

Area	Statute	Description	New Legal Standards	Inquiries & Decisions	Findings & Orders <i>(based on decisions)</i>	Process/Practice	Other Questions, Considerations, & Needs
Dependency Petition	13.34.040(2)	Except where the department is the petitioner, in counties having paid probation officers, these officers shall, to the extent possible, first determine if a petition is reasonably justifiable. Each petition shall be verified and contain a statement of facts constituting a dependency, and the names and residence, if known to the petitioner, of the parents, guardian, or custodian of the alleged dependent child.					Training: Training for probation officers on how to determine if a petition is reasonably justified (new requirements of the law)
Reason to Know	13.34.040(3)	Every petition filed in proceedings under this chapter shall contain a statement alleging whether there is a reason to know that the child is or may be an Indian child as defined in RCW 13.38.040 . If there is a reason to know that the child is or may be an Indian child chapter 13.38 RCW shall apply.	“whether the child is or may be an Indian child” → “reason to know that the child is or may be an Indian child”	Is there reason to know that a child is or may be an Indian child?	If yes, 13.38 RCW shall apply	If there is no mention of reason to know/ancestry in the petition, for both parents, judicial officer should petition back.	Court Form Change: Pick Up Motion and Order should include prompt Guidance: reason to know inquiry
Dependency Petition	13.34.040(5)	Each petition shall be verified and contain a statement constituting a dependency, including the names, residence, and contact information, if known to the petitioner, of each parent, guardian, or custodian of the alleged dependent child. If the petitioner is seeking removal of the child from a parent, guardian, or custodian the petition shall contain a clear and specific statement as to the harm that will occur if the child remains in the care of the parent, guardian, or custodian, and the facts that support that conclusion.			Judicial officer to send back motion if statement of harm not provided and department is requesting removal	Denying a pick up order does not mean the petition is dismissed, means child remains in the care of the parent.	Court Form Change: Dependency Petition should be more explicit about requesting removal or not. Petition needs to indicate if the department is requesting removal or not, and statement of harm if removal is requested (Relief Requested section)
Protective custody - hospitals	26.44.056(1)	An administrator of a hospital or similar institution or any physician, licensed pursuant to chapters 18.71 or 18.57 RCW, may detain a child without consent of a person legally responsible for the child whether or not medical treatment is required, if (the circumstances or conditions of the child are such that the detaining individual has reasonable cause to believe that	Reasonable cause of imminent danger →				Training: training for hospitals on new standards and how to obtain a court order under RCW 13.34.050

		<p>permitting the child 8 to continue in his or her place of residence or in the care and 9 custody of the parent, guardian, custodian or other person legally responsible for the child's care would present an imminent danger to that child's safety)) there is probable cause to believe that detaining the child is necessary to prevent imminent physical harm to the child due to child abuse or neglect, including that which results from sexual abuse, sexual exploitation, or a pattern of severe neglect, and the child would be seriously injured or could not be taken into custody if it were necessary to first obtain a court order under RCW 13.34.050:</p>	<p>Probable cause to prevent imminent</p> <p>AND</p> <p>AND</p> <p>physical harm</p>	<p>Would the child be seriously injured?</p> <p>Could not be taken into custody if it were necessary to first obtain a court order?</p>	<p>YES</p> <p>Hospital administrator may detain child</p> <p>YES</p>	<p>Department can use iDecide to go through decision making process with hospital administrators</p> <p>CJC workshop on changes to the law; medical and law enforcement attend</p> <ul style="list-style-type: none"> • First Clinic • WAPA <p>Hospitals don't get court orders, DCYF does – how would a hospital know? how is this being worked on?</p> <p>DCYF does not need file if there is a hospital hold.</p> <p>Likely questions that are going to be asked during SCH of the Department . Especially during contested hearings where hospital testifies about hold. Will be looking for “administrative hold”</p> <p>DCYF training for caseworkers on different holds. A lot of misunderstandings around this in general.</p>
--	--	---	--	---	--	--

<p>Protective custody - hospitals</p>	<p>26.44.056(2)</p>	<p>((Whenever an administrator or physician has reasonable cause to believe that a child would be in imminent danger if released to a parent, guardian, custodian, or other person or is in imminent danger if left in the custody of a parent, guardian, custodian, or other person, the administrator or physician may notify a law enforcement agency and the law enforcement agency shall take the child into custody or cause the child to be taken into custody. The law enforcement agency shall release the child to the custody of child protective services. Child protective services shall detain the child until the court assumes custody or upon a documented and substantiated record that in the professional judgment of the child protective services the child's safety will not be endangered if the child is returned. If the child is returned, the department shall 39 establish a six month plan to monitor and assure the continued safety of the child's life or health. The monitoring period may be extended for good cause.</p>					
<p>Protective custody – law enforcement</p>	<p>26.44.050</p>	<p>A law enforcement officer may take, or cause to be taken, a child into custody without a court order if there is probable cause to believe that ((the child is abused or neglected)) taking the child into custody is necessary to prevent imminent physical harm to the child due to child abuse or neglect, including that which results from sexual abuse, sexual exploitation, or a pattern of severe neglect, and the child would be seriously injured or could not be taken into custody if it were necessary to first obtain a court order pursuant to RCW 13.34.050.</p> <p>The law enforcement agency or the department investigating such a report is hereby authorized to photograph such a child for the purpose of providing documentary evidence of the physical condition of the child.</p>	<p>Probable cause that child is abused or neglected → probable cause custody is necessary to prevent imminent physical harm</p> <p>AND</p> <p>AND</p>	<p>Would the child be seriously injured?</p> <p>Could not be taken into custody if it were necessary to first obtain a court order?</p>	<p>YES</p> <p>LE may take child into custody</p> <p>YES</p>	<p>Doesn't always do what DCYF wants them to do. It's up to LE whether to place into custody.</p>	<p>Training needed for LE on new standard of imminent physical harm</p>

<p>Protective custody – Court order</p>	<p>13.34.050(1)(a) 13.34.050(1)(b) 13.34.050(1)(c)</p>	<p>The court may enter an order directing a law enforcement officer, probation counselor, or child protective services official to take a child into custody if:</p> <p>(a) A petition is filed with the juvenile court alleging that the child is dependent and that the child's health, safety, and welfare will be seriously endangered if not taken into custody; with sufficient corroborating evidence to establish that the child is dependent;</p> <p>b) an affidavit or declaration is filed by the department in support of the petition setting forth specific factual information evidencing reasonable grounds that the child's health, safety, and welfare will be seriously endangered if not taken into custody and at least one of the grounds set forth demonstrates a risk of imminent harm to the child. "Imminent harm" for purposes of this section shall include, but not be limited to, circumstances of sexual abuse, sexual exploitation as defined in RCW 26.44.020, and a parent's failure to perform basic parental functions, obligations, and duties as the result of substance abuse; the allegations contained in the petition, if true, establish that there are reasonable grounds to believe that removal is necessary to prevent imminent physical harm to the child due to child abuse or neglect, including that which results from sexual abuse, sexual exploitation, or a pattern of severe neglect;</p> <p>(c) the court finds reasonable grounds to believe the child is dependent and that the child's health, safety, and welfare will be seriously endangered if not taken into custody. an affidavit or declaration is filed by the department in support of the petition setting forth specific factual information evidencing insufficient time to serve a parent with a dependency petition and hold a hearing prior to removal.</p>	<p>child's health, safety, and welfare will be seriously endangered and at least one of the grounds demonstrates a risk of imminent harm to the child → removal is necessary to prevent imminent physical harm</p>	<p>Does the petition contain sufficient corroborating evidence to establish that the child is dependent?</p> <p>AND</p> <p>Do the allegations contained in the petition, if true, establish that there are reasonable grounds to believe that removal is necessary to prevent imminent physical harm?</p> <p>AND</p> <p>an affidavit or declaration is filed by the department in support of the petition setting forth specific factual information evidencing insufficient time to serve a parent with a dependency petition and hold a hearing prior to removal.</p>	<p>Court may enter an order to take a child into custody</p>	<p>Description in the petition for why you cannot serve the parents rather than get a hearing for removal. (flight risk). Why is there insufficient time to serve?</p>	<p>Training- allegations in the petition are not conclusory, they are allegations.</p> <p>Consideration for best practice to put these on the record. Transparency, accountability, judicial officer accountability, reduces judge shopping. By Zoom in Spokane-</p>
---	--	---	--	---	--	--	--

Area	Statute	Description	New Legal Standards	Inquiries & Decisions	Findings & Orders <i>(based on decisions)</i>	Process/Practice	Other Questions, Considerations, & Needs
Protective custody – Court order	13.34.050(3)	<p>The petition and supporting documentation must be served on the parent, and if the child is in custody at the time the child is removed, on the entity with custody other than the parent. If the court orders that a child be taken into custody under subsection (1) of this section, the petition and supporting documentation must be served on the parent at the time of the child's removal unless, after diligent efforts, the parents cannot be located at the time of removal. If the parent is not served at the time of removal, the department shall make diligent efforts to personally serve the parent.</p> <p>Failure to effect service does not invalidate the petition if service was attempted and the parent could not be found.</p>		Was service made?	Were diligent efforts made to personally serve parent	DCYF practice of serving AT THE TIME OF REMOVAL.	Ups the timeline on service, especially for noncustodial parents. Much more difficult to serve at the time of removal when they are not in the home or cannot be located.
Notice of custody to parents	13.34.062(1)(a)	<p>Whenever a child is taken into custody by child protective services pursuant to a court order issued under RCW 13.34.050 or when child protective services is notified that a child has been taken into custody pursuant to RCW 26.44.050 or 26.44.056, child protective services shall make ((reasonable)) diligent efforts to inform the parent, guardian, or legal custodian of the fact that the child has been taken into custody, the reasons why the child was taken into custody, and their legal rights under this title, including the right to a shelter care hearing, as soon as possible. Notice must be provided in an understandable manner and take into consideration the parent's, guardian's, or legal custodian's primary language, level of education, and cultural issues.</p>	Reasonable efforts → diligent efforts				<p>Support in iDecide about what is different between “reasonable” and “diligent” efforts?</p> <p>Compilation of legal definitions in “Resources”</p> <p>Specify when “diligent efforts” is the standard. Diligent efforts to do what.....?</p>
Notice of custody to parents	13.34.062(3)	<p>If child protective services is not required to give notice under this section, the juvenile court counselor assigned to the matter shall make all ((reasonable)) diligent efforts to advise the parents, guardian, or legal custodian of the time and place of any shelter care hearing, request that they be present, and inform them of their basic rights as provided in RCW 13.34.090.13.</p>	Reasonable efforts → diligent efforts				Private filings: incorporate into iDecide

<p>Notice of custody to parents</p>	<p>13.34.062(4)</p>	<p>((Reasonable)) Diligent efforts to advise and to give notice, as required in this section, shall include, at a minimum, investigation of the whereabouts of the parent, guardian, or legal custodian. If such ((reasonable)) diligent efforts are not successful, or the parent, guardian, or legal custodian does not appear at the shelter care hearing, the petitioner shall testify at the hearing or state in a declaration:</p> <p>(a) The efforts made to investigate the whereabouts of, and to advise, the parent, guardian, or custodian; and</p> <p>(b) Whether actual advice of rights was made, to whom it was made, and how it was made, including the substance of any oral communication or copies of written materials used.</p>	<p>Reasonable efforts → diligent efforts</p>	<p>Were efforts made to investigate the whereabouts of...</p>		<p>Support in iDecide about what is different between “reasonable” and “diligent” efforts?</p> <p>Compilation of legal definitions in “Resources”</p> <p>Specify when “diligent efforts” is the standard. Diligent efforts to do what.....?</p> <p>Might be helpful to include in the guidance around what is “reasonable” and what is “diligent”</p>
--	-------------------------------------	--	--	---	--	---

DRAFT