
SUBSTITUTE SENATE BILL 5315

AS AMENDED BY THE HOUSE

Passed Legislature - 2013 Regular Session

State of Washington 63rd Legislature 2013 Regular Session

By Senate Human Services & Corrections (originally sponsored by Senators Becker, Dammeier, Rivers, Padden, and Roach)

READ FIRST TIME 02/20/13.

1 AN ACT Relating to the implementation of the recommendations made
2 by the Powell fatality team; amending RCW 13.34.136, 13.34.380, and
3 74.14B.010; reenacting and amending RCW 13.34.130; and adding a new
4 section to chapter 13.34 RCW.

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

6 **Sec. 1.** RCW 13.34.130 and 2011 c 309 s 27 and 2011 c 292 s 1 are
7 each reenacted and amended to read as follows:

8 If, after a fact-finding hearing pursuant to RCW 13.34.110, it has
9 been proven by a preponderance of the evidence that the child is
10 dependent within the meaning of RCW 13.34.030 after consideration of
11 the social study prepared pursuant to RCW 13.34.110 and after a
12 disposition hearing has been held pursuant to RCW 13.34.110, the court
13 shall enter an order of disposition pursuant to this section.

14 (1) The court shall order one of the following dispositions of the
15 case:

16 (a) Order a disposition that maintains the child in his or her
17 home, which shall provide a program designed to alleviate the immediate
18 danger to the child, to mitigate or cure any damage the child has
19 already suffered, and to aid the parents so that the child will not be

1 endangered in the future. In determining the disposition, the court
2 should choose services to assist the parents in maintaining the child
3 in the home, including housing assistance, if appropriate, that least
4 interfere with family autonomy and are adequate to protect the child.

5 (b)(i) Order the child to be removed from his or her home and into
6 the custody, control, and care of a relative or other suitable person,
7 the department, or a supervising agency for supervision of the child's
8 placement. If the court orders that the child be placed with a
9 caregiver over the objections of the parent or the department, the
10 court shall articulate, on the record, his or her reasons for ordering
11 the placement. The court may not order an Indian child, as defined in
12 RCW 13.38.040, to be removed from his or her home unless the court
13 finds, by clear and convincing evidence including testimony of
14 qualified expert witnesses, that the continued custody of the child by
15 the parent or Indian custodian is likely to result in serious emotional
16 or physical damage to the child.

17 (ii) The department or supervising agency has the authority to
18 place the child, subject to review and approval by the court (A) with
19 a relative as defined in RCW 74.15.020(2)(a), (B) in the home of
20 another suitable person if the child or family has a preexisting
21 relationship with that person, and the person has completed all
22 required criminal history background checks and otherwise appears to
23 the department or supervising agency to be suitable and competent to
24 provide care for the child, or (C) in a foster family home or group
25 care facility licensed pursuant to chapter 74.15 RCW.

26 (iii) The department may also consider placing the child, subject
27 to review and approval by the court, with a person with whom the
28 child's sibling or half-sibling is residing or a person who has adopted
29 the sibling or half-sibling of the child being placed as long as the
30 person has completed all required criminal history background checks
31 and otherwise appears to the department or supervising agency to be
32 competent to provide care for the child.

33 (2) Absent good cause, the department or supervising agency shall
34 follow the wishes of the natural parent regarding the placement of the
35 child in accordance with RCW 13.34.260.

36 (3) The department or supervising agency may only place a child
37 with a person not related to the child as defined in RCW
38 74.15.020(2)(a), including a placement provided for in subsection

1 (1)(b)(iii) of this section, when the court finds that such placement
2 is in the best interest of the child. Unless there is reasonable cause
3 to believe that the health, safety, or welfare of the child would be
4 jeopardized or that efforts to reunite the parent and child will be
5 hindered, the child shall be placed with a person who is willing,
6 appropriate, and available to care for the child, and who is: (I)
7 Related to the child as defined in RCW 74.15.020(2)(a) with whom the
8 child has a relationship and is comfortable; or (II) a suitable person
9 as described in subsection (1)(b) of this section. The court shall
10 consider the child's existing relationships and attachments when
11 determining placement.

12 (4) When placing an Indian child in out-of-home care, the
13 department or supervising agency shall follow the placement preference
14 characteristics in RCW 13.38.180.

15 (5) Placement of the child with a relative or other suitable person
16 as described in subsection (1)(b) of this section shall be given
17 preference by the court. An order for out-of-home placement may be
18 made only if the court finds that reasonable efforts have been made to
19 prevent or eliminate the need for removal of the child from the child's
20 home and to make it possible for the child to return home, specifying
21 the services, including housing assistance, that have been provided to
22 the child and the child's parent, guardian, or legal custodian, and
23 that preventive services have been offered or provided and have failed
24 to prevent the need for out-of-home placement, unless the health,
25 safety, and welfare of the child cannot be protected adequately in the
26 home, and that:

27 (a) There is no parent or guardian available to care for such
28 child;

29 (b) The parent, guardian, or legal custodian is not willing to take
30 custody of the child; or

31 (c) The court finds, by clear, cogent, and convincing evidence, a
32 manifest danger exists that the child will suffer serious abuse or
33 neglect if the child is not removed from the home and an order under
34 RCW 26.44.063 would not protect the child from danger.

35 (6) If the court has ordered a child removed from his or her home
36 pursuant to subsection (1)(b) of this section, the court shall consider
37 whether it is in a child's best interest to be placed with, have
38 contact with, or have visits with siblings.

1 (a) There shall be a presumption that such placement, contact, or
2 visits are in the best interests of the child provided that:

3 (i) The court has jurisdiction over all siblings subject to the
4 order of placement, contact, or visitation pursuant to petitions filed
5 under this chapter or the parents of a child for whom there is no
6 jurisdiction are willing to agree; and

7 (ii) There is no reasonable cause to believe that the health,
8 safety, or welfare of any child subject to the order of placement,
9 contact, or visitation would be jeopardized or that efforts to reunite
10 the parent and child would be hindered by such placement, contact, or
11 visitation. In no event shall parental visitation time be reduced in
12 order to provide sibling visitation.

13 (b) The court may also order placement, contact, or visitation of
14 a child with a stepbrother or stepsister provided that in addition to
15 the factors in (a) of this subsection, the child has a relationship and
16 is comfortable with the stepsibling.

17 (7) If the court has ordered a child removed from his or her home
18 pursuant to subsection (1)(b) of this section and placed into
19 nonparental or nonrelative care, the court shall order a placement that
20 allows the child to remain in the same school he or she attended prior
21 to the initiation of the dependency proceeding when such a placement is
22 practical and in the child's best interest.

23 (8) If the court has ordered a child removed from his or her home
24 pursuant to subsection (1)(b) of this section, the court may order that
25 a petition seeking termination of the parent and child relationship be
26 filed if the requirements of RCW 13.34.132 are met.

27 (9) If there is insufficient information at the time of the
28 disposition hearing upon which to base a determination regarding the
29 suitability of a proposed placement with a relative or other suitable
30 person, the child shall remain in foster care and the court shall
31 direct the department or supervising agency to conduct necessary
32 background investigations as provided in chapter 74.15 RCW and report
33 the results of such investigation to the court within thirty days.
34 However, if such relative or other person appears otherwise suitable
35 and competent to provide care and treatment, the criminal history
36 background check need not be completed before placement, but as soon as
37 possible after placement. Any placements with relatives or other
38 suitable persons, pursuant to this section, shall be contingent upon

1 cooperation by the relative or other suitable person with the agency
2 case plan and compliance with court orders related to the care and
3 supervision of the child including, but not limited to, court orders
4 regarding parent-child contacts, sibling contacts, and any other
5 conditions imposed by the court. Noncompliance with the case plan or
6 court order shall be grounds for removal of the child from the
7 relative's or other suitable person's home, subject to review by the
8 court.

9 **Sec. 2.** RCW 13.34.136 and 2011 c 309 s 29 are each amended to read
10 as follows:

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

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

26 The permanency plan shall include:

27 (a) A permanency plan of care that shall identify one of the
28 following outcomes as a primary goal and may identify additional
29 outcomes as alternative goals: Return of the child to the home of the
30 child's parent, guardian, or legal custodian; adoption, including a
31 tribal customary adoption as defined in RCW 13.38.040; guardianship;
32 permanent legal custody; long-term relative or foster care, until the
33 child is age eighteen, with a written agreement between the parties and
34 the care provider; successful completion of a responsible living skills
35 program; or independent living, if appropriate and if the child is age
36 sixteen or older. The department or supervising agency shall not

1 discharge a child to an independent living situation before the child
2 is eighteen years of age unless the child becomes emancipated pursuant
3 to chapter 13.64 RCW;

4 (b) Unless the court has ordered, pursuant to RCW 13.34.130(~~(+6)~~)
5 (8), that a termination petition be filed, a specific plan as to where
6 the child will be placed, what steps will be taken to return the child
7 home, what steps the supervising agency or the department will take to
8 promote existing appropriate sibling relationships and/or facilitate
9 placement together or contact in accordance with the best interests of
10 each child, and what actions the department or supervising agency will
11 take to maintain parent-child ties. All aspects of the plan shall
12 include the goal of achieving permanence for the child.

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

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

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

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

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

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

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

20 (iv) The plan shall state whether both in-state and, where
21 appropriate, out-of-state placement options have been considered by the
22 department or supervising agency.

23 (v) Unless it is not in the best interests of the child, whenever
24 practical, the plan should ensure the child remains enrolled in the
25 school the child was attending at the time the child entered foster
26 care.

27 (vi) The supervising agency or department shall provide all
28 reasonable services that are available within the department or
29 supervising agency, or within the community, or those services which
30 the department has existing contracts to purchase. It shall report to
31 the court if it is unable to provide such services; and

32 (c) If the court has ordered, pursuant to RCW 13.34.130(~~(+6)~~) (8),
33 that a termination petition be filed, a specific plan as to where the
34 child will be placed, what steps will be taken to achieve permanency
35 for the child, services to be offered or provided to the child, and, if
36 visitation would be in the best interests of the child, a
37 recommendation to the court regarding visitation between parent and
38 child pending a fact-finding hearing on the termination petition. The

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

7 (3) Permanency planning goals should be achieved at the earliest
8 possible date. If the child has been in out-of-home care for fifteen
9 of the most recent twenty-two months, the court shall require the
10 department or supervising agency to file a petition seeking termination
11 of parental rights in accordance with RCW 13.34.145(3)(b)(vi). In
12 cases where parental rights have been terminated, the child is legally
13 free for adoption, and adoption has been identified as the primary
14 permanency planning goal, it shall be a goal to complete the adoption
15 within six months following entry of the termination order.

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

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

24 (6) The court shall consider the child's relationships with the
25 child's siblings in accordance with RCW 13.34.130(~~((4))~~) (6). Whenever
26 the permanency plan for a child is adoption, the court shall encourage
27 the prospective adoptive parents, birth parents, foster parents,
28 kinship caregivers, and the department or other supervising agency to
29 seriously consider the long-term benefits to the child adoptee and his
30 or her siblings of providing for and facilitating continuing
31 postadoption contact between the siblings. To the extent that it is
32 feasible, and when it is in the best interests of the child adoptee and
33 his or her siblings, contact between the siblings should be frequent
34 and of a similar nature as that which existed prior to the adoption.
35 If the child adoptee or his or her siblings are represented by an
36 attorney or guardian ad litem in a proceeding under this chapter or in
37 any other child custody proceeding, the court shall inquire of each
38 attorney and guardian ad litem regarding the potential benefits of

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

8 (7) For purposes related to permanency planning:

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

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

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

17 **Sec. 3.** RCW 13.34.380 and 2009 c 520 s 45 are each amended to read
18 as follows:

19 The department shall develop consistent policies and protocols,
20 based on current relevant research, concerning visitation for dependent
21 children to be implemented consistently throughout the state. The
22 department shall develop the policies and protocols in consultation
23 with researchers in the field, community-based agencies, court-
24 appointed special advocates, parents' representatives, and court
25 representatives. The policies and protocols shall include, but not be
26 limited to: The structure and quality of visitations; consultation
27 with the assigned law enforcement officer in the event the parent or
28 sibling of the child is identified as a suspect in an active criminal
29 investigation for a violent crime that, if the allegations are true,
30 would impact the safety of the child; and training for department and
31 supervising agency caseworkers, visitation supervisors, and foster
32 parents related to visitation.

33 The policies and protocols shall be consistent with the provisions
34 of this chapter and implementation of the policies and protocols shall
35 be consistent with relevant orders of the court.

1 NEW SECTION. **Sec. 4.** A new section is added to chapter 13.34 RCW
2 to read as follows:

3 In the event a judge orders a parent to undergo a psychosexual
4 evaluation, and pending the outcome of the evaluation, the department,
5 subject to the approval of the court, may reassess visitation duration,
6 supervision, and location, if appropriate. If the assessment indicates
7 the current visitation plan is contrary to the child's health, safety,
8 or welfare, the department, subject to approval by the court, may alter
9 the visitation plan pending the outcome of the investigation.

10 **Sec. 5.** RCW 74.14B.010 and 1999 c 389 s 5 are each amended to read
11 as follows:

12 (1) Caseworkers employed in children services shall meet minimum
13 standards established by the department of social and health services.
14 Comprehensive training for caseworkers shall be completed before such
15 caseworkers are assigned to case-carrying responsibilities without
16 direct supervision. Intermittent, part-time, and standby workers shall
17 be subject to the same minimum standards and training.

18 (2) Ongoing specialized training shall be provided for persons
19 responsible for investigating child sexual abuse. Training
20 participants shall have the opportunity to practice interview skills
21 and receive feedback from instructors.

22 (3) The department, the criminal justice training commission, the
23 Washington association of sheriffs and police chiefs, and the
24 Washington association of prosecuting attorneys shall design and
25 implement statewide training that contains consistent elements for
26 persons engaged in the interviewing of children, including law
27 enforcement, prosecution, and child protective services.

28 (4) The training shall: (a) Be based on research-based practices
29 and standards; (b) minimize the trauma of all persons who are
30 interviewed during abuse investigations; (c) provide methods of
31 reducing the number of investigative interviews necessary whenever
32 possible; (d) assure, to the extent possible, that investigative
33 interviews are thorough, objective, and complete; (e) recognize needs
34 of special populations, such as persons with developmental
35 disabilities; (f) recognize the nature and consequences of
36 victimization; (g) require investigative interviews to be conducted in

1 a manner most likely to permit the interviewed persons the maximum
2 emotional comfort under the circumstances; (h) address record retention
3 and retrieval; and (i) documentation of investigative interviews.

4 (5) The identification of domestic violence is critical in ensuring
5 the safety of children in the child welfare system. As a result,
6 ongoing domestic violence training and consultation shall be provided
7 to caseworkers, including how to use the children's administration's
8 practice guide to domestic violence.

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