
SENATE BILL 6457

State of Washington

58th Legislature

2004 Regular Session

By Senators Swecker, Stevens, Deccio, Prentice, Parlette, Hargrove, Jacobsen, Kohl-Welles and Rasmussen

Read first time 01/21/2004. Referred to Committee on Children & Family Services & Corrections.

1 AN ACT Relating to adoption; amending RCW 26.33.010, 26.33.045,
2 26.33.150, 26.33.190, and 26.33.240; reenacting and amending RCW
3 43.79A.040; and adding new sections to chapter 26.33 RCW.

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

5 **Sec. 1.** RCW 26.33.010 and 1984 c 155 s 1 are each amended to read
6 as follows:

7 ~~((The legislature finds that the purpose of adoption is to provide
8 stable homes for children. Adoptions should be handled efficiently,
9 but the rights of all parties must be protected. The guiding principle
10 must be determining what is in the best interest of the child.)) It is
11 the intent of the legislature to ensure that children whose parents are
12 unable to provide for their care are placed with safe and stable
13 families through the process of adoption. Placement of such children
14 with qualified families is presumed to be in the best interest of the
15 child. The purpose of adoption is to find a safe and stable family for
16 each child, not the reverse. It is the intent of the legislature that
17 adoptions be handled efficiently and equitably with the rights of all
18 parties protected. Under no circumstances shall adoptions be delayed,
19 denied, or given preferential treatment based upon the race of the~~

1 child or prospective adoptive parents. Nor shall any adoption-related
2 fees be based upon the race or physical characteristics of the child,
3 nor of the ability of the prospective adoptive parents to pay the
4 adoption-related fees.

5 The legislature intends for all adoption-related fees to be fully
6 disclosed by prospective adoptive parents to the court and approved
7 prior to the granting of the adoption petition.

8 The legislature intends to eliminate any artificial barriers to
9 adoption, such as fees exceeding the actual cost of the adoption-
10 related services provided.

11 It is the intent of the legislature to establish a fund to assist
12 prospective adoptive parents in meeting the actual costs of adopting a
13 child.

14 It is the intent of the legislature that this chapter be used only
15 as a means for placing children in adoptive homes and not as a means
16 for parents to avoid responsibility for their children unless the
17 department, an agency, or a prospective adoptive parent is willing to
18 assume the responsibility for the child.

19 **Sec. 2.** RCW 26.33.045 and 1995 c 270 s 8 are each amended to read
20 as follows:

21 An adoption shall not be delayed ~~((or))~~, denied, or given
22 preferential treatment on the basis of the race, color, or national
23 origin of the adoptive parent or the child involved. ~~((However, when~~
24 ~~the department or an agency considers whether a))~~ An adoption placement
25 ~~((option))~~ with a qualified family is presumed to be in a child's best
26 interests~~((r))~~. The department or agency may consider the cultural,
27 ethnic, or racial background of the child and the capacity of
28 prospective adoptive parents to meet the needs of a child of this
29 background, unless to do so would result in a delay or denial of
30 placement with an otherwise qualified family. Under no circumstances
31 shall an adoption be delayed, denied, or given preferential treatment
32 based on the ability of the prospective adoptive parents to pay for
33 adoption-related fees. This provision shall not apply to or affect the
34 application of the Indian Child Welfare Act of 1978, 25 U.S.C. Sec.
35 1901 et seq.

1 **Sec. 3.** RCW 26.33.150 and 1984 c 155 s 15 are each amended to read
2 as follows:

3 (1) An adoption proceeding is initiated by filing with the court a
4 petition for adoption. The petition shall be filed by the prospective
5 adoptive parent.

6 (2) A petition for adoption shall contain the following
7 information:

8 (a) The name and address of the petitioner;

9 (b) The name, if any, gender, and place and date of birth, if
10 known, of the adoptee;

11 (c) A statement that the child is or is not an Indian child covered
12 by the Indian Child Welfare Act; and

13 (d) The name and address of the department or any agency, legal
14 guardian, or person having custody of the child.

15 (3) The written consent to adoption of any person, the department,
16 or agency which has been executed shall be filed with the petition.

17 (4) The petition shall be signed under penalty of perjury by the
18 petitioner. If the petitioner is married, the petitioner's spouse
19 shall join in the petition.

20 (5) If a preplacement report prepared pursuant to RCW 26.33.190 has
21 not been previously filed with the court, the preplacement report shall
22 be filed with the petition for adoption.

23 (6) If a financial disclosure statement as described in section 5
24 of this act has not been previously filed with the court, the financial
25 disclosure statement shall be filed with the petition for adoption.

26 **Sec. 4.** RCW 26.33.190 and 1991 c 136 s 3 are each amended to read
27 as follows:

28 (1) Any person may at any time request an agency, the department,
29 an individual approved by the court, or a qualified salaried court
30 employee to prepare a preplacement report. A certificate signed under
31 penalty of perjury by the person preparing the report specifying his or
32 her qualifications as required in this chapter shall be attached to or
33 filed with each preplacement report and shall include a statement of
34 training or experience that qualifies the person preparing the report
35 to discuss relevant adoption issues. A person may have more than one
36 preplacement report prepared. All preplacement reports shall be filed
37 with the court in which the petition for adoption is filed.

1 (2) The preplacement report shall be a written document setting
2 forth all relevant information relating to the fitness of the person
3 requesting the report as an adoptive parent. The report shall be based
4 on a study which shall include an investigation of the home
5 environment, family life, health, facilities, and resources of the
6 person requesting the report. The report shall include a list of the
7 sources of information on which the report is based. The report shall
8 include a recommendation as to the fitness of the person requesting the
9 report to be an adoptive parent. The report shall also verify that the
10 following issues were discussed with the prospective adoptive parents:

11 (a) The concept of adoption as a lifelong developmental process and
12 commitment;

13 (b) The potential for the child to have feelings of identity
14 confusion and loss regarding separation from the birth parents;

15 (c) Disclosure of the fact of adoption to the child;

16 (d) The child's possible questions about birth parents and
17 relatives; and

18 (e) The relevance of the child's racial, ethnic, and cultural
19 heritage.

20 (3) All preplacement reports shall include an investigation of the
21 conviction record, pending charges, or disciplinary board final
22 decisions of prospective adoptive parents. The investigation shall
23 include an examination of state and national criminal identification
24 data provided by the Washington state patrol criminal identification
25 system as described in chapter 43.43 RCW.

26 (4) An agency, the department, or a court approved individual may
27 charge a reasonable fee based on the time spent in conducting the study
28 and preparing the preplacement report. The court may set a reasonable
29 fee for conducting the study and preparing the report when a court
30 employee has prepared the report. An agency, the department, a court
31 approved individual, or the court may reduce or waive the fee (~~(if the~~
32 ~~financial condition of the person requesting the report so warrants)~~).
33 An agency's, the department's, or court approved individual's(~~(7)~~) fee
34 (~~(is subject to review by the court upon request of the person~~
35 ~~requesting the report)~~) must be included in the prospective adoptive
36 parents' financial disclosure statement consistent with section 5 of
37 this act.

1 (5) The person requesting the report shall designate to the agency,
2 the department, the court approved individual, or the court in writing
3 the county in which the preplacement report is to be filed. If the
4 person requesting the report has not filed a petition for adoption, the
5 report shall be indexed in the name of the person requesting the report
6 and a cause number shall be assigned. A fee shall not be charged for
7 filing the report. The applicable filing fee may be charged at the
8 time a petition governed by this chapter is filed. Any subsequent
9 preplacement reports shall be filed together with the original report.

10 (6) A copy of the completed preplacement report shall be delivered
11 to the person requesting the report.

12 (7) A person may request that a report not be completed. A
13 reasonable fee may be charged for the value of work done.

14 NEW SECTION. **Sec. 5.** A new section is added to chapter 26.33 RCW
15 to read as follows:

16 In addition to a preplacement report as provided in RCW 26.33.190
17 and a post-placement report as provided in RCW 26.33.200, the
18 prospective adoptive parents shall file a financial disclosure
19 statement with the court. The financial disclosure statement shall
20 itemize any and all adoption-related fees paid or anticipated to be
21 paid by the prospective adoptive parents. Itemized fees shall include
22 any and all adoption-related fees including but not limited to medical,
23 legal, preplacement report, and post-placement report adoption-related
24 fees. The financial disclosure statement shall disclose the fee amount
25 and date paid, to whom the fee was paid, services provided, and whether
26 any fees were reduced or waived. The financial disclosure statement
27 shall be filed with the court consistent with RCW 26.33.150(6). The
28 court shall review the financial disclosure statement and either
29 approve all adoption-related fees or reduce or waive the fees as the
30 court deems appropriate, prior to entering a decree of adoption.

31 **Sec. 6.** RCW 26.33.240 and 1987 c 170 s 8 are each amended to read
32 as follows:

33 (1) After the reports required by RCW 26.33.190, section 5 of this
34 act, and 26.33.200 have been filed, the court shall schedule a hearing
35 on the petition for adoption upon request of the petitioner for
36 adoption. Notice of the date, time, and place of hearing shall be

1 given to the petitioner and any person or agency whose consent to
2 adoption is required under RCW 26.33.160, unless the person or agency
3 has waived in writing the right to receive notice of the hearing. If
4 the child is an Indian child, notice shall also be given to the child's
5 tribe. Notice shall be given in the manner prescribed by RCW
6 26.33.310.

7 (2) Notice of the adoption hearing shall also be given to any
8 person who or agency which has prepared a preplacement report. The
9 notice shall be given in the manner prescribed by RCW 26.33.230.

10 (3) If the court determines, after review of the petition,
11 preplacement and post-placement reports, and other evidence introduced
12 at the hearing, that all necessary consents to adoption are valid or
13 have been dispensed with pursuant to RCW 26.33.170 and that the
14 adoption is in the best interest of the adoptee, and, in the case of an
15 adoption of an Indian child, that the adoptive parents are within the
16 placement preferences of 25 U.S.C. Sec. 1915 or good cause to the
17 contrary has been shown on the record, the court shall enter a decree
18 of adoption pursuant to RCW 26.33.250.

19 (4) If the court determines the petition should not be granted
20 because the adoption is not in the best interest of the child, the
21 court shall make appropriate provision for the care and custody of the
22 child.

23 NEW SECTION. **Sec. 7.** A new section is added to chapter 26.33 RCW
24 to read as follows:

25 (1) The adoption expense assistance account is created in the
26 custody of the state treasurer. Expenditures from the account shall be
27 made exclusively to assist prospective adoptive parents in the payment
28 of adoption-related fees under this chapter. The account is subject to
29 the allotment procedures under chapter 43.88 RCW, but an appropriation
30 is not required for expenditures. Only the secretary of social and
31 health services or the secretary's designee may authorize expenditures
32 from the account.

33 (2) The department of social and health services shall solicit and
34 may receive gifts, grants, or endowments from public or private sources
35 for deposit to the adoption expense assistance account, as well as
36 legislative appropriations to the account.

1 (3) By rule, the department of social and health services shall
2 establish eligibility criteria for distribution of funds from the
3 account for assistance to prospective adoptive parents, using a sliding
4 scale based solely on the economic need of the prospective adoptive
5 parents. Funds shall be distributed once annually unless the funds in
6 the account are sufficient to allow additional distributions.
7 Distributions from the account shall not exceed the investment earnings
8 of the account; the account principal shall not be expended.

9 **Sec. 8.** RCW 43.79A.040 and 2003 c 403 s 9, 2003 c 313 s 10, 2003
10 c 191 s 7, 2003 c 148 s 15, 2003 c 92 s 8, and 2003 c 19 s 12 are each
11 reenacted and amended to read as follows:

12 (1) Money in the treasurer's trust fund may be deposited, invested,
13 and reinvested by the state treasurer in accordance with RCW 43.84.080
14 in the same manner and to the same extent as if the money were in the
15 state treasury.

16 (2) All income received from investment of the treasurer's trust
17 fund shall be set aside in an account in the treasury trust fund to be
18 known as the investment income account.

19 (3) The investment income account may be utilized for the payment
20 of purchased banking services on behalf of treasurer's trust funds
21 including, but not limited to, depository, safekeeping, and
22 disbursement functions for the state treasurer or affected state
23 agencies. The investment income account is subject in all respects to
24 chapter 43.88 RCW, but no appropriation is required for payments to
25 financial institutions. Payments shall occur prior to distribution of
26 earnings set forth in subsection (4) of this section.

27 (4)(a) Monthly, the state treasurer shall distribute the earnings
28 credited to the investment income account to the state general fund
29 except under (b) and (c) of this subsection.

30 (b) The following accounts and funds shall receive their
31 proportionate share of earnings based upon each account's or fund's
32 average daily balance for the period: The Washington promise
33 scholarship account, the college savings program account, the
34 Washington advanced college tuition payment program account, the
35 adoption expense assistance account, the agricultural local fund, the
36 American Indian scholarship endowment fund, the students with
37 dependents grant account, the basic health plan self-insurance reserve

1 account, the contract harvesting revolving account, the Washington
2 state combined fund drive account, the Washington international
3 exchange scholarship endowment fund, the developmental disabilities
4 endowment trust fund, the energy account, the fair fund, the fruit and
5 vegetable inspection account, the game farm alternative account, the
6 grain inspection revolving fund, the juvenile accountability incentive
7 account, the law enforcement officers' and fire fighters' plan 2
8 expense fund, the local tourism promotion account, the produce railcar
9 pool account, the rural rehabilitation account, the stadium and
10 exhibition center account, the youth athletic facility account, the
11 self-insurance revolving fund, the sulfur dioxide abatement account,
12 the children's trust fund, and the investing in innovation account.
13 However, the earnings to be distributed shall first be reduced by the
14 allocation to the state treasurer's service fund pursuant to RCW
15 43.08.190.

16 (c) The following accounts and funds shall receive eighty percent
17 of their proportionate share of earnings based upon each account's or
18 fund's average daily balance for the period: The advanced right of way
19 revolving fund, the advanced environmental mitigation revolving
20 account, the city and county advance right-of-way revolving fund, the
21 federal narcotics asset forfeitures account, the high occupancy vehicle
22 account, the local rail service assistance account, and the
23 miscellaneous transportation programs account.

24 (5) In conformance with Article II, section 37 of the state
25 Constitution, no trust accounts or funds shall be allocated earnings
26 without the specific affirmative directive of this section.

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