

CERTIFICATION OF ENROLLMENT

SUBSTITUTE HOUSE BILL 1221

Chapter 67, Laws of 2021

67th Legislature
2021 Regular Session

HOMELESSNESS—DEFINITIONS

EFFECTIVE DATE: July 25, 2021

Passed by the House February 23, 2021
Yeas 61 Nays 36

LAURIE JINKINS

**Speaker of the House of
Representatives**

Passed by the Senate April 5, 2021
Yeas 30 Nays 19

DENNY HECK

President of the Senate

Approved April 16, 2021 10:22 AM

JAY INSLEE

Governor of the State of Washington

CERTIFICATE

I, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 1221** as passed by the House of Representatives and the Senate on the dates hereon set forth.

BERNARD DEAN

Chief Clerk

FILED

April 16, 2021

**Secretary of State
State of Washington**

SUBSTITUTE HOUSE BILL 1221

Passed Legislature - 2021 Regular Session

State of Washington

67th Legislature

2021 Regular Session

By House Children, Youth & Families (originally sponsored by Representatives Rule, Bateman, Shewmake, Lekanoff, Senn, Santos, Thai, Ortiz-Self, Ormsby, Callan, Ramel, Riccelli, and Macri)

1 AN ACT Relating to standardizing definitions of homelessness to
2 improve access to services; and amending RCW 43.216.505, 13.34.030,
3 26.44.020, 13.34.065, and 13.34.138.

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

5 **Sec. 1.** RCW 43.216.505 and 2019 c 408 s 2 are each amended to
6 read as follows:

7 Unless the context clearly requires otherwise, the definitions in
8 this section apply throughout RCW 43.216.500 through 43.216.559,
9 43.216.900, and 43.216.901.

10 (1) "Advisory committee" means the advisory committee under RCW
11 43.216.520.

12 (2) "Approved programs" means those state-supported education and
13 special assistance programs which are recognized by the department as
14 meeting the minimum program rules adopted by the department to
15 qualify under RCW 43.216.500 through 43.216.550, 43.216.900, and
16 43.216.901 and are designated as eligible for funding by the
17 department under RCW 43.216.530 and 43.216.540.

18 (3) "Comprehensive" means an assistance program that focuses on
19 the needs of the child and includes education, health, and family
20 support services.

1 (4) "Eligible child" means a three to five-year old child who is
2 not age-eligible for kindergarten, is not a participant in a federal
3 or state program providing comprehensive services, and who:

4 (a) Has a family income at or below one hundred ten percent of
5 the federal poverty level, as published annually by the federal
6 department of health and human services;

7 (b) Is eligible for special education due to disability under RCW
8 28A.155.020; or

9 (c) Meets criteria under rules adopted by the department if the
10 number of such children equals not more than ten percent of the total
11 enrollment in the early childhood program. Preference for enrollment
12 in this group shall be given to children from families with the
13 lowest income, children in foster care, or to eligible children from
14 families with multiple needs.

15 (5) "Family support services" means providing opportunities for
16 parents to:

17 (a) Actively participate in their child's early childhood
18 program;

19 (b) Increase their knowledge of child development and parenting
20 skills;

21 (c) Further their education and training;

22 (d) Increase their ability to use needed services in the
23 community;

24 (e) Increase their self-reliance.

25 (6) "Homeless" means a child without a fixed, regular, and
26 adequate nighttime residence as described in the federal McKinney-
27 Vento homeless assistance act (Title 42 U.S.C., chapter 119,
28 subchapter VI, part B) as it existed on January 1, 2021.

29 **Sec. 2.** RCW 13.34.030 and 2020 c 312 s 114 are each amended to
30 read as follows:

31 The definitions in this section apply throughout this chapter
32 unless the context clearly requires otherwise.

33 (1) "Abandoned" means when the child's parent, guardian, or other
34 custodian has expressed, either by statement or conduct, an intent to
35 forego, for an extended period, parental rights or responsibilities
36 despite an ability to exercise such rights and responsibilities. If
37 the court finds that the petitioner has exercised due diligence in
38 attempting to locate the parent, no contact between the child and the
39 child's parent, guardian, or other custodian for a period of three

1 months creates a rebuttable presumption of abandonment, even if there
2 is no expressed intent to abandon.

3 (2) "Child," "juvenile," and "youth" mean:

4 (a) Any individual under the age of eighteen years; or

5 (b) Any individual age eighteen to twenty-one years who is
6 eligible to receive and who elects to receive the extended foster
7 care services authorized under RCW 74.13.031. A youth who remains
8 dependent and who receives extended foster care services under RCW
9 74.13.031 shall not be considered a "child" under any other statute
10 or for any other purpose.

11 (3) "Current placement episode" means the period of time that
12 begins with the most recent date that the child was removed from the
13 home of the parent, guardian, or legal custodian for purposes of
14 placement in out-of-home care and continues until: (a) The child
15 returns home; (b) an adoption decree, a permanent custody order, or
16 guardianship order is entered; or (c) the dependency is dismissed,
17 whichever occurs first.

18 (4) "Department" means the department of children, youth, and
19 families.

20 (5) "Dependency guardian" means the person, nonprofit
21 corporation, or Indian tribe appointed by the court pursuant to this
22 chapter for the limited purpose of assisting the court in the
23 supervision of the dependency.

24 (6) "Dependent child" means any child who:

25 (a) Has been abandoned;

26 (b) Is abused or neglected as defined in chapter 26.44 RCW by a
27 person legally responsible for the care of the child;

28 (c) Has no parent, guardian, or custodian capable of adequately
29 caring for the child, such that the child is in circumstances which
30 constitute a danger of substantial damage to the child's
31 psychological or physical development; or

32 (d) Is receiving extended foster care services, as authorized by
33 RCW 74.13.031.

34 (7) "Developmental disability" means a disability attributable to
35 intellectual disability, cerebral palsy, epilepsy, autism, or another
36 neurological or other condition of an individual found by the
37 secretary of the department of social and health services to be
38 closely related to an intellectual disability or to require treatment
39 similar to that required for individuals with intellectual
40 disabilities, which disability originates before the individual

1 attains age eighteen, which has continued or can be expected to
2 continue indefinitely, and which constitutes a substantial limitation
3 to the individual.

4 (8) "Educational liaison" means a person who has been appointed
5 by the court to fulfill responsibilities outlined in RCW 13.34.046.

6 (9) "Extended foster care services" means residential and other
7 support services the department is authorized to provide under RCW
8 74.13.031. These services may include placement in licensed,
9 relative, or otherwise approved care, or supervised independent
10 living settings; assistance in meeting basic needs; independent
11 living services; medical assistance; and counseling or treatment.

12 (10) "Guardian" means the person or agency that: (a) Has been
13 appointed as the guardian of a child in a legal proceeding, including
14 a guardian appointed pursuant to chapter 13.36 RCW; and (b) has the
15 legal right to custody of the child pursuant to such appointment. The
16 term "guardian" does not include a "dependency guardian" appointed
17 pursuant to a proceeding under this chapter.

18 (11) "Guardian ad litem" means a person, appointed by the court
19 to represent the best interests of a child in a proceeding under this
20 chapter, or in any matter which may be consolidated with a proceeding
21 under this chapter. A "court-appointed special advocate" appointed by
22 the court to be the guardian ad litem for the child, or to perform
23 substantially the same duties and functions as a guardian ad litem,
24 shall be deemed to be guardian ad litem for all purposes and uses of
25 this chapter.

26 (12) "Guardian ad litem program" means a court-authorized
27 volunteer program, which is or may be established by the superior
28 court of the county in which such proceeding is filed, to manage all
29 aspects of volunteer guardian ad litem representation for children
30 alleged or found to be dependent. Such management shall include but
31 is not limited to: Recruitment, screening, training, supervision,
32 assignment, and discharge of volunteers.

33 (13) "Guardianship" means a guardianship pursuant to chapter
34 13.36 RCW or a limited guardianship of a minor pursuant to RCW
35 11.130.215 or equivalent laws of another state or a federally
36 recognized Indian tribe.

37 (14) "Housing assistance" means appropriate referrals by the
38 department or other agencies to federal, state, local, or private
39 agencies or organizations, assistance with forms, applications, or
40 financial subsidies or other monetary assistance for housing. For

1 purposes of this chapter, "housing assistance" is not a remedial
2 service or family reunification service as described in RCW
3 13.34.025(2).

4 (15) "Indigent" means a person who, at any stage of a court
5 proceeding, is:

6 (a) Receiving one of the following types of public assistance:
7 Temporary assistance for needy families, aged, blind, or disabled
8 assistance benefits, medical care services under RCW 74.09.035,
9 pregnant women assistance benefits, poverty-related veterans'
10 benefits, food stamps or food stamp benefits transferred
11 electronically, refugee resettlement benefits, medicaid, or
12 supplemental security income; or

13 (b) Involuntarily committed to a public mental health facility;
14 or

15 (c) Receiving an annual income, after taxes, of one hundred
16 twenty-five percent or less of the federally established poverty
17 level; or

18 (d) Unable to pay the anticipated cost of counsel for the matter
19 before the court because his or her available funds are insufficient
20 to pay any amount for the retention of counsel.

21 (16) "Nonminor dependent" means any individual age eighteen to
22 twenty-one years who is participating in extended foster care
23 services authorized under RCW 74.13.031.

24 (17) "Out-of-home care" means placement in a foster family home
25 or group care facility licensed pursuant to chapter 74.15 RCW or
26 placement in a home, other than that of the child's parent, guardian,
27 or legal custodian, not required to be licensed pursuant to chapter
28 74.15 RCW.

29 (18) "Parent" means the biological or adoptive parents of a
30 child, or an individual who has established a parent-child
31 relationship under RCW 26.26A.100, unless the legal rights of that
32 person have been terminated by a judicial proceeding pursuant to this
33 chapter, chapter 26.33 RCW, or the equivalent laws of another state
34 or a federally recognized Indian tribe.

35 (19) "Prevention and family services and programs" means specific
36 mental health prevention and treatment services, substance abuse
37 prevention and treatment services, and in-home parent skill-based
38 programs that qualify for federal funding under the federal family
39 first prevention services act, P.L. 115-123. For purposes of this
40 chapter, prevention and family services and programs are not remedial

1 services or family reunification services as described in RCW
2 13.34.025(2).

3 (20) "Prevention services" means preservation services, as
4 defined in chapter 74.14C RCW, and other reasonably available
5 services, including housing assistance, capable of preventing the
6 need for out-of-home placement while protecting the child. Prevention
7 services include, but are not limited to, prevention and family
8 services and programs as defined in this section.

9 (21) "Qualified residential treatment program" means a program
10 licensed as a group care facility under chapter 74.15 RCW that also
11 qualifies for funding under the federal family first prevention
12 services act under 42 U.S.C. Sec. 672(k) and meets the requirements
13 provided in RCW 13.34.420.

14 (22) "Relative" includes persons related to a child in the
15 following ways:

16 (a) Any blood relative, including those of half-blood, and
17 including first cousins, second cousins, nephews or nieces, and
18 persons of preceding generations as denoted by prefixes of grand,
19 great, or great-great;

20 (b) Stepfather, stepmother, stepbrother, and stepsister;

21 (c) A person who legally adopts a child or the child's parent as
22 well as the natural and other legally adopted children of such
23 persons, and other relatives of the adoptive parents in accordance
24 with state law;

25 (d) Spouses of any persons named in (a), (b), or (c) of this
26 subsection, even after the marriage is terminated;

27 (e) Relatives, as named in (a), (b), (c), or (d) of this
28 subsection, of any half sibling of the child; or

29 (f) Extended family members, as defined by the law or custom of
30 the Indian child's tribe or, in the absence of such law or custom, a
31 person who has reached the age of eighteen and who is the Indian
32 child's grandparent, aunt or uncle, brother or sister, brother-in-law
33 or sister-in-law, niece or nephew, first or second cousin, or
34 stepparent who provides care in the family abode on a twenty-four
35 hour basis to an Indian child as defined in 25 U.S.C. Sec. 1903(4).

36 (23) "Shelter care" means temporary physical care in a facility
37 licensed pursuant to RCW 74.15.030 or in a home not required to be
38 licensed pursuant to RCW 74.15.030.

39 (24) "Sibling" means a child's birth brother, birth sister,
40 adoptive brother, adoptive sister, half-brother, or half-sister, or

1 as defined by the law or custom of the Indian child's tribe for an
2 Indian child as defined in RCW 13.38.040.

3 (25) "Social study" means a written evaluation of matters
4 relevant to the disposition of the case that contains the information
5 required by RCW 13.34.430.

6 (26) "Supervised independent living" includes, but is not limited
7 to, apartment living, room and board arrangements, college or
8 university dormitories, and shared roommate settings. Supervised
9 independent living settings must be approved by the department or the
10 court.

11 (27) "Voluntary placement agreement" means, for the purposes of
12 extended foster care services, a written voluntary agreement between
13 a nonminor dependent who agrees to submit to the care and authority
14 of the department for the purposes of participating in the extended
15 foster care program.

16 (28) "Experiencing homelessness" means lacking a fixed, regular,
17 and adequate nighttime residence, including circumstances such as
18 sharing the housing of other persons due to loss of housing, economic
19 hardship, fleeing domestic violence, or a similar reason as described
20 in the federal McKinney-Vento homeless assistance act (Title 42
21 U.S.C., chapter 119, subchapter I) as it existed on January 1, 2021.

22 **Sec. 3.** RCW 26.44.020 and 2019 c 172 s 5 are each amended to
23 read as follows:

24 The definitions in this section apply throughout this chapter
25 unless the context clearly requires otherwise.

26 (1) "Abuse or neglect" means sexual abuse, sexual exploitation,
27 or injury of a child by any person under circumstances which cause
28 harm to the child's health, welfare, or safety, excluding conduct
29 permitted under RCW 9A.16.100; or the negligent treatment or
30 maltreatment of a child by a person responsible for or providing care
31 to the child. An abused child is a child who has been subjected to
32 child abuse or neglect as defined in this section.

33 (2) "Child" or "children" means any person under the age of
34 eighteen years of age.

35 (3) "Child forensic interview" means a developmentally sensitive
36 and legally sound method of gathering factual information regarding
37 allegations of child abuse, child neglect, or exposure to violence.
38 This interview is conducted by a competently trained, neutral

1 professional utilizing techniques informed by research and best
2 practice as part of a larger investigative process.

3 (4) "Child protective services" means those services provided by
4 the department designed to protect children from child abuse and
5 neglect and safeguard such children from future abuse and neglect,
6 and conduct investigations of child abuse and neglect reports.
7 Investigations may be conducted regardless of the location of the
8 alleged abuse or neglect. Child protective services includes referral
9 to services to ameliorate conditions that endanger the welfare of
10 children, the coordination of necessary programs and services
11 relevant to the prevention, intervention, and treatment of child
12 abuse and neglect, and services to children to ensure that each child
13 has a permanent home. In determining whether protective services
14 should be provided, the department shall not decline to provide such
15 services solely because of the child's unwillingness or developmental
16 inability to describe the nature and severity of the abuse or
17 neglect.

18 (5) "Child protective services section" means the child
19 protective services section of the department.

20 (6) "Child who is a candidate for foster care" means a child who
21 the department identifies as being at imminent risk of entering
22 foster care but who can remain safely in the child's home or in a
23 kinship placement as long as services or programs that are necessary
24 to prevent entry of the child into foster care are provided, and
25 includes but is not limited to a child whose adoption or guardianship
26 arrangement is at risk of a disruption or dissolution that would
27 result in a foster care placement. The term includes a child for whom
28 there is reasonable cause to believe that any of the following
29 circumstances exist:

30 (a) The child has been abandoned by the parent as defined in RCW
31 13.34.030 and the child's health, safety, and welfare is seriously
32 endangered as a result;

33 (b) The child has been abused or neglected as defined in this
34 chapter ((~~26.44-RCW~~)) and the child's health, safety, and welfare is
35 seriously endangered as a result;

36 (c) There is no parent capable of meeting the child's needs such
37 that the child is in circumstances that constitute a serious danger
38 to the child's development;

39 (d) The child is otherwise at imminent risk of harm.

1 (7) "Children's advocacy center" means a child-focused facility
2 in good standing with the state chapter for children's advocacy
3 centers and that coordinates a multidisciplinary process for the
4 investigation, prosecution, and treatment of sexual and other types
5 of child abuse. Children's advocacy centers provide a location for
6 forensic interviews and coordinate access to services such as, but
7 not limited to, medical evaluations, advocacy, therapy, and case
8 review by multidisciplinary teams within the context of county
9 protocols as defined in RCW 26.44.180 and 26.44.185.

10 (8) "Clergy" means any regularly licensed or ordained minister,
11 priest, or rabbi of any church or religious denomination, whether
12 acting in an individual capacity or as an employee or agent of any
13 public or private organization or institution.

14 (9) "Court" means the superior court of the state of Washington,
15 juvenile department.

16 (10) "Department" means the department of children, youth, and
17 families.

18 (11) "Family assessment" means a comprehensive assessment of
19 child safety, risk of subsequent child abuse or neglect, and family
20 strengths and needs that is applied to a child abuse or neglect
21 report. Family assessment does not include a determination as to
22 whether child abuse or neglect occurred, but does determine the need
23 for services to address the safety of the child and the risk of
24 subsequent maltreatment.

25 (12) "Family assessment response" means a way of responding to
26 certain reports of child abuse or neglect made under this chapter
27 using a differential response approach to child protective services.
28 The family assessment response shall focus on the safety of the
29 child, the integrity and preservation of the family, and shall assess
30 the status of the child and the family in terms of risk of abuse and
31 neglect including the parent's or guardian's or other caretaker's
32 capacity and willingness to protect the child and, if necessary, plan
33 and arrange the provision of services to reduce the risk and
34 otherwise support the family. No one is named as a perpetrator, and
35 no investigative finding is entered in the record as a result of a
36 family assessment.

37 (13) "Founded" means the determination following an investigation
38 by the department that, based on available information, it is more
39 likely than not that child abuse or neglect did occur.

1 (14) "Inconclusive" means the determination following an
2 investigation by the department of social and health services, prior
3 to October 1, 2008, that based on available information a decision
4 cannot be made that more likely than not, child abuse or neglect did
5 or did not occur.

6 (15) "Institution" means a private or public hospital or any
7 other facility providing medical diagnosis, treatment, or care.

8 (16) "Law enforcement agency" means the police department, the
9 prosecuting attorney, the state patrol, the director of public
10 safety, or the office of the sheriff.

11 (17) "Malice" or "maliciously" means an intent, wish, or design
12 to intimidate, annoy, or injure another person. Such malice may be
13 inferred from an act done in willful disregard of the rights of
14 another, or an act wrongfully done without just cause or excuse, or
15 an act or omission of duty betraying a willful disregard of social
16 duty.

17 (18) "Negligent treatment or maltreatment" means an act or a
18 failure to act, or the cumulative effects of a pattern of conduct,
19 behavior, or inaction, that evidences a serious disregard of
20 consequences of such magnitude as to constitute a clear and present
21 danger to a child's health, welfare, or safety, including but not
22 limited to conduct prohibited under RCW 9A.42.100. When considering
23 whether a clear and present danger exists, evidence of a parent's
24 substance abuse as a contributing factor to negligent treatment or
25 maltreatment shall be given great weight. The fact that siblings
26 share a bedroom is not, in and of itself, negligent treatment or
27 maltreatment. Poverty, experiencing homelessness, or exposure to
28 domestic violence as defined in RCW 26.50.010 that is perpetrated
29 against someone other than the child does not constitute negligent
30 treatment or maltreatment in and of itself.

31 (19) "Pharmacist" means any registered pharmacist under chapter
32 18.64 RCW, whether acting in an individual capacity or as an employee
33 or agent of any public or private organization or institution.

34 (20) "Practitioner of the healing arts" or "practitioner" means a
35 person licensed by this state to practice podiatric medicine and
36 surgery, optometry, chiropractic, nursing, dentistry, osteopathic
37 medicine and surgery, or medicine and surgery or to provide other
38 health services. The term "practitioner" includes a duly accredited
39 Christian Science practitioner. A person who is being furnished
40 Christian Science treatment by a duly accredited Christian Science

1 practitioner will not be considered, for that reason alone, a
2 neglected person for the purposes of this chapter.

3 (21) "Prevention and family services and programs" means specific
4 mental health prevention and treatment services, substance abuse
5 prevention and treatment services, and in-home parent skill-based
6 programs that qualify for federal funding under the federal family
7 first prevention services act, P.L. 115-123. For purposes of this
8 chapter, prevention and family services and programs are not remedial
9 services or family reunification services as described in RCW
10 13.34.025(2).

11 (22) "Professional school personnel" include, but are not limited
12 to, teachers, counselors, administrators, child care facility
13 personnel, and school nurses.

14 (23) "Psychologist" means any person licensed to practice
15 psychology under chapter 18.83 RCW, whether acting in an individual
16 capacity or as an employee or agent of any public or private
17 organization or institution.

18 (24) "Screened-out report" means a report of alleged child abuse
19 or neglect that the department has determined does not rise to the
20 level of a credible report of abuse or neglect and is not referred
21 for investigation.

22 (25) "Sexual exploitation" includes: (a) Allowing, permitting, or
23 encouraging a child to engage in prostitution by any person; or (b)
24 allowing, permitting, encouraging, or engaging in the obscene or
25 pornographic photographing, filming, or depicting of a child by any
26 person.

27 (26) "Sexually aggressive youth" means a child who is defined in
28 RCW 74.13.075(1)(b) as being a sexually aggressive youth.

29 (27) "Social service counselor" means anyone engaged in a
30 professional capacity during the regular course of employment in
31 encouraging or promoting the health, welfare, support, or education
32 of children, or providing social services to adults or families,
33 including mental health, drug and alcohol treatment, and domestic
34 violence programs, whether in an individual capacity, or as an
35 employee or agent of any public or private organization or
36 institution.

37 (28) "Unfounded" means the determination following an
38 investigation by the department that available information indicates
39 that, more likely than not, child abuse or neglect did not occur, or

1 that there is insufficient evidence for the department to determine
2 whether the alleged child abuse did or did not occur.

3 (29) "Experiencing homelessness" means lacking a fixed, regular,
4 and adequate nighttime residence, including circumstances such as
5 sharing the housing of other persons due to loss of housing, economic
6 hardship, fleeing domestic violence, or a similar reason as described
7 in the federal McKinney-Vento homeless assistance act (Title 42
8 U.S.C., chapter 119, subchapter I) as it existed on January 1, 2021.

9 **Sec. 4.** RCW 13.34.065 and 2019 c 172 s 11 are each amended to
10 read as follows:

11 (1)(a) When a child is taken into custody, the court shall hold a
12 shelter care hearing within seventy-two hours, excluding Saturdays,
13 Sundays, and holidays. The primary purpose of the shelter care
14 hearing is to determine whether the child can be immediately and
15 safely returned home while the adjudication of the dependency is
16 pending.

17 (b) Any parent, guardian, or legal custodian who for good cause
18 is unable to attend the shelter care hearing may request that a
19 subsequent shelter care hearing be scheduled. The request shall be
20 made to the clerk of the court where the petition is filed prior to
21 the initial shelter care hearing. Upon the request of the parent, the
22 court shall schedule the hearing within seventy-two hours of the
23 request, excluding Saturdays, Sundays, and holidays. The clerk shall
24 notify all other parties of the hearing by any reasonable means.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

19 (h) Whether the child is or may be an Indian child as defined in
20 RCW 13.38.040, whether the provisions of the federal Indian child
21 welfare act or chapter 13.38 RCW apply, and whether there is
22 compliance with the federal Indian child welfare act and chapter
23 13.38 RCW, including notice to the child's tribe;

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

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

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

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

39 (i) After consideration of the specific services that have been
40 provided, reasonable efforts have been made to prevent or eliminate

1 the need for removal of the child from the child's home and to make
2 it possible for the child to return home; and

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

5 (B) The release of such child would present a serious threat of
6 substantial harm to such child, notwithstanding an order entered
7 pursuant to RCW 26.44.063; or

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

10 (b) If the court does not release the child to his or her parent,
11 guardian, or legal custodian, the court shall order placement with a
12 relative or other suitable person as described in RCW
13 13.34.130(1)(b), unless there is reasonable cause to believe the
14 health, safety, or welfare of the child would be jeopardized or that
15 the efforts to reunite the parent and child will be hindered. If such
16 relative or other suitable person appears otherwise suitable and
17 competent to provide care and treatment, the fingerprint-based
18 background check need not be completed before placement, but as soon
19 as possible after placement. The court must also determine whether
20 placement with the relative or other suitable person is in the
21 child's best interests. The relative or other suitable person must be
22 willing and available to:

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

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

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

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

37 (d) If a relative or other suitable person is not available, the
38 court shall order continued shelter care and shall set forth its
39 reasons for the order. If the court orders placement of the child
40 with a person not related to the child and not licensed to provide

1 foster care, the placement is subject to all terms and conditions of
2 this section that apply to relative placements.

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

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

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

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

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

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

31 (6) (a) A shelter care order issued pursuant to this section shall
32 include the requirement for a case conference as provided in RCW
33 13.34.067. However, if the parent is not present at the shelter care
34 hearing, or does not agree to the case conference, the court shall
35 not include the requirement for the case conference in the shelter
36 care order.

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

1 (c) The court may order another conference, case staffing, or
2 hearing as an alternative to the case conference required under RCW
3 13.34.067 so long as the conference, case staffing, or hearing
4 ordered by the court meets all requirements under RCW 13.34.067,
5 including the requirement of a written agreement specifying the
6 services to be provided to the parent.

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

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

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

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

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

27 **Sec. 5.** RCW 13.34.138 and 2019 c 172 s 13 are each amended to
28 read as follows:

29 (1) The status of all children found to be dependent shall be
30 reviewed by the court at least every six months from the beginning
31 date of the placement episode or the date dependency is established,
32 whichever is first. The purpose of the hearing shall be to review the
33 progress of the parties and determine whether court supervision
34 should continue.

35 (a) The initial review hearing shall be an in-court review and
36 shall be set six months from the beginning date of the placement
37 episode or no more than ninety days from the entry of the disposition
38 order, whichever comes first. The requirements for the initial review

1 hearing, including the in-court review requirement, shall be
2 accomplished within existing resources.

3 (b) The initial review hearing may be a permanency planning
4 hearing when necessary to meet the time frames set forth in RCW
5 13.34.145(1)(a) or 13.34.134.

6 (2)(a) A child shall not be returned home at the review hearing
7 unless the court finds that a reason for removal as set forth in RCW
8 13.34.130 no longer exists. The parents, guardian, or legal custodian
9 shall report to the court the efforts they have made to correct the
10 conditions which led to removal. If a child is returned, casework
11 supervision by the department shall continue for a period of six
12 months, at which time there shall be a hearing on the need for
13 continued intervention.

14 (b) Prior to the child returning home, the department must
15 complete the following:

16 (i) Identify all adults residing in the home and conduct
17 background checks on those persons;

18 (ii) Identify any persons who may act as a caregiver for the
19 child in addition to the parent with whom the child is being placed
20 and determine whether such persons are in need of any services in
21 order to ensure the safety of the child, regardless of whether such
22 persons are a party to the dependency. The department may recommend
23 to the court and the court may order that placement of the child in
24 the parent's home be contingent on or delayed based on the need for
25 such persons to engage in or complete services to ensure the safety
26 of the child prior to placement. If services are recommended for the
27 caregiver, and the caregiver fails to engage in or follow through
28 with the recommended services, the department must promptly notify
29 the court; and

30 (iii) Notify the parent with whom the child is being placed that
31 he or she has an ongoing duty to notify the department of all persons
32 who reside in the home or who may act as a caregiver for the child
33 both prior to the placement of the child in the home and subsequent
34 to the placement of the child in the home as long as the court
35 retains jurisdiction of the dependency proceeding or the department
36 is providing or monitoring either remedial services to the parent or
37 services to ensure the safety of the child to any caregivers.

38 Caregivers may be required to engage in services under this
39 subsection solely for the purpose of ensuring the present and future
40 safety of a child who is a ward of the court. This subsection does

1 not grant party status to any individual not already a party to the
2 dependency proceeding, create an entitlement to services or a duty on
3 the part of the department to provide services, or create judicial
4 authority to order the provision of services to any person other than
5 for the express purposes of this section or RCW 13.34.025 or if the
6 services are unavailable or unsuitable or the person is not eligible
7 for such services.

8 (c) If the child is not returned home, the court shall establish
9 in writing:

10 (i) Whether the department is making reasonable efforts to
11 provide services to the family and eliminate the need for placement
12 of the child. If additional services, including housing assistance,
13 are needed to facilitate the return of the child to the child's
14 parents, the court shall order that reasonable services be offered
15 specifying such services;

16 (ii) Whether there has been compliance with the case plan by the
17 child, the child's parents, and the agency supervising the placement;

18 (iii) Whether progress has been made toward correcting the
19 problems that necessitated the child's placement in out-of-home care;

20 (iv) Whether the services set forth in the case plan and the
21 responsibilities of the parties need to be clarified or modified due
22 to the availability of additional information or changed
23 circumstances;

24 (v) Whether there is a continuing need for placement;

25 (vi) Within sixty days of the placement of a child in a qualified
26 residential treatment program as defined in this chapter, and at each
27 review hearing thereafter if the child remains in such a program, the
28 following:

29 (A) Whether ongoing assessment of the child's strengths and needs
30 continues to support the determination that the child's needs cannot
31 be met through placement in a foster family home;

32 (B) Whether the child's placement provides the most effective and
33 appropriate level of care in the least restrictive environment;

34 (C) Whether the placement is consistent with the child's
35 permanency plan;

36 (D) What specific treatment or service needs will be met in the
37 placement, and how long the child is expected to need the treatment
38 or services; and

39 (E) What efforts the department has made to prepare the child to
40 return home or be placed with a fit and willing relative as defined

1 in RCW 13.34.030, a Title 13 RCW legal guardian, an adoptive parent,
2 or in a foster family home.

3 (vii) Whether a parent's experiencing homelessness or lack of
4 suitable housing is a significant factor delaying permanency for the
5 child by preventing the return of the child to the home of the
6 child's parent and whether housing assistance should be provided by
7 the department;

8 (viii) Whether the child is in an appropriate placement which
9 adequately meets all physical, emotional, and educational needs;

10 (ix) Whether preference has been given to placement with the
11 child's relatives if such placement is in the child's best interests;

12 (x) Whether both in-state and, where appropriate, out-of-state
13 placements have been considered;

14 (xi) Whether the parents have visited the child and any reasons
15 why visitation has not occurred or has been infrequent;

16 (xii) Whether terms of visitation need to be modified;

17 (xiii) Whether the court-approved long-term permanent plan for
18 the child remains the best plan for the child;

19 (xiv) Whether any additional court orders need to be made to move
20 the case toward permanency; and

21 (xv) The projected date by which the child will be returned home
22 or other permanent plan of care will be implemented.

23 (d) The court at the review hearing may order that a petition
24 seeking termination of the parent and child relationship be filed.

25 (3)(a) In any case in which the court orders that a dependent
26 child may be returned to or remain in the child's home, the in-home
27 placement shall be contingent upon the following:

28 (i) The compliance of the parents with court orders related to
29 the care and supervision of the child, including compliance with the
30 department's case plan; and

31 (ii) The continued participation of the parents, if applicable,
32 in available substance abuse or mental health treatment if substance
33 abuse or mental illness was a contributing factor to the removal of
34 the child.

35 (b) The following may be grounds for removal of the child from
36 the home, subject to review by the court:

37 (i) Noncompliance by the parents with the department's case plan
38 or court order;

39 (ii) The parent's inability, unwillingness, or failure to
40 participate in available services or treatment for themselves or the

1 child, including substance abuse treatment if a parent's substance
2 abuse was a contributing factor to the abuse or neglect; or

3 (iii) The failure of the parents to successfully and
4 substantially complete available services or treatment for themselves
5 or the child, including substance abuse treatment if a parent's
6 substance abuse was a contributing factor to the abuse or neglect.

7 (c) In a pending dependency case in which the court orders that a
8 dependent child may be returned home and that child is later removed
9 from the home, the court shall hold a review hearing within thirty
10 days from the date of removal to determine whether the permanency
11 plan should be changed, a termination petition should be filed, or
12 other action is warranted. The best interests of the child shall be
13 the court's primary consideration in the review hearing.

14 (4) The court's authority to order housing assistance under this
15 chapter is: (a) Limited to cases in which a parent's experiencing
16 homelessness or lack of suitable housing is a significant factor
17 delaying permanency for the child and housing assistance would aid
18 the parent in providing an appropriate home for the child; and (b)
19 subject to the availability of funds appropriated for this specific
20 purpose. Nothing in this chapter shall be construed to create an
21 entitlement to housing assistance nor to create judicial authority to
22 order the provision of such assistance to any person or family if the
23 assistance or funding are unavailable or the child or family are not
24 eligible for such assistance.

25 (5) The court shall consider the child's relationship with
26 siblings in accordance with RCW 13.34.130(~~(+6)~~) (7).

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