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§ 20.1 Purpose Statement

Washington's permanency planning statutes (RCW 13.34.136 and RCW 13.34.145) require timely resolution of dependency cases while promoting a child-centered decision making process for children in the child welfare system. Overall, Washington's law parallels federal funding statutes regarding permanency planning and requires that such planning begin very early in a dependency case.

§ 20.2 Timing of Permanency Planning Hearings

A permanency planning hearing occurs in all cases in which the child has remained in out-of-home care for at least nine months and an adoption decree, guardianship order, or permanent custody order has not previously been entered.[1] The hearing shall take place no later than 12 months following commencement of the current placement episode.[2]

As an exception, if reasonable efforts to reunite the child and parent are deemed to be unnecessary pursuant to RCW 13.34.132(4), due to the existence of "aggravated circumstances,"[3] the court is required to hold a permanency planning hearing within 30 days of the court order to file a petition to terminate parental rights.[4]

Following the first permanency planning hearing, the court shall hold further permanency planning hearings at least once every 12 months until a permanency planning goal is achieved or the dependency is dismissed, whichever occurs first.[5]

§ 20.3 Permanency Options in Washington

For children who have been removed from the home, the permanency planning laws require that the agency supervising the child's case develop a plan no more than 60 days from the time the agency assumes responsibility for providing services, including placing the child or at the time of a dispositional hearing under RCW 13.34.130, whichever occurs first.[6] The court is required to address the permanent plan at every hearing once the child has been out of the home for 15 of the last 22 months.[7]

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[1] RCW 13.34.145(1)(a).
[2] RCW 13.34.145(1)(a).
[3] Aggravating circumstances include instances in which a parent has been convicted of certain crimes, is a sexually violent predator (as defined in RCW 71.09.020), has failed to complete treatment and there has been a prior termination of parental rights involving a previous child and the parent has not made significant changes in the interim, or has abandoned a child under the age of three. RCW 13.34.132(4).
[4] RCW 13.34.134.
[5] RCW 13.34.145(9).
[6] RCW 13.34.136(1).
[7] RCW 13.34.145(4)(b)(vi).

The court shall identify a primary permanent plan for the child and may identify alternative permanency goals, which may be pursued concurrently.[8]

State law provides for the following permanent plans: return home (which can include entry or modification of a custody order, parenting plan, or residential schedule), guardianship, adoption, permanent legal custody, long-term relative or foster care if the child is age 16 or older, successful completion of a responsible living skills program, and independent living.[9] Under federal law, independent living is limited to youth age 16 and older because, like long-term relative or foster care, it is "another planned permanent living arrangement."[10]

Extended foster care is not a permanent plan, but the program is relevant to permanency planning and is therefore included in this Chapter at § 20.21.

§ 20.4 Mediation and Permanency Planning

Some jurisdictions in Washington utilize settlement judges or other mediation options to work out agreed permanent plans for children. Model Court Programs and other community resources may be available to assist case participants in mediating dependency cases.

§ 20.5 The Permanency Planning Hearing and Required Findings

The Department of Social and Health Services (DSHS)[11], as the supervising agency, is required to provide the parties with a copy of its court report two weeks (10 working days) prior to the scheduled permanency planning hearing.[12]

At the hearing, the court reviews the issues outlined in RCW 13.34.145(4):

- If the primary permanency planning goal has not been achieved, the court shall inquire into the reasons why not and determine what must be done in order to achieve this goal.[13] The court should also make explicit findings regarding the continuing necessity for and the safety and appropriateness of the placement; compliance with the permanency plan by DSHS, service providers, the parents, the child, and the child's guardian, if any; the extent of the efforts to involve appropriate service providers to meet the needs of the child and the parents; whether conditions have been remedied such that the child could return home or progress toward obtaining a permanent placement; and the proposed date that permanency could be achieved.[14]

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[8] RCW 13.34.136(2)(a).
[9] RCW 13.34.136(2)(a). Although the state statute includes independent living as a permanent plan, federal law and DSHS consider independent living or transition services as "services" offered to the youth. 42 U.S.C. § 5714-2.
[10] 42 U.S.C. § 675(5)(C).
[11] Beginning July 1, 2018, child welfare services in Washington State will no longer be administered by the Department of Social and Health Services (DSHS), and will instead by administered by the Department of Children, Youth, and Families (DCYF).
[12] RCW 13.34.145(2); RCW 13.34.136(3)(c).
[13] RCW 13.34.145(4)(b).
[14] RCW 13.34.145(4)(b)(i)–(v).

- If a goal of long-term foster care or relative care has been achieved prior to the permanency planning hearing, the court shall review the child's status to determine whether the placement and the plan for the child's care remains appropriate. The court must make findings, as of the date of the hearing, that the child's placement and plan of care is the best permanency plan for the child, and provide the compelling reasons why it continues to not be in the child's best interest to return home, be placed for adoption, be placed with a legal guardian, or be placed with a fit and willing relative.[15]

- Youth whose permanency plan is "another planned permanent living arrangement,"[16] such as independent living or long-term foster/relative care with a written agreement, have additional required findings under federal law which are addressed in § 20.12.

For youth who are age fourteen and older, federal law additionally requires that the court address the programs and services that will help the youth make the transition from foster care to successful adulthood.[17]

Permanency planning goals should be achieved at the earliest possible date. If the child has been in out-of-home care for 15 of the most recent 22 months, the law requires the court to DSHS, as supervising agency, to file a petition to terminate parental rights.[18]

In the alternative, the court can find a "good cause exception" that alleviates DSHS' requirement to file a termination petition.[19] Good cause exceptions include, but are not limited to: the child is being cared for by a relative; DSHS has not provided the child's family services the court and DSHS deemed necessary for the child's safe return home; DSHS has documented in the case plan a compelling reason for determining that filing a petition to terminate parental rights would not be in the child's best interest; the parent is incarcerated or the parent's prior incarceration is a significant factor in why the child has been in out-of-home care for 15 of the last 22 months, the parent maintains a meaningful role in the child's life under RCW 13.34.145(5)(b), and DSHS has not documented another reason why filing a petition to terminate parental rights is otherwise appropriate; the parent has been accepted into a dependency treatment court program or long-term substance abuse or dual diagnoses treatment program and is demonstrating compliance with treatment goals; or the parent files a declaration under penalty of perjury stating DSHS was unwilling or unable to pay for the court-ordered services necessary for the child's safe return home and the parent was finically unable to pay for the services.[20] Because a child age 14 or older must consent to his or her own adoption, some practitioners have asserted that if the child is unwilling to be adopted, the court could find "good cause" not to require a termination petition.[21]

§ 20.6 Consultation with Children

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[15] RCW 13.34.145(4)(a).
[16] "Another planned permanent living arrangement" is any permanency plan other than return home, adoption, Title 13 guardianship, or permanent legal custody.
[17] 42 U.S.C. § 675(1)(D), (5)(C)(i).
[18] RCW 13.34.145(5).
[19] RCW 13.34.145(5).
[20] RCW 13.34.145(5).
[21] *See* RCW 26.33.160(1)(a).

The child should have the opportunity to provide input into his or her case in the manner that most effectively represents the child's position, while respecting the child's wishes about attending the hearing. The court has a requirement to consult with the child, in an age-appropriate manner, about the child's proposed permanency and/or transition plan.[22] This requires the court to consider the child's views, which can be reported by another party. It does not require the court "to pose a literal question to a child or require the physical presence of the child a permanency hearing."[23] Currently, the CASA or GAL must report the child's opinion about the issues involved in the proceeding and make recommendations based upon an independent investigation regarding the best interest of the child.[24]

§ 20.7 Participation in Permanency Planning Hearings

Dependency proceedings are open to the public.[25] Anyone can attend hearings, unless the court excludes the public "in the best interest of the child." [26] To limit the public's access to a hearing, the court must first apply and weigh the five factors set forth in *Seattle Times Co. v. Ishikawa*, 97 Wn.2d 30, 40 P.2d 716 (1982), before determining that closure is appropriate.[27]

Caregivers have a specific right to notice of the hearing and an opportunity to be heard if the child has been placed by DSHS in that home.[50] Both federal and state law support increasing the caregiver's attendance and input into a permanency planning hearing.[51] DSHS is generally charged with providing caregivers with timely and adequate notice, unless the hearing is an emergency, in which case DSHS may provide notice as soon as is practicable.[52] These rights do not confer party status to any caregiver.[28] Caregivers may provide information about the child with the court by using a form provided by DSHS called the "caregiver's report."[29] Caregivers should be made aware of the scope of the input which they may provide to the court. For example, caregivers shall not include information related to the child's biological parent that is not directly related to the child's well-being.[30] At every hearing, the court must make a finding regarding whether the caregiver received adequate and timely notice, whether a caregiver's

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[22] 42 U.S.C. § 675(5)(C)(iii).
[23] Child Welfare Policy Manual by the Children's Bureau of the Administration for Children & Families in the U.S. Department of Health & Human Services, 8.3C.2c (Question 4), available at: https://www.acf.hhs.gov/cwpm/public_html/programs/cb/laws_policies/laws/cwpm/policy_dsp.jsp?citID=58
[24] RCW 13.34.105(1).
[25] RCW 13.34.115.
[26] RCW 13.34.115.
[27] The five factors are: (1) the proponent of the closure of the courtroom must make a showing of the need to do so, and where the need is based on a right other than a right to a fair trial, the proponent must show a "serious and imminent threat" to that right; (2) anyone present when the closure motion is made must be given the opportunity to object to the closure; (3) the proposed method for curtailing open access must be the least restrictive means available for protecting the threatened interest; (4) the court must weigh the competing interests of the proponent of the closure and the public, and consider any alternatives that may be available; and (5) the closure order must be no broader in its application or duraction than necessary to serve its purpose. *See also State v. Parvin*, 184 Wn.2d 741, 364 P.3d 94 (2015) (the court must analyze these factors before sealing records in a dependency case).
[28] RCW 13.34.096(4).
[29] *See* RCW 13.34.096(2).
[30] RCW 13.34.096(2).

report was received by the court, and whether the court provided the child's caregiver with an opportunity to be heard in court.[31]

§ 20.8 Reunification as a Permanent Plan

A parent has the right to request a permanent plan of "return home" at all stages of the dependency process. Further, the Washington legislature has declared that "the family unit is the fundamental resource of American life which should be nurtured. . . . [T]he 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."[32]

Dependency proceedings are intended to protect children, help parents alleviate problems, and where appropriate, reunite families.[33] RCW 13.34.136(2)(a) provides that "[r]eturn of the child to the home of the child's parent, guardian, or legal custodian" can be a primary goal or may be an alternative goal. Unless the court has ordered that a termination petition be filed due to aggravated circumstances, a specific plan as to where the child shall be placed, what steps will be taken to return the child home, and what actions the agency will take to maintain parent-child ties are to be included in the permanent plan.[34] Additionally, the plan should specify what services the parents will be offered to enable them to resume custody,[35] what requirements the parents must meet to resume custody, and a timeline for each service plan and parental requirement.[36] The law requires that if a parent is incarcerated, a specific plan must be developed to address how the parent will participate in the case, and the plan must include visitation opportunities unless visitation is not in the best interest of the child.[37] For parents with developmental disabilities (as defined in RCW 71A.10.020) who are eligible for services provided by the Developmental Disabilities Administration (DDA), DSHS must make reasonable efforts to consult with DDA to create an appropriate plan for services.[38]

§ 20.9 Title 13 Guardianships

In 2010, the legislature modified the statutory scheme for guardianship proceedings which flow from dependency cases. Effective June 20, 2010, guardianship proceedings are initiated pursuant to the requirements of chapter 13.36 RCW and are typically referred to as Title 13 guardianships. Dependency guardianships previously established under chapter 13.34 RCW remain in effect,

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[31] RCW 13.34.096(2).
[32] RCW 13.34.020.
[33] *In re Schermer*, 161 Wn.2d 927, 942–43, 169 P.3d 452 (2007).
[34] RCW 13.34.136(2)(b).
[35] Services may include housing assistance if (1) the lack of housing is a significant factor delaying permanency for the child and housing assistance would aid the parent in providing an appropriate home for the child, and (2) funding is available for this specific purpose. The court does not have authority to order the provision of such assistance to any person or family if the assistance or funding are unavailable or the child or family are not eligible for such assistance. RCW 13.34.138(4).
[36] RCW 13.34.136(2)(b)(i).
[37] RCW 13.34.136(2)(b)(i)(A).
[38] RCW 13.34.136(2)(b)(i)(B).

but may be converted to a Title 13 guardianship.[39] See Chapter 21 for more information concerning guardianships.

§ 20.10 Permanent Legal Custody/Nonparental Custody Actions

Washington state law recognizes chapter 26.10 RCW nonparental custody (also referred to as permanent legal custody) as a permanent plan for dependent children.[40] The court that hears the dependency petition may also hear and determine issues related to chapter 26.10 RCW actions as necessary to facilitate a permanent plan for the child as part of the dependency disposition order, a dependency review order, or "as otherwise necessary to implement a permanency plan of care for a child."[41] Any order entered in the dependency court establishing or modifying an order under chapter 26.10 RCW shall also be filed in the chapter 26.10 RCW action so it survives dismissal of the dependency proceeding.[42]

Nonparental custody differs from a Title 13 guardianship in several ways. Whereas in a Title 13 guardianship DSHS is the petitioner and assumes the responsibility for initiating and completing the proceeding, in a nonparental custody action, the proposed custodian assumes the legal and financial responsibility to pursue and complete the process. Qualified relative Title 13 guardians may be eligible for a financial subsidy through the Relative Guardianship Assistance Program (R-GAP), which would also provide medical coverage for the child. In contrast, DSHS provides no such subsidy to chapter 26.10 RCW custodians. Both chapter 26.10 custodians and Title 13 guardians may be eligible for a Non-Needy Legal Guardian Grant available through the Temporary Assistance to Needy Families (TANF) program, which may also provide medical assistance for the child. Custodians may also receive child support from the child's parent(s). Both nonparental custody and Title 13 guardianship actions allow for modification of the visitation plans with the biological parents. Termination of a nonparental custody order requires that a "substantial change has occurred in the circumstances of the child or the nonmoving party and that the modification is in the best interests of the child and is necessary to serve the best interests of the child."[43] The standard to terminate a Title 13 guardianship is nearly identical: "a substantial change has occurred in the circumstances of the child or the guardian and that termination of the guardianship is necessary to serve the best interests of the child."[44] A Title 13 guardianship may also be terminated by agreement of the guardian, the parent seeking to regain custody, and the child (if 12 years or older) if the criteria of RCW 13.36.070(3) are satisfied by a preponderance of the evidence. For more information on guardianships, refer to Chapter 21.

§ 20.11 Concurrent Jurisdiction with Family Court

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[39] RCW 13.34.237.
[40] RCW 13.34.136(2)(a), (7)(c).
[41] RCW 13.34.155(1). *See* chapter 26.10 RCW and its relevant case law when determining nonparental custody or permanent legal custody issues.
[42] RCW 13.34.155.
[43] RCW 26.09.260(1); *see also In re Custody of Z.C.*, 191 Wn. App. 674, 693, 366 P.3d 439 (2015) (custody to a nonparent under chapter 26.10 RCW is subject to modification under RCW 26.09.260(1)).
[44] RCW 13.36.070(2).

The juvenile court has exclusive original jurisdiction over all proceedings related to children alleged or found to be dependent.[45] Therefore, concurrent jurisdiction with the dependency court is generally required in order for a potential custodian to file a nonparental custody order or for parents to enter or modify a parenting plan or residential schedule.[46] When it is in the best interests of the child, the dependency court typically enters an order allowing concurrent jurisdiction. In cases where nonparental custody is the permanent plan, once the order has been entered, the dependency case should be dismissed.[47]

§ 20.12 Long-Term Foster/Relative Care With Written Agreement and/or Independent Living ("Another Planned Permanent Living Arrangement")

Long-term foster or relative care with a written agreement and independent living are considered "another planned permanent living arrangement" under federal law. These plans are limited to youth who are sixteen years old or older.[48] For youth who have these plans, federal law requires the following occur at each permanency planning hearing: (1) documentation of the efforts to place the youth permanently with a parent, relative, or in a guardianship or adoptive placement;[49] (2) judicial consideration of the youth's desired permanency outcome;[50] and (3) judicial determination that another planned permanent living arrangement is the best permanency plan for the youth and compelling reasons why it is not in the best interest of the youth to be placed permanently with a parent, relative, or in a guardianship or adoptive placement.[51] In addition, each permanency planning hearing and each review hearing must include documentation of the steps the agency is taking to ensure the caregiver follows the "reasonable and prudent parent standard"[52] and whether the youth has regular opportunities to engage in "age or developmentally-appropriate activities."[53] [54]

Additionally, if the court has identified independent living as the permanency goal, the court must make a finding that the provision of services to assist the child in making a transition from foster care to independent living will allow the child to manage his or her financial, personal, social, educational, and nonfinancial affairs prior to approving independent living as a

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[45] RCW 13.04.030(1)(b).
[46] Some counties grant concurrent jurisdiction for some matters by local rule. *See, e.g.* LSPR 94.01 (Thurston County).
[47] *See* RCW 13.34.136(1).
[48] 42 U.S.C. § 675(5)(C); RCW 13.34.136(2)(a).
[49] 42 U.S.C. § 675a(a)(1).
[50] 42 U.S.C. § 675a(a)(2)(A).
[51] 42 U.S.C. § 675a(a)(2)(B).
[52] The "reasonable and prudent parent standard" means "the standard characterized by careful and sensible parental decisions that maintain the health, safety, and best interests of a child while at the same time encouraging the emotional and developmental growth of the child, that a caregiver shall use when determining whether to allow a child in foster care under the responsibility of the State to participate in extracurricular, enrichment, cultural, and social activities." 42 U.S.C. § 675(10)(A). Washington adopted the prudent parent standard in RCW 74.13.710.
[53] "Age or developmentally-appropriate" means "activities or items that are generally accepted as suitable for children of the same chronological age or level of maturity or that are determined to be developmentally-appropriate for a child, based on the development of cognitive, emotional, physical, and behavioral capacities that are typical for an age or age group" and "in the case of a specific child, activities or items that are suitable for the child based on the developmental stages attained by the child with respect to the cognitive, emotional, physical, and behavioral capacities of the child." 42 U.S.C. 675(11).
[54] 42 U.S.C. § 675a(a)(3); 42 U.S.C. § 675(5)(B).

permanency planning of care.[55] The permanency plan must also identify services (including extended foster care services where appropriate) that will be provided to assist the child to make a successful transition from foster care to independent living.[56]

§ 20.13 Unsuccessful Return/Second Removal From Home

When a child is returned to the parent as part of a transition home under a permanent plan, the transition is not successful and the child is returned to out-of-home placement, the court must hold a review hearing within 30 days from the date of removal to determine whether the permanency plan should be changed, a termination petition should be filed, or other action is warranted. At the review hearing, the best interests of the child shall be the court's primary consideration.[57]

§ 20.14 When Adoption is the Permanent Plan

Although any party may file a petition to terminate parental rights, it is most common for DSHS to do so.[58] Information on termination of parental rights and adoption is addressed in Chapter 22.

§ 20.15 Review Hearings When a Termination Petition is Pending

Even if a termination case is pending, the dependency case is separate and remains active, and the juvenile court will still hold hearings on the case. The court is also still required to hold permanency planning hearings at least once per year.[59] Additional permanency or review hearings can occur at any time as set by the court. The court is required to address the permanent plan at every hearing once the child has been out of the home for 15 of the last 22 months.[60]

§ 20.16 Siblings and Permanency

Washington State law supports the placement of siblings together and for siblings to have visitation and contact with each other if not placed together.[61] Specifically, the law presumes that sibling[62] contact, including placement together, is in the siblings' best interest, provided that: (1) the court has jurisdiction over all of the siblings or the parents are willing to agree, and (2) there is no reasonable cause to believe that the health, safety or welfare of any child would be jeopardized, or that reunification would be hindered.[63] Parental visitation shall not be reduced in order to provide sibling visitation.[64] However, selecting permanency plans for siblings when they

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[55] RCW 13.34.145(6)(a).
[56] RCW 13.34.145(6)(b).
[57] RCW 13.34.138(3)(c).
[58] *See* RCW 13.34.180.
[59] RCW 13.34.145(9).
[60] RCW 13.34.145(4)(b)(vi).
[61] RCW 13.34.130(6).
[62] "Sibling" means a child's birth brother, birth sister, adoptive brother, adoptive sister, half-brother, or half-sister, or as defined by the law or custom of the Indian child's tribe for an Indian child as defined in RCW 13.38.040. RCW 13.34.030(20). The court may also order placement, contact, or visitation with a stepsibling if the child has a relationship and is comfortable with the stepsibling. RCW 13.34.130(6)(b).
[63] RCW 13.34.130(6)(a).
[64] RCW 13.34.130(6)(a)(ii).

are not placed together, or when placed temporarily together but in a home in which the caregiver does not wish to retain all of the siblings continues to be a difficult dilemma. The court should continuously review the issue of sibling visitation and contact if siblings are not placed together.[65]

Under RCW 13.34.136(6), when adoption has been identified as the permanent plan and the siblings do not reside together, the court is required to encourage the prospective adoptive parents, birth parents, foster parents, kinship caregivers, and DSHS to seriously consider the long-term benefits to the child adoptee and his or her siblings of providing for and facilitating continuing post-adoption contact between the siblings. To the extent that it is feasible, and when it is in the best interests of the child adoptee and his or her siblings, contact between the siblings should be frequent and of a similar nature as that which existed prior to the adoption. If the child adoptee or his or her siblings are represented by an attorney or GAL in the dependency proceeding or in any other child custody proceeding, the court must inquire of each attorney and GAL regarding the potential benefits of continuing contact between the siblings and the potential detriments of severing contact. However, the law does not require DSHS to agree to any specific provisions in an open adoption agreement and does not create a new obligation for DSHS to provide supervision or transportation for visits between siblings separated by adoption from foster care.[66]

§ 20.17 Agreed Permanent Plans

In some cases, a parent may prefer to permanently place his or her child in out-of-home care. This can occur if a parent is facing incarceration for a lengthy period of time, defers to a child's or other family member's (or foster parent's) request, or determines for any other reason not to pursue return home of the child. The parent has several options in these circumstances, all of which require a court to find that the option is in the child's best interest.

§ 20.18 Parental Preference (Voluntary Adoption)

A parent may request to voluntarily relinquish his or her parental rights before DSHS files a termination petition. If so, the parent's preference regarding the child's proposed adoptive placement shall be honored, as long as the proposed adoptive parents are qualified and the placement is in the child's best interest.[67] If the petition to terminate parental rights has been filed when the parent exercises his or her preference under this statute, DSHS is only required to give consideration to the parent's preference, provided the proposed adoptive parents are qualified and the adoption is in the child's best interests.[68]

§ 20.19 Communication Agreements/Open Adoption

If a parent voluntarily relinquishes his or her parental rights, it is very common for the parent to also enter into a communication agreement (or open adoption) pursuant to RCW 26.33.295. This

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[65] RCW 13.34.136(2)(b), (6), .138(5).
[66] RCW 13.34.136(6).
[67] RCW 13.34.125.
[68] RCW 13.34.125.

agreement is a legally enforceable contract between the prospective adoptive parent(s) and the relinquishing parent if set forth in a written court order.[69] Before entering the order, the court must determine if the agreement is in the child's best interest.[70] The agreement can provide for a range of contact, such as annual pictures and/or letters, in-person visitation, phone contact, notification if the child becomes seriously ill or dies, or other contact as agreed upon by the parties. The agreement may also contain provisions regarding contact with the child adoptee's siblings.[71] Agreements for contact or communication between the child and other relatives (such as grandparents) are not legally enforceable under RCW 26.33.295. However, adoptive parents may agree to enter into and voluntarily comply with informal agreements for such ongoing post-adoption contacts.

§ 20.20 Extended Foster Care and Permanency Planning for Adolescent Children

If "independent living" is identified as a goal in the permanency plan, before ordering independent living as the permanent plan, the court must make a finding that the services to assist the youth in making the transition from foster care to independent living will enable the youth to manage his or her financial, personal, social, education, and nonfinancial affairs.[54] For children who are aging out of foster care, preparing the youth for adulthood and living on his or her own should be carefully planned to ensure that the youth has housing, job skills, and access to education along with any other skills or resources to insure that the youth can live successfully on his or her own.[72] To that end, eligible youth may elect to participate in the extended foster care program, which is not a permanent plan but provides support services until a youth turns 21, opts out of the program, or is no longer eligible.[73]

To be eligible for extended foster care, the youth must be dependent and in foster care on his or her 18th birthday and engaged in one of the following: enrolled in a secondary education program or equivalency program; enrolled and participating in a postsecondary academic or postsecondary vocational education program; participating in a program or activity designed to promote employment or remove barriers to employment; engaged in employment for eighty hours or more per month; or not able to engage in any of the aforementioned activities due to a documented medical condition.[74]

Eligible youth may opt into the extended foster care program in one of two ways: (1) Agreeing to participate in the program on his or her eighteen birthday, or (2) requesting extended foster care services through a voluntary placement agreement prior to reaching age nineteen.[75] Eligible youth may unenroll and reenroll in the extended foster care program through a voluntary placement agreement one time between ages eighteen and twenty-one.[76] This allows a youth who received extended foster care services but unenrolled or lost his or her eligibility to reenter

[69] RCW 26.33.295(2).
[70] RCW 26.33.295(2).
[71] RCW 26.33.295(1)-(2).
[72] *See generally* S.S.H.B. 1128, sec. 1, 62nd Leg., Reg. Sess. (Wash. 2011); Laws of 2011, ch. 330, sec. 1.
[73] RCW 13.34.267; RCW 74.13.031(11).
[74] RCW 13.34.267(1); RCW 74.13.031(11).
[75] RCW 74.13.031(11)(b).
[76] RCW 74.13.031(11)(b).

the program once through a voluntary placement agreement if he or she meets the eligibility criteria again before age twenty-one.[77]

If a youth is dependent but does not meet the extended foster care eligibility criteria on his or her eighteenth birthday or does not agree to participate in the program at that time, the court shall dismiss the dependency.[78] If an eligible youth agrees to participate in the program on his or her eighteenth birthday, the court will maintain the dependency proceeding and appoint counsel to the youth, but shall dismiss the youth's parent(s) and/or legal guardian(s) from the case.[79]

If a youth does not agree to participate in extended foster care on his or her eighteenth birthday, prior to age nineteen, the youth may request extended foster care services from DSHS through a voluntary placement agreement. If DSHS declines to enter into a voluntary placement agreement with the youth, DSHS will provide the youth with written documentation explaining the reason for the denial.[80] The youth may then, within 30 days of DSHS' decision, file a notice of intent to file a petition for dependency, be provided counsel at no cost, and ask the court to determine his or her eligibility for the extended foster care program.[81]

A 2004 report that was completed by the DSHS Children's Administration entitled "Foster Youth Transition to Independence Study" showed that for every independent living skill a youth was offered when transitioning to adulthood, the youth is less likely to be homeless, incarcerated, pregnant earlier than planned, or underemployed.[82] Federal law requires that, unless the youth has been in foster care for less than six months, DSHS provide youth who are aging out of foster care with his or her birth certificate, Social Security card, driver's license or identification card, health insurance information, and medical records.[83]

The Center for Child and Youth Justice (CCYJ) in King County provides legal assistance to current or former foster youth on issues that impact their ability to obtain or maintain stable housing, good employment, or desired education.[84] The Independent Youth Housing Program, administered by the Department of Commerce, provides funding and additional support to eligible youth who have aged out of the foster care system, until they are 23 years old.[85]

§ 20.21 Emancipation

Emancipation is not a permanent plan. However, chapter 13.64 RCW allows a youth to file an emancipation petition under certain circumstances if the youth is able to meet the statutory requirements. Any youth who is 16 years of age or older and who is a resident of the state may file an emancipation petition.[86] The youth must declare that he or she has the ability to manage

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[77] RCW 74.13.031(11)(e).
[78] RCW 13.34.267(4).
[79] RCW 13.34.267(3), (6).
[80] RCW 13.34.268(1).
[81] RCW 13.34.268.
[82] The study is available at: https://www.dshs.wa.gov/sites/default/files/CA/pub/documents/FYTfinal2004.pdf
[83] 42 U.S.C. § 675(5)(I).
[84] https://ccyj.org/our-work/empowering-foster-homeless-youth/
[85] RCW 43.63A.305–315; *see also http://independence.wa.gov/programs/independent-youth-housing-program/*
[86] RCW 13.64.010.

his or her financial, personal, social, education, and nonfinancial affairs.[87] Although many older children in foster care express an interest in legally emancipating, it is extremely rare for a dependent youth to file for emancipation and to be able to prove the necessary elements of emancipation. For more information concerning emancipation, refer to Chapter 32.

§ 20.22 Racial Disproportionality

In 2007, the Washington State legislature required the formation of the Washington State Racial Disproportionality Advisory Committee to explore the root causes of and make recommendations for remediation of the racial disproportionality and disparity in Washington State.

Racial disproportionality is defined as the overrepresentation of children of color in the child welfare system, compared to their numbers in the population. Racial disproportionality occurs across the United States in all social welfare systems. Disproportionality is a national problem. Children of color and their families who become involved with child welfare systems often experience disparate treatment and may have fewer service opportunities than their white peers.

Although abuse and neglect do not occur at higher rates for children of color compared to white children, they are more likely to be the subjects of allegations and referrals than their Caucausian counterparts. Moreover they enter child welfare systems at higher rates, remain in care for longer periods of time, are less likely to be placed in adoptive homes, and experience poorer outcomes than other children.

Washington state, through the efforts of the legislature and the guidance of the Washington State Racial Disproportionality Advisory Committee, has compiled a comprehensive process to address and eliminate racial disproportionality from our child welfare system. The report was presented in December 2008 to the DSHS Secretary who forwarded the remediation plan to the legislature.[88]

§ 20.23 Well-Being and Permanency

Children have the rights of basic nurture, physical and mental health, and safety.[89] This includes the right to a safe, stable, and permanent home and a speedy resolution of any dependency proceeding.[90] The court is encouraged to promote child-centered decision making in dependency cases and is encouraged to place a greater focus on children's developmental needs.[91] A stable and permanent home should also meet the child's basic educational, emotional, medical, and physical needs. Care should be taken to ensure that the child is in a nurturing and culturally appropriate home that also meets the child's religious preferences and, where possible and appropriate, connections with extended family and siblings.

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[87] RCW 13.64.020(1).
[88] This summary is taken from the DSHS Children's Administration website. The December 2008 report, in addition to other committee reports and information, is available at: https://www.dshs.wa.gov/ca/advancing-child-welfare/racial-disproportionality
[89] RCW 13.34.020.
[90] RCW 13.34.020.
[91] Laws of 2008, ch. 152 § 1.