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HOUSE BILL 1194

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State of Washington

67th Legislature

2021 Regular Session

By Representative Ortiz-Self

1 AN ACT Relating to strengthening parent-child visitation during  
2 child welfare proceedings; amending RCW 13.34.067, 13.34.136,  
3 13.34.138, and 13.34.065; and adding a new section to chapter 13.34  
4 RCW.

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

6 NEW SECTION. **Sec. 1.** A new section is added to chapter 13.34  
7 RCW to read as follows:

8 (1) If a child is placed out of the home of a parent, guardian,  
9 or legal custodian following a shelter care hearing, the court shall  
10 order the petitioner to provide regular visitation with the parent,  
11 guardian, or legal custodian, and siblings. Early, consistent, and  
12 frequent visitation is crucial for maintaining parent-child  
13 relationships and allowing family reunification. The court shall  
14 order a visitation plan individualized to the needs of the family  
15 with a goal of providing the maximum parent, child, and sibling  
16 contact possible.

17 (2) Visitation under this section shall not be limited as a  
18 sanction for a parent's failure to comply with recommended services  
19 during shelter care.

20 (3) Visitation under this section may only be limited where  
21 necessary to ensure the health, safety, or welfare of the child.

1 (4) The first visit under this section must take place within 72  
2 hours of removal, unless the court finds that extraordinary  
3 circumstances require delay.

4 (5) The court shall advise the petitioner that the failure to  
5 provide court-ordered visitation may result in a finding at the  
6 dispositional hearing that the petitioner failed to make reasonable  
7 efforts to finalize the permanency plan. The lack of sufficient  
8 contracted visitation providers will not excuse the failure to  
9 provide court-ordered visitation.

10 **Sec. 2.** RCW 13.34.067 and 2018 c 284 s 5 are each amended to  
11 read as follows:

12 (1)(a) Following shelter care and no later than thirty days prior  
13 to fact-finding, the department shall convene a case conference as  
14 required in the shelter care order to develop and specify in a  
15 written service agreement the expectations of both the department and  
16 the parent regarding voluntary services for the parent.

17 (b) The case conference shall include the parent, counsel for the  
18 parent, caseworker, counsel for the state, guardian ad litem, counsel  
19 for the child, and any other person agreed upon by the parties. Once  
20 the shelter care order is entered, the department is not required to  
21 provide additional notice of the case conference to any participants  
22 in the case conference.

23 (c) The written service agreement expectations must correlate  
24 with the court's findings at the shelter care hearing. The written  
25 service agreement must set forth specific services to be provided to  
26 the parent.

27 (d) The case conference agreement must be agreed to and signed by  
28 the parties. The court shall not consider the content of the  
29 discussions at the case conference at the time of the fact-finding  
30 hearing for the purposes of establishing that the child is a  
31 dependent child, and the court shall not consider any documents or  
32 written materials presented at the case conference but not  
33 incorporated into the case conference agreement, unless the documents  
34 or written materials were prepared for purposes other than or as a  
35 result of the case conference and are otherwise admissible under the  
36 rules of evidence.

37 (e) If the court previously ordered that visitation between a  
38 parent and child be supervised or monitored, there shall be a  
39 presumption that such supervision will no longer be necessary

1 following a case conference under this section. To overcome this  
2 presumption, the department must provide evidence during the case  
3 conference establishing that removing visit supervision or monitoring  
4 would create a risk to the child's safety.

5 (2) At any other stage in a dependency proceeding, the  
6 department, upon the parent's request, shall convene a case  
7 conference.

8 (3) If a case conference is convened pursuant to subsection (1)  
9 or (2) of this section and the parent is unable to participate in  
10 person due to incarceration, the parent must have the option to  
11 participate through the use of a teleconference or videoconference.

12 **Sec. 3.** RCW 13.34.136 and 2020 c 312 s 117 are each amended to  
13 read as follows:

14 (1) Whenever a child is ordered to be removed from the home, a  
15 permanency plan shall be developed no later than (~~sixty~~) 60 days  
16 from the time the department assumes responsibility for providing  
17 services, including placing the child, or at the time of a hearing  
18 under RCW 13.34.130, whichever occurs first. The permanency planning  
19 process continues until a permanency planning goal is achieved or  
20 dependency is dismissed. The planning process shall include  
21 reasonable efforts to return the child to the parent's home.

22 (2) The department shall submit a written permanency plan to all  
23 parties and the court not less than (~~fourteen~~) 14 days prior to the  
24 scheduled hearing. Responsive reports of parties not in agreement  
25 with the department's proposed permanency plan must be provided to  
26 the department, all other parties, and the court at least seven days  
27 prior to the hearing.

28 The permanency plan shall include:

29 (a) A permanency plan of care that shall identify one of the  
30 following outcomes as a primary goal and may identify additional  
31 outcomes as alternative goals: Return of the child to the home of the  
32 child's parent, guardian, or legal custodian; adoption, including a  
33 tribal customary adoption as defined in RCW 13.38.040; guardianship  
34 pursuant to chapter 13.36 RCW; guardianship of a minor pursuant to  
35 RCW 11.130.215; long-term relative or foster care, if the child is  
36 between ages (~~sixteen~~) 16 and (~~eighteen~~) 18, with a written  
37 agreement between the parties and the care provider; successful  
38 completion of a responsible living skills program; or independent  
39 living, if appropriate and if the child is age (~~sixteen~~) 16 or

1 older. Although a permanency plan of care may only identify long-term  
2 relative or foster care for children between ages (~~(sixteen)~~) 16 and  
3 (~~(eighteen)~~) 18, children under (~~(sixteen)~~) 16 may remain placed with  
4 relatives or in foster care. The department shall not discharge a  
5 child to an independent living situation before the child is  
6 (~~(eighteen)~~) 18 years of age unless the child becomes emancipated  
7 pursuant to chapter 13.64 RCW;

8 (b) Unless the court has ordered, pursuant to RCW 13.34.130(8),  
9 that a termination petition be filed, a specific plan as to where the  
10 child will be placed, what steps will be taken to return the child  
11 home, what steps the department will take to promote existing  
12 appropriate sibling relationships and/or facilitate placement  
13 together or contact in accordance with the best interests of each  
14 child, and what actions the department will take to maintain parent-  
15 child ties. All aspects of the plan shall include the goal of  
16 achieving permanence for the child.

17 (i) The department's plan shall specify what services the parents  
18 will be offered to enable them to resume custody, what requirements  
19 the parents must meet to resume custody, and a time limit for each  
20 service plan and parental requirement.

21 (A) If the parent is incarcerated, the plan must address how the  
22 parent will participate in the case conference and permanency  
23 planning meetings and, where possible, must include treatment that  
24 reflects the resources available at the facility where the parent is  
25 confined. The plan must provide for visitation opportunities, unless  
26 visitation is not in the best interests of the child.

27 (B) If a parent has a developmental disability according to the  
28 definition provided in RCW 71A.10.020, and that individual is  
29 eligible for services provided by the department of social and health  
30 services developmental disabilities administration, the department  
31 shall make reasonable efforts to consult with the department of  
32 social and health services developmental disabilities administration  
33 to create an appropriate plan for services. For individuals who meet  
34 the definition of developmental disability provided in RCW 71A.10.020  
35 and who are eligible for services through the developmental  
36 disabilities administration, the plan for services must be tailored  
37 to correct the parental deficiency taking into consideration the  
38 parent's disability and the department shall also determine an  
39 appropriate method to offer those services based on the parent's  
40 disability.

1 (ii)(A) Visitation is the right of the family, including the  
2 child and the parent, in cases in which visitation is in the best  
3 interest of the child. Early, consistent, and frequent visitation is  
4 crucial for maintaining parent-child relationships and making it  
5 possible for parents and children to safely reunify. The department  
6 shall encourage the maximum parent and child and sibling contact  
7 possible, when it is in the best interest of the child, including  
8 regular visitation and participation by the parents in the care of  
9 the child while the child is in placement.

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

14 (C) Visitation may be limited or denied only if the court  
15 determines that such limitation or denial is necessary to protect the  
16 child's health, safety, or welfare. Visitation must occur in the  
17 least restrictive setting and be unsupervised unless the presence of  
18 threats or danger to the child requires the constant presence of an  
19 adult to ensure the safety of the child. When a parent or sibling has  
20 been identified as a suspect in an active criminal investigation for  
21 a violent crime that, if the allegations are true, would impact the  
22 safety of the child, the department shall make a concerted effort to  
23 consult with the assigned law enforcement officer in the criminal  
24 case before recommending any changes in parent/child or child/sibling  
25 contact. In the event that the law enforcement officer has  
26 information pertaining to the criminal case that may have serious  
27 implications for child safety or well-being, the law enforcement  
28 officer shall provide this information to the department during the  
29 consultation. The department may only use the information provided by  
30 law enforcement during the consultation to inform family visitation  
31 plans and may not share or otherwise distribute the information to  
32 any person or entity. Any information provided to the department by  
33 law enforcement during the consultation is considered investigative  
34 information and is exempt from public inspection pursuant to RCW  
35 42.56.240. The results of the consultation shall be communicated to  
36 the court.

37 (D) The court and the department should rely upon community  
38 resources, relatives, foster parents, and other appropriate persons  
39 to provide transportation and supervision for visitation to the

1 extent that such resources are available, and appropriate, and the  
2 child's safety would not be compromised.

3 (E) If the court previously ordered that visitation between a  
4 parent and child be supervised or monitored, there shall be a  
5 presumption that such supervision will no longer be necessary when  
6 the permanency plan is entered. To overcome this presumption, the  
7 department must provide a report to the court including sufficient  
8 evidence establishing that removing visit supervision or monitoring  
9 would create a risk to the child's safety.

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

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

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

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

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

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

35 (c) If the court has ordered, pursuant to RCW 13.34.130(9), that  
36 a termination petition be filed, a specific plan as to where the  
37 child will be placed, what steps will be taken to achieve permanency  
38 for the child, services to be offered or provided to the child, and,  
39 if visitation would be in the best interests of the child, a  
40 recommendation to the court regarding visitation between parent and

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

8 (3) Permanency planning goals should be achieved at the earliest  
9 possible date. If the child has been in out-of-home care for  
10 (~~fifteen~~) 15 of the most recent (~~twenty-two~~) 22 months, and the  
11 court has not made a good cause exception, the court shall require  
12 the department to file a petition seeking termination of parental  
13 rights in accordance with RCW 13.34.145(4)(b)(vi). In cases where  
14 parental rights have been terminated, the child is legally free for  
15 adoption, and adoption has been identified as the primary permanency  
16 planning goal, it shall be a goal to complete the adoption within six  
17 months following entry of the termination order.

18 (4) If the court determines that the continuation of reasonable  
19 efforts to prevent or eliminate the need to remove the child from his  
20 or her home or to safely return the child home should not be part of  
21 the permanency plan of care for the child, reasonable efforts shall  
22 be made to place the child in a timely manner and to complete  
23 whatever steps are necessary to finalize the permanent placement of  
24 the child.

25 (5) The identified outcomes and goals of the permanency plan may  
26 change over time based upon the circumstances of the particular case.

27 (6) The court shall consider the child's relationships with the  
28 child's siblings in accordance with RCW 13.34.130(7). Whenever the  
29 permanency plan for a child is adoption, the court shall encourage  
30 the prospective adoptive parents, birth parents, foster parents,  
31 kinship caregivers, and the department or other agency to seriously  
32 consider the long-term benefits to the child adoptee and his or her  
33 siblings of providing for and facilitating continuing postadoption  
34 contact between the siblings. To the extent that it is feasible, and  
35 when it is in the best interests of the child adoptee and his or her  
36 siblings, contact between the siblings should be frequent and of a  
37 similar nature as that which existed prior to the adoption. If the  
38 child adoptee or his or her siblings are represented by an attorney  
39 or guardian ad litem in a proceeding under this chapter or in any  
40 other child custody proceeding, the court shall inquire of each

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

8 (7) For purposes related to permanency planning, "guardianship"  
9 means a guardianship pursuant to chapter 13.36 RCW or a guardianship  
10 of a minor pursuant to RCW 11.130.215, or equivalent laws of another  
11 state or a federally recognized Indian tribe.

12 **Sec. 4.** RCW 13.34.138 and 2019 c 172 s 13 are each amended to  
13 read as follows:

14 (1) The status of all children found to be dependent shall be  
15 reviewed by the court at least every six months from the beginning  
16 date of the placement episode or the date dependency is established,  
17 whichever is first. The purpose of the hearing shall be to review the  
18 progress of the parties and determine whether court supervision  
19 should continue.

20 (a) The initial review hearing shall be an in-court review and  
21 shall be set six months from the beginning date of the placement  
22 episode or no more than (~~ninety~~) 90 days from the entry of the  
23 disposition order, whichever comes first. The requirements for the  
24 initial review hearing, including the in-court review requirement,  
25 shall be accomplished within existing resources.

26 (b) The initial review hearing may be a permanency planning  
27 hearing when necessary to meet the time frames set forth in RCW  
28 13.34.145(1)(a) or 13.34.134.

29 (2)(a) A child shall not be returned home at the review hearing  
30 unless the court finds that a reason for removal as set forth in RCW  
31 13.34.130 no longer exists. The parents, guardian, or legal custodian  
32 shall report to the court the efforts they have made to correct the  
33 conditions which led to removal. If a child is returned, casework  
34 supervision by the department shall continue for a period of six  
35 months, at which time there shall be a hearing on the need for  
36 continued intervention.

37 (b) Prior to the child returning home, the department must  
38 complete the following:



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

3 (ii) Identify any persons who may act as a caregiver for the  
4 child in addition to the parent with whom the child is being placed  
5 and determine whether such persons are in need of any services in  
6 order to ensure the safety of the child, regardless of whether such  
7 persons are a party to the dependency. The department may recommend  
8 to the court and the court may order that placement of the child in  
9 the parent's home be contingent on or delayed based on the need for  
10 such persons to engage in or complete services to ensure the safety  
11 of the child prior to placement. If services are recommended for the  
12 caregiver, and the caregiver fails to engage in or follow through  
13 with the recommended services, the department must promptly notify  
14 the court; and

15 (iii) Notify the parent with whom the child is being placed that  
16 he or she has an ongoing duty to notify the department of all persons  
17 who reside in the home or who may act as a caregiver for the child  
18 both prior to the placement of the child in the home and subsequent  
19 to the placement of the child in the home as long as the court  
20 retains jurisdiction of the dependency proceeding or the department  
21 is providing or monitoring either remedial services to the parent or  
22 services to ensure the safety of the child to any caregivers.

23 Caregivers may be required to engage in services under this  
24 subsection solely for the purpose of ensuring the present and future  
25 safety of a child who is a ward of the court. This subsection does  
26 not grant party status to any individual not already a party to the  
27 dependency proceeding, create an entitlement to services or a duty on  
28 the part of the department to provide services, or create judicial  
29 authority to order the provision of services to any person other than  
30 for the express purposes of this section or RCW 13.34.025 or if the  
31 services are unavailable or unsuitable or the person is not eligible  
32 for such services.

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

35 (i) Whether the department is making reasonable efforts to  
36 provide services to the family and eliminate the need for placement  
37 of the child. If additional services, including housing assistance,  
38 are needed to facilitate the return of the child to the child's  
39 parents, the court shall order that reasonable services be offered  
40 specifying such services;

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

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

5 (iv) Whether the services set forth in the case plan and the  
6 responsibilities of the parties need to be clarified or modified due  
7 to the availability of additional information or changed  
8 circumstances;

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

10 (vi) Within (~~sixty~~) 60 days of the placement of a child in a  
11 qualified residential treatment program as defined in this chapter,  
12 and at each review hearing thereafter if the child remains in such a  
13 program, the following:

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

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

19 (C) Whether the placement is consistent with the child's  
20 permanency plan;

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

24 (E) What efforts the department has made to prepare the child to  
25 return home or be placed with a fit and willing relative as defined  
26 in RCW 13.34.030, a Title 13 RCW legal guardian, an adoptive parent,  
27 or in a foster family home.

28 (vii) Whether a parent's homelessness or lack of suitable housing  
29 is a significant factor delaying permanency for the child by  
30 preventing the return of the child to the home of the child's parent  
31 and whether housing assistance should be provided by the department;

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

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

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

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

1 (xii) Whether terms of visitation need to be modified. If the  
2 court previously ordered that visitation between a parent and child  
3 must be supervised, there shall be a presumption that such  
4 supervision will no longer be necessary after the review hearing. To  
5 overcome this presumption, the department must submit to the court  
6 sufficient evidence establishing that removing visit supervision  
7 would create a risk to the child's safety;

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

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

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

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

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

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

22 (ii) The continued participation of the parents, if applicable,  
23 in available substance abuse or mental health treatment if substance  
24 abuse or mental illness was a contributing factor to the removal of  
25 the child.

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

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

30 (ii) The parent's inability, unwillingness, or failure to  
31 participate in available services or treatment for themselves or the  
32 child, including substance abuse treatment if a parent's substance  
33 abuse was a contributing factor to the abuse or neglect; or

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

38 (c) In a pending dependency case in which the court orders that a  
39 dependent child may be returned home and that child is later removed  
40 from the home, the court shall hold a review hearing within thirty

1 days from the date of removal to determine whether the permanency  
2 plan should be changed, a termination petition should be filed, or  
3 other action is warranted. The best interests of the child shall be  
4 the court's primary consideration in the review hearing.

5 (4) The court's authority to order housing assistance under this  
6 chapter is: (a) Limited to cases in which a parent's homelessness or  
7 lack of suitable housing is a significant factor delaying permanency  
8 for the child and housing assistance would aid the parent in  
9 providing an appropriate home for the child; and (b) subject to the  
10 availability of funds appropriated for this specific purpose. Nothing  
11 in this chapter shall be construed to create an entitlement to  
12 housing assistance nor to create judicial authority to order the  
13 provision of such assistance to any person or family if the  
14 assistance or funding are unavailable or the child or family are not  
15 eligible for such assistance.

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

18 **Sec. 5.** RCW 13.34.065 and 2019 c 172 s 11 are each amended to  
19 read as follows:

20 (1)(a) When a child is taken into custody, the court shall hold a  
21 shelter care hearing within (~~(seventy-two)~~) 72 hours, excluding  
22 Saturdays, Sundays, and holidays. The primary purpose of the shelter  
23 care hearing is to determine whether the child can be immediately and  
24 safely returned home while the adjudication of the dependency is  
25 pending.

26 (b) Any parent, guardian, or legal custodian who for good cause  
27 is unable to attend the shelter care hearing may request that a  
28 subsequent shelter care hearing be scheduled. The request shall be  
29 made to the clerk of the court where the petition is filed prior to  
30 the initial shelter care hearing. Upon the request of the parent, the  
31 court shall schedule the hearing within (~~(seventy-two)~~) 72 hours of  
32 the request, excluding Saturdays, Sundays, and holidays. The clerk  
33 shall notify all other parties of the hearing by any reasonable  
34 means.

35 (2)(a) If it is likely that the child will remain in shelter care  
36 longer than (~~(seventy-two)~~) 72 hours, the department shall submit a  
37 recommendation to the court as to the further need for shelter care  
38 in all cases in which the child will remain in shelter care longer  
39 than the (~~(seventy-two)~~) 72 hour period. In all other cases, the

1 recommendation shall be submitted by the juvenile court probation  
2 counselor.

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

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

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

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

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

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

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

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

33 (a) Whether the notice required under RCW 13.34.062 was given to  
34 all known parents, guardians, or legal custodians of the child. The  
35 court shall make an express finding as to whether the notice required  
36 under RCW 13.34.062 was given to the parent, guardian, or legal  
37 custodian. If actual notice was not given to the parent, guardian, or  
38 legal custodian and the whereabouts of such person is known or can be  
39 ascertained, the court shall order the department to make reasonable  
40 efforts to advise the parent, guardian, or legal custodian of the

1 status of the case, including the date and time of any subsequent  
2 hearings, and their rights under RCW 13.34.090;

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

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

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

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

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

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

28 (h) Whether the child is or may be an Indian child as defined in  
29 RCW 13.38.040, whether the provisions of the federal Indian child  
30 welfare act or chapter 13.38 RCW apply, and whether there is  
31 compliance with the federal Indian child welfare act and chapter  
32 13.38 RCW, including notice to the child's tribe;

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

37 (j) Whether any orders for examinations, evaluations, or  
38 immediate services are needed. The court may not order a parent to  
39 undergo examinations, evaluation, or services at the shelter care

1 hearing unless the parent agrees to the examination, evaluation, or  
2 service;

3 (k) The terms and conditions for parental, sibling, and family  
4 visitation consistent with section 1 of this act.

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

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

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

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

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

20 (b) If the court does not release the child to his or her parent,  
21 guardian, or legal custodian, the court shall order placement with a  
22 relative or other suitable person as described in RCW  
23 13.34.130(1)(b), unless there is reasonable cause to believe the  
24 health, safety, or welfare of the child would be jeopardized or that  
25 the efforts to reunite the parent and child will be hindered. If such  
26 relative or other suitable person appears otherwise suitable and  
27 competent to provide care and treatment, the fingerprint-based  
28 background check need not be completed before placement, but as soon  
29 as possible after placement. The court must also determine whether  
30 placement with the relative or other suitable person is in the  
31 child's best interests. The relative or other suitable person must be  
32 willing and available to:

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

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

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

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

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

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

23 (f) If the child is placed in a qualified residential treatment  
24 program as defined in this chapter, the court shall, within (~~sixty~~)  
25 60 days of placement, hold a hearing to:

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

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

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

35 (g) Uncertainty by a parent, guardian, legal custodian, relative,  
36 or other suitable person that the alleged abuser has in fact abused  
37 the child shall not, alone, be the basis upon which a child is  
38 removed from the care of a parent, guardian, or legal custodian under  
39 (a) of this subsection, nor shall it be a basis, alone, to preclude



1 placement with a relative or other suitable person under (b) of this  
2 subsection.

3 (6) (a) A shelter care order issued pursuant to this section shall  
4 include the requirement for a case conference as provided in RCW  
5 13.34.067. However, if the parent is not present at the shelter care  
6 hearing, or does not agree to the case conference, the court shall  
7 not include the requirement for the case conference in the shelter  
8 care order.

9 (b) If the court orders a case conference, the shelter care order  
10 shall include notice to all parties and establish the date, time, and  
11 location of the case conference which shall be no later than  
12 (~~thirty~~) 30 days before the fact-finding hearing.

13 (c) The court may order another conference, case staffing, or  
14 hearing as an alternative to the case conference required under RCW  
15 13.34.067 so long as the conference, case staffing, or hearing  
16 ordered by the court meets all requirements under RCW 13.34.067,  
17 including the requirement of a written agreement specifying the  
18 services to be provided to the parent.

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

25 (ii) If the court previously ordered that visitation between a  
26 parent and child be supervised or monitored, there shall be a  
27 presumption that such supervision will no longer be necessary  
28 following a continued shelter care order under (a)(i) of this  
29 subsection. To overcome this presumption, the department must submit  
30 evidence to the court establishing that removing visit supervision or  
31 monitoring would create a risk to the child's safety.

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

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

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

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

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