

musical, dance, artistic, dramatic, or literary works pursuant to RCW 84.36.060, but only if under the terms of the lease or rental agreement the nonprofit organization, association, or corporation receives the benefit of the exemption;

(3) The facilities and services are available to all regardless of race, color, national origin or ancestry;

(4) The organization, association, or corporation is duly licensed or certified where such licensing or certification is required by law or regulation;

(5) Property sold to organizations, associations, or corporations with an option to be repurchased by the seller shall not qualify for exempt status;

(6) The director of the department of revenue shall have access to its books in order to determine whether such organization, association, or corporation is exempt from taxes within the intent of RCW 84.36.030, 84.36.035, 84.36.037, 84.36.040, 84.36.041, 84.36.045, 84.36.047, 84.36.050, 84.36.060, 84.36.350, and 84.36.480.

NEW SECTION. Sec. 8. Sections 6 and 7 of this act shall not be construed as modifying or affecting any other existing or future exemptions.

NEW SECTION. Sec. 9. Section 5 of this act expires December 31, 1996.

Passed the House March 8, 1990.

Passed the Senate March 8, 1990.

Approved by the Governor March 29, 1990.

Filed in Office of Secretary of State March 29, 1990.

CHAPTER 284

[Second Substitute Senate Bill No. 6537]

FOSTER CARE

AN ACT Relating to dependent children; amending RCW 4.92.130, 13.34.020, 13.34.130, 13.34.190, and 13.04.033; adding new sections to chapter 74.13 RCW; adding a new section to chapter 13.32A RCW; adding a new section to chapter 13.34 RCW; creating new sections; and providing an effective date.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. The legislature finds that the foster care system plays an important role in preserving families and giving consistent and nurturing care to children placed in its care. The legislature further finds that foster parents play an integral and important role in the system and particularly in the child's chances for the earliest possible reunification with his or her family.

NEW SECTION. Sec. 2. (1) Preservice training is recognized as a valuable tool to reduce placement disruptions, the length of time children are in care, and foster parent turnover rates. Preservice training also assists

potential foster parents in making their final decisions about foster parenting and assists social service agencies in obtaining information about whether to approve potential foster parents.

(2) Foster parent preservice training shall include information about the potential impact of placement on foster children; social service agency administrative processes; the requirements, responsibilities, expectations, and skills needed to be a foster parent; attachment, separation, and loss issues faced by birth parents, foster children, and foster parents; child management and discipline; birth family relationships; and helping children leave foster care. Preservice training shall assist applicants in making informed decisions about whether they want to be foster parents. Preservice training shall be designed to enable the agency to assess the ability, readiness, and appropriateness of families to be foster parents. As a decision tool, effective preservice training provides potential foster parents with enough information to make an appropriate decision, affords potential foster parents an opportunity to discuss their decision with others and consider its implications for their family, clarifies foster family expectations, presents a realistic picture of what foster parenting involves, and allows potential foster parents to consider and explore the different types of children they might serve.

(3) Preservice training shall be completed prior to the issuance of a foster care license, except that the department may, on a case by case basis, issue a written waiver that allows the foster parent to complete the training after licensure, so long as the training is completed within ninety days following licensure.

NEW SECTION. Sec. 3. If specific funding for the purposes of section 2 of this act, referencing section 2 of this act by bill and section number, is not provided by June 30, 1990, in the omnibus appropriations act, section 2 of this act shall be null and void.

NEW SECTION. Sec. 4. Regular on-site monitoring of foster homes to assure quality care improves care provided to children in family foster care. An on-site monitoring program shall be established by the department to assure quality care and regularly identify problem areas. The department shall report to the legislature by June 1 of each year, beginning with June 1, 1991, the results of the monitoring, including identified problem areas, and make policy recommendations to improve the quality of foster care based on the results of the monitoring. Monitoring shall be done by the department on a random sample basis of no less than ten percent of the total licensed family foster homes licensed by the department on July 1 of each year.

NEW SECTION. Sec. 5. If specific funding for the purposes of section 4 of this act, referencing section 4 of this act by bill and section number, is not provided by June 30, 1990, in the omnibus appropriations act, section 4 of this act shall be null and void.

NEW SECTION. Sec. 6. The legislature finds that regular and ongoing program review of child protective services, child welfare services, and foster care is essential to agencies and the legislature in making informed recommendations and decisions regarding policy in the delivery of services to children and their families. The department of social and health services shall contract, through the request for proposal process, with an independent qualified organization for a comprehensive evaluation of these programs. The evaluation shall be based on findings secured through a generally accepted audit procedure based on a statistically significant state-wide sampling of data. The department shall cooperate with the contractor to meet the requirements of this section.

NEW SECTION. Sec. 7. If specific funding for the purposes of section 6 of this act, referencing section 6 of this act by bill and section number, is not provided by June 30, 1990, in the omnibus appropriations act, section 6 of this act shall be null and void.

NEW SECTION. Sec. 8. The legislature recognizes the need for temporary short-term relief for foster parents who care for children with emotional, mental, or physical handicaps. For purposes of this section, respite care means appropriate, temporary, short-term care for these foster children placed with licensed foster parents. The purpose of this care is to give the foster parents temporary relief from the stresses associated with the care of these foster children. The department shall design a program of respite care that will minimize disruptions to the child and will serve foster parents within these priorities, based on input from foster parents, foster parent associations, and reliable research if available.

NEW SECTION. Sec. 9. If specific funding for the purposes of section 8 of this act, referencing section 8 of this act by bill and section number, is not provided by June 30, 1990, in the omnibus appropriations act, section 8 of this act shall be null and void.

NEW SECTION. Sec. 10. (1) Except as provided in RCW 70.24.105, whenever a child is placed in out-of-home care by the department or a child-placing agency, the department or agency may share information about the child and the child's family with the care provider and may consult with the care provider regarding the child's case plan.

(2) Any person who receives information about a child or a child's family pursuant to this section shall keep the information confidential and shall not further disclose or disseminate the information except as authorized by law.

(3) Nothing in this section shall be construed to limit the authority of the department or child-placing agencies to disclose client information or to maintain client confidentiality as provided by law.

NEW SECTION. Sec. 11. To provide stability to children in out-of-home care, placement selection shall be made with a view toward the fewest

possible placements for each child. If possible, the initial placement shall be viewed as the only placement for the child. The use of short-term interim placements of thirty days or less to protect the child's health or safety while the placement of choice is being arranged is not a violation of this principle.

NEW SECTION. Sec. 12. (1) Whenever a child has been placed in a foster family home by the department or a child-placing agency and the child has thereafter resided in the home for at least ninety consecutive days, the department or child-placing agency shall notify the foster family at least five days prior to moving the child to another placement, unless:

(a) A court order has been entered requiring an immediate change in placement;

(b) The child is being returned home;

(c) The child's safety is in jeopardy; or

(d) The child is residing in a receiving home or a group home.

(2) If the child has resided in a foster family home for less than ninety days or if, due to one or more of the circumstances in subsection (1) of this section, it is not possible to give five days' notification, the department or child-placing agency shall notify the foster family of proposed placement changes as soon as reasonably possible.

(3) This section is intended solely to assist in minimizing disruption to the child in changing foster care placements. Nothing in this section shall be construed to require that a court hearing be held prior to changing a child's foster care placement nor to create any substantive custody rights in the foster parents.

NEW SECTION. Sec. 13. Adequate foster parent training has been identified as directly associated with increasing the length of time foster parents are willing to provide foster care and reducing the number of placement disruptions for children. Placement disruptions can be harmful to children by denying them consistent and nurturing support. Foster parents have expressed the desire to receive training in addition to the foster parent SCOPE training currently offered. Foster parents who care for more demanding children, such as children with severe emotional, mental, or physical handicaps, would especially benefit from additional training. The department shall develop additional training for foster parents that focuses on skills to assist foster parents in caring for emotionally, mentally, or physically handicapped children.

NEW SECTION. Sec. 14. If specific funding for the purposes of section 13 of this act, referencing section 13 of this act by bill and section number, is not provided by June 30, 1990, in the omnibus appropriations act, section 13 of this act shall be null and void.

NEW SECTION. Sec. 15. The legislature finds that during the fiscal years 1987 to 1989 the number of children in foster care has risen by 14.3

percent. At the same time there has been a 31 percent turnover rate in foster homes because many foster parents have declined to continue to care for foster children. This situation has caused a dangerously critical shortage of foster homes.

The department of social and health services shall develop and implement a project to recruit more foster homes and adoptive homes for special needs children by developing a request for proposal to licensed private foster care, licensed adoption agencies, and other organizations qualified to provide this service.

The project shall consist of one state-wide administrator of recruitment programs, and one or more licensed foster care or adoption agency contracts in each of the six departmental regions. These contracts shall enhance currently provided services and may not replace services currently funded by the agencies. No more than sixty thousand dollars may be spent annually to fund the administrator position.

The agencies shall recruit foster care homes and adoptive homes for children classified as special needs children under chapter 74.08 RCW. The agencies shall utilize their own network of contacts and shall also develop programs similar to those used effectively in other states. The department shall expand the foster-adopt program state-wide to encourage stable placements for foster children for whom permanent out-of-home placement is a likelihood. The department shall carefully consider existing programs to eliminate duplication of services.

The department shall assist the private contractors by providing printing services for informational brochures and other necessary recruitment materials. No more than fifty thousand dollars of the funds provided for this section may be expended annually for recruitment materials.

NEW SECTION. Sec. 16. (1) The department shall establish a state-wide program to manage health services for children in foster care. Services include medical and developmental services already provided subject to current statutes and available resources, and shall provide children in foster care with:

- (a) Health screening, supervision, and continuity of care;
- (b) Developmental screening;
- (c) Illness and emergency care; and
- (d) Child centered management plans designed to address specific therapeutic rehabilitative and preventative needs. Case management shall be used to ensure comprehensiveness and continuity of care.

(2) Strategies for reimbursements shall be developed which utilize prospective payment or capitation formulas.

NEW SECTION. Sec. 17. The department of social and health services shall develop and implement a survey tool to provide information to the legislature regarding the specific reasons foster parents voluntarily or involuntarily terminate their service to the foster parent system. The tool

shall be implemented by July 1, 1990. The survey shall cover a period of one year and a final report shall be made to the legislature by December 1991.

NEW SECTION. Sec. 18. If specific funding for the purposes of sections 15, 16, and 17 of this act, referencing sections 15, 16, and 17 of this act by bill and section number, is not provided by June 30, 1990, in the omnibus appropriations act, sections 15, 16, and 17 of this act shall be null and void.

NEW SECTION. Sec. 19. The average basic rate of reimbursement to foster parents for children placed in their care often does not cover the total cost of care. Studies have identified that increasing rates is directly related to increasing the number of available foster homes and positively influences the decision of foster parents to provide care.

NEW SECTION. Sec. 20. If specific funding for the purposes of section 19 of this act, referencing section 19 of this act by bill and section number, is not provided by June 30, 1990, in the omnibus appropriations act, section 19 of this act shall be null and void.

NEW SECTION. Sec. 21. Private child placement agencies offer a valuable service to the state. Caseloads are limited to no more than twenty-five per caseworker allowing the agencies to provide quality services. Child placement agencies are funded by a variety of public and private sources. Over the last several years, administration costs have risen in both public and private agencies.

NEW SECTION. Sec. 22. If specific funding for the purposes of section 21 of this act, referencing section 21 of this act by bill and section number, is not provided by June 30, 1990, in the omnibus appropriations act, section 21 of this act shall be null and void.

NEW SECTION. Sec. 23. Foster parents are responsible for the protection, care, supervision, and nurturing of the child in placement. As an integral part of the foster care team, foster parents shall, if appropriate and they desire to: Participate in the development of the service plan for the child and the child's family; assist in family visitation, including monitoring; and model effective parenting behavior for the natural family.

NEW SECTION. Sec. 24. A new section is added to chapter 13.32A RCW to read as follows:

In an attempt to minimize the inherent intrusion in the lives of families involved in the foster care system and to maintain parental authority where appropriate, the department, absent good cause, shall follow the wishes of the natural parent regarding the placement of the child. Preferences such as family constellation, ethnicity, and religion shall be given consideration when matching children to foster homes. Parental authority is appropriate

in areas that are not connected with the abuse or neglect that resulted in the dependency and should be integrated through the foster care team.

NEW SECTION. Sec. 25. A new section is added to chapter 13.34 RCW to read as follows:

In an attempt to minimize the inherent intrusion in the lives of families involved in the foster care system and to maintain parental authority where appropriate, the department, absent good cause, shall follow the wishes of the natural parent regarding the placement of the child. Preferences such as family constellation, ethnicity, and religion shall be given consideration when matching children to foster homes. Parental authority is appropriate in areas that are not connected with the abuse or neglect that resulted in the dependency and should be integrated through the foster care team.

NEW SECTION. Sec. 26. Sections 1, 2, 4, 6, 8, 10 through 13, 15, and 16 of this act are each added to chapter 74.13 RCW.

NEW SECTION. Sec. 27. This act shall take effect July 1, 1990, however the secretary may immediately take any steps necessary to ensure implementation of section 17 of this act on July 1, 1990.

NEW SECTION. Sec. 28. The legislature recognizes the unique liability risks that foster parents face in taking children into their care and that foster parents often cannot obtain liability protection through private insurance carriers. The legislature finds that some potential foster parents are unwilling to subject themselves to such liability without insurance protection. The legislature further finds that to encourage those people to serve as foster parents, it is necessary to increase the liability protection available to foster parents.

Sec. 29. Section 7, chapter 159, Laws of 1963 as last amended by section 4, chapter 419, Laws of 1989 and RCW 4.92.130 are each amended to read as follows:

A liability account in the custody of the treasurer is hereby created as a nonappropriated account to be used solely and exclusively for the payment of liability settlements and judgments against the state under 42 U.S.C. Sec. 1981 et seq. or for the tortious conduct of its officers, employees, (~~and~~) volunteers, and foster parents licensed under chapter 74.15 RCW.

(1) The purpose of the liability account is to: (a) Expeditiously pay legal liabilities of the state resulting from tortious conduct; (b) promote risk control through a cost allocation system which recognizes agency loss experience, levels of self-retention, and levels of risk exposure; and (c) establish an actuarially sound system to pay incurred losses, within defined limits.

(2) The liability account shall be used to pay claims for injury and property damages exclusive of legal defense costs and agency-retained expenses otherwise budgeted.

(3) No money shall be paid from the liability account unless all proceeds available to the claimant from any valid and collectible liability insurance shall have been exhausted and unless:

(a) The claim shall have been reduced to final judgment in a court of competent jurisdiction; or

(b) The claim has been approved for payment.

(4) Earnings on the account's assets shall be credited to the account, notwithstanding RCW 43.84.090.

(5) The liability account shall be financed through annual premiums assessed to state agencies, based on sound actuarial principles, and shall be for liability coverage in excess of agency-budgeted self-retention levels.

(6) Annual premium levels shall be determined by the risk manager, with the consultation and advice of the risk management advisory committee and concurrence from the office of financial management. An actuarial study shall be conducted to assist in determining the appropriate level of funding.

(7) Disbursements from the liability account shall be made to the claimant, or to the clerk of the court for judgments, upon written request to the state treasurer from the risk manager.

(8) The director of the office of financial management may direct agencies to transfer moneys from other funds and accounts to the liability account if premiums are delinquent.

(9) The liability account shall not exceed fifty percent of the actuarial value of the outstanding liability as determined annually by the office of risk management. If the account exceeds the maximum amount specified in this section, premiums may be adjusted by the office of risk management in order to maintain the account balance at the maximum limits. If, after adjustment of premiums, the account balance remains above the limits specified, the excess amount will be prorated back to the appropriate funds.

NEW SECTION. Sec. 30. If specific funding for the purpose of sections 28 and 29 of this act, referencing sections 28 and 29 of this act by bill and section numbers, is not provided by June 30, 1990, in the omnibus appropriations act, sections 28 and 29 of this act shall be null and void.

Sec. 31. Section 30, chapter 291, Laws of 1977 ex. sess. as amended by section 2, chapter 524, Laws of 1987 and RCW 13.34.020 are each amended to read as follows:

The legislature declares that the family unit is a fundamental resource of American life which should be nurtured. Toward the continuance of this principle, the legislature declares that the family unit should remain intact unless a child's right to conditions of basic nurture, health, or safety is jeopardized. When the rights of basic nurture, physical and mental health, and safety of the child and the legal rights of the parents are in conflict, the rights and safety of the child should prevail. The right of a child to basic

nurturing includes the right to a safe, stable, and permanent home and a speedy resolution of any proceeding under this chapter.

Sec. 32. Section 17, chapter 17, Laws of 1989 1st ex. sess. and RCW 13.34.130 are each amended to read as follows:

If, after a fact-finding hearing pursuant to RCW 13.34.110, as now or hereafter amended, it has been proven by a preponderance of the evidence that the child is dependent within the meaning of RCW 13.34.030(2); after consideration of the predisposition report prepared pursuant to RCW 13.34.110 and after a disposition hearing has been held pursuant to RCW 13.34.110, the court shall enter an order of disposition pursuant to this section.

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

(a) Order a disposition other than removal of the child from his or her home, which shall provide a program designed to alleviate the immediate danger to the child, to mitigate or cure any damage the child has already suffered, and to aid the parents so that the child will not be endangered in the future. In selecting a program, the court should choose those services that least interfere with family autonomy, provided that the services are adequate to protect the child.

(b) Order that the child be removed from his or her home and ordered into the custody, control, and care of a relative or the department of social and health services or a licensed child placing agency for placement in a foster family home or group care facility licensed pursuant to chapter 74.15 RCW or in a home not required to be licensed pursuant to chapter 74.15 RCW. Unless there is reasonable cause to believe that the safety or welfare of the child would be jeopardized or that efforts to reunite the parent and child will be hindered, such child shall be placed with a grandparent, brother, sister, stepbrother, stepsister, uncle, aunt, or first cousin with whom the child has a relationship and is comfortable, and who is willing and available to care for the child. An order for out-of-home placement may be made only if the court finds that reasonable efforts have been made to prevent or eliminate the need for removal of the child from the child's home and to make it possible for the child to return home and that:

(i) There is no parent or guardian available to care for such child;

~~(ii) ((The child is unwilling to reside in the custody of the child's parent, guardian, or legal custodian;~~

~~(iii)))~~ The parent, guardian, or legal custodian is not willing to take custody of the child;

~~((iv)))~~ ~~(iii)~~ A manifest danger exists that the child will suffer serious abuse or neglect if the child is not removed from the home and an order under RCW 26.44.063 would not protect the child from danger; or

~~((v)))~~ ~~(iv)~~ The extent of the child's disability is such that the parent, guardian, or legal custodian is unable to provide the necessary care for the child and the parent, guardian, or legal custodian has determined that the child would benefit from placement outside of the home.

(2) If the court has ordered a child removed from his or her home pursuant to RCW 13.34.130(1)(b), the court may order that a petition seeking termination of the parent and child relationship be filed if the court finds it is recommended by the supervising agency, that it is in the best interests of the child and that it is not reasonable to provide further services to reunify the family because the existence of aggravated circumstances make it unlikely that services will effectuate the return of the child to the child's parents in the near future. In determining whether aggravated circumstances exist, the court shall consider one or more of the following:

(a) Conviction of the parent of rape of the child in the first, second, or third degree as defined in RCW 9A.44.073, 9A.44.076, and 9A.44.079;

(b) Conviction of the parent of criminal mistreatment of the child in the first or second degree as defined in RCW 9A.42.020 and 9A.42.030;

(c) Conviction of the parent of assault of the child in the first or second degree as defined in RCW 9A.36.011 and 9A.36.021;

(d) Conviction of the parent of murder, manslaughter, or homicide by abuse of the child's other parent, sibling, or another child;

(e) A finding by a court that a parent is a sexually violent predator as defined in section 904, chapter —, Laws of 1990 (Engrossed Second Substitute Senate Bill No. 6259);

(f) Failure of the parent to complete available treatment ordered under this chapter or the equivalent laws of another state, where such failure has resulted in a prior termination of parental rights to another child and the parent has failed to effect significant change in the interim.

(3) Whenever a child is ordered removed from the child's home, the agency charged with his or her care shall provide the court with:

(a) A permanent plan of care that may include one of the following: Return of the child to the home of the child's parent, adoption, guardianship, or long-term placement with a relative or in foster care with a written agreement.

(b) Unless the court has ordered, pursuant to RCW 13.34.130(2), that a termination petition be filed, a specific plan as to where the child will be placed, what steps will be taken to return the child home, and what actions the agency will take to maintain parent-child ties. All aspects of the plan shall include the goal of achieving permanence for the child.

~~((a))~~ (i) The agency plan shall specify what services the parents will be offered in order to enable them to resume custody, what requirements the parents must meet in order to resume custody, and a time limit for each service plan and parental requirement.

~~((b))~~ (ii) The agency shall be required to encourage the maximum parent-child contact possible, including regular visitation and participation by the parents in the care of the child while the child is in placement.

~~((c))~~ (iii) A child shall be placed as close to the child's home as possible, preferably in the child's own neighborhood, unless the court finds that

placement at a greater distance is necessary to promote the child's or parents' well-being.

~~((4))~~ (iv) The agency charged with supervising a child in placement shall provide all reasonable services that are available within the agency, or within the community, or those services which the department of social and health services has existing contracts to purchase. It shall report to the court if it is unable to provide such services.

(c) If the court has ordered, pursuant to RCW 13.34.130(2), that a termination petition be filed, a specific plan as to where the child will be placed, what steps will be taken to achieve permanency for the child, services to be offered or provided to the child, and, if visitation would be in the best interests of the child, a recommendation to the court regarding visitation between parent and child pending a fact-finding hearing on the termination petition. The agency shall not be required to develop a plan of services for the parents or provide services to the parents.

~~((3))~~ (4) If there is insufficient information at the time of the disposition hearing upon which to base a determination regarding the suitability of a proposed placement with a relative, the child shall remain in foster care and the court shall direct the supervising agency to conduct necessary background investigations as provided in chapter 74.15 RCW and report the results of such investigation to the court within thirty days. However, if such relative appears otherwise suitable and competent to provide care and treatment, the criminal history background check need not be completed before placement, but as soon as possible after placement. Any placements with relatives, pursuant to this section, shall be contingent upon cooperation by the relative with the agency case plan and compliance with court orders related to the care and supervision of the child including, but not limited to, court orders regarding parent-child contacts and any other conditions imposed by the court. Noncompliance with the case plan or court order shall be grounds for removal of the child from the relative's home, subject to review by the court.

~~((4))~~ (5) The status of all children found to be dependent shall be reviewed by the court at least every six months from the beginning date of the placement episode or the date dependency is established, whichever is first, at a hearing in which it shall be determined whether court supervision should continue. The review shall include findings regarding the agency and parental completion of disposition plan requirements, and if necessary, revised permanency time limits.

(a) A child shall not be returned home at the review hearing unless the court finds that a reason for removal as set forth in this section no longer exists. The parents, guardian, or legal custodian shall report to the court the efforts they have made to correct the conditions which led to removal. If a child is returned, casework supervision shall continue for a period of six

months, at which time there shall be a hearing on the need for continued intervention.

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

(i) Whether reasonable services have been provided to or offered to the parties to facilitate reunion;

(ii) Whether the child has been placed in the least-restrictive setting appropriate to the child's needs, including whether consideration has been given to placement with the child's relatives;

(iii) Whether there is a continuing need for placement and whether the placement is appropriate;

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

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

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

(vii) Whether additional services are needed to facilitate the return of the child to the child's parents; if so, the court shall order that reasonable services be offered; and

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

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

Sec. 33. Section 47, chapter 291, Laws of 1977 ex. sess. as amended by section 48, chapter 155, Laws of 1979 and RCW 13.34.190 are each amended to read as follows:

After hearings pursuant to RCW 13.34.110, the court may enter an order terminating all parental rights to a child if the court finds that:

(1) ~~((a))~~ The allegations contained in the petition as provided in RCW 13.34.180 (1) through (6) are established by clear, cogent, and convincing evidence; or ~~((b))~~

(2) RCW 13.34.180 (3) and (4) may be waived because the allegations under RCW 13.34.180 (1), (2), ~~((4))~~ (5), and (6) are established beyond a reasonable doubt; or (c) the allegation under RCW 13.34.180(7) is established beyond a reasonable doubt. In determining whether RCW 13.34.180 (5) and (6) are established beyond a reasonable doubt, the court shall consider one or more of the following:

(a) Conviction of the parent of rape of the child in the first, second, or third degree as defined in RCW 9A.44.073, 9A.44.076, and 9A.44.079;

(b) Conviction of the parent of criminal mistreatment of the child in the first or second degree as defined in RCW 9A.42.020 or 9A.42.030;

(c) Conviction of the parent of assault of the child in the first or second degree as defined in RCW 9A.36.011 and 9A.36.021;

(d) Conviction of the parent of murder, manslaughter, or homicide by abuse of the child's other parent, sibling, or another child;

(e) A finding by a court that a parent is a sexually violent predator as defined in section 904, chapter —, Laws of 1990 (Engrossed Second Substitute Senate Bill No. 6259);

(f) Failure of the parent to complete available treatment ordered under this chapter or the equivalent laws of another state, where such failure has resulted in a prior termination of parental rights to another child and the parent has failed to effect significant change in the interim; and

~~((2))~~ (3) Such an order is in the best interests of the child.

NEW SECTION. Sec. 34. If specific funding for the purposes of sections 31 through 33 of this act, referencing this act by bill and section number, is not provided by June 30, 1990, in the omnibus appropriations act, sections 31 through 33 of this act shall be null and void.

Sec. 35. Section 5, chapter 291, Laws of 1977 ex. sess. as amended by section 4, chapter 155, Laws of 1979 and RCW 13.04.033 are each amended to read as follows:

(1) Any person aggrieved by a final order of the court may appeal the order as provided by this section. All appeals in matters other than those related to commission of a juvenile offense shall be taken in the same manner as in other civil cases. Except as otherwise provided in this title, all appeals in matters related to the commission of a juvenile offense shall be taken in the same manner as criminal cases and the right to collateral relief shall be the same as in criminal cases. The order of the juvenile court shall stand pending the disposition of the appeal: PROVIDED, That the court or the appellate court may upon application stay the order.

(2) If the final order from which an appeal is taken grants the custody of the child to, or withholds it from, any of the parties, or if the child is committed as provided under this chapter, the appeal shall be given priority in hearing.

(3) In the absence of a specific direction from the party seeking review to file the notice, or the court-appointed guardian ad litem, the court may dismiss the review pursuant to RAP 18.9. To the extent that this enactment conflicts with the requirements of RAP 5.3(a) or RAP 5.3(b) this enactment shall supersede the conflicting rule.

Passed the Senate March 8, 1990.

Passed the House March 8, 1990.

Approved by the Governor March 29, 1990.

Filed in Office of Secretary of State March 29, 1990.