

CERTIFICATION OF ENROLLMENT

**ENGROSSED HOUSE BILL 1173**

Chapter 270, Laws of 1995

54th Legislature  
1995 Regular Session

ADOPTION SUPPORT

EFFECTIVE DATE: 7/23/95

Passed by the House April 23, 1995  
Yeas 94 Nays 0

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CLYDE BALLARD

**Speaker of the  
House of Representatives**

Passed by the Senate April 23, 1995  
Yeas 45 Nays 0

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JOEL PRITCHARD

**President of the Senate**

Approved May 9, 1995

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MIKE LOWRY

**Governor of the State of Washington**

CERTIFICATE

I, Timothy A. Martin, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED HOUSE BILL 1173** as passed by the House of Representatives and the Senate on the dates hereon set forth.

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TIMOTHY A. MARTIN

**Chief Clerk**

FILED

May 9, 1995 - 3:32 p.m.

**Secretary of State  
State of Washington**

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**ENGROSSED HOUSE BILL 1173**

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AS RECOMMENDED BY THE CONFERENCE COMMITTEE

Passed Legislature - 1995 Regular Session

**State of Washington                      54th Legislature                      1995 Regular Session**

**By** Representatives Cooke and Brown; by request of Department of Social and Health Services

Read first time 01/16/95. Referred to Committee on Children & Family Services.

1            AN ACT Relating to adoption support; amending RCW 74.13.118,  
2 74.13.121, 26.33.110, 26.33.310, and 26.33.260; adding a new section to  
3 chapter 26.33 RCW; and creating new sections.

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

5            NEW SECTION. **Sec. 1.** The legislature finds that it is in the best  
6 interest of the people of the state of Washington to support the  
7 adoption process in a variety of ways, including easing administrative  
8 burdens on adoptive parents receiving financial support, providing  
9 finality for adoptive placements and stable homes for children, and not  
10 delaying adoptions.

11            **Sec. 2.** RCW 74.13.118 and 1985 c 7 s 138 are each amended to read  
12 as follows:

13            At least (~~annually~~) once every five years, the secretary shall  
14 review the need of any adoptive parent or parents receiving continuing  
15 support pursuant to RCW 26.33.320 and 74.13.100 through 74.13.145, or  
16 the need of any parent who is to receive more than one lump sum payment  
17 where such payments are to be spaced more than one year apart. (~~Such~~

1 ~~review shall be made not later than the anniversary date of the~~  
2 ~~adoption support agreement.)~~)

3 At the time of such (~~annual~~) review and at other times (~~during~~  
4 ~~the year~~) when changed conditions, including variations in medical  
5 opinions, prognosis and costs, are deemed by the secretary to warrant  
6 such action, appropriate adjustments in payments shall be made based  
7 upon changes in the needs of the child, in the adoptive parents'  
8 income, resources, and expenses for the care of such child or other  
9 members of the family, including medical and/or hospitalization expense  
10 not otherwise covered by or subject to reimbursement from insurance or  
11 other sources of financial assistance.

12 Any parent who is a party to such an agreement may at any time in  
13 writing request, for reasons set forth in such request, a review of the  
14 amount of any payment or the level of continuing payments. Such review  
15 shall be begun not later than thirty days from the receipt of such  
16 request. Any adjustment may be made retroactive to the date such  
17 request was received by the secretary. If such request is not acted on  
18 within thirty days after it has been received by the secretary, such  
19 parent may invoke his rights under the hearing provisions set forth in  
20 RCW 74.13.127.

21 **Sec. 3.** RCW 74.13.121 and 1985 c 7 s 139 are each amended to read  
22 as follows:

23 So long as any adoptive parent is receiving support pursuant to RCW  
24 26.33.320 and 74.13.100 through 74.13.145 he or she shall, (~~not later~~  
25 ~~than two weeks after it is filed with the United States government~~)  
26 upon request, file with the secretary a copy of his or her federal  
27 income tax return. Such return and any information thereon shall be  
28 marked by the secretary "confidential", shall be used by the secretary  
29 solely for the purposes of RCW 26.33.320 and 74.13.100 through  
30 74.13.145, and shall not be revealed to any other person, institution  
31 or agency, public or private, including agencies of the United States  
32 government, other than a superior court, judge or commissioner before  
33 whom a petition for adoption of a child being supported or to be  
34 supported pursuant to RCW 26.33.320 and 74.13.100 through 74.13.145 is  
35 then pending.

36 In carrying on the review process authorized by RCW 26.33.320 and  
37 74.13.100 through 74.13.145 the secretary may require the adoptive  
38 parent or parents to disclose such additional financial information,

1 not privileged, as may enable him or her to make determinations and  
2 adjustments in support to the end that the purposes and policies of  
3 this state expressed in RCW 74.13.100 may be carried out, provided that  
4 no adoptive parent or parents shall be obliged, by virtue of this  
5 section, to sign any agreement or other writing waiving any  
6 constitutional right or privilege nor to admit to his or her home any  
7 agent, employee, or official of any department of this state, or of the  
8 United States government.

9 Such information shall be marked "confidential" by the secretary,  
10 shall be used by him or her solely for the purposes of RCW 26.33.320  
11 and 74.13.100 through 74.13.145, and shall not be revealed to any other  
12 person, institution, or agency, public or private, including agencies  
13 of the United States government other than a superior court judge or  
14 commission before whom a petition for adoption of a child being  
15 supported or to be supported pursuant to RCW 26.33.320 and 74.13.100  
16 through 74.13.145 is then pending.

17 NEW SECTION. **Sec. 4.** The legislature recognizes that some  
18 prospective adoptive parents may not have finalized the adoption of a  
19 foster child in their care because the adoption support program as it  
20 is presently structured may offer special children with complex needs  
21 fewer necessary services than the foster care program provides them  
22 through exceptional cost plans. Enhancement of the adoption support  
23 program could increase the likelihood that such special needs children  
24 could be adopted.

25 The department of social and health services is directed to conduct  
26 a study to determine the costs, program impact, and appropriateness of  
27 extending exceptional cost rate foster care plans for special needs  
28 children to the adoption support program. The department of social and  
29 health services shall complete the study and report its findings to the  
30 legislature no later than September 1, 1995.

31 **Sec. 5.** RCW 26.33.110 and 1987 c 170 s 5 are each amended to read  
32 as follows:

33 (1) The court shall set a time and place for a hearing on the  
34 petition for termination of the parent-child relationship, which shall  
35 not be held sooner than forty-eight hours after the child's birth.  
36 However, if the child is an Indian child, the hearing shall not be held  
37 sooner than ten days after the child's birth and the time of the

1 hearing shall be extended up to twenty additional days from the date of  
2 the scheduled hearing upon the motion of the parent, Indian custodian,  
3 or the child's tribe.

4 (2) Notice of the hearing shall be served on the petitioner, the  
5 nonconsenting parent or alleged father, the legal guardian of a party,  
6 and the guardian ad litem of a party, in the manner prescribed by RCW  
7 26.33.310. If the child is an Indian child, notice of the hearing  
8 shall also be served on the child's tribe in the manner prescribed by  
9 25 U.S.C. Sec. 1912(a).

10 (3) Except as otherwise provided in this section, the notice of the  
11 petition shall:

12 (a) State the date and place of birth. If the petition is filed  
13 prior to birth, the notice shall state the approximate date and  
14 location of conception of the child and the expected date of birth, and  
15 shall identify the mother;

16 (b) Inform the nonconsenting parent or alleged father that: (i) He  
17 or she has a right to be represented by counsel and that counsel will  
18 be appointed for an indigent person who requests counsel; and (ii)  
19 failure to respond to the termination action within twenty days of  
20 service if served within the state or thirty days if served outside of  
21 this state, will result in the termination of his or her parent-child  
22 relationship with respect to the child;

23 (c) Inform an alleged father that failure to file a claim of  
24 paternity under chapter 26.26 RCW or to respond to the petition, within  
25 twenty days of the date of service of the petition is grounds to  
26 terminate his parent-child relationship with respect to the child;

27 (d) Inform an alleged father of an Indian child that if he  
28 acknowledges paternity of the child or if his paternity of the child is  
29 established prior to the termination of the parent-child relationship,  
30 that his parental rights may not be terminated unless he: (i) Gives  
31 valid consent to termination, or (ii) his parent-child relationship is  
32 terminated involuntarily pursuant to chapter 26.33 or 13.34 RCW.

33 **Sec. 6.** RCW 26.33.310 and 1987 c 170 s 9 are each amended to read  
34 as follows:

35 (1) Petitions governed by this chapter shall be served in the  
36 ((same)) manner as ((a complaint in a civil action under)) set forth in  
37 the superior court civil rules. Subsequent notice, papers, and

1 pleadings may be served in the manner provided in superior court civil  
2 rules.

3 (2) If personal service on any parent or alleged father who has not  
4 consented to the termination of his or her parental rights can be  
5 given, the summons and notice of hearing on the petition to terminate  
6 parental rights shall be served at least twenty days before the hearing  
7 date if served within the state or thirty days if served outside of  
8 this state.

9 (3) If personal service on the parent or any alleged father, either  
10 within or without this state, cannot be given, notice shall be given:  
11 (a) By first class and registered mail, mailed at least (~~twenty~~)  
12 thirty days before the hearing to the person's last known address; and  
13 (b) by publication at least once a week for three consecutive weeks  
14 with the first publication date at least (~~twenty-five~~) thirty days  
15 before the hearing. Publication shall be in a legal newspaper in the  
16 city or town of the last known address within the United States and its  
17 territories of the parent or alleged father, whether within or without  
18 this state, or, if no address is known to the petitioner, publication  
19 shall be in the city or town of the last known whereabouts within the  
20 United States and its territories; or if no address or whereabouts are  
21 known to the petitioner or the last known address is not within the  
22 United States and its territories, in the city or town where the  
23 proceeding has been commenced.

24 (~~(3)~~) (4) Notice and appearance may be waived by the department,  
25 an agency, a parent, or an alleged father before the court or in a  
26 writing signed under penalty of perjury. The waiver shall contain the  
27 current address of the department, agency, parent, or alleged father.  
28 The face of the waiver for a hearing on termination of the parent-child  
29 relationship shall contain language explaining the meaning and  
30 consequences of the waiver and the meaning and consequences of  
31 termination of the parent-child relationship. A person or agency who  
32 has executed a waiver shall not be required to appear except in the  
33 case of an Indian child where consent to termination or adoption must  
34 be certified before a court of competent jurisdiction pursuant to 25  
35 U.S.C. Sec. 1913(a).

36 (~~(4)~~) (5) If a person entitled to notice is known to the  
37 petitioner to be unable to read or understand English, all notices, if  
38 practicable, shall be given in that person's native language or through  
39 an interpreter.

1       (~~(5)~~) (6) Where notice to an Indian tribe is to be provided  
2 pursuant to this chapter and the department is not a party to the  
3 proceeding, notice shall be given to the tribe at least ten business  
4 days prior to the hearing by registered mail return receipt requested.

5       **Sec. 7.** RCW 26.33.260 and 1984 c 155 s 26 are each amended to read  
6 as follows:

7       (1) The entry of a decree of adoption divests any parent or alleged  
8 father who is not married to the adoptive parent or who has not joined  
9 in the petition for adoption of all legal rights and obligations in  
10 respect to the adoptee, except past-due child support obligations. The  
11 adoptee shall be free from all legal obligations of obedience and  
12 maintenance in respect to the parent. The adoptee shall be, to all  
13 intents and purposes, and for all legal incidents, the child, legal  
14 heir, and lawful issue of the adoptive parent, entitled to all rights  
15 and privileges, including the right of inheritance and the right to  
16 take under testamentary disposition, and subject to all the obligations  
17 of a natural child of the adoptive parent.

18       (2) Any appeal of an adoption decree shall be decided on an  
19 accelerated review basis.

20       (3) Except as otherwise provided in RCW 26.33.160(3) and (4)(h), no  
21 person may challenge an adoption decree on the grounds of:

22       (a) A person claiming or alleging paternity subsequently appears  
23 and alleges lack of prior notice of the proceeding; or

24       (b) The adoption proceedings were in any other manner defective.

25       (4) It is the intent of the legislature that this section provide  
26 finality for adoptive placements and stable homes for children.

27       NEW SECTION. **Sec. 8.** A new section is added to chapter 26.33 RCW  
28 to read as follows:

29       An adoption shall not be delayed or denied on the basis of the  
30 race, color, or national origin of the adoptive parent or the child  
31 involved. However, when the department or an agency considers whether  
32 a placement option is in a child's best interests, the department or  
33 agency may consider the cultural, ethnic, or racial background of the  
34 child and the capacity of prospective adoptive parents to meet the  
35 needs of a child of this background. This provision shall not apply to  
36 or affect the application of the Indian Child Welfare Act of 1978, 25  
37 U.S.C. Sec. 1901 et seq.

Passed the House April 23, 1995.  
Passed the Senate April 23, 1995.  
Approved by the Governor May 9, 1995.  
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