

DRAFT 2

AN ACT Relating to children in dependency cases; and amending RCW

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

4 **Sec. 1.** RCW 13.34.070 and 2004 c 64 s 4 are each amended to read
5 as follows:

6 (1) Upon the filing of the petition, the clerk of the court shall
7 issue a summons, one directed to the child, if the child is
8 (~~twelve~~)eight or more years of age, and another to the parents,
9 guardian, or custodian, and such other persons as appear to the court
10 to be proper or necessary parties to the proceedings, requiring them to
11 appear personally before the court at the time fixed to hear the
12 petition. If the child is developmentally disabled and not living at
13 home, the notice shall be given to the child's custodian as well as to
14 the child's parent. The developmentally disabled child shall not be
15 required to appear unless requested by the court. When the custodian
16 is summoned, the parent or guardian or both shall also be served with
17 a summons. The fact-finding hearing on the petition shall be held no
18 later than seventy-five days after the filing of the petition, unless

1 exceptional reasons for a continuance are found. The party requesting
2 the continuance shall have the burden of proving by a preponderance of
3 the evidence that exceptional circumstances exist. To ensure that the
4 hearing on the petition occurs within the seventy-five day time limit,
5 the court shall schedule and hear the matter on an expedited basis.

6 (2) A copy of the petition shall be attached to each summons.

7 (3) The summons shall advise the parties of the right to counsel.
8 The summons shall also inform the child's parent, guardian, or legal
9 custodian of his or her right to appointed counsel, if indigent, and of
10 the procedure to use to secure appointed counsel.

11 (4) The summons shall advise the parents that they may be held
12 responsible for the support of the child if the child is placed in out-
13 of-home care.

14 (5) The judge may endorse upon the summons an order directing any
15 parent, guardian, or custodian having the custody or control of the
16 child to bring the child to the hearing.

17 (6) If it appears from affidavit or sworn statement presented to
18 the judge that there is probable cause for the issuance of a warrant of
19 arrest or that the child needs to be taken into custody pursuant to RCW
20 13.34.050, the judge may endorse upon the summons an order that an
21 officer serving the summons shall at once take the child into custody
22 and take him or her to the place of shelter designated by the court.

23 (7) If the person summoned as provided in this section is subject
24 to an order of the court pursuant to subsection (5) or (6) of this
25 section, and if the person fails to abide by the order, he or she may
26 be proceeded against as for contempt of court. The order endorsed upon
27 the summons shall conspicuously display the following legend:

28 NOTICE:

29 VIOLATION OF THIS ORDER
30 IS SUBJECT TO PROCEEDING
31 FOR CONTEMPT OF COURT
32 PURSUANT TO RCW 13.34.070.

33 (8) If a party to be served with a summons can be found within the
34 state, the summons shall be served upon the party personally as soon as
35 possible following the filing of the petition, but in no case later
36 than fifteen court days before the fact-finding hearing, or such time
37 as set by the court. If the party is within the state and cannot be

1 personally served, but the party's address is known or can with
2 reasonable diligence be ascertained, the summons may be served upon the
3 party by mailing a copy by certified mail as soon as possible following
4 the filing of the petition, but in no case later than fifteen court
5 days before the hearing, or such time as set by the court. If a party
6 other than the child is without the state but can be found or the
7 address is known, or can with reasonable diligence be ascertained,
8 service of the summons may be made either by delivering a copy to the
9 party personally or by mailing a copy thereof to the party by certified
10 mail at least ten court days before the fact-finding hearing, or such
11 time as set by the court.

12 (9) Service of summons may be made under the direction of the
13 court by any person eighteen years of age or older who is not a party
14 to the proceedings or by any law enforcement officer, probation
15 counselor, or department employee.

16 (10)(a) Whenever the court or the petitioning party in a
17 proceeding under this chapter knows or has reason to know that an
18 Indian child is involved, the petitioning party shall promptly provide
19 notice to the child's parent or Indian custodian and to the agent
20 designated by the child's Indian tribe to receive such notices. Notice
21 shall be by certified mail with return receipt requested. If the
22 identity or location of the parent or Indian custodian and the tribe
23 cannot be determined, notice shall be given to the secretary of the
24 interior in the manner described in 25 C.F.R. 23.11. If the child may
25 be a member of more than one tribe, the petitioning party shall send
26 notice to all tribes the petitioner has reason to know may be
27 affiliated with the child.

28 (b) The notice shall: (i) Contain a statement notifying the
29 parent or custodian and the tribe of the pending proceeding; and (ii)
30 notify the tribe of the tribe's right to intervene and/or request that
31 the case be transferred to tribal court.

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

34 A child who is the subject of a proceeding under chapter 13.34 RCW
35 is a party to the proceeding. As a party to the proceeding, the child

1 is entitled to be informed of the proceedings and be given the
2 opportunity to be heard personally or through his or her guardian ad
3 litem or counsel. If the child is eight years of age or older, the
4 child shall be present at each court proceeding in his or her case
5 unless the court, in writing, finds by clear and convincing evidence
6 that there is good cause why the child should not be present.

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