

CERTIFICATION OF ENROLLMENT

**HOUSE BILL 1102**

Chapter 318, Laws of 2001

(partial veto)

57th Legislature  
2001 Regular Legislative Session

FOSTER CARE--FOSTER PARENTS' RIGHTS--CHILD PLACEMENT

EFFECTIVE DATE: 7/22/01

Passed by the House April 16, 2001  
Yeas 94 Nays 0

FRANK CHOPP  
**Speaker of the House of Representatives**

CLYDE BALLARD  
**Speaker of the House of Representatives**

Passed by the Senate April 11, 2001  
Yeas 48 Nays 0

BRAD OWEN  
**President of the Senate**

Approved May 15, 2001, with the  
exception of sections 2 and 5, which  
are vetoed.

GARY LOCKE  
**Governor of the State of Washington**

CERTIFICATE

We, Timothy A. Martin and Cynthia Zehnder, Co-Chief Clerks of the House of Representatives of the State of Washington, do hereby certify that the attached is **HOUSE BILL 1102** as passed by the House of Representatives and the Senate on the dates hereon set forth.

CYNTHIA ZEHNDER  
**Chief Clerk**

TIMOTHY A. MARTIN  
**Chief Clerk**

FILED

May 15, 2001 - 2:42 p.m.

**Secretary of State  
State of Washington**

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HOUSE BILL 1102

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AS AMENDED BY THE SENATE

Passed Legislature - 2001 Regular Session

State of Washington                      57th Legislature                      2001 Regular Session

By Representative Boldt

Read first time . Referred to Committee on .

1            AN ACT Relating to foster parents' rights; amending RCW 74.13.280;  
2 and adding new sections to chapter 74.13 RCW.

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

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

6            Foster parents have the right to be free of coercion,  
7 discrimination, and reprisal in serving foster children, including the  
8 right to voice grievances about treatment furnished or not furnished to  
9 the foster child.

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

12           *No department employee may retaliate against a foster parent or in  
13 any other manner discriminate against any foster parent because:*

14           *(1) The foster parent made a complaint with the office of family  
15 and children's ombudsman, the attorney general, law enforcement  
16 agencies, or the department, provided information, or otherwise  
17 cooperated with the investigation of such a complaint;*

1       (2) *The foster parent has caused to be instituted any proceedings*  
2 *under or related to Title 13 RCW;*

3       (3) *The foster parent has testified or is about to testify in any*  
4 *such proceedings;*

5       (4) *The foster parent has advocated for services on behalf of the*  
6 *foster child;*

7       (5) *The foster parent has sought to adopt a foster child in the*  
8 *foster parent's care; or*

9       (6) *The foster parent has discussed or consulted with anyone*  
10 *concerning the foster parent's rights under this chapter or chapter*  
11 *74.15 or 13.34 RCW.*

12 \*Sec. 2 was vetoed. See message at end of chapter.

13       **Sec. 3.** RCW 74.13.280 and 1997 c 272 s 7 are each amended to read  
14 as follows:

15       (1) Except as provided in RCW 70.24.105, whenever a child is placed  
16 in out-of-home care by the department or a child-placing agency, the  
17 department or agency shall(~~(, within available resources,)~~) share  
18 information about the child and the child's family with the care  
19 provider and shall(~~(, within available resources,)~~) consult with the  
20 care provider regarding the child's case plan. If the child is  
21 dependent pursuant to a proceeding under chapter 13.34 RCW, the  
22 department or agency shall keep the care provider informed regarding  
23 the dates and location of dependency review and permanency planning  
24 hearings pertaining to the child.

25       (2) Any person who receives information about a child or a child's  
26 family pursuant to this section shall keep the information confidential  
27 and shall not further disclose or disseminate the information except as  
28 authorized by law.

29       (3) Nothing in this section shall be construed to limit the  
30 authority of the department or child-placing agencies to disclose  
31 client information or to maintain client confidentiality as provided by  
32 law.

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

35       (1) No child may be placed or remain in a specific out-of-home  
36 placement under this chapter or chapter 13.34 RCW when there is a  
37 conflict of interest on the part of any adult residing in the home in

1 which the child is to be or has been placed. A conflict of interest  
2 exists when:

3 (a) There is an adult in the home who, as a result of: (i) His or  
4 her employment; and (ii) an allegation of abuse or neglect of the  
5 child, conducts or has conducted an investigation of the allegation; or

6 (b) The child has been, is, or is likely to be a witness in any  
7 pending cause of action against any adult in the home when the cause  
8 includes: (i) An allegation of abuse or neglect against the child or  
9 any sibling of the child; or (ii) a claim of damages resulting from  
10 wrongful interference with the parent-child relationship of the child  
11 and his or her biological or adoptive parent.

12 (2) For purposes of this section, "investigation" means the  
13 exercise of professional judgment in the review of allegations of abuse  
14 or neglect by: (a) Law enforcement personnel; (b) persons employed by,  
15 or under contract with, the state; (c) persons licensed to practice law  
16 and their employees; and (d) mental health professionals as defined in  
17 chapter 71.05 RCW.

18 (3) The prohibition set forth in subsection (1) of this section may  
19 not be waived or deferred by the department under any circumstance or  
20 at the request of any person, regardless of who has made the request or  
21 the length of time of the requested placement.

22 ***\*NEW SECTION. Sec. 5. A new section is added to chapter 74.13 RCW***  
23 ***to read as follows:***

24 (1) *When the secretary has reasonable cause to believe that an*  
25 *employee has knowingly violated the conflict of interest provisions in*  
26 *section 4 of this act, notwithstanding any rule adopted under chapter*  
27 *41.06 RCW, the secretary shall immediately suspend the employee.*

28 (2) *The secretary shall immediately institute proceedings to*  
29 *terminate the employment of any person who is found by the department,*  
30 *based upon a preponderance of the evidence, to have knowingly violated*  
31 *the conflict of interest provisions in section 4 of this act.*

32 (3) *When the secretary has reasonable cause to believe that the*  
33 *employee of a contractor has knowingly violated the conflict of*  
34 *interest provisions in section 4 of this act, the secretary shall*  
35 *require the employee of a contractor to be immediately removed from any*  
36 *employment position which would permit the employee to make or*  
37 *influence placement decisions.*

1       (4) *The secretary shall disqualify for employment with a contractor*  
2 *in any position which would permit the employee to make or influence*  
3 *placement decisions, any person who is found by the department, based*  
4 *upon a preponderance of evidence, to have knowingly violated the*  
5 *conflict of interest provisions of section 4 of this act.*

6       (5) *The secretary, when considering the renewal of a contract with*  
7 *a contractor who has taken action under subsection (3) or (4) of this*  
8 *section, shall require the contractor to demonstrate that there has*  
9 *been significant progress made in reducing the likelihood that the*  
10 *contractor's employees would knowingly violate the conflict of interest*  
11 *provisions in section 4 of this act. The secretary shall not renew a*  
12 *contract unless he or she determines that significant progress has been*  
13 *made.*

14       (6) *For purposes of RCW 50.20.060, a person terminated under this*  
15 *section shall be considered discharged for misconduct.*

16 \*Sec. 5 was vetoed. See message at end of chapter.

Passed the House April 16, 2001.

Passed the Senate April 11, 2001.

Approved by the Governor May 15, 2001, with the exception of  
certain items that were vetoed.

Filed in Office of Secretary of State May 15, 2001.

1 Note: Governor's explanation of partial veto is as follows:

2 "I am returning herewith, without my approval as to sections 2 and  
3 5, House Bill No. 1102 entitled:

4 "AN ACT Relating to foster parents' rights;"

5 House Bill No. 1102 states the rights foster parents have to be  
6 free from coercion, discrimination, reprisal and retaliation in serving  
7 foster children. It also confirms that the Department of Social and  
8 Health Services (DSHS) must share information about a foster child and  
9 the child's family with foster parents, and prevents children from  
10 being placed in homes where a foster parent may have a conflict of  
11 interest.

12 Section 2 of the bill would have expressly prohibited DSHS from  
13 retaliating or discriminating against a foster parent because of a  
14 complaint he or she may have made against DSHS, as well as several  
15 other foster parent protections.

16 While it is an excellent idea to articulate foster parents' rights  
17 and responsibilities, section 2 was flawed. The section was unclear,  
18 and may have created unintended broad new liabilities for the state.  
19 DSHS would have been placed in a no-win position where any action it  
20 might have taken involving a foster parent who has complained could  
21 result in a lawsuit.

22 Other states have enacted comprehensive laws establishing the  
23 rights of foster parents, and the Child Welfare League of America has

1 a model foster parent rights and responsibilities document. Many of  
2 these states' statutes and the Child Welfare League of America document  
3 would provide a model for developing strong, workable foster parent  
4 laws in Washington.

5 Section 5 of the bill was designed to enforce section 2, and is  
6 unnecessary after the veto of section 2.

7 To help ensure that there is no retaliation against foster parents  
8 in our state, I will direct the Secretary of DSHS to heighten his  
9 oversight of this issue.

10 For these reasons, I have vetoed sections 2 and 5 of House Bill No.  
11 1102.

12 With the exception of sections 2 and 5, House Bill No. 1102 is  
13 approved."