

2 **HB 1810** - S COMM AMD

3 By Committee on Human Services & Corrections

4 ADOPTED 4/14/99

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

7 "Sec. 1. RCW 74.13.500 and 1997 c 305 s 2 are each amended to read
8 as follows:

9 (1) Consistent with the provisions of chapter 42.17 RCW and
10 applicable federal law, the secretary, or the secretary's designee,
11 shall disclose information regarding the abuse or neglect of a child,
12 the investigation of the abuse (~~(or)~~), neglect, or near fatality of a
13 child, and any services related to the abuse or neglect of a child if
14 any one of the following factors is present:

15 (a) The subject of the report has been charged in an accusatory
16 instrument with committing a crime related to a report maintained by
17 the department in its case and management information system;

18 (b) The investigation of the abuse or neglect of the child by the
19 department or the provision of services by the department has been
20 publicly disclosed in a report required to be disclosed in the course
21 of their official duties, by a law enforcement agency or official, a
22 prosecuting attorney, any other state or local investigative agency or
23 official, or by a judge of the superior court;

24 (c) There has been a prior knowing, voluntary public disclosure by
25 an individual concerning a report of child abuse or neglect in which
26 such individual is named as the subject of the report; or

27 (d) The child named in the report has died and the child's death
28 resulted from abuse or neglect or the child was in the care of, or
29 receiving services from the department at the time of death or within
30 twelve months before death.

31 (2) The secretary is not required to disclose information if the
32 factors in subsection (1) of this section are present if he or she
33 specifically determines the disclosure is contrary to the best
34 interests of the child, the child's siblings, or other children in the
35 household.

1 (3) Except for cases in subsection (1)(d) of this section, requests
2 for information under this section shall specifically identify the case
3 about which information is sought and the facts that support a
4 determination that one of the factors specified in subsection (1) of
5 this section is present.

6 (4) For the purposes of this section, "near fatality" means an act
7 that, as certified by a physician, places the child in serious or
8 critical condition. The secretary is under no obligation to have an
9 act certified by a physician in order to comply with this section.

10 **Sec. 2.** RCW 13.34.030 and 1998 c 130 s 1 are each amended to read
11 as follows:

12 For purposes of this chapter:

13 (1) "Child" and "juvenile" means any individual under the age of
14 eighteen years.

15 (2) "Current placement episode" means the period of time that
16 begins with the most recent date that the child was removed from the
17 home of the parent, guardian, or legal custodian for purposes of
18 placement in out-of-home care and continues until the child returns
19 home, an adoption decree, a permanent custody order, or guardianship
20 order is entered, or the dependency is dismissed, whichever occurs
21 soonest. If the most recent date of removal occurred prior to the
22 filing of a dependency petition under this chapter or after filing but
23 prior to entry of a disposition order, such time periods shall be
24 included when calculating the length of a child's current placement
25 episode.

26 (3) "Dependency guardian" means the person, nonprofit corporation,
27 or Indian tribe appointed by the court pursuant to RCW 13.34.232 for
28 the limited purpose of assisting the court in the supervision of the
29 dependency.

30 (4) "Dependent child" means any child:

31 (a) Who has been abandoned; that is, where the child's parent,
32 guardian, or other custodian has expressed either by statement or
33 conduct, an intent to forego, for an extended period, parental rights
34 or parental responsibilities despite an ability to do so. If the court
35 finds that the petitioner has exercised due diligence in attempting to
36 locate the parent, no contact between the child and the child's parent,
37 guardian, or other custodian for a period of three months creates a

1 rebuttable presumption of abandonment, even if there is no expressed
2 intent to abandon;

3 (b) Who is abused or neglected as defined in chapter 26.44 RCW by
4 a person legally responsible for the care of the child; or

5 (c) Who has no parent, guardian, or custodian capable of adequately
6 caring for the child, such that the child is in circumstances which
7 constitute a danger of substantial damage to the child's psychological
8 or physical development.

9 (5) "Guardian" means the person or agency that: (a) Has been
10 appointed as the guardian of a child in a legal proceeding other than
11 a proceeding under this chapter; and (b) has the legal right to custody
12 of the child pursuant to such appointment. The term "guardian" shall
13 not include a "dependency guardian" appointed pursuant to a proceeding
14 under this chapter.

15 (6) "Guardian ad litem" means a person, appointed by the court to
16 represent the best interest of a child in a proceeding under this
17 chapter, or in any matter which may be consolidated with a proceeding
18 under this chapter. A "court-appointed special advocate" appointed by
19 the court to be the guardian ad litem for the child, or to perform
20 substantially the same duties and functions as a guardian ad litem,
21 shall be deemed to be guardian ad litem for all purposes and uses of
22 this chapter.

23 (7) "Guardian ad litem program" means a court-authorized volunteer
24 program, which is or may be established by the superior court of the
25 county in which such proceeding is filed, to manage all aspects of
26 volunteer guardian ad litem representation for children alleged or
27 found to be dependent. Such management shall include but is not
28 limited to: Recruitment, screening, training, supervision, assignment,
29 and discharge of volunteers.

30 (8) "Judicial proceeding" means an action in which a party
31 challenges a finding of the court.

32 (9) "Out-of-home care" means placement in a foster family home or
33 group care facility licensed pursuant to chapter 74.15 RCW or placement
34 in a home, other than that of the child's parent, guardian, or legal
35 custodian, not required to be licensed pursuant to chapter 74.15 RCW.

36 ((+9)) (10) "Preventive services" means preservation services, as
37 defined in chapter 74.14C RCW, and other reasonably available services
38 capable of preventing the need for out-of-home placement while
39 protecting the child.

1 **Sec. 3.** RCW 13.34.100 and 1996 c 249 s 13 are each amended to read
2 as follows:

3 (1) The court shall appoint a guardian ad litem for a child who is
4 the subject of an action under this chapter(~~(, unless a court for good~~
5 ~~cause finds the appointment unnecessary)) that results in a judicial
6 proceeding. The requirement of a guardian ad litem may be deemed
7 satisfied if the child is represented by independent counsel in the
8 proceedings.~~

9 (2) If the court does not have available to it a guardian ad litem
10 program with a sufficient number of volunteers, the court may appoint
11 a suitable person to act as guardian ad litem for the child under this
12 chapter. Another party to the proceeding or the party's employee or
13 representative shall not be so appointed.

14 (3) Each guardian ad litem program shall maintain a background
15 information record for each guardian ad litem in the program. The
16 background file shall include, but is not limited to, the following
17 information:

18 (a) Level of formal education;

19 (b) Training related to the guardian's duties;

20 (c) Number of years' experience as a guardian ad litem;

21 (d) Number of appointments as a guardian ad litem and the county or
22 counties of appointment; and

23 (e) Criminal history, as defined in RCW 9.94A.030.

24 The background information report shall be updated annually. As a
25 condition of appointment, the guardian ad litem's background
26 information record shall be made available to the court. If the
27 appointed guardian ad litem is not a member of a guardian ad litem
28 program the person shall provide the background information to the
29 court.

30 Upon appointment, the guardian ad litem, or guardian ad litem
31 program, shall provide the parties or their attorneys with a statement
32 containing his or her training relating to the duties as a guardian ad
33 litem and criminal history as defined in RCW 9.94A.030 for the period
34 covering ten years prior to the appointment. The background statement
35 shall not include identifying information that may be used to harm a
36 guardian ad litem, such as home addresses and home telephone numbers,
37 and for volunteer guardians ad litem the court may allow the use of
38 maiden names or pseudonyms as necessary for their safety.

1 (4) The appointment of the guardian ad litem shall remain in effect
2 until the court discharges the appointment or no longer has
3 jurisdiction, whichever comes first. The guardian ad litem may also be
4 discharged upon entry of an order of guardianship.

5 (5) A guardian ad litem through counsel, or as otherwise authorized
6 by the court, shall have the right to present evidence, examine and
7 cross-examine witnesses, and to be present at all hearings. A guardian
8 ad litem shall receive copies of all pleadings and other documents
9 filed or submitted to the court, and notice of all hearings according
10 to court rules. The guardian ad litem shall receive all notice
11 contemplated for a parent or other party in all proceedings under this
12 chapter.

13 (6) If the child requests legal counsel and is age twelve or older,
14 or if the guardian ad litem or the court determines that the child
15 needs to be independently represented by counsel, the court may appoint
16 an attorney to represent the child's position.

17 (7) For the purposes of child abuse prevention and treatment act
18 (42 U.S.C. Secs. 5101 et seq.) grants to this state under P.L. 93-247,
19 or any related state or federal legislation, a person appointed
20 pursuant to RCW 13.34.100 shall be deemed a guardian ad litem to
21 represent the best interests of the minor in proceedings before the
22 court.

23 (8) When a court-appointed special advocate or volunteer guardian
24 ad litem is requested on a case, the program shall give the court the
25 name of the person it recommends and the appointment shall be effective
26 immediately. The court shall appoint the person recommended by the
27 program. If a party in a case reasonably believes the court-appointed
28 special advocate or volunteer is inappropriate or unqualified, the
29 party may request a review of the appointment by the program. The
30 program must complete the review within five judicial days and remove
31 any appointee for good cause. If the party seeking the review is not
32 satisfied with the outcome of the review, the party may file a motion
33 with the court for the removal of the court-appointed special advocate
34 on the grounds the advocate or volunteer is inappropriate or
35 unqualified.

36 NEW SECTION. **Sec. 4.** This act is necessary for the immediate
37 preservation of the public peace, health, or safety, or support of the

1 state government and its existing public institutions, and takes effect
2 immediately."

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6 On page 1, line 2 of the title, after "act;" strike the remainder
7 of the title and insert "amending RCW 74.13.500, 13.34.030, and
8 13.34.100; and declaring an emergency."

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