

SB 5805 - H COMM AMD

By Committee on Civil Rights & Judiciary

NOT ADOPTED 02/27/2024

1 Strike everything after the enacting clause and insert the
2 following:

3 **"Sec. 1.** RCW 13.34.212 and 2021 c 210 s 6 are each amended to
4 read as follows:

5 (1)(a) The court shall appoint an attorney for a child in a
6 dependency proceeding six months after granting a petition to
7 terminate the parent and child relationship pursuant to RCW 13.34.180
8 and when there is no remaining parent with parental rights.

9 (b) The court may appoint one attorney to a group of siblings,
10 unless there is a conflict of interest, or such representation is
11 otherwise inconsistent with the rules of professional conduct.

12 (c) Subject to availability of amounts appropriated for this
13 specific purpose, the state shall pay the costs of legal services
14 provided by an attorney appointed pursuant to (a) of this subsection
15 if the legal services are provided in accordance with the rules of
16 professional conduct, the standards of practice, caseload limits, and
17 training guidelines adopted by the statewide children's
18 representation work group pursuant to section 5, chapter 180, Laws of
19 2010 until such time that new recommendations are adopted by the
20 children's representation work group established in section 9,
21 chapter 210, Laws of 2021.

22 (d) The office of civil legal aid is responsible for
23 implementation of (c) of this subsection as provided in RCW 2.53.045.

24 (e) Legal services provided by an attorney pursuant to (a) of
25 this subsection do not include representation of the child in any
26 appellate proceedings relative to the termination of the parent and
27 child relationship.

28 (2)(a) The court may appoint an attorney to represent the child's
29 position in any dependency action on its own initiative, or upon the
30 request of a parent, the child, a guardian ad litem, a caregiver, or
31 the department.

1 (b) (i) If the court has not already appointed an attorney for a
2 child, or the child is not represented by a privately retained
3 attorney:

4 (A) The child's caregiver, or any individual, may refer the child
5 to an attorney for the purposes of filing a motion to request
6 appointment of an attorney at public expense; or

7 (B) The child or any individual may retain an attorney for the
8 child for the purposes of filing a motion to request appointment of
9 an attorney at public expense.

10 (ii) Nothing in this subsection changes or alters the
11 confidentiality provisions of RCW 13.50.100.

12 (c) The department and the child's guardian ad litem shall each
13 notify a child of the child's right to request an attorney and shall
14 ask the child whether the child wishes to have an attorney. The
15 department and the child's guardian ad litem shall notify the child
16 and make this inquiry immediately after:

17 (i) The date of the child's 12th birthday; or

18 (ii) Assignment of a case involving a child age 12 or older.

19 (d) The department and the child's guardian ad litem shall repeat
20 the notification and inquiry at least annually and upon the filing of
21 any motion or petition affecting the child's placement, services, or
22 familial relationships.

23 (e) The notification and inquiry is not required if the child has
24 already been appointed an attorney.

25 (f) The department shall note in the child's individual service
26 and safety plan, and the guardian ad litem shall note in his or her
27 report to the court, that the child was notified of the right to
28 request an attorney and indicate the child's position regarding
29 appointment of an attorney.

30 (g) At the first regularly scheduled hearing after:

31 (i) The date of the child's 12th birthday; or

32 (ii) The date that a dependency petition is filed pursuant to
33 this chapter on a child age 12 or older;

34 the court shall inquire whether the child has received notice of his
35 or her right to request an attorney from the department and the
36 child's guardian ad litem. The court shall make an additional inquiry
37 at the first regularly scheduled hearing after the child's 15th
38 birthday. No inquiry is necessary if the child has already been
39 appointed an attorney.

1 (3) Subject to the availability of amounts appropriated for this
2 specific purpose:

3 (a) Pursuant to the phase-in schedule set forth in (c) of this
4 subsection (3), the court must appoint an attorney for every child in
5 a dependency proceeding as follows:

6 (i) For a child under the age of eight, appointment must be made
7 for the dependency and termination action upon the filing of a
8 termination petition. Nothing in this subsection shall be construed
9 to limit the ability of the court to appoint an attorney to represent
10 the child's position in a dependency action on its own initiative, or
11 upon the request of a parent, the child, a guardian ad litem, a
12 caregiver, or the department, prior to the filing of a termination
13 petition.

14 (ii) For a child between the ages of eight through 17,
15 appointment must be made upon the filing of a new dependency petition
16 at or before the commencement of the shelter care hearing.

17 (iii) For any pending or open dependency case where the child is
18 unrepresented and is entitled to the appointment of an attorney under
19 (a)(i) or (ii) of this subsection, appointment must be made at or
20 before the next hearing if the child is eligible for representation
21 pursuant to the phase-in schedule. At the next hearing, the court
22 shall inquire into the status of attorney representation for the
23 child, and if the child is not yet represented, appointment must be
24 made at the hearing.

25 (b) Appointment is not required if the court has already
26 appointed an attorney for the child, or the child is represented by a
27 privately retained attorney.

28 (c) The statewide children's legal representation program shall
29 develop a schedule for court appointment of attorneys for every child
30 in dependency proceedings that will be phased in on a county-by-
31 county basis over a (~~six-year~~) seven-year period. The schedule
32 required under this subsection must not add more than 1,250 cases
33 each fiscal year and:

34 (i) (~~Prioritize~~) To the extent practicable, prioritize
35 implementation in counties that have:

36 (A) No current practice of appointment of attorneys for children
37 in dependency cases; or

38 (B) Significant prevalence of racial disproportionality or
39 disparities in the number of dependent children compared to the
40 general population, or both;

1 (ii) Include representation in at least:

2 (A) Three counties beginning July 1, 2022;

3 (B) Eight counties beginning January 1, 2023;

4 (C) Fifteen counties beginning January 1, 2024;

5 (D) Twenty counties beginning January 1, 2025;

6 (E) Thirty counties beginning January 1, 2026;

7 (F) Thirty-six counties beginning in January 1, 2027; and

8 (iii) Achieve full statewide implementation by January 1,
9 (~~2027~~) 2028.

10 (d) In cases where the statewide children's legal representation
11 program provides funding and where consistent with its administration
12 and oversight responsibilities, the statewide children's legal
13 representation program should prioritize continuity of counsel for
14 children who are already represented at county expense when the
15 statewide children's legal representation program becomes effective
16 in a county. The statewide children's legal representation program
17 shall coordinate with relevant county stakeholders to determine how
18 best to prioritize this continuity of counsel.

19 (e) The statewide children's legal representation program is
20 responsible for the recruitment, training, and oversight of attorneys
21 providing standards-based representation pursuant to (a) and (c) of
22 this subsection as provided in RCW 2.53.045 and shall ensure that
23 attorneys representing children pursuant to this section provide
24 legal services according to the rules of professional conduct, the
25 standards of practice, caseload limits, and training guidelines
26 adopted by the children's representation work group established in
27 section 9, chapter 210, Laws of 2021.

28 (f) The statewide children's legal representation program shall
29 coordinate with the Washington state bar association and local county
30 bar associations regarding the advertising of contract attorney
31 opportunities for providing legal representation pursuant to (a) and
32 (c) of this subsection.

33 (g) The statewide children's legal representation program shall
34 coordinate with the office of public defense regarding posting on the
35 office of public defense website contract attorney opportunities for
36 providing legal representation pursuant to (a) and (c) of this
37 subsection."

38 Correct the title.

EFFECT: Requires the Statewide Children's Legal Representation Program (Program) within the Office of Civil Legal Aid to coordinate with the Washington State Bar Association and with county bar associations regarding the advertising of contract attorney opportunities with the Program. Requires the Program to coordinate with the Office of Public Defense (OPD) regarding posting on the OPD website contract attorney opportunities with the Program.

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