
SENATE BILL 5916

State of Washington 52nd Legislature 1991 Regular Session

By Senators Roach, Talmadge, L. Smith and Stratton.

Read first time March 4, 1991. Referred to Committee on Children & Family Services.

1 AN ACT Relating to the department of social and health services;
2 amending RCW 74.13.300 and 13.34.110; adding new sections to chapter
3 74.13 RCW; adding new sections to chapter 13.34 RCW; creating a new
4 section; and declaring an emergency.

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

6 NEW SECTION. **Sec. 1.** It is the intent of the legislature to
7 provide timely, thorough, and fair procedures for resolution of
8 grievances of clients, foster parents, and the community resulting from
9 decisions made by the department of social and health services.
10 Grievances should be resolved at the lowest level possible, however,
11 all levels of the department should be held accountable and responsible
12 to individuals who are experiencing difficulties with their services or
13 decisions.

1 NEW SECTION. **Sec. 2.** A new section is added to chapter 74.13 RCW
2 to read as follows:

3 The department shall develop and implement, by July 1, 1991, a
4 formal complaint resolution process to be used by clients of the
5 department, individual complainants, and foster parents who have
6 complaints regarding a policy of a division of the department or
7 procedure or the application of a division policy or procedure.

8 After a complainant initiates the complaint resolution process,
9 jurisdiction shall continue for thirty days unless an extension is
10 agreed to by the complainant. After thirty days, if no extension has
11 been agreed to, the complainant may file an application for an
12 adjudicative proceeding under chapter 34.05 RCW.

13 The department shall develop procedures to assure that clients of
14 the department and foster parents are informed of the availability of
15 the complaint resolution process and how to access it. The department
16 shall incorporate information regarding the complaint resolution
17 process into the training for foster parents and caseworkers.

18 Any client of the department, individual complainant, or foster
19 parent who uses the department's complaint resolution process and who
20 is subjected to any reprisal or retaliatory action undertaken after the
21 complainant makes his or her complaint known to the department may seek
22 judicial review of the reprisal or retaliatory action in superior
23 court. In such action, the reviewing court may award reasonable
24 attorneys' fees.

25 The department shall compile complaint resolution data including
26 about whom a complaint was made, by whom, and the outcome of the
27 complaint. The department shall submit semiannual reports, due January
28 and July of each year, beginning January 1992, to the senate children
29 and family services committee and the house of representatives human
30 services committee.

1 NEW SECTION. **Sec. 3.** A new section is added to chapter 74.13 RCW
2 to read as follows:

3 A foster parent or relative care provider may seek review of an
4 agency decision to remove a foster child from his or her foster family
5 home or relative placement through use of the department's complaint
6 resolution process. The foster parent or relative care provider shall
7 initiate that process within five days of receipt of the removal
8 decision notification. Thirty days following the initiation of the
9 department's complaint resolution process, unless an agreed extension
10 exists, the foster parent or relative care provider may file an
11 application for an adjudicative proceeding under chapter 34.05 RCW.
12 The agency shall schedule the adjudicative hearing within five days
13 after the application is filed. A final order shall be issued by the
14 presiding officer of the adjudicative proceeding within twenty-one days
15 after conclusion of the hearing or after submission of memos, briefs,
16 or proposed findings in accordance with RCW 34.05.461(7).

17 The general public shall be excluded from adjudicative proceedings
18 regarding agency removal decisions. Only parties to the adjudicative
19 or the dependency proceeding or persons the judge finds to have a
20 direct interest in the case shall be admitted.

21 NEW SECTION. **Sec. 4.** A new section is added to chapter 74.13 RCW
22 to read as follows:

23 If a foster parent or relative care provider is using the
24 department's complaint resolution process to review a decision to
25 remove a child from the foster family home or from a relative home or
26 has filed an application for an adjudicative proceeding, the foster
27 child shall remain in the foster or relative home unless the regional
28 administrator determines that the child's safety is in jeopardy or that
29 other compelling reasons exist necessitating the removal.

1 **Sec. 5.** RCW 74.13.300 and 1990 c 284 s 12 are each amended to read
2 as follows:

3 (1) Whenever a child has been placed in a foster family home or the
4 home of a relative care provider by the department or a child-placing
5 agency and the child has thereafter resided in the home for at least
6 ninety consecutive days, the department or child-placing agency shall
7 notify the foster family in writing of the reasons upon which the
8 decision to move the child was based, at least five days prior to
9 moving the child to another placement, unless:

10 (a) A court order has been entered requiring an immediate change in
11 placement; or

12 (b) ~~((The child is being returned home;~~

13 ~~(c))~~ The child's safety is in jeopardy(~~(; or~~

14 ~~(d) The child is residing in a receiving home or a group home))~~.

15 (2) If a decision is made by the department or a child-placing
16 agency to move a child to another placement, the foster family parent
17 or relative care provider shall receive written notice of his or her
18 right to request a review of the removal decision through the
19 department's complaint resolution process. The notification shall also
20 advise the foster family parent or relative care provider that if the
21 complaint remains unresolved after use of the department's complaint
22 resolution process, he or she may file an application for an
23 adjudicative proceeding under chapter 34.05 RCW. Notification of the
24 department's complaint resolution process and right to an adjudicative
25 proceeding is not required to be provided if:

26 (a) A court order has been entered requiring an immediate change in
27 placement; or

28 (b) The child is being returned home and a court order has been
29 entered to that effect.

1 (3) If the child has resided in a foster family home for less than
2 ninety days or if, due to one or more of the circumstances in
3 subsection (1) of this section, it is not possible to give five days'
4 notification, the department or child-placing agency shall notify the
5 foster family of proposed placement changes as soon as reasonably
6 possible.

7 (~~(3)~~) (4) This section is intended solely to assist in minimizing
8 disruption to the child in changing foster care placements. Nothing in
9 this section shall be construed to (~~require that a court hearing be~~
10 ~~held prior to changing a child's foster care placement nor to~~) create
11 any substantive custody rights in the foster parents.

12 NEW SECTION. **Sec. 6.** A new section is added to chapter 74.13 RCW
13 to read as follows:

14 The department shall establish rules specifying the criteria needed
15 to be a foster-adopt parent and create a license for that category of
16 foster parent. Specific placement procedures regarding foster-adopt
17 shall be incorporated into the training for caseworkers. The
18 department shall develop a form that constitutes an agreement between
19 the department and each foster-adopt parent. The agreement shall
20 include, in bold-faced, capital letters, the fact that there is no
21 guarantee that parental rights to a foster child being placed in the
22 foster-adopt home will be terminated. The form shall include a section
23 where the foster-adopt parents indicate what representations, if any,
24 were made to them by the department regarding adoption. The department
25 shall implement the foster-adopt agreement form by July 1, 1991, and
26 report back to the legislature by September 1, 1991. If parental
27 rights to the child in the foster-adopt home are terminated, the
28 foster-adopt parents shall be given the first opportunity to adopt the
29 foster child. If foster-adopt parents seek judicial review of a

1 decision to remove a foster child from their care and prevail, the
2 department shall pay court costs and attorneys' fees.

3 NEW SECTION. **Sec. 7.** A new section is added to chapter 13.34 RCW
4 to read as follows:

5 If a child has resided in a foster-adopt home for a period of
6 twelve months or more, the foster-adopt parents may file a petition
7 seeking termination of the parent and child relationship.

8 **Sec. 8.** RCW 13.34.110 and 1983 c 311 s 4 are each amended to read
9 as follows:

10 The court shall hold a fact-finding hearing on the petition and,
11 unless the court dismisses the petition, shall make written findings of
12 fact, stating the reasons therefor, and after it has announced its
13 findings of fact shall hold a hearing to consider disposition of the
14 case immediately following the fact-finding hearing or at a continued
15 hearing within fourteen days or longer for good cause shown. The
16 parties need not appear at the fact-finding or dispositional hearing if
17 all are in agreement; but the court shall receive and review a social
18 study before entering an order based on agreement. No social file or
19 social study may be considered by the court in connection with the
20 fact-finding hearing or prior to factual determination, except as
21 otherwise admissible under the rules of evidence. Notice of the time
22 and place of the continued hearing may be given in open court. If
23 notice in open court is not given to a party, that party shall be
24 notified by mail of the time and place of any continued hearing.

25 All hearings may be conducted at any time or place within the
26 limits of the county, and such cases may not be heard in conjunction
27 with other business of any other division of the superior court. The
28 general public shall be excluded, and only such persons may be admitted

1 who are found by the judge to have a direct interest in the case or in
2 the work of the court. If a child resides in foster care or in the
3 home of a relative pursuant to a disposition order entered under RCW
4 13.34.130, the court shall allow the child's foster parent or relative
5 care provider to attend dependency review proceedings pertaining to the
6 child for the purpose of providing information about the child to the
7 court.

8 Stenographic notes or any device which accurately records the
9 proceedings may be required as provided in other civil cases pursuant
10 to RCW 2.32.200.

11 NEW SECTION. Sec. 9. A new section is added to chapter 13.34 RCW
12 to read as follows:

13 If a dependent child has resided in the home of a foster parent or
14 a relative for at least eighteen months pursuant to a court order
15 entered in a proceeding under this chapter, the foster parent or
16 relative may file a motion to intervene as a party in the action
17 pertaining to the child. The motion to intervene shall be served upon
18 the parties to the action as provided in applicable juvenile court and
19 superior court rules.

20 NEW SECTION. Sec. 10. This act is necessary for the immediate
21 preservation of the public peace, health, or safety, or support of the
22 state government and its existing public institutions, and shall take
23 effect immediately.