




Area	Statute	Description	New Legal Standards	Inquiries & Decisions	Findings & Orders <i>(based on decisions)</i>	Process/Practice Change	Other Questions, Considerations, & Needs
<p>Process - Discovery</p>	<p>RCW 13.34.090(5)</p>	<p>Copies of department records to which the child and the child's parents have legal access pursuant to chapter 13.50 RCW shall be given to the child or child's counsel, and the parents, guardian, legal custodian, or his or her legal counsel, prior to any shelter care hearing and within 15 days after the department receives a written request for such records from the child or child's counsel, and the parents, guardian, legal custodian, or his or her legal counsel. These records shall be provided to the child's parents, guardian, legal custodian, or legal counsel a reasonable period of time prior to the shelter care hearing in order to allow an opportunity to review the records prior to the hearing. These records shall be legible and shall be provided at no expense to the child or child's counsel, and the parents, guardian, legal custodian, or his or her counsel. When the records are served on legal counsel, legal counsel shall have the opportunity to review the records with the client and shall review the records with the client prior to the shelter care hearing. The department shall make every effort to provide all other discoverable material to the child's parent, guardian, legal custodian, or his or her legal counsel prior to any shelter care hearing.</p>					<p><i>What does "all other discoverable material" mean?</i></p> <p><i>What was the intent? Does not seem like it changes anything?</i></p>

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Process – Additional SCH	RCW 13.34.065(1)(a)	<p>When a child is removed or when the petitioner is seeking the removal of a child from the child's parent, guardian, or legal custodian, the court shall hold a shelter care hearing within 72 hours, excluding Saturdays, Sundays, and holidays. The primary purpose of the shelter care hearing is to determine whether the child can be immediately and safely returned home while the adjudication of the dependency is pending. The court shall hold an additional shelter care hearing within 72 hours, excluding Saturdays, Sundays, and holidays if the child is removed from the care of a parent, guardian, or legal custodian at any time after an initial shelter care hearing under this section.</p>				The court shall hold an additional shelter care hearing within 72 hours, excluding Saturdays, Sundays, and holidays if the child is removed from the care of a parent, guardian, or legal custodian at any time after an initial shelter care hearing under this section.	
Process – SCH Request	RCW 13.34.065(1)(b)	<p>Any child's attorney, parent, guardian, or legal custodian who for good cause is unable to attend or adequately prepare for the shelter care hearing may request that the initial shelter care hearing be continued or that a subsequent shelter care hearing be scheduled. The request shall be made to the clerk of the court where the petition is filed prior to the initial shelter care hearing. Upon the request of the child's attorney, parent, guardian, or legal custodian, the court shall schedule the hearing within 72 hours of the request, excluding Saturdays, Sundays, and holidays. The clerk shall notify all other parties of the hearing by any reasonable means.</p>				Upon the request the court shall schedule the hearing within 72 hours of the request, excluding Saturdays, Sundays, and holidays, and notify all parties.	<p>What “does adequately prepare mean”? Why was that included?</p> <p>Other Comments: Addition of child’s attorney is important – important for children’s attorney to get discovery, identifies them as an active party in the case.</p>
Process – Obtaining Counsel	RCW 13.34.065(1)(b)	<p>If the parent, guardian, or legal custodian is not represented by counsel, the clerk shall provide information to the parent, guardian, or legal custodian regarding how to obtain counsel.</p>				Practice change for the clerk’s office.	

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Process – Remote waiver of SCH	RCW 13.34.065(3)(b)	If a parent, guardian, or legal custodian desires to waive the shelter care hearing, the court shall determine, on the record and with the parties present, whether such waiver is knowing and voluntary. A parent may not waive his or her right to the shelter care hearing unless he or she appears in court, in person, or by remote means, and the court determines that the waiver is knowing and voluntary.				A parent may not waive his or her right to the shelter care hearing unless he or she appears in court and the court determines that the waiver is knowing and voluntary	Whether or not counsel can appear on behalf of a parent to waive?
Process – Efforts to notify	RCW 13.34.062(1)	(a) 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 efforts 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.	“reasonable efforts” → “diligent efforts”	Was notice provided to parent(s) ↓ If no, did DCYF make diligent efforts to provide notice? ↘	If no, order that DCYF shall make diligent efforts to provide notice		Diligent Efforts DCYF had workgroup that created definition of “diligent efforts”; created example chart of what reasonable vs. diligent would be. What is Needed? Create examples of what courts can order to ensure that diligent efforts are made

<p style="text-align: center;">Removal from Parent / Guardian</p>	<p style="text-align: center;">Shelter care hearing statute RCW 13.34.065</p> <p style="text-align: center;">5(a)(ii)(B)</p>	<p>(5)(a) The court shall release a child alleged to be dependent to the care, custody, and control of the child's parent, guardian, or legal custodian unless the court finds there is reasonable cause to believe that:</p> <p>(i) After consideration of the specific services that have been provided, 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</p> <p>(ii)(A) The child has no parent, guardian, or legal custodian to provide supervision and care for such child; or</p> <p>(B) ((The release of such child would present a serious threat of substantial harm to such child)) (I) Removal of the child is necessary to prevent imminent physical harm due to child abuse or neglect, including that which results from sexual abuse, sexual exploitation, or a pattern of severe neglect, notwithstanding an order entered pursuant to RCW 26.44.063. The evidence must show a causal relationship between the particular conditions in the home and imminent physical harm to the child. The existence of community or family poverty, isolation, single parenthood, age of the parent, crowded or inadequate housing, substance abuse, prenatal drug or alcohol exposure, mental illness, disability or special needs of the parent or child, or nonconforming social behavior does not by itself constitute imminent physical harm;</p> <p>(II) It is contrary to the welfare of the child to be returned home; and</p> <p>(III) After considering the particular circumstances of the child, any imminent physical harm to the child outweighs the harm the child will experience as a result of removal; or</p>	<p>Removal Standard “serious threat of substantial harm” → “imminent physical harm”</p> 	<p>Causal Relationship Will the conditions identified in the home result in imminent physical harm to the child?</p> 	<p>Welfare of the Child Not releasing the child to a parent is contrary to the welfare of the child. <i>(not new language in orders; new statutory requirement)</i></p>  <p>Balancing Test Given circumstances, any physical imminent harm to the child outweighs the harm the child will experience as a result of removal (Goal #3)</p>	<p>What is Needed? Resources/training around in-home dependencies</p> <p>Guidance on how to demonstrate a “causal relationship”</p> <p>Support around assessment of community or family poverty, isolation, single parenthood, age of the parent, crowded or inadequate housing, substance abuse, prenatal drug or alcohol exposure, mental illness, disability or special needs of the parent or child, or nonconforming social behavior and factors that do not by themselves constitute imminent physical harm.</p> <p>Guidance around what constitutes “imminent physical harm”, especially in terms of patterns of severe neglect. (Goal #2)</p> <ul style="list-style-type: none"> -Emotional abuse -Mental health -LGBTQ youth <p>Guidance around how to engage in the balancing test of danger posed by</p>
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		(C) The parent, guardian, or custodian to whom the child could be released has been charged with violating RCW 9A.40.060 or 9A.40.070.					<p>particular circumstances in the home against the harms of removal to that child.(Goal #3).</p> <p>Other Comments: Judicial officers will need to know the proposed placement in order to effectively do balancing test.</p> <p>Analysis informs the decision to remove AND ways to ameliorate harm when removal is ordered.</p>

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<p>Removal from Parent / Guardian</p>	<p>Shelter care hearing statute RCW 13.34.065 5(b)(i) 5(b)(ii)</p>	<p>(5)(b) If the court finds that the elements of (a)(ii)(B) of this subsection require removal of the child, the court shall further consider: (i) Whether participation by the parents, guardians, or legal custodians in any prevention services would prevent or eliminate the need for removal and, if so, shall inquire of the parent whether they are willing to participate in such services. If the parent agrees to participate in the prevention services identified by the court that would prevent or eliminate the need for removal, the court shall place the child with the parent. The court shall not order a parent to participate in prevention services over the objection of the parent, however, parents shall have the opportunity to consult with counsel prior to deciding whether to agree to proposed prevention services as a condition of having the child return to or remain in the care of the parent; and (ii) Whether the issuance of a temporary order of protection directing the removal of a person or persons from the child's residence would prevent the need for removal of the child.</p>		<p>Prevention Services If the court makes findings requiring removal they shall consider: Would participation in prevention services eliminate the need for removal? ↓ If yes, is the parent willing to participate? ↘ If yes, the court shall place the child with the parent. Did parent have opportunity to meeting with counsel....? Order of Protection Does the issuance of a protection order removing an individual from the home prevent the need for removal?</p>	<p>If yes, the court shall place the child with the parent.</p>	<p>Providing opportunity for parents to meet with counsel prior to SCH</p>	<p>Prevention Services Defined RCW 13.34.030(21) Housing Assistance Defined RCW 13.34.030(15) What is Needed? Guidance on how to determine if putting a service in place would prevent the need for removal Resources and training to increase understanding of available prevention services Efforts to make services more available in all counties Support and training around clear articulation of safety threats Guidance on what is "suitable" housing Guidance on how to determine when a services is "reasonably available" – going to vary over time and between geographic locations</p>
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							There are a number of services available in the community that DCYF contracts with; purview of what is reasonably available in the community is beyond that of just DCYF.

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