CERTIFICATION OF ENROLLMENT

HOUSE BILL 2557

Chapter 229, Laws of 1998

55th Legislature
1998 Regular Session

OUT-OF-HOME PLACEMENT OF DEVELOPMENTALLY DISABLED CHILDREN-- REVISIONS

EFFECTIVE DATE: 6/11/98

Passed by the House March 9, 1998
Yeas 96  Nays 0

Passed by the Senate February 23, 1998
Yeas 47  Nays 0

I, Timothy A. Martin, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is HOUSE BILL 2557 as passed by the House of Representatives and the Senate on the dates hereon set forth.

TIMOTHY A. MARTIN
Chief Clerk

GARY LOCKE
Secretary of State
State of Washington
AN ACT Relating to technical clarifying changes to developmentally
disabled children’s out-of-home placement; and amending RCW 74.13.350,
13.34.270, and 74.13.021.

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

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

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

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

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

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

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

Nothing in this section shall prevent the department from filing a
dependency petition if there is reason to believe that the child is a
dependent child as defined in RCW 13.34.030.
The department shall adopt rules providing for the implementation of chapter 386, Laws of 1997 and the transfer of responsibility for out-of-home placements from the dependency process under chapter 13.34 RCW to the process under this chapter.

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

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

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

(2) To obtain the judicial determination, the department shall file a petition alleging that there is located or residing within the county a child who has a developmental disability, as defined in RCW 71A.10.020, and that the child has been placed in out-of-home care pursuant to RCW 74.13.350. The petition shall request that the court review the child’s placement, make a determination that continued placement is in the best interests of the child, and take other necessary action as provided in this section. The petition shall contain the name, date of birth, and residence of the child and the names and residences of the child’s parent or legal guardian who has agreed to the child’s placement in out-of-home care. Reasonable attempts shall be made by the department to ascertain and set forth in the petition the identity, location, and custodial status of any parent who is not a party to the placement agreement and why that parent cannot assume custody of the child.
(3) Upon filing of the petition, the clerk of the court shall schedule the petition for a hearing to be held no later than fourteen calendar days after the petition has been filed. The department shall provide notification of the time, date, and purpose of the hearing to the parent or legal guardian who has agreed to the child’s placement in out-of-home care. The department shall also make reasonable attempts to notify any parent who is not a party to the placement agreement, if the parent’s identity and location is known. Notification under this section may be given by the most expedient means, including but not limited to, mail, personal service, telephone, and telegraph.

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

(5) Permanency planning hearings shall be held as provided in this subsection. At the hearing, the court shall review whether the child’s best interests are served by continued out-of-home placement and determine the future legal status of the child.

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

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

(c) No later than ten working days before the permanency planning hearing, the department shall submit a written permanency plan to the court and shall mail a copy of the plan to all parties. The plan shall be directed toward securing a safe, stable, and permanent home for the child as soon as possible. The plan shall identify one of the following outcomes as the primary goal and may also identify additional outcomes as alternative goals: Return of the child to the home of the child’s parent or legal guardian; adoption; guardianship; or long-term out-of-home care, until the child is age eighteen, with a written agreement between the parties and the child’s care provider.
If a goal of long-term out-of-home care has been achieved before 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. In cases where the primary permanency planning goal has not been achieved, the court shall inquire regarding the reasons why the primary goal has not been achieved and determine what needs to be done to make it possible to achieve the primary goal.

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

(6) Any party to the voluntary placement agreement may terminate the agreement at any time. Upon termination of the agreement, the child shall be returned to the care of the child’s parent or legal guardian, unless the child has been taken into custody pursuant to RCW 13.34.050 or 26.44.050, placed in shelter care pursuant to RCW 13.34.060, or placed in foster care pursuant to RCW 13.34.130. The department shall notify the court upon termination of the voluntary placement agreement and return of the child to the care of the child’s parent or legal guardian. Whenever a voluntary placement agreement is terminated, an action under this section shall be dismissed.

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

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

As used in this chapter, "developmentally disabled (dependent) child" is a child who has a developmental disability as defined in RCW 71A.10.020 and whose parent, guardian, or legal custodian and with the department mutually agree that services appropriate to the child’s needs can not be provided in the home.
Passed the House March 9, 1998.
Passed the Senate February 23, 1998.
Approved by the Governor March 30, 1998.
Filed in Office of Secretary of State March 30, 1998.