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**HOUSE BILL 2733**

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**State of Washington 66th Legislature 2020 Regular Session**

**By** Representative Davis

AN ACT Relating to supporting relationships between parents and their children; amending RCW 13.34.020, 13.34.065, 13.34.190, 13.34.210, 26.11.020, 26.11.030, 26.33.295, 26.44.020, 71.12.680, 71.12.682, 71.12.684, and 71.12.686; and prescribing penalties.

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

**Sec.**  RCW 13.34.020 and 1998 c 314 s 1 are each amended to read as follows:

(1) The legislature declares that the family unit is a fundamental resource of American life which should be nurtured. Toward the continuance of this principle, the legislature declares that the family unit should remain intact unless a child's right to conditions of basic nurture, health, or safety is jeopardized. When the rights of basic nurture, physical and mental health, and safety of the child and the legal rights of the parents are in conflict, the rights and safety of the child should prevail. In making reasonable efforts under this chapter, the child's health and safety shall be the paramount concern. The right of a child to basic nurturing includes the right to a safe, stable, and permanent home and a speedy resolution of any proceeding under this chapter.

(2) The best interests of the child are served when the existing pattern of interaction between a parent and child is altered only to the extent necessitated by the changed relationship of the parents or as required to protect the child from physical, mental, or emotional harm. If a parent is unable to provide conditions of basic nurture, health, or safety as a primary caregiver and faces termination of parental rights under this chapter, but is otherwise capable of or may be capable of healthy visitation with the child, it is presumed that a written agreement under RCW 26.33.295 outlining ongoing visitation is in the child's best interests.

(3) The legislature recognizes that many dependency and termination proceedings are rooted in a parent's untreated substance use and/or mental health challenges. Mental health conditions and substance use disorders are treatable brain diseases from which people can recover. Even though a parent might currently be unable to serve as a primary caregiver and faces termination of parental rights under this chapter, the legislature recognizes that the parent can recover from his or her behavioral health challenges and, in doing so, can become able to participate in his or her child's life in a meaningful way. There is no such thing as too many people loving a child, and a child's development is aided, not hindered, by the presence of multiple, caring adults.

(4) The legislature recognizes that trauma caused by unnecessary separation of parents and infants during the critical period of bonding immediately following birth requires active efforts by the department to engage these parents and actively provide services to prevent the separation of a child from the child's parents. For children born with neonatal abstinence syndrome, hospitals and child welfare services must work together to ensure that evidence-based best practices are followed, including keeping the birth mother and child together whenever possible to reduce reliance on pharmacological interventions for neonatal abstinence syndrome.

**Sec.**  RCW 13.34.065 and 2019 c 172 s 11 are each amended to read as follows:

(1)(a) When a child is taken into custody, the court shall hold a shelter care hearing within seventy-two 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.

(b) Any parent, guardian, or legal custodian who for good cause is unable to attend the shelter care hearing may request 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 parent, the court shall schedule the hearing within seventy-two hours of the request, excluding Saturdays, Sundays, and holidays. The clerk shall notify all other parties of the hearing by any reasonable means.

(2)(a) If it is likely that the child will remain in shelter care longer than seventy-two hours, the department shall submit a recommendation to the court as to the further need for shelter care in all cases in which the child will remain in shelter care longer than the seventy-two hour period. In all other cases, the recommendation shall be submitted by the juvenile court probation counselor.

(b) All parties have the right to present testimony to the court regarding the need or lack of need for shelter care.

(c) Hearsay evidence before the court regarding the need or lack of need for shelter care must be supported by sworn testimony, affidavit, or declaration of the person offering such evidence.

(3)(a) At the commencement of the hearing, the court shall notify the parent, guardian, or custodian of the following:

(i) The parent, guardian, or custodian has the right to a shelter care hearing;

(ii) The nature of the shelter care hearing, the rights of the parents, and the proceedings that will follow; and

(iii) If the parent, guardian, or custodian is not represented by counsel, the right to be represented. If the parent, guardian, or custodian is indigent, the court shall appoint counsel as provided in RCW 13.34.090; and

(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 and the court determines that the waiver is knowing and voluntary. Regardless of whether the court accepts the parental waiver of the shelter care hearing, the court must provide notice to the parents of their rights required under (a) of this subsection and make the finding required under subsection (4) of this section.

(4) At the shelter care hearing the court shall examine the need for shelter care and inquire into the status of the case. The paramount consideration for the court shall be the health, welfare, and safety of the child. At a minimum, the court shall inquire into the following:

(a) Whether the notice required under RCW 13.34.062 was given to all known parents, guardians, or legal custodians of the child. The court shall make an express finding as to whether the notice required under RCW 13.34.062 was given to the parent, guardian, or legal custodian. If actual notice was not given to the parent, guardian, or legal custodian and the whereabouts of such person is known or can be ascertained, the court shall order the department to make reasonable efforts to advise the parent, guardian, or legal custodian of the status of the case, including the date and time of any subsequent hearings, and their rights under RCW 13.34.090;

(b) Whether the child can be safely returned home while the adjudication of the dependency is pending;

(c) What efforts have been made to place the child with a relative. The court shall ask the parents whether the department discussed with them the placement of the child with a relative or other suitable person described in RCW 13.34.130(1)(b) and shall determine what efforts have been made toward such a placement;

(d) What services were provided to the family to prevent or eliminate the need for removal of the child from the child's home, including whether a documented, concerted, and good faith effort was made by the department to facilitate the parent's receipt of and engagement in services to prevent any removal or separation of the child from a parent. If the dependency petition or other information before the court alleges that homelessness or the lack of suitable housing was a significant factor contributing to the removal of the child, the court shall inquire as to whether housing assistance was provided to the family to prevent or eliminate the need for removal of the child or children;

(e) Is the placement proposed by the department the least disruptive and most family-like setting that meets the needs of the child;

(f) Whether it is in the best interest of the child to remain enrolled in the school, developmental program, or child care the child was in prior to placement and what efforts have been made to maintain the child in the school, program, or child care if it would be in the best interest of the child to remain in the same school, program, or child care;

(g) Appointment of a guardian ad litem or attorney;

(h) Whether the child is or may be an Indian child as defined in RCW 13.38.040, whether the provisions of the federal Indian child welfare act or chapter 13.38 RCW apply, and whether there is compliance with the federal Indian child welfare act and chapter 13.38 RCW, including notice to the child's tribe;

(i) Whether, as provided in RCW 26.44.063, restraining orders, or orders expelling an allegedly abusive household member from the home of a nonabusive parent, guardian, or legal custodian, will allow the child to safely remain in the home;

(j) Whether any orders for examinations, evaluations, or immediate services are needed. The court may not order a parent to undergo examinations, evaluation, or services at the shelter care hearing unless the parent agrees to the examination, evaluation, or service;

(k) The terms and conditions for parental, sibling, and family visitation.

(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:

(i) After consideration of the specific services that have been provided, reasonable efforts, or documented, concerted, and good faith efforts to facilitate the parent's receipt of and engagement in services immediately following birth, 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

(ii)(A) The child has no parent, guardian, or legal custodian to provide supervision and care for such child; or

(B) The release of such child would present a serious threat of substantial harm to such child, notwithstanding an order entered pursuant to RCW 26.44.063; or

(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.

(b) If the court does not release the child to his or her parent, guardian, or legal custodian, the court shall order placement with a relative or other suitable person as described in RCW 13.34.130(1)(b), unless there is reasonable cause to believe the health, safety, or welfare of the child would be jeopardized or that the efforts to reunite the parent and child will be hindered. If such relative or other suitable person appears otherwise suitable and competent to provide care and treatment, the fingerprint-based background check need not be completed before placement, but as soon as possible after placement. The court must also determine whether placement with the relative or other suitable person is in the child's best interests. The relative or other suitable person must be willing and available to:

(i) Care for the child and be able to meet any special needs of the child;

(ii) Facilitate the child's visitation with siblings, if such visitation is part of the department's plan or is ordered by the court; and

(iii) Cooperate with the department in providing necessary background checks and home studies.

(c) If the child was not initially placed with a relative or other suitable person, and the court does not release the child to his or her parent, guardian, or legal custodian, the department shall make reasonable efforts to locate a relative or other suitable person pursuant to RCW 13.34.060(1). In determining placement, the court shall weigh the child's length of stay and attachment to the current provider in determining what is in the best interest of the child.

(d) If a relative or other suitable person is not available, the court shall order continued shelter care and shall set forth its reasons for the order. If the court orders placement of the child with a person not related to the child and not licensed to provide foster care, the placement is subject to all terms and conditions of this section that apply to relative placements.

(e) Any placement with a relative, or other suitable person approved by the court pursuant to this section, shall be contingent upon cooperation with the department's or agency's case plan and compliance with court orders related to the care and supervision of the child including, but not limited to, court orders regarding parent-child contacts, sibling contacts, and any other conditions imposed by the court. Noncompliance with the case plan or court order is grounds for removal of the child from the home of the relative or other suitable person, subject to review by the court.

(f) If the child is placed in a qualified residential treatment program as defined in this chapter, the court shall, within sixty days of placement, hold a hearing to:

(i) Consider the assessment required under RCW 13.34.420 and submitted as part of the department's social study, and any related documentation;

(ii) Determine whether placement in foster care can meet the child's needs or if placement in another available placement setting best meets the child's needs in the least restrictive environment; and

(iii) Approve or disapprove the child's placement in the qualified residential treatment program.

(g) Uncertainty by a parent, guardian, legal custodian, relative, or other suitable person that the alleged abuser has in fact abused the child shall not, alone, be the basis upon which a child is removed from the care of a parent, guardian, or legal custodian under (a) of this subsection, nor shall it be a basis, alone, to preclude placement with a relative or other suitable person under (b) of this subsection.

(6)(a) A shelter care order issued pursuant to this section shall include the requirement for a case conference as provided in RCW 13.34.067. However, if the parent is not present at the shelter care hearing, or does not agree to the case conference, the court shall not include the requirement for the case conference in the shelter care order.

(b) If the court orders a case conference, the shelter care order shall include notice to all parties and establish the date, time, and location of the case conference which shall be no later than thirty days before the fact-finding hearing.

(c) The court may order another conference, case staffing, or hearing as an alternative to the case conference required under RCW 13.34.067 so long as the conference, case staffing, or hearing ordered by the court meets all requirements under RCW 13.34.067, including the requirement of a written agreement specifying the services to be provided to the parent.

(7)(a) A shelter care order issued pursuant to this section may be amended at any time with notice and hearing thereon. The shelter care decision of placement shall be modified only upon a showing of change in circumstances. No child may be placed in shelter care for longer than thirty days without an order, signed by the judge, authorizing continued shelter care.

(b)(i) An order releasing the child on any conditions specified in this section may at any time be amended, with notice and hearing thereon, so as to return the child to shelter care for failure of the parties to conform to the conditions originally imposed.

(ii) The court shall consider whether nonconformance with any conditions resulted from circumstances beyond the control of the parent, guardian, or legal custodian and give weight to that fact before ordering return of the child to shelter care.

(8)(a) If a child is returned home from shelter care a second time in the case, or if the supervisor of the caseworker deems it necessary, the multidisciplinary team may be reconvened.

(b) If a child is returned home from shelter care a second time in the case a law enforcement officer must be present and file a report to the department.

**Sec.**  RCW 13.34.190 and 2011 c 309 s 30 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, after hearings pursuant to RCW 13.34.110 or 13.34.130, the court may enter an order terminating all parental rights to a child only if the court finds that:

(a)(i) The allegations contained in the petition as provided in RCW 13.34.180(1) are established by clear, cogent, and convincing evidence; or

(ii) The provisions of RCW 13.34.180(1) (a), (b), (e), and (f) are established beyond a reasonable doubt and if so, then RCW 13.34.180(1) (c) and (d) may be waived. When an infant has been abandoned, as defined in RCW 13.34.030, and the abandonment has been proved beyond a reasonable doubt, then RCW 13.34.180(1) (c) and (d) may be waived; or

(iii) The allegation under RCW 13.34.180((~~(2)~~)) (3) is established beyond a reasonable doubt. In determining whether RCW 13.34.180(1) (e) and (f) are established beyond a reasonable doubt, the court shall consider whether one or more of the aggravated circumstances listed in RCW 13.34.132 exist; or

(iv) The allegation under RCW 13.34.180((~~(3)~~)) (4) is established beyond a reasonable doubt; and

(b) Such an order is in the best interests of the child.

(i) If the court finds that termination of parental rights is in the child's best interest, the court shall also examine whether it is in the child's best interest to have posttermination contact with the parent. It is presumed that contact between the child and the parent whose rights have been terminated currently is, or in the future will be, in the child's best interest. To rebut this presumption, the department must establish by clear, cogent, and convincing evidence that such contact currently is not, and will never be, in the child's best interest;

(ii) There is a presumption that visitation between the child and parent whose rights have been terminated will continue or be reinstated pursuant to an open adoption agreement under RCW 26.33.295, unless the contact is no longer, and will never be, in the child's best interest. If visitation is not currently in the child's best interest, the open adoption agreement in RCW 26.33.295 may include requirements for a birth parent to remedy issues that led to the termination prior to reinstatement of visitation.

(2) The provisions of chapter 13.38 RCW must be followed in any proceeding under this chapter for termination of the parent-child relationship of an Indian child as defined in RCW 13.38.040.

**Sec.**  RCW 13.34.210 and 2018 c 284 s 21 are each amended to read as follows:

(1) If, upon entering an order terminating the parental rights of a parent, there remains no parent having parental rights, the court shall commit the child to the custody of the department willing to accept custody for the purpose of placing the child for adoption. If an adoptive home has not been identified, the department shall place the child in a licensed foster home, or take other suitable measures for the care and welfare of the child. The custodian shall have authority to consent to the adoption of the child consistent with chapter 26.33 RCW, the marriage of the child, the enlistment of the child in the armed forces of the United States, necessary surgical and other medical treatment for the child, and to consent to such other matters as might normally be required of the parent of the child.

(2) If a child has not been adopted within six months after the date of the order and a guardianship of the child under chapter 13.36 RCW or chapter 11.88 RCW, or a permanent custody order under chapter 26.10 RCW, has not been entered by the court, the court shall review the case every six months until a decree of adoption is entered. The department shall take reasonable steps to ensure that the child maintains relationships with siblings as provided in RCW 13.34.130((~~(6)~~)) (7) and shall report to the court the status and extent of such relationships.

(3) A person whose parental rights were terminated may petition the court for visitation with the child who is in the custody of the department, and for whom there remains no parent having parental rights, alleging that it would be in the child's best interest to allow visitation between the petitioner and the child.

(a) A petitioner under this subsection (3) shall:

(i) Set forth facts in the affidavit supporting the petitioner's requested order for visitation;

(ii) Serve notice of the filing to the department, and the department may file an opposing motion.

(b) If, based on the petition and affidavits, the court finds that it is more likely than not that visitation will be granted, the court shall hold a hearing.

(c) During a hearing to consider visitation under this subsection (3), the court shall enter an order granting visitation if it finds that it would be in the child's best interest to visit the petitioner.

(d) A court may not modify or terminate an order granting visitation under this subsection (3) unless it finds, on the basis of facts that have arisen since the entry of the order or were unknown to the court at the time it entered the order, that a substantial change of circumstances has occurred in the circumstances of the child or parent and that modification or termination of the order is necessary for the best interest of the child.

**Sec.**  RCW 26.11.020 and 2018 c 183 s 2 are each amended to read as follows:

(1)(a) A person who is not the parent of the child may petition for visitation with the child if:

((~~(a)~~)) (i) The petitioner has an ongoing and substantial relationship with the child;

((~~(b)~~)) (ii) The petitioner is a relative of the child or a parent of the child; and

((~~(c)~~)) (iii) The child is likely to suffer harm or a substantial risk of harm if visitation is denied.

((~~(2)~~)) (b) A person has established an ongoing and substantial relationship with a child if the person and the child have had a relationship formed and sustained through interaction, companionship, and mutuality of interest and affection, without expectation of financial compensation, with substantial continuity for at least two years unless the child is under the age of two years, in which case there must be substantial continuity for at least half of the child's life, and with a shared expectation of and desire for an ongoing relationship.

(2)(a) A person whose parental rights with respect to a child were terminated in a proceeding under chapter 13.34 RCW may petition for visitation with the child if:

(i) The person has successfully addressed the parental deficiencies that led to the termination or relinquishment of parental rights; and

(ii) The child is likely to suffer harm or a substantial likelihood of harm if visitation is denied.

(b) In determining whether a petitioner has met the requirements in (a)(i) of this subsection, the court may consider evidence that the petitioner:

(i) Has a history of successful engagement in, and completion of, treatment programs or services that address the parental deficiencies that were the basis for the termination;

(ii) Has demonstrated recovery from his or her mental health or substance use disorder, or both, for at least one continuous year prior to the filing of the petition as evidenced by more than one third-party attestation;

(iii) Is currently successfully parenting or caregiving for a child or children; and

(iv) Has demonstrated consistent visitation during the time in which visitation was available to the parent.

(c) If aggravated circumstances under RCW 13.34.132 exist, the parent for whom those aggravated circumstances exist is not eligible for visitation under this section.

**Sec.**  RCW 26.11.030 and 2018 c 183 s 3 are each amended to read as follows:

(1) If a court has jurisdiction over the child pursuant to chapter 26.27 RCW, a petition for visitation under RCW 26.11.020 must be filed with that court.

(2) Except as otherwise provided in subsection (1) of this section, if a court has exclusive original jurisdiction over the child under RCW 13.04.030(1) (a) through (d), (h), or (j), a petition for visitation under RCW 26.11.020 must be filed with that court. Granting of a petition for visitation under this chapter does not entitle the petitioner to party status in a child custody proceeding under Title 13 RCW.

(3) Except as otherwise provided in subsections (1) and (2) of this section, a petition for visitation under RCW 26.11.020 must be filed in the county where the child primarily resides.

(4) The petitioner may not file a petition for visitation more than once.

(5) The petitioner must file with the petition an affidavit alleging that:

(a)(i) A relationship with the child that satisfies the requirements of RCW 26.11.020(1) exists or existed before action by the respondent; or (ii) the petitioner meets the criteria in RCW 26.11.020(2); and

(b) The child would likely suffer harm or the substantial risk of harm if visitation between the petitioner and child was not granted.

(6) The petitioner shall set forth facts in the affidavit supporting the petitioner's requested order for visitation.

(7) The petitioner shall serve notice of the filing to each person having legal custody of, or court-ordered residential time with, the child. A person having legal custody or residential time with the child may file an opposing affidavit.

(8) If, based on the petition and affidavits, the court finds that it is more likely than not that visitation will be granted, the court shall hold a hearing.

(9) The court may not enter any temporary orders to establish, enforce, or modify visitation under this section.

**Sec.**  RCW 26.33.295 and 2009 c 234 s 3 are each amended to read as follows:

(1) Nothing in this chapter shall be construed to prohibit the parties to a proceeding under this chapter from entering into agreements regarding communication with or contact between child adoptees, adoptive parents, siblings of child adoptees, and a birth parent or parents.

(2) Agreements regarding communication with or contact between child adoptees, adoptive parents, siblings of child adoptees, and a birth parent or parents shall not be legally enforceable unless the terms of the agreement are set forth in a written court order entered in accordance with the provisions of this section. The court shall not enter a proposed order unless the terms of such order have been approved in writing by the prospective adoptive parents, any birth parent ((~~whose parental rights have not previously been terminated~~)), and, if the child or siblings of the child are in the custody of the department or a licensed child-placing agency, a representative of the department or child-placing agency. If the child is represented by an attorney or guardian ad litem in a proceeding under this chapter or in any other child-custody proceeding, the terms of the proposed order also must be approved in writing by the child's representative. An agreement under this section need not disclose the identity of the parties to be legally enforceable. The court shall not enter a proposed order unless the court finds that the communication or contact with the child adoptee, as agreed upon and as set forth in the proposed order, would be in the child adoptee's best interests.

(3) Failure to comply with the terms of an agreed order regarding communication or contact that has been entered by the court pursuant to this section shall not be grounds for setting aside an adoption decree or revocation of a written consent to an adoption after that consent has been approved by the court as provided in this chapter.

(4) An agreed order entered pursuant to this section may be enforced by a civil action in the court which entered the open adoption agreed order and the prevailing party in that action may be awarded, as part of the costs of the action, a reasonable amount to be fixed by the court as attorneys' fees and civil fines of up to three hundred dollars for each missed visit or violation of a contact provision required by the open adoption agreed order. The court shall not modify an agreed order under this section unless it finds that the modification is necessary to serve the best interests of the child adoptee, and that: (a) The modification is agreed to by the adoptive parent and the birth parent or parents; or (b) exceptional circumstances have arisen since the agreed order was entered that justify modification of the order. Exceptional circumstances under this subsection include, but are not limited to:

(i) Refusal of the adoptive parent to comply with visitation or contact provisions included in the open adoption agreed order;

(ii) Visitation or contact provisions which are no longer possible to follow; or

(iii) A substantial change in the circumstances of the birth parent's life that justifies less restrictive or increased visitation with the child adoptee.

(5) This section does not require the department or other supervising agency to agree to any specific provisions in an open adoption agreement and does not create a new obligation for the department to provide supervision or transportation for visits between siblings separated by adoption from foster care.

(6) By July 1, 2020, the administrative office of the courts shall develop a pattern form for open adoption agreed orders. After July 1, 2020, parties must use the pattern form for open adoption agreed orders.

**Sec.**  RCW 26.44.020 and 2019 c 172 s 5 are each amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Abuse or neglect" means sexual abuse, sexual exploitation, or injury of a child by any person under circumstances which cause harm to the child's health, welfare, or safety, excluding conduct permitted under RCW 9A.16.100; or the negligent treatment or maltreatment of a child by a person responsible for or providing care to the child. An abused child is a child who has been subjected to child abuse or neglect as defined in this section.

(2) "Child" or "children" means any person under the age of eighteen years of age.

(3) "Child forensic interview" means a developmentally sensitive and legally sound method of gathering factual information regarding allegations of child abuse, child neglect, or exposure to violence. This interview is conducted by a competently trained, neutral professional utilizing techniques informed by research and best practice as part of a larger investigative process.

(4) "Child protective services" means those services provided by the department designed to protect children from child abuse and neglect and safeguard such children from future abuse and neglect, and conduct investigations of child abuse and neglect reports. Investigations may be conducted regardless of the location of the alleged abuse or neglect. Child protective services includes referral to services to ameliorate conditions that endanger the welfare of children, the coordination of necessary programs and services relevant to the prevention, intervention, and treatment of child abuse and neglect, and services to children to ensure that each child has a permanent home. In determining whether protective services should be provided, the department shall not decline to provide such services solely because of the child's unwillingness or developmental inability to describe the nature and severity of the abuse or neglect.

(5) "Child protective services section" means the child protective services section of the department.

(6) "Child who is a candidate for foster care" means a child who the department identifies as being at imminent risk of entering foster care but who can remain safely in the child's home or in a kinship placement as long as services or programs that are necessary to prevent entry of the child into foster care are provided, and includes but is not limited to a child whose adoption or guardianship arrangement is at risk of a disruption or dissolution that would result in a foster care placement. The term includes a child for whom there is reasonable cause to believe that any of the following circumstances exist:

(a) The child has been abandoned by the parent as defined in RCW 13.34.030 and the child's health, safety, and welfare is seriously endangered as a result;

(b) The child has been abused or neglected as defined in this chapter ((~~26.44 RCW~~)) and the child's health, safety, and welfare is seriously endangered as a result;

(c) There is no parent capable of meeting the child's needs such that the child is in circumstances that constitute a serious danger to the child's development;

(d) The child is otherwise at imminent risk of harm.

(7) "Children's advocacy center" means a child-focused facility in good standing with the state chapter for children's advocacy centers and that coordinates a multidisciplinary process for the investigation, prosecution, and treatment of sexual and other types of child abuse. Children's advocacy centers provide a location for forensic interviews and coordinate access to services such as, but not limited to, medical evaluations, advocacy, therapy, and case review by multidisciplinary teams within the context of county protocols as defined in RCW 26.44.180 and 26.44.185.

(8) "Clergy" means any regularly licensed or ordained minister, priest, or rabbi of any church or religious denomination, whether acting in an individual capacity or as an employee or agent of any public or private organization or institution.

(9) "Court" means the superior court of the state of Washington, juvenile department.

(10) "Department" means the department of children, youth, and families.

(11) "Family assessment" means a comprehensive assessment of child safety, risk of subsequent child abuse or neglect, and family strengths and needs that is applied to a child abuse or neglect report. Family assessment does not include a determination as to whether child abuse or neglect occurred, but does determine the need for services to address the safety of the child and the risk of subsequent maltreatment.

(12) "Family assessment response" means a way of responding to certain reports of child abuse or neglect made under this chapter using a differential response approach to child protective services. The family assessment response shall focus on the safety of the child, the integrity and preservation of the family, and shall assess the status of the child and the family in terms of risk of abuse and neglect including the parent's or guardian's or other caretaker's capacity and willingness to protect the child and, if necessary, plan and arrange the provision of services to reduce the risk and otherwise support the family. No one is named as a perpetrator, and no investigative finding is entered in the record as a result of a family assessment.

(13) "Founded" means the determination following an investigation by the department that, based on available information, it is more likely than not that child abuse or neglect did occur.

(14) "Inconclusive" means the determination following an investigation by the department of social and health services, prior to October 1, 2008, that based on available information a decision cannot be made that more likely than not, child abuse or neglect did or did not occur.

(15) "Institution" means a private or public hospital or any other facility providing medical diagnosis, treatment, or care.

(16) "Law enforcement agency" means the police department, the prosecuting attorney, the state patrol, the director of public safety, or the office of the sheriff.

(17) "Malice" or "maliciously" means an intent, wish, or design to intimidate, annoy, or injure another person. Such malice may be inferred from an act done in willful disregard of the rights of another, or an act wrongfully done without just cause or excuse, or an act or omission of duty betraying a willful disregard of social duty.

(18) "Negligent treatment or maltreatment" means an act or a failure to act, or the cumulative effects of a pattern of conduct, behavior, or inaction, that evidences a serious disregard of consequences of such magnitude as to constitute a clear and present danger to a child's health, welfare, or safety, including but not limited to conduct prohibited under RCW 9A.42.100. ((~~When considering whether a clear and present danger exists, evidence of a parent's substance abuse as a contributing factor to negligent treatment or maltreatment shall be given great weight.~~)) The fact that siblings share a bedroom is not, in and of itself, negligent treatment or maltreatment. Poverty, homelessness, or exposure to domestic violence as defined in RCW 26.50.010 that is perpetrated against someone other than the child does not constitute negligent treatment or maltreatment in and of itself.

(19) "Pharmacist" means any registered pharmacist under chapter 18.64 RCW, whether acting in an individual capacity or as an employee or agent of any public or private organization or institution.

(20) "Practitioner of the healing arts" or "practitioner" means a person licensed by this state to practice podiatric medicine and surgery, optometry, chiropractic, nursing, dentistry, osteopathic medicine and surgery, or medicine and surgery or to provide other health services. The term "practitioner" includes a duly accredited Christian Science practitioner. A person who is being furnished Christian Science treatment by a duly accredited Christian Science practitioner will not be considered, for that reason alone, a neglected person for the purposes of this chapter.

(21) "Prevention and family services and programs" means specific mental health prevention and treatment services, substance abuse prevention and treatment services, and in-home parent skill-based programs that qualify for federal funding under the federal family first prevention services act, P.L. 115-123. For purposes of this chapter, prevention and family services and programs are not remedial services or family reunification services as described in RCW 13.34.025(2).

(22) "Professional school personnel" include, but are not limited to, teachers, counselors, administrators, child care facility personnel, and school nurses.

(23) "Psychologist" means any person licensed to practice psychology under chapter 18.83 RCW, whether acting in an individual capacity or as an employee or agent of any public or private organization or institution.

(24) "Screened-out report" means a report of alleged child abuse or neglect that the department has determined does not rise to the level of a credible report of abuse or neglect and is not referred for investigation.

(25) "Sexual exploitation" includes: (a) Allowing, permitting, or encouraging a child to engage in prostitution by any person; or (b) allowing, permitting, encouraging, or engaging in the obscene or pornographic photographing, filming, or depicting of a child by any person.

(26) "Sexually aggressive youth" means a child who is defined in RCW 74.13.075(1)(b) as being a sexually aggressive youth.

(27) "Social service counselor" means anyone engaged in a professional capacity during the regular course of employment in encouraging or promoting the health, welfare, support, or education of children, or providing social services to adults or families, including mental health, drug and alcohol treatment, and domestic violence programs, whether in an individual capacity, or as an employee or agent of any public or private organization or institution.

(28) "Unfounded" means the determination following an investigation by the department that available information indicates that, more likely than not, child abuse or neglect did not occur, or that there is insufficient evidence for the department to determine whether the alleged child abuse did or did not occur.

**Sec.**  RCW 71.12.680 and 2017 c 263 s 3 are each amended to read as follows:

(1) An establishment providing pediatric transitional care services to drug exposed infants must demonstrate that it is capable of providing services for children who:

(a) Are no more than one year of age;

(b) Have been exposed to drugs before birth;

(c) Require twenty-four hour continuous residential care and skilled nursing services as a result of prenatal substance exposure; and

(d) Are referred to the establishment by the department of ((~~social and health services~~)) children, youth, and families, regional hospitals, and private parties.

(2) After January 1, 2019, no person may operate or maintain an establishment that provides pediatric transitional care services without a license under this chapter.

**Sec.**  RCW 71.12.682 and 2017 c 263 s 4 are each amended to read as follows:

For the purposes of this chapter, the rules for pediatric transitional care services are not considered as a new department of ((~~social and health services~~)) children, youth, and families service category.

**Sec.**  RCW 71.12.684 and 2017 c 263 s 5 are each amended to read as follows:

The secretary must, in consultation with the department of ((~~social and health services~~)) children, youth, and families, adopt rules on pediatric transitional care services. The rules must:

(1) Establish requirements for medical examinations and consultations which must be delivered by an appropriate health care professional;

(2) Require twenty-four hour medical supervision for children receiving pediatric transitional services in accordance with the staffing ratios established under subsection (3) of this section;

(3) Include staffing ratios that consider the number of registered nurses or licensed practical nurses employed by the establishment and the number of trained caregivers on duty at the establishment. These staffing ratios may not require more than:

(a) One registered nurse to be on duty at all times;

(b) One registered nurse or licensed practical nurse to eight infants; and

(c) One trained caregiver to four infants;

(4) Require establishments that provide pediatric transitional care services to prepare weekly plans specific to each infant in their care and in accordance with the health care professional's standing orders. The health care professional may modify an infant's weekly plan without reexamining the infant if he or she determines the modification is in the best interest of the child. This modification may be communicated to the registered nurse on duty at the establishment who must then implement the modification. Weekly plans are to include short-term goals for each infant and outcomes must be included in reports required by the department;

(5) Ensure that neonatal abstinence syndrome scoring is conducted by an appropriate health care professional;

(6) Establish drug exposed infant developmental screening tests for establishments that provide pediatric transitional care services to administer according to a schedule established by the secretary;

(7) Require the establishment to collaborate with the department of ((~~social and health services~~)) children, youth, and families to develop an individualized safety plan for each child and to meet other contractual requirements of the department of ((~~social and health services~~)) children, youth, and families to identify strategies to meet supervision needs, medical concerns, and family support needs;

(8) Establish the maximum amount of days an infant may be placed at an establishment;

(9) Develop timelines for initial and ongoing parent-infant visits to nurture and help develop attachment and bonding between the child and parent, ((~~if such visits are possible~~)) including use of evidence-based, best practices that maintain as much parent-child interaction as possible. Timelines must be developed upon placement of the infant in the establishment providing pediatric transitional care services;

(10) Determine how transportation for the infant will be provided, if needed;

(11) Establish on-site training requirements for caregivers, volunteers, parents, foster parents, and relatives;

(12) Establish background check requirements for caregivers, volunteers, employees, and any other person with unsupervised access to the infants under the care of the establishment; and

(13) Establish other requirements necessary to support the infant and the infant's family.

**Sec.**  RCW 71.12.686 and 2017 c 263 s 6 are each amended to read as follows:

After referral by the department of ((~~social and health services~~)) children, youth, and families of an infant to an establishment approved to provide pediatric transitional care services, the department of ((~~social and health services~~)) children, youth, and families:

(1) Retains primary responsibility for case management and must provide consultation to the establishment regarding all placements and permanency planning issues, including developing a parent-child visitation plan;

(2) Must work with the department and the establishment to identify and implement evidence-based practices that address current and best medical practices and parent participation; and

(3) ((~~Work~~)) Must work with the establishment to ensure medicaid-eligible services are so billed.

**--- END ---**