
SECOND SUBSTITUTE HOUSE BILL 2616

AS AMENDED BY THE SENATE

Passed Legislature - 2014 Regular Session

State of Washington 63rd Legislature 2014 Regular Session

By House Appropriations (originally sponsored by Representatives
Freeman, Walsh, Kagi, Roberts, Smith, Orwall, Tarleton, and Pollet)

READ FIRST TIME 02/11/14.

1 AN ACT Relating to parents with developmental disabilities involved
2 in dependency proceedings; reenacting and amending RCW 13.34.136; and
3 creating a new section.

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

5 NEW SECTION. **Sec. 1.** The legislature intends to assure that for
6 parents with developmental disabilities, the department of social and
7 health services takes into consideration the parent's disability when
8 offering services to correct parental deficiencies. To do so, the
9 legislature finds that the department must contact the developmental
10 disabilities administration.

11 **Sec. 2.** RCW 13.34.136 and 2013 c 316 s 2, 2013 c 254 s 2, and 2013
12 c 173 s 2 are each reenacted and amended to read as follows:

13 (1) Whenever a child is ordered removed from the home, a permanency
14 plan shall be developed no later than sixty days from the time the
15 supervising agency assumes responsibility for providing services,
16 including placing the child, or at the time of a hearing under RCW
17 13.34.130, whichever occurs first. The permanency planning process

1 continues until a permanency planning goal is achieved or dependency is
2 dismissed. The planning process shall include reasonable efforts to
3 return the child to the parent's home.

4 (2) The agency supervising the dependency shall submit a written
5 permanency plan to all parties and the court not less than fourteen
6 days prior to the scheduled hearing. Responsive reports of parties not
7 in agreement with the department's or supervising agency's proposed
8 permanency plan must be provided to the department or supervising
9 agency, all other parties, and the court at least seven days prior to
10 the hearing.

11 The permanency plan shall include:

12 (a) A permanency plan of care that shall identify one of the
13 following outcomes as a primary goal and may identify additional
14 outcomes as alternative goals: Return of the child to the home of the
15 child's parent, guardian, or legal custodian; adoption, including a
16 tribal customary adoption as defined in RCW 13.38.040; guardianship;
17 permanent legal custody; long-term relative or foster care, until the
18 child is age eighteen, with a written agreement between the parties and
19 the care provider; successful completion of a responsible living skills
20 program; or independent living, if appropriate and if the child is age
21 sixteen or older. The department or supervising agency shall not
22 discharge a child to an independent living situation before the child
23 is eighteen years of age unless the child becomes emancipated pursuant
24 to chapter 13.64 RCW;

25 (b) Unless the court has ordered, pursuant to RCW 13.34.130(8),
26 that a termination petition be filed, a specific plan as to where the
27 child will be placed, what steps will be taken to return the child
28 home, what steps the supervising agency or the department will take to
29 promote existing appropriate sibling relationships and/or facilitate
30 placement together or contact in accordance with the best interests of
31 each child, and what actions the department or supervising agency will
32 take to maintain parent-child ties. All aspects of the plan shall
33 include the goal of achieving permanence for the child.

34 (i) The department's or supervising agency's plan shall specify
35 what services the parents will be offered to enable them to resume
36 custody, what requirements the parents must meet to resume custody, and
37 a time limit for each service plan and parental requirement.

1 (A) If the parent is incarcerated, the plan must address how the
2 parent will participate in the case conference and permanency planning
3 meetings and, where possible, must include treatment that reflects the
4 resources available at the facility where the parent is confined. The
5 plan must provide for visitation opportunities, unless visitation is
6 not in the best interests of the child.

7 (B) If a parent has a developmental disability according to the
8 definition provided in RCW 71A.10.020, and that individual is eligible
9 for services provided by the developmental disabilities administration,
10 the department shall make reasonable efforts to consult with the
11 developmental disabilities administration to create an appropriate plan
12 for services. For individuals who meet the definition of developmental
13 disability provided in RCW 71A.10.020 and who are eligible for services
14 through the developmental disabilities administration, the plan for
15 services must be tailored to correct the parental deficiency taking
16 into consideration the parent's disability and the department shall
17 also determine an appropriate method to offer those services based on
18 the parent's disability.

19 (ii)(A) Visitation is the right of the family, including the child
20 and the parent, in cases in which visitation is in the best interest of
21 the child. Early, consistent, and frequent visitation is crucial for
22 maintaining parent-child relationships and making it possible for
23 parents and children to safely reunify. The supervising agency or
24 department shall encourage the maximum parent and child and sibling
25 contact possible, when it is in the best interest of the child,
26 including regular visitation and participation by the parents in the
27 care of the child while the child is in placement.

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

32 (C) Visitation may be limited or denied only if the court
33 determines that such limitation or denial is necessary to protect the
34 child's health, safety, or welfare. When a parent or sibling has been
35 identified as a suspect in an active criminal investigation for a
36 violent crime that, if the allegations are true, would impact the
37 safety of the child, the department shall make a concerted effort to
38 consult with the assigned law enforcement officer in the criminal case

1 before recommending any changes in parent/child or child/sibling
2 contact. In the event that the law enforcement officer has information
3 pertaining to the criminal case that may have serious implications for
4 child safety or well-being, the law enforcement officer shall provide
5 this information to the department during the consultation. The
6 department may only use the information provided by law enforcement
7 during the consultation to inform family visitation plans and may not
8 share or otherwise distribute the information to any person or entity.
9 Any information provided to the department by law enforcement during
10 the consultation is considered investigative information and is exempt
11 from public inspection pursuant to RCW 42.56.240. The results of the
12 consultation shall be communicated to the court.

13 (D) The court and the department or supervising agency should rely
14 upon community resources, relatives, foster parents, and other
15 appropriate persons to provide transportation and supervision for
16 visitation to the extent that such resources are available, and
17 appropriate, and the child's safety would not be compromised.

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

22 (B) Any exceptions, limitation, or denial of contacts or visitation
23 must be approved by the supervisor of the department caseworker and
24 documented. The child, parent, department, guardian ad litem, or
25 court-appointed special advocate may challenge the denial of visits in
26 court.

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

31 (v) The plan shall state whether both in-state and, where
32 appropriate, out-of-state placement options have been considered by the
33 department or supervising agency.

34 (vi) Unless it is not in the best interests of the child, whenever
35 practical, the plan should ensure the child remains enrolled in the
36 school the child was attending at the time the child entered foster
37 care.

1 (vii) The supervising agency or department shall provide all
2 reasonable services that are available within the department or
3 supervising agency, or within the community, or those services which
4 the department has existing contracts to purchase. It shall report to
5 the court if it is unable to provide such services; and

6 (c) If the court has ordered, pursuant to RCW 13.34.130(8), that a
7 termination petition be filed, a specific plan as to where the child
8 will be placed, what steps will be taken to achieve permanency for the
9 child, services to be offered or provided to the child, and, if
10 visitation would be in the best interests of the child, a
11 recommendation to the court regarding visitation between parent and
12 child pending a fact-finding hearing on the termination petition. The
13 department or supervising agency shall not be required to develop a
14 plan of services for the parents or provide services to the parents if
15 the court orders a termination petition be filed. However, reasonable
16 efforts to ensure visitation and contact between siblings shall be made
17 unless there is reasonable cause to believe the best interests of the
18 child or siblings would be jeopardized.

19 (3) Permanency planning goals should be achieved at the earliest
20 possible date. If the child has been in out-of-home care for fifteen
21 of the most recent twenty-two months, and the court has not made a good
22 cause exception, the court shall require the department or supervising
23 agency to file a petition seeking termination of parental rights in
24 accordance with RCW 13.34.145(~~(+3)~~)(4)(b)(vi). In cases where
25 parental rights have been terminated, the child is legally free for
26 adoption, and adoption has been identified as the primary permanency
27 planning goal, it shall be a goal to complete the adoption within six
28 months following entry of the termination order.

29 (4) If the court determines that the continuation of reasonable
30 efforts to prevent or eliminate the need to remove the child from his
31 or her home or to safely return the child home should not be part of
32 the permanency plan of care for the child, reasonable efforts shall be
33 made to place the child in a timely manner and to complete whatever
34 steps are necessary to finalize the permanent placement of the child.

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

37 (6) The court shall consider the child's relationships with the
38 child's siblings in accordance with RCW 13.34.130(6). Whenever the

1 permanency plan for a child is adoption, the court shall encourage the
2 prospective adoptive parents, birth parents, foster parents, kinship
3 caregivers, and the department or other supervising agency to seriously
4 consider the long-term benefits to the child adoptee and his or her
5 siblings of providing for and facilitating continuing postadoption
6 contact between the siblings. To the extent that it is feasible, and
7 when it is in the best interests of the child adoptee and his or her
8 siblings, contact between the siblings should be frequent and of a
9 similar nature as that which existed prior to the adoption. If the
10 child adoptee or his or her siblings are represented by an attorney or
11 guardian ad litem in a proceeding under this chapter or in any other
12 child custody proceeding, the court shall inquire of each attorney and
13 guardian ad litem regarding the potential benefits of continuing
14 contact between the siblings and the potential detriments of severing
15 contact. This section does not require the department of social and
16 health services or other supervising agency to agree to any specific
17 provisions in an open adoption agreement and does not create a new
18 obligation for the department to provide supervision or transportation
19 for visits between siblings separated by adoption from foster care.

20 (7) For purposes related to permanency planning:

21 (a) "Guardianship" means a dependency guardianship or a legal
22 guardianship pursuant to chapter 11.88 RCW or equivalent laws of
23 another state or a federally recognized Indian tribe.

24 (b) "Permanent custody order" means a custody order entered
25 pursuant to chapter 26.10 RCW.

26 (c) "Permanent legal custody" means legal custody pursuant to
27 chapter 26.10 RCW or equivalent laws of another state or a federally
28 recognized Indian tribe.

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