

ESSB 6792 - H AMD 1572

By Representative Kagi

1 Strike everything after the enacting clause and insert the
2 following:

3 "Sec. 1. RCW 13.34.215 and 2007 c 413 s 1 are each amended to read
4 as follows:

5 (1) A child may petition the juvenile court to reinstate the
6 previously terminated parental rights of his or her parent under the
7 following circumstances:

8 (a) The child was previously found to be a dependent child under
9 this chapter;

10 (b) The child's parent's rights were terminated in a proceeding
11 under this chapter;

12 (c) The child has not achieved his or her permanency plan within
13 three years of a final order of termination(~~(, or if the final order~~
14 ~~was appealed, within three years of exhaustion of any right to appeal~~
15 ~~the order terminating parental rights)); and~~

16 (d) (~~Absent good cause,~~) The child must be at least twelve years
17 old at the time the petition is filed. Upon the child's motion for
18 good cause shown, or on its own motion, the court may hear a petition
19 filed by a child younger than twelve years old.

20 (2) A child seeking to petition under this section shall be
21 provided counsel at no cost to the child.

22 (3) The petition must be signed by the child in the absence of a
23 showing of good cause as to why the child could not do so.

24 (4) If, after a threshold hearing to consider the parent's apparent
25 fitness and interest in reinstatement of parental rights, (~~it~~
26 ~~appears~~) the court finds by a preponderance of the evidence that the
27 best interests of the child may be served by reinstatement of parental
28 rights, the juvenile court shall order that a hearing on the merits of
29 the petition be held.

30 (5) The court shall give prior notice for any proceeding under this
31 section, or cause prior notice to be given, to the department, the

1 child's attorney, and the child. The court shall also order the
2 department to give prior notice of any hearing to the child's former
3 parent whose parental rights are the subject of the petition, any
4 parent whose rights have not been terminated, the child's current
5 foster parent, relative caregiver, guardian or custodian, and the
6 child's tribe, if applicable.

7 (6) The juvenile court shall conditionally grant the petition if it
8 finds by clear and convincing evidence that the child has not achieved
9 his or her permanency plan and is not likely to imminently achieve his
10 or her permanency plan and that reinstatement of parental rights is in
11 the child's best interest. In determining whether reinstatement is in
12 the child's best interest the court shall consider, but is not limited
13 to, the following:

14 (a) Whether the parent whose rights are to be reinstated is a fit
15 parent and has remedied his or her deficits as provided in the record
16 of the prior termination proceedings and prior termination order;

17 (b) The age and maturity of the child, and the ability of the child
18 to express his or her preference;

19 (c) Whether the reinstatement of parental rights will present a
20 risk to the child's health, welfare, or safety; and

21 (d) Other material changes in circumstances, if any, that may have
22 occurred which warrant the granting of the petition.

23 (7) In determining whether the child has or has not achieved his or
24 her permanency plan or whether the child is likely to achieve his or
25 her permanency plan, the department shall provide the court, and the
26 court shall review, information related to any efforts to achieve the
27 permanency plan including efforts to achieve adoption or a permanent
28 guardianship.

29 (8)(a) If the court conditionally grants the petition under
30 subsection (6) of this section, the case will be continued for six
31 months and a temporary order of reinstatement entered. During this
32 period, the child shall be placed in the custody of the parent. The
33 department shall develop a permanency plan for the child reflecting the
34 plan to be reunification and shall provide transition services to the
35 family as appropriate.

36 (b) If the child must be removed from the parent due to abuse or
37 neglect allegations prior to the expiration of the conditional six-

1 month period, the court shall dismiss the petition for reinstatement of
2 parental rights if the court finds the allegations have been proven by
3 a preponderance of the evidence.

4 (c) If the child has been successfully placed with the parent for
5 six months, the court order reinstating parental rights remains in
6 effect and the court shall dismiss the dependency.

7 (9) After the child has been placed with the parent for six months,
8 the court shall hold a hearing. If the placement with the parent has
9 been successful, the court shall enter a final order of reinstatement
10 of parental rights, which shall restore all rights, powers, privileges,
11 immunities, duties, and obligations of the parent as to the child,
12 including those relating to custody, control, and support of the child.
13 The court shall dismiss the dependency and direct the clerk's office to
14 provide a certified copy of the final order of reinstatement of
15 parental rights to the parent at no cost.

16 (10) The granting of the petition under this section does not
17 vacate or otherwise affect the validity of the original termination
18 order.

19 ~~((+10+))~~ (11) Any parent whose rights are reinstated under this
20 section shall not be liable for any child support owed to the
21 department pursuant to RCW 13.34.160 or Title 26 RCW or costs of other
22 services provided to a child for the time period from the date of
23 termination of parental rights to the date parental rights are
24 reinstated.

25 ~~((+11+))~~ (12) A proceeding to reinstate parental rights is a
26 separate action from the termination of parental rights proceeding and
27 does not vacate the original termination of parental rights. An order
28 granted under this section reinstates the parental rights to the child.
29 This reinstatement is a recognition that the situation of the parent
30 and child have changed since the time of the termination of parental
31 rights and reunification is now appropriate.

32 ~~((+12+))~~ (13) This section is retroactive and applies to any child
33 who is under the jurisdiction of the juvenile court at the time of the
34 hearing regardless of the date parental rights were terminated.

35 (14) The state, the department, and its employees are not liable
36 for civil damages resulting from any act or omission in the provision
37 of services under this section, unless the act or omission constitutes
38 gross negligence. This section does not create any duty and shall not

1 be construed to create a duty where none exists. This section does not
2 create a cause of action against the state, the department, or its
3 employees concerning the original termination.

4 **Sec. 2.** RCW 13.34.065 and 2007 c 413 s 5 are each amended to read
5 as follows:

6 (1)(a) When a child is taken into custody, the court shall hold a
7 shelter care hearing within seventy-two hours, excluding Saturdays,
8 Sundays, and holidays. The primary purpose of the shelter care hearing
9 is to determine whether the child can be immediately and safely
10 returned home while the adjudication of the dependency is pending.

11 (b) Any parent, guardian, or legal custodian who for good cause is
12 unable to attend the shelter care hearing may request that a subsequent
13 shelter care hearing be scheduled. The request shall be made to the
14 clerk of the court where the petition is filed prior to the initial
15 shelter care hearing. Upon the request of the parent, the court shall
16 schedule the hearing within seventy-two hours of the request, excluding
17 Saturdays, Sundays, and holidays. The clerk shall notify all other
18 parties of the hearing by any reasonable means.

19 (2)(a) The department of social and health services shall submit a
20 recommendation to the court as to the further need for shelter care in
21 all cases in which it is the petitioner. In all other cases, the
22 recommendation shall be submitted by the juvenile court probation
23 counselor.

24 (b) All parties have the right to present testimony to the court
25 regarding the need or lack of need for shelter care.

26 (c) Hearsay evidence before the court regarding the need or lack of
27 need for shelter care must be supported by sworn testimony, affidavit,
28 or declaration of the person offering such evidence.

29 (3)(a) At the commencement of the hearing, the court shall notify
30 the parent, guardian, or custodian of the following:

31 (i) The parent, guardian, or custodian has the right to a shelter
32 care hearing;

33 (ii) The nature of the shelter care hearing, the rights of the
34 parents, and the proceedings that will follow; and

35 (iii) If the parent, guardian, or custodian is not represented by
36 counsel, the right to be represented. If the parent, guardian, or

1 custodian is indigent, the court shall appoint counsel as provided in
2 RCW 13.34.090; and

3 (b) If a parent, guardian, or legal custodian desires to waive the
4 shelter care hearing, the court shall determine, on the record and with
5 the parties present, whether such waiver is knowing and voluntary. A
6 parent may not waive his or her right to the shelter care hearing
7 unless he or she appears in court and the court determines that the
8 waiver is knowing and voluntary. Regardless of whether the court
9 accepts the parental waiver of the shelter care hearing, the court must
10 provide notice to the parents of their rights required under (a) of
11 this subsection and make the finding required under subsection (4) of
12 this section.

13 (4) At the shelter care hearing the court shall examine the need
14 for shelter care and inquire into the status of the case. The
15 paramount consideration for the court shall be the health, welfare, and
16 safety of the child. At a minimum, the court shall inquire into the
17 following:

18 (a) Whether the notice required under RCW 13.34.062 was given to
19 all known parents, guardians, or legal custodians of the child. The
20 court shall make an express finding as to whether the notice required
21 under RCW 13.34.062 was given to the parent, guardian, or legal
22 custodian. If actual notice was not given to the parent, guardian, or
23 legal custodian and the whereabouts of such person is known or can be
24 ascertained, the court shall order the supervising agency or the
25 department of social and health services to make reasonable efforts to
26 advise the parent, guardian, or legal custodian of the status of the
27 case, including the date and time of any subsequent hearings, and their
28 rights under RCW 13.34.090;

29 (b) Whether the child can be safely returned home while the
30 adjudication of the dependency is pending;

31 (c) What efforts have been made to place the child with a relative;

32 (d) What services were provided to the family to prevent or
33 eliminate the need for removal of the child from the child's home;

34 (e) Is the placement proposed by the agency the least disruptive
35 and most family-like setting that meets the needs of the child;

36 (f) Whether it is in the best interest of the child to remain
37 enrolled in the school, developmental program, or child care the child
38 was in prior to placement and what efforts have been made to maintain

1 the child in the school, program, or child care if it would be in the
2 best interest of the child to remain in the same school, program, or
3 child care;

4 (g) Appointment of a guardian ad litem or attorney;

5 (h) Whether the child is or may be an Indian child as defined in 25
6 U.S.C. Sec. 1903, whether the provisions of the Indian child welfare
7 act apply, and whether there is compliance with the Indian child
8 welfare act, including notice to the child's tribe;

9 (i) Whether, as provided in RCW 26.44.063, restraining orders, or
10 orders expelling an allegedly abusive (~~parent~~) household member from
11 the home of a nonabusive parent, guardian, or legal custodian, will
12 allow the child to safely remain in the home;

13 (j) Whether any orders for examinations, evaluations, or immediate
14 services are needed. (~~However,~~) The court may not order a parent to
15 undergo examinations, evaluation, or services at the shelter care
16 hearing unless the parent agrees to the examination, evaluation, or
17 service;

18 (k) The terms and conditions for parental, sibling, and family
19 visitation.

20 (5)(a) The court shall release a child alleged to be dependent to
21 the care, custody, and control of the child's parent, guardian, or
22 legal custodian unless the court finds there is reasonable cause to
23 believe that:

24 (i) After consideration of the specific services that have been
25 provided, reasonable efforts have been made to prevent or eliminate the
26 need for removal of the child from the child's home and to make it
27 possible for the child to return home; and

28 (ii)(A) The child has no parent, guardian, or legal custodian to
29 provide supervision and care for such child; or

30 (B) The release of such child would present a serious threat of
31 substantial harm to such child, notwithstanding an order entered
32 pursuant to RCW 26.44.063; or

33 (C) The parent, guardian, or custodian to whom the child could be
34 released has been charged with violating RCW 9A.40.060 or 9A.40.070.

35 (b) If the court does not release the child to his or her parent,
36 guardian, or legal custodian, (~~and the child was initially placed with~~
37 ~~a relative pursuant to RCW 13.34.060(1),~~) the court shall order
38 (~~continued~~) placement with a relative, unless there is reasonable

1 cause to believe the health, safety, or welfare of the child would be
2 jeopardized or that the efforts to reunite the parent and child will be
3 hindered. The relative must be willing and available to:

4 (i) Care for the child and be able to meet any special needs of the
5 child;

6 (ii) Facilitate the child's visitation with siblings, if such
7 visitation is part of the supervising agency's plan or is ordered by
8 the court; and

9 (iii) Cooperate with the department in providing necessary
10 background checks and home studies.

11 (c) If the child was not initially placed with a relative, and the
12 court does not release the child to his or her parent, guardian, or
13 legal custodian, the supervising agency shall make reasonable efforts
14 to locate a relative pursuant to RCW 13.34.060(1).

15 (d) If a relative is not available, the court shall order continued
16 shelter care or order placement with another suitable person, and the
17 court shall set forth its reasons for the order. If the court orders
18 placement of the child with a person not related to the child and not
19 licensed to provide foster care, the placement is subject to all terms
20 and conditions of this section that apply to relative placements.

21 (e) Any placement with a relative, or other person approved by the
22 court pursuant to this section, shall be contingent upon cooperation
23 with the agency case plan and compliance with court orders related to
24 the care and supervision of the child including, but not limited to,
25 court orders regarding parent-child contacts, sibling contacts, and any
26 other conditions imposed by the court. Noncompliance with the case
27 plan or court order is grounds for removal of the child from the home
28 of the relative or other person, subject to review by the court.

29 (f) Uncertainty by a parent, guardian, legal custodian, relative,
30 or other suitable person that the alleged abuser has in fact abused the
31 child shall not, alone, be the basis upon which a child is removed from
32 the care of a parent, guardian, or legal custodian under (a) of this
33 subsection, nor shall it be a basis, alone, to preclude placement with
34 a relative under (b) of this subsection or with another suitable person
35 under (d) of this subsection.

36 (6)(a) A shelter care order issued pursuant to this section shall
37 include the requirement for a case conference as provided in RCW
38 13.34.067. However, if the parent is not present at the shelter care

1 hearing, or does not agree to the case conference, the court shall not
2 include the requirement for the case conference in the shelter care
3 order.

4 (b) If the court orders a case conference, the shelter care order
5 shall include notice to all parties and establish the date, time, and
6 location of the case conference which shall be no later than thirty
7 days before the fact-finding hearing.

8 (c) The court may order another conference, case staffing, or
9 hearing as an alternative to the case conference required under RCW
10 13.34.067 so long as the conference, case staffing, or hearing ordered
11 by the court meets all requirements under RCW 13.34.067, including the
12 requirement of a written agreement specifying the services to be
13 provided to the parent.

14 (7)(a) A shelter care order issued pursuant to this section may be
15 amended at any time with notice and hearing thereon. The shelter care
16 decision of placement shall be modified only upon a showing of change
17 in circumstances. No child may be placed in shelter care for longer
18 than thirty days without an order, signed by the judge, authorizing
19 continued shelter care.

20 (b)(i) An order releasing the child on any conditions specified in
21 this section may at any time be amended, with notice and hearing
22 thereon, so as to return the child to shelter care for failure of the
23 parties to conform to the conditions originally imposed.

24 (ii) The court shall consider whether nonconformance with any
25 conditions resulted from circumstances beyond the control of the
26 parent, guardian, or legal custodian and give weight to that fact
27 before ordering return of the child to shelter care.

28 (8)(a) If a child is returned home from shelter care a second time
29 in the case, or if the supervisor of the caseworker deems it necessary,
30 the multidisciplinary team may be reconvened.

31 (b) If a child is returned home from shelter care a second time in
32 the case a law enforcement officer must be present and file a report to
33 the department.

34 **Sec. 3.** RCW 13.34.136 and 2007 c 413 s 7 are each amended to read
35 as follows:

36 (1) Whenever a child is ordered removed from the home, a permanency
37 plan shall be developed no later than sixty days from the time the

1 supervising agency assumes responsibility for providing services,
2 including placing the child, or at the time of a hearing under RCW
3 13.34.130, whichever occurs first. The permanency planning process
4 continues until a permanency planning goal is achieved or dependency is
5 dismissed. The planning process shall include reasonable efforts to
6 return the child to the parent's home.

7 (2) The agency supervising the dependency shall submit a written
8 permanency plan to all parties and the court not less than fourteen
9 days prior to the scheduled hearing. Responsive reports of parties not
10 in agreement with the supervising agency's proposed permanency plan
11 must be provided to the supervising agency, all other parties, and the
12 court at least seven days prior to the hearing.

13 The permanency plan shall include:

14 (a) A permanency plan of care that shall identify one of the
15 following outcomes as a primary goal and may identify additional
16 outcomes as alternative goals: Return of the child to the home of the
17 child's parent, guardian, or legal custodian; adoption; guardianship;
18 permanent legal custody; long-term relative or foster care, until the
19 child is age eighteen, with a written agreement between the parties and
20 the care provider; successful completion of a responsible living skills
21 program; or independent living, if appropriate and if the child is age
22 sixteen or older. The department shall not discharge a child to an
23 independent living situation before the child is eighteen years of age
24 unless the child becomes emancipated pursuant to chapter 13.64 RCW;

25 (b) Unless the court has ordered, pursuant to RCW 13.34.130(~~(+4)~~)
26 (5), that a termination petition be filed, a specific plan as to where
27 the child will be placed, what steps will be taken to return the child
28 home, what steps the agency will take to promote existing appropriate
29 sibling relationships and/or facilitate placement together or contact
30 in accordance with the best interests of each child, and what actions
31 the agency will take to maintain parent-child ties. All aspects of the
32 plan shall include the goal of achieving permanence for the child.

33 (i) The agency plan shall specify what services the parents will be
34 offered to enable them to resume custody, what requirements the parents
35 must meet to resume custody, and a time limit for each service plan and
36 parental requirement.

37 (ii) Visitation is the right of the family, including the child and
38 the parent, in cases in which visitation is in the best interest of the

1 child. Early, consistent, and frequent visitation is crucial for
2 maintaining parent-child relationships and making it possible for
3 parents and children to safely reunify. The agency shall encourage the
4 maximum parent and child and sibling contact possible, when it is in
5 the best interest of the child, including regular visitation and
6 participation by the parents in the care of the child while the child
7 is in placement. Visitation shall not be limited as a sanction for a
8 parent's failure to comply with court orders or services where the
9 health, safety, or welfare of the child is not at risk as a result of
10 the visitation. Visitation may be limited or denied only if the court
11 determines that such limitation or denial is necessary to protect the
12 child's health, safety, or welfare. The court and the agency should
13 rely upon community resources, relatives, foster parents, and other
14 appropriate persons to provide transportation and supervision for
15 visitation to the extent that such resources are available, and
16 appropriate, and the child's safety would not be compromised.

17 (iii) A child shall be placed as close to the child's home as
18 possible, preferably in the child's own neighborhood, unless the court
19 finds that placement at a greater distance is necessary to promote the
20 child's or parents' well-being.

21 (iv) The plan shall state whether both in-state and, where
22 appropriate, out-of-state placement options have been considered by the
23 department.

24 (v) Unless it is not in the best interests of the child, whenever
25 practical, the plan should ensure the child remains enrolled in the
26 school the child was attending at the time the child entered foster
27 care.

28 (vi) The agency charged with supervising a child in placement shall
29 provide all reasonable services that are available within the agency,
30 or within the community, or those services which the department has
31 existing contracts to purchase. It shall report to the court if it is
32 unable to provide such services; and

33 (c) If the court has ordered, pursuant to RCW 13.34.130(~~(+4)~~) (5),
34 that a termination petition be filed, a specific plan as to where the
35 child will be placed, what steps will be taken to achieve permanency
36 for the child, services to be offered or provided to the child, and, if
37 visitation would be in the best interests of the child, a
38 recommendation to the court regarding visitation between parent and

1 child pending a fact-finding hearing on the termination petition. The
2 agency shall not be required to develop a plan of services for the
3 parents or provide services to the parents if the court orders a
4 termination petition be filed. However, reasonable efforts to ensure
5 visitation and contact between siblings shall be made unless there is
6 reasonable cause to believe the best interests of the child or siblings
7 would be jeopardized.

8 (3) Permanency planning goals should be achieved at the earliest
9 possible date(~~(, preferably before)~~). If the child has been in out-of-
10 home care for fifteen of the most recent twenty-two months, the court
11 shall require the department to file a petition seeking termination of
12 parental rights in accordance with RCW 13.34.145(3)(b)(vi). In cases
13 where parental rights have been terminated, the child is legally free
14 for adoption, and adoption has been identified as the primary
15 permanency planning goal, it shall be a goal to complete the adoption
16 within six months following entry of the termination order.

17 (4) If the court determines that the continuation of reasonable
18 efforts to prevent or eliminate the need to remove the child from his
19 or her home or to safely return the child home should not be part of
20 the permanency plan of care for the child, reasonable efforts shall be
21 made to place the child in a timely manner and to complete whatever
22 steps are necessary to finalize the permanent placement of the child.

23 (5) The identified outcomes and goals of the permanency plan may
24 change over time based upon the circumstances of the particular case.

25 (6) The court shall consider the child's relationships with the
26 child's siblings in accordance with RCW 13.34.130(3).

27 (7) For purposes related to permanency planning:

28 (a) "Guardianship" means a dependency guardianship or a legal
29 guardianship pursuant to chapter 11.88 RCW or equivalent laws of
30 another state or a federally recognized Indian tribe.

31 (b) "Permanent custody order" means a custody order entered
32 pursuant to chapter 26.10 RCW.

33 (c) "Permanent legal custody" means legal custody pursuant to
34 chapter 26.10 RCW or equivalent laws of another state or a federally
35 recognized Indian tribe.

36 **Sec. 4.** RCW 26.44.063 and 2000 c 119 s 12 are each amended to read
37 as follows:

1 (1) It is the intent of the legislature to minimize trauma to a
2 child involved in an allegation of sexual or physical abuse. The
3 legislature declares that removing the child from the home or the care
4 of a parent, guardian, or legal custodian often has the effect of
5 further traumatizing the child. It is, therefore, the legislature's
6 intent that the alleged (~~offender~~) abuser, rather than the child,
7 shall be removed or restrained from the (~~home~~) child's residence and
8 that this should be done at the earliest possible point of intervention
9 in accordance with RCW 10.31.100, (~~13.34.130~~) chapter 13.34 RCW, this
10 section, and RCW 26.44.130.

11 (2) In any judicial proceeding in which it is alleged that a child
12 has been subjected to sexual or physical abuse, if the court finds
13 reasonable grounds to believe that an incident of sexual or physical
14 abuse has occurred, the court may, on its own motion, or the motion of
15 the guardian ad litem or other parties, issue a temporary restraining
16 order or preliminary injunction restraining or enjoining the person
17 accused of committing the abuse from:

18 (a) Molesting or disturbing the peace of the alleged victim;

19 (b) Entering the family home of the alleged victim except as
20 specifically authorized by the court;

21 (c) Having any contact with the alleged victim, except as
22 specifically authorized by the court;

23 (d) Knowingly coming within, or knowingly remaining within, a
24 specified distance of a specified location.

25 (3) If the caretaker is willing, and does comply with the duties
26 prescribed in subsection (8) of this section, uncertainty by the
27 caretaker that the alleged abuser has in fact abused the alleged victim
28 shall not, alone, be a basis to remove the alleged victim from the
29 caretaker, nor shall it be considered neglect.

30 (4) In issuing a temporary restraining order or preliminary
31 injunction, the court may impose any additional restrictions that the
32 court in its discretion determines are necessary to protect the child
33 from further abuse or emotional trauma pending final resolution of the
34 abuse allegations.

35 (~~(4)~~) (5) The court shall issue a temporary restraining order
36 prohibiting a person from entering the family home if the court finds
37 that the order would eliminate the need for an out-of-home placement to

1 protect the child's right to nurturance, health, and safety and is
2 sufficient to protect the child from further sexual or physical abuse
3 or coercion.

4 ~~((+5))~~ (6) The court may issue a temporary restraining order
5 without requiring notice to the party to be restrained or other parties
6 only if it finds on the basis of the moving affidavit or other evidence
7 that irreparable injury could result if an order is not issued until
8 the time for responding has elapsed.

9 ~~((+6))~~ (7) A temporary restraining order or preliminary
10 injunction:

11 (a) Does not prejudice the rights of a party or any child which are
12 to be adjudicated at subsequent hearings in the proceeding; and

13 (b) May be revoked or modified.

14 ~~((+7))~~ (8) The person having physical custody of the child shall
15 have an affirmative duty to assist in the enforcement of the
16 restraining order including but not limited to a duty to notify the
17 court as soon as practicable of any violation of the order, a duty to
18 request the assistance of law enforcement officers to enforce the
19 order, and a duty to notify the department of social and health
20 services of any violation of the order as soon as practicable if the
21 department is a party to the action. Failure by the custodial party to
22 discharge these affirmative duties shall be subject to contempt
23 proceedings.

24 ~~((+8))~~ (9) Willful violation of a court order entered under this
25 section is a misdemeanor. A written order shall contain the court's
26 directive and shall bear the legend: "Violation of this order with
27 actual notice of its terms is a criminal offense under chapter 26.44
28 RCW, is also subject to contempt proceedings, and will subject a
29 violator to arrest."

30 ~~((+9))~~ (10) If a restraining order issued under this section is
31 modified or terminated, the clerk of the court shall notify the law
32 enforcement agency specified in the order on or before the next
33 judicial day. Upon receipt of notice that an order has been
34 terminated, the law enforcement agency shall remove the order from any
35 computer-based criminal intelligence system.

36 **Sec. 5.** RCW 71.24.035 and 2007 c 414 s 2, 2007 c 410 s 8, and 2007
37 c 375 s 12 are each reenacted and amended to read as follows:

1 (1) The department is designated as the state mental health
2 authority.

3 (2) The secretary shall provide for public, client, and licensed
4 service provider participation in developing the state mental health
5 program, developing contracts with regional support networks, and any
6 waiver request to the federal government under medicaid.

7 (3) The secretary shall provide for participation in developing the
8 state mental health program for children and other underserved
9 populations, by including representatives on any committee established
10 to provide oversight to the state mental health program.

11 (4) The secretary shall be designated as the regional support
12 network if the regional support network fails to meet state minimum
13 standards or refuses to exercise responsibilities under RCW 71.24.045.

14 (5) The secretary shall:

15 (a) Develop a biennial state mental health program that
16 incorporates regional biennial needs assessments and regional mental
17 health service plans and state services for adults and children with
18 mental illness. The secretary shall also develop a six-year state
19 mental health plan;

20 (b) Assure that any regional or county community mental health
21 program provides access to treatment for the region's residents,
22 including parents who are (~~defendants~~) respondents in dependency
23 cases, in the following order of priority: (i) Persons with acute
24 mental illness; (ii) adults with chronic mental illness and children
25 who are severely emotionally disturbed; and (iii) persons who are
26 seriously disturbed. Such programs shall provide:

27 (A) Outpatient services;

28 (B) Emergency care services for twenty-four hours per day;

29 (C) Day treatment for persons with mental illness which includes
30 training in basic living and social skills, supported work, vocational
31 rehabilitation, and day activities. Such services may include
32 therapeutic treatment. In the case of a child, day treatment includes
33 age-appropriate basic living and social skills, educational and
34 prevocational services, day activities, and therapeutic treatment;

35 (D) Screening for patients being considered for admission to state
36 mental health facilities to determine the appropriateness of admission;

37 (E) Employment services, which may include supported employment,
38 transitional work, placement in competitive employment, and other work-

1 related services, that result in persons with mental illness becoming
2 engaged in meaningful and gainful full or part-time work. Other
3 sources of funding such as the division of vocational rehabilitation
4 may be utilized by the secretary to maximize federal funding and
5 provide for integration of services;

6 (F) Consultation and education services; and

7 (G) Community support services;

8 (c) Develop and adopt rules establishing state minimum standards
9 for the delivery of mental health services pursuant to RCW 71.24.037
10 including, but not limited to:

11 (i) Licensed service providers. These rules shall permit a county-
12 operated mental health program to be licensed as a service provider
13 subject to compliance with applicable statutes and rules. The
14 secretary shall provide for deeming of compliance with state minimum
15 standards for those entities accredited by recognized behavioral health
16 accrediting bodies recognized and having a current agreement with the
17 department;

18 (ii) Regional support networks; and

19 (iii) Inpatient services, evaluation and treatment services and
20 facilities under chapter 71.05 RCW, resource management services, and
21 community support services;

22 (d) Assure that the special needs of persons who are minorities,
23 elderly, disabled, children, low-income, and parents who are
24 (~~defendants~~) respondents in dependency cases are met within the
25 priorities established in this section;

26 (e) Establish a standard contract or contracts, consistent with
27 state minimum standards and RCW 71.24.320(~~(7)~~) and 71.24.330(~~(7) and~~
28 ~~71.24.3201~~)), which shall be used in contracting with regional support
29 networks. The standard contract shall include a maximum fund balance,
30 which shall be consistent with that required by federal regulations or
31 waiver stipulations;

32 (f) Establish, to the extent possible, a standardized auditing
33 procedure which minimizes paperwork requirements of regional support
34 networks and licensed service providers. The audit procedure shall
35 focus on the outcomes of service and not the processes for
36 accomplishing them;

37 (g) Develop and maintain an information system to be used by the
38 state and regional support networks that includes a tracking method

1 which allows the department and regional support networks to identify
2 mental health clients' participation in any mental health service or
3 public program on an immediate basis. The information system shall not
4 include individual patient's case history files. Confidentiality of
5 client information and records shall be maintained as provided in this
6 chapter and in RCW 71.05.390, 71.05.420, and 71.05.440;

7 (h) License service providers who meet state minimum standards;

8 (i) Certify regional support networks that meet state minimum
9 standards;

10 (j) Periodically monitor the compliance of certified regional
11 support networks and their network of licensed service providers for
12 compliance with the contract between the department, the regional
13 support network, and federal and state rules at reasonable times and in
14 a reasonable manner;

15 (k) Fix fees to be paid by evaluation and treatment centers to the
16 secretary for the required inspections;

17 (l) Monitor and audit regional support networks and licensed
18 service providers as needed to assure compliance with contractual
19 agreements authorized by this chapter;

20 (m) Adopt such rules as are necessary to implement the department's
21 responsibilities under this chapter;

22 (n) Assure the availability of an appropriate amount, as determined
23 by the legislature in the operating budget by amounts appropriated for
24 this specific purpose, of community-based, geographically distributed
25 residential services;

26 (o) Certify crisis stabilization units that meet state minimum
27 standards; and

28 (p) Certify clubhouses that meet state minimum standards.

29 (6) The secretary shall use available resources only for regional
30 support networks, except to the extent authorized, and in accordance
31 with any priorities or conditions specified, in the biennial
32 appropriations act.

33 (7) Each certified regional support network and licensed service
34 provider shall file with the secretary, on request, such data,
35 statistics, schedules, and information as the secretary reasonably
36 requires. A certified regional support network or licensed service
37 provider which, without good cause, fails to furnish any data,

1 statistics, schedules, or information as requested, or files fraudulent
2 reports thereof, may have its certification or license revoked or
3 suspended.

4 (8) The secretary may suspend, revoke, limit, or restrict a
5 certification or license, or refuse to grant a certification or license
6 for failure to conform to: (a) The law; (b) applicable rules and
7 regulations; (c) applicable standards; or (d) state minimum standards.

8 (9) The superior court may restrain any regional support network or
9 service provider from operating without certification or a license or
10 any other violation of this section. The court may also review,
11 pursuant to procedures contained in chapter 34.05 RCW, any denial,
12 suspension, limitation, restriction, or revocation of certification or
13 license, and grant other relief required to enforce the provisions of
14 this chapter.

15 (10) Upon petition by the secretary, and after hearing held upon
16 reasonable notice to the facility, the superior court may issue a
17 warrant to an officer or employee of the secretary authorizing him or
18 her to enter at reasonable times, and examine the records, books, and
19 accounts of any regional support network or service provider refusing
20 to consent to inspection or examination by the authority.

21 (11) Notwithstanding the existence or pursuit of any other remedy,
22 the secretary may file an action for an injunction or other process
23 against any person or governmental unit to restrain or prevent the
24 establishment, conduct, or operation of a regional support network or
25 service provider without certification or a license under this chapter.

26 (12) The standards for certification of evaluation and treatment
27 facilities shall include standards relating to maintenance of good
28 physical and mental health and other services to be afforded persons
29 pursuant to this chapter and chapters 71.05 and 71.34 RCW, and shall
30 otherwise assure the effectuation of the purposes of these chapters.

31 (13) The standards for certification of crisis stabilization units
32 shall include standards that:

33 (a) Permit location of the units at a jail facility if the unit is
34 physically separate from the general population of the jail;

35 (b) Require administration of the unit by mental health
36 professionals who direct the stabilization and rehabilitation efforts;
37 and

1 (c) Provide an environment affording security appropriate with the
2 alleged criminal behavior and necessary to protect the public safety.

3 (14) The standards for certification of a clubhouse shall at a
4 minimum include:

5 (a) The facilities may be peer-operated and must be
6 recovery-focused;

7 (b) Members and employees must work together;

8 (c) Members must have the opportunity to participate in all the
9 work of the clubhouse, including administration, research, intake and
10 orientation, outreach, hiring, training and evaluation of staff, public
11 relations, advocacy, and evaluation of clubhouse effectiveness;

12 (d) Members and staff and ultimately the clubhouse director must be
13 responsible for the operation of the clubhouse, central to this
14 responsibility is the engagement of members and staff in all aspects of
15 clubhouse operations;

16 (e) Clubhouse programs must be comprised of structured activities
17 including but not limited to social skills training, vocational
18 rehabilitation, employment training and job placement, and community
19 resource development;

20 (f) Clubhouse programs must provide in-house educational programs
21 that significantly utilize the teaching and tutoring skills of members
22 and assist members by helping them to take advantage of adult education
23 opportunities in the community;

24 (g) Clubhouse programs must focus on strengths, talents, and
25 abilities of its members;

26 (h) The work-ordered day may not include medication clinics, day
27 treatment, or other therapy programs within the clubhouse.

28 (15) The department shall distribute appropriated state and federal
29 funds in accordance with any priorities, terms, or conditions specified
30 in the appropriations act.

31 (16) The secretary shall assume all duties assigned to the
32 nonparticipating regional support networks under chapters 71.05, 71.34,
33 and 71.24 RCW. Such responsibilities shall include those which would
34 have been assigned to the nonparticipating counties in regions where
35 there are not participating regional support networks.

36 The regional support networks, or the secretary's assumption of all
37 responsibilities under chapters 71.05, 71.34, and 71.24 RCW, shall be
38 included in all state and federal plans affecting the state mental

1 health program including at least those required by this chapter, the
2 medicaid program, and P.L. 99-660. Nothing in these plans shall be
3 inconsistent with the intent and requirements of this chapter.

4 (17) The secretary shall:

5 (a) Disburse funds for the regional support networks within sixty
6 days of approval of the biennial contract. The department must either
7 approve or reject the biennial contract within sixty days of receipt.

8 (b) Enter into biennial contracts with regional support networks.
9 The contracts shall be consistent with available resources. No
10 contract shall be approved that does not include progress toward
11 meeting the goals of this chapter by taking responsibility for: (i)
12 Short-term commitments; (ii) residential care; and (iii) emergency
13 response systems.

14 (c) Notify regional support networks of their allocation of
15 available resources at least sixty days prior to the start of a new
16 biennial contract period.

17 (d) Deny all or part of the funding allocations to regional support
18 networks based solely upon formal findings of noncompliance with the
19 terms of the regional support network's contract with the department.
20 Regional support networks disputing the decision of the secretary to
21 withhold funding allocations are limited to the remedies provided in
22 the department's contracts with the regional support networks.

23 (18) The department, in cooperation with the state congressional
24 delegation, shall actively seek waivers of federal requirements and
25 such modifications of federal regulations as are necessary to allow
26 federal medicaid reimbursement for services provided by free-standing
27 evaluation and treatment facilities certified under chapter 71.05 RCW.
28 The department shall periodically report its efforts to the appropriate
29 committees of the senate and the house of representatives.

30 **Sec. 6.** RCW 74.13.031 and 2007 c 413 s 10 are each amended to read
31 as follows:

32 The department shall have the duty to provide child welfare
33 services and shall:

34 (1) Develop, administer, supervise, and monitor a coordinated and
35 comprehensive plan that establishes, aids, and strengthens services for
36 the protection and care of runaway, dependent, or neglected children.

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

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

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

28 (~~Monitor out-of-home placements, on a timely and routine~~
29 ~~basis, to assure the safety, well being, and quality of care being~~
30 ~~provided is within the scope of the intent of the legislature as~~
31 ~~defined in RCW 74.13.010 and 74.15.010, and annually submit a report~~
32 ~~measuring the extent to which the department achieved the specified~~
33 ~~goals to the governor and the legislature)) Monitor placements of
34 children in out-of-home care and in-home dependencies to assure the
35 safety, well-being, and quality of care being provided is within the
36 scope of the intent of the legislature as defined in RCW 74.13.010 and
37 74.15.010. The policy for monitoring placements under this section~~

1 shall require that children in out-of-home care and in-home
2 dependencies and their caregivers receive a private and individual
3 face-to-face visit each month.

4 (a) The department shall conduct the monthly visits with children
5 and caregivers required under this section unless the child's placement
6 is being supervised under a contract between the department and a
7 private agency accredited by a national child welfare accrediting
8 entity, in which case the private agency shall, within existing
9 resources, conduct the monthly visits with the child and with the
10 child's caregiver according to the standards described in this
11 subsection and shall provide the department with a written report of
12 the visits within fifteen days of completing the visits.

13 (b) In cases where the monthly visits required under this
14 subsection are being conducted by a private agency, the department
15 shall conduct a face-to-face health and safety visit with the child at
16 least once every ninety days.

17 (6) Have authority to accept custody of children from parents and
18 to accept custody of children from juvenile courts, where authorized to
19 do so under law, to provide child welfare services including placement
20 for adoption, to provide for the routine and necessary medical, dental,
21 and mental health care, or necessary emergency care of the children,
22 and to provide for the physical care of such children and make payment
23 of maintenance costs if needed. Except where required by Public Law
24 95-608 (25 U.S.C. Sec. 1915), no private adoption agency which receives
25 children for adoption from the department shall discriminate on the
26 basis of race, creed, or color when considering applications in their
27 placement for adoption.

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

31 (8) Have authority to purchase care for children; and shall follow
32 in general the policy of using properly approved private agency
33 services for the actual care and supervision of such children insofar
34 as they are available, paying for care of such children as are accepted
35 by the department as eligible for support at reasonable rates
36 established by the department.

37 (9) Establish a children's services advisory committee which shall
38 assist the secretary in the development of a partnership plan for

1 utilizing resources of the public and private sectors, and advise on
2 all matters pertaining to child welfare, licensing of child care
3 agencies, adoption, and services related thereto. At least one member
4 shall represent the adoption community.

5 (10)(a) Have authority to provide continued foster care or group
6 care as needed to participate in or complete a high school or
7 vocational school program.

8 (b)(i) Beginning in 2006, the department has the authority to allow
9 up to fifty youth reaching age eighteen to continue in foster care or
10 group care as needed to participate in or complete a posthigh school
11 academic or vocational program, and to receive necessary support and
12 transition services.

13 (ii) In 2007 and 2008, the department has the authority to allow up
14 to fifty additional youth per year reaching age eighteen to remain in
15 foster care or group care as provided in (b)(i) of this subsection.

16 (iii) A youth who remains eligible for such placement and services
17 pursuant to department rules may continue in foster care or group care
18 until the youth reaches his or her twenty-first birthday. Eligibility
19 requirements shall include active enrollment in a posthigh school
20 academic or vocational program and maintenance of a 2.0 grade point
21 average.

22 (11) Refer cases to the division of child support whenever state or
23 federal funds are expended for the care and maintenance of a child,
24 including a child with a developmental disability who is placed as a
25 result of an action under chapter 13.34 RCW, unless the department
26 finds that there is good cause not to pursue collection of child
27 support against the parent or parents of the child. Cases involving
28 individuals age eighteen through twenty shall not be referred to the
29 division of child support unless required by federal law.

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

37 Notwithstanding any other provision of RCW 13.32A.170 through
38 13.32A.200 and 74.13.032 through 74.13.036, or of this section all

1 services to be provided by the department of social and health services
2 under subsections (4), (6), and (7) of this section, subject to the
3 limitations of these subsections, may be provided by any program
4 offering such services funded pursuant to Titles II and III of the
5 federal juvenile justice and delinquency prevention act of 1974.

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

9 (14) Have authority to provide independent living services to
10 youths, including individuals who have attained eighteen years of age,
11 and have not attained twenty-one years of age who are or have been in
12 foster care.

13 (15) Consult at least quarterly with foster parents, including
14 members of the foster parent association of Washington state, for the
15 purpose of receiving information and comment regarding how the
16 department is performing the duties and meeting the obligations
17 specified in this section and RCW 74.13.250 and 74.13.320 regarding the
18 recruitment of foster homes, reducing foster parent turnover rates,
19 providing effective training for foster parents, and administering a
20 coordinated and comprehensive plan that strengthens services for the
21 protection of children. Consultation shall occur at the regional and
22 statewide levels.

23 NEW SECTION. **Sec. 7.** A new section is added to chapter 74.13 RCW
24 to read as follows:

25 (1) For the purpose of assisting foster youth in obtaining a
26 Washington state identicard, submission of the information and
27 materials listed in this subsection from the department to the
28 department of licensing is sufficient proof of identity and residency
29 and shall serve as the necessary authorization for the youth to apply
30 for and obtain a Washington state identicard:

31 (a) A written signed statement prepared on department letterhead,
32 verifying the following:

33 (i) The youth is a minor who resides in Washington;

34 (ii) Pursuant to a court order, the youth is dependent and the
35 department or other supervising agency is the legal custodian of the
36 youth under chapter 13.34 RCW or under the interstate compact on the
37 placement of children;

- 1 (iii) The youth's full name and date of birth;
2 (iv) The youth's social security number, if available;
3 (v) A brief physical description of the youth;
4 (vi) The appropriate address to be listed on the youth's
5 identicard; and
6 (vii) Contact information for the appropriate person at the
7 department.

8 (b) A photograph of the youth, which may be digitized and
9 integrated into the statement.

10 (2) The department may provide the statement and the photograph via
11 any of the following methods, whichever is most efficient or
12 convenient:

13 (a) Delivered via first-class mail or electronically to the
14 headquarters office of the department of licensing; or

15 (b) Hand-delivered to a local office of the department of licensing
16 by a department case worker.

17 (3) A copy of the statement shall be provided to the youth who
18 shall provide the copy to the department of licensing when making an
19 in-person application for a Washington state identicard.

20 (4) To the extent other identifying information is readily
21 available, the department shall include the additional information with
22 the submission of information required under subsection (1) of this
23 section.

24 **Sec. 8.** RCW 46.20.035 and 2004 c 249 s 2 are each amended to read
25 as follows:

26 The department may not issue an identicard or a Washington state
27 driver's license that is valid for identification purposes unless the
28 applicant meets the identification requirements of subsection (1), (2),
29 or (3) of this section.

30 (1) A driver's license or identicard applicant must provide the
31 department with at least one of the following pieces of valid
32 identifying documentation that contains the signature and a photograph
33 of the applicant:

34 (a) A valid or recently expired driver's license or instruction
35 permit that includes the date of birth of the applicant;

36 (b) A Washington state identicard or an identification card issued
37 by another state;

1 (c) An identification card issued by the United States, a state, or
2 an agency of either the United States or a state, of a kind commonly
3 used to identify the members or employees of the government agency;

4 (d) A military identification card;

5 (e) A United States passport; or

6 (f) An Immigration and Naturalization Service form.

7 (2) An applicant who is a minor may establish identity by providing
8 an affidavit of the applicant's parent or guardian. The parent or
9 guardian must accompany the minor and display or provide:

10 (a) At least one piece of documentation in subsection (1) of this
11 section establishing the identity of the parent or guardian; and

12 (b) Additional documentation establishing the relationship between
13 the parent or guardian and the applicant.

14 (3) A person unable to provide identifying documentation as
15 specified in subsection (1) or (2) of this section may request that the
16 department review other available documentation in order to ascertain
17 identity. The department may waive the requirement if it finds that
18 other documentation clearly establishes the identity of the applicant.
19 Notwithstanding the requirements in subsection (2) of this section, the
20 department shall issue an identicard to an applicant for whom it
21 receives documentation pursuant to section 7 of this act.

22 (4) An identicard or a driver's license that includes a photograph
23 that has been renewed by mail or by electronic commerce is valid for
24 identification purposes if the applicant met the identification
25 requirements of subsection (1), (2), or (3) of this section at the time
26 of previous issuance.

27 (5) The form of an applicant's name, as established under this
28 section, is the person's name of record for the purposes of this
29 chapter.

30 (6) If the applicant is unable to prove his or her identity under
31 this section, the department shall plainly label the license "not valid
32 for identification purposes."

33 **Sec. 9.** RCW 41.06.142 and 2002 c 354 s 208 are each amended to
34 read as follows:

35 (1) Any department, agency, or institution of higher education may
36 purchase services, including services that have been customarily and
37 historically provided by employees in the classified service under this

1 chapter, by contracting with individuals, nonprofit organizations,
2 businesses, employee business units, or other entities if the following
3 criteria are met:

4 (a) The invitation for bid or request for proposal contains
5 measurable standards for the performance of the contract;

6 (b) Employees in the classified service whose positions or work
7 would be displaced by the contract are provided an opportunity to offer
8 alternatives to purchasing services by contract and, if these
9 alternatives are not accepted, compete for the contract under
10 competitive contracting procedures in subsection (4) of this section;

11 (c) The contract with an entity other than an employee business
12 unit includes a provision requiring the entity to consider employment
13 of state employees who may be displaced by the contract;

14 (d) The department, agency, or institution of higher education has
15 established a contract monitoring process to measure contract
16 performance, costs, service delivery quality, and other contract
17 standards, and to cancel contracts that do not meet those standards;
18 and

19 (e) The department, agency, or institution of higher education has
20 determined that the contract results in savings or efficiency
21 improvements. The contracting agency must consider the consequences
22 and potential mitigation of improper or failed performance by the
23 contractor.

24 (2) Any provision contrary to or in conflict with this section in
25 any collective bargaining agreement in effect on July 1, 2005, is not
26 effective beyond the expiration date of the agreement.

27 (3) Contracting for services that is expressly mandated by the
28 legislature or was authorized by law prior to July 1, 2005, including
29 contracts and agreements between public entities, shall not be subject
30 to the processes set forth in subsections (1) (~~and~~), (4) (~~through~~
31 ~~+6~~), and (5) of this section.

32 (4) Competitive contracting shall be implemented as follows:

33 (a) At least ninety days prior to the date the contracting agency
34 requests bids from private entities for a contract for services
35 provided by classified employees, the contracting agency shall notify
36 the classified employees whose positions or work would be displaced by
37 the contract. The employees shall have sixty days from the date of

1 notification to offer alternatives to purchasing services by contract,
2 and the agency shall consider the alternatives before requesting bids.

3 (b) If the employees decide to compete for the contract, they shall
4 notify the contracting agency of their decision. Employees must form
5 one or more employee business units for the purpose of submitting a bid
6 or bids to perform the services.

7 (c) The director of personnel, with the advice and assistance of
8 the department of general administration, shall develop and make
9 available to employee business units training in the bidding process
10 and general bid preparation.

11 (d) The director of general administration, with the advice and
12 assistance of the department of personnel, shall, by rule, establish
13 procedures to ensure that bids are submitted and evaluated in a fair
14 and objective manner and that there exists a competitive market for the
15 service. Such rules shall include, but not be limited to: (i)
16 Prohibitions against participation in the bid evaluation process by
17 employees who prepared the business unit's bid or who perform any of
18 the services to be contracted; (ii) provisions to ensure no bidder
19 receives an advantage over other bidders and that bid requirements are
20 applied equitably to all parties; and (iii) procedures that require the
21 contracting agency to receive complaints regarding the bidding process
22 and to consider them before awarding the contract. Appeal of an
23 agency's actions under this subsection is an adjudicative proceeding
24 and subject to the applicable provisions of chapter 34.05 RCW, the
25 administrative procedure act, with the final decision to be rendered by
26 an administrative law judge assigned under chapter 34.12 RCW.

27 (e) An employee business unit's bid must include the fully
28 allocated costs of the service, including the cost of the employees'
29 salaries and benefits, space, equipment, materials, and other costs
30 necessary to perform the function. An employee business unit's cost
31 shall not include the state's indirect overhead costs unless those
32 costs can be attributed directly to the function in question and would
33 not exist if that function were not performed in state service.

34 (f) A department, agency, or institution of higher education may
35 contract with the department of general administration to conduct the
36 bidding process.

37 (5) As used in this section:

1 (a) "Employee business unit" means a group of employees who perform
2 services to be contracted under this section and who submit a bid for
3 the performance of those services under subsection (4) of this section.

4 (b) "Indirect overhead costs" means the pro rata share of existing
5 agency administrative salaries and benefits, and rent, equipment costs,
6 utilities, and materials associated with those administrative
7 functions.

8 (c) "Competitive contracting" means the process by which classified
9 employees of a department, agency, or institution of higher education
10 compete with businesses, individuals, nonprofit organizations, or other
11 entities for contracts authorized by subsection (1) of this section.

12 ~~((The joint legislative audit and review committee shall
13 conduct a performance audit of the implementation of this section,
14 including the adequacy of the appeals process in subsection (4)(d) of
15 this section, and report to the legislature by January 1, 2007, on the
16 results of the audit.))~~ The requirements of this section do not apply
17 to RCW 74.13.031(5).

18 NEW SECTION. **Sec. 10.** A new section is added to chapter 74.15 RCW
19 to read as follows:

20 To be eligible for placement in a HOPE center, a minor must be
21 either a street youth, as that term is defined in this chapter, or a
22 youth who, without placement in a HOPE center, will continue to
23 participate in increasingly risky behavior. Youth may also self-refer
24 to a HOPE center. Payment for a HOPE center bed is not contingent upon
25 prior approval by the department.

26 **Sec. 11.** RCW 74.15.240 and 1999 c 267 s 14 are each amended to
27 read as follows:

28 To be eligible for placement in a responsible living skills
29 program, the minor must be dependent under chapter 13.34 RCW and must
30 have lived in a HOPE center or in a secure crisis residential center.
31 However, if the minor's caseworker determines that placement in a
32 responsible living skills program would be the most appropriate
33 placement given the minor's current circumstances, prior residence in
34 a HOPE center or secure crisis residential center before placement in
35 a responsible living program is not required. Responsible living
36 skills centers are intended as a placement alternative for dependent

1 youth that the department chooses for the youth because no other
2 services or alternative placements have been successful. Responsible
3 living skills centers are not for dependent youth whose permanency plan
4 includes return to home or family reunification.

5 NEW SECTION. **Sec. 12.** (1) The department of social and health
6 services, in collaboration with the administrative office of the
7 courts, shall implement a pilot program in the Thurston, Spokane, King,
8 and Benton-Franklin counties as follows:

9 (a) A child who is age twelve years or older and who is the subject
10 of a dependency proceeding under chapter 13.34 RCW shall have the
11 following rights with respect to all hearings conducted in the pilot
12 county on his or her behalf:

- 13 (i) The right to receive notice of the proceedings and hearings;
- 14 (ii) The right to be present at hearings; and
- 15 (iii) The right to be heard personally.

16 (b) At the request of the child, the child's guardian ad litem or
17 attorney, or upon the court's own motion, the court may conduct an
18 interview with the child in chambers to determine the child's wishes
19 regarding the issues pending before the court. The court may permit
20 counsel to be present at the interview. The court shall cause a record
21 of the interview to be made and to be made part of the record in the
22 case.

23 (c) A child's right to attend a hearing conducted on his or her
24 behalf and to be heard by the court cannot be denied or limited by the
25 court, unless the court makes a specific written finding that such
26 denial or limitation is in the best interests of the child and
27 necessary for the health, safety, and welfare of the child.

28 (d) Prior to each hearing, the child's guardian ad litem or
29 attorney shall determine if the child wishes to be present and to be
30 heard at the hearing. If the child wishes to attend the hearing, the
31 guardian ad litem or attorney shall coordinate with the child's
32 caregiver and the department or supervising agency to make arrangements
33 for the child to attend the hearing. Nothing in this subsection shall
34 be construed to create a duty on the department or supervising agency
35 to transport the child.

36 (2) The pilot shall operate until June 30, 2010. The department of
37 social and health services and the administrative office of the courts

1 shall brief the legislature regarding the pilot by January 31, 2009,
2 and shall provide a final report regarding the effectiveness of the
3 program by December 1, 2010. To the extent funding is available, the
4 department and the administrative office of the courts shall
5 collaborate with other appropriate entities to compile pertinent
6 information regarding the pilot program, including the comments of
7 youth, court personnel, attorneys, and guardians ad litem in the pilot
8 counties.

9 **Sec. 13.** RCW 13.34.105 and 2000 c 124 s 4 are each amended to read
10 as follows:

11 (1) Unless otherwise directed by the court, the duties of the
12 guardian ad litem for a child subject to a proceeding under this
13 chapter, including an attorney specifically appointed by the court to
14 serve as a guardian ad litem, include but are not limited to the
15 following:

16 (a) To investigate, collect relevant information about the child's
17 situation, and report to the court factual information regarding the
18 best interests of the child;

19 (b) To meet with, interview, or observe the child, depending on the
20 child's age and developmental status, and report to the court any views
21 or positions expressed by the child on issues pending before the court;

22 (c) To monitor all court orders for compliance and to bring to the
23 court's attention any change in circumstances that may require a
24 modification of the court's order;

25 ~~((e))~~ (d) To report to the court information on the legal status
26 of a child's membership in any Indian tribe or band;

27 ~~((d))~~ (e) Court-appointed special advocates and guardians ad
28 litem may make recommendations based upon an independent investigation
29 regarding the best interests of the child, which the court may consider
30 and weigh in conjunction with the recommendations of all of the
31 parties; and

32 ~~((e))~~ (f) To represent and be an advocate for the best interests
33 of the child.

34 (2) A guardian ad litem shall be deemed an officer of the court for
35 the purpose of immunity from civil liability.

36 (3) Except for information or records specified in RCW
37 13.50.100~~((5))~~ (7), the guardian ad litem shall have access to all

1 information available to the state or agency on the case. Upon
2 presentation of the order of appointment by the guardian ad litem, any
3 agency, hospital, school organization, division or department of the
4 state, doctor, nurse, or other health care provider, psychologist,
5 psychiatrist, police department, or mental health clinic shall permit
6 the guardian ad litem to inspect and copy any records relating to the
7 child or children involved in the case, without the consent of the
8 parent or guardian of the child, or of the child if the child is under
9 the age of thirteen years, unless such access is otherwise specifically
10 prohibited by law.

11 (4) A guardian ad litem may release confidential information,
12 records, and reports to the office of the family and children's
13 ombudsman for the purposes of carrying out its duties under chapter
14 43.06A RCW.

15 (5) The guardian ad litem shall release case information in
16 accordance with the provisions of RCW 13.50.100.

17 NEW SECTION. **Sec. 14.** Section 6 of this act takes effect December
18 31, 2008.

19 NEW SECTION. **Sec. 15.** If specific funding for the purposes of
20 this act, referencing this act by bill or chapter number, is not
21 provided by June 30, 2008, in the omnibus appropriations act, this act
22 is null and void."

23 Correct the title.

EFFECT: The striking amendment makes the following changes to the
first House Floor Amendment to which the Senate did not concur:

(1) Removes provisions allowing the court to order certain
evaluations for parents at shelter care hearings in dependency cases.

(2) Revises provisions relating to children's rights in dependency
proceedings to establish the rights under a pilot program in four
Washington counties.

(3) Removes a provision already enacted by the Legislature through
another bill (HB 3205 by Representative Jarrett).

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