H-2606.1

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**SECOND SUBSTITUTE HOUSE BILL 2038**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**State of Washington 67th Legislature 2022 Regular Session**

**By** House Appropriations (originally sponsored by Representatives Caldier and Eslick)

AN ACT Relating to supporting children involved with child welfare services; amending RCW 74.13.031 and 74.14B.010; adding new sections to chapter 74.13 RCW; adding a new section to chapter 74.15 RCW; creating new sections; providing expiration dates; and providing a contingent expiration date.

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

NEW SECTION. **Sec.**  A new section is added to chapter 74.13 RCW to read as follows:

(1)(a) The department shall provide exceptional cost payments and other nonmonetary supports to a licensed foster parent that receives placement of a child with high levels of service and support needs and who is at risk of placement disruption. The purpose of the exceptional cost payments and other nonmonetary supports under this section is to:

(i) Safely stabilize the child;

(ii) Meet the child's educational, behavioral health, or other support needs; and

(iii) Assist in achieving a permanent plan or less intensive placement arrangement.

(b) The high levels of service and support needs that may lead to exceptional cost payments under (a) of this subsection can include, but are not limited to:

(i) A history of placement instability due to a high level of service and support needs;

(ii) Moderate to high behavioral health service needs;

(iii) Disabilities or chronic health conditions that require a higher level of care; or

(iv) A need for intensive services.

(2)(a) The initial exceptional cost payment provided under subsection (1) of this section must be made upon placement of the child and must not be below 35 percent of the payment that would otherwise be provided to a behavioral rehabilitation services contractor that provides therapeutic foster care for the initial 30 days.

(b) Within the first 30 days, an ongoing foster care payment rate should be developed, and this foster care payment rate must be sufficient to cover transportation to and from medical appointments and other costs required to provide care for the child. The amount developed under this subsection may exceed the level four foster care payment rate.

(c) The department shall provide the amount developed in (b) of this subsection to the licensed foster parent for six months or until the child is no longer in the care of the foster parent.

(d) After the licensed foster parent has cared for the child for six months, the department shall determine whether:

(i) The child's behavioral health has stabilized;

(ii) The placement is meeting the child's educational, behavioral health, and other support needs; and

(iii) The exceptional cost payments are still necessary to support continued stability and assist in a permanent plan or less intensive placement arrangement.

(e) If the department determines that the exceptional cost payments are still necessary based on the criteria included under (d) of this subsection, the department shall negotiate an appropriate payment with the foster parent who is caring for the child meeting the description provided under subsection (1) of this section. This negotiated foster care payment should be sufficient to cover transportation to and from medical appointments and other costs required to provide care for the child.

(3) The department shall provide information to foster parents who are eligible for support under this section about what the exceptional cost payment and other nonmonetary support includes and can be used for.

(4) In order to receive exceptional cost payments under this section, a foster parent must have completed at least 10 hours of training within the last year that is related to the needs of the children that they are serving. The training required under this subsection does not count toward the training required for foster care licensure.

(5) Exceptional cost payments may not be provided to a foster parent who provides placement for the child only at night while the department provides supervision for the child during the day.

(6) The requirements of this section do not apply to the payments provided to foster parents who care for medically fragile children.

**Sec.**  RCW 74.13.031 and 2020 c 274 s 61 are each amended to read as follows:

(1) The department shall develop, administer, supervise, and monitor a coordinated and comprehensive plan that establishes, aids, and strengthens services for the protection and care of runaway, dependent, or neglected children.

(2) Within available resources, the department shall recruit an adequate number of prospective adoptive and foster homes, both regular and specialized, i.e. homes for children of ethnic minority, including Indian homes for Indian children, sibling groups, children with disabilities or behavioral health conditions, teens, pregnant and parenting teens, and the department shall annually report to the governor and the legislature concerning the department's success in: (a) Meeting the need for adoptive and foster home placements; (b) reducing the foster parent turnover rate; (c) completing home studies for legally free children; and (d) implementing and operating the passport program required by RCW 74.13.285. The report shall include a section entitled "Foster Home Turn-Over, Causes and Recommendations."

(3) The department shall investigate complaints of any recent act or failure to act on the part of a parent or caretaker that results in death, serious physical or emotional harm, or sexual abuse or exploitation, or that presents an imminent risk of serious harm, and on the basis of the findings of such investigation, offer child welfare services in relation to the problem to such parents, legal custodians, or persons serving in loco parentis, and/or bring the situation to the attention of an appropriate court, or another community agency. An investigation is not required of nonaccidental injuries which are clearly not the result of a lack of care or supervision by the child's parents, legal custodians, or persons serving in loco parentis. If the investigation reveals that a crime against a child may have been committed, the department shall notify the appropriate law enforcement agency.

(4) As provided in RCW 26.44.030, the department may respond to a report of child abuse or neglect by using the family assessment response.

(5) The department shall offer, on a voluntary basis, family reconciliation services to families who are in conflict.

(6) The department shall monitor placements of children in out-of-home care and in-home dependencies to assure the safety, well-being, and quality of care being provided is within the scope of the intent of the legislature as defined in RCW 74.13.010 and 74.15.010. Under this section children in out-of-home care and in-home dependencies and their caregivers shall receive a private and individual face-to-face visit each month. The department shall randomly select no less than ((~~ten~~)) 10 percent of the caregivers currently providing care to receive one unannounced face‑to‑face visit in the caregiver's home per year. No caregiver will receive an unannounced visit through the random selection process for two consecutive years. If the caseworker makes a good faith effort to conduct the unannounced visit to a caregiver and is unable to do so, that month's visit to that caregiver need not be unannounced. The department is encouraged to group monthly visits to caregivers by geographic area so that in the event an unannounced visit cannot be completed, the caseworker may complete other required monthly visits. The department shall use a method of random selection that does not cause a fiscal impact to the department.

The department shall conduct the monthly visits with children and caregivers to whom it is providing child welfare services.

(7) The department shall have authority to accept custody of children from parents and to accept custody of children from juvenile courts, where authorized to do so under law, to provide child welfare services including placement for adoption, to provide for the routine and necessary medical, dental, and mental health care, or necessary emergency care of the children, and to provide for the physical care of such children and make payment of maintenance costs if needed, including those required under section 1 of this act. Except where required by Public Law 95-608 (25 U.S.C. Sec. 1915), no private adoption agency which receives children for adoption from the department shall discriminate on the basis of race, creed, or color when considering applications in their placement for adoption.

(8) The department shall have authority to provide temporary shelter to children who have run away from home and who are admitted to crisis residential centers.

(9) The department shall have authority to purchase care for children.

(10) The department shall establish a children's services advisory committee which shall assist the secretary in the development of a partnership plan for utilizing resources of the public and private sectors, and advise on all matters pertaining to child welfare, licensing of child care agencies, adoption, and services related thereto. At least one member shall represent the adoption community.

(11)(a) The department shall provide continued extended foster care services to nonminor dependents who are:

(i) Enrolled in a secondary education program or a secondary education equivalency program;

(ii) Enrolled and participating in a postsecondary academic or postsecondary vocational education program;

(iii) Participating in a program or activity designed to promote employment or remove barriers to employment;

(iv) Engaged in employment for ((~~eighty~~)) 80 hours or more per month; or

(v) Not able to engage in any of the activities described in (a)(i) through (iv) of this subsection due to a documented medical condition.

(b) To be eligible for extended foster care services, the nonminor dependent must have been dependent at the time that he or she reached age ((~~eighteen~~)) 18 years. If the dependency case of the nonminor dependent was dismissed pursuant to RCW 13.34.267, he or she may receive extended foster care services pursuant to a voluntary placement agreement under RCW 74.13.336 or pursuant to an order of dependency issued by the court under RCW 13.34.268. A nonminor dependent whose dependency case was dismissed by the court may request extended foster care services before reaching age ((~~twenty-one~~)) 21 years. Eligible nonminor dependents may unenroll and reenroll in extended foster care through a voluntary placement agreement an unlimited number of times between ages ((~~eighteen~~)) 18 and ((~~twenty-one~~)) 21.

(c) The department shall develop and implement rules regarding youth eligibility requirements.

(d) The department shall make efforts to ensure that extended foster care services maximize medicaid reimbursements. This must include the department ensuring that health and mental health extended foster care providers participate in medicaid, unless the condition of the extended foster care youth requires specialty care that is not available among participating medicaid providers or there are no participating medicaid providers in the area. The department shall coordinate other services to maximize federal resources and the most cost-efficient delivery of services to extended foster care youth.

(e) The department shall allow a youth who has received extended foster care services, but lost his or her eligibility, to reenter the extended foster care program an unlimited number of times through a voluntary placement agreement when he or she meets the eligibility criteria again.

(12) The department shall have authority to provide adoption support benefits, or relative guardianship subsidies on behalf of youth ages ((~~eighteen~~)) 18 to ((~~twenty-one~~)) 21 years who achieved permanency through adoption or a relative guardianship at age ((~~sixteen~~)) 16 or older and who meet the criteria described in subsection (11) of this section.

(13) The department shall refer cases to the division of child support whenever state or federal funds are expended for the care and maintenance of a child, including a child with a developmental disability who is placed as a result of an action under chapter 13.34 RCW, unless the department finds that there is good cause not to pursue collection of child support against the parent or parents of the child. Cases involving individuals age ((~~eighteen~~)) 18 through ((~~twenty~~)) 20 shall not be referred to the division of child support unless required by federal law.

(14) The department shall have authority within funds appropriated for foster care services to purchase care for Indian children who are in the custody of a federally recognized Indian tribe or tribally licensed child-placing agency pursuant to parental consent, tribal court order, or state juvenile court order. The purchase of such care is exempt from the requirements of chapter 74.13B RCW and may be purchased from the federally recognized Indian tribe or tribally licensed child-placing agency, and shall be subject to the same eligibility standards and rates of support applicable to other children for whom the department purchases care.

Notwithstanding any other provision of RCW 13.32A.170 through 13.32A.200, 43.185C.295, 74.13.035, and 74.13.036, or of this section all services to be provided by the department under subsections (4), (7), and (8) of this section, subject to the limitations of these subsections, may be provided by any program offering such services funded pursuant to Titles II and III of the federal juvenile justice and delinquency prevention act of 1974.

(15) Within amounts appropriated for this specific purpose, the department shall provide preventive services to families with children that prevent or shorten the duration of an out-of-home placement.

(16) The department shall have authority to provide independent living services to youths, including individuals who have attained ((~~eighteen~~)) 18 years of age, and have not attained ((~~twenty-three~~)) 23 years of age, who are or have been in the department's care and custody, or who are or were nonminor dependents.

(17) The department shall consult at least quarterly with foster parents, including members of the foster parent association of Washington state, for the purpose of receiving information and comment regarding how the department is performing the duties and meeting the obligations specified in this section and RCW 74.13.250 regarding the recruitment of foster homes, reducing foster parent turnover rates, providing effective training for foster parents, and administering a coordinated and comprehensive plan that strengthens services for the protection of children. Consultation shall occur at the regional and statewide levels.

(18)(a) The department shall, within current funding levels, place on its public web site a document listing the duties and responsibilities the department has to a child subject to a dependency petition including, but not limited to, the following:

(i) Reasonable efforts, including the provision of services, toward reunification of the child with his or her family;

(ii) Sibling visits subject to the restrictions in RCW 13.34.136(2)(b)(ii);

(iii) Parent-child visits;

(iv) Statutory preference for placement with a relative or other suitable person, if appropriate; and

(v) Statutory preference for an out-of-home placement that allows the child to remain in the same school or school district, if practical and in the child's best interests.

(b) The document must be prepared in conjunction with a community-based organization and must be updated as needed.

(19)(a) The department shall have the authority to purchase legal representation for parents or kinship caregivers, or both, of children who are at risk of being dependent, or who are dependent, to establish or modify a parenting plan under RCW 13.34.155 or chapter 26.09, 26.26A, or 26.26B RCW or secure orders establishing other relevant civil legal relationships authorized by law, when it is necessary for the child's safety, permanence, or well-being. The department's purchase of legal representation for kinship caregivers must be within the department's appropriations. This subsection does not create an entitlement to legal representation purchased by the department and does not create judicial authority to order the department to purchase legal representation for a parent or kinship caregiver. Such determinations are solely within the department's discretion. The term "kinship caregiver" as used in this section means a caregiver who meets the definition of "kin" in RCW 74.13.600(1), unless the child is an Indian child as defined in RCW 13.38.040 and 25 U.S.C. Sec. 1903. For an Indian child as defined in RCW 13.38.040 and 25 U.S.C. Sec. 1903, the term "kinship caregiver" as used in this section means a caregiver who is an "extended family member" as defined in RCW 13.38.040(8).

(b) The department is encouraged to work with the office of public defense parent representation program and the office of civil legal aid to develop a cost-effective system for providing effective civil legal representation for parents and kinship caregivers if it exercises its authority under this subsection.

**Sec.**  RCW 74.14B.010 and 2019 c 470 s 27 are each amended to read as follows:

(1) Child welfare workers shall meet minimum standards established by the department. Comprehensive training for child welfare workers shall be completed before such child welfare workers are assigned to case-carrying responsibilities as the sole worker assigned to a particular case. Intermittent, part-time, and standby child welfare workers shall be subject to the same minimum standards and training.

(2) Ongoing specialized training shall be provided for child welfare workers responsible for investigating child sexual abuse. Training participants shall have the opportunity to practice interview skills and receive feedback from instructors.

(3) The department, the criminal justice training commission, the Washington association of sheriffs and police chiefs, and the Washington association of prosecuting attorneys shall design and implement statewide training that contains consistent elements for persons engaged in the interviewing of children, including law enforcement, prosecution, and child protective services.

(4) The training required by this section shall: (a) Be based on research-based practices and standards; (b) minimize the trauma of all persons who are interviewed during abuse investigations; (c) provide methods of reducing the number of investigative interviews necessary whenever possible; (d) assure, to the extent possible, that investigative interviews are thorough, objective, and complete; (e) recognize needs of special populations, such as persons with developmental disabilities; (f) recognize the nature and consequences of victimization; (g) require investigative interviews to be conducted in a manner most likely to permit the interviewed persons the maximum emotional comfort under the circumstances; (h) address record retention and retrieval; (i) address documentation of investigative interviews; ((~~and~~)) (j) include self-care for child welfare workers; and (k) include best practices for finding appropriate placement options for children who experience a placement disruption, including working with foster parents to provide the necessary supports to allow such placement.

(5) The identification of domestic violence is critical in ensuring the safety of children in the child welfare system. It is also critical for child welfare workers to support victims of domestic violence while victims continue to care for their children, when possible, as domestic violence perpetrated against someone other than the child does not constitute negligent treatment or maltreatment in and of itself as provided in RCW 26.44.020. For these reasons, ongoing domestic violence training and consultation shall be provided to child welfare workers, including how to use the department's practice guide to domestic violence.

(6) By January 1, 2021, the department shall:

(a) Develop and implement an evidence-informed curriculum for supervisors providing support to child welfare workers to better prepare candidates for effective supervisory and leadership roles within the department;

(b) Develop specialized training for child welfare workers that includes simulation and coaching designed to improve clinical and analytical skills;

(c) ((~~Based on the report required under RCW 43.216.7501(3), develop~~)) Develop and implement training for child welfare workers that incorporates trauma-informed care and reflective supervision principles.

(7) For purposes of this section, "child welfare worker" means an employee of the department whose job includes supporting or providing child welfare services as defined in RCW 74.13.020 or child protective services as defined in RCW 26.44.020.

NEW SECTION. **Sec.**  A new section is added to chapter 74.15 RCW to read as follows:

(1) The department shall design and implement a process for identifying individuals applying for foster family home licensure that are willing and able to accept placement of children who are at risk for placement instability, medically fragile children, and children with developmental disabilities.

(2) The department shall prioritize licensure for individuals identified in subsection (1) of this section.

NEW SECTION. **Sec.**  A new section is added to chapter 74.13 RCW to read as follows:

(1) Subject to the amounts appropriated for this specific purpose, the department shall dedicate employees to recruiting and retaining foster family homes that are willing and able to be a placement resource for children who are at risk for placement instability.

(2) By November 1, 2024, and in compliance with RCW 43.01.036, the department shall provide a report to the relevant committees of the legislature and the governor detailing:

(a) The efforts made to recruit and retain foster family homes under subsection (1) of this section;

(b) The change in the number of foster family homes willing and able to accept placement of children who are at risk for placement instability; and

(c) Recommendations for future efforts to successfully recruit and retain foster family homes willing and able to accept placement of children who are at risk for placement instability.

(3) This section expires December 31, 2025.

NEW SECTION. **Sec.**  (1) The department of children, youth, and families shall develop a plan for the phased-in implementation of an array of supports and services to be provided to licensed foster parents and licensed kinship care providers accepting placement of children and youth with moderate to high needs for services and supports. The array of services included in the plan required under this section may include, but is not limited to:

(a) Services provided through the department of social and health services developmental disability administration, and the health care authority;

(b) Case aides or other in-home providers;

(c) Behavioral supports;

(d) Respite services;

(e) Crisis support services; or

(f) Other identified service and support needs.

(2) The plan required under this section shall:

(a) Recommend adequate rates for placement resources; and

(b) Explore whether the department of children, youth, and families should develop a program through which an individual may become an independent case aide provider. This program would be administered as a contracted service.

(3) By September 30, 2022, and in compliance with RCW 43.01.036, the department of children, youth, and families shall provide a report to the governor and the appropriate committees of the legislature regarding the development of a plan as required under this section.

(4) This section expires June 30, 2023.

NEW SECTION. **Sec.**  (1) Sections 1 and 2 of this act expire when the department of children, youth, and families has completed an analysis of the needs of foster youth and implemented a comprehensive rate structure for entities providing care for foster youth that creates a continuum of care from basic foster care rates to behavior rehabilitation services.

(2) If the analysis described in subsection (1) of this section is completed, the department of children, youth, and families shall provide, in compliance with RCW 43.01.036, a report to the governor and the appropriate committees of the legislature that describes the comprehensive rate structure recommended by that analysis.

NEW SECTION. **Sec.**  The department of children, youth, and families must provide notice of the expiration date of sections 1 and 2 of this act to the affected parties, the chief clerk of the house of representatives, the secretary of the senate, the office of the code reviser, and others as deemed appropriate by the department of children, youth, and families.

NEW SECTION. **Sec.**  If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2022, in the omnibus appropriations act, this act is null and void.

**--- END ---**