial  
10 inability to pay for the same court-ordered services, and also  
11 declares the department was unwilling or unable to pay for the same  
12 services necessary for the child's safe return home; or

13 (vii) The department has not yet met with the caregiver for the  
14 child to discuss guardianship as an alternative to adoption or the  
15 court has determined that guardianship is an appropriate permanent  
16 plan.

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

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

23 (ii) The parent's efforts to communicate and work with the  
24 department or other individuals for the purpose of complying with the  
25 service plan and repairing, maintaining, or building the parent-child  
26 relationship;

27 (iii) A positive response by the parent to the reasonable efforts  
28 of the department;

29 (iv) Information provided by individuals or agencies in a  
30 reasonable position to assist the court in making this assessment,  
31 including but not limited to the parent's attorney, correctional and  
32 mental health personnel, or other individuals providing services to  
33 the parent;

34 (v) Limitations in the parent's access to family support  
35 programs, therapeutic services, and visiting opportunities,  
36 restrictions to telephone and mail services, inability to participate  
37 in foster care planning meetings, and difficulty accessing lawyers  
38 and participating meaningfully in court proceedings; and

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

1 (c) The constraints of a parent's current or prior incarceration  
2 and associated delays or barriers to accessing court-mandated  
3 services may be considered in rebuttal to a claim of aggravated  
4 circumstances under RCW 13.34.132(4)(h) for a parent's failure to  
5 complete available treatment.

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

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

18 (c) The department shall not discharge a child to an independent  
19 living situation before the child is eighteen years of age unless the  
20 child becomes emancipated pursuant to chapter 13.64 RCW.

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

24 (a) Enter a finding regarding whether the foster parent or  
25 relative was informed of the hearing as required in RCW 74.13.280,  
26 13.34.215(6), and 13.34.096; and

27 (b) (~~If the department is recommending a placement other than~~  
28 ~~the child's current placement with a foster parent, relative, or~~  
29 ~~other suitable person, enter a finding as to the reasons for the~~  
30 ~~recommendation for a change in placement.)) Instruct the department  
31 to discuss guardianship as a permanent option for the child with the  
32 child's parents and caregiver as an alternative to termination of  
33 parental rights and adoption. No child who is placed with a relative  
34 or other suitable person may be moved, unless, pursuant to the  
35 criteria established in RCW 13.34.130, the court finds that a change  
36 in circumstances necessitates a change in placement.~~

37 (8) In all cases, at the permanency planning hearing, the court  
38 shall:

39 (a)(i) Order the permanency plan prepared by the department to be  
40 implemented; or

1 (ii) Modify the permanency plan, and order implementation of the  
2 modified plan; and

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

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

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

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

17 (11) If the court orders the child returned home, casework  
18 supervision by the department shall continue for at least six months,  
19 at which time a review hearing shall be held pursuant to RCW  
20 13.34.138, and the court shall determine the need for continued  
21 intervention.

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

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

38 (14) Nothing in this chapter may be construed to limit the  
39 ability of the agency that has custody of the child to file ((a  
40 ~~petition for termination of parental rights or~~)) a guardianship

1 petition at any time following the establishment of dependency.  
2 (~~Upon the filing of such a petition, a fact-finding hearing shall be~~  
3 ~~scheduled and held in accordance with this chapter unless the~~  
4 ~~department requests dismissal of the petition prior to the hearing or~~  
5 ~~unless the parties enter an agreed order terminating parental rights,~~  
6 ~~establishing guardianship, or otherwise resolving the matter.)) The  
7 department shall not file a petition for termination of parental  
8 rights when the court has entered a finding of good cause that a  
9 termination of parental rights petition is not appropriate under  
10 subsection (5) of this section.~~

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

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

21 **Sec. 2.** RCW 13.34.180 and 2018 c 284 s 20 are each amended to  
22 read as follows:

23 (1) A petition seeking termination of a parent and child  
24 relationship may be filed in juvenile court by any party to the  
25 dependency proceedings concerning that child. Such petition shall  
26 conform to the requirements of RCW 13.34.040, shall be served upon  
27 the parties as provided in RCW 13.34.070(8), and shall allege all of  
28 the following unless subsection (3) or (4) of this section applies:

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

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

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

35 (d) That the services ordered under RCW 13.34.136 have been  
36 expressly and understandably offered or provided and all necessary  
37 services, reasonably available, capable of correcting the parental  
38 deficiencies within the foreseeable future have been expressly and  
39 understandably offered or provided;



1 (e) That there is little likelihood that conditions will be  
2 remedied so that the child can be returned to the parent in the near  
3 future. A parent's failure to substantially improve parental  
4 deficiencies within twelve months following entry of the  
5 dispositional order shall give rise to a rebuttable presumption that  
6 there is little likelihood that conditions will be remedied so that  
7 the child can be returned to the parent in the near future. The  
8 presumption shall not arise unless the petitioner makes a showing  
9 that all necessary services reasonably capable of correcting the  
10 parental deficiencies within the foreseeable future have been clearly  
11 offered or provided. In determining whether the conditions will be  
12 remedied the court may consider, but is not limited to, the following  
13 factors:

14 (i) Use of intoxicating or controlled substances so as to render  
15 the parent incapable of providing proper care for the child for  
16 extended periods of time or for periods of time that present a risk  
17 of imminent harm to the child, and documented unwillingness of the  
18 parent to receive and complete treatment or documented multiple  
19 failed treatment attempts;

20 (ii) Psychological incapacity or mental deficiency of the parent  
21 that is so severe and chronic as to render the parent incapable of  
22 providing proper care for the child for extended periods of time or  
23 for periods of time that present a risk of imminent harm to the  
24 child, and documented unwillingness of the parent to receive and  
25 complete treatment or documentation that there is no treatment that  
26 can render the parent capable of providing proper care for the child  
27 in the near future; or

28 (iii) Failure of the parent to have contact with the child for an  
29 extended period of time after the filing of the dependency petition  
30 if the parent was provided an opportunity to have a relationship with  
31 the child by the department or the court and received documented  
32 notice of the potential consequences of this failure, except that the  
33 actual inability of a parent to have visitation with the child  
34 including, but not limited to, mitigating circumstances such as a  
35 parent's current or prior incarceration or service in the military  
36 does not in and of itself constitute failure to have contact with the  
37 child; and

38 (f) That continuation of the parent and child relationship  
39 clearly diminishes the child's prospects for early integration into a  
40 stable and permanent home. The petitioner must demonstrate that a

1 guardianship is not sufficient to protect the health, safety, and  
2 welfare of the child. If the parent is incarcerated, the court shall  
3 consider whether a parent maintains a meaningful role in his or her  
4 child's life based on factors identified in RCW 13.34.145(5)(b);  
5 whether the department made reasonable efforts as defined in this  
6 chapter; and whether particular barriers existed as described in RCW  
7 13.34.145(5)(b) including, but not limited to, delays or barriers  
8 experienced in keeping the agency apprised of his or her location and  
9 in accessing visitation or other meaningful contact with the child.

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

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

22 (4) In lieu of the allegations in subsection (1)(b) through (f)  
23 of this section, the petition may allege that the parent has been  
24 convicted of:

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

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

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

33 (d) Assault in the first or second degree, as defined in chapter  
34 9A.36 RCW, against the surviving child or another child of the  
35 parent.

36 (5) When a parent has been sentenced to a long-term incarceration  
37 and has maintained a meaningful role in the child's life considering  
38 the factors provided in RCW 13.34.145(5)(b), and it is in the best  
39 interest of the child, the department should consider a permanent  
40 placement that allows the parent to maintain a relationship with his

1 or her child, such as, but not limited to, a guardianship pursuant to  
2 chapter 13.36 RCW.

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

6 "NOTICE

7 A petition for termination of parental rights has been filed  
8 against you. You have important legal rights and you must  
9 take steps to protect your interests. This petition could  
10 result in permanent loss of your parental rights.

11 1. You have the right to a fact-finding hearing before a  
12 judge.

13 2. You have the right to have a lawyer represent you at  
14 the hearing. A lawyer can look at the files in your case,  
15 talk to the department of children, youth, and families or  
16 other agencies, tell you about the law, help you understand  
17 your rights, and help you at hearings. If you cannot afford a  
18 lawyer, the court will appoint one to represent you. To get a  
19 court-appointed lawyer you must contact: \_\_\_\_\_ (explain local  
20 procedure)\_\_\_\_\_.

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

25 You should be present at this hearing.

26 You may call \_\_\_\_\_ (insert agency)\_\_\_\_\_ for more information  
27 about your child. The agency's name and telephone number are  
28 \_\_\_\_\_ (insert name and telephone number)\_\_\_\_\_."

29 **Sec. 3.** RCW 13.34.210 and 2020 c 312 s 120 are each amended to  
30 read as follows:

31 If, upon entering an order terminating the parental rights of a  
32 parent, there remains no parent having parental rights, the court  
33 shall commit the child to the custody of the department willing to  
34 accept custody (~~((for the purpose of placing the child for adoption.~~  
35 ~~If an adoptive home has not been identified, the department shall~~  
36 ~~place the child in a licensed foster home, or take other suitable~~  
37 ~~measures for the care and welfare of the child)) of the child to take~~  
38 further action consistent with this chapter. The custodian shall have

1 authority to consent to the adoption of the child consistent with  
2 chapter 26.33 RCW, the marriage of the child, the enlistment of the  
3 child in the armed forces of the United States, necessary surgical  
4 and other medical treatment for the child, and to consent to such  
5 other matters as might normally be required of the parent of the  
6 child.

7 If a child has not been adopted within six months after the date  
8 of the order and a guardianship of the child under chapter 13.36 RCW  
9 or a guardianship of a minor under RCW 11.130.215 has not been  
10 entered by the court, the court shall review the case every six  
11 months until a decree of adoption is entered. The department shall  
12 take reasonable steps to ensure that the child maintains  
13 relationships with siblings as provided in RCW 13.34.130(7) and shall  
14 report to the court the status and extent of such relationships.

15 **Sec. 4.** RCW 74.13.062 and 2017 3rd sp.s. c 6 s 404 are each  
16 amended to read as follows:

17 (1) The department shall adopt rules consistent with federal  
18 regulations for the receipt and expenditure of federal funds and  
19 implement a subsidy program for eligible relatives appointed by the  
20 court as a guardian under RCW 13.36.050 or as a guardian of a minor  
21 under RCW 11.130.215.

22 (2) For the purpose of licensing a relative seeking to be  
23 appointed as a guardian and eligible for a guardianship subsidy under  
24 this section, the department shall, on a case-by-case basis, and when  
25 determined to be in the best interests of the child:

26 (a) Waive nonsafety licensing standards; and

27 (b) Apply the list of disqualifying crimes in the adoption and  
28 safe families act, unless doing so would compromise the child's  
29 safety, or would adversely affect the state's ability to continue to  
30 obtain federal funding for child welfare related functions.

31 (3) Relative guardianship subsidy agreements shall be designed to  
32 promote long-term permanency for the child, and may include  
33 provisions for periodic review of the subsidy amount and the needs of  
34 the child.

--- END ---