
HOUSE BILL 2123

State of Washington

58th Legislature

2003 Regular Session

By Representatives Kagi, Sommers, Haigh, Chase, Kenney and Edwards

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1 AN ACT Relating to requiring support payments for a child with a
2 developmental disability in out-of-home care; amending RCW 13.34.160,
3 13.34.270, 74.13.031, 74.13.350, and 74.20A.030; providing an effective
4 date; and declaring an emergency.

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

6 **Sec. 1.** RCW 13.34.160 and 1997 c 58 s 505 are each amended to read
7 as follows:

8 (1) In an action brought under this chapter, the court may inquire
9 into the ability of the parent or parents of the child to pay child
10 support and may enter an order of child support as set forth in chapter
11 26.19 RCW. The court may enforce the same by execution, or in any way
12 in which a court of equity may enforce its decrees. All child support
13 orders entered pursuant to this chapter shall be in compliance with the
14 provisions of RCW 26.23.050.

15 (2) For purposes of this section, if a dependent child's parent is
16 an unmarried minor parent or pregnant minor applicant, then the parent
17 or parents of the minor shall also be deemed a parent or parents of the
18 dependent child. However, liability for child support under this
19 subsection only exists if the parent or parents of the unmarried minor

1 parent or pregnant minor applicant are provided the opportunity for a
2 hearing on their ability to provide support. Any child support order
3 requiring such a parent or parents to provide support for the minor
4 parent's child may be effective only until the minor parent reaches
5 eighteen years of age.

6 (3) In the absence of a court order setting support, the department
7 may establish an administrative order for support upon receipt of a
8 referral or application for support enforcement services.

9 **Sec. 2.** RCW 13.34.270 and 2000 c 122 s 33 are each amended to read
10 as follows:

11 (1) Whenever the department places a child with a developmental
12 disability in out-of-home care pursuant to RCW 74.13.350, the
13 department shall obtain a judicial determination within one hundred
14 eighty days of the placement that continued placement is in the best
15 interests of the child. If the child's out-of-home placement ends
16 before one hundred eighty days have elapsed, no judicial determination
17 is required.

18 (2) To obtain the judicial determination, the department shall file
19 a petition alleging that there is located or residing within the county
20 a child who has a developmental disability and that the child has been
21 placed in out-of-home care pursuant to RCW 74.13.350. The petition
22 shall request that the court review the child's placement, make a
23 determination whether continued placement is in the best interests of
24 the child, and take other necessary action as provided in this section.
25 The petition shall contain the name, date of birth, and residence of
26 the child and the names and residences of the child's parent or legal
27 guardian who has agreed to the child's placement in out-of-home care.
28 Reasonable attempts shall be made by the department to ascertain and
29 set forth in the petition the identity, location, and custodial status
30 of any parent who is not a party to the placement agreement and why
31 that parent cannot assume custody of the child.

32 (3) Upon filing of the petition, the clerk of the court shall
33 schedule the petition for a hearing to be held no later than fourteen
34 calendar days after the petition has been filed. The department shall
35 provide notification of the time, date, and purpose of the hearing to
36 the parent or legal guardian who has agreed to the child's placement in
37 out-of-home care. The department shall also make reasonable attempts

1 to notify any parent who is not a party to the placement agreement, if
2 the parent's identity and location is known. Notification under this
3 section may be given by the most expedient means, including but not
4 limited to, mail, personal service, and telephone.

5 (4) The court shall appoint a guardian ad litem for the child as
6 provided in RCW 13.34.100, unless the court for good cause finds the
7 appointment unnecessary.

8 (5) Permanency planning hearings shall be held as provided in this
9 section. At the hearing, the court shall review whether the child's
10 best interests are served by continued out-of-home placement and
11 determine the future legal status of the child.

12 (a) For children age ten and under, a permanency planning hearing
13 shall be held in all cases where the child has remained in out-of-home
14 care for at least nine months and an adoption decree or guardianship
15 order under chapter 11.88 RCW has not previously been entered. The
16 hearing shall take place no later than twelve months following
17 commencement of the child's current placement episode.

18 (b) For children over age ten, a permanency planning hearing shall
19 be held in all cases where the child has remained in out-of-home care
20 for at least fifteen months and an adoption decree or guardianship
21 order under chapter 11.88 RCW has not previously been entered. The
22 hearing shall take place no later than eighteen months following
23 commencement of the current placement episode.

24 (c) No later than ten working days before the permanency planning
25 hearing, the department shall submit a written permanency plan to the
26 court and shall mail a copy of the plan to all parties. The plan shall
27 be directed toward securing a safe, stable, and permanent home for the
28 child as soon as possible. The plan shall identify one of the
29 following outcomes as the primary goal and may also identify additional
30 outcomes as alternative goals: Return of the child to the home of the
31 child's parent or legal guardian; adoption; guardianship; or long-term
32 out-of-home care, until the child is age eighteen, with a written
33 agreement between the parties and the child's care provider.

34 (d) If a goal of long-term out-of-home care has been achieved
35 before the permanency planning hearing, the court shall review the
36 child's status to determine whether the placement and the plan for the
37 child's care remains appropriate. In cases where the primary
38 permanency planning goal has not been achieved, the court shall inquire

1 regarding the reasons why the primary goal has not been achieved and
2 determine what needs to be done to make it possible to achieve the
3 primary goal.

4 (e) Following the first permanency planning hearing, the court
5 shall hold a further permanency planning hearing in accordance with
6 this section at least once every twelve months until a permanency
7 planning goal is achieved or the voluntary placement agreement is
8 terminated.

9 (6) Any party to the voluntary placement agreement may terminate
10 the agreement at any time. Upon termination of the agreement, the
11 child shall be returned to the care of the child's parent or legal
12 guardian, unless the child has been taken into custody pursuant to RCW
13 13.34.050 or 26.44.050, placed in shelter care pursuant to RCW
14 13.34.060, or placed in foster care pursuant to RCW 13.34.130. The
15 department shall notify the court upon termination of the voluntary
16 placement agreement and return of the child to the care of the child's
17 parent or legal guardian. Whenever a voluntary placement agreement is
18 terminated, an action under this section shall be dismissed.

19 (7) When state or federal funds are expended for the care and
20 maintenance of a child with a developmental disability, whether placed
21 in care as a result of an action under this chapter or a voluntary
22 placement agreement, the department shall refer the case to the
23 division of child support, unless the department finds that there is
24 good cause not to pursue collection of child support against the parent
25 or parents of the child.

26 (8) This section does not prevent the department from filing a
27 dependency petition if there is reason to believe that the child is a
28 dependent child as defined in RCW 13.34.030. An action filed under
29 this section shall be dismissed upon the filing of a dependency
30 petition regarding a child who is the subject of the action under this
31 section.

32 **Sec. 3.** RCW 74.13.031 and 2001 c 192 s 1 are each amended to read
33 as follows:

34 The department shall have the duty to provide child welfare
35 services and shall:

36 (1) Develop, administer, supervise, and monitor a coordinated and

1 comprehensive plan that establishes, aids, and strengthens services for
2 the protection and care of runaway, dependent, or neglected children.

3 (2) Within available resources, recruit an adequate number of
4 prospective adoptive and foster homes, both regular and specialized,
5 i.e. homes for children of ethnic minority, including Indian homes for
6 Indian children, sibling groups, handicapped and emotionally disturbed,
7 teens, pregnant and parenting teens, and annually report to the
8 governor and the legislature concerning the department's success in:
9 (a) Meeting the need for adoptive and foster home placements; (b)
10 reducing the foster parent turnover rate; (c) completing home studies
11 for legally free children; and (d) implementing and operating the
12 passport program required by RCW 74.13.285. The report shall include
13 a section entitled "Foster Home Turn-Over, Causes and Recommendations."

14 (3) Investigate complaints of any recent act or failure to act on
15 the part of a parent or caretaker that results in death, serious
16 physical or emotional harm, or sexual abuse or exploitation, or that
17 presents an imminent risk of serious harm, and on the basis of the
18 findings of such investigation, offer child welfare services in
19 relation to the problem to such parents, legal custodians, or persons
20 serving in loco parentis, and/or bring the situation to the attention
21 of an appropriate court, or another community agency: PROVIDED, That
22 an investigation is not required of nonaccidental injuries which are
23 clearly not the result of a lack of care or supervision by the child's
24 parents, legal custodians, or persons serving in loco parentis. If the
25 investigation reveals that a crime against a child may have been
26 committed, the department shall notify the appropriate law enforcement
27 agency.

28 (4) Offer, on a voluntary basis, family reconciliation services to
29 families who are in conflict.

30 (5) Monitor out-of-home placements, on a timely and routine basis,
31 to assure the safety, well-being, and quality of care being provided is
32 within the scope of the intent of the legislature as defined in RCW
33 74.13.010 and 74.15.010, and annually submit a report measuring the
34 extent to which the department achieved the specified goals to the
35 governor and the legislature.

36 (6) Have authority to accept custody of children from parents and
37 to accept custody of children from juvenile courts, where authorized to
38 do so under law, to provide child welfare services including placement

1 for adoption, and to provide for the physical care of such children and
2 make payment of maintenance costs if needed. Except where required by
3 Public Law 95-608 (25 U.S.C. Sec. 1915), no private adoption agency
4 which receives children for adoption from the department shall
5 discriminate on the basis of race, creed, or color when considering
6 applications in their placement for adoption.

7 (7) Have authority to provide temporary shelter to children who
8 have run away from home and who are admitted to crisis residential
9 centers.

10 (8) Have authority to purchase care for children; and shall follow
11 in general the policy of using properly approved private agency
12 services for the actual care and supervision of such children insofar
13 as they are available, paying for care of such children as are accepted
14 by the department as eligible for support at reasonable rates
15 established by the department.

16 (9) Establish a children's services advisory committee which shall
17 assist the secretary in the development of a partnership plan for
18 utilizing resources of the public and private sectors, and advise on
19 all matters pertaining to child welfare, licensing of child care
20 agencies, adoption, and services related thereto. At least one member
21 shall represent the adoption community.

22 (10) Have authority to provide continued foster care or group care
23 for individuals from eighteen through twenty years of age to enable
24 them to complete their high school or vocational school program.

25 (11) Refer cases to the division of child support whenever state or
26 federal funds are expended for the care and maintenance of a child,
27 including a child with a developmental disability, whether placed as a
28 result of an action under chapter 13.34 RCW or a voluntary placement
29 agreement, unless the department finds that there is good cause not to
30 pursue collection of child support against the parent or parents of the
31 child.

32 (12) Have authority within funds appropriated for foster care
33 services to purchase care for Indian children who are in the custody of
34 a federally recognized Indian tribe or tribally licensed child-placing
35 agency pursuant to parental consent, tribal court order, or state
36 juvenile court order; and the purchase of such care shall be subject to
37 the same eligibility standards and rates of support applicable to other
38 children for whom the department purchases care.

1 Notwithstanding any other provision of RCW 13.32A.170 through
2 13.32A.200 and 74.13.032 through 74.13.036, or of this section all
3 services to be provided by the department of social and health services
4 under subsections (4), (6), and (7) of this section, subject to the
5 limitations of these subsections, may be provided by any program
6 offering such services funded pursuant to Titles II and III of the
7 federal juvenile justice and delinquency prevention act of 1974.

8 ~~((12))~~ (13) Within amounts appropriated for this specific
9 purpose, provide preventive services to families with children that
10 prevent or shorten the duration of an out-of-home placement.

11 ~~((13))~~ (14) Have authority to provide independent living services
12 to youths, including individuals eighteen through twenty years of age,
13 who are or have been in foster care.

14 **Sec. 4.** RCW 74.13.350 and 1998 c 229 s 1 are each amended to read
15 as follows:

16 It is the intent of the legislature that parents are responsible
17 for the care and support of children with developmental disabilities.
18 The legislature recognizes that, because of the intense support
19 required to care for a child with developmental disabilities, the help
20 of an out-of-home placement may be needed. It is the intent of the
21 legislature that, when the sole reason for the out-of-home placement is
22 the child's developmental disability, such services be offered by the
23 department to these children and their families through a voluntary
24 placement agreement. In these cases, the parents shall retain legal
25 custody of the child.

26 As used in this section, "voluntary placement agreement" means a
27 written agreement between the department and a child's parent or legal
28 guardian authorizing the department to place the child in a licensed
29 facility. Under the terms of this agreement, the parent or legal
30 guardian shall retain legal custody and the department shall be
31 responsible for the child's placement and care. The agreement shall at
32 a minimum specify the legal status of the child and the rights and
33 obligations of the parent or legal guardian, the child, and the
34 department while the child is in placement. The agreement must be
35 signed by the child's parent or legal guardian and the department to be
36 in effect, except that an agreement regarding an Indian child shall not
37 be valid unless executed in writing before the court and filed with the

1 court as provided in RCW 13.34.245. Any party to a voluntary placement
2 agreement may terminate the agreement at any time. Upon termination of
3 the agreement, the child shall be returned to the care of the child's
4 parent or legal guardian unless the child has been taken into custody
5 pursuant to RCW 13.34.050 or 26.44.050, placed in shelter care pursuant
6 to RCW 13.34.060, or placed in foster care pursuant to RCW 13.34.130.

7 As used in this section, "out-of-home placement" and "out-of-home
8 care" mean the placement of a child in a foster family home or group
9 care facility licensed under chapter 74.15 RCW.

10 Whenever the department places a child in out-of-home care under a
11 voluntary placement pursuant to this section, the department shall have
12 the responsibility for the child's placement and care. The department
13 shall develop a permanency plan of care for the child no later than
14 sixty days from the date that the department assumes responsibility for
15 the child's placement and care. Within the first one hundred eighty
16 days of the placement, the department shall obtain a judicial
17 determination pursuant to RCW 13.04.030(1)(j) and 13.34.270 that the
18 placement is in the best interests of the child. If the child's out-
19 of-home placement ends before one hundred eighty days have elapsed, no
20 judicial determination under RCW 13.04.030(1)(b) is required. The
21 permanency planning hearings shall review whether the child's best
22 interests are served by continued out-of-home placement and determine
23 the future legal status of the child.

24 The department shall provide for periodic administrative reviews as
25 required by federal law. A review may be called at any time by either
26 the department, the parent, or the legal guardian.

27 Nothing in this section shall prevent the department from filing a
28 dependency petition if there is reason to believe that the child is a
29 dependent child as defined in RCW 13.34.030.

30 The department shall adopt rules providing for the implementation
31 of chapter 386, Laws of 1997 and the transfer of responsibility for
32 out-of-home placements from the dependency process under chapter 13.34
33 RCW to the process under this chapter.

34 It is the intent of the legislature that the department undertake
35 voluntary out-of-home placement in cases where the child's
36 developmental disability is such that the parent, guardian, or legal
37 custodian is unable to provide the necessary care for the child, and
38 the parent, guardian, or legal custodian has determined that the child

1 would benefit from placement outside of the home. If the department
2 does not accept a voluntary placement agreement signed by the parent,
3 a petition may be filed and an action pursued under chapter 13.34 RCW.
4 The department shall inform the parent, guardian, or legal custodian in
5 writing of their right to civil action under chapter 13.34 RCW.

6 Nothing in this section prohibits the department from seeking
7 support from parents of a child when state or federal funds are
8 expended for the care and maintenance of that child, including a child
9 with a developmental disability, or when the department receives an
10 application for services from the physical custodian of the child,
11 unless the department finds that there is good cause not to pursue
12 collection of child support against the parent or parents.

13 **Sec. 5.** RCW 74.20A.030 and 2000 c 86 s 7 are each amended to read
14 as follows:

15 (1) The department shall be subrogated to the right of any
16 dependent child or children or person having the care, custody, and
17 control of said child or children, if public assistance money is paid
18 to or for the benefit of the child, or for the care and maintenance of
19 a child, including a child with a developmental disability, under a
20 state-funded program, or a program funded under Title IV-A or IV-E of
21 the federal social security act as amended by the personal
22 responsibility and work opportunity reconciliation act of 1996, to
23 prosecute or maintain any support action or execute any administrative
24 remedy existing under the laws of the state of Washington to obtain
25 reimbursement of moneys expended, based on the support obligation of
26 the responsible parent established by a child support order.
27 Distribution of any support moneys shall be made in accordance with RCW
28 26.23.035.

29 (2) The department may initiate, continue, maintain, or execute an
30 action to establish, enforce, and collect a support obligation,
31 including establishing paternity and performing related services, under
32 this chapter and chapter 74.20 RCW, or through the attorney general or
33 prosecuting attorney under chapter 26.09, 26.18, 26.20, 26.21, 26.23,
34 or 26.26 RCW or other appropriate statutes or the common law of this
35 state, for so long as and under such conditions as the department may
36 establish by regulation.

1 (3) Public assistance moneys shall be exempt from collection action
2 under this chapter except as provided in RCW 74.20A.270.

3 ~~(4) ((No collection action shall be taken against parents of
4 children eligible for admission to, or children who have been
5 discharged from a residential habilitation center as defined by RCW
6 71A.10.020(8). For the period July 1, 1993, through June 30, 1995, a
7 collection action may be taken against parents of children with
8 developmental disabilities who are placed in community based
9 residential care. The amount of support the department may collect
10 from the parents shall not exceed one half of the parents' support
11 obligation accrued while the child was in community based residential
12 care.))~~ The child support obligation shall be calculated pursuant to
13 chapter 26.19 RCW.

14 NEW SECTION. **Sec. 6.** This act is necessary for the immediate
15 preservation of the public peace, health, or safety, or support of the
16 state government and its existing public institutions, and takes effect
17 July 1, 2003.

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