

2 HB 2557 - S COMM AMD

3 By Committee on Human Services & Corrections

4 ADOPTED 2/23/98

5 Strike everything after the enacting clause and insert the  
6 following:

7 "Sec. 1. RCW 74.13.350 and 1997 c 386 s 16 are each amended to  
8 read as follows:

9 It is the intent of the legislature that parents are responsible  
10 for the care and support of children with developmental disabilities.  
11 The legislature recognizes that, because of the intense support  
12 required to care for a child with developmental disabilities, the help  
13 of an out-of-home placement may be needed. It is the intent of the  
14 legislature that, when the sole reason for the out-of-home placement is  
15 the child's developmental disability, such services be offered by the  
16 department to these children and their families through a voluntary  
17 placement agreement. In these cases, the parents shall retain legal  
18 custody of the child.

19 As used in this section, "voluntary placement agreement" means a  
20 written agreement between the department and a child's parent or legal  
21 guardian authorizing the department to place the child in a licensed  
22 facility. Under the terms of this agreement, the parent or legal  
23 guardian shall retain legal custody and the department shall be  
24 responsible for the child's placement and care. The agreement shall at  
25 a minimum specify the legal status of the child and the rights and  
26 obligations of the parent or legal guardian, the child, and the  
27 department while the child is in placement. The agreement must be  
28 signed by the child's parent or legal guardian and the department to be  
29 in effect, except that an agreement regarding an Indian child shall not  
30 be valid unless executed in writing before the court and filed with the  
31 court as provided in RCW 13.34.245. Any party to a voluntary placement  
32 agreement may terminate the agreement at any time. Upon termination of  
33 the agreement, the child shall be returned to the care of the child's  
34 parent or legal guardian unless the child has been taken into custody  
35 pursuant to RCW 13.34.050 or 26.44.050, placed in shelter care pursuant  
36 to RCW 13.34.060, or placed in foster care pursuant to RCW 13.34.130.

1 As used in this section, "out-of-home placement" and "out-of-home  
2 care" mean the placement of a child in a foster family home or group  
3 care facility licensed under chapter 74.15 RCW.

4 Whenever the department places a child in out-of-home care under a  
5 voluntary placement pursuant to this section, the department shall have  
6 the responsibility for the child's placement and care. The department  
7 shall develop a permanency plan of care for the child no later than  
8 sixty days from the date that the department assumes responsibility for  
9 the child's placement and care. Within the first one hundred eighty  
10 days of the placement, the department shall obtain a judicial  
11 determination pursuant to RCW 13.04.030(1)(j) and 13.34.270 that the  
12 placement is in the best interests of the child. If the child's out-  
13 of-home placement ends before one hundred eighty days have elapsed, no  
14 judicial determination under RCW 13.04.030(1)(b) is required. The  
15 permanency planning hearings shall review whether the child's best  
16 interests are served by continued out-of-home placement and determine  
17 the future legal status of the child.

18 The department shall provide for periodic administrative reviews as  
19 required by federal law. A review may be called at any time by either  
20 the department, the parent, or the legal guardian.

21 Nothing in this section shall prevent the department from filing a  
22 dependency petition if there is reason to believe that the child is a  
23 dependent child as defined in RCW 13.34.030.

24 The department shall adopt rules providing for the implementation  
25 of chapter 386, Laws of 1997 and the transfer of responsibility for  
26 out-of-home placements from the dependency process under chapter 13.34  
27 RCW to the process under this chapter.

28 It is the intent of the legislature that the department undertake  
29 voluntary out-of-home placement in cases where the child's  
30 developmental disability is such that the parent, guardian, or legal  
31 custodian is unable to provide the necessary care for the child, and  
32 the parent, guardian, or legal custodian has determined that the child  
33 would benefit from placement outside of the home. If the department  
34 does not accept a voluntary placement agreement signed by the parent,  
35 a petition may be filed and an action pursued under chapter 13.34 RCW.  
36 The department shall inform the parent, guardian, or legal custodian in  
37 writing of their right to civil action under chapter 13.34 RCW.

1       **Sec. 2.** RCW 13.34.270 and 1997 c 386 s 19 are each amended to read  
2 as follows:

3       (1) Whenever the department of social and health services places a  
4 developmentally disabled child in out-of-home care pursuant to RCW  
5 74.13.350, the department shall obtain a judicial determination within  
6 one hundred eighty days of the placement that continued placement is in  
7 the best interests of the child. If the child's out-of-home placement  
8 ends before one hundred eighty days have elapsed, no judicial  
9 determination is required.

10       (2) To obtain the judicial determination, the department shall file  
11 a petition alleging that there is located or residing within the county  
12 a child who has a developmental disability, as defined in RCW  
13 71A.10.020, and that the child has been placed in out-of-home care  
14 pursuant to RCW 74.13.350. The petition shall request that the court  
15 review the child's placement, make a determination that continued  
16 placement is in the best interests of the child, and take other  
17 necessary action as provided in this section. The petition shall  
18 contain the name, date of birth, and residence of the child and the  
19 names and residences of the child's parent or legal guardian who has  
20 agreed to the child's placement in out-of-home care. Reasonable  
21 attempts shall be made by the department to ascertain and set forth in  
22 the petition the identity, location, and custodial status of any parent  
23 who is not a party to the placement agreement and why that parent  
24 cannot assume custody of the child.

25       (3) Upon filing of the petition, the clerk of the court shall  
26 schedule the petition for a hearing to be held no later than fourteen  
27 calendar days after the petition has been filed. The department shall  
28 provide notification of the time, date, and purpose of the hearing to  
29 the parent or legal guardian who has agreed to the child's placement in  
30 out-of-home care. The department shall also make reasonable attempts  
31 to notify any parent who is not a party to the placement agreement, if  
32 the parent's identity and location is known. Notification under this  
33 section may be given by the most expedient means, including but not  
34 limited to, mail, personal service, telephone, and telegraph.

35       (4) The court shall appoint a guardian ad litem for the child as  
36 provided in RCW 13.34.100, unless the court for good cause finds the  
37 appointment unnecessary.

38       (5) Permanency planning hearings shall be held as provided in this  
39 subsection. At the hearing, the court shall review whether the child's

1 best interests are served by continued out-of-home placement and  
2 determine the future legal status of the child.

3 (a) For children age ten and under, a permanency planning hearing  
4 shall be held in all cases where the child has remained in out-of-home  
5 care for at least nine months and an adoption decree or guardianship  
6 order has not previously been entered. The hearing shall take place no  
7 later than twelve months following commencement of the child's current  
8 placement episode.

9 (b) For children over age ten, a permanency planning hearing shall  
10 be held in all cases where the child has remained in out-of-home care  
11 for at least fifteen months and an adoption decree or guardianship  
12 order has not previously been entered. The hearing shall take place no  
13 later than eighteen months following commencement of the current  
14 placement episode.

15 (c) No later than ten working days before the permanency planning  
16 hearing, the department shall submit a written permanency plan to the  
17 court and shall mail a copy of the plan to all parties. The plan shall  
18 be directed toward securing a safe, stable, and permanent home for the  
19 child as soon as possible. The plan shall identify one of the  
20 following outcomes as the primary goal and may also identify additional  
21 outcomes as alternative goals: Return of the child to the home of the  
22 child's parent or legal guardian; adoption; guardianship; or long-term  
23 out-of-home care, until the child is age eighteen, with a written  
24 agreement between the parties and the child's care provider.

25 (d) If a goal of long-term out-of-home care has been achieved  
26 before the permanency planning hearing, the court shall review the  
27 child's status to determine whether the placement and the plan for the  
28 child's care remains appropriate. In cases where the primary  
29 permanency planning goal has not ((be {been})) been achieved, the court  
30 shall inquire regarding the reasons why the primary goal has not been  
31 achieved and determine what needs to be done to make it possible to  
32 achieve the primary goal.

33 (e) Following the first permanency planning hearing, the court  
34 shall hold a further permanency planning hearing in accordance with  
35 this section at least once every twelve months until a permanency  
36 planning goal is achieved or the voluntary placement agreement is  
37 terminated.

38 (6) Any party to the voluntary placement agreement may terminate  
39 the agreement at any time. Upon termination of the agreement, the

1 child shall be returned to the care of the child's parent or legal  
2 guardian, unless the child has been taken into custody pursuant to RCW  
3 13.34.050 or 26.44.050, placed in shelter care pursuant to RCW  
4 13.34.060, or placed in foster care pursuant to RCW 13.34.130. The  
5 department shall notify the court upon termination of the voluntary  
6 placement agreement and return of the child to the care of the child's  
7 parent or legal guardian. Whenever a voluntary placement agreement is  
8 terminated, an action under this section shall be dismissed.

9 (7) This section does not prevent the department from filing a  
10 dependency petition if there is reason to believe that the child is a  
11 dependent child as defined in RCW 13.34.030. An action filed under  
12 this section shall be dismissed upon the filing of a dependency  
13 petition regarding a child who is the subject of the action under this  
14 section.

15 **Sec. 3.** RCW 74.13.021 and 1997 c 386 s 15 are each amended to read  
16 as follows:

17 As used in this chapter, "developmentally disabled (~~dependent~~)  
18 child" is a child who has a developmental disability as defined in RCW  
19 71A.10.020 and whose parent, guardian, or legal custodian and with the  
20 department mutually agree that services appropriate to the child's  
21 needs can not be provided in the home."

22 **HB 2557** - S COMM AMD

23 By Committee on Human Services & Corrections

24 ADOPTED 2/23/98

25 On page 1, line 2 of the title, after "placement;" strike the  
26 remainder of the title and insert "and amending RCW 74.13.350,  
27 13.34.270, and 74.13.021."

--- END ---