

CERTIFICATION OF ENROLLMENT

**SUBSTITUTE HOUSE BILL 2680**

Chapter 272, Laws of 2010

61st Legislature  
2010 Regular Session

GUARDIANSHIP--FOSTER CARE

EFFECTIVE DATE: 06/10/10

Passed by the House March 8, 2010  
Yeas 96 Nays 0

FRANK CHOPP

\_\_\_\_\_  
**Speaker of the House of Representatives**

Passed by the Senate March 5, 2010  
Yeas 46 Nays 0

BRAD OWEN

\_\_\_\_\_  
**President of the Senate**

Approved April 1, 2010, 2:26 p.m.

CHRISTINE GREGOIRE

\_\_\_\_\_  
**Governor of the State of Washington**

CERTIFICATE

I, Barbara Baker, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 2680** as passed by the House of Representatives and the Senate on the dates hereon set forth.

BARBARA BAKER

\_\_\_\_\_  
**Chief Clerk**

FILED

April 2, 2010

**Secretary of State  
State of Washington**

---

**SUBSTITUTE HOUSE BILL 2680**

---

AS AMENDED BY THE SENATE

Passed Legislature - 2010 Regular Session

**State of Washington                      61st Legislature                      2010 Regular Session**

**By** House Early Learning & Children's Services (originally sponsored by Representatives Roberts, Kagi, Angel, Seaquist, Walsh, Maxwell, and Kenney)

READ FIRST TIME 01/27/10.

1            AN ACT Relating to implementing a guardianship program; amending  
2 RCW 13.34.232 and 13.34.234; reenacting and amending RCW 13.34.030 and  
3 13.34.210; adding a new section to chapter 13.34 RCW; adding a new  
4 section to chapter 74.13 RCW; adding a new chapter to Title 13 RCW;  
5 creating a new section; and repealing RCW 13.34.230, 13.34.231,  
6 13.34.236, and 13.34.238.

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

8            NEW SECTION.    **Sec. 1.** The legislature finds that a guardianship is  
9 an appropriate permanent plan for a child who has been found to be  
10 dependent under chapter 13.34 RCW and who cannot safely be reunified  
11 with his or her parents. The legislature is concerned that parents not  
12 be pressured by the department into agreeing to the entry of a  
13 guardianship when further services would increase the chances that the  
14 child could be reunified with his or her parents. The legislature  
15 intends to create a separate guardianship chapter to establish  
16 permanency for children in foster care through the appointment of a  
17 guardian and dismissal of the dependency.

1        NEW SECTION.    **Sec. 2.**    DEFINITIONS.    The definitions in this  
2 section apply throughout this chapter unless the context clearly  
3 requires otherwise.

4        (1) "Child" means any individual under the age of eighteen years.

5        (2) "Dependent child" means a child who has been found by a court  
6 to be dependent in a proceeding under chapter 13.34 RCW.

7        (3) "Department" means the department of social and health  
8 services.

9        (4) "Guardian" means a person who: (a) Has been appointed by the  
10 court as the guardian of a child in a legal proceeding under this  
11 chapter; and (b) has the legal right to custody of the child pursuant  
12 to court order. The term "guardian" does not include a "dependency  
13 guardian" appointed pursuant to a proceeding under chapter 13.34 RCW  
14 for the purpose of assisting the court in supervising the dependency.

15        (5) "Relative" means a person related to the child in the following  
16 ways: (a) Any blood relative, including those of half-blood, and  
17 including first cousins, second cousins, nephews or nieces, and persons  
18 of preceding generations as denoted by prefixes of grand, great, or  
19 great-great; (b) stepfather, stepmother, stepbrother, and stepsister;  
20 (c) a person who legally adopts a child or the child's parent as well  
21 as the natural and other legally adopted children of such persons, and  
22 other relatives of the adoptive parents in accordance with state law;  
23 (d) spouses of any persons named in (a), (b), or (c) of this  
24 subsection, even after the marriage is terminated; (e) relatives, as  
25 named in (a), (b), (c), or (d) of this subsection, of any half sibling  
26 of the child; or (f) extended family members, as defined by the law or  
27 custom of the Indian child's tribe or, in the absence of such law or  
28 custom, a person who has reached the age of eighteen and who is the  
29 Indian child's grandparent, aunt or uncle, brother or sister, brother-  
30 in-law or sister-in-law, niece or nephew, first or second cousin, or  
31 stepparent who provides care in the family abode on a twenty-four hour  
32 basis to an Indian child as defined in 25 U.S.C. Sec. 1903(4);

33        (6) "Suitable person" means a nonrelative with whom the child or  
34 the child's family has a preexisting relationship; who has completed  
35 all required criminal history background checks and otherwise appears  
36 to be suitable and competent to provide care for the child; and with  
37 whom the child has been placed pursuant to RCW 13.34.130.

1 (7) "Supervising agency" means an agency licensed by the state  
2 under RCW 74.15.090, or licensed by a federally recognized Indian tribe  
3 located in this state under RCW 74.15.190, that has entered into a  
4 performance-based contract with the department to provide case  
5 management for the delivery and documentation of child welfare services  
6 as defined in RCW 74.13.020.

7 NEW SECTION. **Sec. 3.** GUARDIANSHIP PETITION. (1) Any party to a  
8 dependency proceeding under chapter 13.34 RCW may request a  
9 guardianship be established for a dependent child by filing a petition  
10 in juvenile court under this chapter. All parties to the dependency  
11 and the proposed guardian must receive adequate notice of all  
12 proceedings under this chapter. For purposes of this chapter, a  
13 dependent child age twelve years or older is a party to the  
14 proceedings. A proposed guardian has the right to intervene in  
15 proceedings under this chapter.

16 (2) To be designated as a proposed guardian in a petition under  
17 this chapter, a person must be age twenty-one or over and must meet the  
18 minimum requirements to care for children as established by the  
19 department under RCW 74.15.030, including but not limited to licensed  
20 foster parents, relatives, and suitable persons.

21 (3) Every petition filed in proceedings under this chapter shall  
22 contain: (a) A statement alleging whether the child is or may be an  
23 Indian child as defined in 25 U.S.C. Sec. 1903. If the child is an  
24 Indian child as defined under the Indian child welfare act, the  
25 provisions of that act shall apply; (b) a statement alleging whether  
26 the federal servicemembers civil relief act of 2003, 50 U.S.C. Sec. 501  
27 et seq. applies to the proceeding; and (c) a statement alleging whether  
28 the Washington service members' civil relief act, chapter 38.42 RCW,  
29 applies to the proceeding.

30 (4) Every order or decree entered in any proceeding under this  
31 chapter shall contain: (a) A finding that the Indian child welfare act  
32 does or does not apply. Where there is a finding that the Indian child  
33 welfare act does apply, the decree or order must also contain a finding  
34 that all notice requirements and evidentiary requirements under the  
35 Indian child welfare act have been satisfied; (b) a finding that the  
36 federal servicemembers civil relief act of 2003 does or does not apply;

1 and (c) a finding that the Washington service members' civil relief  
2 act, chapter 38.42 RCW, does or does not apply.

3 NEW SECTION. **Sec. 4.** GUARDIANSHIP HEARING. (1) At the hearing on  
4 a guardianship petition, all parties have the right to present evidence  
5 and cross-examine witnesses. The rules of evidence apply to the  
6 conduct of the hearing. The hearing under this section to establish a  
7 guardianship or convert an existing dependency guardianship to a  
8 guardianship under this section is a stage of the dependency  
9 proceedings for purposes of RCW 13.34.090(2).

10 (2) A guardianship shall be established if:

11 (a) The court finds by a preponderance of the evidence that it is  
12 in the child's best interests to establish a guardianship, rather than  
13 to terminate the parent-child relationship and proceed with adoption,  
14 or to continue efforts to return custody of the child to the parent;  
15 and

16 (b) All parties agree to entry of the guardianship order and the  
17 proposed guardian is qualified, appropriate, and capable of performing  
18 the duties of guardian under section 5 of this act; or

19 (c)(i) The child has been found to be a dependent child under RCW  
20 13.34.030;

21 (ii) A dispositional order has been entered pursuant to RCW  
22 13.34.130;

23 (iii) At the time of the hearing on the guardianship petition, the  
24 child has or will have been removed from the custody of the parent for  
25 at least six consecutive months following a finding of dependency under  
26 RCW 13.34.030;

27 (iv) The services ordered under RCW 13.34.130 and 13.34.136 have  
28 been offered or provided and all necessary services, reasonably  
29 available, capable of correcting the parental deficiencies within the  
30 foreseeable future have been offered or provided;

31 (v) There is little likelihood that conditions will be remedied so  
32 that the child can be returned to the parent in the near future; and

33 (vi) The proposed guardian has signed a statement acknowledging the  
34 guardian's rights and responsibilities toward the child and affirming  
35 the guardian's understanding and acceptance that the guardianship is a  
36 commitment to provide care for the child until the child reaches age  
37 eighteen.

1 (3) The court may not establish a guardianship for a child who has  
2 no legal parent unless the court, in addition to making the required  
3 findings set forth in subsection (2) of this section, finds one or more  
4 exceptional circumstances exist and the benefits for the child of  
5 establishing the guardianship outweigh any potential disadvantage to  
6 the child of having no legal parent. Exceptional circumstances may  
7 include but are not limited to:

8 (a) The child has special needs and a suitable guardian is willing  
9 to accept custody and able to meet the needs of the child to an extent  
10 unlikely to be achieved through adoption; or

11 (b) The proposed guardian has demonstrated a commitment to provide  
12 for the long-term care of the child and: (i) Is a relative of the  
13 child; (ii) has been a long-term caregiver for the child and has acted  
14 as a parent figure to the child and is viewed by the child as a parent  
15 figure; or (iii) the child's family has identified the proposed  
16 guardian as the preferred guardian, and, if the child is age twelve  
17 years or older, the child also has identified the proposed guardian as  
18 the preferred guardian.

19 (4) Upon the request of a dependency guardian appointed under  
20 chapter 13.34 RCW and the department or supervising agency, the court  
21 shall convert a dependency guardianship established under chapter 13.34  
22 RCW to a guardianship under this chapter.

23 NEW SECTION. **Sec. 5.** GUARDIANSHIP ORDER. (1) If the court has  
24 made the findings required under section 4 of this act, the court shall  
25 issue an order establishing a guardianship for the child. If the  
26 guardian has not previously intervened, the guardian shall be made a  
27 party to the guardianship proceeding upon entry of the guardianship  
28 order. The order shall:

29 (a) Appoint a person to be the guardian for the child;

30 (b) Specify the guardian's rights and responsibilities concerning  
31 the care, custody, control, and nurturing of the child;

32 (c) Specify the guardian's authority, if any, to receive, invest,  
33 and expend funds, benefits, or property belonging to the child;

34 (d) Specify an appropriate frequency and type of contact between  
35 the parent or parents and the child, if applicable, and between the  
36 child and his or her siblings, if applicable; and

1 (e) Specify the need for and scope of continued oversight by the  
2 court, if any.

3 (2) The guardian shall maintain physical and legal custody of the  
4 child and have the following rights and duties under the guardianship:

5 (a) Duty to protect, nurture, discipline, and educate the child;

6 (b) Duty to provide food, clothing, shelter, education as required  
7 by law, and health care for the child, including but not limited to,  
8 medical, dental, mental health, psychological, and psychiatric care and  
9 treatment;

10 (c) Right to consent to health care for the child and sign a  
11 release authorizing the sharing of health care information with  
12 appropriate authorities, in accordance with state law;

13 (d) Right to consent to the child's participation in social and  
14 school activities; and

15 (e) Duty to notify the court of a change of address of the guardian  
16 and the child. Unless specifically ordered by the court, however, the  
17 standards and requirements for relocation in chapter 26.09 RCW do not  
18 apply to guardianships established under this chapter.

19 (3) If the child has independent funds or other valuable property  
20 under the control of the guardian, the guardian shall provide an annual  
21 written accounting, supported with appropriate documentation, to the  
22 court regarding receipt and expenditure by the guardian of any such  
23 funds or benefits. This subsection shall not be construed to require  
24 a guardian to account for any routine funds or benefits received from  
25 a public social service agency on behalf of the child.

26 (4) The guardianship shall remain in effect until the child reaches  
27 the age of eighteen years or until the court terminates the  
28 guardianship, whichever occurs sooner.

29 (5) Once the dependency has been dismissed pursuant to section 7 of  
30 this act, the court shall not order the department or other supervising  
31 agency to supervise or provide case management services to the guardian  
32 or the child as part of the guardianship order.

33 (6) The court shall issue a letter of guardianship to the guardian  
34 upon the entry of the court order establishing the guardianship under  
35 this chapter.

36 NEW SECTION. **Sec. 6.** GUARDIANSHIP MODIFICATION. (1) A guardian

1 or a parent of the child may petition the court to modify the  
2 visitation provisions of a guardianship order by:

3 (a) Filing with the court a motion for modification and an  
4 affidavit setting forth facts supporting the requested modification;  
5 and

6 (b) Providing notice and a copy of the motion and affidavit to all  
7 other parties. The nonmoving parties may file and serve opposing  
8 affidavits.

9 (2) The court shall deny the motion unless it finds that adequate  
10 cause for hearing the motion is established by the affidavits, in which  
11 case it shall set a date for hearing on an order to show cause why the  
12 requested modification should not be granted.

13 (3) If the court finds that a motion to modify a guardianship order  
14 has been brought in bad faith, the court may assess attorney's fees and  
15 court costs of the nonmoving party against the moving party.

16 NEW SECTION. **Sec. 7.** GUARDIANSHIP TERMINATION. (1) Any party to  
17 a guardianship proceeding may request termination of the guardianship  
18 by filing a petition and supporting affidavit alleging a substantial  
19 change has occurred in the circumstances of the child or the guardian  
20 and that the termination is necessary to serve the best interests of  
21 the child. The petition and affidavit must be served on the department  
22 or supervising agency and all parties to the guardianship.

23 (2) Except as provided in subsection (3) of this section, the court  
24 shall not terminate a guardianship unless it finds, upon the basis of  
25 facts that have arisen since the guardianship was established or that  
26 were unknown to the court at the time the guardianship was established,  
27 that a substantial change has occurred in the circumstances of the  
28 child or the guardian and that termination of the guardianship is  
29 necessary to serve the best interests of the child. The effect of a  
30 guardian's duties while serving in the military potentially impacting  
31 guardianship functions shall not, by itself, be a substantial change of  
32 circumstances justifying termination of a guardianship.

33 (3) The court may terminate a guardianship on the agreement of the  
34 guardian, the child, if the child is age twelve years or older, and a  
35 parent seeking to regain custody of the child if the court finds by a  
36 preponderance of the evidence and on the basis of facts that have  
37 arisen since the guardianship was established that:



1 (a) The parent has successfully corrected the parenting  
2 deficiencies identified by the court in the dependency action, and the  
3 circumstances of the parent have changed to such a degree that  
4 returning the child to the custody of the parent no longer creates a  
5 risk of harm to the child's health, welfare, and safety;

6 (b) The child, if age twelve years or older, agrees to termination  
7 of the guardianship and the return of custody to the parent; and

8 (c) Termination of the guardianship and return of custody of the  
9 child to the parent is in the child's best interests.

10 (4) Upon the entry of an order terminating a guardianship, the  
11 court shall enter an order:

12 (a) Granting the child's parent with legal and physical custody of  
13 the child;

14 (b) Granting a substitute guardian with legal and physical custody  
15 of the child; or

16 (c) Directing the child to be temporarily placed in the custody of  
17 the department for placement with a relative or other suitable person  
18 as defined in RCW 13.34.130(1)(b), if available, or in an appropriate  
19 licensed out-of-home placement, and directing that the department file  
20 a dependency petition on behalf of the child.

21 NEW SECTION. **Sec. 8.** APPOINTMENT OF GUARDIAN AD LITEM OR ATTORNEY  
22 FOR THE CHILD. In all proceedings to establish, modify, or terminate  
23 a guardianship order, the court shall appoint a guardian ad litem or  
24 attorney for the child. The court may appoint a guardian ad litem or  
25 attorney who represented the child in a prior proceeding under this  
26 chapter or under chapter 13.34 RCW, or may appoint an attorney to  
27 supersede an existing guardian ad litem.

28 NEW SECTION. **Sec. 9.** GUARDIANSHIP SUBSIDY. (1) A relative  
29 guardian who is a licensed foster parent at the time a guardianship is  
30 established under this chapter and who has been the child's foster  
31 parent for a minimum of six consecutive months preceding entry of the  
32 guardianship order is eligible for a relative guardianship subsidy on  
33 behalf of the child. The department may establish rules setting  
34 eligibility, application, and program standards consistent with  
35 applicable federal guidelines for expenditure of federal funds.

1 (2) Within amounts appropriated for this specific purpose, a  
2 guardian who is a licensed foster parent at the time a guardianship is  
3 established under this chapter and who has been the child's foster  
4 parent for a minimum of six consecutive months preceding entry of the  
5 guardianship order is eligible for a guardianship subsidy on behalf of  
6 the child.

7 **Sec. 10.** RCW 13.34.030 and 2009 c 520 s 21 and 2009 c 397 s 1 are  
8 each reenacted and amended to read as follows:

9 For purposes of this chapter:

10 (1) "Abandoned" means when the child's parent, guardian, or other  
11 custodian has expressed, either by statement or conduct, an intent to  
12 forego, for an extended period, parental rights or responsibilities  
13 despite an ability to exercise such rights and responsibilities. If  
14 the court finds that the petitioner has exercised due diligence in  
15 attempting to locate the parent, no contact between the child and the  
16 child's parent, guardian, or other custodian for a period of three  
17 months creates a rebuttable presumption of abandonment, even if there  
18 is no expressed intent to abandon.

19 (2) "Child" and "juvenile" means any individual under the age of  
20 eighteen years.

21 (3) "Current placement episode" means the period of time that  
22 begins with the most recent date that the child was removed from the  
23 home of the parent, guardian, or legal custodian for purposes of  
24 placement in out-of-home care and continues until: (a) The child  
25 returns home; (b) an adoption decree, a permanent custody order, or  
26 guardianship order is entered; or (c) the dependency is dismissed,  
27 whichever occurs first.

28 (4) "Department" means the department of social and health  
29 services.

30 (5) "Dependency guardian" means the person, nonprofit corporation,  
31 or Indian tribe appointed by the court pursuant to this chapter for the  
32 limited purpose of assisting the court in the supervision of the  
33 dependency.

34 (6) "Dependent child" means any child who:

35 (a) Has been abandoned;

36 (b) Is abused or neglected as defined in chapter 26.44 RCW by a  
37 person legally responsible for the care of the child; or

1 (c) Has no parent, guardian, or custodian capable of adequately  
2 caring for the child, such that the child is in circumstances which  
3 constitute a danger of substantial damage to the child's psychological  
4 or physical development.

5 (7) "Developmental disability" means a disability attributable to  
6 mental retardation, cerebral palsy, epilepsy, autism, or another  
7 neurological or other condition of an individual found by the secretary  
8 to be closely related to mental retardation or to require treatment  
9 similar to that required for individuals with mental retardation, which  
10 disability originates before the individual attains age eighteen, which  
11 has continued or can be expected to continue indefinitely, and which  
12 constitutes a substantial handicap to the individual.

13 (8) "Guardian" means the person or agency that: (a) Has been  
14 appointed as the guardian of a child in a legal proceeding (~~other than~~  
15 ~~a proceeding under this chapter~~), including a guardian appointed  
16 pursuant to chapter 13.-- RCW (the new chapter created in section 17 of  
17 this act); and (b) has the legal right to custody of the child pursuant  
18 to such appointment. The term "guardian" (~~shall~~) does not include a  
19 "dependency guardian" appointed pursuant to a proceeding under this  
20 chapter.

21 (9) "Guardian ad litem" means a person, appointed by the court to  
22 represent the best interests of a child in a proceeding under this  
23 chapter, or in any matter which may be consolidated with a proceeding  
24 under this chapter. A "court-appointed special advocate" appointed by  
25 the court to be the guardian ad litem for the child, or to perform  
26 substantially the same duties and functions as a guardian ad litem,  
27 shall be deemed to be guardian ad litem for all purposes and uses of  
28 this chapter.

29 (10) "Guardian ad litem program" means a court-authorized volunteer  
30 program, which is or may be established by the superior court of the  
31 county in which such proceeding is filed, to manage all aspects of  
32 volunteer guardian ad litem representation for children alleged or  
33 found to be dependent. Such management shall include but is not  
34 limited to: Recruitment, screening, training, supervision, assignment,  
35 and discharge of volunteers.

36 (11) "Housing assistance" means appropriate referrals by the  
37 department or other supervising agencies to federal, state, local, or  
38 private agencies or organizations, assistance with forms, applications,

1 or financial subsidies or other monetary assistance for housing. For  
2 purposes of this chapter, "housing assistance" is not a remedial  
3 service or time-limited family reunification service as described in  
4 RCW 13.34.025(2).

5 (12) "Indigent" means a person who, at any stage of a court  
6 proceeding, is:

7 (a) Receiving one of the following types of public assistance:  
8 Temporary assistance for needy families, general assistance, poverty-  
9 related veterans' benefits, food stamps or food stamp benefits  
10 transferred electronically, refugee resettlement benefits, medicaid, or  
11 supplemental security income; or

12 (b) Involuntarily committed to a public mental health facility; or

13 (c) Receiving an annual income, after taxes, of one hundred twenty-  
14 five percent or less of the federally established poverty level; or

15 (d) Unable to pay the anticipated cost of counsel for the matter  
16 before the court because his or her available funds are insufficient to  
17 pay any amount for the retention of counsel.

18 (13) "Out-of-home care" means placement in a foster family home or  
19 group care facility licensed pursuant to chapter 74.15 RCW or placement  
20 in a home, other than that of the child's parent, guardian, or legal  
21 custodian, not required to be licensed pursuant to chapter 74.15 RCW.

22 (14) "Preventive services" means preservation services, as defined  
23 in chapter 74.14C RCW, and other reasonably available services,  
24 including housing assistance, capable of preventing the need for out-  
25 of-home placement while protecting the child.

26 (15) "Shelter care" means temporary physical care in a facility  
27 licensed pursuant to RCW 74.15.030 or in a home not required to be  
28 licensed pursuant to RCW 74.15.030.

29 (16) "Sibling" means a child's birth brother, birth sister,  
30 adoptive brother, adoptive sister, half-brother, or half-sister, or as  
31 defined by the law or custom of the Indian child's tribe for an Indian  
32 child as defined in 25 U.S.C. Sec. 1903(4).

33 (17) "Social study" means a written evaluation of matters relevant  
34 to the disposition of the case and shall contain the following  
35 information:

36 (a) A statement of the specific harm or harms to the child that  
37 intervention is designed to alleviate;

1 (b) A description of the specific services and activities, for both  
2 the parents and child, that are needed in order to prevent serious harm  
3 to the child; the reasons why such services and activities are likely  
4 to be useful; the availability of any proposed services; and the  
5 agency's overall plan for ensuring that the services will be delivered.  
6 The description shall identify the services chosen and approved by the  
7 parent;

8 (c) If removal is recommended, a full description of the reasons  
9 why the child cannot be protected adequately in the home, including a  
10 description of any previous efforts to work with the parents and the  
11 child in the home; the in-home treatment programs that have been  
12 considered and rejected; the preventive services, including housing  
13 assistance, that have been offered or provided and have failed to  
14 prevent the need for out-of-home placement, unless the health, safety,  
15 and welfare of the child cannot be protected adequately in the home;  
16 and the parents' attitude toward placement of the child;

17 (d) A statement of the likely harms the child will suffer as a  
18 result of removal;

19 (e) A description of the steps that will be taken to minimize the  
20 harm to the child that may result if separation occurs including an  
21 assessment of the child's relationship and emotional bond with any  
22 siblings, and the agency's plan to provide ongoing contact between the  
23 child and the child's siblings if appropriate; and

24 (f) Behavior that will be expected before determination that  
25 supervision of the family or placement is no longer necessary.

26 (18) "Supervising agency" means an agency licensed by the state  
27 under RCW 74.15.090, or ~~((an))~~ licensed by a federally recognized  
28 Indian tribe located in this state under RCW 74.15.190 ~~((with whom the~~  
29 ~~department))~~, that has entered into a performance-based contract with  
30 the department to provide case management for the delivery and  
31 documentation of child welfare services as defined in RCW 74.13.020.

32 NEW SECTION. Sec. 11. A new section is added to chapter 13.34 RCW  
33 to read as follows:

34 (1) Notwithstanding the provisions of chapter 13.-- RCW (the new  
35 chapter created in section 17 of this act), a dependency guardianship  
36 established by court order under this chapter and in force on the  
37 effective date of this section shall remain subject to the provisions

1 of this chapter unless: (a) The dependency guardianship is modified or  
2 terminated under the provisions of this chapter; or (b) the dependency  
3 guardianship is converted by court order to a guardianship pursuant to  
4 a petition filed under section 3 of this act.

5 (2) A dependency guardian or the department or supervising agency  
6 may request the juvenile court to convert a dependency guardianship  
7 established under this chapter to a guardianship under chapter 13.--  
8 RCW (the new chapter created in section 17 of this act) by filing a  
9 petition under section 3 of this act. If both the dependency guardian  
10 and the department or supervising agency agree that the dependency  
11 guardianship should be converted to a guardianship under this chapter,  
12 and if the court finds that such conversion is in the child's best  
13 interests, the court shall grant the petition and enter an order of  
14 guardianship in accordance with section 5 of this act.

15 (3) The court shall dismiss the dependency established under this  
16 chapter upon the entry of a guardianship order under chapter 13.-- RCW  
17 (the new chapter created in section 17 of this act).

18 NEW SECTION. **Sec. 12.** A new section is added to chapter 74.13 RCW  
19 to read as follows:

20 (1) The department shall adopt rules consistent with federal  
21 regulations for the receipt and expenditure of federal funds and  
22 implement a subsidy program for eligible relatives appointed by the  
23 court as a guardian under section 5 of this act.

24 (2) For the purpose of licensing a relative seeking to be appointed  
25 as a guardian and eligible for a guardianship subsidy under this  
26 section, the department shall, on a case-by-case basis, and when  
27 determined to be in the best interests of the child:

- 28 (a) Waive nonsafety licensing standards; and
- 29 (b) Apply the list of disqualifying crimes in the adoption and safe  
30 families act, rather than the secretary's list of disqualifying crimes,  
31 unless doing so would compromise the child's safety, or would adversely  
32 affect the state's ability to continue to obtain federal funding for  
33 child welfare related functions.

34 (3) Relative guardianship subsidy agreements shall be designed to  
35 promote long-term permanency for the child, and may include provisions  
36 for periodic review of the subsidy amount and the needs of the child.

1       **Sec. 13.** RCW 13.34.210 and 2009 c 520 s 35 and 2009 c 152 s 2 are  
2 each reenacted and amended to read as follows:

3       If, upon entering an order terminating the parental rights of a  
4 parent, there remains no parent having parental rights, the court shall  
5 commit the child to the custody of the department or a supervising  
6 agency willing to accept custody for the purpose of placing the child  
7 for adoption. If an adoptive home has not been identified, the  
8 department or supervising agency shall place the child in a licensed  
9 foster home, or take other suitable measures for the care and welfare  
10 of the child. The custodian shall have authority to consent to the  
11 adoption of the child consistent with chapter 26.33 RCW, the marriage  
12 of the child, the enlistment of the child in the armed forces of the  
13 United States, necessary surgical and other medical treatment for the  
14 child, and to consent to such other matters as might normally be  
15 required of the parent of the child.

16       If a child has not been adopted within six months after the date of  
17 the order and a guardianship of the child under (~~RCW 13.34.231~~)  
18 chapter 13.-- RCW (the new chapter created in section 17 of this act)  
19 or chapter 11.88 RCW, or a permanent custody order under chapter 26.10  
20 RCW, has not been entered by the court, the court shall review the case  
21 every six months until a decree of adoption is entered. The  
22 supervising agency shall take reasonable steps to ensure that the child  
23 maintains relationships with siblings as provided in RCW 13.34.130(3)  
24 and shall report to the court the status and extent of such  
25 relationships.

26       **Sec. 14.** RCW 13.34.232 and 1994 c 288 s 7 are each amended to read  
27 as follows:

28       (1) (~~If the court has made a finding under RCW 13.34.231, it shall~~  
29 ~~enter~~) An order establishing a dependency guardianship (~~for the~~  
30 ~~child. The order~~) shall:

31       (a) Appoint a person or agency to serve as dependency guardian for  
32 the limited purpose of assisting the court to supervise the dependency;

33       (b) Specify the dependency guardian's rights and responsibilities  
34 concerning the care, custody, and control of the child. A dependency  
35 guardian shall not have the authority to consent to the child's  
36 adoption;

1 (c) Specify the dependency guardian's authority, if any, to  
2 receive, invest, and expend funds, benefits, or property belonging to  
3 the child;

4 (d) Specify an appropriate frequency of visitation between the  
5 parent and the child; and

6 (e) Specify the need for any continued involvement of the  
7 supervising agency and the nature of that involvement, if any.

8 (2) Unless the court specifies otherwise in the guardianship order,  
9 the dependency guardian shall maintain the physical custody of the  
10 child and have the following rights and duties:

11 (a) Protect, discipline, and educate the child;

12 (b) Provide food, clothing, shelter, education as required by law,  
13 and routine health care for the child;

14 (c) Consent to necessary health and surgical care and sign a  
15 release of health care information to appropriate authorities, pursuant  
16 to law;

17 (d) Consent to social and school activities of the child; and

18 (e) Provide an annual written accounting to the court regarding  
19 receipt by the dependency guardian of any funds, benefits, or property  
20 belonging to the child and expenditures made therefrom.

21 (3) As used in this section, the term "health care" includes, but  
22 is not limited to, medical, dental, psychological, and psychiatric care  
23 and treatment.

24 (4) The child shall remain dependent for the duration of the  
25 guardianship. While the guardianship remains in effect, the dependency  
26 guardian shall be a party to any dependency proceedings pertaining to  
27 the child.

28 (5) The guardianship shall remain in effect only until the child is  
29 eighteen years of age or until the court terminates the guardianship  
30 order, whichever occurs sooner.

31 **Sec. 15.** RCW 13.34.234 and 2009 c 235 s 6 are each amended to read  
32 as follows:

33 A dependency guardian who is a licensed foster parent at the time  
34 the guardianship is established under (~~RCW 13.34.231 and 13.34.232~~)  
35 this chapter and who has been the child's foster parent for a minimum  
36 of six consecutive months preceding entry of the guardianship order  
37 (~~is~~) may be eligible for a guardianship subsidy on behalf of the



1 child. (~~The department may establish rules setting eligibility,~~  
2 ~~application, and program standards consistent with applicable federal~~  
3 ~~guidelines.~~)

4 NEW SECTION. **Sec. 16.** The following acts or parts of acts are  
5 each repealed:

6 (1) RCW 13.34.230 (Guardianship for dependent child--Petition for--  
7 Notice to, intervention by, department or supervising agency) and 2009  
8 c 520 s 37, 1981 c 195 s 1, & 1979 c 155 s 51;

9 (2) RCW 13.34.231 (Guardianship for dependent child--Hearing--  
10 Rights of parties--Rules of evidence--Guardianship established, when)  
11 and 2000 c 122 s 29, 1994 c 288 s 6, & 1981 c 195 s 2;

12 (3) RCW 13.34.236 (Guardianship for dependent child--Qualifications  
13 for dependency guardian--Consideration of preferences of parent) and  
14 1994 c 288 s 10 & 1981 c 195 s 7; and

15 (4) RCW 13.34.238 (Guardianship for dependent child--Relative  
16 guardianship subsidies) and 2009 c 235 s 5.

17 NEW SECTION. **Sec. 17.** Sections 2 through 9 of this act constitute  
18 a new chapter in Title 13 RCW.

Passed by the House March 8, 2010.  
Passed by the Senate March 5, 2010.  
Approved by the Governor April 1, 2010.  
Filed in Office of Secretary of State April 2, 2010.